



Office of the Mayor
PO Box 3130 Bundaberg QLD 4670
[REDACTED]
1300 883 699
bundaberg.qld.gov.au

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Senate Economics Legislation Committee
PO Box 6100
Parliament House
Canberra ACT 2600

Submission to: Senate Economics Legislation Committee
From: Cr Jack Dempsey, Mayor of Bundaberg Regional Council
On the: Treasury Laws Amendment (News Media and Digital Platforms
Mandatory Bargaining Code) Bill 2020

Thank you for the opportunity to comment on the Treasury Laws Amendment (News Media and Digital Platforms Mandatory Bargaining Code) Bill 2020.

The Bill in its current form provides excessive powers to interfere in a free market and risks stifling innovation. It does not guarantee that local news content will increase in regional markets and perversely could reduce it. The Bill is based on the false premise that a bargaining power imbalance exists between digital platform services and Australian news businesses.

The reality is that news businesses need digital platforms to succeed and flourish. It's a mutually beneficial relationship between the news publisher and the digital platforms. Instead of mandatory bargaining, the Bill should provide a voluntary code overseen by an independent panel.

Our experience in the Bundaberg Region is relevant to the committee's deliberations.

In February 2019, Bundaberg Regional Council established Bundaberg Now (www.bundabergnow.com) as a community news service. This was in response to ongoing media fragmentation and decline. In the Bundaberg Region over the past three years, two newspapers have closed (Guardian and NewsMail), the WIN TV local news service has ceased and the remaining TV news services (Seven and Nine) have shed half their staff. Neither of the two local commercial radio stations have journalists based in the Bundaberg Region.

There's no conclusive evidence that Big Tech (eg Google and Facebook) are to blame for this. Television has been impacted by government policy to enable more free-to-air channels as well as streaming services such as Netflix and Amazon Prime. Newspaper revenues have been slashed by online competition for classifieds, employment, real estate and car sales, etc as much as they have by news consumers migrating online. Google can't be blamed for the "rivers of gold" being dried up by Seek, eBay, etc.



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Traditional media companies have partly adapted to the changed landscape by diversifying into online services, eg News Corp's investment in www.realestate.com.au and Kayo, and Nine's in Stan.

Traditional media companies have made commercial decisions to withdraw from regional markets for a range of reasons, not exclusively caused by Google and Facebook. In many places, the plug was pulled suddenly at the height of the COVID-19 lockdown, leaving communities disconnected at a critical time. As subsequently seen, many start-up ventures have succeeded in print and online, often utilising social media and Google to promote their operations and build an audience.

The Bill now seeks to subsidise failed business models (large traditional media companies) by requiring successful businesses (digital platforms) to pay for access to content they don't necessarily need.

Technology is currently available for news publishers to prevent their content being indexed by Google and most choose to operate Facebook accounts which link to their content behind paywalls.

The committee should be mindful of unintended consequences, including reduced choice for consumers and damage to new media entrants and innovative publishing models such as Bundaberg Now.

Bundaberg Now willingly chooses to utilise Google and Facebook to share news and maximise engagement. Both platforms have helped to extend audience reach and Facebook referrals account for approximately half the website traffic.

At 14 January 2021, the Bundaberg Now Facebook page had 28,000 likes from a catchment population of just under 100,000 people and according to Google Analytics the website receives about 100,000 unique visitors per month. Bundaberg Now has been recognised as a legitimate news source by Google, Facebook and Microsoft.

The requirements to be recognised as a news source by Google are broader and fairer than those proposed in the Bill. For example, Google requires evidence of original content and policies for fact checking and privacy. Under the Bill's provisions to be recognised as a news service, it's feasible a company could use mostly syndicated content in a regional market and provide limited local employment as "local" isn't defined.

Bundaberg Regional Council does not seek payment from any digital platform to share or republish news from Bundaberg Now because we derive benefit from this.

Even if Council did seek compensation for news being shared on digital platforms, it appears we would not qualify as a publisher. The Bill requires the applicant to be a "corporation" and includes a revenue test which would seem to preclude a Council-owned or non-profit news service, also sole-trader operators who may establish in smaller markets.

The Bill appears to favour large traditional media enterprises and risks stifling smaller and innovative alternative publishers.

Since the withdrawal from many regional markets by News Corp and Nine, numerous small publishers have emerged, many of whom use digital platforms to extend their reach and engagement. It's not clear they need this Bill or that they will gain from its provisions any way.

There's a risk that if digital platforms withdraw from the Australian market or change their treatment of news, there would be more harm to small independent publishers than large ones.

If Bundaberg Now didn't have access to Google and Facebook to share content, it's likely that fewer people would read and watch the community news we provide. However, News Corp has already exited the Bundaberg market as a print publisher and its online edition uses a lot of syndicated content which is mostly behind a paywall.

It's difficult to discern in the Bundaberg market how this Bill will provide any benefit to local news consumers. As for local publishers in Bundaberg, there's a new print entrant who seems to be successful in the current operating environment while News Corp has five staff working on a syndicated online site with a hot desk in the CBD and no physical office after closing its newspapers.

The media market in Bundaberg has realigned itself without any interference or assistance required by the Commonwealth Government.

The Bill can't address a non-existent power imbalance between news publishers and digital platforms, but risks creating a power imbalance between small news publishers and large ones.

Mandatory bargaining should be removed from the Bill and a voluntary code implemented instead.

Yours faithfully



Jack Dempsey
Mayor - Bundaberg Regional Council