

ACCC could wipe out small publishers

Submission to the ACCC by John Mellor, owner and publisher of GoAutoMedia as it relates to the relationship between GoAutoMedia and Google as a search engine.

GoAutoMedia was founded as John Mellor Pty Limited in 1979 and has been in the business of syndicating automotive editorial content to a host of publishers since that time. In addition, from 1985 the company has published newsletters for the auto industry and in the 1990s produced the Automotive Business section for The Australian newspaper.

From 1999 the company has published what became the weekly *GoAutoNews* newsletter (and more recently *GoAutoNews Premium - premium.goauto.com.au.*) as well as our consumer website of automotive news and reviews - *goauto.com.au.*

GoAutoMedia is relied upon by the automotive industry in Australia as its prime news and information source. It is renowned for its fair and factual but forthright coverage.

We are known for our high standards of journalism and a large number of the leading motoring writers and industry journalists in Australian have got their start and have been trained in our newsroom over the past three decades. Many of these now hold senior editorial and management positions with the big automotive publishing groups.

GoAutoMedia earns its revenues from advertising and sponsorships. To us, particularly in the online consumer space, a strong base of readers is our lifeblood.

In this area we are heavily reliant on Google. More than half our readers each month are generated from Google organic search results, Google News and from AMP (Accelerated Mobile Project).

The way we see it, we have a mutually beneficial arrangement with Google.

Google is our company's advertising arm. At no cost to us, Google indexes our articles and displays links to these GoAuto articles within relevant search results displayed to Google readers.

At this point Google also conveniently highlights the various site navigation destinations within our content to further assist readers to find what they were searching for.

This drives new readers to our site as well as returning readers. We also know that many of our regular readers simply type "goauto" into the Google search bar as a convenient way of reaching our site.

So we trade-off Google making use of snippets of our content, in order for it to generate revenue from its search results pages, in return for Google driving the vast majority of our readers to our site at no cost to us. We see this as a perfectly reasonable business proposition.

Added to this, Google, also at no cost, provides us with *Google Analytics* through which we get in depth data which helps us understand and maximise the traffic coming to our sites.

In addition, Google provides *AdSense* where publishers, from their desktops, are able to set up Google advertising on their websites with the publisher sharing 68 percent of the revenue generated. Many small publishers exist on that revenue share. (GoAutoMedia does not use this service as we prefer to sell the space to our own clients).

This contribution by Google not only helps small online publishers to stay in business and grow it also helps newcomers to get started by lowering the barrier to entry. By helping small publishers to make a good fist as news and reviews websites Google is driving diversity of opinions and the development of writing talent in the market.

Many journalists who have lost their jobs in retrenchments from large print publishers are now finding work with these small online publishers.

Recently, several senior motoring journalists launched their own website specialising in electric vehicles; another group of journalists have just launched a site on super-prestige cars and there is another automotive site making a name for itself on YouTube that is professionally run to a high standard by a part-time law student.

All rely on the status quo in Google search remaining for their continued existence and growth.

Therefore we look at the current argument between the big publishers and Google (in tandem with the intervention of the government) with considerable alarm and see ourselves (and all small publishers) potentially being trampled by the big guys in a fight that is not of our making and one that is beyond our control.

Our fear is that Google will respond by not indexing news websites in Australia as it did in some countries in Europe (as occurred in Spain in 2014 with disastrous consequences for small publishers). This is a precedent that small publishers wish to avoid at all costs.

And, in the backwash of this, it is relevant to point out that it would be hugely convenient for the big publishers if they also managed to achieve the complete wiping out of the small publishers by denying them of traffic and by raising the barrier to entry for any potential future publishers attempting to compete with them.

This is not a government matter, it is a commercial matter

What concerns us is that the Government is seeking to interfere, using legislation, in an area that can really be managed by commercial decisions by publishers.

For a start, it seems to us that the argument is based on an incorrect premise. It is almost as though the big publishers do not understand how Google works.

The key here is that no-one is forced to use Google. Publishers have a choice to participate in the Google business model - or not.

Google offers all publishers a choice.

We can allow Google to index our articles and in return we get organic traffic (readers) at no cost. A publisher can continue under this arrangement for as long as it regards the payoff in terms of the value of traffic to be a fair and equitable exchange for the indexing of its content and the display of snippets in search results.

If a publisher decides that somehow Google is 'taking advantage' of, or 'stealing', its content and "unfairly" generating revenue from displaying that content on search results pages, the publisher has a simple solution. It can turn it off.

Google provides a mechanism - a *no index* tag - that can be placed in the HTML code for each article within the publisher's website which prevents the Google crawlers from indexing the content of that article. The article becomes invisible within Google search results.

The publisher therefore has the option to opt out. It then becomes a pure commercial decision and not one that should be dictated by legislation:

- If a publisher accepts the value of the traffic Google sends to its site - at no cost - is greater than the value Google derives from displaying that content in search results, then the publisher would clearly make the commercial decision to continue in the present manner (as we do at GoAutoMedia)
- If a publisher decides that the 'cost' of Google's "misuse of its content" is greater than the net worth of the traffic Google sends to its website, that publisher is in a position where it can make the commercial decision to tell Google that it no longer wants its content to show up in the search results. It can opt out using the 'no index' tag.

From where we stand, it seems like the big publishers want to get the benefit of the traffic generated from Google search as well as make a grab for the revenue from the brief extracts Google publishes in the search results while ignoring the value of the traffic Google generates for them.

Are extracts of 'snippets' a breach of copyright or theft?

Under the fair dealing provisions of Copyright rules from time immemorial publishers have thrived on using extracts from all sorts of copyrighted material to generate content.

Over time, millions of hectares of newsprint and billions of amps of power in electronic media have been devoted to, for example, book reviews where some of the content from the book is published.

If the snippets on Google are 'theft', then so are all the articles written under the fair dealing rules of Copyright.

But the Copyright holders of a book which is the subject of a book review are prepared to trade off the use of some of their content in return for the value of the promotion of the book. It seems that if publishers are to be paid for the snippets run on Google, then the publishers should pay the copyright owners of books for the use of the book owners content in the published reviews.

The same applies to grabs sports and news vision generated by one news or sportscaster being run from opposition newsrooms.

As part of the legislation, there should be an element that recognises the value that Google presents to the smaller publishers and that provision should be made for 'status quo' agreements between small publishers and Google where, in return for an undertaking that the small publisher will not make a call on Google for payments for news, Google will continue to index and publish search results for those sites and continue to drive reader traffic to them.

It is our view that payments for snippets of editorial content by Google will not even come close to the value our organisation receives from the readers that Google sends us.

Suggested solution for small publishers

We recommend that the ACCC and Google draft up a Partnership Agreement between Small Publishers (or any publishers really) and Google under which the publisher acknowledges the value it derives from its site/s being indexed by Google and from having snippets of its content displayed in search results pages; and that the publisher agrees not to seek payment from Google for the use of its content.

If the business is sold or changes control, then the new publisher may decide to either renew the agreement or turn off the Google indexing in each page or seek payment from Google under terms of the legislation.

This solution is to safeguard small publishers websites in the event that this government action results in Google not indexing news websites in Australia.

An agreement will ensure Google will continue indexing news generated by publishers that do not seek revenue from Google.

Don't complain; compete

As an aside, a quick Google search reveals that there are 17 other significant search engines in the market. It should be well within the capacity of the major news publishers (worldwide) to purchase one of these sites and turn it into a major news search resource using the accumulated content and ongoing newly-developed additional content of their publications.

They could generate revenue by selling search terms/display advertising on this site just as Google does.

Google came up with an innovative and very disruptive business model but, given the content resources and news teams they control, there is nothing standing in the way of these big publishers to fight back by adopting the search model for themselves in the field of news.

Conclusion

GoAutoMedia believes that if it were to be excluded from search results as a result of a reaction by Google to Google being required to share revenue with the big publishers, then there would be a wholesale closing of small publishers in Australia which are reliant on Google generating traffic for them.

We appreciate that the ACCC and the Coalition are wanting to act in the best interests of preserving high quality journalism in this country and want to assist news organisations and journalists faced with declining advertising revenue and (now exacerbated by the pandemic) but care needs to be taken how any action at a high level might do more serious damage to the lower level of small publishers.

The big publishers that are concerned about Google using their content have it within their control to prevent the Google crawlers from indexing their websites at the stroke of a simple piece of code. If they have a problem with Google using snippets of their content, then turn it off.

It is true that Google is taking vast amounts of money out of the advertising revenues of publishers, but it is within the capacity of the big publishers to take Google on at its own game within the news space and use their content to create the best news search site (in the world if they want to) and take for themselves the total revenue that site would generate.

But the important point is that any changes to the current arrangements that are eventually set in concrete for the big publishers need to preserve the status quo for small publishers in terms of the traffic generated for us by Google.

Please either retain the status quo for us small publishers or make sure that you put in place a special mechanism where publishers can come to terms with Google via the suggested Partnership Agreement.

Let the big media do their thing. And let us stay as we are now.

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