

Google's Open Letter: Fighting Australia's News Media Bargaining Code

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Tech giants tend to cast thin veils over threats regarding government regulations. They are also particularly concerned by those more public spirited ones, the sort supposedly made for the broader interest. Google has given us an example of this in [an open letter](#) published on August 17 to all Australians – the generosity that comes with transparency – that does not shy away from a degree of menace. Penned by the company's Australasian managing director Mel Silva, it starts with a note of warning on accessing the Google website, a white exclamation mark framed by a pyramid of yellow. “The way Aussies search every day on Google is at risk from new Government regulation.”

Google's terse and syntax-challenged response was directed at the draft News Media Bargaining Code developed by the Australian Competition and Consumer Commission and released on July 31. Digital platforms have made all the running of late, extinguishing media outlets in an exercise of withering effectiveness, while subjugating others. Along the way, a myth has been created: the idea of small news producers and users, treasured and promoted.

The code seeks to grant news media businesses the power to individually or collectively bargain with Google and Facebook over revenue for news that is included on their platforms. As the ACCC [explains](#), the imbalance between digital platforms and conventional media outlets has arisen because of the “less favourable terms for the inclusion of news on digital platform services”. The ACCC would have responsibility to administer and police the code, while the Australian Communications and Media Authority would be the gatekeeper over which media news businesses would qualify to use the scheme.

To [qualify](#), such outlets must, for instance, “predominantly produce ‘core news’, and publish this online”. They must “adhere to appropriate professional editorial standards” and “maintain editorial independence from the subjects of their news coverage.” A local ingredient is also added: that they “operate primarily in Australia for the purpose of serving Australian audiences,” with annual revenue exceeding A\$150,000 for the most recent financial year or three out of five most recent financial years.

Google regards the Code as nothing less than a satanic imposition on the free flow of information by a state authority. But more to the point, it is a challenge to the way it has sought to cultivate its own licensing arrangements with publishers, known as the Publisher Curated News initiative. Brad Bender (where to they find them?), Vice President of Product Management News, [discussed the plan](#) in a company statement on June 25, 2020. “The program will help participating publishers monetize their content through an enhanced storytelling experience that lets people go deeper into more complex stories, stay informed and be exposed to a world of different issues and interests.”

Bender, in gibbering like this, shows little understanding of his material. The quality of news should be shorn of storytelling of an enhanced nature. Dull facts do not necessarily make for poor reading. But we do live in the age of Donald Trump and Silicon Valley oligopolies, where, like hormone pumped meat, the taste often matters more than the health of the content. And complexity is not exactly high on that list of preferences.

The PCN initiative has already yielded [various deals with outlets](#) that have done their bit in improving the Australian media stable: *The Saturday Paper's* publisher Schwartz Media, *Crikey* publisher Private Media and *InDaily* publisher Solstice Media. Unsurprisingly, Google is using them as paragons of how the negotiated model, free of regulator meddling, works.

According to Silva, permitting the Australian authorities to go ahead with the measure would dramatically worsen Google Search and YouTube and “could lead to your data being handed over to big news businesses, and would put the free service to use at risk in Australia.” This is markedly amusing, given that Google and that other behemoth, Facebook, is very much into the business handing over the details of consumers to third parties, a practice often excused by complex consent agreements.

The company contends that hefty news media businesses will be unduly advantaged. All others who have a website, small business or YouTube channel will suffer. The big entities would “artificially inflate their ranking over everybody else, even when someone else provides a better result.” Silva suggests that Google is more than generous to news sites as it is, paying them millions of dollars and sending “them billions of free clicks every year.” To give news site providers a leg-up via government regulation would “put our free services at risk.”

The head of YouTube APAC, Gautam Anand, has also used talk that sits oddly with the Silicon Valley monsters: fairness. The Code, [he argues](#), would “create an uneven playing field when it comes to who makes money on YouTube.” The ones to benefit from it will be those “big news businesses who can demand large amounts of money over and above what they earn on the platform” thereby leaving less for “you, our creators, and the programmes to help you develop your audience in Australia and around the globe.”

This has been dismissed as disinformation and piffle by the ACCC. In a [statement](#) released on the same day of Google’s letter it attempted to put to bed claims that the company would find itself having to charge for gratis services. “Google will not be required to charge Australians for the use of its free services such as Google Search and YouTube, unless it chooses to do so.” Nor will Google “be required to share any additional user data with Australian news businesses unless it chooses to do so.”

The ACCC has its ardent supporters. The appropriately named Bridget Fair of Free TV Australia [called](#) Google’s letter the product of “a monopolist flexing its considerable muscle” in its attempt to retain “excessive profits.” The note was “straight out of the monopoly 101 playbook trying to mislead and frighten Australians to protect their position as the gateway to the internet.” She defends the proposed ACCC code as “ensuring a free and vibrant Australian news media sector into the future.” Any data Google agreed to supply “would have to be under existing Australian privacy laws.”

While there is much to encourage in terms of having a vibrant media sector of boisterous and inquiring voices, anyone vaguely familiar with the Australian news scape will be aware that it tends towards the yawningly monochrome. Google’s disingenuous point is that such

big leaguers are bound to run off with the revenue loot ahead of smaller news providers, making the situation worse.

The ACCC [is accepting public submissions](#) regarding the Code till August 28. Google has already made its view clear: a shot of threatening fury that government regulations of this sort will unduly hinder the “experience” it provides its users and benefit big fish news outlets. But the ACCC, this small, relatively miniscule entity in the global regulatory landscape, is spoiling for a fight.

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