News Corp Australia

SUBMISSION TO ACCC DIGITAL PLATFORMS INQUIRY

RESPONSE TO REPORT BY HENRY ERGAS ET AL

23 AUGUST 2018

News Corporation Australia has had the opportunity to review the report prepared by Henry Ergas, Jonathan Pincus and Sabine Schnittger, titled '*Impact of news aggregators on public interest journalism in Australia*', dated May 2018 (the ***Ergas Report***). We take the opportunity in this submission to respond to a number of the points raised in the Ergas Report.

The Ergas Report appears to suggest that 'news aggregators' lower the costs of delivering news and allow publishers to access a potentially larger base of readers. The Ergas Report concludes that participation in a news aggregation platform can improve the success of publishers' digital business models and alleviate some of the negative consequences of digital disruption (such as heightened churn as a result of alternatives being '*just one click away*'). The report therefore leaves the impression that the problems faced by publishers are simply the result of diminishing reader interest and increased competition for readers' attention.

Crucially, the Ergas Report devotes its entire analysis to the impact of Google's news aggregation product, *Google News*, and ignores the impact of *Google Search* on publishers. It positions Google News as an altruistic and beneficial service to publishers by directing traffic to publishers and not directly monetising. In doing so, the Ergas Report never fully or properly explains the role Google News plays in supporting Google Search and the role Google Search plays in the dynamics between platforms and publishers. In fact, Google Search intermediates between publishers, advertisers and consumers in a way that benefits Google's own business model at the expense of publishers.

Nor does the Ergas Report examine Google's responsibility for undermining the current and long term sustainability of journalism, which the evidence shows is best supported by publishers' own subscription and advertising models which Google actively disadvantages. Certain Google practices, including but not limited to scraping, snippets and First Click Free have entrenched a perception amongst consumers that news is free. As Google Search is the gateway to the internet and an unavoidable trading partner, publishers have no alternative but to submit to Google's practices, or risk exclusion from the platform. While it may be true that search platforms with powerful web-crawling capabilities such as Google have the *potential* to work harmoniously with publishers by facilitating discoverability by readers, the manner in which Google operates has resulted in a distortion of the supply chain.

This submission corrects the Ergas Report's focus on Google News and demonstrates how Google Search is operating as an intermediary to undermine publishers' ability to monetise their own content, generate advertising revenues and build subscription models. In doing so, this submission compares the development of Google Shopping to demonstrate how Google positions these 'vertical' or neighbouring services to entrench its dominance in Search. This submission also reiterates how Google's position as a digital intermediary in fact dilutes publishers' brands and undermines publishers' efforts in building subscription models which Google discriminates against. While the immediate impact of Google's practices is being felt by publishers, Google's practices are jeopardising the sustainability of quality journalism, which will ultimately lead to widespread consumer harm. Finally, the submission responds to the position adopted in the Ergas Report that there are no public policy solutions to the current crisis in public interest journalism.

This paper is structured as follows:

- **Section 1** responds to the Ergas Report's misplaced focus on Google News (rather than Google Search) and failure to recognise industry trends.
- **Section 2** responds to the Ergas Report's focus on two-sided markets and the failure to properly characterise Google as an intermediary in the news supply chain.
- **Section 3** compares the development of Google News and Google Shopping.
- **Section 4** outlines how Google's conduct is harming public interest journalism and jeopardising quality content creation.
- **Section 5** outlines how Google has undermined regulatory intervention efforts around the world.

1. Misplaced focus on Google News ignores harm caused by Google Search

The Ergas Report focuses on Google News and in doing so ignores the fact that Google Search is the primary way in which individuals search for and find news. The Ergas Report relies on five economic studies conducted in relation to the effects of Google News, which Ergas et al say provide evidence that Google News increases referral traffic by 17-26% to publishers' websites. In light of this finding, the Ergas Report concludes that the expansion effect of news aggregation significantly outweighs any substitution effect which might arise because readers do not click through to publishers' websites (see page 3 of the Ergas Report).

The report prepared by Frontier Economics, annexed to this Submission, demonstrates the flaws in the Ergas analysis and shows the effect of news aggregators on news publishers is very limited. When construed properly, the available studies suggest that news aggregators increase the number of page views by much less than suggested by Ergas, at only around 10-11 percent, and in doing so do little to assist building the publishers' brand in the eyes of the reader.

In support of this, there is evidence that *Google News* has indeed had very little impact on the distribution of news. As the Ergas Report sites, from Watkins et al (2017), only 5% of individuals consuming news online use a news aggregator such as Google News as the main gateway to accessing news. However, 24% use a search engine to find a particular website or news story. [redacted][1]

This is largely because Google operates Google News as a tool to drive more traffic to Google Search. Google News is not directly monetised, however, it serves Google by generating traffic to Google generally and contributing data, which supports the monetisation of other Google services, notably Search. Google News therefore serves as a complementary product to further enhance Google's position in search. A Google executive placed a valuation of US$100 million on Google News in 2008 on the basis

[1] [redacted].

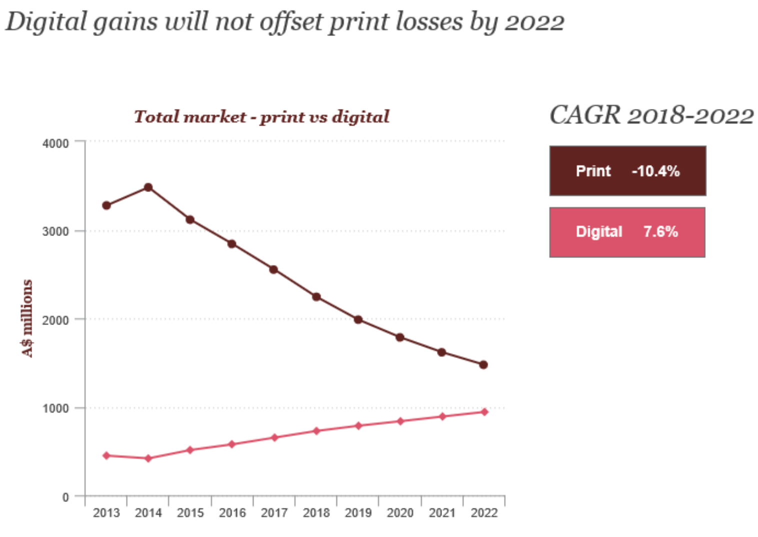
that, although Google News was not directly monetised with advertising, it generated spill-over benefits in terms of increased search advertising.[2]

Failure to recognise *industry trends*

The report by Ergas et al also fails to consider overall trends in industry revenues. The report refers to the decline of traditional newspaper readership and the associated loss of print advertising revenues for these organisations. The report also refers to increasing sales of digital subscriptions, and gives figures for total subscription numbers to large Australian publications including those of Fairfax and News Corp Australia. However, the report fails to point out the significant revenue gap which has been created by this structural change.

Our submission to the ACCC's Issues Paper highlighted the declining circulation of print news and trend towards print closures, both in Australia and overseas. [redacted]. This is an industry-wide phenomenon. Data produced by PwC shows that from 2014 to 2019, losses from print news will amount to industry-wide losses of more than $1 billion.[3] At the same time, the market for digital subscriptions in Australia is far smaller than these losses; News Corp Australia estimates the total current Australian market for digital subscriptions is around $100-$150 million. This creates a significant revenue gap, which once funded significant journalist activity which publishers are struggling to recoup from other sources, despite their best efforts. This is illustrated in data produced by PwC, a graph of which is reproduced below in Figure 1.

Figure 1: PwC graph showing actual and forecast print and digital revenue



Source: PwC Australia[4]

By way of further illustration, Fairfax publicly announced $49.9 million in revenue from digital subscriptions in its 2018 financial results, which is less than 3% of Fairfax's total revenue.[5] This is also

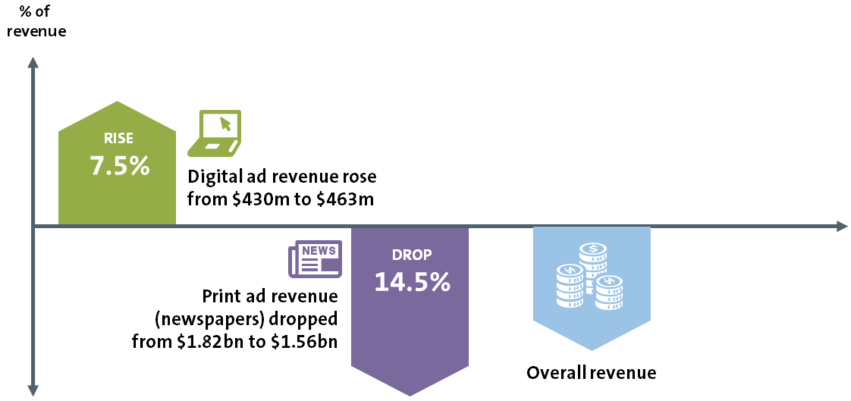
[2] See, <http://fortune.com/2008/07/22/whats-google-news-worth-100-million/>.

[3] See PwC data, 'The growth in digital advertising slows over the forecast period', showing that total print advertising revenues amounted to $2.24 billion and are expected to fall to $1.17 billion in 2019, showing a decline of more than $1 billion. Data is available at <www.pwc.com.au/industry/entertainment-and-media-trends-analysis/outlook/newspapers/data.html>.

[4] Available at <www.pwc.com.au/industry/entertainment-and-media-trends-analysis/outlook/newspapers/data.html>.

illustrated in the in Figure 2 below, which shows the change between FY2016 and FY2017 only using data from NewsMediaWorks.

Figure 2: Print and digital advertising revenue generated by the Australian news media industry by type (FY2016 v FY 2017)[6]



When these industry trends are viewed holistically rather than in isolation, it is clear that the financial benefit from growing digital subscription numbers is far smaller than print advertising losses.

2. Misplaced focus on two-sided markets and the impact of unbundling and intermediation

Section 4 of the Ergas Report claims that the decline in advertising revenues and subscription revenues for publishers is due to more competition for readers' attention (and possibly declining interest in what the Ergas Report defines as public interest journalism). Google is described as a feature of the new digital competitive landscape that enhances, rather than harms, consumers, advertisers and publishers. The Ergas Report emphasises the benefits that aggregators bring, saying that "*platforms make access to content easier*" and, on the whole, enlarge the market for the providers of underlying content.

The Ergas Report also places significant importance on characterising the supply of news as a 'two-sided' market to underpin its claim that all sides of the market must be experiencing some form of harm in order for anticompetitive effects to be shown. We disagree with this characterisation. Indirect network effects are limited to a small number of matchmaking or transaction platforms, which does not include news publishers. Google is not matching two simultaneous and single demands. There is therefore no need to show a combined net harm experienced by all sides to find that there is some sort of anticompetitive conduct. This is consistent with the decision in *Ohio v American Express*.[7] News Corp

[5] Fairfax 2018 Financial Year Investor Presentation, Slide 43 <https://www.fairfaxmedia.com.au/ArticleDocuments/193/2018%20FXJ%20Presentation_14AUG2018.pdf.aspx?Embed=Y>.

[6] Source: NewsMediaWorks, as reported by Mumbrella, Australian news media sees 11% fall in ad revenues, 31 July 2017, available at <mumbrella.com.au/news-media-revenues-smi-2017-461214>

[7] '*A market should be treated as one sided when the impacts of indirect network effects as one sided when the impacts of indirect network effects and relative pricing in that market are minor*.' In his opinion, Justice Thomas specifically excludes newspapers, for which *'readers are largely indifferent to the amount of advertising that a newspaper contains'*, *Ohio v. American Express Company*, 585 US _ (2018), decision of the Supreme Court of the United States of America, decided 25 June 2018.

Australia submits that in order to properly assess anticompetitive conduct and anticompetitive effect in the news-related markets it is important to examine each market separately.

The Ergas Report also fails to properly characterise the role that Google is playing in undermining the ability of publishers to recoup the costs of their investment in news and quality content. The Ergas Report does not articulate how Google operates as a gatekeeper to publishers' content and in this role as intermediary profits at the expense of publishers. The Ergas Report describes Google as having "*altered the vertical structure of the market for news by adding a layer between the primary content suppliers (publishes) and some (although by no means all) consumers*," but fails to properly explain how it profits from performing that role by acting as an intermediary and traffic allocator. Ultimately, Google facilitates a model of news consumption based on volume, in which content is consumed per article, determined by an algorithm which best supports Google's business model and has undermined the ability of publishers to generate revenues from advertising and convert readers to subscribers. This section sets out exactly how Google's position in the news supply chain has harmed publishers' ability to monetise its own content.

First, Google is the most important gateway for consumers when accessing the news. An overwhelmingly large proportion of individuals use search to access the news: a 2017 survey by Reuters found that 25% of users search as the main gateway to access news content.[8] However, Google does not use its own proprietary material, instead, it scrapes content from third party publishers which it displays in its own search results without compensating publishers for doing so. While Google has, for now, allowed websites to 'opt out' of content scraping, doing so means publishers' content will not appear in search results and there is a significant decline in referral traffic. Threatened with digital invisibility, a publisher therefore has no choice but to permit Google to scrape its content without being compensated. Google 'free-rides' by not compensating publishers for using their content, while collecting data and generating advertising revenue for Google when a user visits Google to search for that third party content.

Second, Google's scraping, snippets, FCF and 'refusal to crawl'[9] policies have undermined publishers' subscription models by creating a consumer expectation that journalism should be free. This disadvantages 'pay-walled' or premium content. FCF involved requiring publishers to make available a certain number of their premium articles to consumers for free when accessed via Google. Under FCF, failure to make freely available the number of articles determined by Google resulted in Google refusing to include any of the publishers' pay-walled content in Google's search results (ie, 'refusal to crawl'). Scraping, snippets and Google AMP continue to undermine publishers' advertising models. In the case of Google AMP this is exacerbated as AMP stories are hosted within the Google eco-system and required to meet Google's formatting requirements which limits which stories can be displayed[10] and

[8] Reuters Institute for the Study of Journalism, University of Oxford, Digital News Report, 2017, available at: <www.digitalnewsreport.org/survey/2017/>.

[9] 'Refusal to crawl' was a policy adopted by Google in connection with its 'First Click Free' regime, by which Google refused to crawl pay-walled content of publishers who refused to comply with Google's First Click Free regime (ie, publishers were required to make available for free to users a number of articles determined by Google.

[10] For example, The Australian's recent expose called 'The Teacher's Pet', did not appear in AMP since it was digitally-rich and interactive content which could not be converted to meet Google restrictive AMP format requirements.

the kind of advertising[11] that can appear within AMP-hosted articles. It is also the case that Google demotes non-AMP supported content in main search results (as explained further below and in our submission to the ACCC's Issues Paper). [redacted].[12]

Third, we understand that Google's current algorithm discriminates against pay-walled material in its Google Search results. Although we have been unable to secure confirmation directly from Google despite requesting it, News understands that Google's algorithm directly disadvantages publishers operating a subscription model through its treatment of 'bounce rates', the fourth most important factor for ranking purposes according to an independent study. Other top four factors include 'time on site' and 'pages per session' also discriminate against pay-walled content.[13] Google's use of artificial intelligence (RankBrain) for all searches[14] exacerbates the discrimination based on 'bounce rates'.[15] When a user clicks on a link to a publisher with a subscription or pay wall, they will immediately 'bounce' back to Google. We understand that Google treats this 'bounce rate' as a page that does not contain content relevant to the search query because it assumes that a user has not spent any time on the site because it is irrelevant or unhelpful, not because it is pay-walled, and it is therefore demoted in subsequent similar searches. This is therefore operating to penalise pay-walled content, even though it might be highly relevant to the user's query.

Fourth, Google makes every effort to keep the user within its own ecosystem, by including snippets of news that allow users to effectively read the key points without clicking through to the full article. According to a 2016 EU Commission survey, most online users read only the headlines and the snippet: when accessing news via news aggregators, social media or search engines, about half of all people surveyed (47%) said they browse and read the main news of the day without clicking on links to access the whole articles.[16] Publishers therefore receive far less traffic and are deprived of the opportunity to monetise content or build their own data profiles so as to attract advertisers.

The introduction of AMP furthers Google's aim of keeping users within its own ecosystem and this effect is heightened by the growing tendency of users to access news from mobile devices. Clicks on news stories from the AMP carousel send a user to a Google hosted page, which keeps a reader within the Google ecosystem. That readers consume the content in the Google ecosystem and do not click onto a publisher's website reduces the likelihood that readers will click on more stories from that publisher. We also observed that non-AMP stories are not prioritised in search and particularly on the carousel, which holds the prime real estate position on mobile and is prominently placed on other devices. Given the above, an increasing number of publishers – including News Corp Australia – find there is no choice but to enable AMP content and have these cached in the Google ecosystem. Further, in order to obtain a reliable audience and advertising data relating to content featured in AMP, publishers must pay for Google Analytics, and cannot use third party analytics software. This in turn undermines the ability of

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[11] For example, AMP-hosted content cannot host video advertising.

[12] [redacted].

[13] See, <https://www.semrush.com/ranking-factors/>.

[14] See, <https://searchengineland.com/google-loves-rankbrain-uses-for-every-search-252526>.

[15] See, <https://backlinko.com/google-rankbrain-seo>.

[16] See, <http://ec.europa.eu/COMMFrontOffice/publicopinion/index.cfm/Survey/getSurveyDetail/instruments/FLASH/surveyKy/2123> (see page 30 ff).

publishers to gather longitudinal data about consumers. Lastly, as Google controls the types of ads that are allowed in AMP pages, it ensures that ads served through AdX and its other properties are whitelisted while it blocks some other ad types offered by competitors, thereby reinforcing Google's ad offering and stifling the development of alternative ad types.

Finally, the intervention of Google in the news supply chain dilutes publishers' brands. Google is performing an increasingly editorial function in the way that it presents news results, progressively supplanting the role of newspaper editors. The image in Figure 3 below shows just how much machine-based curation Google News undertakes. Without searching for any story in particular and simply by navigating to the Google News homepage, one is able to view the key headlines for Australia. It appears just like the front page of a major newspaper website, but the content is sourced from multiple publications. Figure 4 below shows how Google News also curates content by subject matter, just like a newspaper, but across multiple publications.

Figure 3: Curated Content on Google News for Headline News

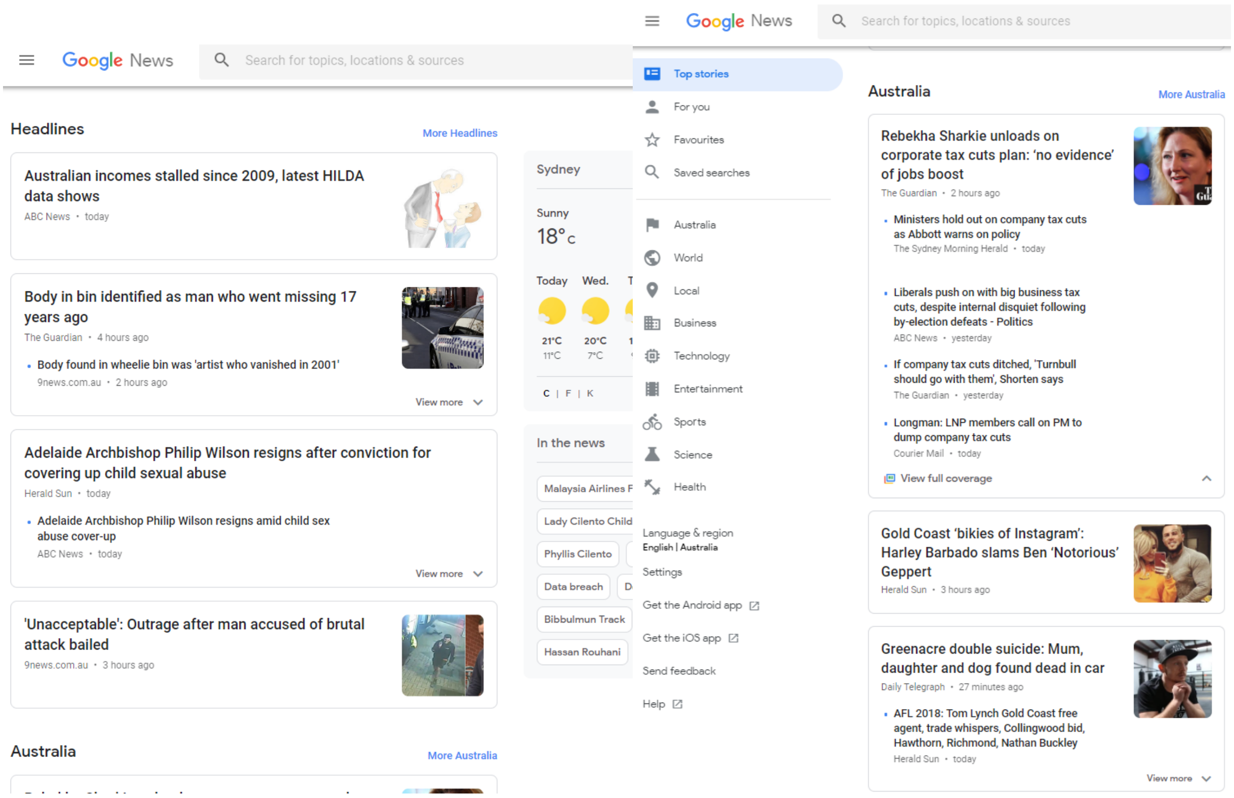
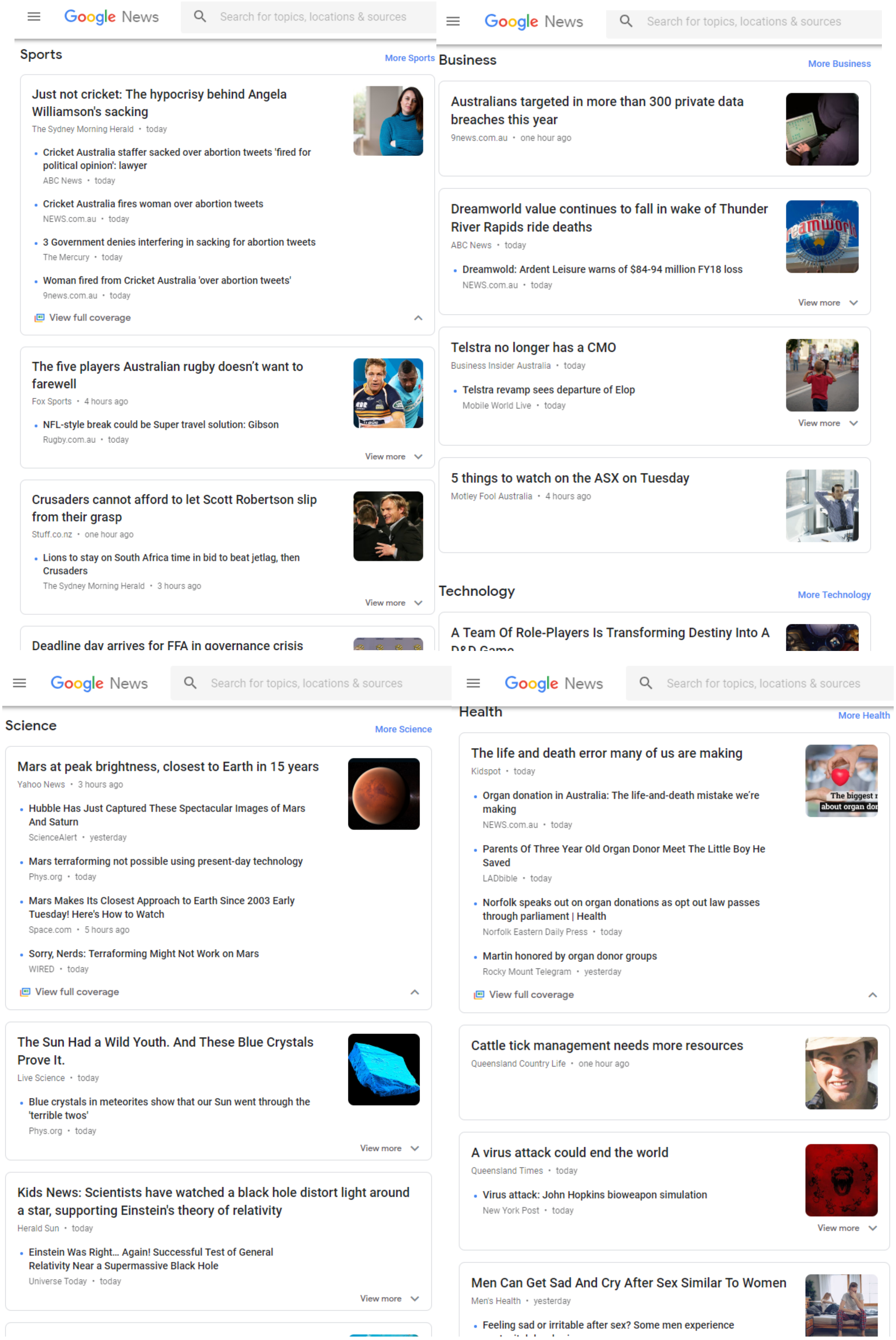


Figure 4: Curated Content on Google News by Subject Area



Consequently, publishers have experienced 'brand flattening'. Publishers strive to build a strong brand to facilitate consumer loyalty by investing in content quality and differentiation (to attract readers and encourage subscription conversions for those operating such models). However, Google's conduct and policies undermine this:

- First, Google's AMP functionality places restrictions on the format and quality of content and advertisements, leading to standardisation of content across publishers. While the publishers' brands appear homogenised, Google's brand appears prominently, thereby allowing Google to build its brand awareness as a source for news content among users, and preventing publishers from doing the same.
- Second, Google has a strong incentive to promote brand flattening. By keeping consumers within the Google ecosystem (including Google Search, Google News and AMP articles), Google generates revenue from advertising and collects more data to underpin its other services which it can monetise to further improve its search and display advertising targeting capabilities. By diluting publishers' brands and increasing the perceived value of Google as a news curator, consumers will be less likely to visit a publisher's site directly, and more likely to rely on Google to find content. Indeed, the evidence shows that this is already having an impact: users are less able to attribute the news brand responsible for producing a story when they access content via search (see discussion below). This also impacts the reliance on news sources since the level of trust in information coming from online platforms is “much lower” than for news organizations.[17]

Moreover, there is clear evidence Google's ability to flatten publishers' brands is facilitated by its own brand power.

- First, a study by the Reuters Institute tracked website usage by a representative sample of UK internet users and then within 48 hours served a survey to a proportion of these users to see what they could remember about the story and the brand. The results of this study were as follows:
  - As indicated above, only 37% of those surveyed could remember the name of a news brand for a particular story when coming from search as compared with 81% for users who arrived directly from another page on a destination.[18]
  - In contrast, between half and two-thirds could remember the path through which they found the news story – ie, social media: 67%, search engines: 57%. As the study points out, "*[t]his reinforces the idea that platforms are getting more credit than publishers for the content*"[19] produced by publishers.
  - The study noted that "*brand loyalty plays an important role in correct attribution via search media and social media.*"[20] The study concluded that "*[v]isibility in social media*

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[17] According to research by the Pew Research Centre, '*5% of web-using U.S. adults have a lot of trust in the information they get from social media, nearly identical to the 4% who said so in 2016. This level of trust is much lower than trust in national and local news organizations*' in http://www.pewresearch.org/fact-tank/2017/10/04/key-trends-in-social-and-digital-news-media/.

[18] Reuters Digital News Project 2017, '*I Saw the News on Facebook – Brand Attribution when Accessing News from Distributed Environments*', page 7 <https://agency.reuters.com/content/dam/openweb/documents/pdf/news-agency/report/brand-attribution-risj-dnr17.pdf>.

[19] Ibid., at page 7.

[20] Ibid., at page 19.

and search is critical to brand recognition, which in turn is critical for eventual monetisation – whether that be subscription or via attracting premium advertising. Visibility can be influenced by stronger branding and more distinctive content, but this may be hard to achieve without a strong base of regular users to a destination website or app. The finding that people are more likely to remember the platform where they found the content (eg, Facebook), rather than the news brand that created the content, will be troubling for many publishers."[21]

- Second, a separate study by SurveyMonkey found that respondents preferred search results under a 'Google' heading to a 'Bing' heading even when the results were identical.[22] The SurveyMonkey study found that even when a Google Search result returned incorrect or unexpected information, 59 percent of consumers said they would stay within the Google ecosystem (by either returning to the results page and trying a different result or entering a new search query), and no survey respondent answered that they would use another search engine.[23] This provides evidence of the power of the 'Google brand' and consumers' belief that it signifies quality which translates into a lack of willingness to use other alternatives.

This illustrates the power of the Google brand, despite evidence that consumers may in fact prefer using alternative search engines which perform better. Google's brand is a very powerful and valuable aspect of Google's business model and one that defeats Google's 'one-click-away' defence, ie, the idea that consumers will switch to other engines – or go directly to primary sources – if Google manipulates its search results. The faith that consumers have in the Google brand is based on perceived quality and suggests that consumers may not, for example, be aware that Google's results are manipulated in order to support Google's business model. Moreover, Google has an incentive to reinforce its brand loyalty and to promote its own brand above and at the expense of all others, including publishers.

Ultimately, the characterisation of Google in the Ergas Report is not reflective of the actual role that it plays in intermediating the relationship between consumers and publishers, nor the impact that Google has on efforts by publishers to monetise their own content.

3. Comparison of the development of Google News and Google Shopping

An analogy can be drawn between the introduction of Google News, and the migration of the 'news' component of Google's offering into its main search page through AMP is very similar to the development of Google Shopping. Both Google News and Google Shopping were developed to direct and attract traffic to Google Search. In both cases, when Google's standalone shopping and news websites failed to generate sufficient traffic, Google placed shopping and news 'universals' on the main Google Search page, which is the way most users access content on the internet. In doing so, however, Google gave an unfair advantage to its own vertical search offerings:

- in the case of Google Shopping, Google demoted alternative comparison services in its Search results; and

[21] Ibid., at page 19.

[22] Amy Gesenhues, 'Study: Many Searchers Choose Google Over Bing Even When Google's Name is on Bing's Results' *Search Engine Land* (15 April 2013) <https://searchengineland.com/?p=155682>.

[23] Amy Gesenhues, 'Study: Top Reason A User Would Block A Site From A Site From A Search? Too Many Ads' *Search Engine Land* (15 April 2013) <https://searchengineland.com/?p=155682>.

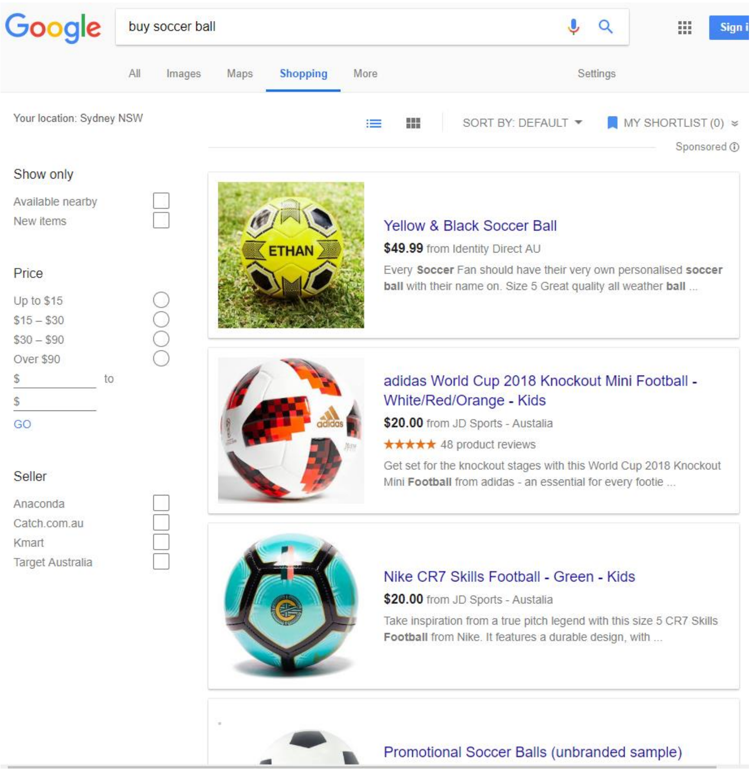
- in the case of news, for publishers that refused to comply with scraping and/or FCF, or provide AMP-enabled content for Google Search Google demotes those publishers in its own Search results including in the carousel (and with FCF, refused to 'crawl' pay-walled content).

In this section we compare the development of Google Shopping and Google News to demonstrate the analogy between the two and illustrate how Google's conduct operates to exclude its rivals.

Background to Google Shopping

Google Shopping was launched as a standalone website under the name 'Froogle' in the US in December 2002, and subsequently rolled out elsewhere.[24] Despite the different name, the premise of the service was the same as Google Shopping today: '*locating stores that sell the item you want to find and point you directly to the place where you can make a purchase*.'[25] Froogle was monetised by advertisements, and sellers did not need to pay to be listed.[26] An example of a search using the standalone Google Shopping page (as it exists now) is shown below in Figure 5.

Figure 5: Screenshot of Google Shopping Results for 'buy soccer ball'



In April 2007, Froogle was renamed 'Google Product Search', but remained free for sellers to list their products. At this time, Google also launched a dedicated 'OneBox', a separate display box that appears on the main Google Search result page, for Google Product Search. Google called the OneBox its 'Product Universal', and it displayed several images of products from Google Product Search alongside regular Google Search results, as well as related information such as price (see Figure 6 below which

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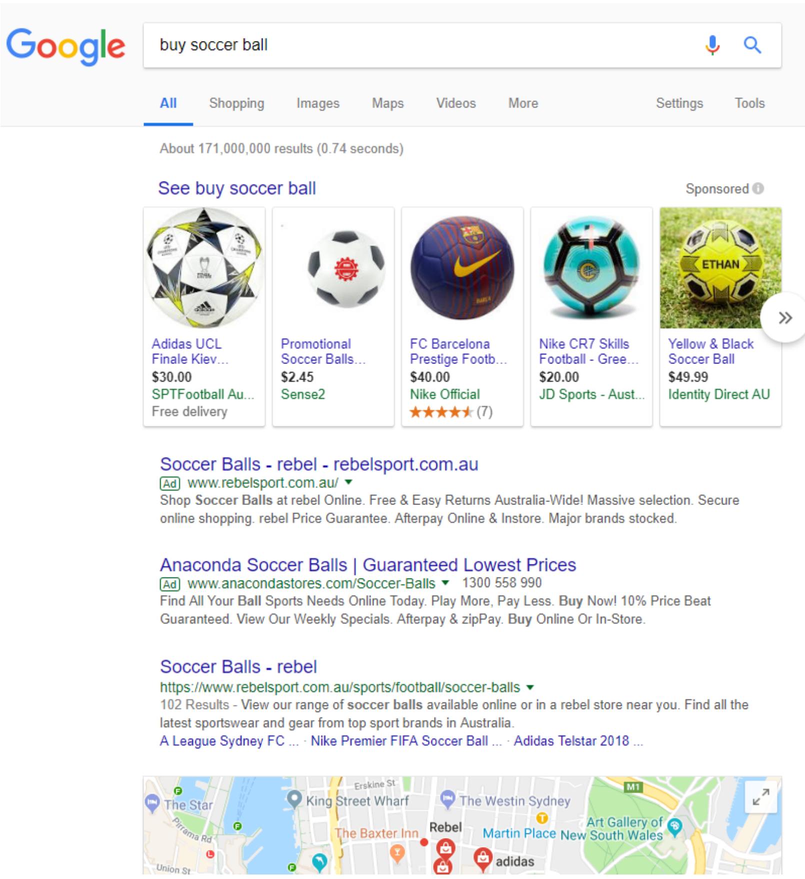
[24] European Commission, *Google Search (Shopping),* Case AT.39740 (27 June 2017) at [27] ('EU Google Shopping Decision') <http://ec.europa.eu/competition/antitrust/cases/dec_docs/39740/39740_14996_3.pdf>.

[25] Paul Hales, 'Google goes shopping' *The Inquirer* (13 December 2002) <https://www.theinquirer.net/inquirer/news/1042911/google-goes-shopping>.

[26] EU Google Shopping Decision at [27].

shows the Shopping Product Universal as it appears on the Google Search page today). When a user clicked an image in the Product Universal, they were taken to the Google Product Search page for that item.[27] The Product Universal was usually positioned at, or near, the top of the first results page.[28] The Product Universal was progressively rolled out elsewhere in the world between 2007 and 2011.[29]

Figure 6: Screenshot of Google Shopping Universal above search results or 'buy soccer ball'



In May 2011, Google Product Search was expanded to Australia (as Beta version of 'Google Shopping').[30] A year later, in May 2012, Google renamed Google Product Search to 'Google Shopping' universally. The Product Universal on the main Google Search results page was also renamed, first to 'Commercial Unit' and then to 'Shopping Unit'. The results that appeared in the Shopping Unit were termed 'Product Listing Ads', and clicking on one would take the user to the seller's own page, rather than a Google Shopping hosted page.[31] Significantly, at this time Google also announced it would be changing to a 'paid inclusion' model, where sellers would pay when a user clicked their Product Listing Ads.[32] If a seller did

[27] EU Google Shopping Decision at [28-29].

[28] EU Google Shopping Decision at [387-393]

[29] EU Google Shopping Decision at [30].

[30] Mobarra Momtaz, 'Google Shopping released in Australia' *Margin Media* (26 May 2011).

[31] EU Google Shopping Decision at [31].

[32] Google, 'Building a better shopping experience' *Google Commerce Blog* (31 May 2012) <https://commerce.googleblog.com/2012/05/building-better-shopping-experience.html>.

not wish to pay for inclusion in Google Shopping, their products would be appear in regular search results but not in the graphic Shopping Unit or on the Google Shopping website. The paid inclusion model remains in place today, with sellers required to pay for Product Listing Ads on a cost-per-click basis.[33]

Part of Google's rationale for introducing a dedicated OneBox (initially as Product Universal and later as Shopping Unit) on the main Google Search results page was the relatively poor market performance of Froogle as a standalone shopping comparison website.[34] By displaying the Google Product Search results in a prominent position on its general Google Search results page, Google used its dominance in general internet search to drive traffic to its shopping comparison service and to monetise shopping enquiries by users (which would otherwise be at risk of being lost to third party comparison services).

In June 2017, Google was fined €2.42 billion by the European Commission for abusing its dominance in general internet search to give an anticompetitive advantage to its own shopping comparison service.[35] In particular, the European Commission observed:

- Google Shopping was not subject to the same ranking mechanisms in search results as competing comparison shopping services, including its algorithms *Panda* (which intended to demote websites with 'poor quality' content) and *Penguin* (which intended to demote 'spam' content).[36] As a result of releasing these new algorithms, Google Search would demote competing comparison shopping websites in its general Google Search results. This is because, like all shopping comparison websites, the majority of shopping content is aggregated or 'scraped' from existing sources which is duplicate material on the internet (the Panda and Penguin algorithm releases would therefore operate to demote such material in its Search results);[37] and
- The use of the OneBox meant that Google's shopping results are positioned in a highly visible and prominent position on the general Google Search results page (usually at, or close to, the top of all other results) so that they were immediately accessible to users.[38]

The effect of Google's conduct was increased traffic to Google Shopping (and increased monetisation) and decreased traffic to competing shopping sites (due to demotion in Google's Search results).The techniques used to achieve this effect were two-fold: bringing Google Shopping to its Google Search page using the product universal and demoting competitor services (via a new algorithm) and introducing fees for sellers to appear in the Product Universal on a cost per click basis generated revenues.

Google's News functions mirror Google Shopping

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[33] Google Ads Help, 'About Shopping campaigns and Shopping ads' <https://support.google.com/google-ads/answer/2454022?hl=en&co=ADWORDS.IsAWNCustomer%3Dfalse>.

[34] European Commission, 'Press Release – Antitrust: Commission fines Google €2.42 billion for abusing dominance as search engine by giving illegal advantage to own comparison shopping service' (27 June 2017) <http://europa.eu/rapid/press-release_IP-17-1784_en.htm>.

[35] EU Google Shopping Decision.

[36] EU Google Shopping Decision at [380].

[37] EU Google Shopping Decision at [381]

[38] EU Google Shopping Decision at [379].

The development of Google Shopping bears striking similarities to the development of Google News.

Just as Google Shopping started as a separate site (a 'vertical' service to Google Search), Google News also began as separate page. However, as outlined above there is far less traffic to Google News than to Google Search, even for specific news search queries. To address this, Google has since developed its Google News carousel or universal and AMP software, which is akin to Google's OneBox 'Product Universal', in that it displays news results in a 'universal' news carousel at the top of its main search page.

Publishers that do not provide AMP-enabled content are demoted in the search results page to below the carousel, regardless of their relevance to the user's search query. This aspect of Google's conduct is similar to the effect of Google's Panda and Penguin algorithm updates on competing shopping comparison services. Refusing to participate in AMP therefore effectively renders those publishers 'digitally irrelevant'. This was evident in Case Study 2 provided in News' submission to the ACCC of 28 April 2018 whereby an article in *The Australian* about results from Newspoll, which is owned and operated by *The Australian*, appeared lower than articles from other publishers that repeated the results first published in *The Australian*.

In a similar way to the development of Google Shopping, Google has migrated news content from its Google News page to its main search page. Its objective is to capitalise on the increased traffic to Google Search – which operates as the gateway to the internet – and force publishers to opt-in to its AMP software (and carousel or universal on its main search page). Publishers who fail to opt-in to AMP are discriminated in Google's Search results and bear the resulting consequences of less traffic referrals to their own websites. It is useful to note here that since our submission to the Issues Paper we have recently decided to opt-in to AMP for some of our content to maximise discoverability in Google Search (subject to other algorithm factors) – and since dealing with Google is unavoidable, this allows News Corp Australia to maximise attribution and subscription opportunities given this constraints.

Since outlining the development and impact of AMP in our submission to the ACCC Issues Paper, there have been further developments in Google's AMP model. Google has recently released its Google News application which is AMP-based. The app is being used to push 'Subscribe with Google' (*SWG*), by which users can subscribe to content from publications which sign up with SWG. For each subscription, Google collects 15% of the revenue generated from the subscription; requires payments to be made using the Google Payment system; and collects all associated data. When a user searches for news articles, articles from publications with which the user has a subscription appear at the top of the search page.

4. The crisis in journalism is real, intensifying and exacerbated by digital intermediation

The Ergas Report suggests that public interest journalism is not that interesting to readers and is not attractive to advertisers (who risk tarnishing their own reputations when advertising beside controversial topics such as wars and corruption scandals). The Ergas report describes Google's role as countering the difficulties facing publishers by helping them find consumers and referring traffic to them. The Ergas Report places responsibility on the shoulders of publishers for failing to innovate and create the content that would encourage users to their sites.

Contrary to the suggestions in the Ergas Report, responding to the rapid pace of technological developments and demands by users for online access to news content and advertisers for more targeted advertising opportunities, publishers such as News Corp Australia have been innovating and developing business models for the digital age:

- Publishers have developed content-rich mobile and tablet apps to facilitate digital consumption of their publications, adding increasingly rich digital material to their content including videos, interactive graphs and voice material. This is in direct response to changing news consumption habits.
- [redacted].
- Publishers, including News Corp Australia, have also trialled disseminating news and content through podcasts. The recent '*The Teacher's Pet*' podcast released by *The Australian*, has been very successful. The podcast also hosts a number of discrete advertisements. While this has proved popular and successful, it is only one small offering and has been expensive to produce for the advertising revenue it has generated.
- Publishers have been developing capabilities to produce more localised content to readers, including News Corp Australia's investment in expanding regional news offerings.
- Fairfax, Nine and News Corp Australia recently announced a cross-channel co-operative to create anonymised digital identity asset to drive audience addressability.[39]
- Publishers have entered into print sharing arrangements to lower the overall cost of their 'back end' operations.

Despite our efforts and audience interest in News Corp Australia's publications, the intermediation by Google – as explained previously – is a significant hindrance to recouping these investments including in innovation.

Google's presence as an intermediator between publishers and readers has the effect of undermining publisher subscription and advertising models.

Moreover, Google has incentives to discriminate against subscription sites since Google benefits significantly from the supply of news being freely available. This is because when news is free and not behind a subscription paywall, Google can access and reproduce the content in full in search results and within AMP, which benefits Google in terms of advertising revenue and data collection.[40] At the same time, subscription models facilitate strong ties between the subscribed consumer and the publisher, lessening the need for the consumer to use Google Search as a source of news.[41] By discriminating against subscription models, Google is able to keep users within its eco-system to access publishers' content. In addition, discriminating against subscription models encourages publishers to use ad-funded models which are more likely to be required to make use of Google's AdTech services such as DFP, AdX and Google Analytics.[42] The end result is that discriminating against subscription sites allows Google to generate significant advertising revenue and collect large amounts of valuable user data.

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[39] See, <https://www.newscorpaustralia.com/fairfax-media-news-corp-australia-and-nine-to-explore-creation-of-anonymised-digital-identity-co-op-to-drive-audience-addressability/>.

[40] [redacted].

[41] [redacted].

[42] [redacted].

The Ergas Report also states that platforms such as Google have facilitated the entry of new publishers. However, such competition pales in significance to the competition Google provides for advertising revenue. Moreover, the only new entrants cited by Google were all arms of overseas organisations (Guardian, BuzzFeed and New York Times). The Guardian has experienced sustained periods of loss-making and continues to attempt to generate revenue through 'donations'.[43] BuzzFeed is largely supported by product and paid or placed content and was recently forced to lay-off employees after missing its revenue goals.[44] The New York Times' Australian content is limited and operates a modified subscription model (with a minimum number of articles free per month).

5. Google's past conduct demonstrates its alacrity to undermine regulatory initiatives

The Ergas Report concludes that there is '*no readily implementable, unambiguously worthwhile policy solution that could address any perceived shortfall in the quantum of public interest journalism, as is all the more apparent from the poor track record overseas of government interventions aimed at protecting the traditional media*.'

However, the '*poor track record*' of overseas government interventions is in part due to Google's own conduct in refusing to comply with such regulatory initiatives. For example, in Spain, when laws requiring services like Google which post links and excerpts of news articles to pay a fee to the Association of Editors of Spanish Dailies were due to be implemented, instead of complying with the law, Google chose to shut down its Google News page in Spain. It was reported that Spanish publications lost from between 10-15% of their regular traffic.[45] Google said that "*As Google [News] makes no money (we do not show any advertising on the site) this new approach was not sustainable*" and said that "*Google News creates real value for these publications by driving people to their website, which in turn helps generate advertising revenues*." The statement that Google makes no money from Google News ignores money generated from traffic referrals to Google's main search page and improved data from Google News queries. Notably, Google did not close its main search page in Spain, nor did it make inaccessible any news stories from Spain from its main search engine, showing just how important maintaining traffic to Google Search is for Google. Partly in response to Google's subversion of Spain's attempts to introduce legislation requiring Google to compensate publishers, the European Union is currently considering proposals being developed by Vice President of the European Parliament, Andrus Ansip, to reform EU-wide copyright laws that could potentially impose similar obligations on Google and

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[43] Visitors to the Guardian's website are presented with the following request: "*Since you're here…we have a small favour to ask. More people are reading the Guardian than ever but advertising revenues across the media are falling fast. And unlike many news organisations, we haven't put up a paywall – we want to keep our journalism as open as we can. So you can see why we need to ask for your help. The Guardian's independent, investigative journalism takes a lot of time, money and hard work to produce. But we do it because we believe our perspective matters – because it might well be your perspective, too. The Guardian has brought a number of vital stories to public attention; from Cambridge Analytica, to the Windrush scandal to the Paradise Papers. Our investigative reporting uncovers unethical behaviour and social injustice, that helps to hold governments, companies and individuals to account. This work is costly – often we can't anticipate how a story will unfold, how long it might take to uncover, and whether we will face legal threats that attempt to stop us. But we remain committed to challenging and exposing wrongdoing where we think it is critical – through this we can, together, create meaningful change in the world. If everyone who reads our reporting, who likes it, helps to support it, our future would be much more secure. For as little as $1, you can support the Guardian – and it only takes a minute. Thank you*." This indicates that a solely ad-funded model is not sustainable for The Guardian to create quality content.

[44] See, <https://www.recode.net/2017/11/29/16715350/buzzfeed-lays-off-100-greg-coleman-jonah-peretti-revenue-miss>.

[45] See, <https://www.makeuseof.com/tag/google-news-offline-spain-newspaper-publishers-blame/>.

other digital platforms to compensate publishers for use of their content by digital platforms. The legislation is currently in committee stage within the European Parliament.

Even where individual organisations strike contractual arrangements with Google, Google undermines or avoids them, with the consequences borne by the publishers. In March 2005, Agence France-Press (*AFP*) sued Google on the basis that Google News infringed AFP's copyright by including AFP's stories, news headlines and photos on Google News without permission from AFP. Google reached an agreement with AFP, the Press Association, Associate Press and Canadian Press to host their copy on its pages on the basis that they did not have their own consumer websites. It was reported that Google had been paying for Associated Press content displayed in Google News (and the assumption is that Google was also paying other agencies). However, the arrangement was abandoned in 2009 when Google News ceased carrying Associated Press content, presumably signalling that negotiations had broken down.[46]

Moreover, Google's conduct tends to be insidious. Although it relaxed its FCF policy by replacing it with Flexible Sampling and abandoned its 'refusal to crawl' policy, it quickly expanded snippets and also increased focus on AMP, which creates new, albeit similar problems (as detailed above and in the News Corp Australia submission to the ACCC's Issues Paper). Following on from the European Commission's decision finding that Google abused its dominance in general internet search to give an anticompetitive advantage to its own shopping comparison service,[47] third party complaints have been lodged with the European Commission alleging that Google is acting contrary to the European Commission's requirement to operate without discriminating against competing comparison services.[48]

Altogether, the poor track record of attempted regulatory interventions demonstrate that more permanent intervention and oversight is required, such as legislation (backed up with penalties) or structural remedies to ensure that Google does not operate its search function in an exclusionary manner.

Conclusion: Google is an unavoidable trading partner and is exercising its dominance in search to thwart original publishers' attempts to monetise their own content

Google may claim that it cannot harm competition or vertical players because any content is *'just one click away*' but Google's conduct ensures that any 'clicks' keep users within the Google ecosystem. Its role as both the gateway to the internet and news content, and as an intermediator between readers and publishers ensures that any 'clicks' result in revenue generation for Google, at the expense of publishers. The cost to the publishers comes in the form of erosion of margins by increasing the cost of their own digital distribution efforts as well as reducing the ability to convert readers to subscriptions, refer and retain readers on publisher websites and generate data that would improve the sale of targeted advertising – and therefore revenue – to continue to invest in content and innovation.

Contrary to the arguments in the Ergas Report, Google will not facilitate the entry of publishers likely to create the suite of content required to ensure sustainability – particularly when the platforms, including Google, intermediate between publishers and their customers, both readers and advertisers.

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[46] See,< https://money.cnn.com/2010/01/11/news/companies/google_associated_press/>.

[47] EU Google Shopping Decision.

[48] See for example, <http://www.foundem.co.uk/fmedia/Foundem_Sep_2017_Undead_Auction/> and <http://www.foundem.co.uk/Foundem_Google_Search_Remedies_March_2017.pdf>.

In order to prevent the further erosion of incentives to invest in quality content and sustainability of journalism, a number of legislative or regulatory interventions should be considered. However, Google's prior conduct suggests that more permanent and possibly structural interventions would better preserve the incentives for continued investment in journalism.

Review of the Ergas Report

A REPORT PREPARED BY PHILIP L WILLIAMS FOR NEWS CORPORATION

13 August 2018

Review of the Ergas Report

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Executive summary

1 Frontier Economics has been asked to review the report by Henry Ergas, Jonathan Pincus and Sabine Schnittger entitled *Impact of news aggregators on public interest journalism in Australia*, May 2018 (the Ergas Report).

2 Many businesses sell to different categories of consumer. Nominating these categories of consumer does not define the market. Markets should be defined to assist in the analysis of any alleged anti-competitive conduct. This requires one first to specify the allegations and then to characterise the goods or services to which that conduct relates.

3 The solid empirical evidence of the effect of news aggregators on news publishers is very limited. However, available studies suggest that news aggregators may increase the number of page views by around 10 to 11 per cent. They also suggest that many users of news aggregators do not rely on the name of the producer of the news they read; and, indeed, only 56 per cent of readers who follow a link to a news story can remember the source of the news. This evidence suggests that accessing news via an aggregator or via Google search reduces the incentives for the producers of news to differentiate their products.

4 The Report:

a. suggests that internet news aggregators do not reduce the production of public interest journalism;

b. states that it has not been established that increasing digitisation has aggravated the problem of insufficient public interest journalism; and

c. states that markets may well produce a socially optimal supply of public interest journalism.

5 The reasoning for these propositions is either unclear or confused.

1 Introduction

6 Frontier Economics has been asked to review the report by Henry Ergas, Jonathan Pincus and Sabine Schnittger entitled *Impact of news aggregators on public interest journalism in Australia*, May 2018 (the Ergas Report). It appears that the Report was commissioned by Google Australia as part of Google Australia's input into the Senate Select Committee on the Future of Public Interest Journalism.

7 Much of the Report is concerned with a very particular issue: the impact of Google News on public interest journalism. However, the Report also deals with some broader issues such as the analysis of two-sided markets and the influence of news aggregators on news producers.

8 This review of the Ergas Report will deal with three principal issues:

a. the markets relevant to the assessment of Google's market power;

b. the effect of news aggregators on news producers; and

c. the impact of news aggregators on public interest journalism.

2 Relevant markets

2.1 Principles

9 Section 4 of the Report is entitled "An economic perspective on trends in the news media". This section examines what it terms 'the underlying models of media platforms'.[1] The section includes an exposition of the theory of two-sided markets and points to the way in which traditional media generated revenue from both viewers and advertisers.

10 Perhaps the best recent survey of the literature on market definition is that of Jonathan Baker. Baker states that the starting point for market definition for a particular piece of competition litigation is to identify the buyers who are alleged to have been harmed by the conduct under review. These buyers can be characterised by the products they purchased and the areas in which they are located:

> Where should the process of market definition begin? Suppose a product market must be defined in order to analyse the competitive effects of conduct undertaken by Coca-Cola. Perhaps Coke is acquiring another firm, is accused of harming competition by excluding some rivals, or has introduced a practice, on its own or by agreement with other firms, said to facilitate coordination among rivals. Among other products, Coca-Cola sells regular Coca-Coca (a cola-flavored soft drink), Diet coke (sugar free), caffeine-free Diet Coke, Sprite (a lemon-lime flavoured soft drink), and Dasani (bottled water). Moreover, these products are sold in a variety of package types, including bottles and cans in a range of sizes. In principle, one might specify each finely distinguished product – for example, caffeine-free Diet Coke in 12 oz. cans – as a candidate market, thus beginning the analysis with a large number of candidate market. If caffeine-free Diet Coke in 12 oz. can were not a market, the candidate market would be expanded to the next best substitute – perhaps caffeine-free Diet coke in bottles, perhaps caffeine-free Coca-Cola, perhaps Diet Coke (caffeinated), or perhaps caffeine-free Diet Pepsi (sold by a competitor) – and the hypothetical monopolist test applied again.
>
> In practice, market definition would likely begin with a larger aggregate – all colas, all soft drinks, or all beverages, for example. If disaggregated information about buyer substitution is available and the outcome turns on the starting point, a more finely defined product might be an appropriate place to begin the analysis. But it would almost never be appropriate to begin by disaggregating more narrowly than the specific products that are purchased by the buyers alleged to have been harmed by the conduct under review.[2]

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1 Ergas Report, p 28.

2 Jonathan Baker, "Market definition: An Analytical Overview", *Antitrust Law Journal*, Vol 74 (2007) pp 129-173, at 145-146.

11 These principles sound very familiar to a reader versed in the jurisprudence of Australian competition law. To quote the words of Justice Gordon in *Air New Zealand*:[3]

> Market identification is not a task undertaken at large, or in a vacuum. The task, and the extent of the task, are tailored to the conduct at issue and the statutory terms governing the contravention. The need to identify the market arises only in the context of determining whether the conduct constitutes a particular contravention of the TPA. That is, the question of whether there is a market "in Australia" is to be asked and answered in the statutory context in which that question arises. It is not to be asked or answered in isolation from that context or by looking only at what appears in s 4E of the TPA.
>
> The first step is to identify "precisely what it is that is said to have been done in contravention of the section". As has been rightly said in the Federal Court of Australia, the court begins with the problem at hand and asks "what market identification best assists the assessment of the conduct and its asserted anti-competitive attributes." Identifying a market is a "focusing process" which is "to be undertaken with a view to assessing whether *the substantive criteria for the particular contravention at issue are satisfied*, in the commercial context the subject of analysis.
>
> That approach recognises that the concept of a "market" is "not susceptible of precise comprehensive definition". It recognises that market identification is an economic tool, or instrumental concept, that uses and integrates those legal and economic concepts best adapted to analyse the asserted anti-competitive conduct. It recognises that market identification is "not an exact physical exercise to identify a physical feature of the world" and that there is often little or no utility in debating or identifying "the precise physical metes and bounds of a market". It recognises that market identification is "not a physical thing, or essence, which can be identified in a manner divorced from the relevant context". And it recognises that market identification depends upon the isses for determination – the impugned conduct and the statutory provision proscribing anti-competitive behaviour tha the conduct is said to contravene.[4]

12 The clear message of Baker and the Australian jurisprudence is that markets do not exist independent of the problem that needs to be analysed. In order to determine whether one is going to analyse one side of a market or more than one side, one first needs to know what allegation of anti-competitive conduct one is seeking to analyse. If the anti-competitive problem affects one particular group of consumers, the initial putative market will be determined by characterising the location of those consumers and the products they consumer. One will then need to consider whether close substitutes should also be included. However, the initial putative market should be defined with reference to the problem one is seeking to

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3 *Air New Zealand Ltd v Australian Competition and Consumer Commission; PT Garuda Indonesia Ltd V Australian Competition and Consumer Commission* [2017] HCA 21, 14 June 2017.

4 *Air New Zealand*, paras 57-59.

analyse. It cannot be determined solely with reference to the literature on two-sided markets.

2.2 Application of principles: an example

13 It follows from the above principles that one should not attempt to characterise the market relevant to any assessment of the market power of Google until one has determined what particular conduct undertaken by Google is alleged to be harming consumers.

14 One allegation that has been levelled against Google Search is that it damaged the interests of news readers through its First-Click-Free policy. This policy required as a condition for news producers to be crawled and indexed by Google to permit each visitor from Google Search a number of 'free' articles from their pay-walled sites each day.

15 If one wished to analyse the causes and effects of this conduct, one would need to assess the market power of Google Search in its dealing with the news producers. To use the word quoted above of Justice Gordon[5] identifying the relevant market would involve 'focusing' on the relationships between Google Search and the news producers.

2.3 Conclusion

16 Many businesses sell to different categories of consumer. Nominating these categories of consumer does not define the market. Markets should be defined to assist in the analysis of any alleged anti-competitive conduct. This requires one first to specify the allegations and then to characterise the goods or services to which that conduct relates.

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5 Who is referring to the decision of Justices Kiefel and Gageler who were, in turn, quoting Justice French.

3 Effect of news aggregators on news producers

3.1 Survey of the literature

17 Section 5 of the paper is concerned with the impact of news aggregators on news producers. Many authors have observed that the impact of aggregation services on traditional media is theoretically ambiguous:

> As a result, technology, and the development of the digital platforms upon it, has had two overall effects on the traditional media: it has greatly expanded the audiences they can reach (the complementarity effect); but it has also greatly increased the competition they face not only for those audiences but for the advertising revenues which used to fund their activities (the substitution effect).[6]

18 These two effects (the complementarity effect and the substitution effect) offset each other. The net effect of news aggregators on demand for the products of news producers will depend on which of these effects is larger.[7] This issue can only be settled by empirical studies. Section 5 of the paper attempts to summarise the empirical literature on the topic.

19 The paper reports five studies. The paper with the earliest date is Susan Athey and Markus Mobius, "The Impact of News Aggregators on Internet News Consumption: The Case of Localization", February 24, 2012. It deals with the very-particular issue of the effect on consumption of news of the addition by Google News of a local content feature in France. The paper is incomplete; and it appears that it was never completed. It is not listed among the working papers in the CV of Susan Athey and it bears the warning "Preliminary and incomplete. Please check with authors for most recent version before citing." The authors, with the addition of Jeno Pal, later released a working paper with a very-similar title "The Impact of News Aggregators on Internet News Consumption". Despite this warning, it is referred to in the Ergas Report and, indeed, in other, studies. The 2017 draft by Athey et al explicitly states: "This paper replaces our previous paper, "The Impact of New Aggregators in Internet News Consumption: The Case of Localization." In citing the 2012 draft of Athey's paper, Ergas has cited a work-in-progress (for which Ergas et al appear not to have obtained permission from the authors to cite) and one that the authors have publicly stated is obsolete and replaced by a later paper.

20 This second reported paper examined the effects on the news consumption of users of Google News of the shut-down of Google News in Spain. It did this by

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6 Ergas Report, p ii.

7 The magnitudes of the effects may differ across the producer and product characteristics.

comparing the news consumption patterns of the previous readers of Google News with a control sample of other readers. It found that the shutdown of Google News resulted in Google News users reducing their overall news consumption by about 20%. It also reduced page views on publishers other than Google News by 10%; this reduction was concentrated almost entirely in small publishers.

21 The third paper examined also uses the natural experiment of the closure of Google News in Spain. Whereas Athey, Mobius and Pal used a control group of Spanish users who were not previously Google News users, this paper (by Calzada and Gil[8]) relies on France and Germany to control for time trends in news viewing. Their paper finds an almost identical reduction in visits to news outlets due to the Google News shutdown. Whereas Athey, Mobius and Pal found a reduction of 10%, Calzada and Gil find a reduction of 11%.

22 The paper by Chiou and Tucker uses a different natural experiment: the action of Google News in removing content from The Associated Press (AP) as a result of a temporary failure in contractual negotiations.[9] The authors found that the removal of the AP content on Google News did not cause viewers to shift to its principal competitor, Yahoo! News. However, the removal of the AP content reduced the probability of visiting a news site on Google News compared with a non-news website decreased by 28% compared with the control group of users of Yahoo! News.

23 The final paper surveyed (by George and Hogendorn)[10], like the Athey and Mobius paper, is concerned with the effect on the consumption of news by the addition by Google News of aggregated geo-targeted local news content – this time in the United States. The authors find the addition of the aggregated local content increased visits to local sites by less than 1%.

24 It is clear, even from the summaries in Appendix A to the Ergas Report, that these studies are not attempting to estimate the same thing. Athey and Mobius (2012) and George and Hogendorn (2013) are attempting to estimate the effect on consumption of news of adding news content to Google News. The paper by Chiou and Tucker is attempting to estimate the effect on reading habits of removing AP material from Google News. The only studies summarised in the Ergas Report that attempt to estimate the (net) effect of news aggregators on visits to news outlets are Athey, Mobius and Pal (2017) and Calzada and Gil (2017).

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8 Joan Calzada and Ricard Gil, "What do News Aggregators Do? Evidence from Google News in Spain and Germany".

9 Lesley Chiou and Catherine Tucker, "Content aggregation by platforms: The case of the news media", *Journal of Economics & Management Strategy*, (2017) Vol 26 pp 782-805.

10 Lisa George and Christiaan Hogendorn, "Local News Online: Aggregators, Geo-Targeting and the Market for Local News", (2013).

These papers estimated the effect of news aggregators as increasing visits to news outlets by 10% or 11%. As stated above, the 2017 paper by Athey et al replaces the 2012 paper by Athey et al.

25 The Ergas Report greatly exaggerates the magnitude of this effect by treating all estimates as referring to the same thing. It states:

> The empirical results summarised in Table 5-1 consistently highlight a strong and statistically significant readership expansion or traffic effect, and that consumers furthermore use Google News to discover additional quality content. The statistical estimates of the readership expansion effect vary across countries and studies, but with the exception of those found by George and Hogendorn (2013), the estimates are large, ranging from an increase in referral traffic of 17 to 20 per cent (Calzada and Gil 2016) to 26 per cent (Athey and Mobius 2012).[11]

26 The available empirical studies do suggest that news aggregators may well increase visits to news outlets. However, the magnitude of this increase is nothing like that suggested by the Ergas Report. The two studies that bear directly on the influence of news aggregators on readership of news both derive from a single natural experiment: the decision by Google News to respond to the law requiring payment of licence fees to close in Spain.[12] More studies are needed before we can be confident in drawing any general conclusions.

3.2 The home page issue

27 Although news aggregators seem to increase traffic to news outlets they do so in a way that limits the ability of publishers to monetise the traffic. This is the basis of the conflict between the interests of the news aggregator and the publisher.

28 The two papers on which Athey is listed as an author observe that Google News directs users direct to an article rather than to the home page of the news producer. This is different from the experience of a subscriber, who tends to visit the home page before the viewing articles.

29 News producers have expressed concerns that this reduces the value of their brands. In particular, readers come to rely on the brand of the news aggregator rather than on the brand of the news producer to curate news of interest to them. This may have important long-term consequences for the quality of news. As Doh-Shin Jeon states:

> … if consumers using news aggregators do not pay much attention to the sources of original articles, this can reduce newspapers' incentives to build up

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11 Ergas Report, p 43.

12 A third paper (Chiou and Tucker, 2015) also finds that the complementary effect outweighs the substitute effect.

reputation, which would make newspapers further depend on the reputation of the aggregators such as Google or Facebook.[13]

30 Some studies address the issue of the components of news media brands and the extent to which readers rely on those brands;[14] however, there is only limited evidence of the extent to which news aggregators rely on (or even observe) the name of the producer of the news they read.

31 One study is by Pew Research Centre, "An analysis of Americans' online news habits over the course of one week".[15] This study found that, when individuals followed a link to a news story, only 56 per cent of news consumers could name the source of the news.

32 This suggests that accessing news via an aggregator or via Google search is likely to reduce the extent to which readers differentiate among sources of news. This, in turn, suggests that accessing news via an aggregator or via Google search reduces the incentives for the producers of news to differentiate their products.

3.3 Conclusion

33 The solid empirical evidence of the effect of news aggregators on news publishers is very limited. However, the available studies offer some tentative hypotheses. Available studies suggest that news aggregators may increase the number of page views by around 10 to 11 per cent. They also suggest that many users of news aggregators do not rely on the name of the producer of the news they read; and, indeed, only 56 per cent of readers who follow a link to a news story can remember the source of the news. This suggests that accessing news via an aggregator or via Google search reduces the incentives for the producers of news to differentiate their products.

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13 Doh-Shin Jeon, "Economics of News Aggregators", Working Paper 18-912, April 2018, Toulouse School of Economics.

14 See, for example, Madhupa Bakshi and Prashant Mishra, "Structural equation modelling of determinants of consumer-based brand equity of newspapers", *Journal of Media Business Studies*, Vol 13 (2016) pp 73-94; and Isabelle Krebs, "Does the brand affect the quality perception of news articles? – An experimental study on news media brands in Switzerland", *Journal of Media Business Studies*, Vol 14 (2017), pp 235-256.

15 http://www.journalism.org/2017/02/09/part-i-an-analysis-of-individuals-online-news-habits-over-the-course-of-one-week/#fn-60152-2

4 Impact of news aggregators on public interest journalism

34 The Ergas Report was prepared at the request of Google Australia to analyse the impact of Internet news aggregators on the production and consumption of news in Australia. Its specific focus is the potential impact of news aggregators on the production of public interest journalism.[16] The Report deals with this issue as well as two much broader issues:

a. whether increasing digitisation has aggravated the problem of insufficient public interest journalism; and

b. whether markets (with or without digitisation) can be expected to produce an appropriate supply of public interest journalism.

The impact of Internet news aggregators on the production of public interest journalism

35 The Report does not offer a concluded opinion of the impact of news aggregators on the production of public interest journalism. Nevertheless, the implications of its conclusions in Section 5 are fairly clear.

36 As we observed above, the Report's survey of empirical studies in Section 5 concludes that the studies 'consistently highlight a strong and statistically significant readership expansion or traffic effect, and that consumers furthermore use Google News to discover additional quality content.'

37 This conclusion carries the implication that news aggregators are good for the production of news – including that of public interest journalism. The implicit message seems to be: because news aggregators increase the demand for news, they also increase the incentives for the production of news – including public interest news.

38 As we pointed out in section 3 above, we do not agree with the conclusions that the Ergas Report draws from its survey of the empirical studies.

Whether increasing digitisation has aggravated the problem of insufficient public interest journalism

39 The Ergas Report deals with this issue in section 7 of the report entitled "Conclusions and policy implications". It states that it has not been established

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16 Ergas Report, p 6.

that digitisation has aggravated the problem of insufficient public interest journalism.[17]

40 Although this conclusion is stated clearly, the reasons for it are not so clear. However, the conclusion is consistent with the issue we shall discuss next.

Whether markets (with or without digitisation) can be expected to produce an appropriate supply of public interest journalism

41 The Ergas Report is sceptical of the proposition that there is insufficient public interest journalism. This scepticism is plainly at odds with its definition of public interest journalism.

42 The Report defines public interest journalism as follows:

> There is no commonly accepted definition of what constitutes public interest journalism: in this report, it is broadly defined as journalism that confers large positive 'externalities' on the public, and that extend beyond whatever monetary payment the journalist or publisher might earn from publishing an article. Public interest journalism would certainly include investigative reporting, and can perhaps best be described as a subset of quality news journalism.[18]

43 The existence of these large positive externalities means that the true value of public interest journalism is not reflected in the willingness of consumers to pay for the products of the journalism. Furthermore, as the paper observes, public interest journalism is likely to be under-supplied because information that it produces is costly to generate but, once published, is very cheap to disseminate further.[19] The paper acknowledges that these two factors mean that the financial rewards for public interest journalism fall short of the social benefits it generates. This suggests that the market will fail to devote sufficient resources to the provision of public interest journalism.

44 Nevertheless, the paper states that an optimal supply of public interest journalism may well be produced:

> Nonetheless, it is possible that – in the absence of other inhibitions, like libel and defamation laws – those financial incentives would be sufficient to produce a socially optimal output, especially if supplying investigative journalism confers wider benefits on its suppliers, for instance, enhancing their brand and helping them attract talent; further, there are also non-financial motivations and incentives, like social approbation and awards.[20]

45 No explanation is given is to why the authors have arrived at the conclusion that 'financial incentives [may] be sufficient to produce a socially optimal' supply of

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17 Ergas Report, p 57.

18 Ergas Report, p 1.

19 Ergas Report, p 57.

20 Ergas Report, p 57.

public interest journalism. This lacuna is a particular problem when the conclusion seems to flatly contradict the obvious implication of the preceding argument.

4.2 Conclusion

46 The Report:

a. suggests that internet news aggregators do not reduce the production of public interest journalism;

b. states that it has not been established that increasing digitisation has aggravated the problem of insufficient public interest journalism; and

c. states that markets may well produce a socially optimal supply of public interest journalism.

47 The reasoning for these propositions is either unclear or confused.

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