

16th of April 2018

Australian Competition and Consumer Commission (ACCC)
Canberra ACT
2610

RE: Submission to ACCC's Digital Platforms Inquiry

By Email: platforminquiry@acc.gov.au

The Australian Lottery and Newsagents' Association (ALNA) is the peak national industry body representing Lottery Agents, Retail Newsagents' and Distribution Newsagents who along with affiliated state lottery associations, are small businesses that are found in almost every rural town, regional centre, urban and metropolitan shopping centre in Australia.

There are over 4000+ Lottery Agents, Retail Newsagents' and Distribution Newsagents in Australia. They are an important and trusted part of Australian communities and approximately 2.5 million Australians shop at their local agency every day. Our members therefore make a significant contribution to the Australian economy, employing over 20,000 people and generating an estimated annual turnover of \$6 Billion. Agencies have commercial relationships with over 25,000 other businesses, further demonstrating their valuable contribution. We are one of the largest and independent retail channels in our community.

The Association is very supportive of the government initiating this important ACCC inquiry to better understand the impacts and disruptive effect that large scale digital platforms and content aggregators are having on the broader markets for news, media advertising and its distribution in Australia.

As retailers and distributors of physical media content, our industry has gone through a major transition over the last decade or more, as a result of the digital disruption of traditional newsprint media companies and magazine publishers by digital platforms. This transition continues, but it's more obvious outcome at store level is a diminishing reliance by successful newsagency retailers on traditional media agency categories like newspapers and magazines, as major profit generators in their businesses. These categories are still a core identifying feature in many of our retail stores, but these businesses have changed their retail models considerably to generate much more of their core margin from other more profitable categories such as gifting, toys, plush/novelty, convenience lines and homewares, along with lotteries, which while it is relatively low margin, has also grown to become a more important traffic and sales driver in these businesses.

The distribution of home delivered newspapers has also gone through a major transition. In the past there were many distributors who also ran retail outlets, however, major consolidation has now left fewer distributors doing higher volumes of deliveries across much wider territories, particularly in metro areas.

Our main area of interest in this inquiry, is to provide insights and commentary on the knock-on effects of disruptive digital platforms on the traditional print media companies and publishers as major suppliers to our industry, and on the broader market for the distribution of newspaper and magazine content in its physical form through our retailers and distributors. We also address competitive effect and processes occurring between online content and physical formats in our industry.

While it may be true that power has been rapidly amassed by digital platforms the likes of Google, Facebook, Apple and Twitter. It's been reported widely about this inquiry, that some traditional media industry leaders are calling for a "level playing field" with these digital platforms. This is illustrative from our industry perspective, because in our market the trickle-down effect of digital disruption and a shift of advertising and content dissemination to digital platforms, has been some publishers using their remaining market power to protect their margins and to not allow a more fair and equitable level playing field for our members as their retailers and distributors of physical content, whilst asking through this inquiry for a fair and level playing field for themselves.

This can be demonstrated through several reforms by major newspaper publishers over the last five or so years.

For example, most newspaper publishers have now made unilateral changes to some of their contract terms with our members, to allow them to shift from the traditional percentage commission remuneration model, on the cover price of their retail and home delivered products, to instead only offering set sales fees. These changes were often presented to our members at the time as protecting agency margins in case the price of the physical product dropped as a result of disruption. However, once this transition was completed, aggressive increases in cover prices have sustained publishers' margins in a diminishing market, whilst increases in sales fees to our members have not kept pace at all with their rising costs, as densities of deliveries in distribution territories have fallen along with retail sales.

Since these changes were made, minor annual increases of these fees, which have regularly been just over 1% for some publishers, have had the effect of substantially lowering overall margins for each product handled. Distributors and retailers under existing agency agreements, have little to no countervailing bargaining power available to them other than boycott activity, and are essentially price takers.

Another reform and impact of the disruption of traditional newsprint media companies, has been newspaper publishers seeking to migrate subscriber data and the customer relationships away from carriage by their agents, back to the publisher to have greater control. The transitional cost impost for our members to comply with their contractual obligations to process and shift this data where it has been requested, has been significant, and it has also detrimentally impacted the customer relationship with retail outlets.

A further large impact on our market has been the value discount put on content produced by traditional media outlets in their rush to get consumers eyes on their digital pages to make up for lost circulation and advertising revenues from print. Whilst some media companies have now bolstered content value by shifting to digital paywalls, which also supports the consumer value of their physical products. For a long-time content had little or no value and was available for free digitally, or in the case of physical content, marketed at a heavily discounted rate or for free through set promotions in other prospective sales channels. This had an enormous impact on sales of physical product through core sales channels and still does.

As traditional newsprint media companies have tested and re-tested models to transition profitable subscribers to their own digital platforms, the competitive effect in our channel has undermined even the more efficient consolidated models for distribution of physical content set up by our members. An example of which, is heavily discounted hybrid subscriber offers of digital and physical content direct to consumers by publishers, instead of through their agents. These offers often include one off bonuses, and they compete with and undermine existing profitable full week direct subscriber relationships with distributors in their sales territories. They replace them with direct publisher relationships that see distributors delivering product less often and on more expensive days of the week, so they make less money.

Magazine publishers have also been dealing with the disruption of their business model and have tried several reform models themselves to make their distribution through our agents more efficient, such as the Magazine Publishers of Australia (MPA) code of conduct trial. So far these have not delivered any lasting efficiencies for our members and only marginal gains for the publishers.

Disrupters like large scale digital platforms are often seen as being pro-competitive, BUT they are often unfair competition, as incumbent older players are frequently impacted by tighter regulation, or baggage that limits them like past high costs of entry. In our industry, the issues of both digital equity and agency remain problems. Large scale digital platforms compete for audience and advertising dollars with the traditional media company's physical forms of media content and also with their digital ones. They also compete for our members customers as an audience. Our members are very limited in the ways that they can compete for consumers consumption of media, as their agency agreements have strict contractual obligations that limit them to only the physical product they can sell, so they have few levers to pull to compete equitably. This often finds them competing directly with their supplier's own digital only offerings and subscriptions, as they are excluded from access to some digital product categories that they have no access to through their agreements. This broader issue of digital equity and access to markets, along with competition occurring between suppliers and their agents as a result of disruption of media consumption, is one that increasingly is hurting small businesses in particular, and that warrants careful investigation.

While it is clear that much of this activity is a result of cause and effect, as media and advertising bargaining power has shifted to digital platforms. We note that the use of strong one-sided agency contracts with small businesses who have much less bargaining power, has been effective in

prosecuting many of the reforms that have occurred in our industry as a result of digital disruption, and which have detrimentally impacted our members.

The ALNA has long been a strong advocate of access to Unfair Contract Term (UCT) protections for our member small businesses. Nonetheless, since the introduction of these reforms in November 2016, which we welcomed, we have so far seen only one of our major suppliers across the whole industry voluntarily review their contracts to comply with the new unfair contract term provisions, despite this having been the law now for more than a year and contracts being supplied in a standard form. Some of these suppliers seemingly believe that not issuing new contracts and relying on rolling contracts is a loophole they can rely on, or that they are not standard form? This needs to be addressed.

ALNA would like the ACCC in its deliberations on this inquiry to consider carefully the knock-on effects of disruption in the supply chain and that if increased regulation of digital platforms might occur, that the countervailing bargaining power of traditional media companies as major suppliers to our industry is also sensibly considered, and that in any future regulation there is consideration given to levelling the playing field fairly throughout the supply chain of media content.

On behalf of ALNA members, we appreciate your time and consideration of these important issues and their impacts on our industry and the Australian community.

Yours sincerely,



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