Submission to the ACCC regarding the News media bargaining code

Thank you for the opportunity to provide feedback on the "Draft news media bargaining code - Exposure draft bill".

I am a software developer and former Google employee (2009-2016). Whilst I did not work on search directly, I spent a large portion of my time at Google working on the systems that all Google products use to provide personalisation, both for signed-in users and for temporary sessions for non-signed-in users. I therefore have a moderate level of familiarity with the technology involved.

Summary:
- The proposed legislation is unfair to other content providers. Digital platforms must remain neutral and provide a level playing field to all content sources from all countries.
- The bill does not include any examples of what it expects the digital platforms to provide, and the high-level description of what is being asked is not feasible for platforms such as Google to implement.
- Digital platforms adapt and improve their "algorithms" in much shorter time intervals than 28 days, and this is critical to their ability to provide relevant results.
- The behavior of digital platforms, and in particular the ranking of search results, is highly context-specific and not easily distilled down to simple rules and predictions. Again, this is a necessary consequence of the incredibly difficult task that they are solving.

This feedback will be primarily about the technical issues I have with this bill, however I would like to also mention that while I am sympathetic to the position of the news media companies, I do not think this is the correct way to solve this issue. Digital platforms like Google must treat all content producers equally. It is not fair that a specific set of registered businesses be given special privileges. A search engine's only driver for ranking must be global relevance, and it is not up to ACMA to be the arbiter of this. It is of particular concern to me that a revenue test is required to become a registered business.

I would be happy to see the ACCC replace this bill with some additional requirements for digital platforms to provide better tools for *all* content producers to post-hoc understand the ranking results of specific pieces of content, within the limits of what is technically feasible.

On the technical front, the primary issue that I see is that it is not feasible for a modern digital platform to actually implement what will be required of them. The bill calls for the information to be "given in terms that are readily comprehensible", but these systems are so complex that this is no easy task. I would expect that a future version of this bill must provide a series of examples of what it expects this information to look like. I hope that in attempting to provide such examples, the authors of this bill will appreciate some of this complexity.

Section 52N describes one such change that a readily comprehensible summary must be provided for as "... changes (that) are likely to have a significant effect on the ranking of the

registered news business' covered news content". I have made several attempts at coming up with what an example notification from a digital platform would look like that would achieve this, but:

- Ranking changes are necessarily relative to other results for the same query, which is for a topic that might not even exist for another 28 days. Even the 48 hour "public interest" provision is still too long.
- Ranking is for a particular page, not for a particular organisation. A given change might cause some articles from one organisation to go up, and others down.
- Ranking is highly dependent on a user's query. Small changes to a query have a dramatic effect on the overall results.
- Ranking is also very specific to a given user. This can be anything from the user's current location to their previous search history.
- Ranking is at a given instant in time. The search results for a given query will change dramatically over a period of hours for a topic that is actively developing.

None of these five issues are because a digital platform is deliberately obscuring their ranking process, it is simply an artifact of the ranking process being an extraordinarily complicated task. It is also worth remembering that this a dramatic oversimplification of a small subset of what goes into the ranking algorithms. There is no simple flowchart of steps that the system follows, rather it involves the aggregation of petabytes of data and thousands of computers worth of processing for every single search query. However, at a minimum, I would like to see the ACCC address these five issues in a future version of the bill.

Any attempt to implement this legislation will require digital platforms to dramatically scale back the amount of sophistication they use in search results. This is why Google has been describing their services as "at risk" as the quality of search results will suffer as a result. Anyone who can remember what using search engines in the 1990's should understand this immediately.

Kind regards,
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