

Tran Thanh Thao
105271681@student.swin.edu.au

Innovation Cultures
MDA10006
Mr. Lam Ha

Assignment 2 – Short Essay	Weight 40%
The Australian News Media Bargaining Code	

Word count: 1014 words

Introduction

In Australia, in order to ensure a well-functioning democracy, the government has corrected a significant bargaining power imbalance between tech platforms and local news publishers—in the context of the journalism economy: tech platforms increasingly have unfettered monopoly power over how news is both defined and delivered (Bossio & Barnett, 2023). This prompted the need for the world's first market-driven regulatory framework which came into effect on 2 March 2021 called the Australian News Media Bargaining Code (NMBC) (Australian Competition and Consumer Commission, 2022).

Basically, NMBC is a law that would require tech platforms to pay for news that appears on their platforms (Australian Competition and Consumer Commission, 2022). As a result, negotiations—between tech platforms and local news publishers—come to terms with commercial agreements (Australian Competition and Consumer Commission, 2022). If negotiations fail, the code provides a framework for arbitration to resolve disputes (Bossio et al., 2022).

In other words, the code is designed for eligible news businesses to receive support producing public interest journalism. The Code so far has successfully brought financial benefits to news businesses with “significant funding to Australian newsrooms” and “employment of more journalists” (Bossio & Barnett, 2023).

But arguably, the Code has not yet actually promoted media diversity, or at least leveled the playing field in the Australian media ecosystem (Bossio & Barnet, 2023). Though this platform regulation has not been a total success as an enforceable policy, it has opened doors to a legislative mechanism (Bossio & Barnet, 2023).

Taking into account the impacts of NMBC, this paper aims to, firstly, demyth the benevolent characteristic of digital platforms and, secondly, discuss news media dependence on digital platforms. In the end, we opt to address a free-speech concern at the rise in power of platforms in today's digital world.

Digital Platform Power

Digital platforms make money through advertising, subscriptions, e-commerce, and data services. To be more specific, social media like Facebook and search engines like Google make money primarily from advertising revenue. They wield significant power over citizenry because they collect vast amounts of personal data, control what content is promoted or suppressed, and ultimately, shape how people communicate and interact on these platforms.

How citizenry finds news on digital platforms is largely the result of algorithms in curating content. The visibility of content on social media and the rank of content on search engines are adjusted frequently by updates in the algorithms. Also, because these updates are unannounced changes, news businesses have to scramble to strategize their news distribution (Meese & Hurcombe, 2022). These are disadvantages for news businesses given digital platforms do receive value from having news on their site.

Consider when Facebook initially threatened the NMBC by banning news in Australia. Though this digital platform persistently fashions itself as an innovative and benign infrastructure that exists for public interest and serves a neutral role, Facebook did not make decisions based on public interests (Bossio et al., 2022). Though eventually, Facebook agreed to deals under the Code.

Additionally, the Code's lack of designation has been unhelpful in leveling the playing field between digital platforms and news businesses. As no platforms have been officially designated

yet, platforms know that they aren't legally required to comply (Bossio & Barnet, 2023). They can choose not to negotiate or offer less favorable terms—especially to smaller and independent news businesses (Bossio & Barnet, 2023).

News Media Dependence

The impacts of the NMBC on the media ecosystem have generally benefited and provided financial advantages to only large eligible media firms (Bossio & Barnet, 2023). This reality conflicts with the goal of NMBC as to support public interest journalism. It downplays small news businesses that contribute diverse voices.

Also, there has been the issue of legal terminology, of definition of what an organization would count as a legitimate “public interest journalism” organization (Bossio & Barnet, 2023). The bottom line is that the Code is widening the gap between large and small media firms.

News businesses/ publishers can make money through subscription-based business models or directly ask readers to contribute. However, they have long been reliant on advertising for revenue (Meese & Hurcombe, 2022). The digital advertising market in Australia is dominated by digital platforms such as Google, Facebook, and YouTube whereas news businesses cannot compete with programmatic advertising (Meese & Hurcombe, 2022).

Platforms send clicks to news publishers—as increased traffic and audience reach. Many news businesses achieved success because of social media—as they continue to rely on Facebook and Google to distribute their news content (Meese & Hurcombe, 2022). The flow and profitability of news content are under the organizing power of platform algorithms. This growing dependent relationship makes publishers vulnerable to changes in platform algorithms and policies.

Conclusion

Aren't these digital platforms nowadays a must-have channel of distribution for news publishers?! Recognizing this, the NMBC aims to correct this market power imbalance to support public interest journalism.

On the one hand, Google and Facebook are “strongly against any form of regulation” (Meese & Hurcombe, 2022) as they stand from the bedrock internet principle that sharing hyperlinks should be free and open. From having news content on platforms, their gain is high-quality content and a healthier information ecosystem.

On the other hand, in the name of protecting public interest journalism by ensuring fair compensation for news content, this platform regulation from the Australian government has yielded some positive results though has not looked after the media ecosystem in terms of leveling the playing field and ensuring diversity. Unfortunately, the Code only aids the already powerful players.

On the world map of liberal democracies as well as authoritarian regimes, our goal today is set for constitutional guarantees of free speech and free press. Importantly noted, the reality of free speech in the digital age is now fundamentally different, as Jack M. Balkin wrote in his ‘Free Speech is a Triangle’ article (2018): It used to be only territorial governments versus speakers, now there is the third group of privately owned internet infrastructures, such as digital platforms, which support and govern the digital public sphere (Balkin, 2018). As profit-driven digital platforms are becoming more and more powerful—alarmingly, the Australian NMBC is the first to successfully require platforms to comply.

References

- Australian Competition and Consumer Commission. (2022, May 2). News media bargaining code.
<https://www.accc.gov.au/by-industry/digital-platforms-and-services/news-media-bargaining-code/news-media-bargaining-code>
- Balkin, J. M. (2018). FREE SPEECH IS A TRIANGLE. *Columbia Law Review*, 118(7), 2011–2056.
- Bossio, D., & Barnet, B. (2023). The News Media Bargaining Code: Impacts on Australian journalism one year on. *Policy & Internet*, 15, 611-626. <https://doi.org/10.1002/poi3.361>
- Bossio, D., Flew, T., Meese, J., Leaver, T., & Barnet, B. (2022). Australia's News Media Bargaining Code and the global turn towards platform regulation. *Policy & Internet*, 14, 136–150. <https://doi.org/10.1002/poi3.284>
- Meese, J., & Hurcombe, E. (2022). Global Platforms and Local Networks: An Institutional Account of the Australian News Media Bargaining Code. In: Flew, T., Martin, F.R. (eds) *Digital Platform Regulation*. Palgrave Global Media Policy and Business. Palgrave Macmillan, Cham. https://doi.org/10.1007/978-3-030-95220-4_8