

## **Op-ed - 'User pays' rule applies to Google and Facebook cashing in on local news content**

**Gregory Hywood, Chairman, Free TV Australia**

Federal cabinet is facing a critical decision that will determine the future of quality journalism in Australia for generations.

Innovative legislation under consideration will bring Google and Facebook to the table to negotiate fair payment to Australian media outlets for locally produced news content. Once implemented Australians can feel confident they will have a viable media establishment that can continue to ask the tough questions our institutions and those in power often cannot or will not ask of themselves.

It is these questions that keep our community open, transparent and generally free of systemic corruption.

Across the world, these internet giants reap billions of dollars in profits by accessing locally produced news for free. Unlike here, though, other governments have been unable to withstand the blocking moves of these modern-day monopolies.

Free TV congratulates the government for so far standing firm against such pressure tactics.

Federal treasurer Josh Frydenberg's statement that he intends to have a news bargaining code legislated by the end of the year is most welcome. It must be a strong code to satisfy Australians their news media sector's future is sound.

From bush towns to bustling cities, we rely heavily on trusted local news. That need was never greater than during this horror year as the rolling crises of bushfires, floods and the pandemic drove us to access news instantly, sometimes hourly.

Without our journalists prodding and probing there would have been no royal commissions into our banking system, and sexual abuse in churches, and no outing of corrupt politicians, business people and union officials.

Australians know dependable local news sources are under threat. In recent years many have shut down, forever silencing local voices and severing information flows to their communities.

The Australian Competition & Consumer Commission spent 18 months investigating the impact of Google and Facebook on the sustainability of the news media sector.

It forensically examined their relationship with news media businesses and their impact on the advertising market.

The ACCC's pioneering Digital Platforms Inquiry concluded that the decline over time in Australian public interest journalism outlets resulted from a drop in traditional media advertising revenues.

But as local news media businesses were being starved of revenue, advertising revenues of Google and Facebook were dramatically increasing.

Australians can search for news on Google and share stories with their family and friends on Facebook and Instagram because of investment by local news media businesses in quality journalism. Google and Facebook earn healthy revenue by collecting data on those users and turning it around in highly targeted advertising.

This makes news content hugely valuable for digital platforms, yet Google and Facebook don't pay Australian media companies for this prized content.

They should care about Australia's imperilled media landscape. They should care about ensuring the sustainability of our news media sector, because they benefit enormously.

But they aren't happy with the idea of paying. Indeed, Google has made its position clear: It doesn't want to pay news businesses for their content at all, because those businesses obtain some value from referral traffic.

That's why we need a strong news media bargaining code.

To survive, local news media businesses must be able to negotiate a fair contribution to the cost of creating content that returns handsome profits to Google and Facebook.

The final code must include four essential ingredients to ensure a fair, equitable and flourishing Australian news future in partnership with the platforms.

**Final offer arbitration:** This straightforward arbitration model limits incentives on each party to make ambit claims. This is a far more appropriate model than slow, resource-intensive arbitration approaches favoured by Google.

**Strong protection against discrimination:** In France, Germany and Spain, Google changed its services to avoid making a fair contribution towards the cost of content creation. Facebook has threatened to do the same in Australia. Protections against these crushing tactics are critical.

**Cover all services:** The code must apply to Google Search and its variants; Facebook News feed; and Instagram.

**Information exchange:** Google and Facebook must be required to exchange information with news media businesses that is required for a fair and balanced commercial negotiation and arbitration process.

Contrary to the misinformation campaign of the platforms, the draft code is fair to all parties. Under it, all relevant costs and benefits will be considered, including the potential "undue burden" on the platforms' commercial interests.

The code will not require the platforms to provide any additional user data to news media companies.

Neither will it stop them from making changes to their algorithms; nor will it require special treatment for news media businesses.

Contrary statements made by the platforms on these issues are not correct.

Google says it wants to fund the future of Australian media. We challenge Google to prove it by supporting a strong, fair and equitable bargaining code.

Without it, the decline of professionally produced news content in Australia will continue.

And that's dangerous for our democracy.

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