

### KEY POINTS

- After months of wrangling, Australia's parliament passed the News Media Bargaining Code on 25 February 2021. The new code requires global digital firms such as Facebook and Google to negotiate with media companies and pay for news content. The bill has implications far beyond Australia, and versions of it could be passed in a range of other countries.
- At the heart of any functional democracy is access to high quality information. Citizens deprived of information are unable to make accurate decisions over which parties to vote for and election outcomes can be disproportionately swayed by 'fake news'. Traditional media outlets have the advantage of editorial division, tend to be fact-checked and are subject to effective defamation laws.
- Over the last couple of decades traditional news companies have struggled financially. The number of traditional news outlets has fallen and they have often been replaced with smaller and more diverse outlets. The effect is that traditional media has become increasingly concentrated in a handful of large companies in each country. Many of the outlets that survive have only managed to do so by radically cutting costs, which implies cuts to the regional desks and investigatory sections.
- Google and Facebook argue that the struggles of traditional media are a product of the internet and that their platforms benefit news media.
- It is unclear whether the overall effect of the bill will be positive for the news media and for democracy in general. Google and Facebook are likely to reach licence agreements with a handful of large media groups. Large media outlets are valuable to both of them and have enhanced bargaining power. However, it is far from certain that either company will be willing to reach agreements that allow smaller outlets to thrive.

### About us

*AKE has over 20 years of experience working with the financial sector, providing clients with political and economic risk consultancy. Our experienced team provides tailored analysis and strategic forecasting, allowing our clients to better assess risks in challenging environments.*

## OVERVIEW

After months of wrangling, Australia's parliament passed the News Media Bargaining Code on 25 February 2021. The new code requires global digital firms such as Facebook and Google to negotiate with media companies and pay for news content. The bill creates a government-appointed arbitrator that can set the rate that tech companies pay publishers if commercial negotiations fail. The bill is an attempt to rectify an asymmetry in bargaining power between global tech firms and traditional media outlets – effectively obliging them to either pay for news or cut it from their providers.

The code faced strong opposition from both companies, although the standoff de-escalated following the government's decision to water down its rules. The bill has implications far beyond Australia and versions of it could be passed in a range of other countries. It is far from clear whether the bill will be positive for democracy.

## DEMOCRACY AND MEDIA

At the heart of any functional democracy is access to high quality information. Citizens deprived of information are unable to make accurate decisions over which parties to vote for and election outcomes can be disproportionately swayed by 'fake news'. However, 'high quality information' is itself a contested category. Traditional media outlets have the advantage of editorial division, tend to be fact-checked and are subject to effective defamation laws. Yet, a market with only a few media outlets – a broadly approximation of the pre-internet age – risks ignoring potentially important stories and voices. The major media players functioned as gatekeepers of what news was covered and what opinions were expressed.

Over the last couple of decades traditional news companies have struggled financially. The number of traditional news outlets has fallen and they have been often replaced with smaller and more diverse outlets. The effect is that traditional media has become increasingly concentrated to a handful of large companies in each country. Many of the outlets that survive have only managed to do so by radically cutting costs, which implies cuts to the regional desks and investigatory sections. Cost cutting has a significant anti-democratic effect. Investigatory divisions, like the Boston Globes' Spotlight team, had previously uncovered significant stories, but are now underfunded.

In theory, new media can fill the gaps. However, many new smaller outlets lack the fact-checking and credibility of the mainstream. There are, of course, high quality new media outlets that have managed to thrive due to the lower cost of distribution. Yet, even then, much of their value is derivative and builds on the investigations and pieces that are done by more established outlets.

## THE INTERNET AND TRADITIONAL MEDIA

The rise of the internet led to significant challenges to traditional media. Firstly, the news media primary commercial model was the sale of the attention of its readership. In the pre-internet age advertisers had few alternative platforms to attract mass attention. However, the growth of the internet – and with-it platforms like Google – created new avenues for advertisers to reach potential consumers. Google, and its AdSense and AdWords products, also aggregated data which meant that it was allowed better able to tailor ads. The result is that while before 2000 print media attracted nearly 60 per cent of Australian advertiser dollars, by 2017 it was only 12 per cent. Google now captures more than 50 per cent and Facebook 28 per cent.

Secondly, as consumers shift from accessing news in paper form to digital form, information can be easily copied and shared. A handful of traditional outlets have created paywalls to limit access to paid subscribers – although the vast majority have struggled to monetise the content.

Google and Facebook argue that the struggles of traditional media are a product of the internet and that their platforms benefit news media. Both claim they are vehicles to steer consumers to news publishers that would otherwise go unnoticed. Generally, more reputable news is also prioritised, given the structure of the algorithms that power both. Yet even when consumers access information from traditional media, the trend is to do so through major portals – like Facebook and Google – and spend limited time on a from a news publishers' own portal. It is hard to know whether the platforms (rather than the internet-age) have caused more benefits or harms to news outlets.

## THE FUTURE

Google originally threatened to leave the Australian market before backing down. Facebook temporarily removed any information that appeared like news from its site, but eventually accepted a watered-down bill. The two companies have already signalled that they are willing to negotiate with larger media outlets, and in Google's case do so with Rupert Murdoch's News Corp. Similar bills to Australia's could be introduced in other countries.

Yet, it is unclear whether the overall effect of the bill will be positive for the news media and for democracy in general. Google and Facebook are likely to reach licence agreements with a handful of large media groups. Large media outlets are valuable to both and have enhanced bargaining power. However, it is far from clear whether either company will be willing to reach agreements that allow smaller outlets to thrive.

Displaying the news from smaller outlets are less valuable for tech companies, and are more reliant on Google and Facebook to divert traffic to them. At best able to commend a minor fee for their content. Smaller outlets are thus likely to be left behind, with neither company willing to pay significantly to licence their content. The effect could be more pronounced for localised news outlets. The overall impact of the legislation could then be to strengthen dominant media outlets, with diversity threatened.