

Australian Competition and Consumer Commission  
By email to [bargainingcode@accc.gov.au](mailto:bargainingcode@accc.gov.au)

28 August 2020

To whom it may concern,

## **RE: DRAFT NEWS MEDIA BARGAINING CODE**

### **1. ABOUT LIME ACTUARIAL AND PRICE WIZARD**

Lime Actuarial and Price Wizard are small businesses. Lime Actuarial uses an algorithm to provide automated Actuarial Reports to trustees of Self Managed Superannuation Funds. Price Wizard uses data analytics, algorithms and machine learning to automatically calculate the prices which will deliver optimal revenue to businesses in industries including accommodation, travel, transport and entertainment.

Both Lime Actuarial and Price Wizard are online businesses. The businesses have minimal face-to-face contact with clients and prospective clients. Digital marketing is an important way of acquiring clients for both businesses. Our 3 most important digital marketing channels are, in order, (1) Google, (2) LinkedIn, and (3) Facebook.

For example, in the past month we have posted around 5-6 pieces of quality content on Facebook, LinkedIn, Twitter, YouTube and our blog pages, with the objective being to promote our brands and improve our Google rankings over time.

### **2. PLACEMENT: THE HOLY GRAIL OF DIGITAL MARKETING**

Above all else, there is one factor that determines the success of digital marketing: Placement. That is, the number of users who see each post/entry, and where on the screen those posts/entries appear.

This is why there is an entire industry dedicated to improving placement in Google ads, Google SEO, and Facebook ads.

Placement is a zero sum game. That is, if one post or entry is given a better placement, then by definition, another post or entry must be given a worse placement.

Furthermore, one very successful way of digital marketing is to produce content that is aligned with the "Zeitgeist", which is translated as the "mood of the day". For example, Price Wizard produced content relating to the price of toilet paper in April 2020, when toilet paper was getting coverage in the mainstream media. As a result, small businesses and large

media companies are often directly competing against each other for placement in relation to the same search terms.

### **3. RELATIVE TREATMENT OF BIG MEDIA VERSUS SMALL BUSINESS**

Big media companies already have a large competitive advantage over small businesses. For example:

- Google Search already prioritises media companies by placing news at the top of search results.
- Media companies get paid for their content. They re-invest the proceeds in producing more content, creating a flywheel which becomes progressively more powerful over time. In contrast, small businesses have to pay in order for their content to appear. This includes paying Google and Facebook directly for advertising, or paying agencies to assist with Search Engine Optimisation and Search Engine Marketing.
- Due to the distribution capability of media companies, they get more social media likes and views of their content, which is then further prioritised by Google's algorithms. This is another virtuous circle that works in their favour. For example – a subscriber to a newspaper might read an article as a result of their subscription. Or a reader of the Sydney Morning Herald might take advantage of the 6 free articles they are permitted to read each month. This reader then posts the article on social media, which re-enforces the rankings of the publication. Small businesses aren't afforded this luxury because they don't have the readership.

If the ACCC is serious about competition with a level playing field for placement, then it should require big tech companies to treat media companies the same way as small businesses. That is:

- Media companies would only be entitled to payments from tech companies if individuals and small businesses are also paid for their content in a consistent manner, and
- Media companies should be treated on par with small businesses and individuals in determining Placement. For example, Google would not be permitted to show news snippets at the top of searches because the same opportunity is not given to small businesses.

### **4. KEEPING AN INDEPENDENT VOICE**

The ACCC has formed a view that media companies have an important role in society because they create an independent source of news. While independent news is important, we should also keep in mind:

- The media companies are not independent. If they were, they would not be covering this very topic where they have a clear conflict of interest. I am yet to read a single article in any newspaper which presents the tech companies' position.
- There are other ways of funding independent news, without disadvantaging small business. The government already funds the ABC and SBS. They could provide subsidies to private media businesses, just as private schools and health care are given subsidies.
- Across many industries, large incumbents are being replaced by smaller niche operators. The media industry is no different. It may be that there is no longer sufficient demand to justify the existing number of television networks and

newspapers. Furthermore, the existing publications might find that their business models need to evolve further in order that they remain competitive.

## **5. AN OPTION FOR THE MEDIA COMPANIES**

If the media companies are really treated as unfairly they claim by the big tech companies, then surely an option for them is to refuse to publish their content on Google and Facebook? Consumers would then have to go directly to the sites of the media companies themselves.

I suspect that the Media Companies enjoy the existing relationship they have with the big tech companies: They get paid to have their brand promoted and to have clicks to their site. Every small business in the country can only dream of such an arrangement.

## **6. PENALISING BIG TECH**

If the government wants to penalise big tech companies, there are other ways to do so, without disadvantaging small business. These could include higher taxes and/or breaking the businesses up.

## **7. CONCLUSION**

The ACCC Draft Code will significantly advantage large media companies, at the expense of small businesses. If the ACCC believes that subsidies are required to keep these businesses afloat, then they should find other ways of doing so.

Greg Einfeld  
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