

20 April 2018

Mr James Penprase
Director – Digital Platforms Inquiry
Australian Competition and Consumer Commission

Via Email: platforminquiry@accc.gov.au

Dear James,

Digital Platforms Inquiry – response to Issues Paper from Australian Radio Network

Thank you for your recent communications with Australian Radio Network (ARN) and Commercial Radio Australia (CRA) regarding the Digital Platforms Inquiry (the Inquiry). We appreciate the opportunity to respond to the Issues Paper.

As you are aware, ARN owns or controls 12 commercial radio stations across Australia, including the KIIS network in Sydney, Melbourne, Brisbane and Perth; the Pure Gold network in Sydney and Melbourne; Mix 102.3 and Cruise 1323 in Adelaide; 4KQ in Brisbane and Mix 106.3 and Hit 104.7 in Canberra (joint venture with Southern Cross Austereo). ARN also operates a number of DAB+ stations including 80's, 90's, ELF Radio and Chemist Warehouse Remix, and is the exclusive licensee of the iHeartRadio streaming service in Australia and Asia. ARN is owned by HT&E Limited, an ASX listed Australian company.

ARN makes the following comments in response to the Issues Paper. We have not addressed every issue or question, but have provided some high level comments on areas of most relevance to us and are happy to discuss any of these comments with you in more detail.

In short, we would like to see a similar regulatory burden on online and traditional media to allow an even playing field. This is discussed further below.

News & Journalistic Content (Questions 1.3 and 1.4)

We believe the ACCC should consider a broad range of suppliers of news (in its broadest sense) and journalist content. The Inquiry should focus primarily on news that is *produced* in Australia, ahead of that merely *supplied* to consumers in Australia. This is because breadth of views in news is important to Australians and this will only come if a broad range of Australian news suppliers are financially viable.

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ARN's stations are not classified under the Commercial Radio Codes of Practice as 'news and current affairs' stations. Instead, we focus on music and entertainment. However, we do broadcast regular news bulletins across all of our stations and undertake journalistic endeavours to uncover stories and discuss issues of importance to our listeners, many of which are related to news events. Our websites create a large amount of entertainment and other news articles and stories which appeal to our local communities and respective listener demographics.

We think it is important to recognise that much of the same efforts go into creating 'entertainment' news as any other news. The issues affecting entertainment news produced by broadcasters in Australia (either on air or online) is also impacted by competition from online platforms, just as 'traditional' news is. Whilst we acknowledge that not all entertainment content will fall within the scope of this Inquiry, we ask the ACCC to consider 'entertainment news' (informative stories about issues relating to entertainment) within the scope of its definition of news & journalistic content.

Implications for media content creators (Questions 3.6-3.10)

Online platforms – terms of use & policies

ARN uses online platforms (social media, search engines and other websites) for a number of promotional and marketing purposes, including for activities involving our clients. In order to effectively use social media platforms ourselves and with our clients we stay abreast of each platform's terms of use and policies in order to make sure what we're proposing to do is compliant and appropriate. Some social media platforms are known for changing their terms of use and policies regularly (and on very short notice), making it difficult for us to rely on these platforms for longer-term activities ourselves or for activities involving our clients. The recent change to Facebook's algorithm and terms of use is a good example of (what appeared to be) a very quick change made with significant impact to users of the platform, including a potential financial impact on us.

Search & priority setting by algorithm

ARN operates a number of very active social media pages and websites, supporting some of the most successful radio shows across Australia. It is not uncommon to see stories online (on third party websites) and on social media generated from content/stories reported on our radio shows within minutes of them being broadcast. Whilst this generates publicity for us and is not necessarily problematic, it is becoming increasingly more difficult to control and direct traffic to our own websites and stories via search engines when large websites with extreme scale are effectively 're-reporting' from us and appearing in the first (and often top five or ten) search results. Whilst the third-party sites usually attribute the story to us, we do not get the benefit of the click through or website visit, despite being the source of the story, and despite undertaking SEO and other standard practices to manage search engine traffic. This has a direct impact on revenue.

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Notwithstanding standard SEO practices employed by most businesses, large news websites such as news.com.au and dailymail.com operate with such scale that it is almost impossible to compete with them via current search engine algorithms, even if our website or radio show is the original source of the story.

Fundamentally, control over who has access to content lies with online platforms via algorithms which the creators of content (ourselves included) cannot control and which are not transparent.

Confusing and inconsistent metrics used by online platforms

The current metrics used by online platforms to measure audience, reach and other statistics relevant to advertisers are often inconsistent, difficult to understand and compare, not transparent and in some cases, blatantly misleading.

The commercial radio industry survey system for audience measurement is clear, transparent and consistent. It is a system which is easily comparable, robust and reliable.

It is very difficult for traditional media with clear and consistent audience measurement metrics, to properly analyse and compete against online numbers which are often unreliable and opaque.

Our clients (and potential clients) are often left confused and misled by big online statistics which are difficult to support, but can result in us losing business in favour of online platforms, or time spent with clients clarifying and analysing the numbers in order to retain or win the business, which takes time and resources.

Over-regulation of traditional broadcasters (Questions 3.32 to 3.36)

ARN, as a radio broadcaster, is subject to a very large amount of regulation in order to convey its content and run its business, including (without limitation) the *Broadcasting Services Act 1992*, Commercial Radio Codes of Practice, Disclosure Standard and a large number of Industry Codes and Practices.

Online, social media and search platforms are, for the most part, subject to very little regulation. This inequity results in increased compliance and administrative cost to ARN, and an unfair advantage for online platforms. In some respects, it can have a direct impact on revenue and resources.

Examples of this include (but are not limited to):

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1. Electoral Act prohibiting TV and Radio (but not print & online) from broadcasting election advertisements during the 3-day 'black-out' period before an election;
2. Radio is subject to Commercial Radio Codes of Practice including standards of decency, rules regarding vilification, distinguishability of advertising, live hosted entertainment and accuracy of news & current affairs – online platforms are subject to general consumer protection legislation (which, of course, broadcasters are also); and
3. Even with regard to new regulation which is imposed on both radio and online (for example, the new live odds regulations), the TV and Radio Codes were updated with the new regulations in place from 30 March 2018. The online regulations are yet to be implemented.

In addition to this, radio is subject to a level of public opinion and scrutiny which online platforms have not, in our opinion, (at least until very recently in light of the Facebook/Cambridge Analytica issue) been subject to.

Whilst we understand and respect the regulations to which we are subject, our concern is that our online competitors face less regulation, giving them increased agility and lower compliance and operating costs. From a client perspective, we are expected to meet costs and timeframes in-line with online competitors and partners and we have received some feedback that, due to regulatory constraints specific to radio, some clients are deterred from advertising on radio, preferring instead to direct advertising spend online. This is disappointing and frustrating.

We would like to see both online and traditional media subject to the same general level of regulation with respect to advertising and content, with the same level of scrutiny and enforcement, as the radio industry and our business is currently subject to. Alternatively, we would like to see a recommendation that the level of regulatory burden placed on traditional media companies be lessened in order to better level the playing field between traditional and online media.

We would be happy to discuss this submission in more detail, or provide any additional information that you require.

Yours faithfully,

Sarah Tinsley
Legal & Business Affairs Director
Australian Radio Network

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