

Centre for Media Transition



Hi there

Days like these



Today could be the most important day for news media since the ACCC started its Digital Platforms Inquiry in late 2017.

There are three reasons for this. First, Google has reached agreement with the biggest commercial news publishers – News Corp, Nine and Seven West – as well as with smaller players such as Crikey. Second, the government has presented further amendments to the code that, in effect, clear the way for the commercial agreements to come into effect. Third,

Facebook has dropped news in Australia.

Resoundingly, it's good news that Google has reached agreement with these publishers. And while it's too simplistic to say 'Google good, Facebook bad', there is unquestionably some fall-out from Facebook's strategy. Below, Sacha outlines the deals between Google and Australian news businesses and points to the problems for smaller publishers whose publication model is based around Facebook. I then raise some regulatory implications, including the increasing importance of a disinformation code of practice, while Anne relates the view from First Draft.

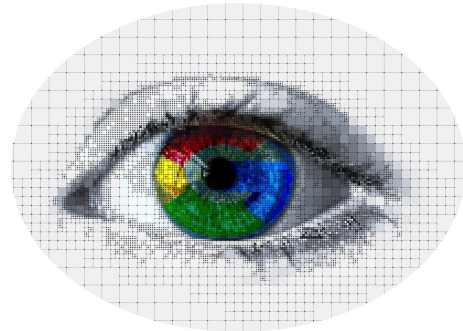
We're only starting to explore these issues here. No doubt there'll be more to come.



Derek Wilding
CMT Co-Director

Hey Google, let's make a deal

In recent days, we've seen a flurry of signatures as Google and news publishers big and small ink deals ahead of the news media bargaining code being passed into law.



On Monday, [Seven West Media struck a deal](#) with Google, becoming the first large Australian media company to do so. The deal is for news content to be displayed not on Google Search, but on Google's brand new news-centred product, [Google News Showcase](#), which launched here this month. Seven described the deal as 'fair payment'; reports suggested it was worth \$30m per year. And the deal also covers smaller publications, such as the Albany Advertiser and Geraldton Guardian. [One report quoted industry sources](#) as saying a proportion of the money is in advertising credits and a revenue sharing agreement for use of content on YouTube.

Then on Tuesday Google agreed to a five-year deal under which [it would pay Nine Entertainment](#) more than \$30 million in cash annually for the use of its news content on News Showcase. And this morning, [News Corp](#) announced it too had signed a deal: a three-year agreement under which Google would make 'significant payments' for featuring News Corp content from [26 Australian publications](#) on Google News Showcase.

Then there are the smaller players. A fortnight ago, [Google said it had struck deals](#) with *The Canberra Times*, *The Illawarra Mercury*, *The Saturday Paper*, *Crikey*, *The New Daily*, *InDaily* and *The Conversation*. More have signed up since, including this week [Junkee Media](#), who are seemingly impressed by Google's approach, but rather less so by Facebook's ...

Is no news really good news?

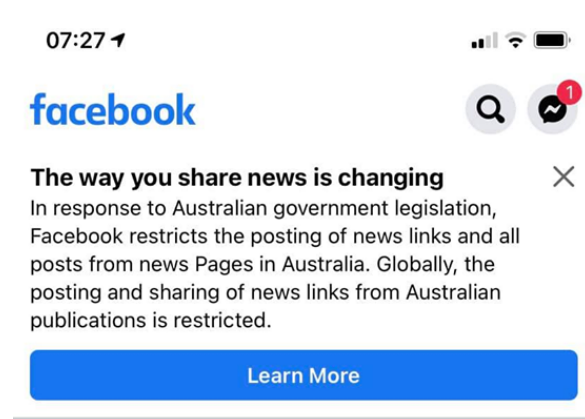
Today, Australians awoke to find that the news had disappeared from Facebook.

The sudden change followed an announcement from [Facebook overnight](#) that it was changing the way news could be shared and viewed on its platform.

This would mean that: Australian news publishers could not post content on Facebook pages; news content by international news publishers could not be viewed or shared by Australian

Facebook audiences; Australian Facebook users could not view or share Australian or international news content; and international Facebook users could not view or share Australian news content. Unsurprisingly, the development [made headlines internationally](#).

And the outcry was swift. As screenshots of a news-less Facebook were [shared on social media](#), the [Treasurer responded](#) by saying the government had been given no notice of the decision, calling it 'wrong' and 'heavy-handed'. Publishers were [equally unimpressed](#). A Nine spokesperson called it 'unreasonable behaviour' that 'nobody benefits from', adding that Facebook was likely to become even more of a platform for misinformation.



The impact on small to medium publishers is expected to be particularly significant. In a recent senate committee hearing, youth publisher [Junkee Media revealed](#) that 75% of its traffic comes from Facebook and Google. 'Junkee Media is disappointed by Facebook's decision to remove news from Facebook in Australia,' said editorial director Rob Stott. 'This decision will undoubtedly have an outsized effect on

small and medium-sized digital publishers, which will have a significant detrimental impact on the diversity of media voices available to Australians.' Junkee's editor Patrick Lenton was even [more blunt](#).

The ban also had seemingly unintended consequences, by wiping [all content from the pages](#) of fire and emergency services, health departments, the Bureau of Meteorology and 1800RESPECT, among others. Also affected were small not-for-profits such as Women in Media Australia, who found they no longer had a Facebook presence. As [@cathwebber](#) tweeted, 'Seriously [#Facebook](#) ? We're an NFP made up of VOLUNTEERS! Women in Media Australia is a national passion project which happens because of tireless hours donated by working women ... in the media. Or is THAT the problem?!' [#FacebookAustralia](#) [#facebooknewsban](#)'

That said, [not everyone blamed Facebook](#).



Sacha Molitorisz
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The regulatory dimension



Media policy in Australia is peppered with deals between powerful players, so it's no surprise that the News Media Bargaining Code has seen high stakes tactics and attention-grabbing announcements from all sides. The first of these was the government's own move to turn the original idea of voluntary code into a binding chapter of the Competition and Consumer Act (CCA). It seems to have paid off, at least in part, but what happens now?

Last night the House of Representatives passed amendments to the Bill that will introduce a new [Part IVBA into the CCA](#). The amendments amount to concessions to digital platforms, but they're pragmatic and necessary because the whole bargaining scheme depends on **both** deals with publishers and fall-back legislation. Although details of the way in which the code will apply to Google services are still emerging, it may be that the individual deals with publishers allow Google to 'contract out' of both the remuneration and notice provisions in the Bill. However, the legislation will continue to act as fall-back when these agreements expire in two years. For the time being at least, it appears that Google News Showcase – not Google search – may be the service designated under the legislation, and the agreements with publishers will mean the specific legislative obligations, including 'final offer arbitration', don't kick in for the duration of the agreements.

Facebook, in contrast, has chosen to back out of the market (at least for news, as we describe above) rather than contract out of the regulatory obligations. On the commercial level, this would be fair enough if it weren't for the dramatic effect on smaller publishers, as Sacha notes. But can the government do anything about Facebook's decision to drop news? Probably not. In theory, it would be possible to legislate for social media services with certain characteristics (revenue, reach etc) to provide certain content. After all, we have laws that regulate Facebook for 'online harms' such as image-based abuse. These laws are designed to stop certain forms of content or conduct. And we have regulations directed at free-to-air TV and radio that impose positive obligations on the provision of content, including Australian drama, children's programs and regional news. But that's all a long way from imposing news content rules on a commercial digital platform that doesn't access radiofrequency spectrum. This is the dilemma facing Australian content regulation in the era of online streaming, where [current policy](#) may also be heading towards a financial contribution rather than content quotas.

Finally, there's the disinformation dimension. One of the good things about enhancing rather than reducing news on Google's platforms is that it helps provide authoritative information at a time when misinformation is rife. But Facebook users will be left without the verifying and cross-referencing presence of professional journalism - just as we go into a Covid-19 vaccination campaign. So this is where a parallel regulatory initiative comes in. We've spoken previously about the development of [DIGI's Australian disinformation code of practice](#), which we've assisted with and which is expected to be launched soon. It seems the importance of the code has just gone up a notch with developments over in the News Media Bargaining Code camp.

But that might depend, of course, on any late-breaking developments ...



Derek Wilding
CMT Co-Director

The view from First Draft



First Draft's headquarters in the UK were monitoring this morning's events along with the APAC team, and released this official statement:



First Draft is deeply concerned that Facebook's restriction of news services from Australia will affect the ability of Australian users to access quality information during a critical moment, opening up a vacuum that could be filled in part by mis- and disinformation. For example, news reports by credible Australian publishers have been essential in countering harmful health misinformation posted on Facebook and providing audiences with context relating to emerging issues and narratives in recent weeks. And these news reports need to be surfaced where audiences can find them.

While we understand there are nuances to the code that will undergo further development, the timing of this impasse in the midst of a pandemic and Australia's bushfire season puts Australian communities who rely on quality news at huge risk.

Journalists recently being able to challenge and refute coronavirus claims by high profile people such as Craig Kelly on Facebook - and for those

refutations and further context in news stories to be viewable where people can easily access that on their Facebook feeds - was important to our democracy.

We encourage journalists to 'pre-empt' the questions that people have about important issues such as vaccines, and to write reports that deal with this before rumours fill those knowledge gaps.

But these pre-emptive measures also need to be easily accessible and go to where the people are - scrolling in their social media spaces.



Anne Kruger
First Draft APAC Director

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