

ACCC News Media Bargaining Code
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Background

As a small independent publisher in the travel space since 2009 (www.rustycompass.com), I have watched in disbelief as the dominance of Google and Facebook has grown without proper regulatory scrutiny. I view the current dominance of these two companies in the distribution of information and knowledge to be contrary to the interests of publishers, consumers, established norms of accountability, privacy and democracy. I have therefore welcomed the prospect of greater regulatory involvement and have watched the ACCC's announcements with interest.

I have reviewed the documents concerning the ACCC's proposed News Media Bargaining Code and view the code as a misdirection of regulatory effort that addresses the symptoms of the excessive market power of the big tech players rather than the causes of their dominance. The proposal that publishers are entitled to a large slice of the advertising revenue of the tech giants is correct - all publishers -, but the approach proposed is fraught. Google has made this case convincingly in recent weeks.

The real cause of the ascendancy of Google and Facebook is the unassailable quality of their advertising products - which far surpass what can be offered by traditional publishers.

The dominance of Google and Facebook across a range of areas - including advertising revenues, is detrimental to publishers, consumers and democratic norms. Addressing this dominance however, requires regulation that addresses the violations of longstanding norms of disclosure, privacy, informed consent and accountability. The proposed News Media Bargaining Code misses the point.

We believe the regulatory effort should be directed at these violations and that the code errs in taking these violations as given.

WHAT'S WRONG WITH THE CODE -

A regulatory effort is required to check the dominance of Facebook and Google in advertising and publishing and provide proper recognition and financial viability for the work of original news publishers. The code fails to provide a durable solution to the problem because it focuses on symptoms and is built on incorrect assumptions.

The code is misdirected because:

1. It allocates an inflated value to the proposed revenues obtained by digital giants from publishing snippets of news content in i) Google search results and elsewhere ii) Facebook news feed.
2. It denies the undisputed commercial benefit obtained by publishers from referrals by Facebook and Google.
3. It denies the significant part the collapse of classified advertising revenues played, prior to the dominance of Google and Facebook, in reducing the revenues of major publishers.
4. It overlooks the fact that the dominance of Google and Facebook in advertising is based on a superior advertising product that is infinitely more effective and efficient for advertisers than that of traditional publishers. Through extensive surveillance of all aspects of life from browsing habits to shopping habits to behaviour to physical location, Google and Facebook are able to offer targeted advertising products that can never be replicated by businesses not engaged in the same surveillance practices.

A better regulatory approach from the ACCC.

The enforcement of long-accepted standards of privacy, informed consent, disclosure and accountability will address the ill-gotten ascendancy of Google and Facebook in advertising and publishing and provide for a more, diverse and healthy publishing and internet eco-system. Such a regulatory overhaul would be vast in scope - but it is essential.

The ACCC's efforts should be focused on the surveillance practices at the heart of the business model of Google and Facebook - the source of their market power. This surveillance fails to meet normal standards of privacy, disclosure, informed consent and accountability. These failings should be the focus of the ACCC's regulatory efforts.

Rigorous enforcement of commonly understood standards of privacy, informed consent, disclosure and accountability would significantly reduce the dominance of Facebook and Google and return market power to traditional news publishers and all content creators.

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