

## SUBMISSION TO THE PUBLIC INTEREST JOURNALISM COMMITTEE OF THE SENATE OF THE AUSTRALIAN PARLIAMENT

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### Introduction

This submission addresses the core threat to public interest journalism: the simultaneous siphoning of advertising revenue by the two global communications giants Facebook and Google from established and recognised public interest journalism organisations, in particular newspapers, and the republication by Facebook and Google of editorial content from those organisations without payment.

In other words, Facebook and Google get it coming and going.

Failure to address this core threat will mean that no matter what tinkering is done to media ownership laws in Australia, the survival of public interest journalism in this country will remain at risk.

### Main considerations

It is essential that legislators define Facebook and Google as publishers. They themselves have long resisted this with the disingenuous claim that they are merely platforms. Only now, after severe criticism that they disseminated fake news that may have corrupted the US presidential election process, is Mark Zuckerberg reluctantly coming to accept the proposition that he is in fact a publisher.

Leighton Andrews, Professor of Public Service Leadership and Innovation at Cardiff Business School, a former Welsh Government Minister, and a former head of public affairs at the BBC, made this argument forcefully in a recent article published on the website of the London School of Economics:

<http://blogs.lse.ac.uk/mediapolicyproject/2016/12/13/we-need-european-regulation-of-facebook-and-google/>

Defining Facebook and Google as publishers would strip them of the fig leaf that they are merely platforms or aggregators. With appropriate legislative measures, the way would then be open to imposing on them the obligation of any publisher to pay a copyright fee for material they republish from other sources. It would also open them to regulation concerning competition and market dominance in the publishing field.

There is undoubtedly resistance to this revenue-raising approach from media companies who are content for now to go along with the present arrangements under “fair use” provisions of the copyright laws because it means they get great exposure for their copy. That, in my submission, is a very short-sighted view.

We have already seen the loss of 3000 journalists’ jobs in Australia since the digital revolution began to really bite in 2006 on the revenues of established media organisations – the ones providing public interest journalism. The report of the Independent Inquiry into Media and Media Regulation (the Finkelstein Inquiry) recorded the start of this trend at P72.

<http://trove.nla.gov.au/work/166066020?q&versionId=183078956>

Clearly the “fair use” strategy is not working in the interests of preserving public interest journalism. It might be getting eyeballs to the content – though even those metrics are questionable – but it is not yielding revenue to the content-providers. I note that News Corporation has been reporting extensively on the alleged lack of credibility of those metrics, incidentally.

If the copyright laws cannot be made to work for the purpose of directing payment direct from Facebook and Google to the content providers – which I believe would be the cleanest option – then a levy on the revenue of internet intermediaries imposed by government but hypothecated for the purpose of ensuring a return to the content providers would be another way to tackle it.

Related to the question of Facebook and Google’s status as publishers is the issue of algorithmic accountability.

Zuckerberg has played ducks and drakes with the public about this. First the public was led to believe that it was an algorithm that determined the ranking of items on the trending list. It was touted by Facebook as evidence of its complete impartiality in making judgments about prominence. Then we learnt that in fact there was a panel of human beings – editors – making these calls. After this was revealed, Facebook said it was going back to the algorithm after all.

No matter what system is used, it exerts power, and that power can influence political destinies, as we have just seen in the US presidential elections. At the moment it is power without responsibility, what Kipling called “the harlot’s prerogative”.

Facebook and Google need to be held to account for the way they exercise this power. While the Australian Communications and Media Authority might seem the logical means by which this could be done, its sclerotic and legalistic processes have proved weak in the fields of radio and television, and anyway it is bad in principle for a government agency to be the regulator of news content. So a more nimble and focused accountability mechanism funded by government but at arm’s length from it – as with the ABC and SBS – is called for.

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