

The ACCC's news media bargaining code is bad news for Australian news

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You've probably seen the headlines. The government has released a draft News Media Bargaining Code, through which it is trying to force Google and Facebook to pay for news content. They're each kicking up a massive stink rivalled only by a 5 year old coming down off a birthday party sugar high.

In the latest twist of events, Facebook has threatened to cut off news links altogether in Australia. What this illustrates in painful clarity is that the code is answering the wrong question.

The ACCC's Digital Platforms Inquiry identified that news publishers in Australia were hugely reliant on audience numbers delivered by Google and Facebook. That was the source of the underlying imbalance in bargaining power between them. The news publishers' dependence on that audience left them vulnerable to Google or Facebook switching off that supply; which is what Facebook is proposing now.

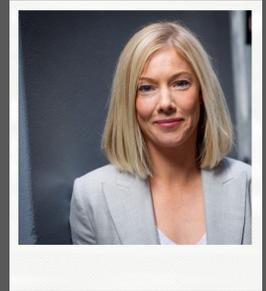
The Federal government cooked up a solution; to make Google and Facebook pay the news publishers to make available their content. Huzzah! Problem solved! Actually, their solution entirely ignores the original problem; i.e. that the news publishers really need Google and Facebook's audience referrals, probably more than they need a right to negotiate payment to link to their content. The code completely ignores that supply by Google and Facebook. That's its fatal flaw.

As a result, the code cannot prevent Google or Facebook from switching off their audience referrals. And that will be terminal for many Australian news publishers; especially digital natives. The ability to seek payment for the right to link to their news content won't save them. The only ones likely to survive are the large, mainstream mastheads. Small, independent players – seeyalater.

There are two possible solutions to all this. First, news publishers find revenue models that don't make them so reliant on advertising revenue delivered by internet audience volumes. Assuming that can't or won't happen, the government needs to mandate supply of audience referrals by Google and Facebook to news publishers. That's the only way they can stop them from withdrawing supply (a la Facebook) and crippling our news industry. We wrote about how this can be done [here](#) and [here](#).

The code asks only 'how much should Google and Facebook pay to supply news links'. That is the wrong question, and it is going to kill off a valuable part of our new industry as a result. We'll all suffer for that.

Questions? Give us a call.



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