

The Senate

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Select Committee on the  
Future of Public Interest Journalism

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Report

February 2018

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Senator Sam Dastyari (Chair) until 30.11.2017	ALP, NSW
Senator Lisa Singh (Chair from 30.11.2017 to 7.12.2017)	ALP, TAS
Senator Scott Ludlam (Deputy Chair) until 14.7.17	Greens, WA
Senator Sarah Hanson-Young from 09.08.2017 (Deputy Chair from 21.08.2017)	Greens, SA
Senator Jonathon Duniam	LP, TAS
Senator James Paterson	LP, VIC
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# Recommendations

## Recommendation 1

The committee recommends that the ABC and SBS be funded adequately, so that they can deliver on their charter obligations, support rural and regional service provision and have a strong fact checking capacity.

## Recommendation 2

The committee recommends that the Commonwealth provide additional surety in future funding for the community broadcasting sector beyond the forward estimates, in particular what component will be set aside for training and education, and ensure that the sector is fully consulted in the national rollout of digital services.

## Recommendation 3

**6.85** The committee recommends that the Commonwealth work with the states and territories through the Council of Australian Governments to determine how areas of the Australian Curriculum may be improved regarding digital media awareness and media literacy.

## Recommendation 4

**7.86** The committee recommends that the Commonwealth develop and implement a framework for extending deductible gift recipient (DGR) status to not-for-profit news media organisations in Australia that adhere to appropriate standards of practice for public interest journalism.

## Recommendation 5

**7.87** The committee recommends that the Treasury undertake cost-benefit modelling on extending the tax deductible status of news media subscriptions to all Australians, not just those who can already claim the cost of subscriptions through existing income tax arrangements, for subscriptions to news media organisations in Australia that adhere to appropriate standards of practice for public interest journalism.

## Recommendation 6

**7.93** The committee recommends that the Australian Law Reform Commission conduct an audit of current laws that impact on journalists reporting on matters that touch on or focus on national security and border protection, to identify and analyse unjustifiably harsh or draconian laws, inconsistencies in the law and any lack of clarity in the law regulating the work of journalists in this context, and to consider whether further reform is needed to achieve an appropriate balance between the need to preserve national security and the need for journalists to be able to carry out their work in the public interest.

## **Recommendation 7**

**7.97** The committee recommends that the Commonwealth work with state and territory jurisdictions through the Council of Australian Governments to complete a review of Australian defamation laws, and subsequently develop and implement any recommendations for harmonisation and reform, with a view to promoting appropriate balance between public interest journalism and protection of individuals from reputational harm.

## **Recommendation 8**

**7.102** The committee recommends that the Commonwealth look at ways to expand whistleblower and shield law protections, and to harmonise those laws between the Commonwealth and state and territory jurisdictions, noting the work in this area already underway.

# Chapter 1

## Introduction and background

### Referral

1.1 On 10 May 2017 the Senate established the Select Committee on the Future of Public Interest Journalism, to inquire and report on the following matters:

- (a) the current state of public interest journalism in Australia and around the world, including the role of government in ensuring a viable, independent and diverse service;
- (b) the adequacy of current competition and consumer laws to deal with the market power and practices of search engines, social media aggregators and content aggregators, and their impact on the Australian media landscape;
- (c) the impact on public interest journalism of search engines and social media internet service providers circulating fake news, and an examination of counter measures directed at online advertisers, 'click-bait' generators and other parties who benefit from disinformation;
- (d) the future of public and community broadcasters in delivering public interest journalism, particularly in underserved markets like regional Australia, and culturally and linguistically diverse communities;
- (e) examination of 'fake news', propaganda, and public disinformation, including sources and motivation of fake news in Australia, overseas, and the international response; and
- (f) any related matters.<sup>1</sup>

### Background to the inquiry

1.2 This inquiry was initiated to look into the current state of public interest journalism in Australia and globally, to consider what the role government should play in assisting the sector in meeting the challenges and capitalising on the opportunities of the digital age.

1.3 In so doing, the committee was interested in investigating the potential ways that the Commonwealth could seek to encourage and maintain a healthy media ecosystem, particularly ensuring that public interest journalism is supported by the Commonwealth in appropriate and meaningful ways, and appreciated by Australians as a public good and essential component of our democratic system.

1.4 The committee's work has been underpinned by three considerations.

1.5 The first is identifying the nature of the challenges and opportunities the media sector currently faces. This has necessitated not only considering the challenges facing traditional media providers from the new online digital media environment—

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1 *Journals of the Senate*, No. 40, 10 May 2017, pp. 1330–1331.

including gaps in service provision to particular groups, but also the opportunities for innovation for new and existing players in the sector.

1.6 Second, the committee has focussed on identifying what the role of government should be in assisting industry to mitigate these challenges and take advantage of the opportunities presented. In this regard, policy options that emerged in evidence tended to focus on either direct assistance measures to producers through targeted, stringently-applied subsidies, or on indirect reforms to the tax system or relevant regulatory frameworks. It was apparent that a great deal of care should be applied in considering these options, not only to ensure the sector is effective and diverse, but also that any Commonwealth policy adjustments serve to maintain the freedom of the press from political interference or censorship.

1.7 Lastly, this inquiry has been guided by a consideration of how the cost of any potential policy measures could be offset in the Commonwealth Budget.

### **Definitions, role and importance of public interest journalism**

1.8 The evidence received by the committee overwhelmingly noted that, even if there is no unanimously accepted single definition of public interest journalism, there are certain behaviours, institutions and principles that have been commonly cited when discussing its role and importance in healthy democracies.

1.9 The Civic Impact of Journalism Project summed up a number of roles and functions that public interest journalism plays, noting these had been widely recognised as features of good journalistic practice for 'at least 70 years':

- to keep the public up to date with what is going on in the world
- to provide the public with reliable information on which they may base choices as participants in political, economic and social life
- to provide a forum for the exchange of ideas and opinions
- to be a watchdog on those in power
- to help societies understand themselves
- to provide the material upon which members of a society can base a common conversation (and that)
- These functions all contribute to the working of capitalist democracies.<sup>2</sup>

1.10 Dr Denis Muller, a fellow at the University of Melbourne's Centre for Advancing Journalism, agreed that the foundational principles of good journalism had remained unchanged since the post-war period. In particular, he noted that the principles expressed by the 1947 United States Commission on the Freedom of the Press (Hutchins Commission) still held true, namely that the press had a social responsibility to provide five basic services:

A truthful, comprehensive, and intelligent account of the day's events in a context which gives them meaning;

A forum for the exchange of comment and criticism;

The projection of a representative picture of the constituent groups in the society;

The presentation and clarification of the goals and values of the society;

Full access to the day's intelligence.<sup>3</sup>

1.11 The submission made by the ABC noted that the term 'public interest journalism' is regularly used synonymously with the terms 'quality journalism', 'investigative journalism' and 'accountability journalism'. It noted that these terms implicitly recognise that there is a crucial difference between journalism that serves the public good, and journalism that seeks solely to entertain:

...not all journalism is designed to provide a community benefit. Certainly, it is commonly understood that what is in the public interest does not always correlate with that in which the public is interested. Defining the public interest can be challenging, much less determining the best means of its delivery.<sup>4</sup>

1.12 It was frequently noted in evidence received by the committee that public interest journalism should work to ensure the accountability of powerful individuals or governments. As Professor Bill Birnbauer submitted:

Definitions of investigative and public interest journalism vary but there is general consensus among journalists and media academics that such journalism provides new information on issues of public importance that governments, companies and powerful interests may want to keep secret.<sup>5</sup>

1.13 Several submissions highlighted Mr Steve Harris' 1994 articulation of the purpose and value of public interest journalism to society, which emphasises that good journalism should be independent from vested interests, and seek to build 'good faith with the reader':

The primary purpose of gathering and distributing news and opinion is to serve society by informing citizens and enabling them to make informed judgements on the issues of the time. The freedom of the press to bring an independent scrutiny to bear on the forces that shape society is a freedom exercised on behalf of the public. Journalists are committed to ensuring that the public's business is conducted in public, and must be vigilant against

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3 The Commission on Freedom of the Press, *A Free and Responsible Press: A General Report on Mass Communication: Newspapers, Radio, Motion Pictures, Magazines, and Books*, University of Chicago Press, Chicago, 1947, pp. 20–21. For a discussion of these principles see Dr Denis Muller, Senior Research Fellow, Centre for Advancing Journalism, University of Melbourne and Professor Margaret Simons, Board Member, Public Interest Journalism Foundation, *Committee Hansard*, 21 August 2017, p. 8.

4 ABC, *Submission 58*, p. 3.

5 *Submission 1*, p. 1. See also, for example, Schwartz Media, *Submission 10*, p. 3.

anyone who would seek to exploit the press for selfish purposes or seek to restrict the paper's role and responsibilities. Good faith with the reader is the foundation of good journalism.<sup>6</sup>

1.14 The ABC noted Mr Eric Beecher's description of quality journalism, as:

...journalism that reports and analyses the institutions of democracy—governments, parliaments, the public service, courts, police and army, academia, business, science, education, media and other key institutions. It is the journalism that fertilises society with ideas, commentary and analysis. And it is journalism that needs to be conducted responsibly because it operates under a tacit public trust.<sup>7</sup>

1.15 A number of perspectives heard by the committee indicated that journalism had at its core a set of professional practices and ethical standards committed to handling information responsibly and responding to complaints diligently. For example, Mr Misha Ketchell, the Editor of *The Conversation*, commented:

My view would be that if you want to draw a boundary around what qualifies as journalism, part of what qualifies as journalism is a set of practices, which are around ethical conduct, reliable handling of information and having complaints procedures. That would be how I distinguish what we think of as journalism and what we don't.<sup>8</sup>

1.16 The submission made by Deakin University drew out some more specific examples of what journalistic activities could be considered as 'in the public interest':

- detecting or exposing crime or serious misdemeanour
- detecting or exposing seriously anti-social conduct
- protecting public health and safety
- preventing the public from being misled by a statement or action of an individual/body [and]
- detecting or exposing hypocrisy, falsehoods or double standards of behaviour on the part of public figures or public institutions and in public policy.<sup>9</sup>

1.17 Some evidence observed that although it was expensive to produce, there were clear economic benefits to public interest journalism. Dr Birnbauer submitted that:

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6 Public Interest Journalism Foundation, *Submission 13*, p. 2; Deakin University, *Submission 19*, p. 3; Freeline Group, *Submission 51*, p. 2. This definition is originally found in Steve Harris, 'Professional practice policy' in *Australian Press Council News* (February 1994), pp. 8–9. The need for good journalism to build trust with the reader was also noted by the ABC, *Submission 58*, p. 3.

7 ABC, *Submission 58*, p. 3, citing Mr Eric Beecher, *Submission to the Independent Media Inquiry* (2011), pp. 1–2.

8 *Committee Hansard*, 21 August 2017, p. 35.

9 Deakin University, *Submission 19*, p. 3.

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Investigative journalism is much talked about by media organisations but is limited to a handful of reporters within media organisations because it cannot readily be monetised. It is expensive to do, takes a long time, sparks legal action and upsets powerful interests. It takes a big commitment by media organisations; just five major US media organisations provide about 50 per cent of all the investigative journalism. The societal benefits can be huge: lives saved, corruption exposed, environments improved, governments and corporate interests held accountable. A study by a media economist found that for each \$1 spent on a specified investigative story, \$287 in policy benefits resulted.<sup>10</sup>

1.18 The Civic Impact of Journalism research project reflected that, even if there was a small audience for journalism working in the public interest, it often had a disproportionate effect:

It is possible to measure how many people saw a piece of news content, but this is not all we mean by impact. If the item is a piece of light entertainment, quickly forgotten, then the fact that it was seen by many hardly matters.

On the other hand, a long-form piece of investigative journalism might be read by very few people, but if they have the power to make decisions and changes, then the impact may be very great—for example, a royal commission.<sup>11</sup>

1.19 Associate Professor Simons suggested that, while definitions of the practice of journalism have remained consistent over time, the nature of the institutions has changed a great deal in recent years:

The functions [of journalism] have not changed a great deal, but the ways in which it is practised have changed. Previously, you might have defined journalism by the institution in which it occurred...While journalism is still taking place often within institutional frameworks, there are also citizens who meaningfully participate in journalism. For example, somebody like Greg Jericho was making a real contribution to political commentary and now has a job at *The Guardian* in Australia, but for some time he was operating as an individual blogger. That's unusual, but I think it's really important to recognise. Indigenous X was founded by a single person. It now might have some sort of institutional framework around it, but I think it's important to recognise that journalism is about the function performed rather than necessarily where it's performed.<sup>12</sup>

1.20 Dr Muller agreed with this perspective. He argued that, while public interest media should always be underpinned by the ambition to inform a vibrant public

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10 Sub 1, p. 5. See also Mr Ray Bange, *Submission 47*, p. 6.

11 *Submission 14*, p. 2. See also *Submission 14* attachment 2 (Margaret Simons, 'Trump, Fake News and shrinking newsrooms: does journalism still matter in the digital age?', *The Guardian*, May 29, 2017), p. 2.

12 *Committee Hansard*, 21 August 2017, p. 8.

sphere of debate, this is increasingly difficult in an online media environment where media sources and patterns of consumption are fragmented:

...[public interest journalism] keeps the public up-to-date with what's going on; gives them reliable information upon which they may base choices as citizens and participants in social life; provides a forum for the exchange of ideas and opinions; holds a mirror up to societies; and provides the material upon which members of a society could have a common conversation, which is a very important function now that we have the fragmentation of the conversation online.<sup>13</sup>

1.21 Further to this, Dr Glenn Fuller, an Assistant Professor at the University of Canberra's News and Media Research Centre, noted that the idea of a singular 'public' had also become fragmented over time:

The way we talk about the public has changed. What's interesting is that we don't have a singular, mainstream conception of the public anymore. News producers are keenly aware of their audiences as a market and they service those markets. In doing so, they actually produce a new kind of public. So a newspaper in Sydney is very aware of its Sydney audience, and it will service that Sydney audience. In doing so, it actually produces a Sydney public. That may not be in the public interest, if we think about it in a national context.<sup>14</sup>

## **Oversight of media in Australia**

1.22 Media content in Australia is predominantly regulated by platform rather than content. The 2012 Convergence Review set out what this means in practice:

Radio and television broadcasters are regulated by the Australian Communications and Media Authority (ACMA). The ACMA makes regulatory standards for Australian content...and children's television content. The current legislation also provides for radio and television broadcasters to develop and maintain codes of practice that reflect community standards. These co-regulatory codes cover matters such as inappropriate or offensive content, fairness and accuracy in news and current affairs programs and complaints procedures. Internet content is only subject to the prohibited content scheme in schedules 5 and 7 of the *Broadcasting Services Act 1992* (BSA), which also provides for a co-regulatory code to include measures aimed at preventing the provision of prohibited content. Newspapers have self-regulatory standards of practice administered by the Australian Press Council (APC).<sup>15</sup>

1.23 In effect, Australian media standards regulation is provided for as follows:

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13 *Committee Hansard*, 21 August 2017, p. 8.

14 *Committee Hansard*, 22 November 2017, p. 2.

15 Australian Government, *Convergence Review: Final Report*, March 2012, p. 39. Note the Convergence Review is discussed at greater length below.



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- Broadcast media is subject to statutory regulation through the ACMA, although online streaming is not, even if a provider voluntarily adheres to regulatory standards in their online activities.
  - Print media (and associated online activities) is self-regulated, either through the APC or other industry regulator on one hand, or self-application of codes of conduct on the other.
  - Australian online providers are not subject to any oversight mechanisms, although some choose to be members of the APC or develop internally-driven codes of conduct. It should be noted that these providers are still subject to general Commonwealth and state legislation, including regarding libel and other offences under Australian law; and
  - Overseas publishers are not subject to any Australian regulation or laws or, if they are, these laws are difficult to enforce.<sup>16</sup>

### *The print media and associated online outlets*

1.24 Regarding the oversight of media standards in the print media, the APC is the national industry-funded body that is responsible:

...for promoting good standards of media practice, community access to information of public interest, and freedom of expression through the media. The Council is the principal body with responsibility for responding to complaints about Australian newspapers, magazines and associated digital outlets.<sup>17</sup>

1.25 The APC's website outlines its key roles:

- developing standards that constitute good media practice and are applied by the Council when considering complaints;
- responding to complaints from the public about material in Australian newspapers, magazines and associated digital outlets;
- issuing statements on policy matters within its areas of interest, including through submissions to parliamentary committees, commissions and other public bodies.<sup>18</sup>

1.26 The Finkelstein Report asserted that 'it is not easy to assess the effectiveness of the APC' as there are 'several difficulties with its structure'. Although it acknowledged that the body had its supporters, the Finkelstein Report noted significant criticisms of the APC. Many of these stemmed from the APC's reliance on industry funding from only a few large media groups, who were able to 'exert both formal and informal pressure' including threats to withdraw funding, which impeded

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16 See the Hon R. Finkelstein QC assisted by Professor M. Ricketson, *Report of the Independent Inquiry into the Media and Media Regulation*, 28 February 2012, p. 279.

17 Australian Press Council, 'About the Council', [www.presscouncil.org.au/about/](http://www.presscouncil.org.au/about/) (accessed 19 October 2017).

18 Australian Press Council, 'About the Council', [www.presscouncil.org.au/about/](http://www.presscouncil.org.au/about/) (accessed 19 October 2017).

the APC in exercising its functions.<sup>19</sup> Other criticisms that the APC was perceived to have included:

- An inability to properly investigate a complaint for lack of binding powers;
- A lack of resources to properly discharge its duties due to lack of funding;
- Insufficient powers of enforcement of decisions;
- The appearance of a lack of independence from its publisher members; and
- Insufficient streamlining of complaints procedures.<sup>20</sup>

1.27 Some evidence received by the committee agreed that there were shortcomings with the APC model. As well as the issues noted by Finkelstein, it was observed that although membership of the APC covered established media effectively, it did not fully cover new media, where membership was optional for each organisation.<sup>21</sup>

1.28 In Australia there are several other mechanisms by which sections of the print media and their online outlets are self-regulated outside the APC, as outlined by the Finkelstein Review, including:

- the independent adoption of ethical codes or standards by media outlets, which at a minimum impose obligations of fairness and accuracy. This can include the appointment by some newspapers of an ombudsman or readers' representative/editor to handle complaints from the public independently of the APC;<sup>22</sup> and
- the establishment of other voluntary regulatory bodies to handle complaints, such as the Independent Media Council, which was set up for some media organisations in Western Australia following the Finkelstein Inquiry.<sup>23</sup>

#### ***A further note on the Australian Press Council (APC)***

1.29 The committee notes that, despite early indications that it would inform this committee's work, and following numerous approaches from the committee seeking

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19 The Hon R. Finkelstein QC assisted by Professor M. Ricketson, *Report of the Independent Inquiry into the Media and Media Regulation*, 28 February 2012, p. 235.

20 The Hon R. Finkelstein QC assisted by Professor M. Ricketson, *Report of the Independent Inquiry into the Media and Media Regulation*, 28 February 2012, pp. 235–238.

21 See evidence given to the committee by Ms Tory Maguire, Editor-in-Chief, HuffPost Australia and Mr Simon Crerar, Editor-in-Chief, BuzzFeed Australia, which indicated that where the Huffpost is a member of the APC, BuzzFeed have chosen not to take up membership, as their own internal processes and editorial standards are articulated publically, and their corrections policy 'very strict'. *Committee Hansard*, 17 May 2017, pp. 56–57.

22 The Hon R. Finkelstein QC assisted by Professor M. Ricketson, *Report of the Independent Inquiry into the Media and Media Regulation*, 28 February 2012, pp. 235–237.

23 Mr Tim Burrowes, Founder and Content Director, Mumbrella, *Committee Hansard* 11 July 2017, p. 8. See the Independent Media Council's website at [www.independentmediacouncil.com.au/index.html](http://www.independentmediacouncil.com.au/index.html) (accessed 30 January 2018).

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cooperation, the APC chose not to make a submission or give evidence at a hearing, and so did not address the matters raised above.

1.30 The committee considers it profoundly disappointing that the APC chose not to participate in a significant discussion about the challenges and opportunities its members face in the digital age.

### ***The Australian Communications and Media Authority (ACMA)***

1.31 The ACMA's role in regulating media services and content, including news, is primarily concerned with television and radio broadcasting. Its submission outlined its role and powers:

The ACMA is the independent statutory authority responsible for the regulation of broadcasting, radiocommunications, telecommunications and some online activities. Its functions as a media regulator are set out in legislation—principally the *Australian Communications and Media Act 2005* and the *Broadcasting Services Act 1992* (the BSA). To better perform its legislated functions, the ACMA seeks to inform itself about issues facing the media industry including by undertaking its own research from time to time.<sup>24</sup>

1.32 The ACMA submitted that, in respect of public interest journalism, its role and responsibilities under the BSA were 'principally concerned with the conduct of radio and television broadcasters' and, to a much lesser degree, with those newspapers with a commercial television or radio broadcasting licence area.<sup>25</sup>

1.33 The ACMA told the committee that a specific Object of the BSA is:

...to encourage providers of commercial and community broadcasting services to be responsive to the need for a fair and accurate coverage of matters of public interest and for an appropriate coverage of matters of local significance.<sup>26</sup>

1.34 ACMA further outlined that:

...A number of other BSA Objects relate in part to the provision and diversity of news over broadcasting services. These are less directly relevant to public interest journalism but serve to emphasise the importance of a diverse, efficient and competitive broadcasting sector and the value of high quality programming that is consistent with community standards.<sup>27</sup>

1.35 The BSA provides for a co-regulatory regime for television and radio broadcasters to advance Object (g), in which broadcasters develop codes of practice and for addressing and redressing complaints about breaches of these codes, which are then registered with ACMA. These co-regulatory codes all have provisions requiring broadcasters to meet public interest standards in news coverage, including

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24 *Submission 28*, p. 1.

25 *Submission 28*, p. 1.

26 *Broadcasting Services Act 1992*, Section 3(1)(g), *Submission 28*, p. 2.

27 *Submission 28*, p. 2.

impartiality, fairness and accuracy. The ACMA has the ability to deal with complaints not adequately addressed by broadcasters implementing their own codes of practice themselves.<sup>28</sup>

1.36 The ACMA noted that although there is no general requirement under the BSA for broadcasters to provide minimum news services, there are provisions designed to require commercial regional broadcasters in both radio and television to local news.<sup>29</sup>

1.37 The ACMA submitted that it also has some responsibility for broadcast political matter and election advertisements. This is designed to:

...facilitate reasonably balanced access to licensed television and radio broadcasting services by different political opinion holders, whilst informing audiences about who is trying to persuade them to think or to act in response to broadcast election or political matter.<sup>30</sup>

1.38 More specifically, the ACMA's responsibilities include setting out the required standards for broadcasters:

During an election period, if a broadcaster broadcasts 'election matter', the broadcaster must give reasonable opportunities for the broadcast of election matter to all previously elected political parties contesting the election.

Where a television or radio licensee broadcasts 'political matter' at the request of another party (such as a political party or other political campaigner), a licence condition in Schedule 2 to the BSA requires the licensee to immediately broadcast the 'required particulars' of that political matter. The required particulars must identify the source of the political matter (such as the political party) and the name of the person who authorised it.<sup>31</sup>

1.39 The ACMA also has some responsibility for oversight of control and diversity rules under Part 5 of the BSA, which sets out 'rules intended to limit the number of media operations that may be controlled by individual entities'. The ACMA suggested these rules were to encourage competition and innovation in the media, as well as a plurality of views expressed, but noted this did not target news specifically:

The ACMA understands that the original intention of the media control and diversity rules was to maximise the number of opinions expressed via commercial media...

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28 ACMA noted it had registered codes made by the following industry bodies: Free TV Australia; Commercial Radio Australia; the Community Broadcasting Association of Australia (CBAA); the Australian Subscription Television and Radio; the Australian Narrowcast Radio Association; and the Australian Community Television Alliance. ACMA also noted that the public broadcasters ABC and SBS are required by their statutes to develop codes, which are then notified—rather than registered with—the ACMA. *Submission 28*, p. 2.

29 *Submission 28*, p. 3.

30 *Submission 28*, p. 3.

31 *Submission 28*, p. 3.

However, the ACMA notes that the media control and diversity rules are not directed specifically at the promotion or preservation of news services provided by media organisations. While the ACMA has consistently and effectively enforced the media control and diversity rules in the BSA, its remit does not extend to specific consideration of the diversity or viability of public interest journalism when considering matters of media control and diversity.

1.40 The ACMA also plans and licences community broadcasting services under the BSA. Although the ACMA cannot mandate that the provision of news services be a condition of a broadcasting licence being granted, it 'encourages...community broadcasting licensees to provide local news services'. It noted:

...that many community broadcasting services do not provide their own news but rather provide networked news sourced from centralised providers such as the Community Radio Network or Australian Independent Radio News. Where news and current affairs are provided they are subject to the applicable requirements of the CBAA code.

In the ACMA's opinion, while community broadcasters can and do play an important role in supplementing the news services provided by commercial and national services in their communities, many if not most community broadcasting licensees lack the resources to provide comprehensive and sustainable local news services.<sup>32</sup>

1.41 The ACMA also conducts research on a range of issues regarding the Australian media landscape. In particular, the ACMA highlighted the findings of its research into local content in regional Australia (2017), and its inquiry into contemporary community safeguards (2014).<sup>33</sup>

### ***Media Entertainment and Arts Alliance Journalist Code of Ethics***

1.42 The Media, Entertainment & Arts Alliance (MEAA) is the largest union and industry advocate for Australia's creative professionals on any platform (print, broadcast and digital), including journalists, editors, photographers, designers, producers, artists, cartoonists, and sub-editors. It administers a Journalist Code of Ethics that binds all members of MEAA Media, and which is registered with the Fair Work Commission. The aspirations of the code are stated as follows:

Respect for truth and the public's right to information are fundamental principles of journalism. Journalists search, disclose, record, question, entertain, comment and remember. They inform citizens and animate democracy. They scrutinise power, but also exercise it, and should be responsible and accountable.<sup>34</sup>

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32 *Submission 28*, p. 4.

33 A summary of this research was supplied as an attachment by the ACMA, *Submission 28* attachment 2 ('ACMA Research-news and current affairs').

34 MEAA, *Fact Sheet: The MEAA Journalist Code of Ethics*, [www.meaa.org/faqs-meaa-journalist-code-of-ethics/](http://www.meaa.org/faqs-meaa-journalist-code-of-ethics/) (accessed 5 January 2017).

1.43 Members commit to four principles: honesty; fairness; independence; and respect for the rights of others. They also commit to educate themselves about the following standards:

Report and interpret honestly, striving for accuracy, fairness and disclosure of all essential facts. Do not suppress relevant available facts, or give distorting emphasis. Do your utmost to give a fair opportunity for reply.

Do not place unnecessary emphasis on personal characteristics, including race, ethnicity, nationality, gender, age, sexual orientation, family relationships, religious belief, or physical or intellectual disability.

Aim to attribute information to its source. Where a source seeks anonymity, do not agree without first considering the source's motives and any alternative attributable source. Where confidences are accepted, respect them in all circumstances.

Do not allow personal interest, or any belief, commitment, payment, gift or benefit, to undermine your accuracy, fairness or independence.

Disclose conflicts of interest that affect, or could be seen to affect, the accuracy, fairness or independence of your journalism. Do not improperly use a journalistic position for personal gain.

Do not allow advertising or other commercial considerations to undermine accuracy, fairness or independence.

Do your utmost to ensure disclosure of any direct or indirect payment made for interviews, pictures, information or stories.

Use fair, responsible and honest means to obtain material. Identify yourself and your employer before obtaining any interview for publication or broadcast. Never exploit a person's vulnerability or ignorance of media practice.

Present pictures and sound which are true and accurate. Any manipulation likely to mislead should be disclosed.

Do not plagiarise.

Respect private grief and personal privacy. Journalists have the right to resist compulsion to intrude.

Do your utmost to achieve fair correction of errors.<sup>35</sup>

1.44 Under the code, anyone can make a complaint if they believe a journalist has breached the standards. However, as the code is self-administered, MEAA is unable to investigate or take action against individuals who are not MEAA members.<sup>36</sup>

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35 MEAA, *Fact Sheet: The MEAA Journalist Code of Ethics*, [www.meaa.org/faqs-meaa-journalist-code-of-ethics/](http://www.meaa.org/faqs-meaa-journalist-code-of-ethics/) (accessed 5 January 2017).

36 MEAA, *Fact Sheet: The MEAA Journalist Code of Ethics*, [www.meaa.org/faqs-meaa-journalist-code-of-ethics/](http://www.meaa.org/faqs-meaa-journalist-code-of-ethics/) (accessed 5 January 2017).

## Reviews of the media sector in Australia

1.45 This section outlines some recent reviews of the media sector in Australia that have shaped Commonwealth policy and provided a context for this committee's work.

### *The Convergence Review*

1.46 The Convergence Review was established in March 2011, to consider the effects of, and possible Commonwealth responses to, the convergence of media—i.e. media being increasingly delivered online rather than in traditional ways.<sup>37</sup> The Review arose after it became apparent that many aspects of the existing regulatory regime were outdated, unnecessary or ineffective in taking into account these changes.<sup>38</sup> It set out to:

...examine the operation of media and communications regulation in Australia and assess its effectiveness in achieving appropriate policy objectives for the convergent era. The terms of reference for the Review covered a broad range of issues, including media ownership laws, media content standards, the ongoing production and distribution of Australian and local content, and the allocation of radiocommunications spectrum.<sup>39</sup>

1.47 In specific relation to news, the Convergence Review report noted:

News and commentary play a vital role in any democracy. Content service enterprises that provide news and commentary should meet appropriate journalistic standards in fairness, accuracy and transparency regardless of the delivery platform. The Review has taken into account the findings of the Independent Media Inquiry. While agreeing with much of the analysis and some of the findings of the Independent Media Inquiry, the Convergence Review recommends an approach based on an industry-led body for news standards rather than a statutory body.<sup>40</sup>

1.48 The Review looked at the future of media and communications in Australia, and advocated for wholesale reform of our national oversight and regulatory system. It was guided by a number of principles, including that:

[C]itizens and organisations should be able to communicate freely and, where regulation is required, it should be the minimum necessary to achieve a clear public purpose.<sup>41</sup>

1.49 The Convergence Review found that there was a need for regulation in a number of areas: media ownership; content standards, including news content standards; and quotas for Australian and local content.<sup>42</sup>

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37 Dr Rhonda Jolly, *Media reviews: all sound and fury?* Background Note, Parliamentary Library, Canberra, 5 October 2012, p. 1.

38 Australian Government, *Convergence Review: Final Report*, March 2012, p. 1.

39 Australian Government, *Convergence Review: Final Report*, March 2012, p. vii.

40 Australian Government, *Convergence Review: Final Report*, March 2012, p. x.

41 Australian Government, *Convergence Review: Final Report*, March 2012, p. 4.

42 Australian Government, *Convergence Review: Final Report*, March 2012, pp. 2–4.

1.50 The review found that 'content service enterprises' (CSEs) should be subject to a common classification scheme, regardless of the platform they used to deliver their services. Additionally, CSEs would be subject to certain ownership rules, and would be expected to meet certain community standards regarding the content they provide, as well as to contribute to the availability of Australian content.<sup>43</sup>

1.51 It proposed that certain criteria would apply in defining CSEs, including revenue thresholds set at a high level to exclude small or developing enterprises, although it noted that this threshold should be regularly reviewed. Under the thresholds proposed by the Convergence Review, around 15 media organisations would have been considered CSEs, including some broadcasters and larger newspaper companies. However, at that time, Telstra, Apple and Google would not have been considered CSEs under the proposed thresholds.<sup>44</sup>

1.52 One of the key recommendations made by the report was the proposed establishment of two bodies: a statutory regulator to replace the ACMA; and an industry-led body to deal with journalistic standards for news and commentary.<sup>45</sup>

1.53 The Convergence Review recommended that the new communications regulator would take responsibility for implementing the recommendation made by the Australian Law Reform Commission (ALRC) on classification in 2012 that there should be a new national classification scheme.<sup>46</sup>

1.54 It was proposed that the industry-led body covering news standards would absorb the news and commentary-related functions of the APC and the ACMA, and cover all platforms. It would enforce a media code aimed at promoting fairness, accuracy and transparency in news and commentary, and be able to adjudicate and provide remedies for complaints. It could also refer serious or persistent breaches to the communications regulator.<sup>47</sup>

1.55 CSEs would be required to hold membership of this body, and would provide most of its funding, with government contributing to certain aspects of its functions or projects. Bodies not considered CSEs could elect to hold membership.<sup>48</sup> It would have jurisdiction only over CSEs and opt-in members, and so there would be no regulation covering social media.<sup>49</sup>

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43 Australian Government, *Convergence Review: Final Report*, March 2012, pp. 2 and 41.

44 Australian Government, *Convergence Review: Final Report*, March 2012, pp. ix, 2, and 10.

45 Australian Government, *Convergence Review: Final Report*, March 2012, p. 38.

46 Australian Government, *Convergence Review: Final Report*, March 2012, p. 38; Australian Law Reform Commission, *Classification—Content Regulation and Convergent Media: Final Report*, ALRC Report 118, February 2012, p. 24.

47 Australian Government, *Convergence Review: Final Report*, March 2012, pp. 51–53.

48 Australian Government, *Convergence Review: Final Report*, March 2012, pp. 51–53.

49 Australian Government, *Convergence Review: Final Report*, March 2012, p. x.



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### *The Finkelstein Review*

1.56 The Finkelstein Review was established in 2012 to assess whether Australia's media codes of practice were effective, and to gauge the impact of new technologies on traditional media. It focussed almost exclusively on the traditional print media sector.

1.57 Having regard to the effectiveness of media codes of practice, Finkelstein recommended that there were clear deficiencies that should be addressed. Most significantly, he recommended the Commonwealth establish a 'News Media Council', a new statutory body funded by government—though kept at arms-length, which would take over the media accountability functions of the APC and the ACMA across all platforms. In this report, Finkelstein wrote:

I therefore recommend that a new body, a News Media Council, be established to set journalistic standards for the news media in consultation with the industry, and handle complaints made by the public when those standards are breached. Those standards will likely be substantially the same as those that presently apply and which all profess to embrace.

Moreover, I recommend that the News Media Council have those roles in respect of news and current affairs coverage on all platforms, that is, print, online, radio and television. It will thus explicitly cover online news for the first time, and will involve transferring ACMA functions for standards and complaints concerning news and current affairs. It will replace the voluntary APC with a statutory entity. In an era of media convergence, the mandate of regulatory agencies should be defined by function rather than by medium. Where many publishers transmit the same story on different platforms it is logical that there be one regulatory regime covering them all.

The News Media Council should have secure funding from government and its decisions made binding, but beyond that government should have no role. The establishment of a council is not about increasing the power of government or about imposing some form of censorship. It is about making the news media more accountable to those covered in the news, and to the public generally.<sup>50</sup>

1.58 Regarding more direct assistance for the sector, Finkelstein Report concluded that government intervention was not necessary at that time.<sup>51</sup> However, it did reach a number of potential options for future actions the government 'may be able to draw upon should action be needed'.<sup>52</sup>

1.59 This included directing the Productivity Commission (PC) to conduct an inquiry considering the health of the news industry, what the Commonwealth's role

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50 The Hon R. Finkelstein QC assisted by Professor M. Ricketson, *Report of the Independent Inquiry into the Media and Media Regulation*, 28 February 2012, pp. 8–9.

51 The Hon R. Finkelstein QC assisted by Professor M. Ricketson, *Report of the Independent Inquiry into the Media and Media Regulation*, 28 February 2012, pp. 10–11.

52 The Hon R. Finkelstein QC assisted by Professor M. Ricketson, *Report of the Independent Inquiry into the Media and Media Regulation*, 28 February 2012, p. 331.

should be in supporting the media sector, and 'the policy principles by which any government support should be given to ensure effectiveness, as well as eliminating any chance of political patronage or censorship'.<sup>53</sup> The Finkelstein Report suggested the following areas should be considered by a PC inquiry:

- Local and regional needs, especially where service gaps in news exist. This should take into account the merits of increasing government assistance to the Community Broadcasting Foundation to bolster local news and community reporting services, particularly where local newspapers do not exist;
- Strengthening the news capacity of the ABC, as 'In the multichannel TV environment, further fragmented by the internet, national broadcasters have become more rather than less central. This has clearly been the case with the BBC.'
- Incentives for private/ philanthropic investment in news, particularly by offering tax deductions for 'a portion' of donations for the establishment of new non-profit news ventures or ongoing operational funding;
- Subsidies to offset the cost of producing 'investigative and public interest journalism', including considering the models offered by film production tax rebates for producing Australian films; and
- Subsidising the professional development of journalists through the Australian education system, or through the establishment of a Centre for Investigative Journalism at a university or through a network of universities.<sup>54</sup>

### ***ACCC inquiry into digital platform providers***

1.60 On 4 December 2017, the Federal Government announced that the Australian Competition and Consumer Commission would conduct an inquiry into digital platform providers such as Facebook and Google. According to the ACCC, this inquiry 'will look at the effect that digital search engines, social media platforms and other digital content aggregation platforms are having on competition in media and advertising services markets'.<sup>55</sup>

1.61 When announcing this inquiry, Mr Rod Sims, the ACCC's Chairman, stated:

We will examine whether platforms are exercising market power in commercial dealings to the detriment of consumers, media content creators and advertisers. The ACCC will look closely at longer-term trends and the effect of technological change on competition in media and advertising...

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53 The Hon R. Finkelstein QC assisted by Professor M. Ricketson, *Report of the Independent Inquiry into the Media and Media Regulation*, 28 February 2012, p. 11.

54 The Hon R. Finkelstein QC assisted by Professor M. Ricketson, *Report of the Independent Inquiry into the Media and Media Regulation*, 28 February 2012, pp. 331–333.

55 ACCC, 'ACCC commences inquiry into digital platforms', Media Release, 4 December 2017, [www.accc.gov.au/media-release/accc-commences-inquiry-into-digital-platforms](http://www.accc.gov.au/media-release/accc-commences-inquiry-into-digital-platforms) (accessed 5 December 2017).

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We will also consider the impact of information asymmetry between digital platform providers and advertisers and consumers.<sup>56</sup>

1.62 The ACCC is expected to produce a preliminary report in December 2018, with a final report in June 2019.<sup>57</sup>

### **Recent changes to Australian media laws and other relevant legislation**

1.63 Over the course of this committee's work some relevant pieces of legislation have come before Parliament, which will be discussed in turn. First, this section outlines the provisions of the highly contested Broadcasting Legislation Amendment (Broadcasting Reform) Bill 2017 (Broadcasting Bill), which was passed by Parliament on 14 September 2017, as well as subsequent bills introduced into Parliament to give this legislation effect.

1.64 Secondly, it briefly discusses the bill recently introduced by the government that looks to set up a Foreign Influence Transparency Scheme (FIT Scheme) to curb foreign influence on Australia's political system, including 'fake news' content.

#### ***Broadcasting Legislation Amendment (Broadcasting Reform) Bill 2017***

1.65 The Broadcasting Bill made the following changes to the Australian media framework:

- The abolition of the '75 per cent audience reach rule', which prohibited commercial television broadcasting licensees from controlling licences whose combined licence area populations exceeded 75 per cent of the Australian population;
- The abolition of the '2 out of 3 cross-media control rule', which prohibited control over more than two out of three regulated media platforms in any one commercial radio licence area;
- Provision of additional local programming obligations for regional commercial television broadcasting licensees;
- Amendments to measures relating to the anti-siphoning scheme and the anti-siphoning notice, including extending the automatic delisting period and removing the multi-channelling rule;
- The abolition of broadcast licence fees and replacement with a more modest spectrum charge paid by commercial broadcasters.<sup>58</sup>

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56 ACCC, 'ACCC commences inquiry into digital platforms', Media Release, 4 December 2017, [www.accc.gov.au/media-release/accc-commences-inquiry-into-digital-platforms](http://www.accc.gov.au/media-release/accc-commences-inquiry-into-digital-platforms) (accessed 5 December 2017).

57 Full details of the inquiry, including its terms of reference, are available at: [www.accc.gov.au/about-us/inquiries/digital-platforms-inquiry](http://www.accc.gov.au/about-us/inquiries/digital-platforms-inquiry) (accessed 15 December 2017).

58 Parliament of Australia, *Broadcasting Legislation Amendment (Broadcasting Reform) Bill 2017*, [www.aph.gov.au/Parliamentary\\_Business/Bills\\_Legislation/Bills\\_Search\\_Results/Result?bId=r5907](http://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bId=r5907) (accessed 30 January 2018).

1.66 In order to pass this legislation, the government made a series of concessions to crossbench senators. The Nick Xenophon Team (NXT) negotiated a Regional and Small Publishers Jobs and Innovation package, which includes a \$50 million innovation fund for small and/or regional publishers with a turnover of between \$300,000 and \$30 million a year. These grants are capped at \$1 million for each publisher and open from mid-2018, and are contingent on APC membership.

1.67 The government also provided for a cadetship program for up to 200 places with small or regional publishers of up to \$40,000 each, as well as 60 regional journalism scholarships.<sup>59</sup> The Department of Communications and the Arts provided the following information to the committee on notice:

The Regional and Small Publishers Cadetship Program will support both on-the-job and formal training for journalism cadets. Of the 100 cadetships that will be offered in 2018-19 and 2019-20, between 80 and 90 will be for attachments to regional publications. The Regional Journalism Scholarships will support students from regional areas of Australia to take up opportunities to study journalism. Guidelines for the measures comprising the Regional and Small Publishers Jobs and Innovation Package are currently being developed and more details are expected to be available in 2018.<sup>60</sup>

1.68 A further concession made by government was that it would direct the ACCC to undertake an inquiry into the market dominance of aggregators, their advertising practices, and the effects these have had on the state of public interest journalism, as outlined above.

1.69 As well as the above concessions, the government also committed to a number of proposals advanced by Pauline Hanson's One Nation (PHON) party. As well as a \$12 million boost to community radio sector funding, these measures included:

- Undertaking a review of the ABC's competitive neutrality;
- Increased financial transparency on the part of the ABC, particularly disclosing the salaries and conditions of all staff with packages of over \$200,000 a year;
- Increasing the ABC's services to regional and rural areas; and

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59 The Hon Malcolm Turnbull, Prime Minister, and Senator the Hon Mitch Fifield, Minister for Communications, 'Joint Prime Minister—A New Era For Australia's Media', *Media Release*, 14 September 2017, <http://mitchfifield.com/Media/MediaReleases/tabid/70/articleType/ArticleView/articleId/1435/Joint-Prime-Minister--A-new-era-for-Australias-media.aspx> (accessed 9 November 2017).

60 Department of Communications and the—answers to questions on notice (received 22 December 2017), p. 1.

- Introducing legislation into Parliament to insert the need to be 'fair and balanced' into the ABC's charter.<sup>61</sup>

1.70 At the time of writing, the Senate Environment and Communications Legislation Committee is inquiring into the provisions of three bills subsequent to NXT and PHON negotiations to pass the Broadcasting Bill:

- Australian Broadcasting Corporation Amendment (Fair and Balanced) Bill 2017;
- Australian Broadcasting Corporation Amendment (Rural and Regional Measures) Bill 2017; and
- Communications Legislation Amendment (Regional and Small Publishers Innovation Fund) Bill 2017.

1.71 As these bills are under consideration by another Senate committee, this committee will not be making any substantive comment in this report.

1.72 The committee notes that the Government first introduced the Broadcasting Bill to abolish the 'two out of three cross-media control rule' in March 2016.<sup>62</sup> Given public interest concerns about the high level of media concentration in Australia, the proposed repeal of the two out of three rule was resisted strongly and it remained on the statute books for over 18 months until various negotiations with crossbench senators saw its repeal in late 2017.

1.73 The committee further notes that none of the concessions or bills negotiated by crossbench senators in exchange for support for the repeal of the two out of three rule address the high level of media concentration in Australia or encourage diversity in control of the more influential broadcasting services in Australia. Indeed, the bills relating to the Australian Broadcasting Corporation are clearly a blatant political attack on the ABC, for no real public policy rationale or public good.

### ***Foreign Influence Transparency Scheme (FIT Scheme)***

1.74 On 7 December 2017, the government introduced a tranche of legislation into Parliament, including a bill to establish the Foreign Influence Transparency Scheme (FIT Scheme) The committee understands that the legislation is partly aimed at countering potential foreign interference in Australia, including the potential effects of 'fake news'. Answers to questions on notice from the Attorney-General's Department

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61 See Lucy Battersby, 'One Nation wins ABC changes in media reform deal', *Sydney Morning Herald*, 15 August 2017, [www.smh.com.au/federal-politics/political-news/abc-sbs-funding-could-unlock-media-reform-say-greens-20170815-gxwgrq.html](http://www.smh.com.au/federal-politics/political-news/abc-sbs-funding-could-unlock-media-reform-say-greens-20170815-gxwgrq.html) (accessed 8 January 2018); and Dennis Muller, 'How the government and One Nation may use media reforms to clip the ABC's wings', *The Conversation*, <https://theconversation.com/how-the-government-and-one-nation-may-use-media-reforms-to-clip-the-abcs-wings-84615> (accessed 8 January 2018).

62 Senator the Hon Mitch Fifield, *Transcript—Press Conference, Parliament House Canberra*, 1 March 2016, <http://mitchfifield.com/Media/MediaReleases/tabid/70/articleType/ArticleView/articleId/1105/TRANSCRIPT--Press-Conference.aspx> (accessed 30 January 2018).

stated that the scope of information or materials covered under the legislation is broad and:

...could include fake news content, whether disseminated via hard copy, online or through other platforms. For example, the publication of information that is intended to sway the public's vote in a federal election, or persuade the federal government on a policy matter, if done on behalf of a foreign principal, may give rise to registration and disclosure obligations under the scheme.

The scheme will require disclosures to be made in any information or materials communicated on behalf of a foreign principal. This is intended to provide transparency about the forms and sources of foreign influence in communications products, to assist the Australian Government and the public to assess such products, their provenance, content and the veracity of the information being communicated.<sup>63</sup>

1.75 The committee understands that the scheme defines 'communications activity' broadly, and so it could capture distribution of fake news content in hard copy, online or through other platforms. Moreover, some public commentary on the FIT Scheme has suggested it may capture some Australian organisations campaigning on political issues that receive donations from overseas.

1.76 The committee is encouraged that the Commonwealth has proactively moved to mitigate the undue influence of fake news in electoral processes. However, it is yet to be seen whether this bill will be fit for purpose, or whether it would also unfairly stifle or compromise legitimate commentary on government policy.

1.77 As the bill to establish the FIT Scheme is currently before the Parliamentary Joint Committee on Intelligence and Security, this committee makes no substantive comment here, although notes it looks forward to the scrutiny consideration by Parliament will afford.

### **Freedoms and responsibilities of the press**

1.78 The longstanding principle of the freedom of the press as an indispensable pillar of democracy was discussed comprehensively in the Finkelstein Report, including the principle that the press should be independent from government interference and a degree of immunity from regulation.<sup>64</sup>

1.79 Finkelstein noted that there should only be limited restrictions on the freedom of the press in some areas, including instances affecting:

- the protection of individual interests against false or misleading statements

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63 Attorney-General's Department - answers to questions on notice (received 21 December 2017), pp. 1–2.

64 For a more full discussion of the history, philosophy and ethics that underpin and inform ideas about freedom of speech the freedom of the press, particularly in the Australian media sector, see The Hon R. Finkelstein QC assisted by Professor M. Ricketson, *Report of the Independent Inquiry into the Media and Media Regulation*, 28 February 2012, pp. 23–53.

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- the protection of community standards;
  - protection against violence and disorder;
  - protection from external aggression;
  - protection of national security;
  - the protection of the administration of justice, and
  - the protection of private property.<sup>65</sup>

1.80 This committee has no wish to replicate the work undertaken by the Finkelstein inquiry, given how comprehensively that report set out the historical, philosophical and ethical grounds for democracies to have a free press that operates without compromise or impediments, and noted the role and responsibilities of the press to provide reliable information to ordinary citizens, so they are able to participate in society and the democratic process.

1.81 Nonetheless, the committee notes that Finkelstein summarised its central task as considering:

...how to accommodate the increasing and legitimate demand for press accountability, but to do so in a way that does not increase state power or inhibit the vigorous democratic role the press should play or undermine the key rationales for free speech and a free press.<sup>66</sup>

1.82 These words echo the concerns that have informed this committee's work. The committee explicitly notes its support for a free and robust Fourth Estate, as outlined above. The committee's deliberations have been closely guided by this imperative.

### **Structure of this report**

1.83 This report consists of seven chapters:

- This chapter provides an overview of the administration of the inquiry; discusses definitions of public interest journalism and the guiding principles that have informed the committee's work; and provides outlines of recent reviews of and legislation affecting the Australian media sector.
- Chapter 2 sets out the principal issues examined by the committee, including the shift to digital platforms that has affected traditional media, the growth of aggregators and online advertising, the loss of journalist jobs, and the subsequent effects on public interest journalism. This chapter also includes an overview of the phenomenon of 'fake news' and its effects on democratic systems globally.

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65 The Hon R. Finkelstein QC assisted by Professor M. Ricketson, *Report of the Independent Inquiry into the Media and Media Regulation*, 28 February 2012, p. 38.

66 The Hon R. Finkelstein QC assisted by Professor M. Ricketson, *Report of the Independent Inquiry into the Media and Media Regulation*, 28 February 2012, p. 53.

- Chapter 3 sets out the opportunities offered by the shift away from traditional media platforms, and toward digital, including the benefits of new approaches to journalism and unprecedentedly large online audiences.
- Chapter 4 considers the specific relationship between the news media and aggregators, and discusses the possibility of imposing a levy on aggregators.
- Chapter 5 looks overseas to briefly examine how the policy and reform issues raised in the report have been addressed in other countries.
- Chapter 6 considers ways that the Commonwealth directly supports public interest journalism, including through its public broadcasters, as well as potential models for direct support in the future. It outlines the benefits and pitfalls of offering direct subsidies to media organisations. This chapter also considers a number of other issues, including whether the Commonwealth could do more to encourage news literacy in Australia, either through public awareness campaigns or the education system.
- Chapter 7 looks at ways the Commonwealth could indirectly support a healthy public interest journalism sector through reforms to its tax and legal systems, as well as a number of other policy adjustments.

### **Conduct of the inquiry**

1.84 Details of the inquiry, including links to its terms of reference and associated documents were placed on the committee website at: [www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Future\\_of\\_Public\\_Interest\\_Journalism](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Future_of_Public_Interest_Journalism)

1.85 The committee directly contacted a number of relevant organisations and individuals to notify them of the inquiry and invite submissions by 15 June 2017, but also expressed its willingness to receive submissions after this date on its website. Submissions received by the committee are listed at Appendix 1.

1.86 The committee held seven public hearings: in Sydney on 17 May 2017; Melbourne on 19 May 2017; Sydney on 11 July 2017; Melbourne on 21 August 2017; Sydney on 22 August 2017; Canberra on 22 November 2017; and Sydney on 23 November 2017. A list of witnesses who gave evidence at hearings is available at Appendix 2, and all Hansard transcripts can be accessed through the committee's website.

### **Acknowledgements**

1.87 The committee would like to thank those individuals, institutions and organisations that made submissions to the inquiry, as well as all witnesses who provided evidence at public hearings.

1.88 Finally, the committee considers it appropriate to record its sadness at the death of Mr Michael Gordon, one of this country's most respected journalists, who died at the time the committee was completing its final deliberations. The committee would like to formally recognise Mr Gordon's immense contribution to Australian public interest journalism over his long and celebrated career.



## Chapter 2

### Challenges for news media in the digital age

2.1 This chapter first sets out the broad trends in the media sector and advertising, and how these are affecting public interest journalism, with particular emphasis on developments since the 2012 independent review of Australia's media sector and media regulation framework undertaken by the Hon Raymond Finkelstein AO QC (Finkelstein Report).

2.2 It then looks at the negative impact of these broad trends on the standards of public interest journalism, particularly the effects of huge job losses for journalists and related staff in the sector. As well as noting the general effects, it considers a number of areas that have been hit particularly hard. It outlines a number of concurrent phenomena that have become more significant over the last few years, such as a growing distrust the media in some parts of the world, and the spread of fake news, which has had profound effects on some political processes globally.<sup>1</sup>

#### Trends since the Finkelstein Report

2.3 The 2012 Finkelstein Report noted that new technology had profoundly changed the way Australians access news, and that traditional media had experienced a decline in revenues from a dwindling circulation and a shift away from print classified advertising. However, it argued that there was not a case for government to undertake any intervention in the market at that time:

We are in the midst of changes whose future direction can only dimly be discerned. Moreover there are many positive as well as negative changes with the increasing importance of the internet. Low barriers to entry will facilitate new ventures, and so may lead to more democratic diversity, given the concentrated ownership of Australian newspapers.

I have reached the conclusion that this stage there is not a case for government support.

Nevertheless, the situation is changing rapidly, and requires careful and continuous monitoring.<sup>2</sup>

2.4 It is evident that the pace of change following the Finklestein inquiry has continued exponentially. There have been some positive signs from the growth of digital modes of communication. As the Finkelstein Report prefigured, the sector has seen low barriers to entry encouraging innovation and proliferation of new media in the sector, new modes of delivery and technology platforms being developed, both in Australia and globally, and a promising range of new partnerships between journalists,

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1 Please note that the following chapter of this report looks at some of the ways that new technologies have had positive effects on the media landscape.

2 The Hon R. Finkelstein QC assisted by Professor M. Ricketson, *Report of the Independent Inquiry into the Media and Media Regulation*, 28 February 2012, pp. 10–11.

publishers, universities and private institutions. However, it is also clear that the scale and speed of these changes has had profoundly negative effects on the traditional news media sector, including a depletion of the capacity of many organisations to provide quality public interest journalism. This is particularly concerning as many of these traditional media organisations have over many years provided the bedrock of investigative and public interest journalism, informing the public and holding all levels of Australian government to account.

2.5 Dr Denis Muller, a Senior Researcher at the University of Melbourne's Centre for Advancing Journalism, told the committee that he worked on the Finkelstein inquiry. He suggested that, where Finkelstein had argued there was no case for Commonwealth intervention in 2012, there is now a considerable case for government support:

We were very sanguine [in 2012] that government intervention was not necessary. That's only five years ago. Things have changed dramatically in the time since. That loss of more than 3,000 journalistic jobs and the more recent financial statements from News Corp suggest that this trend is going to continue. We know from our own professional experience...how expensive and extensive investigative journalism can be. I think that all the arrows are pointing in the one direction, and that is that the financial crisis engulfing commercial newspapers in particular is going to accelerate. There's no sign of it doing otherwise.

Therefore, if we value public interest journalism...I think we've reached the point where there is an unanswerable case for government financial intervention using a mechanism which guarantees independence of the media from government.<sup>3</sup>

2.6 Professor Matthew Ricketson, the Professor of Communications at Deakin University, told the committee that he also worked on the Finkelstein Report, and had reappraised the need for government assistance. He noted that much of the change since 2012 can be attributed to the increased share of advertising revenue flowing to online aggregation services, rather than traditional media outlets:

...the landscape has changed dramatically in the last five years. Google and Facebook were very large back then, in 2011, but the extent to which they've been able to vacuum up advertising revenue around the world was not really known then, and that has happened in the last few years. That has been an absolute game changer...

The extent to which they've changed the landscape in the way in which society organises itself economically is absolutely profound, and so it needs to be thought about. Journalism is a public good. There are areas in which market forces haven't worked. I think markets are very good in many ways and they have deficiencies, and where they have deficiencies is where a government should step in and attempt to do something, especially for

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3 *Committee Hansard*, 21 August 2017, p. 3.

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journalism, which is a public good and does require a lot of time and resources and energy to resource and to do.<sup>4</sup>

## **The digital revolution and the challenge to traditional business models**

2.7 Perhaps the most common theme in evidence received from the media sector was the struggle to adapt to new business models, including the implications of the move away from a reliance on revenue from advertising and newspaper sales, toward monetising the publication of material on masthead sites, and through the aggregators. Evidence received by the committee about the general trends in media over the last decade can be further summarised as follows:

- New web-based and mobile technologies and changes in media consumption have disrupted the traditional media sector all over the world;
- The shift of advertising away from traditional media to online platforms has led to a collapse of revenues in broadcast and print formats, with less dramatic shifts in the free-to-air and pay television sector;
- In the face of these changes, most traditional print media companies have struggled to develop sustainable business models;
- Most print media companies have restructured their operations, including a substantial loss of journalist positions, which has resulted in a loss of capacity to undertake public interest and investigative journalism; and
- The full effects of these changes are not yet clear.

2.8 The Public Interest Journalism Foundation (PIJF) outlined the business model of traditional media that has been challenged by the shift to online media:

This is a fundamental structural change in the way in which the information needs of society are served. News media for most of the last century appeared to be one relatively simple business. Gather an audience by providing content, including news, and sell the attention of the audience to advertisers. The internet and its applications have brought that business undone.<sup>5</sup>

2.9 Professor Mark Ritson, Adjunct Professor of Marketing at Melbourne Business School, suggested that this traditional model was based on accruing around two-thirds of revenue from advertising, and the remainder from readership purchase or subscription.<sup>6</sup> Ms Cassidy Knowlton, Editor of Crikey, described how the 'rivers of gold' that had flowed from advertising, including classifieds, had now dwindled to a trickle for traditional media:

The 'rivers of gold' have truly dried up. Facebook and Google have really taken most of the advertising that used to go into newspapers. There are no classifieds anymore—everything's on Craigslist or Facebook. Even the rate

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4 *Committee Hansard*, 21 August 2017, p. 3.

5 *Submission 13*, p. 4.

6 *Committee Hansard*, 22 August 2017, p. 43.

for a full page in *The Age* is now a fraction of what it would have cost 15 years ago. For them to say we are losing money hand over fist is true—they absolutely are losing money hand over fist.<sup>7</sup>

2.10 The committee heard a range of estimates regarding the total annual advertising spend in Australia of between \$12 and \$16 billion in 2017.<sup>8</sup> Submitters agreed that digital was the leading area of growth, that traditional forms of advertising were in decline—particularly in print media, and that Facebook and Google already had a massive proportion of a growing online advertising market.

2.11 According to Standard Media Index figures, total advertising spend in Australia increased by 11 per cent from the first half of 2013 to mid-2017, with the biggest increase coming from the digital advertising, which grew by 87 per cent. By contrast, over this time, advertising revenue losses in traditional media were particularly acute in newspapers and magazines, both declining by about 46 per cent. While it is clear the print media sector has been hit the hardest by the switch to online media, over the same period, Standard Media Index (SMI) figures show that television has also suffered a decline in market share of around 5 per cent.<sup>9</sup>

2.12 Schwartz Media succinctly outlined the cause of the drop in revenues to traditional media from the shift to digital since 2012:

In Australia, newspaper advertising revenue has dropped 40 per cent in just five years, to \$2.4 billion, according to PricewaterhouseCoopers. By contrast, the online advertising market is growing at 25 per cent a year and on various estimates will be worth \$6 billion this year. According to Morgan Stanley, Google and Facebook generated the lion's share of this, between \$4 and \$5 billion—around 40 per cent of our total advertising market and rising fast.

Globally, it's widely accepted that these two tech companies are picking up 80–90 per cent of all new digital advertising. The leak of advertising to the tech giants seems inexorable. It's not that readers are deserting the mastheads: the number of people who read them either in print or online has never been higher. It's simply that 'print dollars turned into digital cents'.<sup>10</sup>

2.13 The MEAA reported roughly the same trends, also noting the huge growth of advertising revenues in the foreseeable future:

....It is important to remember there are some organisations that are booming in terms of advertising revenue. The Pew Research Centre found that, of the \$59.6 billion spent on all digital advertising in 2015,

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7 *Committee Hansard*, 21 August 2017, p. 29.

8 See, for example the figures provided by Mr Christopher Walton, Managing Director, Nunn Media, *Committee Hansard*, 22 August 2017, p. 57; and Associate Professor Mark Ritson—correction to evidence given at hearing Sydney 22 August 2017.

9 Based on Standard Media Index figures tabled by Mr Chris Walton, Managing Director, Nunn Media, *Committee Hansard*, 22 August 2017.

10 *Submission 10*, p. 1.

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\$38.5 billion of that went to Google, Facebook, Yahoo, Microsoft and Twitter. At the same time, of course, many of these corporations are paying virtually no tax at all...

In Australia, internet advertising revenues are scheduled to grow from \$3.93 billion in 2013 to \$7.25 billion in 2018, but that revenue is not going direct to news organisations that produce journalistic and other content. In increasing amounts, it is going to intermediaries. Morgan Stanley in Australia say that Facebook and Google are taking all of the ad market growth and then some. They estimated last year that Google and Facebook will collectively extract \$4 billion to \$5 billion worth of ad revenue, representing 35 to 40 per cent of total ad revenue.<sup>11</sup>

2.14 In addition to collapsing advertising revenues, it was broadly agreed in evidence that the traditional print media has generally struggled to adapt its business model to monetise news publication on digital platforms.<sup>12</sup> For example, Ms Knowlton told the committee that, the collapse of advertising revenues had been accompanied by a cultural shift in consumer consumption patterns:

Moving online has been very hurtful to print publications because, one, they can't have any advertising, and, two, no one wants to pay for news online because there's so much of it that's free, which was probably a huge mistake by most publishers when they launched and they launched free.<sup>13</sup>

2.15 Mr Ross Mitchell, the Director of Broadcasting Policy for Free TV Australia, observed that the advertising share of television had also declined, which meant:

...sustaining the volume of public interest journalism is becoming increasingly hard [for TV], owing to the changes we are seeing in consumption and advertising, largely driven by huge foreign media tech companies like Google and Facebook. Over the last 10 years, online advertising revenue has grown by 460 per cent in real terms, while TV advertising revenue has fallen by 22 per cent. This has a direct impact on our capacity to keep supporting Australian jobs and producing high-quality news services.<sup>14</sup>

2.16 A number of submitters suggested that the advertising industry is also facing a number of challenges in adapting to the challenge of the digital shift. For example, Ms Jane Schulze, the Managing Director for Australia/New Zealand of SMI, noted that the huge growth in 'programmatic' advertising, in which online advertising is bought and sold and purchased at very fast speeds by automated systems, has further degraded the real value of advertising on newspaper and their digital platforms:

It is a common mantra in the media world that a newspaper ad that once sold for the equivalent of one dollar [per thousand] has an equivalent digital

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11 *Committee Hansard*, 17 May 2017, pp. 10–11.

12 See, for example, *Submission 37*, p. 7; *Submission 39* attachment 1, p. 30.

13 *Committee Hansard*, 21 August 2017, p. 29.

14 Mr Ross Mitchell, Director, Broadcasting Policy, Free TV Australia, *Committee Hansard*, 11 July 2017, p. 41.

value of 10c. But that value has now decreased further..., with most estimating [potential decline] to 3c to 4c, as this new form of digital trading called programmatic buying has taken off. In this world of online advertising auctions fuelled by computer algorithms, the amount of money returned to the publishers who actually created the content is even less.<sup>15</sup>

2.17 Evidence also noted the effects of a fragmenting market on both advertisers and traditional media across a range of metrics, including viewership, circulation, advertising or the number of 'eyeballs' viewing content, across all media formats.<sup>16</sup> For example, the MEAA submitted:

The digital disruption that has transformed the media has shaken everything we knew about our industry. There is no certainty. The audience is fragmented. That fragmentation has savaged revenue streams whether that revenue comes from advertising, subscriptions, circulation or eyeballs.<sup>17</sup>

2.18 This fragmentation of the market has also affected the way advertisers are able to plan, purchase and book advertising, and smaller amounts of money are reaching content producers. Mr Chris Walton, the Managing Director of Nunn Media, told the committee that in former times:

A client would give us their money and ask for our advice to plan and then buy with that money. For every \$100 they gave us, approximately \$10 was kept by the agency to cover fees and \$90 was invested in the media, for paid advertising. What was simple was that the people who produced the content were the same people who aggregated the audience. What we've seen over the last 15 years is a decoupling between those who produce the content and those who aggregate the audience. As a media buyer who is briefed to reach as many relevant people as possible on behalf of your client, you follow the audience. If the way to them is through disaggregation—most commonly referred to as Google and Facebook—then that's where you go....It's fragmented the way that money is being spent. What that means in practical terms is the amount of money going to those who produce content has diminished as a share...You hear talk that, in extreme cases, for every dollar put on media, only 10c is reaching the content producer and 90c is going on a mixture of data, technology and agency fees, both disclosed and undisclosed...<sup>18</sup>

2.19 Some submitters also noted the significant distortions in the metrics of digital advertising. The success of (and remuneration earned from) online advertising is broadly determined by the number of times an ad is viewed, and/or 'clicked on'. Mr Timothy Whitfield, the Director of Technical Operations for Group M, noted

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15 *Committee Hansard*, 11 July 2017, p. 21.

16 For example, see Dr Christopher Berg, *Submission 16*, p. 5; Mr Tim Lloyd, *Submission 17*, p. 1; MEAA, *Submission 64*, p. 3; Mr Chris Walton, Managing Director, Nunn Media, *Committee Hansard*, 22 August 2017, p. 57; Ms Ishtar Vij, Head, Public Policy and Government Relations, Google Australia Pty Ltd, *Committee Hansard*, 22 August 2017, p. 31.

17 MEAA, *Submission 64*, p. 3.

18 *Committee Hansard*, 22 August 2017, p. 57.

significant fraud in relation to websites, some containing fake news, which can be manipulated by 'click farms', where humans or computers click on webpages to artificially inflate the value of a page:

Click farms would be in two different categories, either human or non-human. A human click farm could be a large group of people working together in a factory, in very much a sweatshop styled factory, where they are paid to click on ads to artificially drive up the price and make it look like they are real humans... [If] I was able to locate exactly where they are, they would change. There are a lot of sophisticated ways to be able to hide the true locations.<sup>19</sup>

2.20 Ms Jodie Sangster, the CEO of the Association for Data-Driven Marketing and Advertising, suggested that this phenomenon was reasonably new, and that 'market forces' would play a part in correcting ad fraud, and so there was currently no need for government regulation in the space:

It will swing back to high-quality media that is safe media that people want to be aligned to and want to be alongside. I think we will see a bit of a swing back, and we are already seeing brands saying that they are pulling their media spend from certain places because they don't believe either that they are being seen or that they are being aligned alongside content that they want to be aligned to. I think it is too early to jump in now and say we need regulation when this is something that has only been around, or at the top of the agenda, for probably a year.<sup>20</sup>

### **The loss of journalist jobs from industry restructuring**

2.21 Many traditional media companies have responded to the collapse of their business models by engaging in corporate restructures, including cost-cutting, rounds of redundancies, streamlining of positions and the increasing use of contract workers. This has meant, for the most part, wholesale losses of journalist positions, which has depleted the capacity of the media sector to produce quality public interest journalism, not only due to fewer working journalists being employed, but also due to the loss of expertise from redundancies.

2.22 The committee was particularly struck by the number of journalist jobs that have been lost in the last few years, which some evidence suggested was approximately 3000–3200 positions between 2012 and late-2017.<sup>21</sup> The MEAA estimated that this figure accounted for the loss of around one quarter of all journalist positions over the period.<sup>22</sup>

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19 *Committee Hansard*, 11 July 2017, pp. 20–21.

20 *Committee Hansard*, 11 July 2017, p. 30.

21 See Dr Denis Muller, Senior Research Fellow, Centre for Advancing Journalism, University of Melbourne, *Committee Hansard*, 21 August 2017, p. 1; also the New Beats Project, *Submission 37*, p. 3.

22 Mr Paul Murphy, Chief Executive, Media, Entertainment & Arts Alliance, *Committee Hansard*, 17 May 2017, p. 10.

2.23 The comprehensive timeline of industry job losses between 2012 and 2017, provided to the committee by the New Beats Project, concentrates mainly on news journalist positions lost over this time from media companies restructuring or closing down. However, it also draws attention to the number of redundancies of editors, sub-editors, photojournalists, production and technical staff supporting journalists, which has further depleted the capacity of the news media sector.<sup>23</sup>

2.24 Professor Mark Pearson, Professor of Journalism and Social Media at Griffith University, observed that these job losses have weakened the capacity of the traditional media to provide quality public interest journalism. He noted that investigative journalism required substantial resources to produce, which was increasingly difficult to achieve given diminishing budgets in most media organisations:

As many have told you already, obviously the predominant impact has been on the revenue available to what you might call traditional news organisations for them to fund what we might call public interest journalism—investigative journalism, deeper levels of reporting that require more time and resources. That means that what is essentially a pillar of democracy—a fully-functioning independent media which is able to perform a watchdog role upon other important political and social institutions—is under-resourced in both dollar terms and, now, with the demise of major news organisations, people terms as well.<sup>24</sup>

2.25 It was also noted that many senior journalists had been given or requested redundancies, which had led to a loss of experienced mentors and training opportunities for younger journalists, particularly in the print media. This means that it is not only the current capacity of the news media that is weakened, but also the future ability of the media sector to produce high quality public interest journalism.<sup>25</sup>

2.26 The MEAA noted that many organisations had replaced permanent journalists on their payroll with contract or casual workers, which had increased workloads and reduced morale across the industry.<sup>26</sup> This, in part has been due to a significant reduction of salary and working conditions:

Work for every media platform is increasingly being outsourced to third parties. Previous employees are now working freelance as independent contractors on lower pay rates, with no job security and fewer benefits than before. As redundancies have increased, the marketplace of these freelance workers has become more crowded and, as costs have been cut, the editorial budgets available to pay for outsourcing have been sliced into smaller and smaller pieces, meaning that freelancers are competing among themselves for increasingly declining rates of pay. I would say that in an increasing number of cases the arrangements we are seeing being put in place amount,

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23 New Beats Project, *Submission 37*, pp. 8–14.

24 *Committee Hansard*, 11 July 2017, p. 32.

25 See, for example, Nolan et al, *Submission 30*, p. 29.

26 *Submission 64*, p. 8; See also Nolan et al, *Submission 30*, p. 10.



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in our view, to little more than sham contracting. These people are in a very exposed position.<sup>27</sup>

2.27 This increased reliance on the 'gig economy' has also led to a decline in confidence among journalists producing public interest journalism. As the New Beats Project submitted:

Employment is increasingly casualised, and funding more precarious. This has clear implications for the kind of public interest journalism that is been produced by a diminishing number of specialist reporters and investigative teams. As noted in one of our research papers, some journalists in our study feel they cannot actually perform public interest or 'watchdog' journalism after redundancy because they are no longer backed by a large organisation.<sup>28</sup>

### **Australia's public broadcasters—ABC and SBS**

2.28 Australia's public broadcasters, the ABC and SBS, have experienced significant cuts to their operating budgets over recent years. Although their level of funding has been more certain and stable than the operational budgets in the commercial sector, this has affected their ability to undertake general public interest journalism, and has resulted in rounds of redundancies, loss of particular programmes, and other effects of restructuring and budget cuts.

2.29 Submitters considered that the ABC's capacity to provide public interest journalism has been reduced in a number of ways, including through budget cuts of around \$270 million since 2014, and subsequent job losses, increased casualization and outsourcing of production, and the politicisation of the independence and integrity of the ABC's reporting. The MEAA noted that:

Constant cuts are also negatively affecting the ABC's ability to fund public interest journalism and local newsrooms. Budget cuts in 2014 saw the elimination of the local Friday edition 7.30 program (formerly called *Stateline*) from eight states and territories, diminishing the in-depth coverage of state politics, health, education and environmental issues.

Deep cuts to reporting staff, field crews, travel budgets and other current affairs programs have also occurred across capital city newsrooms over the last three years. This month the state issues TV program *Australia Wide*, has been eliminated, and plans to downsize influential radio shows *AM*, *PM* and *The World Today* look likely. International bureaus have also been downscaled over the last decade following the cancellation of Australia Network—with many overseas bureaus manned by single-person video-journalists.<sup>29</sup>

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27 Mr Paul Murphy, Chief Executive, MEAA, *Committee Hansard*, 17 May 2017, p. 10; see also Ms Jane Canaway, *Submission 48*, p. 3.

28 *Submission 37*, p.5.

29 Dr Colleen Murrell, Co-Secretary, Journalism Education and Research Association of Australia, *Committee Hansard*, 11 July 2017, p. 48.

2.30 A number of submissions noted that the ABC was particularly stretched in delivering current affairs and local news for some areas. As commercial broadcasters increasingly shut down their operations in places that are not commercially viable, the ABC is often left as the last provider of local current affairs, particularly for many regional and rural communities.<sup>30</sup>

2.31 Regarding SBS, Australia's multicultural broadcaster, recent budget cuts have only been partially offset by the recent change to SBS' funding model, which allow it to screen a limited amount of paid advertising content. Cost-cutting, redundancies and restructuring have also meant a reduced capacity to provide public interest journalism, including a reduction of 'resources, capabilities and program offerings'.<sup>31</sup>

### **Negative effects in focus**

2.32 The committee was concerned that the collapse of traditional business models in the media sector has had overwhelmingly negative effects in a number of particular geographic and cultural areas that warranted specific discussion.

#### ***Local and regional and rural journalism***

2.33 Deakin University highlighted the risk of rural and regional communities having fewer reliable sources of news, especially considering recent cuts to the ABC's provision of local news services:

Many rural and regional news reports are produced hundreds of kilometres away from the towns to which they are broadcast, with smaller communities often entirely overlooked in news reports. The ABC's structural reforms in regional areas bring threats to community ties and local employment, with programming cuts potentially creating news and information content gaps in rural and regional Australia, such as occurred when *Bush Telegraph* was axed in late 2014.<sup>32</sup>

2.34 Evidence noted that the ABC was left as the only regional broadcaster in some areas, following the withdrawal of commercial players from providing local news and other content. For example, Professor Ricketson advised that:

...there is a real crisis in the capacity for media in this country to deliver journalism in rural, regional and local areas. I'm particularly concerned—as in the university is particularly concerned—that some of the commercial television broadcasters have already signalled that they don't particularly see the provision of news and current affairs in local, regional and rural areas as part of their remit and want to pass that off to the ABC.<sup>33</sup>

2.35 The submission made by Deakin University noted there was still signs of a substantial appetite for local news in rural and regional communities, and that the

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30 MEAA, *Submission 37*, p. 13.

31 MEAA, *Submission 37*, p. 14.

32 *Submission 19*, p. 5.

33 *Committee Hansard*, 21 August 2017, p. 2.

uptake of digital media in these communities has often not been adopted fast enough to fill the gaps created by the decline in traditional media:

Declines in rural and regional news media do not mean that there are declines in demand for local news. A 2015 report on news consumption in Australia found that 20.8 per cent of consumers surveyed had accessed a regional or local newspaper in the past week. In comparison, 15.2 per cent accessed the Sydney Morning Herald, 12.1 per cent The Age, and 8.4 per cent The Australian...While the ABC and SBS annual reports document that digital technologies are being used to access more news than ever before, the uneven rise of digital journalism is yet to fill gaps created by reductions in traditional regional/rural outlets. Consideration needs to be afforded to what is, and who it is, that determines, local news.<sup>34</sup>

2.36 Turning to print media, Country Press Australia (CPA) suggested that, although the print media in regional communities had been remarkably resilient in market share in rural and regional areas, they had still experienced drops in their advertising revenue due to the turn to aggregators:

These businesses have successfully embraced new technologies over those years but none as revolutionary as the internet-driven 'information age'. However, regional community news media circulations are decreasing at a much slower rate than the metro newspapers as city audiences take advantage of the digital alternatives for broader national and international information. Digital audiences are often not 'traditional' newspaper demographics and regional community media now reaches more 'eyeballs' than ever.<sup>35</sup>

2.37 However, the CPA suggested there had been an overwhelming focus on the crisis in metropolitan dailies, which had 'been to the detriment of local communities and regional centres', where journalism is 'more vital to their growth and wellbeing...as the local newspaper, combined with an online site, is the only source of local information'.<sup>36</sup>

2.38 In this, Professor Zion, Lead Chief Investigator of the New Beats Project, told the committee that some smaller regional papers had been gutted by redundancies and restructuring:

But what started to happen in 2015 was that the regional papers around Australia that we followed—I should add a lot of our students get their starter jobs in regional newspapers—had seemed to be weathering the storm pretty well. But what started happening with the NewsNow project, with Fairfax and with other projects was that restructure started at first to try to rationalise the way news was produced out of regional newspapers. Very quickly, a lot of those papers lost a huge number of their staff. I think if a

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34 *Submission 19*, p. 5.

35 *Submission 15*, p. 2. This was also noted by the Civic Impact of Journalism Project, *Submission 14*, p. 5.

36 *Submission 15*, p. 2.

paper has 300 journalists and it goes down to 250, obviously that is a loss of 50 people, but if your journalist numbers are 40 and they go down to 20—or, in the case of the *Newcastle Herald*, I think over time they've gone down from 110 to 17...<sup>37</sup>

2.39 This has been compounded by the relocation of research and editing jobs to other areas, which erodes a title's relevance to their geographic area, as well as reader loyalty and the resilience of the community more generally.<sup>38</sup> In her submission, Ms Jane Canaway noted the depletion of local newsrooms, and argued that stories of national public significance often had their genesis in small investigations into local issues:

Some regional newspapers are so understaffed they can barely offer any true insight into local government or business and are restricted to filling back sections with generic lifestyle content and relying on press releases as their main source of information, instead of talking to communities and covering local events. This includes newspapers such as the *Newcastle Herald*, whose award-winning coverage of sex abuse in the Catholic Church led to the Royal Inquiry.<sup>39</sup>

2.40 Deakin University highlighted research that argued small communities, particularly in rural and regional areas, are best served by locally produced media:

...that considerable community benefit arises from local people telling stories for and about local people, with rural and regional media prime starting grounds for young budding journalists and a valuable source for local economies.<sup>40</sup>

### ***'Journal of record' journalism***

2.41 A good deal of evidence noted the decline of 'journal of record functions' in recent years, particularly coverage of local courts, councils and politics.<sup>41</sup> A number of submissions noted the loss of these functions had occurred across platforms and throughout Australia, although it has been particularly acute in regional and rural areas.

2.42 Associate Professor Margaret Simons, a Board Member of the PIJF, argued this general trend has translated to less scrutiny and accountability of Australian local and state governments:

...[Regarding the] reporting of courts, local councils and so on, there is an enormous deficit emerging, and that is affecting the operations of those agencies. There are more suppression orders, there is more investment by the courts in putting out information to the public and to journalists and

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37 *Committee Hansard*, 21 August 2017, p. 52.

38 Ms Jane Canaway, *Submission 48*, pp. 1–3.

39 *Submission 48*, p. 1.

40 *Submission 19*, p. 5.

41 See, for example, Public Interest Journalism Foundation, *Submission 13*, p. 8; Ms Jane Canaway, *Submission 48*, pp. 1–3.

there is less independent scrutiny of local governments. The institutions of society are responding in a number of different ways, but none of them fills that deficit. That, I think, is an absolutely concerning shift in the operations of democracy at a local and state level particularly, but also ultimately at the national level.<sup>42</sup>

2.43 The PIJF suggested that, while small innovative players had picked up some functions of traditional journalism in regional areas, they generally do not cover state or local politics, the courts or other traditional 'journal of record' functions.<sup>43</sup>

2.44 The Civic Impact of Journalism Project suggested that, although traditional media still plays an important role in regional and rural areas, there is less coverage of local council and courts, and new media has not replaced the important 'journal of record' activities.<sup>44</sup>

### ***Australia and the world***

2.45 Some submissions noted that only a few years ago, the Commonwealth funded a strong media presence through the Asia-Pacific, which has now largely fallen prey to budget cuts. Submitters highlighted the negative diplomatic consequences of the withdrawal of these services for Australia, as well as the diminution in transparency for Commonwealth-supported aid and development in the region.<sup>45</sup> These submissions noted in particular the loss of the Australia Network, a national television network broadcasting to 46 nations in the region, which ceased broadcasting in 2014. They also were concerned about proposed cuts in 2017 to Radio Australia, which delivers ABC shortwave broadcasts to the region.<sup>46</sup>

### ***Public health***

2.46 A handful of submissions noted the valuable role that public interest journalism plays in promoting and informing public health issues, and that mainstream coverage of these issues had diminished in recent years.<sup>47</sup> Adjunct Associate Professor Ray Bange outlined the positive health outcomes that had been facilitated by positive news reporting:

Public interest journalism has been at the forefront in contributing to many public health advances, from the introduction of effective tobacco control measures to the establishment of numerous inquiries on health-related

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42 *Committee Hansard*, 21 August 2017, p. 3.

43 *Submission 13*, p. 6.

44 *Submission 14*, p. 5.

45 See, for example, Dr Tess Newton-Cain, *Submission 8*, p. 1; Dr David Nolan et al, *Submission 30*, p. 15; Ms Ashlee Betteridge, *Submission 46*, p. 3; MEAA, *Submission 64*, p. 13.

46 Mr Jim Carroll, Director, News and Current Affairs, SBS, *Committee Hansard*, 23 November 2017, p. 13.

47 Professor Fran Baum, *Submission 20*, pp. 1–4; Croakey, *Submission 25*, p.5; Mr Ray Bange, *Submission 47*, pp. 4–5.

concerns, such as asbestos exposure, child sexual abuse and environmental health risks from pollution.<sup>48</sup>

2.47 Croakey, an innovative online platform for public health issues, also noted that good journalism was important in this area to ensure the accountability of powerful industry and advocacy bodies:

It also has a vital accountability role given the prominence of powerful professional and commercial interests in the health sector and other sectors affecting health. These include the Australian Medical Association, the Pharmacy Guild, private health insurance funds and pharmaceutical companies. These groups have the resources to dedicate to lobbying and media activities, which give them a disproportionate influence over government policy and funding decisions. Often the issues involved are complex and technical and mainstream journalists do not have the time to dedicate to look beyond the press releases put out by interest groups.<sup>49</sup>

### ***Indigenous Australians***

2.48 Some evidence highlighted the opportunities that Indigenous media organisations had in the digital age, including the recognition of the increasing number of Indigenous journalists employed in Australia's public broadcasters.<sup>50</sup> However, it was noted by Mr Daniel Featherstone, the General Manager of the Indigenous Remote Communication Association (IRCA), that there was a need for the Commonwealth to invest more broadly in training to capitalise on future opportunities:

We need to build capacity across all of our Aboriginal and Torres Strait Islander news services and also a network of community journalists across the country who will continue to do the work of making sure that those stories are properly told from their communities. Within our sector, we are talking about how to work together with the existing platforms to build their capacity, to get the opportunity for news sharing and to get the capacity of community journalists around the country to contribute to stories that can go on NITV, NIRS and CAAMA or into the *Koori Mail* and also provide their own localised services so there is some generic news that would be national and then some that would be regional. And we want each of our media organisations to be able to pull down the service that is relevant to them.<sup>51</sup>

2.49 Mr Chris Graham, speaking as the General Manager, National Indigenous Radio Service (NIRS), told the committee that the Indigenous community radio sector faced a bleak future:

The PM&C funding is \$390,000 a year. NIRS is grateful for that PM&C funding and acknowledges that it's not a bottomless pit of money; it never

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48 *Submission 47*, pp. 4–5.

49 *Submission 25*, p. 4.

50 Mr Daniel Featherstone, *Committee Hansard*, 22 November 2017, p. 23.

51 *Committee Hansard*, 22 November 2017, p. 24.

has been. But it's a five-day-a-week, 14-hour-a-day national satellite-distributed news service. There are fixed costs associated with that and they soak up about half of the grant. The problem that NIRS has found which is relevant to this inquiry particularly is that government advertising has all but evaporated. In the days when there was government advertising supporting regional, and in particular Indigenous, news it was much easier. We got more than our annual grant in government advertising. This year, we're predicted to get between \$50,000 and \$70,000 in advertising, which makes the National Indigenous Radio Service unsustainable in the long term. And that's not limited to us; it's a problem across regional and, in particular, Indigenous news services.<sup>52</sup>

2.50 Mr Featherstone suggested that funding changes to services had compromised the journalistic integrity of many Indigenous broadcasters. He suggested that the Commonwealth has a perception that Indigenous media is 'effectively, a delivery platform for Indigenous affairs policy', and noted that this attitude, alongside stagnant budgets, had created many pressure points for IRCA's members:

What we had previously was sponsorship funding that would come through the government but it is now almost assumed that we have to deliver that for free because we're now part of Indigenous affairs [administered by the Department of the Prime Minister and Cabinet] and that is our role—you should be putting those messages out on behalf of the government because you're funded by the government—instead of that being an income stream. We haven't had an increase in funding for our sector for 20 years, since the mid-1990s...Right now, many of our organisations are risking collapse because we haven't had even a CPI increase for most of the last 10 years and we're being asked to do more for less with sponsorship income significantly dropping over that same period as more of the sponsorship money is going to online delivery<sup>53</sup>

### ***Culturally and linguistically diverse (CALD) services***

2.51 A number of submissions noted the importance of SBS in delivering multicultural news media. SBS outlined its services across television, radio and online platforms. In respect of news, SBS submitted that:

....our focus is on delivering unbiased, non-sensationalist and in-depth coverage of stories relevant and reflective of this diverse nation.

*World News* is the most distinctive news service in Australia. The TV bulletin is the only one broadcast nationally in prime time on any free-to-air network. It is the only bulletin that predominantly covers global news. Stories are commissioned across platforms so that they are delivered via broadcast, online and social media platforms. Apart from our coverage of world and national affairs, a core priority for the news division, in collaboration with the radio programs in languages other than English, is to share constructive stories of individuals and communities from culturally

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52 *Committee Hansard*, 22 November 2017, p. 13.

53 *Committee Hansard*, 22 November 2017, p. 22.

diverse and Indigenous backgrounds and their positive contribution to Australian society.<sup>54</sup>

2.52 This role was recognised by some submitters, with Federation of Ethnic Communities' Councils of Australia (FECCA) emphasising:

...the importance of SBS radio in strengthening community cohesion, supporting older Australians from CALD backgrounds and in protecting the rights and interests of Australia's CALD communities. FECCA wholeheartedly supports the excellent work of SBS Radio. We encourage the Government to support SBS radio in maintaining its broad reach and comprehensive language services.<sup>55</sup>

2.53 However, there was a perception among some submitters that coverage of important information for culturally and linguistically diverse groups had attenuated over the last decade, particularly for Australians with connections with the Pacific.<sup>56</sup>

### **The diminishing quality of news and its effects**

2.54 The committee received evidence suggesting the restructuring of traditional business models, with the attendant reduction in the number of journalists employed, has led in some cases to a decline in the quality of content published. It was submitted that this contributed to increasing public cynicism concerning the reliability and integrity of the mainstream media.<sup>57</sup>

2.55 In a submission made to the Finkelstein Review, the MEAA noted that dwindling circulation rates of traditional media and advertising revenue has led to decline in the quality of news published. This, in turn, has caused more readers to abandon traditional media, further eroding circulation figures, credibility and profits.

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54 *Committee Hansard*, 23 November 2017, p. 13.

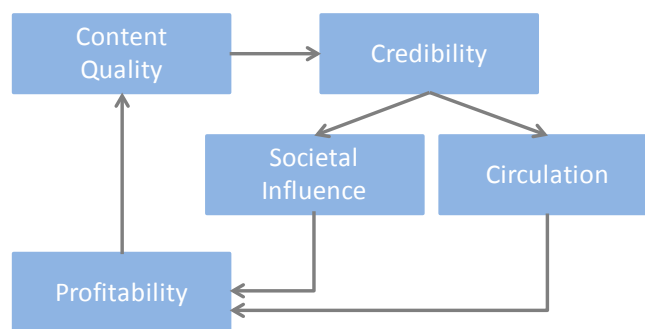
55 *Submission 41*, p. 4.

56 For example, see Mr Michael Taylor, Managing Editor, The Australian Independent Media Network, *Committee Hansard*, 22 November 2017, p. 10. Regarding Australians with Pacific connections, see Dr Tess Newton-Cain, *Submission 8*, p. 1; Ms Ashlee Betteridge, *Submission 46*, p. 3; and Mr Ray Bange, *Submission 47*, p. 8.

57 See the perspectives voiced by the MEAA, *Submission 64*, p. 20; Ms Jane Canaway, *Submission 48*, p. 2; Mediascope, *Submission 54*, p. 11; and by a contributor to the New Beats Project, *Submission 37*, p. 6.



**Figure 1: Tracking the newspaper 'death spiral'**<sup>58</sup>



2.56 This decline in quality has been exacerbated by the speed of the modern media's '24-hour news cycle', which puts pressure on journalists and publishers to produce content at all costs, and break stories early, sometimes without checking the veracity of facts.<sup>59</sup>

2.57 Mr Misha Ketchell, the Editor of *The Conversation*, suggested that the slump in public interest journalism had contributed to a more febrile and hyper-partisan culture of debate, as well as an increase in the spread of misleading information:

My view is that the role of journalists for a long period of time, before this digital disruption we're talking about, was being almost a cop on the beat in the public sphere—"This information is unreliable and shouldn't be published; this information is reliable and should be published." Part of what's happened with the collapse of the business models is there's no-one to pay the cop on the beat anymore. That role has been diminished, and what you have instead is a free-for-all of hyperpartisan debate, where everybody says everybody's lying, everybody can accuse everybody of fake news, and it's hard to know what you can trust.<sup>60</sup>

2.58 Professor Peter Fray, Professor of Journalism Practice at the University of Technology Sydney, told the committee that there had also been a recent decline in the trust the public had in journalists and mainstream media:

I think that one of the bedrock issues here—this is one of the fundamental issues of journalism today—is around the trust that people have in journalists. There is a lot of work that is going on to try and reinvigorate the trust idea. Journalists and politicians are all suffering from a lack of trust in the community. There are a bunch of reasons for that. I think the idea that people are willing to believe that this is journalism is, in part, because they do not trust journalists any more. And we need to work on that.<sup>61</sup>

58 See the MEAA's submission to the Independent Inquiry into Media and Media Regulation, November 2011, cited by Dr Rhonda Jolly, *Media reviews: all sound and fury?* Background Note, Parliamentary Library, Canberra, 5 October 2012, p. 14.

59 Ms Jane Canaway, *Submission 48*, p. 2; Mediascope, *Submission 54*, p. 11;

60 *Committee Hansard*, 21 August 2017, p. 37.

61 *Committee Hansard*, 17 May 2017, p. 48.

2.59 The committee heard from Dr Sora Park, the Director of the News and Media Research Centre at the University of Canberra, who suggested that:

...trust is low but stable. The internet and social media have exacerbated low trust among news consumers, and trust is an issue that is deep-rooted in political polarisation and perceived mainstream news bias. Fake news or filter bubbles are not new, and we know that trust levels increase with the number of sources that the news consumer accesses.<sup>62</sup>

2.60 A number of witnesses and submitters observed there was a correlation between the number of journalists losing their positions, the subsequent decline in standards of news, and the spread of fake news. For example, the MEAA told the committee that:

...the endless cost cutting we are experiencing is having a real impact on quality at the worst possible time. At a time when we are facing the challenge of malicious parties seeking to distribute fake news, public trust in our media becomes more important than ever. And that public trust is only going to be challenged further by the endless rounds of cost cutting and the resulting impact on quality that people see.<sup>63</sup>

2.61 Ms Denise Shrivell, the Founder of Mediascope, highlighted the many factors that had exacerbated digital disruption and created a 'perfect storm' in mainstream news media, together with a growing malaise among the public about the media's reliability and trustworthiness:

To compete and survive in this environment, we have seen newsrooms centralise and deplete, and some parts of media focus more on sensation and division over substance in lockstep with political parties who tailor their message and often their actions to a voracious 24/7 news cycle—all then amplified, usually unchecked and without counter, across a narrow news network and numerous social media bubbles. In short, disruption and lack of trust in both the media and our political landscapes are no coincidence.<sup>64</sup>

### **The advent of 'fake' news and online echo-chambers**

2.62 'Fake news' is a phenomenon that has been increasingly debated in public policy over the last few years, especially since the Brexit campaign in the UK and the United States Presidential elections of 2016.<sup>65</sup> These elections saw misleading news stories circulated about political issues and candidates with the aim of spreading misinformation and uncertainty, and to disrupt the political process more generally.

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62 *Committee Hansard*, 22 November 2017, p. 1.

63 *Committee Hansard*, 17 May 2017, p. 11.

64 *Committee Hansard*, 11 July 2017, p. 11.

65 See, for example, Professor Peter Fray, *Committee Hansard*, 17 May 2017, p. 48; Civic Impact of Journalism Project, *Submission 14* attachment 5 (Margaret Simons, 'Trump, fake news, and shrinking newsrooms: does journalism still matter in 2017?', *The Guardian*, 29 May 2017); Dr Alex Wake and Mr Gordon Farrer, *Submission 26*, p. 3; Dr Joseph M. Fernandez, *Submission 35*, p. 4.

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The US campaign, in particular, saw frequent accusations made by the then-candidate Mr Donald Trump that mainstream news organisations published 'fake news' about him, as they were 'crooked' or intentionally biased against him.

2.63 Professor Fray identified two kinds of 'fake news'. One is misleading content resembling legitimate commentary, which is intentionally designed to spread misinformation for political capital or to drive users to sites to increase advertising revenues. The other kind of fake news highlighted by Professor Fray was the use of the term as a pejorative to cast doubt on accurate reporting:

I think it is really important when we talk about fake news to think of the two things: one is, lies and propaganda dressed up as news by people who may or may not wish to change political discourse or make money from it—we saw that in the US election; and then the other is, in a sense, I think even more troubling and, that is, essentially, people using the term fake news to denigrate the role and the work of journalists.<sup>66</sup>

2.64 The committee understands that Facebook now uses the term 'false news' to define misleading news online, and to distinguish this from the highly charged 'fake news' used to disparage mainstream news media.<sup>67</sup>

2.65 To this, Mr Paul Wallbank also added that some 'fake news' content was designed to reinforce people's prejudices in online communities where their existing beliefs were not challenged, termed 'filter bubbles' or 'echo chambers':

If I could add a third definition—that is, of fake news that is being spread to reinforce people's own beliefs and filter bubbles, which is probably the broadest problem with social media. That is something that is patently untrue being spread to push somebody's agenda.<sup>68</sup>

2.66 The submission made by SBS highlighted the BBC's definition of fake news, drawing the committee's attention to its relationship with social media platforms, whether or not it is designed for profit or political gain:

The BBC defines Fake News as false information deliberately circulated by hoax news sites to misinform, usually for political or commercial purposes. Social media, and particularly Facebook, amplify these stories and can enable their authors to make large sums from online advertising. The role of social media in this phenomenon means that the audiences for Fake News tend to be younger than users of traditional news output.<sup>69</sup>

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66 *Committee Hansard*, 17 May 2017, p. 47.

67 Ms Mia Garlick, *Committee Hansard*, 22 August 2017, p. 2. See also Will Oremus, 'Facebook Has Stopped Saying 'Fake News'', *Slate*, [www.slate.com/blogs/future\\_tense/2017/08/08/facebook\\_has\\_stopped\\_saying\\_fake\\_news\\_is\\_false\\_news\\_any\\_better.html](http://www.slate.com/blogs/future_tense/2017/08/08/facebook_has_stopped_saying_fake_news_is_false_news_any_better.html) (accessed 16 January 2018).

68 *Committee Hansard*, 17 May 2017, p. 47.

69 *Submission 62*, p. 7, citing [www.parliament.uk/business/committees/committees-a-z/commons-select/culture-media-and-sport-committee/inquiries/parliament-2015/inquiry2/](http://www.parliament.uk/business/committees/committees-a-z/commons-select/culture-media-and-sport-committee/inquiries/parliament-2015/inquiry2/).

2.67 Ms Justine McCarthy, Legal Counsel in Regulatory and Business Affairs for Seven West Media, highlighted the difficulties of dealing with fake news for traditional media, especially with smaller teams and reduced capacity:

The other thing that is important and a rising issue with fake news is it actually puts an additional strain on our own newsrooms, particularly in circumstances of late breaking situations that are unfolding. It can be difficult for our own newsrooms to distinguish things that they are seeing online if names are being reported on Twitter, for instance. They have to put a lot of additional resources into fact-checking before they can broadcast the same material, which of course is what they do and they're happy to do that, but it is additional pressure and there is the need for additional resources in our newsrooms to carry out that important task.<sup>70</sup>

2.68 A number of witnesses and submitters argued that 'fake news' is not necessarily a new phenomenon. Some suggested that consumers had always had to contend with misleading stories—whether by design or resulting from poor quality journalism, and that the general public is sufficiently able to discriminate between reliable and unreliable sources of news. For example, Mr Graham, the Publisher and Editor of the *New Matilda*, said:

My personal view is that the fear around fake news is overblown. Fake news has been around since the printing press was invented.<sup>71</sup>

2.69 While arguing that it was a relatively new phenomenon, Professor Fray also considered that fake news had an uncertain future trajectory, especially given the efforts of aggregators to combat its influence:

We are only into the first decade of social media and we are really trying to get our heads around it. In some respects, this is like television in the 1950s. In the 1960 presidential election, we had the Nixon-Kennedy debates.<sup>72</sup>

2.70 While 'fake news' was referred to frequently in evidence, the committee only received a limited amount of information directly addressing the role fake news and misinformation has had on democratic processes. However, the committee notes the seriousness with which the matter is viewed overseas. The committee cites as one example the fact that a number of countries are actively scrutinising the possibility of

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70 *Committee Hansard*, 11 July 2017, p. 44.

71 *Committee Hansard*, 22 November 2017, p. 12. See also, for example, Dr Alex Wake and Mr Gordon Farrer, *Submission 26*, p. 2 for a suggestion that 'fake news' may be merely an 'amorphous, fashionable and nefarious phrase' that 'may be a passing fancy...'; also the view of Professor Peter Fray outlined in Dr Joseph M. Fernandez, *Submission 35*, p. 7. See also Mr Jason Pellegrino, Managing Director, Google Australia Pty Ltd, *Committee Hansard*, 22 August 2017, p. 19; Dr Sora Park, *Committee Hansard*, 22 November 2017, p. 1.

72 *Committee Hansard*, 17 May 2017, p. 48.

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foreign interference in the conduct of elections, and the role 'fake news' might have played.<sup>73</sup>

2.71 As discussed in chapter 1, the committee also understands that the government will be introducing legislation into parliament that is, in part, designed to tackle this problem in Australia.

2.72 Regarding the Commonwealth's concerns about and work to address fake news, the Department of the Prime Minister and Cabinet (PM&C) informed the committee:

The rise of social media and other technological platforms has created challenges for monitoring false and misleading news. The Australian Communications and Media Authority's recent *2016-17 Communications Report* highlights that the rise in 'fake' news in 2016 concerned some Australians, and Australia's trust in media has declined since 2010. [PM&C] is considering the potential impact of 'fake news', including as part of ongoing cross-government work in relation to foreign interference.

It is standard practice for [PM&C] to keep across developing policy issues, and brief their respective Ministers and the Prime Minister where necessary. Issues relating to media and the role of media generally fall within the portfolio responsibilities of the Department of Communications and the Arts.

Of relevance, the Electoral and Other Legislation Amendment Act 2017 was passed by the Parliament in September 2017, providing transparency for voters to know who is behind political messages that could influence their vote. These reforms bring Australia's longstanding authorisations requirements to contemporary forms of communications, like robocalls and mass SMS-messages.<sup>74</sup>

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73 For further detail, see the later chapter in this report which deals with international models. France has announced legislation looking to limit the use and spread of fake news during election campaigns. These laws would include both social media and traditional media platforms, and include emergency powers to delete content or block websites. The United States Congress is looking into alleged Russian interference in the 2016 Presidential elections, and in the UK, a parliamentary committee was looking at the influence of fake news in elections until the inquiry lapsed with the General Election of 2017. See also Mr Harley Comrie, *Submission 72*, pp. 5–6, for commentary on the situation in the Philippines.

74 Department of the Prime Minister and Cabinet—answers to questions on notice (received 18 January 2018), p. 1.



## Chapter 3

### New opportunities, new audiences and innovative approaches

3.1 The last chapter set out the many challenges faced by the media sector from the transformation to digital, which has had particularly negative effects on the traditional media and its ability to produce public interest journalism. This chapter looks at some of the opportunities that new technologies offer for innovation and diversity in the media sector, and the development of new audiences.

3.2 This chapter also notes a range of positive signs for media and news sector, including the way philanthropic funding and new partnerships across sectors have provided a welcome fillip to a sector under pressure.

#### Opportunities for media consumers and producers

3.3 In May 2017, Mr Paul Murphy, the Chief Executive of the Media, Entertainment & Arts Alliance (MEAA), observed that there had been a general upturn in audiences for media in Australia:

...I think it is important to remember that the audience is growing. Subscriber numbers are growing. Readership is growing. If you look at the most recent survey by Roy Morgan Research, you see the number of Australians who read or accessed the newspapers' content via print, web or app in an average seven-day period in March 2013 was 19.9 million. Four years later the same basket of mastheads was recording a total audience of 22 million. While print use is declining, digital, web and app readership has been growing and boosting the local audience.<sup>1</sup>

3.4 Mr Murphy also noted that lower barriers to entry, and the globalisation of markets, had enriched the local media landscape, though these developments had not compensated for the massive losses to journalism from restructuring in traditional media:

...the disruption that has been brought about by technology in traditional media has also created opportunities for new entrants, and it is important to remember that. In Australia, established news brands like *The Guardian*, the Huffington Post and the *Daily Mail* have local digital editions produced by Australian journalists, and they have recently been joined by *The New York Times*. They provide a welcome boost, as do BuzzFeed and new local entrants like The New Daily and the academic website The Conversation. These add important elements to the local media landscape and have contributed, in some cases, extraordinarily valuable additional depth to particular areas of reporting, but none of them have the resources to replace the journalism at scale that we are losing.<sup>2</sup>

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1 Committee Hansard, 17 May 2017, p. 10.

2 Committee Hansard, 17 May 2017, p. 10.

3.5 Mr Gerard Ryle, the Director of the International Consortium of Investigative Journalists (ICIJ), observed that the corollary to the collapse of traditional models in the media was that innovative approaches would be adopted:

Basically, crisis creates innovation. If you want to change things, you have to allow people to innovate. And they will innovate. The technology is racing ahead of journalism at the moment. There will be new players.<sup>3</sup>

3.6 Mr Simon Crerar, Editor-in-Chief of BuzzFeed, and Ms Tory Maguire, Editor-in-Chief of HuffPost Australia, both spoke of the many opportunities for new and innovative companies in the current media landscape. Mr Crerar commented on this recent transformation:

[In 2002] there was literally ABC, News Corp and Fairfax...there was certainly no Huffington Post, BuzzFeed, Guardian, *The New York Times*, Junkie or Pedestrian. And of course there was no Facebook, Twitter, Instagram or Snapchat. Now it is this incredibly diverse, fragmented landscape, where your traditional players are under a lot of threat... Certainly we do not know what it is going to look like in 10 or 15 years time, but the audience is fragmented. So, for brands like ours, there is a great opportunity to do reporting, important reporting, that wins hearts and minds in these spaces.<sup>4</sup>

3.7 Ms Saffron Howden, Editor, Crinkling News, suggested that the modern media environment would support smaller, nimble publications working to get the most out of small budgets:

My view is that the future of journalism is more in these smaller, niche publications because they just do not have the same sorts of overheads that we have seen in places like News Corp and Fairfax, and that the very large media organisations have had for many decades. You do not actually require huge amounts of money to keep them going.<sup>5</sup>

### ***Reaching and developing new audiences***

3.8 There can be little doubt that aggregators such as Google and Facebook have significantly boosted access to news and information for the average consumer. Mr Jason Pellegrino, Managing Director, Google Australia, highlighted the role Google's search engine played in both directing audiences to news content and sharing revenue with content creators:

Many queries from users are seeking news and Google directs billions of visitors to news websites around the world every month. Some Google users head directly to Google News, a platform which helps to connect local and national news content from more than 80,000 publishers, including over 1,000 Australian publishers, with a global audience. In this way, we have a direct interest to ensure our products support and assist in

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3 *Committee Hansard*, 22 August 2017, p. 51.

4 *Committee Hansard*, 17 May 2017, p. 57.

5 *Committee Hansard*, 17 May 2017, p. 7.



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the creation of quality journalism, not just because free and independent media is a matter of vital public interest but because we seek to meet the needs of Australian users for relevant and useful information. This is particularly valuable for small and less well-known publishers or those seeking to enter the market. An independent journalist or a small publisher is today far more able to reach an audience and generate revenue than in years past. To that end, our display advertising tools, for instance, help web publishers, including news publishers, to manage the implementation and ongoing placement of their websites, helping to drive their revenue. Publishers create content on their own sites and use Google's advertising platforms to earn revenue from ads that are displayed on their sites. This occurs on a revenue-share basis where, on average, 70 per cent of display ad revenues are shared with partners.<sup>6</sup>

3.9 Facebook also outlined some of the positive benefits for consumers and new entities that had entered the market:

...technology has had a transformative impact on the reach and distribution of information, including news, around the world. The ease by which individuals and organisations can now share information online means that there is a much richer ecosystem of news for Australians, and it means that this news can reach a much broader group of people—at a fraction of the cost of distribution than it once did. Community leaders are able to share and promote information at the community and neighbourhood level immediately, longstanding news organisations are able to expand and reach new audiences at minimal additional cost, and enterprising new media companies have begun to emerge that leverage the distribution and scale advantages of the Internet. You have recently heard directly from some of these new entities, including BuzzFeed and Huffington Post. Facebook, as an online platform, has been part of this broader trend of the democratisation of information and news.<sup>7</sup>

3.10 A number of witnesses noted that aggregators provide access to huge new audiences for media organisations, particularly for smaller outlets that might otherwise not enjoy the reach. For example, Mr JJ Eastwood, Chief Executive Officer, HuffPost Australia, remarked:

We look at the platforms as partners in a lot of ways; certainly, they are taking a lot of money out of the ecosystem, but they also drive a lot of traffic to our owned and operated sites. Particularly for businesses like Huffington Post that are very mobile-led—we run 70 per cent of our audiences on mobile. Most of the platforms dominate mobile; so Facebook, Twitter, Google and Instagram are all important.<sup>8</sup>

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6 *Committee Hansard*, 22 August 2017, p. 18.

7 *Submission 40*, p. 2.

8 *Committee Hansard*, 17 May 2017, p. 54.

3.11 Similarly, Mrs Alice Almeida, an experienced digital advertising strategy professional, spoke extremely positively about the opportunities offered by aggregators to publishers and consumers:

I think that a lot of publishers wouldn't be where they are without the support of the likes of Google. Just to highlight that: last year Google contributed 35.5 per cent of traffic to the news and media industry...This behaviour we are starting to see across all different Australians—from young to old. Publishers need Google to work with them for that reason.

The other thing is that a lot of the traffic is being driven from social, as we have touched on before. Facebook is not just a social network where you hear about what your family and friends are doing and all the thousands of baby pictures that seem to be coming in a newsfeed; it is now also becoming a news and content feed. A lot of publishers are now tapping into audiences by putting their news and articles within Facebook. I know that a lot of the time I visit certain websites that I wouldn't have visited purely because I saw an article on Facebook or Google.<sup>9</sup>

3.12 Professor Michael West, the Principal of Westpub, spoke of the power of social media to communicate with the audience he established during prior employment with a masthead publication, as well as to connect with a large and engaged new readership:

I already had a rusted-on audience at Fairfax and I had a redundancy cheque to put into this thing. I could not have done it without those two things and the public support of people on social media. That is an advantage, because social media is free and it is quite a good distribution model, provided you have enough Twitter and Facebook followers, and so on. There are a lot of variables. I think it would be very hard for other people to do it successfully.<sup>10</sup>

3.13 Mr Crerar told the committee he considered aggregators to be distribution platforms that were particularly suited to offer innovative approaches to new organisations:

In some ways, we see Facebook and Google as newsagents. Newspaper businesses have always built their business on the distribution method. Our distribution method is social networks, search engines...But future opportunities for businesses like ours, which are unencumbered by the existing way of doing things, are gigantic. Yes, traditional businesses are going to shrink down the line. This is an epochal moment that will take a decade or two to pan out, but there are tremendous opportunities for us and businesses that are native to these platforms and are building their business on them.<sup>11</sup>

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9 *Committee Hansard*, 11 July 2017, p. 22.

10 *Committee Hansard*, 17 May 2017, p. 37.

11 *Committee Hansard*, 17 May 2017, p. 57.

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### *Developing new business models*

3.14 While noting that the committee discussed the development of new business model in its previous chapter on challenges facing the media sector, some evidence pointed to recent positive growth for traditional media, both in terms of increased online subscription rates for some traditional mastheads, and through more effective monetisation of content and diversification of revenue.

3.15 As the September 2017 *The Future Newsroom* report found:

Today's digital news media outlets have adapted to this new economic environment and have adopted a hybrid model to finance their journalism. This means more than one or two methods of funding are relied upon to be profitable. The most common revenue raising methods that form part of a hybrid media funding model include: advertising (display and native); building databases to sell access to them; hosting events related to an outlet's digital media content; developing new media products based on market research; crowdsourcing funds and philanthropy and, the least used option, erecting paywalls.

For most digital newsrooms, the most important source of revenue is native advertising. This is paid ads that match the news outlet's page content, overall design and is consistent with its platform behaviour.

The reliance on native advertising means media organisations are having to think differently about the relationship between journalism and advertising, especially about issues of transparency and audience trust.

The importance of audience trust is not just a question of editorial credibility but of native advertising credibility: if people don't trust the news content, they are unlikely to trust its advertising.<sup>12</sup>

3.16 Mr Greg Hywood, the Chief Executive Officer and Managing Director of Fairfax Media, outlined the ways in which his company had met the challenge of monetisation:

In response to these pressures we have reshaped our business yet continue to innovate and invest deeply in quality journalism. We remain one of the few providers of at scale, quality journalism in Australia, with over 1,000 editorial staff across our metro and regional publications. For some historical context to this I think it is important to note that in the 1960s there were 75 reporters at *The Sydney Morning Herald* and fewer at *The Age*; now there are more than 300. In the 1970s there were 25 reporters at *The Australian Financial Review*; now there are over 100. We have also explored models around publishing, such as leveraging our audience to launch emerging businesses—for example, our events business, Domain, Stan and Drive, which in turn create the earnings to help continue quality independent journalism. Difficult decisions have been made to create a

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12 Dr Andrea Carson and Dr Denis Muller, *The Future Newsroom: Executive Summary*, University Of Melbourne, September 2017, p. 5.

sustainable publishing model, the result of which is a smaller but fit-for-purpose publishing business.<sup>13</sup>

3.17 The MEAA suggested that, given the size of the Australian market, subscription-only models would probably struggle to be sustainable for the larger, traditional media companies.<sup>14</sup> However, the MEAA also acknowledged—as did other submitters and witnesses—indications of positive growth from traditional mastheads locally, with Fairfax titles having around 225 thousand subscribers in May last year, and that subscription revenue at *The Australian* is now greater than from advertising.<sup>15</sup>

3.18 Facebook told the committee that swelling subscriber numbers and positive trends in revenue, both here and internationally, demonstrated 'that Australians value and are willing to pay for new content'.<sup>16</sup>

3.19 Mr Pellegrino also pointed to certain trends that indicate a shift in consumer behaviour that suggests a willingness to pay for quality news:

The truth is that readers are smarter than [expecting news to be free], and they know what high-quality journalism is, and they're willing to pay for it, but you have to ask them. That is the point. Every time that *The Washington Post* tighten their paywalls, subscriptions go up.<sup>17</sup>

3.20 Mr Campbell Reid, the Director of Corporate Affairs and Editorial Management for News Corp Australia, commented that publishers were adopting new strategies to leverage the large volume of consumers accessing content through Google to increase subscription rates:

Google's interest is to have people consume a lot of material and have a good experience when they do it so that when they click on a story or a piece of content, they see that piece of content and click onto another one and click onto another one. That's in direct opposition, if you like, to a newspaper publisher, who doesn't want you to click on and on and on. It wants you stop and read that story and subscribe to that story. Google had a regime which was called 'first click free', which meant that if you clicked on a *Wall Street Journal* story you had to be able to see a certain element of that content for free before you got to a point where you were being asked to pay for it. By changing that regime—in Australia we're currently experimenting what level, how much, do you have for free and at what point do you meet the paywall. By changing that dynamic, that has in some of our newspapers meant that a newspaper that was getting no subscriptions

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13 *Committee Hansard*, 17 May 2017, p. 20.

14 Mr Paul Murphy, MEAA, *Committee Hansard*, 17 May 2017, p. 13.

15 Mr Paul Murphy, MEAA, *Committee Hansard*, 17 May 2017, p. 13; Mr Campbell Reid, Director, Corporate Affairs and Editorial Management, News Corp Australia, *Committee Hansard*, 22 November 2017, p. 28.

16 *Committee Hansard*, 22 August 2017, p. 19.

17 *Committee Hansard*, 22 August 2017, p. 33.

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at all through Google search is suddenly getting 10 subscriptions a week through Google search.<sup>18</sup>

3.21 Ms Jane Schulze, the Managing Director for Australia/New Zealand of Standard Media Index (SMI), also noted that, even if Australian newspapers faced significant ongoing challenges, they had managed to monetise their content more successfully than traditional media overseas:

...Australia's newspaper groups have been leading the world in terms of monetising their content online. SMI now produces data for the US, UK and New Zealand market and we can clearly see that relative to these other countries Australia's news media industry is gaining more revenue from selling ads around their newspapers' websites than in any other country. Last year, the digital sales teams of News Corp, Fairfax, the old APN and Western Australian newspapers sold to media agencies advertising worth more than \$200 million—and that is excluding the programmatic bookings..., so the figure is actually going to be slightly higher. As a result, digital now represents 23 per cent of total agency revenues to the news media industry which highlights the huge progress the industry has made to transform what was once just a print-only industry.<sup>19</sup>

3.22 Some evidence to the committee suggested that there was still life in the traditional printed medium for particular markets, despite the overall trajectory of declining circulation. For example, Mr Hywood told the committee that he stood by his comments of the previous month, that 'the model we have developed involves continuing to print our publications daily for some years yet'.<sup>20</sup> Mr Reid shared this view:

You would have to be a completely naive person to say that the magic is going to wind back and we're going to sell as many print newspapers in the future as we did in the past, but it's up to us to re-imagine, recreate and recalibrate what the print product is. We shouldn't forget that 16 million Australians consume our content. Millions of Australians read printed newspapers and millions of Australians buy things after seeing the advertising in printed newspapers. They're an incredibly effective platform and remain so.<sup>21</sup>

3.23 Ms Costello, Chief Executive Officer of Schwartz Media, suggested that the printed Saturday Paper had found a niche outside the online 24/7 news cycle of the mainstream media:

*The Saturday Paper* was established because we sincerely believed that newspapers weren't dead but the model was completely broken. How does it exist with the internet breaking news? There's a print cycle involved in producing a newspaper, whereas online it can be a 20-minute turnaround....

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18 *Committee Hansard*, 22 November 2017, p. 31.

19 *Committee Hansard*, 11 July 2017, p. 21.

20 *Committee Hansard*, 17 May 2017, p. 31.

21 *Committee Hansard*, 22 November 2017, p. 32.

We looked at all the models. It took [Schwartz] two years to work out what *The Saturday Paper* would look like, pulling apart newspapers and leaving out things that the internet could do better.<sup>22</sup>

3.24 Ms Howden spoke of the value of maintaining newspapers aimed at young people in printed formats, including internationally, as it improved their engagement and learning outcomes.<sup>23</sup>

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22 *Committee Hansard*, 21 August 2017, p. 43.

23 *Committee Hansard*, *Committee Hansard*, 17 May 2017, p. 5. The committee notes that during the preparation of this report it was reported that Crinkling News had announced its closure.

3.25 Some other evidence suggested that traditional titles had been able to improve their business models when incorporating the power of mobile technologies into their digital products and advertising strategies. For example, Google Australia submitted that:

Of course, through several channels, traditional media businesses have already diversified and leveraged their longstanding, highly regarded brands to build online advertising businesses with great success.

While Australian advertising successes such as Carsales and Seek have grown from burgeoning start-ups at the beginning of this century, Fairfax Media and News Corporation have likewise established highly successful cross-channel advertising businesses such as Domain and RealEstate.com.au.<sup>24</sup>

3.26 In the international context, the committee notes encouraging evidence suggesting an upturn in subscriptions following the 2016 Presidential election in the US, which was riven with contested and overtly fake news stories in the media, as well as attacks on traditional media for being 'crooked', biased or delivering 'fake news'. The committee understands that, in the wake of this election, *The New York Times* and *The Washington Post* both grew their subscription rates to unprecedented levels, with the former having around 2 million digital subscriptions in mid-2017.<sup>25</sup>

#### ***Philanthropic or privately funded models***

3.27 The committee received good evidence that tax breaks encouraging philanthropic or privately funded models underwriting the financial sustainability of media organisations had revitalised public interest journalism in some parts of the world, particularly in the US.

3.28 Broadly speaking, this is not a new phenomenon, as foundation grants and philanthropic trusts have given financial stability to a number of longstanding media organisations. For example, in the UK, the Scott Trust was founded in 1936 'secure the financial and editorial independence of the Guardian in perpetuity as a quality national newspaper without party affiliation'.<sup>26</sup> There are also a number of examples from the American context, notably the Poynter Institute, a non-profit journalism education and training centre that owns the Tampa Bay Times (previously the St Petersburg Times) and the PolitiFact fact-checking service. Additionally, in the US, the magazine Harper's (founded in 1850) has been backed by a Foundation from 1980,

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24 *Submission 38*, pp. 7–8.

25 For example, see Mr Paul Murphy, MEAA, *Committee Hansard*, 17 May 2017, p. 13; Professor Lawrie Zion, *Committee Hansard*, 21 August 2017, p. 53; Dr Christopher Berg, *Submission 16*, p.5; ABC, *Submission 58*, p. 13; Digital Industry Group Inc., *Submission 63*, p. 2.

26 The Scott Trust, *The Scott Trust: values and history*, [www.theguardian.com/the-scott-trust/2015/jul/26/the-scott-trust](http://www.theguardian.com/the-scott-trust/2015/jul/26/the-scott-trust) (accessed 11 January 2018.)

and the First Church of Christ Science's publication, *The Christian Science Monitor* is backed by a foundation and donations.<sup>27</sup>

3.29 The submission to the committee made by a group of four academics highlighted a number of other US institutions that support journalists and publishers: directly through grants to cover the cost of particular reporting projects, including:

- The Pulitzer Centre on Crisis Reporting;
- The International Reporting Project;
- The Howard G. Buffett Fund for Women Journalists Grant from the International Women's Media Foundation; and
- The International Centre for Journalists, underwritten by the Knight Foundation.<sup>28</sup>

3.30 Dr Bill Birnbauer, Adjunct Senior Lecturer in Journalism at the School of Media, Film and Journalism, Monash University, outlined the revitalised US media landscape in his submission:

In the United States I estimate there are about 150 non-profit centres doing such journalism; others suggest there are 200. Most were formed since the global financial crisis of 2007-09.

Non-profit investigative reporting centres vary in size from two or three journalists up to 70 reporters, editors, digital and broadcast producers, development and engagement experts, data journalists and fundraisers. The budgets of the biggest centres are about \$10 million a year; smaller centres less than \$100,000. Non-profit investigative reporting centres see their work as a form of public service.<sup>29</sup>

3.31 Mr Ryle confirmed that the US model has seen a revival of good journalism:

We basically rely on philanthropy to pay for journalism. I guess the reason that's significant here is that you don't have tax deductions for journalism in Australia, whereas you do in America. There are dozens of organisations like ours that are basically doing work on a domestic level in America: the Center for Public Integrity, ProPublica and organisations like that. Then there are a few organisations like ours that do work out of America internationally. But we're probably, at this point, the best known. It has basically allowed public interest journalism to flourish, because people can get a tax deduction for what we do.<sup>30</sup>

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27 JERAA, *Submission 39*, Attachment 1 (Support for public interest journalism—an international summary), .p. 30. For further information see *About Harper's Magazine*, <https://harpers.org/history/> and 'About us', [www.csmonitor.com/About](http://www.csmonitor.com/About) (both accessed 11 January 2018).

28 *Submission 30*, p. 20.

29 *Submission 1*, p. 1. See also Mr Ray Bange, *Submission 47*, p. 4.

30 *Committee Hansard*, 22 August 2017, p. 51.



3.32 Dr Birnbauer suggested that these organisations could be funded by foundations, donations from philanthropists or readers, or through gaining minor revenue from advertising, story sales, events, advertising and subscriptions. He observed that tax exemptions were gained under a broad education category in US tax laws, rather than by being recognised as media outlets.<sup>31</sup>

3.33 In Australia, the use of privately-funded models to underwrite the financial sustainability of organisations producing public interest journalism has been limited. There have been a few examples:

- *The Global Mail*, an online publication funded by the internet entrepreneur Graeme Wood, which operated from 2012 to 2014;
- *The New Daily*, launched in 2013 and part-funded by industry superannuation funds; and
- *Schwartz Media*, which publishes *The Saturday Paper* and *The Monthly*, backed by the company owned by publisher Morry Schwartz.<sup>32</sup>

3.34 Ms Jacqui Park, Chief Executive Officer, Walkley Foundation, spoke of the potential for the not-for-profit model to revitalise the Australian media landscape:

Australia has the potential to build not-for-profit journalism, much like the sector that has emerged very successfully in the United States. There you see a range from national organisations like ProPublica to those that cover states like Wisconsin or cities like Pittsburgh or topics like worker safety. These organisations, although often tiny, punch way above their weight. They're winning major journalism awards and they're scooping up the best journalists. They have built a whole new ecosystem of highly ethical, technology driven, collaborative journalism. And the collaboration in particular is fuelling some real outcomes. Because these nonprofits can act nimbly—after all, they are start-ups—they're experimenting with new ways to engage with readers and build audience and find revenue. That's all possible for us to do here.<sup>33</sup>

3.35 Some doubts were raised regarding the ability of Australian media organisations to be sustainable through philanthropic donations alone, given both the

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31 *Submission 1*, pp. 1–2.

32 See JERAA, *Submission 39*, Attachment 1 (Support for public interest journalism—an international summary), p. 30. On the Global Mail, see Amanda Meade, 'Global Mail website to close less than two years after its launch', *Guardian Online*, 30 January 2014, [www.theguardian.com/media/2014/jan/30/global-mail-website-to-close](http://www.theguardian.com/media/2014/jan/30/global-mail-website-to-close) (accessed 11 January 2018). On the New Daily, see Peter Ryan, 'The New Daily emerges as an online media player, with backing from industry superannuation funds', *ABC Online*, [www.abc.net.au/news/2013-11-13/new-daily-launches/5087940](http://www.abc.net.au/news/2013-11-13/new-daily-launches/5087940) (accessed 11 January 2018). On Schwartz publishing, see James Button, 'The Art of the Deal', *The Age*, 21 March 2004 at <http://fddp.theage.com.au/articles/2004/03/21/1079823222407.html?from=storyrhs> (accessed 11 January 2018).

33 *Committee Hansard*, 22 August 2017, p. 34.

finite number of potential donors in Australia, as well as the more established culture of philanthropy in the US.<sup>34</sup>

3.36 The potential use of tax incentives to encourage philanthropic support for not-for-profit or low-profit media organisations by the Commonwealth is discussed later in this report.

### ***Innovation and partnerships***

3.37 Evidence indicated that the crisis in traditional forms of media had led to the formation of innovative partnerships between media players, or between media organisations and universities or journalism centres. The committee deals with partnerships between news media and aggregators in its next chapter.

3.38 Dr Birnbauer noted that stories undertaken by journalists working in the not-for-profit media sector in the US often appeared in traditional media such as, among others, *The New York Times*, *The Washington Post*, *The Wall Street Journal*, and on public broadcasters. He argued that new not-for-profit forms did not challenge mainstream media, but complemented the 'diminished ability of many mainstream media to produce serious journalism'.<sup>35</sup>

3.39 The implications of this were drawn out by Mr Ryle, who outlined how his organisation collaborated across titles and platforms with a great deal of flexibility:

We work by bringing media organisations around the world together, to work on stories that cross borders. Here in Australia, we work with *Four Corners* on a regular basis, with *The Guardian* Australia and also with the *Financial Review*. We are open to working with pretty much anyone. We also work with the BBC, *Le Monde* in France and *The New York Times*. We find stories that can possibly have a global impact and bring them all together to work together. That's what we do... We basically bring the story to the media organisations, but we rely on each media organisation to do their own work. They can decide what's important for their constituents and what isn't important. We don't tell them what to do. We have no editorial control, but we also do our own journalism. Where we differ from WikiLeaks is that, when we get big datasets like the Panama Papers, we don't just publish every single detail on the web. We do publish extracted details, but we do make all of the documents available to the journalists, and we allow the journalists to do journalism. We basically are a service industry for the media around the world.<sup>36</sup>

3.40 A number of submissions pointed to innovative partnerships between media and universities, not only in conducting journalistic activities, but also in training

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34 See, for example, Associate Professor Andrew Dodd, Chair, Public Interest Journalism Foundation, *Committee Hansard*, 21 August 2017, p. 15. For a broader discussion see Victor Pickard, 'Can charity save journalism from market failure?', *The Conversation*, 28 April 2017, <https://theconversation.com/can-charity-save-journalism-from-market-failure-75833> (accessed 17 January 2017).

35 *Submission 1*, pp. 3–4.

36 *Committee Hansard*, 22 August 2017, p. 51.

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future journalists. Dr Birnbauer noted about 20 per cent of not-for-profit journalism centres in the US had an affiliation with a university.<sup>37</sup>

3.41 Mr Jack Latimore, a collaborator with Indigenous X, highlighted the opportunities for Indigenous stories to enter the broader public sphere through new kinds of publishing partnerships:

In addition to providing a platform for these diverse voices to be heard throughout and across First Nations audiences, IndigenousX also provides a 'bridge' for Black perspectives to enter the broader public sphere via collaborative publishing partnerships such as the one we share with Guardian Australia. It is my opinion that this is a unique and important development in what is termed the news ecology, and I believe it would do Australia well for more non-indigenous news organisations to look to that relationship for improving their own approach to, and representation of, the broader Aboriginal and Torres Strait Islander public.<sup>38</sup>

3.42 Mr Misha Ketchell, the Editor of The Conversation, spoke of how his organisation had grown from an Australian site founded in Melbourne in 2011 to an internationally trusted network of organisations employing around 100 journalists and partnering with more than 40,000 academics around the world. He told the committee how The Conversation leveraged expertise in the university sector, from which the organisation also received funding, to improve information in the public domain on newsworthy topics:

Our model is based on trying to ensure that experts are engaged in communicating with the public when issues arise in the public. If something significant happens, we will try to find an expert to talk about that particular issue. The way we work is that the academics are not paid by The Conversation; they write for The Conversation without payment. Basically the idea is that academics, as part of the work they do for Australian universities, have an obligation to communicate their research findings and their knowledge broadly within the community, and we provide a vehicle, a means, for them to communicate their ideas and their knowledge. We run a quite sizeable newsroom staffed by more than 20 professional full-time editors and journalists, and their role is to monitor what's happening in the news and talk to academics and ensure that they're engaged in commenting on those issues.<sup>39</sup>

3.43 The committee was also impressed with the Walkley Foundation's approach to fostering innovation in the industry. The committee heard how that organisation had encouraged positive relationships between aggregators and publishers, and established mentoring programs for young journalists and a journalism innovation program:

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37 *Submission 1*, p. 4.

38 *Submission 42*, p. 3.

39 *Committee Hansard*, 21 August 2017, pp. 31–32.

The innovation program is for all kinds of journalistic innovators, and we are by no means focused only on not for profits. A long list of 110 projects went through our incubator this year, and five eventually received seed funding. Among those were projects such as a Canberra reporter who's thinking outside the square—or rather, outside the press gallery—and using crowdsourcing to make the parliamentary register of interests into a searchable database. This is encouraging collaboration among journalists and publishers and it's a project that will also help everyday people make sense of all the data that's available. Another project is about unlocking ABS data. Another was for a news site for young people to help them connect with what's happening in the news and to help them engage and make a difference in the world. And we could support a lot more if we had the money, both with funding and with the essential business and start-up mentoring. There are great ideas for journalism out there, all ready to be born. None of them on their own will be a magic bullet, and some of them will fail, but public policy also needs to show its own preparedness—dare I say its own agility—to try, fail and try again.<sup>40</sup>

### ***Diversity of opinion and voices***

3.44 A number of submitters made the point that the digital age offered more opportunity for a diversity of opinion to be expressed than traditional media has offered in the past.<sup>41</sup> The Digital Industry Group Inc. (DIGI) provided an overview in its submission:

The internet and digital technology have fundamentally changed many industries, including media companies and news publishers. The rise of micro publishers on the web, where anyone with an internet connection can publish information on events, politics, and ideas, has empowered more voices and offered more views in turn making the media ecosystem more pluralistic and democratic. Consumers have also been beneficiaries of this changing media landscape as it has enabled them to consume a greater variety of content across different platforms at the time of their choosing.<sup>42</sup>

3.45 The Civic Impact of Journalism Project (CIJP) noted that new platforms were offering new forums for under-represented groups to share news and tell their stories, particularly highlighting new Indigenous media:

Under-represented groups are making constructive use of new media to be heard. In particular, our research identified 150 Indigenous-controlled news sources including legacy print and broadcast media but also including a flourishing network of new and social media outlets. Some of these serve particular communities; others are issues or personality based. Together, they are breaking news and distributing original content. One of the best known, IndigenousX, has partnered with Guardian Australia. This increase

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40 *Committee Hansard*, 22 August 2017, p. 34.

41 Mr Michael Taylor, Managing Editor, The Australian Independent Media Network, *Committee Hansard*, 22 November 2017, p. 9.

42 *Submission 63*, p. 2.

in voice for a neglected segment of Australian society is a shift in the ecology of news media in Australia.<sup>43</sup>

3.46 It was also submitted in evidence that 'citizen journalists' are using new platforms to tell stories and reach audiences—although it was also acknowledged that this would not replace the functions lost from traditional media completely. The CIJP stated that:

More generally, our evidence suggests that citizen journalism will continue to be part of the mix, and is increasingly powerful and important—but it is not enough. It works best as an adjunct to professional journalism, rather than on its own...Citizen journalism is largely about the commentary and opinion function of journalism, and that is important – but not enough. Without facts, opinion is hollow and commentary impotent.<sup>44</sup>

3.47 Some submissions also noted the increasing prevalence of 'hyperlocal' sites, or where communities were using social media to fill service gaps.<sup>45</sup> The CIJP suggested that this was a positive, but limited, approach:

In suburban and edge of urban areas, community groups, local governments and local police are using social media to fill gaps, and some of these activities and outlets have become valuable parts of local news ecologies. This can empower individuals and community organisations, but does not fill all the gaps that have resulted from the exodus in local media.<sup>46</sup>

3.48 Some new media companies highlighted areas they were able to explore that had not been addressed by traditional media, such as coverage of areas of interest to young Australians under 30, indigenous matters, mental health news, and LGBTI perspectives.<sup>47</sup>

3.49 Professor Fran Baum AO, the Director of the Southgate Institute for Health, Society and Equity, drew the committee's attention to the 'flourishing network of new and social media outlets' that offered Indigenous-controlled news services, including breaking news and original content.<sup>48</sup>

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43 *Submission 14*, p. 5.

44 *Submission 14*, Attachment 5 (Margaret Simons, 'Trump, fake news, and shrinking newsrooms: does journalism still matter in 2017?', *The Guardian*, 29 May 2017), p. 6.

45 See Mr Ian Skurrie, *Submission 33*, pp. 1–2; Civic Impact of Journalism Project, *Submission 14*, p. 5; Deakin University, *Submission 19*, p. 6; and Professor Lawrie Zion, New Beats Project, *Committee Hansard*, 21 August 2017, p. 53.

46 *Submission 14*, p. 5.

47 See evidence given by Mr Simon Crerar, Editor-in-Chief, BuzzFeed Australia, and Ms Tory Maguire, Editor-in-Chief, HuffPost Australia, *Committee Hansard*, 17 May 2017, p. 52 and p. 55.

48 *Submission 20*, p. 3.

### *A new willingness to pay*

3.50 A number of witnesses and submitters spoke of their perception that consumers would always be drawn to, and willing to pay for, good quality journalism, regardless of the platform it appeared upon. For example, Ms Maguire told the committee:

I take a very old-fashioned view of journalism—it is all about the quality of the story. It does not matter what platform it appears on; it does not matter whether it is a listicle, a 45-minute feature video or a 3,000 word magazine piece—the consumers are looking for quality in the story telling.<sup>49</sup>

3.51 Some submitters noted the success of the *Washington Post* in driving up subscriptions through a combination of tightening access to content via paywalls and ensuring the news content excelled by investing heavily in journalism. DIGI noted:

Owner of the Washington Post Jeff Bezos recently made comments at a conference on the Future of Newspapers where he attributed the success of turning the Washington Post's fortunes around to several factors including hiring an additional 140 reporters and focussing on the readers.<sup>50</sup>

3.52 Mr Pellegrino also highlighted the importance of maintaining quality in cultivating audiences and driving subscriptions:

When you are writing, be riveting, be right and ask people to pay. That's important. In a world where you're asking people to pay for content, you have to be riveting and you have to be right. That content has to have a value that users don't perceive that they can get elsewhere, and that's incredibly important.<sup>51</sup>

3.53 Ms Costello suggested that there was a large audience for the kind of in-depth, considered analysis of significant issues that Schwartz Media provides:

I think what has happened is that the Fairfaxes of the world are not producing as often the journalism that we are producing. Readers have turned away from those sort of titles to the type of news that we do.<sup>52</sup>

### **Committee view**

3.54 It is clear that the transition towards aggregation and digital modes of delivery for news has been accompanied by some positive effects, both for media providers and for consumers.

3.55 For traditional media businesses, while revenues and business models have collapsed, there have been positive changes. New technologies and platforms have created unprecedentedly large audiences for new and established companies; there are

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49 *Committee Hansard*, 17 May 2017, pp. 58–59.

50 Digital Industry Group Inc., *Submission 63*, p. 2.

51 *Committee Hansard*, 22 August 2017, p. 33.

52 *Committee Hansard*, 21 August 2017, p. 42.

now much lower barriers to entry for innovative start-ups, which has democratised media, so individuals can become publishers and find audiences themselves.

3.56 For consumers, the benefits have been substantial. They now have the power to access more information than ever before, and for relevant information to be brought to their attention by aggregators, for the most part at no cost at all. In some cases this is an incredibly powerful tool that connects people with information they need. In others, it facilitates the rapid spread of misinformation, and may enable people to hear only their own perspective rather than be challenged by a range of views.

3.57 The previous chapters have looked at the challenges and opportunities facing the news media sector, both in Australia and globally. The next chapter discusses some of the ways aggregators are working with the news media, after which it discusses the idea of a levy on the operations of aggregators.





# Chapter 4

## Aggregators and the news media

4.1 While the previous two chapters have respectively discussed the challenges and opportunities faced by the contemporary news media in Australia as a consequence of a number of economic, social, technological and structural factors, this chapter examines the particular relationship between digital aggregators and the news media. It discusses the importance of a flourishing news media to aggregators, and the ways in which aggregators are working with content creators to combat fake news. Finally, this chapter discusses the growing political appetite to ensure that aggregators pay their fair share of tax in Australia, and floats the idea of a levy on aggregators.

4.2 It is clear that the media landscape has been changed irreversibly by the global success of digital aggregators, particularly:

- Google, which has its roots in a search engine but now provides a range of web-based services, and
- Facebook, a social media platform, through which people build connections with one another and share personal content, which now incorporates the sharing of news and third-party media.

4.3 Given their centrality to the new media environment, the committee sought to engage with these two largest aggregators, both globally and in Australia, Google and Facebook.

### The importance of news to aggregators

4.4 Both Google and Facebook told the committee that they recognised the value of a healthy media sector in which public interest journalism thrived. Google's submission acknowledged that it had a mutual interest in ensuring that good journalism flourishes with the broader media sector:

...not just because a free and independent media is a matter of vital public interest, but because ensuring credible news sources can thrive online helps us do a better job providing our users reliable information.<sup>1</sup>

4.5 Google pointed to a number of its products that give users access to free news content, including Google News, which links to around 80,000 publishers worldwide, Google Alerts, which alerts readers to new content of interest to them, and its YouTube platform, which includes content generated by news media organisations, including larger organisations streaming content, such as the ABC, and smaller players like BuzzFeed and Vice News.<sup>2</sup>

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1 *Committee Hansard*, 22 August 2017, p. 18.

2 *Submission 38*, pp. 3–4.

4.6 In its submission, Facebook highlighted the words of its founder, Mr Mark Zuckerberg, regarding the value of the news media:

A strong news industry is also critical to building an informed community. Giving people a voice is not enough without having people dedicated to uncovering new information and analysing it. There is more we must do to support the news industry to make sure this vital social function is sustainable – from growing local news, to developing formats best suited to mobile devices, to improving the range of business models news organisations rely on.<sup>3</sup>

4.7 Some witnesses and submitters raised serious areas of concern with the committee about Google and Facebook.

### **Criticisms of Google and Facebook**

4.8 These will only be discussed briefly in this report for two reasons. Firstly, the committee did not receive sufficient volume of evidence in these areas to reach any definitive conclusions. Secondly, over the course of this inquiry, the government directed the ACCC to undertake an inquiry into aggregators and social media platforms, including Google and Facebook, and potential negative or unfair effects on consumers, media content creators-including journalists, and advertisers. The ACCC inquiry has broader terms of reference than this committee, as well as the resources, expertise and time to consider these matters in full, before it presents its final findings to government in mid-2019.

4.9 Nonetheless, the committee was concerned about suggestions that Google and Facebook have abused their market power, including in their approach to the media sector.<sup>4</sup> For example, the committee is aware that Mr Michael Miller of News Corp, wrote in the Australian Financial Review on 31 May 2017:

Google is no friend and has done more than anything to destroy the journalism model.

Google is only ever one's 'friend' if you obey the rules it dictates for your business in a digital world.

It has world's most powerful market monopoly: a 95 per cent market share of search in Australia and similar positions in other major markets...

[Google] has argued news publishers know they are free to withdraw from Google Search and Google News at any time.

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3 *Submission 40*, p. 3

4 See questions asked by Senator Nick Xenophon, *Committee Hansard*, 22 August 2017, pp. 29–30.

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The reality, however, is Google's dominance of search means local publishers have little choice other than to be on Google: it is the digital distribution method and journalism needs to be discoverable.<sup>5</sup>

4.10 In this, Mr Miller suggested that Google consciously impeded the traditional media's transition to subscription models by:

Making quality subscription news publishers suffer in search rankings unless they give Google and its search users content for free;

Displaying snippets of publishers' content in Google News listings to attract eyeballs which fund its advertising revenue and to discourage users seeking out content elsewhere;

Manipulating search results to promote its own news vertical.<sup>6</sup>

4.11 It was also put to Google that there had been allegations that it had demanded that media companies adopt its 'first-click free' policy, and if they did not, their content would be placed lower in search results, and therefore reach fewer users.<sup>7</sup>

4.12 Google were given the opportunity to respond to these allegations in a public hearing in August 2017, and told the committee that 'whether or not content is behind a paywall is not a demotion signal for the ranking in search' and that, at that time, Google was working increasingly with publishers on subscriptions and paywalls. Moreover, Google disagreed that it had abused its market power regarding its 'first click free policy', and contended that publishers retained the right to use a number of options to distribute their content.<sup>8</sup>

4.13 Some evidence questioned the reliability of the metrics used by aggregators to evaluate the reach of advertising they carried, thereby potentially overstating its value and impact for advertisers. Mr Darren Woolley, the Chief Executive Officer and Founder of TrinityP3, told the committee:

...there are questions being asked about some of the metrics that both Google and Facebook provide. For instance, if I buy a 30-second television ad on any of the networks, it will run for 30 seconds. On Google and Facebook, if it runs for five seconds, it's deemed to be seen, and so now there are questions around the value that these represent with the metrics

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5 Michael Miller, 'Google is not journalism's friend and now it's trying to undermine paywalls', *Australian Financial Review*, 31 May 2017, [www.afr.com/opinion/google-is-not-journalisms-friend-and-now-its-trying-to-undermine-paywalls-20170530-gwghgp#ixzz54aCGORKr](http://www.afr.com/opinion/google-is-not-journalisms-friend-and-now-its-trying-to-undermine-paywalls-20170530-gwghgp#ixzz54aCGORKr) (accessed 19 January 2018).

6 Michael Miller, 'Google is not journalism's friend and now it's trying to undermine paywalls', *Australian Financial Review*, 31 May 2017, [www.afr.com/opinion/google-is-not-journalisms-friend-and-now-its-trying-to-undermine-paywalls-20170530-gwghgp#ixzz54aCGORKr](http://www.afr.com/opinion/google-is-not-journalisms-friend-and-now-its-trying-to-undermine-paywalls-20170530-gwghgp#ixzz54aCGORKr) (accessed 19 January 2018).

7 See questions asked by Senator Nick Xenophon, *Committee Hansard*, 22 August 2017, pp. 29–30.

8 Ms Ishtar Vij, Head, Public Policy and Government Relations, Google Australia Pty Ltd and Mr Jason Pellegrino, Managing Director, Google Australia Pty Ltd, *Committee Hansard*, 2 August 2017, p. 29 and p. 30 respectively.

that are actually developed by the digital industry itself...There are two issues. The first is that the metrics themselves have been corrected several times over the past few years by Facebook and Google themselves because they found out that their 'algorithm' has been incorrect and perhaps overstating performance. The second is that getting a consistent and meaningful measure across the industry has also been difficult to achieve. While Google and Facebook, because of their size and market dominance, have actually put forward metrics, it's still the advertisers who are coming to terms with what that means as far as the value that that represents as part of their advertising investment.<sup>9</sup>

4.14 While acknowledging that it was a complex problem stemming from the nature of the internet itself, Dr Nico Neumann, an academic researching the use of technology in marketing and advertising, observed that companies that relied on advertising, including aggregators, were torn between ensuring their metrics were correct, and maintaining the value of the advertising they carry by maximising the estimated market reach:

As I said, this is a problem the industry is trying to tackle right now with different initiatives which have been more or less successful, in terms of whether you want to help important stakeholders pick it up. For example, to make this really clear, you have to understand that even a company like Google or anyone else—I'll just pick one name—makes money with a fraudulent impression. It's similar to a marketplace like eBay. If you get a commission with the volume on everything that's paid, you get your cents. So there's a conflict of interest. On one hand you want to reduce [ad fraud] because of PR reasons mainly, while, on the other hand, everyone has pressures to hit their targets.<sup>10</sup>

### **Engaging in partnerships to improve news**

4.15 The committee also received evidence on the work of Google and Facebook to build the capacity and skills of journalists, and spread awareness of the opportunities afforded by the digital age. For example, Google submitted that:

Another way we support news publishing is via the Google News Lab, a dedicated program within Google that works directly with newsrooms to provide trainings that help boost digital skills, support data journalism, and develop better tools for data analysis and visualisation. After running a series of successful workshops with local publishers since 2016, training more than 100 journalists in the use of Maps and Search to tell stories, we are expanding our engagement with newsrooms on an ongoing basis.

We also support emerging journalistic talent through the Google News Lab Fellowship by offering students and professionals interested in journalism and technology the opportunity to work with some of the most prestigious media organisations in the world.<sup>11</sup>

4.16 Facebook outlined a number of ways it works with the media sector:

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9 *Committee Hansard*, 11 July 2017, p. 14.

10 *Committee Hansard*, 23 November 2017, p. 3.

11 *Submission 38*, p. 6.

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To this end, we work with our partners in the news industry to find ways for journalism and news to flourish on our platform—whether it is by providing advice and training on best practice on our services through our Facebook for Journalism project; developing new tools to assist publishers to monetise and distribute their content more effectively, such as through video monetisation and Instant Articles; or through initiatives to build a more informed community such as the News Integrity Initiative and First Draft Coalition, among others. Facebook is a distribution platform for publishers—a way for people anywhere to read or watch the work of journalists and media organisations, and we are working to establish stronger ties between Facebook and the news industry to ensure that we are a collaborative and transparent partner to journalists.<sup>12</sup>

4.17 Mr Pellegrino, the Managing Director of Google Australia, also noted that his organisation was responding to a significant appetite from publishers to develop subscription models and paywall enforcement:

Today we are being asked to focus more on subscriptions, especially given the growing trend towards digital subscriptions from the news industry and the increasingly important role it plays as a revenue stream for many publishers. As you may have seen in recent days, we are in active discussions with publishers around the world, including here in Australia, with a view to taking what we do to support subscriptions to another level. For instance, we are focused on how we can support subscriptions and paywalls across our services to make subscription based content more visible in search, and we want to make sure that publishers are part of this effort. We know that success for everyone is coming together and partnering in this work. We understand many publishers will be keen to see the outcome, and we hope to have more to share in coming months.<sup>13</sup>

4.18 Ms Áine Kerr, the Manager of Journalism Partnerships for Facebook, also noted that the media industry had highlighted skills development as a priority, to which Facebook had responded in a number of ways:

...a request we've gotten from the industry is to help with the upskilling of their journalists so that they can use the products and tools and services to find content on the platform, to engage with audiences, to build loyal followings. As part of that here in Australia, for example, we bought a company called CrowdTangle last December. We've made it free and available. We're already at 12 newsrooms, 30 brands here in Australia, but there is more to do. We're running e-learning courses, webinars, workshops. We're going to be bringing our Facebook Journalism Project news days here to Sydney in the coming months. These are already full. We're holding workshop days, where we bring our product teams in, our partner engineers, and we show what's on our roadmap, we show how our products work, we provide skills and training to journalists.<sup>14</sup>

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12 *Submission 40*, p. 3.

13 *Committee Hansard*, 22 August 2017, p.19.

14 *Committee Hansard*, 22 August 2017, p. 13.

4.19 Additionally, the committee understands that Fairfax and Google recently announced that they would partner to develop digital media products and streamline programmatic advertising bookings across Fairfax titles. Mr Greg Hywood, Chief Executive and Managing Director of Fairfax Media, is reported as saying this was an innovative approach, and 'We expect [the] upside performance from this partnership will allow us to make new investment in our journalism'.<sup>15</sup>

4.20 Ms Jacqui Park, the Chief Executive Officer of the Walkley Foundation, told the committee about other positive signs of engagement between aggregators and the traditional media sector. In particular, she highlighted the contribution that Google made in partnering on the Walkley Foundation's Incubator and Innovation Fund:

... We shopped around a lot and Google, to their credit, were the only ones who came on board. They've been giving us between \$70,000 and \$120,000 a year for the past four years. But that's really a very small amount of money to be doing this kind of work with. We've managed to fund five projects this year up to \$35,000—anything from \$5,000 to \$35,000.<sup>16</sup>

4.21 Google noted other ways that they partner with the Walkley Foundation:

In addition, we partner with The Walkley Foundation to provide funding for its innovation fund and the Global Editors Network Editors Lab hackdays; both initiatives support creative and exciting new ways of delivering news and media content to engage and better inform Australians.<sup>17</sup>

### **Combating the spread of fake news**

4.22 Both Google and Facebook noted the work they were undertaking to combat the availability and spread of 'fake news', or misleading content, on their platforms. Facebook submitted to the committee that the bulk of 'fake'—or 'false'—news was financially motivated, and so reducing the profitability of generating fake news would stem its production. It submitted:

In terms of disrupting the economic incentives, we believe one of the most effective approaches is removing the economic incentives for traffickers of misinformation. We have found that a lot of fake news is financially motivated. Spammers make money by masquerading as legitimate news publishers, and posting hoaxes that get people to visit to their sites, which are often mostly ads.

Some of the steps we're taking include:

- Applying machine learning to assist our response teams in detecting fraud and enforcing our policies against inauthentic spam accounts,

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15 Jennifer Duke, 'Google, Fairfax join forces in advertising partnership', *Sydney Morning Herald*, 11 December 2017 available at [www.smh.com.au/business/media-and-marketing/google-fairfax-join-forces-in-advertising-partnership-20171211-p4yxm3.html](http://www.smh.com.au/business/media-and-marketing/google-fairfax-join-forces-in-advertising-partnership-20171211-p4yxm3.html) (accessed 12 December 2017).

16 *Committee Hansard*, 22 August 2017, p. 37.

17 *Submission 38*, p. 6.

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- Updating our detection of fake accounts on Facebook, which makes spamming at scale much harder.<sup>18</sup>

4.23 Facebook also pointed out a number of its other initiatives designed to make reporting fake or misleading content easier, including encouraging users to flag contested articles, ensuring an alternative source was brought to a user's attention, and piloting partnerships with third-party fact checkers overseas.<sup>19</sup> On point, Dr Peter Fray noted that:

Facebook, to its credit, has taken on board a lot of the criticisms that flowed from the US election and has formed several alliances with fact-checking and verification services. That is actively happening.<sup>20</sup>

4.24 Likewise, Ms Megan Brownlow, a Partner with PwC with long experience in the media sector, told the committee that:

It is important to acknowledge though that there is a natural check and balance because Facebook and Google also need the news content. What that means is they have been encouraged because of that need to create some news supportive changes. Google, for example, changed its algorithm to surface quality journalism above fake news and other types of rubbish journalism. That is one thing it has done. Facebook is putting out 'subscribe now' buttons now for news stories to encourage users to then subscribe to the news organisations. These things are recognitions that they need news content creators, and that is a positive natural check and balance.<sup>21</sup>

4.25 Google also emphasised that providing relevant, useful and reliable information was at the core of its service to users. Mr Pellegrino highlighted Google's development of a range of strategies to deal with misleading content, including algorithms that could identify sites containing potentially spurious information, ways that users could flag suspicious sites, and partnerships with external fact checking organisations. Additionally, Google highlighted the following initiatives:

- Google, via our News Lab, is a founding member of the First Draft Coalition, an organisation dedicated to addressing challenges relating to trust and truth in the digital age for newsrooms, human rights organisations and many others enabling users to highlight fact-checked content in Google Search and News;
- adjusting algorithms to help identify reliable sources and demote inaccurate or 'fake news' content for users, as well as to identify misleading advertising content; and

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18 *Submission 40*, p. 9.

19 *Submission 40*, p. 6; see also *Committee Hansard*, 22 August 2017, pp. 7–8.

20 *Committee Hansard*, 17 May 2017, p. 46.

21 *Committee Hansard*, 11 July 2017, p. 3.

- providing free protection from cyberattacks seeking to deny user service (DDoS) through 'Project Shield' for news, journalists, human rights, and elections monitoring sites.<sup>22</sup>

### **A levy or tax on aggregators**

4.26 Some evidence received by the committee suggested that the Commonwealth should impose a levy on aggregators—particularly Google and Facebook, or an additional tax on their advertising profits. It was suggested that this could offset the cost to government of any direct subsidies or indirect supports that flowed to producers of public interest journalism. In making the case for this proposal, some witnesses and submitters suggested that aggregators had some responsibility for the demise in of traditional business models, and any subsequent effects on employment and standards in journalism. It was also noted, that aggregators continue to make immense profits from leveraging content made by others, including journalism produced by traditional and new media, as well as individuals, and alleged that they have done so while minimising their general tax liabilities in Australia.

4.27 Other perspectives argued the imposition of a levy would simply be punishing aggregators for developing successful business models and providing a good service for consumers.

### ***The tax liabilities of international aggregators in Australia***

4.28 An earlier chapter of this report noted that Morgan Stanley estimated that the market in digital advertising in Australia is worth around \$6 billion annually, and that Google and Facebook account for between \$4 to 5 billion of this revenue.

4.29 However, there is a discrepancy between these claims and information provided to the committee by Google and Facebook. Mr Pellegrino informed the committee that:

In Australia, our overall [gross] revenue that we reported last year was \$1.14 billion. We don't break that down by revenue stream. That's a policy that we have globally....On that \$1.14 billion, we generated a profit of \$121 million. We paid \$33 million in tax, which is, broadly, an effective tax rate of 27 per cent.<sup>23</sup>

4.30 Facebook informed the committee that their annual Australian revenue for 2016 had been \$326 million. In another Senate committee hearing looking at corporate tax avoidance, Facebook confirmed that of its total \$326 million turnover, it declared a profit before income tax of \$6 million for Australia, and that its total global revenue in this period was \$27.6 billion in revenue, with \$15.2 billion in expenses.<sup>24</sup>

4.31 Many witnesses and submitters to this select committee argued that Facebook and Google were not only stripping revenue from Australian media companies, but

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22 *Submission 38*, pp. 9–10.

23 *Committee Hansard*, 22 August 2017, pp. 23–24.

24 Senate Economics References Committee, *Committee Hansard*, 22 August 2017, p. 25.



they had an unfair competitive advantage as a consequence of their tax minimisation strategies.<sup>25</sup>

4.32 There have been some recent indications that Facebook is adjusting its selling practices to start to address this issue:

...advertising revenue supported by our local teams will no longer be recorded by our international headquarters in Dublin, but will instead be recorded by our local company in that country....[to] provide more transparency to governments and policy makers around the world who have called for greater visibility over the revenue associated with locally supported sales in their countries.<sup>26</sup>

4.33 It is not yet clear how this will affect Facebook's Australian operations or tax liabilities—or whether this will contribute positively to the health of public interest journalism. However, the committee sees it as a positive sign that Facebook is willing to be more transparent about its local advertising framework and revenues.

4.34 The committee also notes the ACCC inquiry into the power of digital aggregators and its effect on Australia's media industry, discussed later in this report.

#### ***Holding aggregators responsible through taxation***

4.35 The committee heard some evidence that suggested aggregators should be held responsible for the profoundly negative effects they had caused in the media industry.<sup>27</sup>

4.36 For example, Associate Professor Andrew Dodd, the Chair of the Public Interest Journalism Foundation, stated that:

I believe they do have a responsibility by virtue of the fact that they are beneficiaries of the content. There's no doubt whatsoever that those platforms benefit enormously. It's true that a lot of content providers have made a deal, in a sense a deal with the devil, because what they're asking for are eyeballs watching content and viewing what they do, but they've had to trade off a lot of control about the revenue streams attached to it by virtue of the nature of these new platforms that have broken down their business models. So you simply ask whether or not these platforms are benefiting from all that journalism that is being done, and in almost all instances they are.<sup>28</sup>

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25 For example, Mr Paul Murphy, MEAA, 17 May 2017, p. 11; Ms Rebecca Costello, Schwartz Media, 21 November 2017, pp. 39–40; Professor Matthew Ricketson, *Committee Hansard*, 21 August 2017, p. 3.

26 See the blog post written by Facebook's Chief Financial Officer, Mr Dave Wehner, 'Moving to a local selling model', 12 December 2017, available at <https://newsroom.fb.com/news/2017/12/moving-to-a-local-selling-model/> (accessed 13 December 2017).

27 For example, see Dr Denis Muller, *Submission 11*, p. 2; michaelwest.com.au, *Submission 23*, p. 4; Croakey, *Submission 25*, pp. 7–8; Mr Ray Bange, *Submission 47*, p. 7; MEAA, *Submission 64*, p. 3 and pp. 11–12. The submission made by the Freeline Group noted both support and opposition to a levy on aggregators among its membership. *Submission 51*, p. 12.

28 *Committee Hansard*, 21 August 2017, p. 10.

4.37 The Media, Entertainment & Arts Alliance (MEAA) described the damage that aggregators had caused to the sector:

These non-paying entities strip advertising and other revenue from regulated media entities that provide important public interest editorial and entertainment Australian content for Australian audiences. To date, they have made little effort to acknowledge the funding problem and even less to contribute to funding the content from which they benefit enormously...Companies that financially benefit by reproducing but not creating news content should contribute funding towards maintaining and developing journalistic content and endeavours. That is a basic principle that we think would be important to apply. Regulators at national and international levels should act with urgency to establish payment mechanisms, whether by a levy or other means, from intermediaries of scale, such as Google and Facebook, which justly compensate authors and publishers for their creative works.<sup>29</sup>

4.38 Schwartz Media submitted that a proposed levy might also be countervailed by tax incentives for aggregators supporting local journalism:

One of the key proposals being canvassed is a levy or 'turnover tax' on Facebook and Google, with revenue used to support public interest journalism. This is a reasonable action by government, taking into account the very low rate of tax paid by these companies in Australia (considering the revenue they collect here) as well as the necessity of mitigating the worst effects of their market dominance. It might also be worth considering offering incentives to Facebook and Google, tax or otherwise, for supporting local public interest journalism.<sup>30</sup>

4.39 Mr Chris Graham, the Publisher and Editor of the *New Matilda*, expressed some scepticism about whether he supported a targeted levy on aggregators, but suggested that it could be an option considered by government:

Part of me doesn't support special taxes for that, for organisations like Facebook, but a bigger part of me thinks they've got it coming, given the way they conduct themselves. I certainly wouldn't oppose it, and I wouldn't criticise it. I think those organisations have a right to operate their businesses the way they see fit, but there is undoubtedly a broader societal interest in how they operate their businesses. I think that, if you asked Facebook and Google and others, they would probably acknowledge that. I don't know if they're interested in sharing revenue [as it's not their business model]...At one level, [a levy] makes me a little anxious, but, at another level, have at it.<sup>31</sup>

4.40 Professors Fray and Wilding argued against Facebook and Google having liability for the state of the media sector. They observed that that Australians have a very positive view on aggregators and their products—noting a stark contrast to the

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29 *Committee Hansard*, 17 May 2017, p. 11.

30 *Submission 10*, p 2.

31 *Committee Hansard*, 22 November 2017, pp. 17–18.

banking sector, where levies have been used by government and garnered popular support. However, they did note:

Alternatively, if we think [Google and Facebook] are not causing a harm as such, but are failing to contribute in the way that others do, there may be a case for some form of levy. This is broadly the view that would inform a policy decision to require Netflix to contribute to the production (or at least the funding) of Australian 'television' drama. It requires a prior decision that the new entrant is essentially in the same game as the legacy operator—or at least that they are all now in the same game together.<sup>32</sup>

### ***Proposals for the mechanism and quantum of an aggregator levy***

4.41 While many submissions supported a levy on aggregators in principle, most did not provide details on how this should be applied or a mechanism for distribution. However, the committee did receive some more detailed evidence on the matter.

4.42 The MEAA suggested that 1 per cent of aggregator advertising revenues could compensate the sector for the content reproduced on aggregators' news feeds, outlining a number of potential models:

There are a number of approaches that are being looked at around the world. You can approach it in the context of antitrust, breaking down the enormous and unreasonable market power of these organisations. I know that there is some work underway on that front in the EU. We think that you have to look at a means of taxation or levying that enormous revenue and directing it back to a proper public purpose.<sup>33</sup>

4.43 Mr Matthew Chesher, Director, Legal and Policy for the MEAA, pointed out that only governments had the power to address these concerns, given the scale and power of aggregators.<sup>34</sup> Mr Chesher suggested that government regulation could stipulate such a levy as a condition of access to a particular market for aggregation platforms:

As some starting points, we have identified the following. Companies that financially benefit by reproducing but not creating news content should contribute funding towards maintaining and developing journalistic content and endeavours. That is a basic principle that we think would be important to apply. Regulators at national and international levels should act with urgency to establish payment mechanisms, whether by a levy or other means, from intermediaries of scale, such as Google and Facebook, which justly compensate authors and publishers for their creative works. Such funds should ensure that a minimum of one per cent of advertising revenues of organisations of scale are devoted to fund journalistic and related content, as a condition of a company's access to each market.<sup>35</sup>

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32 *Submission 34*, p. 5.

33 Mr Paul Murphy, Chief Executive, Media, Entertainment & Arts Alliance, *Committee Hansard*, 17 May 2017, p. 15.

34 *Committee Hansard*, 17 May 2017, p. 15.

35 *Committee Hansard*, 17 May 2017, p. 15.

4.44 This idea was also canvassed by Professor Matthew Ricketson, Professor of Communications at Deakin University. He drew the committee's attention to the analysis of a senior policy officer of the US Federal Communications Commission, who proposed that if the leaders of Google, Facebook, Verizon and Apple:

4.45 ...put the equivalent of just 1 per cent of their profits, for five years, to the [journalistic] cause, local American journalism would be transformed for the next century. That would be \$4.4 billion—enough to establish a permanent endowment to fund local journalism. That would produce about \$200 million in income a year. More than 15 times the current philanthropic spending on investigative journalism—and enough for about 50 new investigative reporters in each state.<sup>36</sup>

### ***Opposition to a levy***

4.46 The committee also received evidence that argued against the potential introduction of a levy on aggregators on a number of grounds.

4.47 Some submitters saw the proposal as an unnecessary impost for businesses that had developed a successful model, which delivered value to consumers and society more broadly. For example, Dr Christopher Berg, a Senior Fellow at the Institute of Public Affairs, argued:

I would be very firmly opposed to taxing particular firms that a lot of people in the media industry are angry about because they haven't been able to keep up with that sort of innovation. I think that would be a very, very bad way to go. We see successful firms operating in the media space that are adding a great deal of value to consumers. To then be targeting them with firm-specific taxation in order to fund what we consider to be our pet projects, I think would be a very, very bad way to go.<sup>37</sup>

4.48 Mr Campbell Reid, the Director of Corporate Affairs and Editorial Management for News Corp Australia, suggested it was more important for governments to ensure a level playing field in the market place and encouraging behavioural change by aggregators:

So [News Corp is] more attracted to a fair, competitive market place rather than imposing a levy which kind of says that Google and Facebook don't have to change any of their current behaviours. We think that they do need to change their current behaviours, because they are making an unprecedented level of money off other people's creative ideas, and the people who create that, whether it's a song or a piece of journalism, have a right to earn their share.<sup>38</sup>

4.49 Google suggested that the real issue was shifting consumer behaviour. Mr Pellegrino told the committee:

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36 *Committee Hansard*, 21 August 2017.

37 *Committee Hansard*, 21 August 2017, p. 19.

38 *Committee Hansard*, 22 November 2017, p. 31.

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The challenge is shifting consumer behaviour from old models into new models and new platforms and mobile devices. The imposition of those regulations and those levies doesn't help publishers deal with that transition...The success of media publishers in adapting to a new world will be based upon their ability to innovate and adapt....<sup>39</sup>

4.50 Additionally, Mr Pellegrino highlighted the experience in Spain that had led to worse outcomes for consumers and publishers. As Google News is not monetised, he suggested, it was not economically viable to maintain the service:

...in Spain the levy was introduced and we had to then pull down our Google News product because it doesn't make money, the content distribution. What actually happened was a dramatic reduction in the number of clicks to publishers. Specifically, smaller publishers got hurt a lot more than larger publishers. In a re-review of that, you're hearing a lot from small publishers who want reintroduction of the Google News platform to help them continue to access audiences... To ask us to pay for the content and then send that traffic directly to the websites is not commercially feasible for us, and we decided to shut that down.<sup>40</sup>

4.51 The Digital Industry Group Inc. pointed to research that found levies imposed in Spain had:

- no theoretical or empirical justification for its existence since aggregators bring to online publishers a benefit rather than a harm;
- negatively impacted the revenue earned from advertisers by online publishers, especially small ones (which it estimated in the short term at around €9-18 million annually), in addition to the creation of barriers to entry and expansion, with the consequent negative impact on market concentration and competition;
- a negative impact for consumers, due to the reduction in the consumption of news and the increase in search time;
- a negative impact for advertisers, due to greater concentration in the advertising market, for example, through the loss of specialised channels; and
- a negative impact on innovation in all the sectors involved (news aggregation, online press, advertising, etc.).<sup>41</sup>

4.52 The Walkley Foundation suggested that working with the aggregators to establish an independent fund supporting journalism might be the best way to proceed:

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39 *Committee Hansard*, 22 August 2017, pp. 31–32.

40 *Committee Hansard*, 22 August 2017, p. 32. This evaluation was also backed up by Ms Jacqui Park, Chief Executive Officer, Walkley Foundation, 22 August 2017, p. 36 and Mr Jason Pellegrino, Managing Director, Google Australia Pty Ltd, *Committee Hansard*, 22 August 2017, p. 32.

41 Digital Industries Group Inc., *Submission 63*, p. 4.

MEAA has proposed a levy on platform revenues to fund independent journalism. The Walkleys are talking directly with the platforms to encourage their contribution to such a fund.

Both Google and Facebook are attempting to respond and are open to discussions. In Australia, the Walkleys has been at the centre of those talks and has active partnership with both organisations. The government and parliament could help by recognising the Walkleys as a key media partner in these discussions.<sup>42</sup>

4.53 Mr Chesher saw the only alternative to a government levy being proactive steps to address the imbalance created by the scale and success of their business model:

The alternative is that Google and social media organisations make an important concession that they are effectively a news outlet that attracts a mass of advertising, and that they take active steps to deal with it. A levy is attractive in a superficial way. Its workability is difficult to determine. Nonetheless, we have got this issue where, frankly, only national governments are of suitable scale to address a problem of this magnitude. It was recently reported that Google's US\$590 billion market value is about half of Australia's annual gross domestic product.<sup>43</sup>

### **Committee view**

4.54 The preceding chapters outlined the very serious challenges faced by the media sector, as well as some ways in which it is adapting to the modern digital age. It is clear to the committee that the aggregators—in particular Google and Facebook—have played a key role in breaking the established business model of mainstream press media, in particular the way publishers of news can no longer expect the substantial revenue from commercial and classified advertising that they once could.

4.55 Aggregators have also facilitated—even if only as a product of their business models—the distribution and spread of fake news and misleading content, which is of enough concern to governments around the world for inquiries to be undertaken, and laws introduced in an attempt to make aggregators more responsible.

4.56 The Australian Competition and Consumer Commission (ACCC) launched an inquiry in December 2017 into aggregators and social media platforms, including Google and Facebook, and potential negative or unfair effects on consumers, media content creators—including journalists, and advertisers. A preliminary report is due in late-2018, and a final report in mid-2019.

4.57 Many of these issues will be considered by the ACCC in its inquiry. This inquiry will have far greater resources, expertise and time than this select committee to fully consider any potential negative or unfair effects on consumers, media content creators—including journalists, and advertisers from aggregators.

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42 *Submission 55*, p. 17.

43 *Committee Hansard*, 17 May 2017, p. 15.

4.58 While much remains to be done by the aggregators, the committee was encouraged by some positive indications that they are increasingly willing to deepen their engagement with the sector, and to invest their time, expertise and money in new partnerships to support the industry. There are also other positive signs, including indications they are taking more ownership of the problem of fake or misleading news, misinformation and hate-speech, and looking for ways to crack down on the spread of damaging material through their platforms.

4.59 Moreover, whereas some evidence spoke to the profound difficulties that the news media faces from aggregators, other evidence spoke of the exciting opportunities offered by new global markets, ever-growing audiences, and the enhanced connectedness that the digital age brings with it. How best, then, to harness the advantages while managing the structural change in a way that preserves the essential integrity and function of the news media, on which we all—including the aggregators—rely so heavily?

#### *A levy on aggregators*

4.60 The proposal to impose a levy on aggregators, in particular on Google and Facebook, was a regular feature in evidence and garnered a good deal of support. Many witnesses and submitters saw the policy as a means of ensuring that aggregators would make a reasonable financial contribution to the generation of Australian-made content, including quality journalism, and for the Commonwealth to offset any direct subsidies or indirect rebates or concessions implemented to assist the media industry.

4.61 Many suggested this would contribute to bolstering the sector against declining levels of trust, fewer journalists, and the general depletion of its capacity to investigate stories that contribute to the general public good. Others argued it would also ensure aggregators had more reliable and quality content for their users to engage with and share.

4.62 Nonetheless, there was also some scepticism about the proposal in evidence. Some suggested that an impost on aggregators would merely punish companies for their success and hard work. Moreover, there was a perception that the proposal did not give due credit for the unprecedented audiences Google and Facebook offered established media, the innovation and creativity they fostered in the sector, and the power they give consumers to access cheap and easy information.

4.63 In considering the idea of a levy, the committee has become aware that both Google and Facebook have made adjustments to their accountancy practices, so that advertising booked by Australians will be accounted for in Australia. Moreover, the committee is also aware that the potential use of transfer pricing by these and other businesses, to reduce the amount of tax payable in Australia, is the subject of other Senate inquiries, as well being the subject of examination by the ACCC.

4.64 Given this, the committee is not in a position to make recommendations in relation to a levy at this time, but would make the comment that a levy may be a useful policy mechanism in the future, depending on the outcome of the other inquiries mentioned above, and on the continued efforts of large aggregators to cooperate with and assist news media and other content generators to remain viable.

4.65 The committee now turns to a discussion of how various international jurisdictions have attempted to support public interest journalism and the sector more broadly through policy and legislation.



# Chapter 5

## Overseas experience

5.1 As outlined in the previous chapters, challenges faced by media outlets producing public interest journalism are not unique to Australia, but are truly global in nature. In considering what models of policy or legislative reform might be appropriate for the Commonwealth to consider, the committee has looked at some ways that other jurisdictions have approached the task of ensuring their media sectors remain strong, sustainable, and diverse, and address the problems caused by fake news.

### Europe

#### *Efforts to counter hate speech*

5.2 In May 2016, many of the large aggregators signed a European Union (EU)-sponsored code of conduct, which included a commitment to develop and establish a definition of illegal hate speech and other extremist material. Signatories included Facebook, Microsoft, Twitter and YouTube.<sup>1</sup>

5.3 On 28 September 2017, the EU presented 'guidelines and principles for online platforms' to ensure illegal content was removed quickly. It stated that this was not solely to prevent the distribution of illegal content, but also to bolster the trustworthiness of the digital environment, noting its economic importance:

The aim is to increase the proactive prevention, detection and removal of illegal content inciting hatred, violence and terrorism online. The increasing availability and spreading of terrorist material and content that incites violence and hatred online is a serious threat to the security and safety of EU citizens. It also undermines citizens' trust and confidence in the digital environment – a key engine of innovation, growth and jobs.<sup>2</sup>

#### *Copyright law*

5.4 The EU Parliament is currently considering a Directive on Copyright in the Digital Single Market, which would create 'a new related right for publishers of press publications for the digital use of their publications'.<sup>3</sup> This is intended to secure a

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1 European Commission, 'European Commission and IT Companies Announce Code of Conduct on Illegal Online Hate Speech', *Media release*, 31 May 2016.

2 European Commission, 'Security Union: Commission steps up efforts to tackle illegal content online', *Press Release*, 28 September 2017, [http://europa.eu/rapid/press-release\\_IP-17-3493\\_en.htm](http://europa.eu/rapid/press-release_IP-17-3493_en.htm) (accessed 9 November 2017).

3 European Parliament, *Legislative Train Schedule: Connected Digital Single Market: Modernisation of European Copyright Rules: Directive on Copyright in the Digital Single Market*, 20 December 2017, [www.europarl.europa.eu/legislative-train/theme-connected-digital-single-market/file-directive-on-copyright-in-the-digital-single-market](http://www.europarl.europa.eu/legislative-train/theme-connected-digital-single-market/file-directive-on-copyright-in-the-digital-single-market) (accessed 5 January 2018).

sustainable press, and to make it easier for publishers to license their material and/or enforce intellectual property rights.<sup>4</sup>

5.5 Considerable controversy has arisen over the proposal, with questions raised about how it would increase revenue for press publishers and encourage more sustainable business models in the media. Critics have noted that earlier amendments to copyright laws in Germany and Spain (which informed EU-wide reform) have not bolstered the media sector against the collapse of subscription and advertising revenues in those countries.<sup>5</sup>

### *Subsidies for the press*

5.6 A number of European countries also give direct subsidies to media, which were summarised in the submission made by the Media, Entertainment & Arts Alliance (MEAA). This submission noted there has been little suggestion that these measures have either politicised the media, or restricted editorial freedom:

Government newspaper subsidies, which have been in use since the 1970s, exist in Belgium, Finland, France, Netherlands, Norway and Sweden. According to the London School of Economics, the French government provides €1 billion a year in State subsidies [as discussed below].<sup>6</sup>

### **Germany**

5.7 Germany has advocated for EU-level laws to combat hate speech and the prevalence of fake news, and has passed controversial national legislation to deal with these issues which came into effect on 1 January 2018.<sup>7</sup> This piece of legislation, the Network Enforcement Act (NetzDG), is often termed 'the Facebook Law'.<sup>8</sup> This empowers the government to penalise social media companies that do not swiftly remove 'obviously illegal' content, including hate speech, defamation, threats, incitement to violence and certain kinds of fake news. Under the law, fines could be issued to companies that fail to take down 'obviously illegal' content within 24 hours,

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4 Policy Department for Citizens' Rights and Constitutional Affairs, Directorate General for Internal Policies of the Union, *Strengthening the Position of Press Publishers and Authors and Performers in the Copyright Directive*, September 2018, p. 18.

5 Policy Department for Citizens' Rights and Constitutional Affairs, Directorate General for Internal Policies of the Union, *Strengthening the Position of Press Publishers and Authors and Performers in the Copyright Directive*, September 2017, pp. 18–19, 33–34, 37.

6 MEAA, *Submission 64*, p. 5.

7 JERAA, *Submission 39*, p. 8; Sara Salinas, 'Social media companies could face huge fines from German hate speech law', *CNBC*, 2 January 2018, [www.cnbc.com/2018/01/02/germanys-hate-speech-law-could-cost-internet-companies.html](http://www.cnbc.com/2018/01/02/germanys-hate-speech-law-could-cost-internet-companies.html) (accessed 11 January 2018).

8 The formal title of the legislation is the *Netzwerkdurchsetzungsgesetz*, abbreviated to NetzDG. The speech introducing the legislation to the Bundestag can be found at [www.bmjv.de/SharedDocs/Reden/DE/2017/06302017\\_BT\\_NetzDG.html?nn=6704226](http://www.bmjv.de/SharedDocs/Reden/DE/2017/06302017_BT_NetzDG.html?nn=6704226) (accessed 11 January 2018).

ranging from € million for early infringements to €50 million for sustained breaches.<sup>9</sup>

5.8 The NetzDG also requires social media companies to publish regular reports on the number of complaints received, and how these complaints were handled. Again, the government can impose fines for non-compliance with these requirements.<sup>10</sup>

5.9 The development of this legislation was controversial, accruing criticisms in particular from human rights organisations and free speech advocates, who have claimed that the law risks extending censorship provisions and having a chilling effect on free speech. Moreover, commentators have noted that 'it creates an unreasonable and possibly unconstitutional requirement for social network staff members to make rapid-fire judgements about freedom of expression and the legality of public opinion'.<sup>11</sup> On the other hand, it has been supported by groups representing minorities, including the German Central Council of Jews.<sup>12</sup>

5.10 Facebook has criticised the NetzDG, issuing a statement that argued:

The draft law provides an incentive to delete content that is not clearly illegal when social networks face such a disproportionate threat of fines... It would have the effect of transferring responsibility for complex legal decisions from public authorities to private companies. And several legal experts have assessed the draft law as being against the German constitution and non-compliant with EU law. Facebook is committed to working in partnership with governments and civil society on solutions that will make this draft law unnecessary.<sup>13</sup>

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- 9 Janet Burns, 'Germany To Social Media Sites: Remove Hate Speech In 24 Hours Or Face \$57 Million Fines', *Forbes Tech Online*, 30 June 2017, [www.forbes.com/sites/janetwburns/2017/06/30/germany-now-allows-up-to-57m-in-fines-if-facebook-doesnt-remove-hate-speech-fast/#7ac9f451761d](http://www.forbes.com/sites/janetwburns/2017/06/30/germany-now-allows-up-to-57m-in-fines-if-facebook-doesnt-remove-hate-speech-fast/#7ac9f451761d) (accessed 11 January 2018).
- 10 Janet Burns, 'Germany To Social Media Sites: Remove Hate Speech In 24 Hours Or Face \$57 Million Fines', *Forbes Tech Online*, 30 June 2017, [www.forbes.com/sites/janetwburns/2017/06/30/germany-now-allows-up-to-57m-in-fines-if-facebook-doesnt-remove-hate-speech-fast/#7ac9f451761d](http://www.forbes.com/sites/janetwburns/2017/06/30/germany-now-allows-up-to-57m-in-fines-if-facebook-doesnt-remove-hate-speech-fast/#7ac9f451761d) (accessed 11 January 2018).
- 11 As highlighted by JERAA, *Submission 39*, p. 9. See also Janet Burns, 'Germany To Social Media Sites: Remove Hate Speech In 24 Hours Or Face \$57 Million Fines', *Forbes Tech Online*, 30 June 2017, [www.forbes.com/sites/janetwburns/2017/06/30/germany-now-allows-up-to-57m-in-fines-if-facebook-doesnt-remove-hate-speech-fast/#7ac9f451761d](http://www.forbes.com/sites/janetwburns/2017/06/30/germany-now-allows-up-to-57m-in-fines-if-facebook-doesnt-remove-hate-speech-fast/#7ac9f451761d) (accessed 11 January 2018).
- 12 Guardian staff and agencies, 'Germany approves plans to fine social media firms up to €50m', *Guardian Online*, 30 June 2017, at [www.theguardian.com/media/2017/jun/30/germany-approves-plans-to-fine-social-media-firms-up-to-50m](http://www.theguardian.com/media/2017/jun/30/germany-approves-plans-to-fine-social-media-firms-up-to-50m) (accessed 11 January 2018).
- 13 Sam Sheard, 'Facebook said Germany's plan to tackle fake news would make social media companies delete legal content', *Business Insider Australia*, 30 May 2017, [www.businessinsider.com/facebook-says-germany-fake-news-plans-comply-with-eu-law-2017-5#I76ZHethUh4pyXzp.99](http://www.businessinsider.com/facebook-says-germany-fake-news-plans-comply-with-eu-law-2017-5#I76ZHethUh4pyXzp.99) (accessed 11 January 2018).

## Austria

5.11 Austria gives extensive support to the newspaper sector through its *Press Subsidies Act 2004*, which is designed to encourage diversity and support public interest journalism. One particular challenge to local Austrian content is from the neighbouring German press sector, which is much larger.

5.12 This legislation empowers KommAustria, the national communications Authority, to distribute subsidies following recommendations made by Press Subsidies Commission, which evaluates grant applications.<sup>14</sup> According to a summary available on KommAustria's website:

In addition to distribution subsidies for daily and weekly newspapers and special subsidies for the preservation of diversity in regional daily newspapers..., the Press Subsidies Act of 2004 also provides for a number of new measures to promote quality and secure the future of the industry...

Under the heading 'Promotion of Journalist Education,' the publishers of daily and weekly newspapers can now receive subsidies toward the costs of training new journalists.

Another new development is the subsidy for employing foreign correspondents.

For the purpose of promoting the reading of daily and weekly newspapers - especially at schools—associations which have defined the promotion of reading as their sole objective can also receive subsidies. Publishers which provide schools with daily and weekly newspapers free of charge can be reimbursed for up to 10% of their regular selling price.

Another new addition is the promotion of research projects in this field.<sup>15</sup>

5.13 According to Journalism Education and Research Association of Australia (JERAA), Austria distributed €54.7 million to media in 2015, including €7 million to daily and weekly newspapers and websites, and €47.4 million to the broadcasting sector. JERAA also noted that the Austrian government supported its national press council, which oversees journalistic ethics, with €204,000 in 2015.<sup>16</sup>

5.14 Austria also contributes to newspapers for the training of young journalists to assure the future of public interest journalism.<sup>17</sup>

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14 'Press Subsidies', *KommAustralia*, [www.rtr.at/en/ppf/Pressefoerderung](http://www.rtr.at/en/ppf/Pressefoerderung) (accessed 11 January 2018); JERAA, *Submission 39* attachment 1 (Support for Public Interest Journalism—an international summary), p. 6.

15 'Press Subsidies', *KommAustralia*, [www.rtr.at/en/ppf/Pressefoerderung](http://www.rtr.at/en/ppf/Pressefoerderung) (accessed 11 January 2018).

16 JERAA, *Submission 39* attachment 1 (Support for Public Interest Journalism—an international summary), p. 6.

17 JERAA, *Submission 39* attachment 1 (Support for Public Interest Journalism—an international summary), pp. 6–7.

## Belgium

5.15 Belgium provides indirect support to its media sector. This support includes exemptions from Value Added Tax for newspapers and magazines publishing informative content for the general public and appearing at least fifty times a year, as well as subsidies for postal delivery of Belgian newspapers and magazines.<sup>18</sup>

5.16 Belgian media is divided along linguistic lines, with the different cultural community governments of Belgium providing direct government support to their respective media industries.<sup>19</sup> The Francophone Community subsidises French language, paper-version newspapers with at least 200 paid editions per year that meet other conditions. The Flemish Community gives annual subsidies to promote reading of the press and to improve the quality of press writing.<sup>20</sup>

## The United Kingdom

5.17 The United Kingdom provides limited subsidies for the press, notably an exception from paying Value Added Tax. However, it does impose a direct levy on each household to fund the British Broadcasting Corporation.<sup>21</sup>

5.18 In 2011, the UK prime minister announced the establishment of an inquiry to investigate the role of the press and the police following the *News International* phone hacking scandal. The inquiry examined 'the culture, practices and ethics of the press'.<sup>22</sup> This inquiry recommended establishing an independent regulatory body for the press, without influence from industry or government, and revisions to legislation on data protection.<sup>23</sup> Part I of the inquiry reported in November 2012. At the time of writing, the second phase of the inquiry has not yet commenced.

5.19 In early 2017, a UK parliamentary committee commenced an inquiry looking at fake news, in part to address a perceived threat to democratic principles and institutions, including elections, as well as waning trust in the media. This inquiry lapsed when the UK's General Election was called on 8 June 2017 and was revived in

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18 JERAA, *Submission 39*, Attachment 1 (Support for Public Interest Journalism—an international summary), p. 8; Tom Evens and Karin Raeymaeckers, *Belgium: Media legislation*, Media Landscapes: Expert Analyses of the State of Media, <https://medialandscapes.org/country/belgium/policies/media-legislation> (accessed 10 January 2018).

19 Tom Evens and Karin Raeymaeckers, *Belgium: Introduction*, Media Landscapes: Expert Analyses of the State of Media, <https://medialandscapes.org/country/belgium> (accessed 10 January 2018).

20 JERAA, *Submission 39* attachment 1 (Support for Public Interest Journalism—an international summary), p. 8.

21 Peter Humphreys, 'Media Freedom and Pluralism in the United Kingdom (UK)', in Andrea Czepek, Melanie Hellwig and Eva Nowak (eds.), *Press Freedom and Pluralism in Europe: Concepts and Conditions*, Intellect, Bristol, UK, 2009, pp. 198–199.

22 The Right Honourable Lord Justice Leveson, *An Inquiry into the Culture, Practices and Ethics of the Press*, November 2012, Volume I, p. 4.

23 The Right Honourable Lord Justice Leveson, *An Inquiry into the Culture, Practices and Ethics of the Press*, November 2012, Executive Summary, pp. 37–40.

the new parliament. As of January 2018 the inquiry remained open and was accepting submissions.<sup>24</sup>

5.20 The UK *Digital Economy Act* received royal assent in April 2017. Key provisions of the act relevant to this inquiry include the establishment of a code of practice for online social media platforms, developed in consultation with social media providers.<sup>25</sup>

## Norway

5.21 Norway provides a range of assistance to news providers to encourage healthy diversity and competition. Subsidies are targeted at newspapers in a 'difficult market position', particularly those servicing local communities.<sup>26</sup> In 2015, direct support for Norway's newspaper sector totalled €33.4 million.<sup>27</sup>

5.22 Expenditure for these subsidies is determined annually by parliament, with rates of distribution set by the Ministry of Culture and Church, and administered by the Norwegian Media Authority.<sup>28</sup> The largest subsidy available was the 'production subsidy', which in 2012 amounted to 287.9 million Norwegian Krone just for newspapers.<sup>29</sup> To be eligible, newspapers had to satisfy a range of criteria, namely:

- provide general news (that is, not be focused on a single issue)
- adhere to the editors' code, set by the editors and publishers' association
- grant editorial independence to its journalists
- not pay dividends to owners
- not have profits exceeding €20,000 per year, and
- not be a free newspaper or an exclusively online publication.<sup>30</sup>

5.23 There are also indirect support measures for all Norwegian newspapers, particularly through a VAT exemption on sales.<sup>31</sup>

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24 UK Parliament, 'Fake news', [www.parliament.uk/business/committees/committees-a-z/commons-select/digital-culture-media-and-sport-committee/inquiries/parliament-2017/fake-news-17-19/](http://www.parliament.uk/business/committees/committees-a-z/commons-select/digital-culture-media-and-sport-committee/inquiries/parliament-2017/fake-news-17-19/) (accessed 11 January 2018).

25 *Digital Economy Act 2017* (UK), para 103.

26 JERAA, Submission 39 attachment 1 (Support for Public Interest Journalism—an international summary), p. 16, citing Tore Østeraas, 'Press Subsidies in Norway' (2006), p. 81.

27 JERAA, Submission 39 attachment 1 (Support for Public Interest Journalism—an international summary), p. 17.

28 JERAA, Submission 39 attachment 1 (Support for Public Interest Journalism—an international summary), p. 16.

29 Rune Ottosen and Jan Fredrik Hovden, *Norwegian Press at a Crossroad: Free Market or Press Subsidy?*, 2017, p. 11.

30 JERAA, Submission 39 attachment 1 (Support for Public Interest Journalism—an international summary), p. 16.

31 JERAA, Submission 39 attachment 1 1 (Support for Public Interest Journalism—an international summary), p. 17.

## Sweden

5.24 The Swedish government provides two types of subsidies for the press: an operational subsidy and a distribution subsidy. Indirect subsidies for all printed newspapers include reduced Value Added Tax on sale price.<sup>32</sup> The subsidies are funded by a 10 per cent levy on advertising in general, and a 3 per cent levy on newspaper advertising.<sup>33</sup>

## France

5.25 The French government provides support to the press to:

Promote circulation by, for example, supporting the distribution of daily general and political news;

Promote diversity and pluralism by providing extra support for national daily general and political information press with low advertising income, as well as for regional, provincial, local and political information press with low advertising income;

Modernise and diversify media companies to shift to online content.<sup>34</sup>

5.26 According to the MEAA, the London School of Economics estimated that France provides around €1 billion a year in state subsidies for media, including:

In 2015 direct subsidies worth €77 million were provided to 326 newspapers and publications. The subsidies assisted regional and local press, helped fund modernisation and to assist with restructuring. More than 93% of the French Government's support goes to hard-copy newspapers and only 7% to exclusively on-line providers.

Indirect subsidies worth around €500m have been made available, including €200m for exemptions from local business rates, €160m for the lower VAT rates and around €250m on the special tax and social security contributions status granted to journalists. The state also pays over €100m a year to the newswire agency AFP.<sup>35</sup>

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32 JERAA, *Submission 39* attachment 1 (Support for Public Interest Journalism—an international summary), pp. 17–18; NORDICOM: Nordic Information Centre for Media and Communication Research, *Media VAT in the Nordic countries*, 2 December 2016, [www.nordicom.gu.se/en/latest/news/media-vat-nordic-countries](http://www.nordicom.gu.se/en/latest/news/media-vat-nordic-countries) (accessed 11 January 2018); Ingela Wadbring and Jonas Ohlsson, *Sweden: Introduction*, Media Landscapes: Expert Analyses of the State of Media, <https://medialandscapes.org/country/sweden> (accessed 11 January 2018).

33 JERAA, *Submission 39* attachment 1 (Support for Public Interest Journalism—an international summary), p. 18.

34 JERAA, *Submission 39* attachment 1 (Support for Public Interest Journalism—an international summary), pp. 10–11.

35 MEAA, *Submission 64*, p. 5.

5.27 Forms of indirect support from the French government include a lower rate for Value Added Tax, tax relief, preferential postal rates and waiving of professional taxes for publishers.<sup>36</sup>

5.28 In January 2018, President Emmanuel Macron signalled that his government would introduce legislation looking to limit the use and spread of fake news during election campaigns. These laws would include both social media and traditional media platforms, and include emergency powers to delete content or block websites.<sup>37</sup>

## Italy

5.29 The JERAA noted an overview of government subsidies for the press around the world which reported that since 1990, Italian government subsidies had consisted of a fixed annual amount equating to 30 per cent of operating costs, and a variable contribution based on circulation figures.<sup>38</sup>

5.30 However, analysts writing for the European Journalism Centre have argued that parliamentary and government interventions in the Italian media 'have lacked a coherent approach, often influenced by the partisan considerations of the day'.<sup>39</sup>

## Spain

5.31 In 2014, a law requiring all Spanish news publishers to charge news aggregators for using even a small excerpt from their publications was enacted. This led to the closure of local news aggregators, a drop in user traffic because smaller news publishers relied on news aggregators to increase their audience, and Google News closing its service to the Spanish market.<sup>40</sup>

5.32 A submission received by the committee from a group of academics noted that a study commissioned by the Spanish publishers association found that the 'Google tax' had caused considerable damage to the news industry in Spain.<sup>41</sup> The study found that the law would have an impact of approximately €10 million a year on producer surplus in the short-term.<sup>42</sup>

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36 JERAA, Submission 39 attachment 1 (Support for Public Interest Journalism—an international summary), pp. 11–12.

37 Gareth Browne, 'Macron faces criticism after proposal to combat fake news', *The National*, 9 January 2018, [www.thenational.ae/world/europe/macron-faces-criticism-after-proposal-to-combat-fake-news-1.693883#](http://www.thenational.ae/world/europe/macron-faces-criticism-after-proposal-to-combat-fake-news-1.693883#) (accessed 10 January 2018).

38 JERAA, Submission 39 attachment 1 (Support for Public Interest Journalism—an international summary), pp. 12–14.

39 Paolo Mancini and Matteo Gerli, *Italy: Media legislation*, Media Landscapes: Expert Analyses of the State of Media, <https://medialandscapes.org/country/italy/policies/media-legislation> (accessed 10 January 2018).

40 Digital Industry Group Inc., Submission 63, pp. 3–4.

41 Professor Peter Fray and Professor Derek Wilding, Submission 34, pp. 4–5.

42 NERA Economic Consulting, *Impacto del Nuevo Artículo 32.2 de la Ley de Propiedad Intelectual Informe para la Asociación Española de Editoriales de Publicaciones Periódicas (AEEPP)*, July 2015, Executive summary (English), p. xiv.



## The United States

5.33 Although the United States has not provided direct subsidies for news media to the same extent that governments in many European countries have, some federal and state tax benefits are designed to support newspapers and magazines.<sup>43</sup>

5.34 According to several submitters, philanthropic funding for non-profit investigative journalism, made attractive by tax deductibility, has contributed to a recent increase in the rise of centres for this kind of journalism in the United States, many of them attached to universities.<sup>44</sup>

5.35 Several submissions to this inquiry noted that a number of major American subscription news websites such as the *New York Times* and the *Washington Post* have recently grown their subscriber base by reinventing their business models and focusing on issues that their audiences value, particularly in areas related to investigative journalism.<sup>45</sup>

5.36 In January 2017 the United States House of Representatives Permanent Select Committee on Intelligence commenced an investigation into Russian interference in the 2016 election, including the use of advertisements on and spread of fake news via Facebook.<sup>46</sup> The United States Select Committee on Intelligence also held a concurrent investigation.<sup>47</sup> Both inquiries are yet to report.

5.37 A bill currently before the United States Senate, the Honest Ads Act, proposes to introduce more transparency to the process of purchasing political advertisements, in response to Facebook's disclosure in September 2017 that accounts linked to Russia during the 2016 presidential election purchased USD 100,000 worth of political advertisements.<sup>48</sup>

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43 Geoffrey Cowan and David Westphal, *Public Policy and Funding the News*, USC Annenberg School for Communication and Journalism, January 2010, p. 1.

44 As discussed in an earlier chapter.

45 Dr Christopher Berg, *Submission 16*, p. 5; ABC, *Submission 58*, p. 13; Digital Industry Group Inc., *Submission 63*, p. 2. See also Mr Jason Pellegrino, Managing Director, Google Australia Pty Ltd, *Committee Hansard*, 22 August 2017, p. 19.

46 Devin Nunes and Adam Schiff, 'Joint Statement on Progress of Bipartisan HPSCI Inquiry into Russian Active Measures', *Press release*, 25 January 2017, <https://intelligence.house.gov/news/documentsingle.aspx?DocumentID=758> (accessed 11 January 2018).

47 Senator Richard Burr and Senator Mark Warner, 'Joint Statement on Committee Inquiry into Russian Intelligence Activities', *Press release*, 13 January 2017, [www.intelligence.senate.gov/press/joint-statement-committee-inquiry-russian-intelligence-activities](http://www.intelligence.senate.gov/press/joint-statement-committee-inquiry-russian-intelligence-activities) (accessed 11 January 2018).

48 Natasha Bertrand, 'Senators have a new plan to fix a major loophole that let Russia take advantage of Facebook and tech giants', *Business Insider Australia*, 20 October 2017, [www.businessinsider.com.au/honest-ads-act-facebook-google-twitter-russia-2017-10?r=US&IR=T](http://www.businessinsider.com.au/honest-ads-act-facebook-google-twitter-russia-2017-10?r=US&IR=T) (accessed 11 January 2018).

## Canada

5.38 The Parliament of Canada undertook a review into the effect of technological change on local and regional news in Canada, which published its final report in June 2017.<sup>49</sup> The MEAA summed up the principal recommendations of this report as follows:

Tax deductibility for digital advertising in Canadian-owned media platforms,

Five-year tax credits for print media companies to compensate for investing capital and labour in digital media,

Ensuring foreign news aggregators are subject to the same tax obligations as Canadian media,

Through expansion and an increased budget for the Canadian Periodical Fund (which provides assistance and rewards innovation and industry initiatives to Canadian publishers, magazines and non-daily newspapers to ensure the public has access to a range of Canadian publications) make daily and free newspapers eligible to participate in the fund, and offer support for online distribution of magazines and newspapers including greater support for ethnic and indigenous media,

Apply a 'diversity of voices' test to ensure there is no dominance in any media market, and

Change the definition of a registered charity to include not-for-profit media and/or foundations.<sup>50</sup>

5.39 The Canadian government provided a response to the report in October 2017, noting that its Canada Periodical Fund (which provides support to Canadian publishers, magazines and non-daily newspapers) was 'exploring options to better meet the needs of Canadian periodicals to ensure that they can continue informing, entertaining and educating Canadians'.<sup>51</sup> It argued that including not-for-profit media organisations as charities would not necessarily be an effective way of supporting the media.<sup>52</sup>

5.40 Canada has a number of other policies in place to support local content, including some funding to the Canada Media Fund (alongside contributions from

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49 House of Commons Canada, *Disruption: Change and churning in Canada's media landscape*, June 2017.

50 MEAA, *Submission 64*, p. 5; and Dr Bill Birnbauer, *Submission 1* attachment 1 (Email to the committee), p. 1.

51 Government of Canada, *Government Response to the Sixth Report of the Standing Committee on Canadian Heritage Entitled Disruption: Change and Churning in Canada's Media Landscape*, October 2017, p. 3; House of Commons Canada, *Disruption: Change and churning in Canada's media landscape*, June 2017, p. 38; MEAA, *Submission 64*, p. 22.

52 Government of Canada, *Government Response to the Sixth Report of the Standing Committee on Canadian Heritage Entitled Disruption: Change and Churning in Canada's Media Landscape*, October 2017, p. 6.

private enterprise), which aims to foster, develop and finance the production of Canadian content for audiovisual media platforms.<sup>53</sup> The Canadian government also funds the national broadcaster, the Canadian Broadcasting Corporation (CBC).<sup>54</sup>

### **The Philippines**

5.41 One submitter who had researched fake news in the Philippines argued that '[t]he Philippines has one of the worst fake news problems in the world'.<sup>55</sup> The submitter observed that in the Philippines, fake news was very profitable, with up to 500,000 site visits a month for some websites, and up to 90 per cent of traffic to fake news websites was from Facebook.<sup>56</sup> The Philippines Senate Committee on Public Information and Mass Media is currently holding an inquiry into fake news and impact on the democratic process.<sup>57</sup>

### **Indonesia**

5.42 A police investigation in Indonesia in August 2017 found that fake news directed towards political figures in Indonesia was part of an organised campaign, spread through Facebook and other online forums, by a 'fake news factory' with political motivations. The police reported that the online syndicate charged tens of millions of rupiah to publish and spread fake news and hate speech against individuals, including about the former mayor of Jakarta, Basuki Tjahaja Purnama, who is now serving a controversial prison sentence for blasphemy.<sup>58</sup>

5.43 In October 2016, the Indonesian parliament passed revisions to the *Electronic Information and Transactions Act (2008)*. The revisions allow for a prison sentence of up to four years and a fine of up to 750 million rupiah to be imposed on individuals found to have spread hate speech or defamation via the internet, including through sharing fake news. The law has been subject to considerable controversy and criticism

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53 Canada Media Fund, *About us: Mandate and vision*, [www.cmf-fmc.ca/about-us](http://www.cmf-fmc.ca/about-us) (accessed 12 January 2018).

54 JERAA, Submission 39 attachment 1 (Support for Public Interest Journalism—an international summary), p. 29; Mr Adrian Jackson, *Submission 5*, p. 1; House of Commons Canada, *Disruption: Change and churning in Canada's media landscape*, June 2017, pp. 46–47.

55 Mr Harley Comrie, *Submission 72*, p. 4.

56 Mr Harley Comrie, *Submission 72*, pp. 5–6.

57 Julliane Love de Jesus, 'Senate to probe Facebook's taking down of posts violating "community standards"', *Inquirer.net*, 5 January 2018, <http://technology.inquirer.net/71044/senate-probe-facebooks-taking-posts-violating-community-standards> (accessed 12 January 2018).

58 Francis Chan, 'Indonesian police uncover "fake news factory"', *Straits Times*, 17 September 2017, [www.straitstimes.com/asia/se-asia/indonesian-police-uncover-fake-news-factory](http://www.straitstimes.com/asia/se-asia/indonesian-police-uncover-fake-news-factory) (accessed 11 January 2018).

by human rights groups because of recent cases involving politicians suing private citizens for criticising them on social media.<sup>59</sup>

5.44 Concerns that fake news spread through social media has caused a rise in religious extremism, Islamic terrorism and hate speech led the Indonesian government in January 2018 to launch a new cyber security agency to address these issues. The establishment of the agency comes in the lead-up to the 2019 national elections.<sup>60</sup> The current president, Joko Widodo, a Javanese Muslim, was subject to fake news circulating on social media during his 2014 campaign that he was a secret communist, Chinese or Christian, in a country known for its anti-communist and anti-Chinese rhetoric and a recent increase in anti-Christian sentiment.<sup>61</sup>

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- 59 Erin Cook, 'Social media as politics in Indonesia', *Asian Times*, 14 November 2017, [www.atimes.com/article/social-media-politics-indonesia/](http://www.atimes.com/article/social-media-politics-indonesia/) (accessed 12 January 2018); Constance Johnson, 'Indonesia: revised information law controversial', *Global Legal Monitor*, Library of Congress, 2 November 2016, [www.loc.gov/law/foreign-news/article/indonesia-revised-information-law-controversial/](http://www.loc.gov/law/foreign-news/article/indonesia-revised-information-law-controversial/) (accessed 12 January 2018).
- 60 Johanna Chisholm, 'Indonesia launches cyber agency to combat country's extremism and fake news', *Southeast Asia Globe*, 5 January 2018, <http://sea-globe.com/indonesia-cyber-security/> (accessed 11 January 2018).
- 61 Yenni Kwok, 'Where memes could kill: Indonesia's worsening problem of fake news', *Time*, 6 January 2017, <http://time.com/4620419/indonesia-fake-news-ahok-chinese-christian-islam/> (accessed 11 January 2018).

## Chapter 6

### Direct Commonwealth measures in support of public interest journalism

6.1 This chapter first discusses measures already used by government to support public interest journalism, before considering a number of proposals made in evidence received by the committee.

6.2 Regarding current Commonwealth measures to support a healthy and diverse media sector, this chapter looks at:

- The funding of the public broadcasters, ABC and SBS;
- Assistance to the community broadcasting sector;
- Current government legislation or policy that has either not yet been passed by Parliament or, where it has been passed, where full details have not been publically released; and
- Improving our education system to sharpen the critical thinking of future generations of Australians about news and current affairs.

6.3 It then moves to discussing some policy measures not currently in place that were discussed by the committee. These include the potential creation of a fund to administer subsidies or grants to support the production of public interest-journalism, administered by a body at arms-length from government.

#### Australia's Public Broadcasters

6.4 The Commonwealth already directly funds some public interest journalism through its funding of the Australia's public broadcasters, the Australian Broadcasting Corporation (ABC) and the SBS. Both broadcasters operate under legislation providing them with editorial independence from government, and charters that set out their principal functions.<sup>1</sup>

6.5 The ABC's charter provides that it must, among other things, provide an 'innovative and comprehensive broadcasting services of a high standard as part of the Australian broadcasting system consisting of national, commercial and community sectors', and it must '... transmit news, current affairs and entertainment programs outside Australia'.<sup>2</sup> This includes the provision of news. The charter that in its oversight the ABC Board must 'ensure that the gathering and presentation by the

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1 Respectively the *Australian Broadcasting Corporation Act 1983* (ABC Act) and *SBS Act 1991*.

2 Drawn from the ABC charter, which can be found in full in section 6 of the ABC Act and at <http://about.abc.net.au/how-the-abc-is-run/what-guides-us/legislative-framework/> (accessed 20 January 2017).

Corporation of news and information is accurate and impartial according to the recognised standards of objective journalism'.<sup>3</sup>

6.6 The SBS charter sets out its principal function as 'to provide multilingual and multicultural radio, television and digital media services that inform, educate and entertain all Australians and, in doing so, reflect Australia's multicultural society'.<sup>4</sup>

6.7 The 2017-18 Commonwealth Budget stated that the ABC's total funding amounted to \$1.1 billion.<sup>5</sup> Over the same period, the SBS budget was \$381.6 million, including direct Commonwealth funding of \$280 million. SBS runs on a hybrid model, which means that it is allowed to accept a limited amount of commercial advertising on some of its platforms, which the 2017-18 Budget expected to total \$101.6 million.<sup>6</sup>

### ***The role of broadcasters in news and public interest journalism***

6.8 In its submission, the ABC set out its commitment to, and investment in, public interest journalism across a number of platforms, as well outlining its reach into the Australian audience:

The ABC invests more in investigative journalism than any other Australian media organisation. The ABC currently employs more than 900 news journalists and presenters, approximately 140 of whom are engaged in delivering investigative journalism as the primary part of their role. The ABC also invests in a paid News Cadetship program, ensuring that the next generation of news journalists are equipped to deliver public interest journalism to Australians.

The depth and breadth of news and current affairs across ABC platforms is well recognised and evidenced by its significant audiences. In 2015-16:

- from 6am to midnight, the primary ABC TV channel broadcast a total of 785 hours of first run Australian news and current affairs content
- 1.1 million people tuned to the 7 pm television news bulletin each night
- ABC Radio news and current affairs programs reached, on average, 1.8 million Australians each week
- ABC News and Current Affairs websites reached an average of 4.5 million Australian users each month.

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3 ABC, *Submission 58*, p. 4.

4 SBS, *Submission 62*, p. 13.

5 *2017–18 Budget—Communications and the Arts Portfolio Budget Statement: Australian Broadcasting Corporation*, p. 71.

6 *2017–18 Budget—Communications and the Arts Portfolio Budget Statement: Special Broadcasting Services Corporation*, p.288 and p. 291.

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The ABC also delivers the only free-to-air news television channel and a dedicated news radio service.<sup>7</sup>

6.9 The Editorial Director of the ABC, Mr Alan Sunderland, outlined the role of the broadcaster in providing public interest journalism:

We have roughly 1,200 staff in the news division, but there are also many journalists in the radio and regional divisions who are also contributing journalism to Australians. We obviously have people in every capital city in every state and territory and 48 regional locations and, beyond that, in 13 foreign bureaus around the world. These days I think I can fairly say that our journalists work harder than just about any other journalists anywhere in the world because there is no longer any delineation between television reporters, radio reporters and online reporters. All of our journalists file for all of those platforms. Even if you look at *Four Corners*, which produces the highest quality investigative current affairs in the Australian context, increasingly that team is producing those stories for digital audiences as well.<sup>8</sup>

6.10 Mr Sunderland also outlined the importance of investing in journalism for the ABC as a long-term strategy to bolster news in the public interest:

I think what you have seen from many of the public broadcasters overseas, because of reality or priority, is a disinvestment in some of this form of journalism. We think the opposite is needed. I think that the more of our editorial resources we can put into original journalism and enhancing the fact base for all Australians through doing investigative journalism across all of our platforms the more value we will be returning to the public at a time when other commercial operators are either not choosing to be in that space or can't afford to be in that space. The message back to our journalists is that the very nature of the public media is to be providing a service that is in the public interest with money that is provided by the public.<sup>9</sup>

6.11 Witnesses representing the ABC told the committee about a number of trends they had observed in news and current affairs. Mr Gaven Morris, the Director of News at the ABC, suggested that there had been a noticeable:

...return to value among audiences for verified information, for trusted content and for explanation of context. That suits us fine, because we think that is right at the heart of what we're here to do...our success in recent times on digital platforms—our audience growth on digital platforms—is around people seeking explanation and context, a lot more than any other strategy to produce popular content or anything else.<sup>10</sup>

6.12 Witnesses from the ABC told the committee that, alongside its traditional audience base, a younger demographic had started engaging with news in a way that

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7 Submission 58, p. 6.

8 *Committee Hansard*, 23 November 2017, p. 24.

9 *Committee Hansard*, 23 November 2017, p. 24.

10 *Committee Hansard*, 23 November 2017, p. 26.

was uncommon a few decades ago, particularly through mobile technologies. Mr Morris reflected that:

When I was a young journalist at the ABC, the bosses always used to tell you: 'Don't worry about the younger audience. They're never going to be interested in what we've got to offer at the ABC—politics, analysis and international news and all of that kind of stuff. When they get to their 50s, they'll come to us. They'll be interested in it then.' Then along came mobile phones, and what we are now seeing in terms of an audience profile for ABC news, for instance, is that two-thirds of our audience on mobile are under 40 and they're mostly consuming the sorts of stories that we've always pursued...For the first time in the ABC's history—and we've still got big broadcast audiences that are traditionally older and like watching news on a schedule and listening to the radio in a linear way—we're seeing under-40 audiences engaging with us on social platforms and through our own platforms on mobile.<sup>11</sup>

6.13 The ABC highlighted the value it offers in the broader media landscape as a trusted provider of public interest journalism, citing the 2012 Finkelstein Review:

The ABC is a major player in the Australian news market with extensive investment in television and radio news and current affairs production. As a public broadcaster, it is funded from consolidated revenue. It has a long and successful history in investigative and public service journalism. Should a gap emerge from reduced efforts of newspapers and other media, the ABC, with additional government funding, would be well-placed to fill it.<sup>12</sup>

6.14 This was recognised by other witnesses and submitters. For instance, Professor Mark Pearson, the Professor of Journalism and Social Media at Griffith University, observed that the ABC was one of the few Australian organisations undertaking investigative journalism:

That means that what is essentially a pillar of democracy—a fully-functioning independent media which is able to perform a watchdog role upon other important political and social institutions—is underresourced in both dollar terms and, now, with the demise of major news organisations, people terms as well...We are left with mainly the ABC, some elements of the other traditional newspaper media and some elements of new media, like *The Guardian*, conducting what we might call 'investigative journalism'.<sup>13</sup>

6.15 The submission made by SBS set out the new services it provides on both traditional broadcasting and digital platforms:

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11 *Committee Hansard*, 23 November 2017, p. 26.

12 *Submission 58*, p. 6, citing the Hon R. Finkelstein QC assisted by Professor M. Ricketson, *Report of the Independent Inquiry into the Media and Media Regulation*, 28 February 2012, p. 332.

13 *Committee Hansard*, 11 July 2017, p. 34.



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From SBS *World News*, *Insight*, *Dateline* and *Small Business Secrets* on our main channel, *The Feed* on youth focus SBS Viceland to NITV News, *The Point* and *Living Black* on Australia's national Indigenous television channel, our focus is on delivering unbiased, non-sensationalist and in-depth coverage of stories relevant and reflective of this diverse nation.

*World News* is the most distinctive news service in Australia. The TV bulletin is the only one broadcast nationally in prime time on any free-to-air network. It is the only bulletin that predominantly covers global news. Stories are commissioned across platforms so that they are delivered via broadcast, online and social media platforms. Apart from our coverage of world and national affairs, a core priority for the news division, in collaboration with the radio programs in languages other than English, is to share constructive stories of individuals and communities from culturally diverse and Indigenous backgrounds and their positive contribution to Australian society. Through our strong connections with communities, developed through our 40-year plus heritage, we are able to tell the stories from a knowledgeable, trusted and respectful perspective.<sup>14</sup>

6.16 Ms Mandi Wicks, the Director of SBS Radio, outlined what makes the SBS services unique and valuable in the Australian news media landscape:

In our content and our organisation, SBS normalises the diversity of Australia. We tell stories of culturally and linguistically diverse Australians with dignity. Across a variety of genres and platforms, we explore and celebrate the cultures that make up our community, building understanding and promoting social cohesion. Our radio services are a vital part of this as we broadcast news and information across Australia in nearly 70 languages. SBS Radio focuses on Australian news and on providing an Australian perspective on international news. While audiences can access news from their home country, and often do this also through SBS television's suite of *World Watch* bulletins, SBS is often the only service providing Australian news in languages other than English. We provide news about Australia and news from listeners' home countries with the independence and balance that has always been a hallmark of SBS's coverage. Just some of the benefits of this multilingual and multicultural news service include communicating settlement information for new migrants, enabling participation in a democratic society, and providing government and other advertising in languages other than English.<sup>15</sup>

6.17 SBS emphasised that digital access was a key part of its strategy to reach both general audiences and its target communities:

Over the last year, we've seen a 100 per cent average monthly increase in users to our language website and a 75 per cent increase in average monthly podcast downloads, which shows just how important those services are. Through our platform and content strategy, we're ensuring we remain

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14 *Committee Hansard*, 23 November 2017, p. 14.

15 *Committee Hansard*, 23 November 2017, pp. 13–14.

relevant for today's audiences and that we are genuinely helping people navigate life in Australia and in the community in which they now live.<sup>16</sup>

### ***Trust in public broadcasters***

6.18 The ABC and SBS have proven themselves in opinion polls to be the Australian media organisations that are regarded as most trustworthy and reliable by the general public. At the time of writing, the most recent Essential Polls found that, in respect of TV news and current affairs, ABC TV was trusted by 63 per cent of respondents with its news rating at 58 per cent. Similarly, SBS's TV news and current affairs was trusted by 61 per cent of respondents.<sup>17</sup>

6.19 Mr Sunderland noted that this trend had been clear and consistent over time, reflecting that Australians appreciated the ABC's independence and impartiality:

We are very proud of that and we would like to see it go even higher. The one thing I can say is that it has been a hallmark of the ABC from the time it was created that it places its independence and its integrity above all else. There will be a great many views as to how well we live up to the standards that we set ourselves, but the standards are plain for all to see. People love the fact that the ABC is beholden to no-one. Cheques aren't being written by advertisers that we need to manage and deal with. We are funded to be independent, we are funded to be impartial, and we are funded to belong to the Australian taxpayer. That buys us a lot of credibility right off the mark. And that in my view explains why people sign up to that ideal of having a source of media that is impeccably independent and impartial in its aims and its approach. Our ability to maintain that trust depends on our ability to live up to our ideals. But our ideals are what people associated with the ABC as a brand in the marketplace.<sup>18</sup>

6.20 SBS agreed that its audience's trust reflected the commitment of its staff to providing excellent news content. As Mr Jim Carroll, the Director of News and Current Affairs at SBS, told the committee:

Just on the question of trust, I did make the point that we, along with the ABC, are the most trusted news outlet in Australia. I think it's in our editorial processes every day that we have an experienced, committed team. They work at SBS for a reason. If they wanted to make more money, they'd go somewhere else. They are passionate about the work they do. They are passionate about delivering on charter, and that's the environment that we have. In terms of fake news or trust, we have layers of checks within our organisation. That's not to say that we always get it 100 per cent right. Our

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16 *Committee Hansard*, 23 November 2017, p. 14.

17 By way of comparison, the trust rating for commercial TV networks was 25 per cent, daily newspapers 42 per cent, and internet blogs trusted by just 20 per cent of respondents. See Essential Trust in Media Report, 4 October 2017 at <http://essentialvision.com.au/?s=media+trust&searchbutton=Search> (accessed 20 January 2017).

18 *Committee Hansard*, 23 November 2017, p. 26.

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international affiliations are with the most credible news organisations in the world, and we live and breathe it every day.<sup>19</sup>

### ***Fact checking***

6.21 The committee was interested in the ABC's fact checking capacity, which was funded by the Commonwealth in 2013 as a stand-alone division to check the accuracy of claims made by politicians and other commentary in the public domain, funded at \$20 million per year. It was subsequently de-funded by the government, and relaunched in partnership with a university partner in 2017.<sup>20</sup> Mr Morris suggested that the partnership with RMIT had offered a good model to deliver some public broadcast initiatives in partnership with other organisations:

We thought the Fact Check initiative was a good one, and that type of journalism is important in context. So we came at it from another direction, and we went to the academic community and sought partners to be able to work with us on an initiative like that, and RMIT, very thankfully, joined us, and now we essentially collaborate on that. We're using funding from both of us, using people from both of our teams, and using the students and the curriculum of RMIT to play a part in that initiative. I'm very proud of that. I think that's a really good model for us to be looking at. We don't need to be solely funded for some of these activities if we can find great, particularly publicly minded partners to come along with us.<sup>21</sup>

6.22 Associate Professor Angela Romano, the Vice President Networks, Journalism Education and Research Association of Australia (JERAA), spoke of the value of fact checking claims in the public sphere, and suggested it was worthy of public funding:

We have the model of RMIT and ABC coordinating with their fact-checking unit. We would encourage funding of those kinds of organisations. Certainly, when funding is tight for media organisations, it is the subeditors and the traditional fact checkers who tend to be the first to lose their jobs. They're not the public face of what is seen in those media organisations, and they are often given the axe quite early in the piece.<sup>22</sup>

6.23 Two academics working at RMIT University commented on the value of the ABC's fact checking capacity, and fact checking more generally:

Fact-checking in Australia has been a boon to all sides of politics and to Australian democracy. A piece written by Alexios Mantzarlis, of the International Fact Checking Network, noted that fact checks produced by ABC Fact Check were cited dozens of times during parliamentary debate, by politicians of all persuasions...

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19 *Committee Hansard*, 23 November 2017, p. 21.

20 See Dr Alexandra Wake and Mr Gordon Farrer, *Submission 26*, pp. 3–4.

21 *Committee Hansard*, 23 November 2017, p. 25.

22 *Committee Hansard*, 11 July 2017, p. 50.

If politicians genuinely support the ideal of fact-based public discourse they would recognise that fact-checking as a form of public interest journalism deserves public support.<sup>23</sup>

### ***Concerns raised to the committee***

#### *Effects of budget cuts to public broadcasters*

6.24 The committee took some evidence about the effects of funding cuts on the ABC and SBS. The nature and effects of these cuts on the ABC were noted as including: a significant loss of local content, including to the 7.30 program from eight states and territories; deep cuts to reporting staff and supporting crews across newsrooms in capital cities; the downsizing of current affairs shows on ABC networks; and the closure of international bureaux and the Australia Network. This had led to the ABC being strained to provide coverage in regional and rural locations, including where all commercial networks had withdrawn from local production. Similar effects of budget cuts were noted for SBS' capacity to produce news and public interest journalism content.<sup>24</sup>

6.25 Ms O'Neil, SBS, told the committee that there were few margins left for efficiencies:

Going on from the cuts a few years ago, we have really found all the efficiencies we can, if I can put it that way, in the back office. Any further budget constraints will start to affect our services, including journalism. What exactly would go is obviously hard to say and would be subject to a review, but it will definitely eat into the services that Australians are provided with.<sup>25</sup>

6.26 Dr Colleen Murrell, Co-Secretary of JERAA, told the committee that the government should lift funding for the ABC and SBS to at least pre-2014 levels:

Australia also needs to properly fund the ABC and SBS so they can practice meaningful public interest journalism. The ABC and SBS should be funded to at least the levels before the last round of cuts in 2014. Summarising the findings of 43 research studies, in a 2016 paper Nielsen and his colleagues noted a positive relationship between strong public service media and strong private sector media, not the negative relationship that the crowding-out hypothesis would lead us to expect.<sup>26</sup>

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23 Dr Alex Wake and Mr Gordon Farrer, *Submission 26*, p. 5, citing Alexios Mantzarlis, 'Fact-checking on TV: Australia's ABC Fact Check', *Poynter*, [www.poynter.org/news/fact-checking-tv-australias-abc-fact-check](http://www.poynter.org/news/fact-checking-tv-australias-abc-fact-check) (accessed 21 January 2018).

24 See chapter 2, citing: MEAA, *Submission 37*, p. 13; Mr Paul Murphy, MEAA, *Committee Hansard*, 17 May 2017, p. 12; and Dr Colleen Murrell, Co-Secretary, Journalism Education and Research Association of Australia, *Committee Hansard*, 11 July 2017, p. 48.

25 *Committee Hansard*, 23 November 2017, p. 19.

26 *Committee Hansard*, 11 July 2017, p. 48.

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*ABC services in regional and rural areas*

6.27 Commentary in an earlier chapter of this report outlined the role that the ABC plays in regional and rural areas, particularly where it is left as the last producer of local news, as commercial organisations have shut down regional offices.<sup>27</sup> As Professor Ricketson advised:

...there is a real crisis in the capacity for media in this country to deliver journalism in rural, regional and local areas. I'm particularly concerned—as in the university is particularly concerned—that some of the commercial television broadcasters have already signalled that they don't particularly see the provision of news and current affairs in local, regional and rural areas as part of their remit and want to pass that off to the ABC.<sup>28</sup>

6.28 Mr Paul Wallbank, who was appearing in a private capacity, bemoaned the long trajectory of funding cuts on the ABC's capacity, particularly in the regional and rural areas:

For the ABC, ... it has been more a political process of successive governments of both complexions starving it of funds and interfering in the management of it. So there are two separate things there. Certainly for the regions, you would have to ask: if the commercials are pulling out, be they in print, radio or television, then is that where the ABC should be stepping in more to fill that gap that is not being covered?<sup>29</sup>

6.29 Professor Lawrie Zion, Lead Chief Investigator, New Beats Project, suggested that the ABC had made some recent attempts to address market failure in rural and regional areas. However, he also suggested that more could be done to improve services in regional and rural areas in the future:

The ABC, as well as losing jobs, has also tried to create some specific regional jobs. I think that public broadcasting has served Australia extremely well. It has raised the standard of commercial broadcasting or commercial media in general. I think public broadcasters are often the best placed to provide news services to regional and rural Australia... When you've got people from commercial media admitting that the business model is not going to sustain all kinds of journalism everywhere, I think it's really important to look at what public journalism can do, the level of trust it has in the community, but also what it can do in the future. This may be an opportunity—again, as my personal opinion—to look at how publicly funded media can develop further its role in delivering services where the market has failed.<sup>30</sup>

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27 For example, see MEAA, *Submission 37*, p. 13; and Professor Matthew Ricketson, Professor of Communications, Deakin University Committee Hansard, 21 August 2017, p. 2.

28 *Committee Hansard*, 21 August 2017, p. 2.

29 *Committee Hansard*, 17 May 2017, p. 46.

30 *Committee Hansard*, 21 August 2017, p. 57.

6.30 Some submissions suggested that the ABC should shift its focus from the crowded inner-city markets where there is no shortage of online and traditional media, and instead look to address instances of market failure in non-metropolitan areas.<sup>31</sup>

6.31 Mr Morris acknowledged the challenge that the ABC faced in continuing to deliver quality regional coverage, but noted some relevant initiatives underway:

...what we have done in recent times is reflected on the fact that maybe we are a bit too thin in parts of regional Australia. So there is a Connecting Communities initiative that we are rolling out at the moment, which is 80 new roles in regional Australia—multiplatform journalists and content makers. It is a \$15 million investment, as a reallocation of that money we took off the non-content side of the business, to reinvest in being able to do more original content gathering in regional Australia. That's 80 new roles that will go into regional Australia at a time when we recognise that some of the other media organisations are having to scale back what they're doing in regional Australia.<sup>32</sup>

*Potential unfair competition with the private sector*

6.32 The committee received a limited amount of evidence arguing that, as Australia's public broadcasters receive public funds to underpin their operations, they may crowd out private investment and private business from the commercial media, and thereby be acting in an anti-competitive way. By and large, this argument was made in relation to the operations of the ABC in the digital space.

6.33 Dr Christopher Berg, Senior Fellow, Institute of Public Affairs (IPA), suggested that the ABC was not an independent organisation, that it was inefficient and wasteful, and that it should be shut down, as the private market would do better:

...obviously [Australia does] support public interest journalism, at the cost of \$1 billion a year. It's a very inefficient spend, because we're spending a lot of that money on running large television and radio networks, and they pay for lots of different things. My view is that public broadcasting doesn't really suit the media market and the technological environment that we have. It was created in an era where there was an absolute scarcity of media content. Now the problem is—if there's a problem—there's too much media. The idea that a public broadcaster is the solution to both media scarcity and media abundance just doesn't hold true. If you believe that the ABC has some specific public policy value, I think we can get it cheaper by doing other things...

I think that we should privatise the public broadcaster. I think there are interesting ways that you could do that, but public broadcasting doesn't have a position in the internet era. I understand that the public broadcasters have done a lot of work to try to make sure that they are keeping up and so

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31 See, for example, inkl, *Submission 31*, p. 3; Mr Paul Wallbank, *Private Capacity*, *Committee Hansard*, 17 May 2017, p. 44.

32 *Committee Hansard*, 23 November 2017, p. 29.

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forth, but it doesn't make any sense on the rationales of public broadcasting.<sup>33</sup>

6.34 Mr Greg Hywood, Chief Executive Officer and Managing Director, Fairfax Media, raised another issue. While clear that he was not opposed to the ABC, Mr Hywood considered that publically funded internet advertising may impinge on commercial interests:

Why taxpayers' funds paid for the ABC—the ABC has moved into online; it has gone into provision of free news online. If that is considered to be within its mandate, perhaps we can accept that. But when they use taxpayers' money to drive their traffic—they do not have any commercial imperative to drive their traffic, but they use dollars to drive their traffic—and they take traffic away from us, traffic is dollars to us. Traffic is dollars, and, if the ABC takes traffic from us by using taxpayers' money to drive that traffic, it is using taxpayers' money to disadvantage commercial media organisations...

We are not anti-ABC. The ABC is part of the Australian community. It has been for many years and does very good work. They are a partner with many stories. It is just aspects of the new world of media where we have to be careful that the decisions that government institutions make do not impinge upon the diversity and the commercial environment that I think we all value.<sup>34</sup>

6.35 Mr Sunderland addressed this issue directly, suggesting that the ABC's marketing budget was very small, and that advertising through aggregators was an effective way of reaching audiences, and so delivering taxpayers good value for money.<sup>35</sup>

6.36 Regarding the ABC's success in the online space, and claims its provision of services without paywalls may disadvantage private media companies, Professor Dodd suggested that the ABC's innovation was a positive development and did not prejudice commercial players:

Imagine if Mark Scott, in his tenure at the ABC, had not diversified into new media. Imagine if that hadn't happened 10 or 12 years ago. The ABC would be moribund if not already non-existent. It simply had to make that move. Who's to say when you stop doing that and at what point you continue to be relevant? I find those arguments by its competitors spurious. The ABC is not the problem. The problem is much bigger than the ABC. In fact, it's not even close to being the issue. The issue is that the business models have collapsed around us and there are all sorts of structural things that have to occur now as a result of that. Blaming a competitor who's been savvy enough to see where it needs to be relevant is really pointless.<sup>36</sup>

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33 *Committee Hansard*, 21 August 2017, p. 20.

34 *Committee Hansard*, 17 May 2017, p. 29 and p. 32.

35 *Committee Hansard*, 23 November 2017, pp. 23–24.

36 *Committee Hansard*, 21 August 2017, p. 14.

6.37 To which Associate Professor Margaret Simons added:

I would also point out that the ABC has historically introduced quite a number of innovations around news reporting which have then been adapted by the commercial sector. So it's been of benefit to the commercial sector.<sup>37</sup>

6.38 The committee also asked SBS to address concerns it may be crowding out private media players and investment in news media. Ms O'Neil stated that SBS' coverage differed from private offerings in crucial ways:

As far as journalism's concerned, I think we play a very distinctive role in the Australian news and current affairs market. I don't think there's any suggestion that our news or our current affairs programs look anything like the offering from our commercial counterparts. We obviously adhere to our charter in all that we do, but news and current affairs...is an area where we definitely look to be very distinctive in the multicultural space.<sup>38</sup>

6.39 Mr Carroll expanded on this theme, drawing on his experience in both public and private broadcasters:

Having had wide experience across the commercial networks, I think our product is chalk and cheese compared with what they produce on a daily basis. The kinds of stories that we focus on do reflect the diverse nature of the community. We are nationally focused and internationally focused, whereas certainly the commercial TV networks are very focused on local news. So I don't think we're competing in that space with them. Even in the digital environment, I look back at the stories that have worked most effectively for us and, from both a video perspective and a text perspective, these are stories that the commercial players don't run.<sup>39</sup>

6.40 Dr Alex Wake, an executive member of JERAA, argued that the public broadcasters were not compromised by government investment:

We do have some evidence in there and some references to some reports that have found that government support for public interest journalism does not jeopardise editorial independence, and there has been a long history in many democratic countries of various political persuasions that support media industries, public and private, alongside each other. A 2014 study from the London School of Economics looked at the European Union, the United States, Canada and Australia and found that government support for public interest journalism does not jeopardise editorial independence.<sup>40</sup>

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37 *Committee Hansard*, 21 August 2017, p. 14.

38 *Committee Hansard*, 23 November 2017, p. 14.

39 *Committee Hansard*, 23 November 2017, p. 14.

40 *Committee Hansard*, 11 July 2017, pp. 51–52.



## The Community Sector

6.41 Mr Jon Bisset, Chief Executive Officer, Community Broadcasting Association of Australia (CBAA), outlined the importance of the community sector, as well as its likely growth given the contractions in other parts of the media:

Our recent listener figures show 5.3 million Australians are listening to community radio each week—a sizeable number of listeners...with about 800,000 listening exclusively to community radio. They are significant figures. There are 450 stations around the country, including faith based, Indigenous, ethnic, print handicapped, youth and seniors stations. There are educational stations and, of course, there are general stations, which include specialist music stations. Our business is growing. I think we've shown growth over the last 10 years in listener numbers but also in other figures.

Importantly to us, the likely reduction in the number of media owners suggests that services offered by community broadcasting are probably only going to get more and more important as time goes on.<sup>41</sup>

6.42 The CBAA highlighted particular areas for consideration by the committee, including 'the vital need to continue with digitalisation of radio services into regional communities and to keep up to date with other technological developments'. They also highlighted the need for some surety in future funding beyond the forward estimates.<sup>42</sup>

6.43 The CBAA outlined the Commonwealth funding received by the sector:

Federal Government funding to support community digital radio was \$3.7M in 2015-16 but dropped to \$2.3M as from 2016-17. In the recent 2017-18 Budget, the Government provided an increase in funding (\$6.1M over two years) which was welcomed by the sector. Whilst this money was extremely helpful the funding uncertainty beyond 2019 for community digital radio continues. The CBAA is working with Government to create a more certain funding environment.<sup>43</sup>

6.44 The CBAA conceded its role in the provision of news is limited to a single nationally syndicated broadcast, but noted the training role the community sector plays in building future capacity in the industry. This includes its national radio news production, which is produced by journalism students from Charles Sturt University, and which has been recognised in tied Commonwealth funding:

The Community Media Training Organisation, which is a partnership of the sector to deliver vocational training, gets the most of that \$800,000. They are delivering training through stations and directly on a day-to-day basis.<sup>44</sup>

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41 Committee Hansard, 22 August 2017, p. 44.

42 *Submission 29*, p. 2.

43 *Submission 29*, p. 4.

44 Mr Jon Bisset, Chief Executive Officer, Community Broadcasting Association of Australia, *Committee Hansard*, 22 August 2017, p. 47.

## Potential additional direct Commonwealth support

6.45 The Department of Communications and the Arts provided an overview of the direct mechanisms the Commonwealth already has in place to support the media sector:

A number of Commonwealth programs provide support to companies operating in the media industry. For example, the production and dissemination of Australian content is supported by a range of funding programs and tax offsets administered by Screen Australia. The initiatives being developed as part of the Regional and Small Publishers Jobs and Innovation Package are intended to assist these media companies to adapt to the challenges of the contemporary media environment and create new employment opportunities. Previous Governments have also funded initiatives designed to achieve public policy outcomes, including the switchover from analogue to digital television and the retune of digital television channels. The Commonwealth doesn't generally provide concessions to private media companies. However, the Government has pursued a program of reform intended to amend or repeal regulations that impede media companies from competing effectively in a digital media environment.<sup>45</sup>

6.46 However, none of these initiatives directly support the production of public interest journalism.

6.47 The MEAA outlined a number of models for direct subsidies used in Europe to support news media providers, noting many could serve as potential models for Australia. It noted that there has been little suggestion that these measures have politicised the media, or restricted editorial freedom.<sup>46</sup>

6.48 The committee received evidence proposing the establishment of by the Commonwealth of a body that could encourage a healthy news journalism sector, either through the awarding of grants to undertake work, or to assist the development of skills and opportunities for individuals or the industry more generally. Some witnesses and submitters explicitly linked this proposition with the establishment of a levy on aggregators (discussed earlier in this report), which could provide base funding.

6.49 Many supporters of this approach emphasised that this fund should be at arms-length from government, and protected by safeguards, particularly statutory eligibility criteria guaranteeing its independence and obligations to uphold the principle of complete freedom of the press.

6.50 The Public Interest Journalism Foundation (PIJF) recommended a Commonwealth-backed:

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45 Department of Communications and the Arts—answers to questions on notice (received 22 December 2017), p. 2

46 *Submission 64*, p. 5. See the earlier chapter of this report that discusses international models.

..independent production fund for public interest journalism..., offering small grants on a competitive basis that takes advantage of online cost structures and market reach. The fund should be designed to encourage innovation and experimentation in digital journalism, especially in regional and rural Australia and for other communities and topics under-served by the market. Such a content fund could also support development of new governance and organisational structures for public interest journalism, given the lack of expertise in these matters among many journalists.<sup>47</sup>

6.51 The MEAA suggested that an independent fund would be most effective if the grants it administered were small, to allow a wide range of innovative approaches to be adopted:

That's where we would say an independent production fund would be of assistance. This fund would not be making enormous grants; in the submission we suggest \$20,000 might be the maximum. That would be sufficient to boost journalistic capacity to do a particular project. That might be done by a freelance journalist or a citizen journalist in partnership with the local newspaper. There are all sorts of different models

The levy could operate, in part, as a media business incubator—providing funds to assist with supporting start up media businesses. If a start-up company is successful, the start-up cash could be repayable via a HELP/HECS type system.<sup>48</sup>

6.52 The MEAA also advocated for direct government subsidies in a number of other areas, including a 'media diversity fund' of between \$50-\$100 million over five years, to give assistance to traditional and new media based on their provision of public interest journalism. It also suggested an industry assistance scheme be set up, which could offer grants supporting retraining, development and innovation in the media industry.<sup>49</sup>

6.53 The PIJF suggested an Australian journalism production fund could particularly target gaps in the Australian market:

We recommend ... a production fund for independent journalism, designed to encourage innovation and experimentation in digital journalism, especially in regional and rural Australia and other under-served communities or areas and for coverage of under-represented topics.

This is not radical idea, although its explicit applicability to journalism is new. We believe this kind of support for news media is a logical extension of measures that have already been applied to other kinds of Australian content...<sup>50</sup>

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47 *Submission 13*, p. 3.

48 *Submission 64*, p. 2. Note the arguments for and against a levy on aggregators can be found earlier in this report.

49 *Submission 64*, pp. 22–23.

50 *Submission 13*, p. 14.

6.54 While acknowledging that some concerns could arise around the independence of a fund, Professor Simons suggested defended the concept as one that was worth considering, and pointed to specific examples that could serve as models:

I think [concern over an independent fund] is a real concern, but I also think it's one where we have quite well established mechanisms in a number of areas of Australian society to address. An example is the Australian Research Council, which has a peer-judged, arm's-length process, and another is the Australian Broadcasting Corporation. Of course, there are occasional controversies around independence...but by and large it works well. The Australia Council for the Arts and Screen Australia—all of these have mechanisms. It really comes down to your criteria and then the people that you appoint to make the decisions. There are ways of doing that where those concerns could be managed. They are real concerns.<sup>51</sup>

6.55 The MEAA advocated for such a fund to be created through a levy imposed on aggregators:

MEAA would suggest the independent distribution of a levy is crucial for its success. A levy would need to have a structure with transparency, plus guidelines and assurances of independence and perhaps, would operate much like a blind trust in terms of its distributions. There would also need to be a considerable discussion with the industry and with MEAA about a distribution mechanism that it would guarantee ongoing editorial independence.

6.56 Professor Simons agreed that a levy (of some description) could be appropriate, given that aggregators are not currently bound to support the production of local content:

It would be possible, whether you called it a tax or a levy, to require these new publishers—these new broadcasters—to contribute to a fund to support Australian content, of which, as we previously said, journalism would be one very important kind. Do you call it a tax or not? I don't know, but it's an established principle that commercial organisations in Australia meet Australian content standards.<sup>52</sup>

6.57 The JERAA proposed that the Commonwealth could invest in another model:

...an endowment fund for journalism education, with contributions from both government and philanthropic bodies, to support public interest journalism projects housed and administered by journalism and media schools in Australian universities...<sup>53</sup>

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51 *Committee Hansard*, 21 August 2017, p. 11.

52 *Committee Hansard*, 21 August 2017, p. 10.

53 Dr Colleen Murrell, Co-Secretary, Journalism Education and Research Association of Australia, *Committee Hansard*, 11 July 2017, p. 48.

6.58 The committee also notes the suggestion from Nolan *et al* that a positive model for distributing grants to undertake reporting projects may be found in the US not-for-profit sector, where private-university partnerships had found a way to allocate grants without compromising the recipients, as discussed in an earlier chapter.<sup>54</sup>

### ***Opposition to direct subsidies***

6.59 Other perspectives expressed skepticism about this proposal. Some saw it as being impractical to implement without compromising the independence of the media. Others observed that—even if the direct subsidy model had been successful in other parts of the world—Australians would prefer indirect support mechanisms for the industry, rather than direct government intervention.

6.60 For example Schwartz Media highlighted a range of potential flaws in the distribution of grants by a government body:

A system of distributing funding to the media via grants councils has been introduced in parts of Europe and proposed on occasion in Australia. In our view, this is the option least likely to encourage self-reliance or independence in the media sector, and the most likely to cause controversy (due to the reliance on human decision-making—in both funding matters and management appointments etc).<sup>55</sup>

6.61 Mr Hywood bluntly told the committee: 'We do not want handouts. What handouts do is provide obligation'.<sup>56</sup> Reflecting on direct support for media in France, he suggested:

[The French] have a very different community than we do. In terms of the context of this decision, anything that provides obligation to government provides some potential conflict for journalists because government usually is at the pointy end of the most controversial journalism, and that is something that we want to steer clear of.<sup>57</sup>

6.62 Dr Berg, IPA, agreed that any direct subsidies to media had significant risks of compromising editorial independence and free speech:

This is one of the big problems that you're going to have with any intervention in the media market. The perception of a lack of independence or a perception of bias is going to taint almost any recommendation you make. On the more macro level, I think that's why government should stay away from this as much as possible. These things can (a) give the perception of corrupting public debate and (b) give the reality of threatening freedom of speech.<sup>58</sup>

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54 *Submission 30*, p. 20. See following chapter for a discussion of these models.

55 *Submission 10*, p. 3.

56 *Committee Hansard*, 17 May 2017, p. 21.

57 *Committee Hansard*, 17 May 2017, p. 29. See also Ms Megan Brownlow, *Committee Hansard*, 11 July 2017, p. 4.

58 *Committee Hansard*, 21 August 2017, p. 20.

6.63 Ms Maguire, HuffPost Australia, also pointed out that it would be difficult to guarantee the integrity of direct Commonwealth funding for media organisations

A lot of thought and work would need to be put into what kinds of strings were attached to those [proposed] grants. The difficulty is that, for anything that is publicly funded by the government, the government is going to have some kind of agenda about the outcome of the reporting. The danger is that, perhaps, journalists will feel that they have to earn that keep from the government. It sounds nice, but there are a lot of potential pitfalls, in my view.<sup>59</sup>

6.64 One example of government-administered grants is the proposal for ACMA to oversee the government's new innovation fund. Information provided on notice by the government to the committee states:

The Regional and Small Publishers Innovation Fund will be administered by an independent statutory body, the ACMA. This will ensure that decisions regarding the allocation of grants through the Fund funding will be made at arms-length from Government. In undertaking these functions, the ACMA will be advised by an Advisory Committee comprising, at a minimum, a representative from each of the Australian Press Council, the Walkley Foundation and Country Press Australia.<sup>60</sup>

6.65 In November last year, Mr Graham, Publisher and Editor, New Matilda; General Manager, National Indigenous Radio Service, speculated to the committee:

If [the innovation grant program] is administered by ACMA, for example, I wouldn't go anywhere near it because ACMA is an arm of government. It may be comparatively independent, but it is an arm of government.<sup>61</sup>

6.66 Ms Megan Brownlow, Partner, PwC, made the point that any potential government intervention in the media market—whether direct or indirect—should first be modelled by government, and made a similar point to Mr Hywood, above, in respect of cultural approaches to government interference::

I think unless you quantify the outcome of those two alternatives, you could not make an informed decision between the two. They are both really interesting measures that could be explored. Given that there is precedent in other territories, that would provide inputs to actually model that and check if it is the right solution. Then you would have to overlay what the Australian culture suggests. Unlike the US, we do not have a strong system of high profile philanthropists. So, potentially, one of the solutions—that philanthropy solution—might not work here. We do not have a Jeff Bezos to buy a newspaper. The other cultural difference with us is we are probably more averse to having overt government intervention in the way the French

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59 *Committee Hansard*, 17 May 2017, p. 53.

60 Department of Communications and the Arts—answers to questions on notice (received 22 December 2017), pp. 2–3.

61 *Committee Hansard*, 22 November 2017, p. 13.

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system has set up. So you would have to combine using the precedent with understanding what our local market is. But all of these potential solutions would be really good to explore to solve the problem.<sup>62</sup>

6.67 The Walkley Foundation submitted that it was already in the process of creating the Walkley Incubator and Innovation Fund to support independent journalism, funded by private donations, including from aggregators. It indicated that this fund would be overseen by a diverse panel of journalists, and provide grants for independent investigations and reporting, and mentoring opportunities for recipient journalists.<sup>63</sup> The Walkley Foundation outlined what this fund would do:

First, inspired by the few successful media funds and accelerators in the US and Germany, and INN, we hope to cultivate a robust, collaborative community of journalistic innovators, especially those focused on mission-driven or local coverage; provide training, particularly across digital, data, investigations and business skills; be a hub for best practices and lessons learned; encourage joint fundraising; and establish common standards for ethical journalism. Second, we aim to send a handful of journalistic startups—both nonprofits and for-profits—through an intensive accelerator launchpad program with design reviews and pitches to venture capitalists or other funding sources to maximise their sustainability.<sup>64</sup>

## Education

6.68 A number of witnesses and submitters suggested that the Commonwealth should be more proactive in looking to strengthen digital media literacy. It was suggested that this could be done at all levels of the education system from primary to tertiary.<sup>65</sup>

6.69 For example Ms Saffron Howden, Editor, Crinkling News told the committee that there was a need to inculcate good critical thinking skills regarding media from a young age through the national Australian Curriculum. She argued:

The role of the news, media and journalism in civil society is most often considered in an adult context. My own view is that we must take a much broader approach to the challenges currently facing journalism and the impact those challenges are having on democracy and the ability of individuals to make informed decisions as citizens. In order to address the creeping influence of so-called fake news, alternative facts, clickbait and a selection by social media platforms of the information to which we are all exposed, we need to start educating children at a young age. In short, we need to develop media literacy in Australia.<sup>66</sup>

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62 *Committee Hansard*, 11 July 2017, p. 4.

63 *Submission 66*, p. 15.

64 *Submission 66*, p. 15.

65 See, for example, Dr Colleen Murrell, Co-Secretary, Journalism Education and Research Association of Australia, *Committee Hansard*, 11 July 2017, pp. 48–49.

66 *Committee Hansard*, 17 May 2017, p. 1.

6.70 A junior contributor to Crinkling News, Miss Diya Mehta, confirmed to the committee that her peers at school would benefit from deeper digital literacy:

As someone in high school, I see all the time that people my age, because we get a lot of our news through the funnel of social media, do not know the difference. They do not have the skills to delineate the difference between a good news story and fake news or clickbait. When it is funnelled through the channel of social media, it is so easy to get distracted by all of the noise surrounding journalism. It is readily available, all of these misleading articles. If we cannot equip kids from a younger age, then those skills do not exist when you transition into the world of adult news. That is a serious problem.<sup>67</sup>

6.71 Associate Professor Romano suggested that the Commonwealth could achieve this objective through minor amendments to the national curriculum:

Recognising that fact checking isn't always the answer and it's not always possible to occur in the kinds of time frames that it would be most effective, we do support digital media literacy in schools because our young people are enormous users of new and social media. We don't need an overhaul of the curriculum or to crowd out the existing curriculum. We would be looking at those existing classes that all the students already do—English, science, maths, geography, history and all those types of classes—and simply enhancing that curriculum. When students are doing what they already do—looking for information—they are assessing which information sources are the best ones to use: 'Are those information sources reliable? When do we need to cross check?' And it is having a little bit of appetite for the information. Just those simple tweaks of the curriculum could help to increase literacy amongst them.<sup>68</sup>

6.72 One submitter pointed out what he considered a flaw with embedding digital media skills in an education system. Mr Harley Comrie, a Research Intern at the Australian Strategic Policy Institute, noted:

Attacking the fake news problem from the demand angle is very difficult. Media literacy training has had underwhelming effects. Educational programs tackling the fake news issue are essentially efforts to improve critical thinking skills, which is already a key aim of primary, secondary and tertiary education.<sup>15</sup> A brief quiz administered through social media is not enough to solve the fake news problem, and any other form of mass-education is too expensive. Education simply does not present any effective policy options for the Australian Government to pursue that could be effectively implemented before our next election.<sup>69</sup>

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67 *Committee Hansard*, 17 May 2017, p. 7.

68 *Committee Hansard*, 11 July 2017, p. 50.

69 *Submission 72*, pp. 3–4.



6.73 A number of other proposals were suggested by submitters, including the idea that an education campaign could be undertaken, to assist the public to refine their skills to identify and interrogate 'fake news'.<sup>70</sup>

### **Committee view**

#### ***Australia's Public Broadcasters***

6.74 The committee heard divergent opinions on Australia's public broadcasters. On one hand, some evidence argued they were unfairly crowding out commercial players from the market, including in the online space, that they should only focus on instances of market failure, such as in regional and rural areas, or that they should be privatised.

6.75 On the other hand, a far greater amount of evidence spoke of how public broadcasters enriched our national media environment as a provider of first class journalism. On balance, evidence indicated that Australia's public broadcasters complemented—rather than competed with—commercial players, and were an invaluable training ground for future capacity in the industry.

6.76 Moreover, it is clear Australians trust the ABC more than any other media organisation to accurately and fairly reflect the news they need to know.

6.77 On the eve of the 2013 election, the Hon Tony Abbott MP, then the leader of the opposition, claimed his government would make no cuts to the ABC and SBS. However, the Coalition government has presided over five years of cuts has seen around \$355 million of cuts to the operational budget of the ABC in 2014, and more in successive budgets.

6.78 These unprecedented cuts to the public broadcasters have reduced their capacity across the board, including in current affairs, investigative journalism and in providing local news across Australia, at a time when Australian need access to reliable news more than ever before.

6.79 The committee is also concerned about the increasing politicisation of our public broadcasters. Accusations of bias seem to have become more frequent in recent years, with the ABC accused in some cases of working against our national interest or being 'un-Australian'. On this point, the committee notes the bill currently before the Senate proposed by Senator Pauline Hanson that would alter the ABC's charter to require it to be 'fair' and 'balanced', which was introduced into Parliament by the Minister for Communications and the Arts, Senator the Hon Mitch Fifield.

6.80 This bill is currently being considered by the Environment and Communications Legislation Committee, so this committee will not make extensive comment here. However, it will note that this proposed legislation is clearly a blatant political attack on the ABC, for no real public policy rationale or public good.

6.81 The committee reaffirms the importance of Australia's public broadcasters to our media landscape, particularly the ABC as one of our most trusted national

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70 See, for example, Ms Elizabeth Murray, *Submission 71*, p. 8; inkl, *Submission 31*, p. 1.

institutions, and that government should support both their capacity to report in the public interest and their journalistic independence.

### **Recommendation 1**

**The committee recommends that the ABC and SBS be funded adequately, so that they can deliver on their charter obligations, support rural and regional service provision and have a strong fact checking capacity.**

#### *Community broadcasters*

6.82 The committee heard evidence that the community sector is a vibrant part of Australia's media landscape that contributes not only to diversity, but also the provision of services in regional and rural areas, and also to the training of future generations of journalists and the industry more broadly.

### **Recommendation 2**

**The committee recommends that the Commonwealth provide additional surety in future funding for the community broadcasting sector beyond the forward estimates, in particular what component will be set aside for training and education, and ensure that the sector is fully consulted in the national rollout of digital services.**

#### *Education*

6.83 Regarding Australia's education system, the committee heard that relatively minor changes to the national Australian Curriculum could help strengthen the critical thinking skills of future generations of Australians.

6.84 The committee acknowledges that education is primarily the responsibility of the states and territories. However, there may be some opportunity for the Commonwealth to engage jurisdictions in a conversation about whether the curriculum could be strengthened in this area, not just in relation to fake news, but also in digital media literacy more generally.

### **Recommendation 3**

**6.85 The committee recommends that the Commonwealth work with the states and territories through the Council of Australian Governments to determine how areas of the Australian Curriculum may be improved regarding digital media awareness and media literacy.**

#### *Grants or subsidies for producing Australian content, including journalism*

6.86 The committee received a good deal of evidence supporting a Commonwealth-funded body at arms-length from government that could distribute funds to support public interest journalism in Australia. A number of potential models were suggested, as was a wide range of potential recipients, including smaller organisations and individuals working in the field. Similarly, whereas some suggested such a body could be used for education and training, others saw its potential role as administering direct grants.

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6.87 As well as evidence in support, the committee also received substantial evidence that government administration would not be practicable without compromising the independence of any recipients, and any other parts of the industry that benefited from subsidies. It seemed to the committee that the concept would be similarly opposed even if the body was established as a completely independent statutory body at arms-length from government.

6.88 The committee understands that such models can be found in other parts of the world, where they operate with great success in supporting both the media sector generally, as well as specialist or minority news media more specifically.

6.89 However, as many witnesses noted, there may not be the appetite for such direct government intervention in the sector in Australia. Rather, it seems to the committee that—apart from what the kinds of assistance the Commonwealth already offers the public and community broadcasters—indirect modes of assisting the sector may be both more popular to the general public, and also more effective in offering support to the sector. Some indirect measures that could be considered by the Commonwealth to assist industry are considered in the following chapter.

6.90 The committee agrees with Ms Brownlow's advice that any measures considered by the government—whether direct subsidy or indirect assistance—should be subject to rigorous modelling and be assessed and implemented with a view to the experiences and lessons in other countries.

6.91 The following chapter will consider potential indirect support to the media sector. In particular, the chapter will discuss potential reforms to taxation settings that could encourage healthy and sustainable business models in the sector, and outline some other potential reforms that could improve the legal environment in which journalists operate.



## Chapter 7

### **Australia's taxation system and legal framework, and the potential for indirect assistance measures**

7.1 This chapter discusses potential reforms to Australia's taxation and legal systems that could encourage a healthy and prosperous public interest journalism sector.

7.2 It first discusses a number of potential amendments to Australia's tax settings that were proposed in evidence received by the committee, which could encourage an innovative not-for-profit news media sector. Proposal suggested that this would be achieved by incentivising private philanthropy for not-for-profit media, offsetting the employment of journalists for some companies, and broadening eligibility for Australian consumers to claim tax rebates for new or ongoing news subscriptions.

7.3 The chapter then outlines potential reforms to Australia's legal framework raised in evidence, particularly in the areas of national security, libel and freedom of speech, as well as through whistleblower protections and shield laws for journalists.

7.4 Lastly, this chapter briefly discusses a number of other measures proposed by submitters regarding Commonwealth protocol or administration.

#### **General support for indirect measures**

7.5 Whereas there were divergent views on whether the Commonwealth should use direct subsidies to encourage public interest journalism, as discussed in the last chapter, witnesses and submitters to this inquiry were overwhelmingly in favour of the Commonwealth investigating the use of indirect measures, particularly those potentially on offer through reform of our tax and legal systems.

7.6 The Australian Treasury noted that the Commonwealth has already instigated some tax measures 'that benefit a broad range of entities, including those that may undertake public interest journalism', including:

- Reducing the corporate tax rate;
- Lifting the annual turnover limit from \$2M to \$10M [i.e. the threshold for entities to claim lower corporate tax rates] and expanding access to concessions for small businesses;
- Increasing the unincorporated tax discount for small business; and
- Extending the \$20,000 instant asset write-off to 30 June 2018.<sup>1</sup>

7.7 However, it was repeatedly put to the committee that these measures could be supplemented by new policy, particularly indirect measures encouraging market-based solutions to a disrupted media sector. This, it was argued, would minimise the risk of impinging on the freedom and independence of the press or distorting the market

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1 The Treasury—answers to questions on notice (received 22 December 2017), p. 1.

unnecessarily, noting that direct subsidies had the potential to compromise—or raise serious questions about—editorial independence.<sup>2</sup> Additionally, some witnesses and submitters suggested that indirect measures would be able to be implemented at a low cost to the Commonwealth Budget, and perceived more favourably by the general Australian public than direct subsidies.<sup>3</sup>

7.8 Ms Megan Brownlow, a partner with PwC with long experience consulting on the media sector, noted that the Commonwealth had used indirect measures successfully to support other industries, which shifted decision making to the market, rather than using direct measures that could interfere with editorial independence:

So in the film and television production sector, for example...we have shifted Screen Australia from a very direct approach of subsidising film and television to a much more indirect market-driven approach that you would have to say, on all assessment, is really successful. That is where there are production offsets and tax rebates for supporting Australian productions that are great employers of Australians. They are the sorts of solutions, I think, that would probably meet with favour by Australians.<sup>4</sup>

7.9 Regarding proposals to encourage a healthy public interest journalism sector through indirect measures, Professor Lawrie Zion, the Lead Chief Investigator of the New Beats Project, noted:

I certainly think that those kinds of models or suggestions should be really seriously considered, because it is really clear that not doing anything at all is going to continue to have really adverse consequences. I also appreciate that the range of options offer a mixed bag of different approaches. And you need to get something, as I think I heard the committee say earlier, with a revenue neutral kind of outcome as well. But it certainly makes sense to me to investigate what pulling particular levers will do for the sustainability of journalists' employment.<sup>5</sup>

7.10 Some evidence suggested that tax reform alone would not address the challenges the media sector faces. For instance, even though Mr Greg Hywood, the Chief Executive Officer and Managing Director of Fairfax Media, voiced general support for the Commonwealth considering tax support for the sector, he argued that,

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2 For general support for indirect measures see: Dr Colleen Murrell, Co-Secretary, JERAA *Committee Hansard*, 11 July 2017, pp. 49–50; Ms Jacqui Park, CEO, Walkley Foundation, *Committee Hansard*, 22 August 2017, p. 36; Mr Paul Murphy, Chief Executive, MEAA, *Committee Hansard*, 17 May 2017, p. 12; Ms Megan Brownlow, Partner, PwC, *Committee Hansard*, 11 July 2017, p. 4. See also Mr Ray Bange, *Submission 47*, p. 8; michaelwest.com.au, *Submission 22*, p. 6; The District Bulletin, *Submission 23*, p. 1; Professor Peter Fray and Professor Derek Wilding, *Submission 34*, pp. 6–7.

3 See, for example, Ms Brownlow, Partner, PwC, *Committee Hansard*, 11 July 2017, p. 5; Mr Tim Burrowes, Founder and Content Director, Mumbrella, *Committee Hansard*, 11 July 2017, p. 5; Dr Christopher Berg, *Submission 16*, p. 5.

4 *Committee Hansard*, 11 July 2017, p. 4

5 *Committee Hansard*, 21 August 2017, pp. 55–56.

absent reform to Australia's media laws, this would do little to 'level the playing field':

As a commercial organisation our priority is to compete effectively with all comers. That is what the Australian media needs now. It needs a level playing field. We have media legislation at the moment which was put in place effectively prior to the advent of the internet. It has diversity at its centre. Diversity is no longer an issue; people can get content from wherever they want globally. The issue is scale and whether media organisations in this country can work together—who knows what the mix would be—to get the right range of assets across multiple platforms to compete at scale with the major international over-the-tops: Google and Facebook. That is the essential bottom line. Unless we can compete effectively, tax breaks here and bits and pieces there are not going to address the fundamental problem.<sup>6</sup>

### **Adjusting Australia's tax system**

7.11 There was a general consensus in the evidence considered by the committee that the Commonwealth could adjust the tax system in a number of ways to create the conditions for a more vibrant and innovative news media sector, including by:

- Extending Deductible Gift Recipient (DGR) status for organisations producing public interest journalism, particularly the not-for-profit sector;
- Offering accelerated tax write-offs or concessions for media companies employing journalists, which could be modelled on the research and development tax incentive (R&DTI) available for business sector; and
- Broadening eligibility for tax rebates for subscriptions to news publications online for all Australians, as well as for DGR donations to eligible media outlets.

#### ***Deductible Gift Recipient (DGR) status***

7.12 The committee heard compelling evidence that the health of public interest journalism could be reinvigorated through the provision of tax concessions for philanthropic donations to not-for-profit producers of quality journalism. The easiest way to do this would be by making it easier for some types of media organisations to claim DGR status, particularly not-for-profit organisations, to encourage diversity and sustainable business models in the public interest journalism sector.<sup>7</sup>

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6 *Committee Hansard*, 17 May 2017, p. 21.

7 See, for example, Dr Bill Birnbauer, *Submission 1*, p. 4; Public Interest Journalism Foundation, *Submission 13*, p. 18; michaelwest.com.au, *Submission 22*, p. 6; Professor Peter Fray and Professor Derek Wilding, *Submission 34*, p. 7; JERAA, *Submission 39* attachment 1 ('Support for public interest journalism—an international summary'), pp. 34–35; Independent Australia, *Submission 55*, pp. 5–6; Mr Andrew Elder, *Submission 61*, p. 5; The Conversation, *Submission 68*, p. 5; Dr Christopher Berg, Senior Fellow, Institute of Public Affairs, *Committee Hansard*, 21 August 2017, pp. 18 and 23.

7.13 It was argued that this reform would make it more attractive for private and corporate donors to make philanthropic donations to eligible media providers, and in turn revitalise Australia's journalism sector, as similar policies have done in the US.

7.14 For example, the Journalism Education and Research Association of Australia (JERAA) noted that there would be benefits in making donations to 'non-profit or low-profit journalism organisations tax-deductible or exempt'. It highlighted that the US example had revitalised journalism there, and that this had not only been recognised by the media sector, but also by the US government:

The fact that donations to non-profit media are tax-deductible serves as an incentive for citizens to lend financial support to organizations whose missions they value.<sup>8</sup>

7.15 A number of other small media organisations noted that DGR status would benefit them significantly and more broadly encourage diversity of local media voices and a more informed general public.<sup>9</sup> For example, Mr Jack Latimore, representing Indigenous X, observed that his organisation's lack of DGR status had dissuaded potential donors who had inquired about making contributions.<sup>10</sup>

7.16 Dr Bill Birnbauer noted that only a few Australian media organisations had been granted DGR status by the Australian Tax Office (ATO), as the current eligibility criteria 'do not fit well with the purpose and functions of news organisations'.<sup>11</sup>

7.17 The Conversation is one of the few media organisations to have DGR status. It submitted that this status was also a way of reinforcing its accountability mechanisms, as it required a reputation for quality and reliability among its readers and donors:

The deductible gift recipient status granted to The Conversation by the ATO has been useful in enabling The Conversation to raise much-needed funds from our audience. This is a particularly effective way of supporting public interest media because there is an accountability mechanism built in: success in raising donations depends, at least in part, on the media outlet's ability to generate trust among readers.<sup>12</sup>

7.18 Submitters addressing DGR status were generally supportive of limits to eligibility for DGR status, to ensure that the measure was focussed and effective. For example, Dr Birnbauer submitted that the Commonwealth should make eligibility for DGR status contingent on a number of governance and ethical conditions, to ensure

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8 *Submission 39* attachment 1 ('Support for public interest journalism—an international summary'), pp. 34–35, citing the US Federal Communications Commission, *The information needs of communities: The changing media landscape in a broadband age* (2011).

9 See, for example, Indigenous X, *Submission 42*, p. 6; Independent Australia, *Submission 55*, pp. 5–6.

10 *Committee Hansard*, 21 August, p. 7.

11 *Submission 1*, p. 4.

12 *Submission 68*, p. 5.



journalistic products were consistent with industry standards and free from editorial interference:

In order to qualify for such status, non-profit media organisations should be properly constituted with boards and should be staffed by journalists who adhere to the MEAA's code of ethics. Conditions for tax deductibility would include that the centres adopt normal journalistic practice and make editorial decisions independent of funders.<sup>13</sup>

7.19 Professor Birnbauer set out a number of conditions that he judged should be satisfied by any applicant for DGR status:

- The history and background of the applicant as a journalist, particularly adherence to professional and ethical standards.
- The applicant's ability to produce investigative and public interest journalism.
- Whether the organisation has editorial processes that create stories that are in the public interest and educate audiences rather than covering news of popular interest.
- Introducing a commitment that funding sources, including publication of the identities of donations of more than \$1000, be published on the non-profit's website.
- A commitment to publish on their websites information about spending and revenue, as provided each year to the ATO and/or the Australian Charities and Not-for-Profits Commission.
- Individuals and organisations that advocate particular causes should not be granted DGR status under any media category. The guidelines used by the IRS are useful in this regard.
- Anonymous grants or funding from political and other entities where the source of the funding is not transparent should be banned.<sup>14</sup>

7.20 Professor Peter Fray and Professor Derek Wilding proposed that DGR status could be contingent on media organisations providing 'proof of overt innovation and 'public service' if not 'public interaction' as a pre-requisite'.<sup>15</sup>

7.21 Dr Christopher Berg, a Senior Fellow at the Institute of Public Affairs, advised that, even though DGR status had 'much to recommend it'—even for overtly political not-for-profit organisations—the Commonwealth should be careful about the benchmarks used for eligibility and the nature and operational guidelines of the designated approving body:

DGR status would be available to media outlets professing any political slant. DGR status would encourage media firms to self-fund, to be accountable to their supporters and readers, and it would not constitute a

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13 *Submission 1*, p. 5.

14 *Submission 1*, p. 6.

15 *Submission 34*, p. 7.

direct call on public revenue. One concern with this model, however, is that it would require an authority to decide which media outlets are legitimate public interest journalism outlets and which are illegitimate ones. Poorly designed, this could easily transform into a de facto licensing body through which the government may be able to exert some influence over the press.<sup>16</sup>

7.22 A number of submissions highlighted the successful US model of encouraging philanthropic funding of media not-for-profits by offering tax breaks. Dr Birnbauer provided a comprehensive outline of the ways that this system is overseen by the US tax department, the Inland Revenue Service (IRS), which has:

...four-part test to determine if activities by news organisations are educational. First, that the content of the publication was educational; second, the preparation of the material followed methods generally accepted as educational in character; third, the distribution of the materials was necessary or valuable in achieving the organisation's educational and scientific purposes; and fourth, the manner in which the distribution was accomplished was distinguishable from ordinary commercial publishing practices.<sup>17</sup>

7.23 In this, Dr Birnbauer noted that the IRS also has stringent criteria to distinguish 'education' from 'advocacy':

1. Whether a significant portion of the communication consisted of 'viewpoints unsupported by a relevant factual basis';
2. Whether the facts relied on are 'distorted';
3. Whether the organisation 'makes substantial use of inflammatory and disparaging terms, expressing conclusions based more on strong emotional feelings than objective factual evaluation', and
4. Whether the 'approach to a subject matter is aimed at developing an understanding on the part of the addressees, by reflecting consideration of the extent to which they have prior background or training'.<sup>18</sup>

7.24 Dr Birnbauer also commented that the government could consider allowing DGR organisations to carry advertisements, as long as the amount was considered 'insubstantial' and any profits declared and accounted for as unrelated business tax. He also noted that not-for-profit media organisations were not able to participate in political campaigns, promulgate 'propaganda', or attempt to influence legislation—although this was 'not absolute'.<sup>19</sup>

7.25 The Treasury provided the following information to the committee on notice, regarding the ability of some media companies to seek DGR status:

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16 *Committee Hansard*, 21 August 2017, p. 18.

17 *Submission 1*, p. 3.

18 See Dr Bill Birnbauer, *Submission 1*, pp. 2–3; see also, for example, michaelwest.com.au, *Submission 22*, p. 5

19 *Submission 1*, p. 3.

Organisations providing public interest journalism have the ability to seek DGR status under the existing legislative framework.

DGRs can either be endorsed under a general category or specifically listed in the tax law.

While there is no specific general category of DGR endorsement for media organisations, media organisations can seek DGR status if they meet the requirements of one of the established general categories or through specific listing in the income tax law.

For example, some media organisations may be endorsed as a DGR through listing on the Register of Cultural Organisations (ROCO).

The Minister for Revenue and Financial Services and the Minister for the Arts approve new additions to the ROCO, and the Department of Communications and the Arts administers the ROCO.

Alternatively, organisations can seek to be specifically listed as a DGR by name where an organisation is unable to be endorsed under one of the general categories.

For example, the Conversation (registered as the Conversation Trust), a media outlet that publishes news and views sourced from the academic community, has DGR status through specific listing.

For an organisation to become a DGR listed by name, Parliament must amend the tax law to include the name of the organisation in the law.

As noted above, public interest journalism organisations have the ability to seek DGR status under the existing legislative framework.

The Australian Taxation Office (ATO) is responsible for endorsing organisations as DGRs under the general categories. Generally, the Australian Charities and Not-for-profits Commission (ACNC) does not have a direct role in DGR endorsement.<sup>20</sup>

### ***R&DTI-style accelerated tax write offs for organisations employing journalists***

7.26 There was a great deal of support in evidence for the Commonwealth to consider offering tax concessions to media companies employing journalists, as a cost-effective, targeted means of encouraging a reinvigorated public interest journalism sector.<sup>21</sup>

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20 The Treasury—answers to questions on notice (received 22 December 2017), pp. 4–5.

21 As well as the examples cited below, see: Mr John Jo (JJ) Eastwood, Chief Executive Officer, HuffPost Australia, *Committee Hansard*, 17 May 2017, p. 52; Ms Megan Brownlow, Partner, PwC, *Committee Hansard*, 11 July 2017, p. 4; Professor Matthew Ricketson, *Committee Hansard*, 21 August 2017, p. 6; Mr Paul Murphy, Chief Executive, MEAA, *Committee Hansard*, 22 August 2017; JERAA, *Submission 13*, p. 18.

7.27 Some advocates suggested this could be modelled on the R&DTI tax concessions already offered by the Commonwealth.<sup>22</sup> This incentive tax is jointly administered by the Australian Tax Office (ATO) and the Department of Industry, Innovation and Science.<sup>23</sup> It is designed to encourage companies to boost competitiveness and improve productivity across the Australian economy by:

- encouraging industry to conduct R&D that may not otherwise have been conducted;
- improving the incentive for smaller firms to undertake R&D; [and]
- providing business with more predictable, less complex support.<sup>24</sup>

7.28 The Treasury noted that some media organisations may already be eligible for the R&DTI:

...if they were developing new software, technologies or platforms. The Australian Taxation Office and AusIndustry have released extensive guidance in respect of what activities may qualify.<sup>25</sup>

7.29 The Public Interest Journalism Foundation also advised that the tax offsets for Film Industry support outlined in the *Income Tax Assessment Act 1997* provide a model for a tax mechanism to strengthen support journalism.<sup>26</sup>

7.30 In particular, the committee explored the following model, which it put to a number of witnesses: offering a 40 per cent write-off for up to \$2.5 million spent on employing journalists, which would give up to \$1 million of deductions on the R&DTI model, with a threshold of at least \$300,000 turnover at the lower end for eligibility, and a maximum \$25m turnover ceiling for larger organisations.<sup>27</sup>

7.31 Mr Paul Murphy, the Chief Executive of the Media, Entertainment & Arts Alliance (MEAA), suggested that tax incentives for employing journalists would be a

22 The Public Interest Journalism Foundation highlighted Division 376 of the Income Tax Assessment Act as being a potential model to support public interest journalism, *Submission 13*, p. 18

23 Australian Taxation Office, *Research and development tax incentive, About the program*, [www.ato.gov.au/business/research-and-development-tax-incentive/about-the-program/](http://www.ato.gov.au/business/research-and-development-tax-incentive/about-the-program/) (accessed 13 December 2017).

24 Australian Taxation Office, *Research and development tax incentive, About the program*, [www.ato.gov.au/business/research-and-development-tax-incentive/about-the-program/](http://www.ato.gov.au/business/research-and-development-tax-incentive/about-the-program/) (accessed 13 December 2017).

25 The Treasury—answers to questions on notice (received 22 December 2017), p. 5.

26 Division 376–2 of the *Income Tax Assessment Act 1997* outlines these refundable tax offsets for Australian expenditure on: making an Australian film (the 'producer offset' of 40 per cent for feature films and 20 per cent for other films); any film (the 'location offset' of 16.5 per cent of the company's qualifying Australian production expenditure); and for expenditure on post, digital and visual production (the 'PDV offset' of 30 per cent of the company's qualifying Australian production expenditure in relevant areas).

27 For example, see *Committee Hansard*, 22 August 2017 pp. 35–36; pp. 16–17; and pp. 53–54.

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way of assisting the media sector to become more flexible in addressing the pressures of technological and structural change:

On the surface, I think that sounds like a very attractive idea and a very appropriate one, particularly in an industry that is experiencing such rapid technological change and development. The way that you distribute your content is changing all the time. In that context, that idea sounds like one that is very worthwhile investigating.<sup>28</sup>

7.32 Mr Misha Ketchell, the Editor of *The Conversation*, thought offering tax incentives to employ journalists would be a practicable and positive step towards addressing the challenges to the media industry from digital disruption:

I think that's an excellent idea. I think it's excellent for two reasons, one of which is that it's a practical mechanism I could see working. The other is that it goes to the heart of the changes that have got us to the situation where we feel that there is an issue around public interest journalism. That is that the digital disruption has displaced the role of professional journalists as information handlers, as honest brokers, as people who will sort out what is reliable, what you can trust and what you can't...Something that goes to the heart of targeting that journalistic function is employing individuals whose role is to sort information, to check it, to make sure it's accurate and to disseminate it, I think, sounds like a very innovative and potentially desirable way forward.<sup>29</sup>

7.33 Ms Rebecca Costello, the Chief Executive Officer of Schwartz Media, outlined the substantial benefits that would accrue to her organisation from R&DTI-style tax breaks:

For us, something like a 40 per cent tax offset for the first \$2.5 million spent on our journalism would allow for rich newsrooms. It would allow us to bring on more people and to invest in training the next generation of journalists. It would allow us to break more stories. It would also allow us to commit to stories that are important but expensive. This is where the country's press is strained and where it needs to be repaired. As it stands, on the margins we operate, we might look at a story that will cost \$20,000 or \$30,000 to cover and decide that we cannot commit to it. An important issue will go unreported as a result or will be not reported as deeply as it could be. This is where we, as small publishers, need assistance. This is where we will spend money and produce better journalism.<sup>30</sup>

7.34 Ms Costello indicated that this measure would allow her organisation more space in their operational budget to expand the size of its publications with more stories, and perhaps consider publishing more often. Additionally, she highlighted that it could assist in developing a cadet program to develop young journalists.<sup>31</sup>

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28 *Committee Hansard*, 17 May 2017, p. 18.

29 *Committee Hansard*, 21 August 2017, p. 34.

30 *Committee Hansard*, 21 August 2017, p. 39.

31 *Committee Hansard*, 21 August 2017, p. 39.

7.35 Representatives of Crikey told the committee that this kind of initiative would 'help us enormously' as most of its resources were spent on employing journalists.<sup>32</sup>

7.36 Mr Ben Taylor, the President of the Country Press Australia (CPA), suggested that these kinds of tax breaks would be welcomed across the CPA's membership, and were worthy of further consideration by the Commonwealth. However, he did express some concerns that the threshold for eligibility should be set with consideration for smaller papers with a circulation of under 2,000 per week (which he noted would translate to an annual turnover of under \$350,000).<sup>33</sup>

7.37 Some evidence questioned whether R&DTI-style tax incentives would genuinely encourage a healthy, innovative and vibrant news media sector. Dr Berg, opposed the idea of offering R&DTI-style concessions for employing journalists, advising that other measures would be more effective with less risk of compromising the freedom of the Fourth Estate.<sup>34</sup>

7.38 Mr Gerard Ryle, the Director of the International Consortium of Journalists, suggested R&DTI rebates would simply support existing organisations rather than encouraging new enterprises or innovation:

...I would be worried that what you are doing there [with tax concessions for employing journalists] is really propping up existing players. If you are here to help journalism, then you have to make it easier for journalists to be journalists.<sup>35</sup>

### ***Tax deductible expenditure for consumers***

7.39 Many Australians are already eligible to claim rebates on work-related expenditure on news media subscriptions and periodicals as part of their annual tax return.<sup>36</sup> There was some support for the eligibility for these rebates to be broadened, to encourage more people to invest in subscriptions or memberships for news providers, and thereby contribute to the financial stability of many organisations delivering public interest journalism.<sup>37</sup>

7.40 For example, the MEAA stated that:

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32 Ms Tamsin Creed, General Manager, Private Media and Ms Cassidy Knowlton, Editor, Crikey, *Committee Hansard*, 21 August 2017, pp. 27–28.

33 *Committee Hansard*, 21 August 2017, p. 59.

34 *Committee Hansard*, 21 August 2017, p. 23.

35 *Committee Hansard*, 22 August 2017, p. 55.

36 See ATO, *Books periodicals and digital information*, [www.ato.gov.au/Individuals/Income-and-deductions/Deductions-you-can-claim/Other-deductions/Books,-periodicals-and-digital-information/](http://www.ato.gov.au/Individuals/Income-and-deductions/Deductions-you-can-claim/Other-deductions/Books,-periodicals-and-digital-information/) (accessed 14 December 2017).

37 See, for example, Mr Paul Murphy, Chief Executive, MEAA, *Committee Hansard*, 17 May 2017, p. 12; Ms Megan Brownlow, Partner, PWC, *Committee Hansard*, 11 July 2017, p. 5; Ms Denise Shrivell, Founder, Mediascope, *Committee Hansard*, 11 July 2017, p. 13; Ms Cassidy Knowlton, Editor, Crikey, *Committee Hansard*, 21 August 2017, p. 26.

We do think we should look at the issue of tax deductibility for new subscriptions for individual members of the public who take out subscriptions to established news services....<sup>38</sup>

7.41 Ms Brownlow thought that tax breaks for consumers would be popular with many Australians, and could be a good incentive for consumers to pay for access to news once again:

My initial reaction is that individual Australians do love a tax break. It is about consumer psychology. There is no sensible reason why we are perfectly willing to step across the road and pay \$3.50 for a coffee, yet many people are not prepared to buy a newspaper anymore....If we can give people a way of reframing how they are spending their money, even when it is relatively small amounts, that does instinctively feel like quite an interesting idea.<sup>39</sup>

7.42 However, Ms Costello suggested this measure would only have a limited effect, as many subscribers could already claim media subscriptions as tax deductions:

I suppose it's absolutely a factor, but, with the industries that our audience work in, the majority of those readers would have that benefit based purely on the industry that they're in. From the research we've conducted through the 20,000 readers we've surveyed over the last two years, we know that the industries that they're in—the media, politics and education—are all areas where they would probably be able to do that. But that's certainly an option.<sup>40</sup>

7.43 In answers to questions on notice, Treasury commented that tax deductions could be claimed already 'for expenses incurred while producing income', although noted that the Commonwealth does not maintain figures on the cost of these deductions to the Budget.<sup>41</sup>

### **Australian laws that potentially restrict public interest journalism**

7.44 Some submitters suggested that some elements of Australia's legal framework had a 'chilling' effect on journalists reporting freely in the public interest. These included: recent reforms to national security legislation; defamation and libel provisions, as well as inconsistency across jurisdictions; shield protection and whistleblower provisions covering journalists and their sources; as well as copyright provisions.<sup>42</sup>

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38 Mr Paul Murphy, Chief Executive, MEAA, *Committee Hansard*, 17 May 2017, p. 12.

39 Ms Megan Brownlow, Partner, PWC, *Committee Hansard*, 11 July 2017, p. 5.

40 *Committee Hansard*, 21 August 2017, p. 39.

41 The Treasury—answers to questions on notice (received 22 December 2017), p. 5.

42 Professor Mark Pearson, *Committee Hansard*, 11 July 2017, pp. 32–33 (see also his *Submission 7*); Australian Lawyers' Alliance, *Submission 24*, p. 7; Public Interest Journalism Foundation, *Submission 13*, p. 4; MEAA, *Submission 64*, pp. 24–25.

7.45 The broad range of laws that potentially impinged on journalists was outlined by Professor Mark Pearson, a Professor of Journalism and Social Media at Griffith University:

The key areas of the law that I see as problematic are clearly the suite of national security laws, which, interestingly enough, do have an independent national security monitor as an interface between the public and the parliament on the application of those laws. Other Commonwealth laws include consumer law, privacy law and intellectual property law. Then you start going into state laws like defamation, for which there are uniform defamation laws—not totally uniform. The Commonwealth have played a key role in making them relatively uniform through the former COAG system. Then you get the various areas of the common law that apply to the media as well. I neglected to say two important Commonwealth laws there: the evidence law to do with source protection for journalists, which some of you senators would have been involved with in its more recent iteration; and, of course, freedom-of-information laws, which impact upon journalism...and whistleblower protection laws, which interface to some extent with the journalism source protection laws.<sup>43</sup>

7.46 Professor Pearson provided some examples of how these laws prevented journalists from investigating and writing significant stories:

The legal impediments are so important and occupy so much time. You have someone like the former *Four Corners* journalist Chris Masters who spoke to students and said that he was spending—I forget the percentage he said—a large percentage of his time dealing with lawyers trying to navigate all these different laws for important parts of journalism. He would have created much more public interest journalism if he hadn't had to deal as often with lawyers and spend as much time there, let alone the times he was having to appear in court to defend his work.<sup>44</sup>

### ***Impact of new national security laws on journalists***

7.47 Ms Anna Talbot, a Legal and Policy Adviser for the Australian Lawyers Alliance (ALA), outlined to the committee the importance of freedom of expression to public interest journalism:

Public interest journalism shines a light on government and ensures that it operates within the confines of the law and in the public interest. True accountability...requires vigilant protection of the rights to both freedom of speech and privacy for both journalists and the general population. Journalists should not be punished for any public interest reporting that might cause embarrassment or reveal human rights violations, misappropriation, gross inefficiency or other wrongdoing. They should be able to speak freely with sources who provide such information, and the sources themselves should not risk criminal sanctions for revealing the crimes or wrongdoing of government actors. That is one of the reasons why

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43 *Committee Hansard*, 11 July 2017, p. 32.

44 *Committee Hansard*, 11 July 2017, p. 35.



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we think it is important to consider the broader legislative context in which journalists operate.<sup>45</sup>

7.48 The ALA submitted that the recent passage of national security laws undermined public interest journalism by compromising freedom of expression and restricting how journalists can report on particular issues:

The Commonwealth government has passed a swathe of laws in recent years that restricts the ability of journalists and others to report on matters that are in the public interest. These laws fall into two broad categories: those that restrict the ability of journalists to report on certain facts, and those that undermine the ability of journalists to communicate confidentially with their sources.<sup>46</sup>

7.49 These laws, the ALA submitted, have come about partly through amendments to the *Australian Security Intelligence Organisation Act 1979* (ASIO Act) and the *Australian Border Force Act 2015* (Border Force Act).

7.50 The ALA argued that Section 35P of the ASIO Act, under which persons who reveal information about special intelligence operations are liable for a maximum five-year prison sentence, does not include a public interest exception, and does not require that national security be compromised by the disclosure. It noted the *Public Interest Disclosure Act 2013* provides only limited protections for whistleblowers disclosing information related to the above acts. The ALA proposed that all reporting on these issues should be considered legal unless there is a demonstrable threat to national security.<sup>47</sup>

7.51 Despite recent reforms Dr Andrew Morrison, a Spokesperson for the ALA, was concerned that the current iterations of the ASIO and Border Force Acts would continue to:

...inhibit whistleblowers, public comment and the disclosure of information which would generally be in the public interest and yet would not, in practice, have any significant effect upon national security or, indeed, border force operations in the true sense.<sup>48</sup>

7.52 The ALA also expressed its concern that, under the *Telecommunications (Interception and Access Act) 1979*, ASIO and enforcement agencies may access metadata stored by telecommunications providers without a warrant. The metadata could include information such as who a person has contacted and, if they are using a mobile device, the location of the individual.<sup>49</sup>

7.53 Although a provision of the Act limits access to metadata regarding journalists, the ALA suggested that the definition of journalist was unclear and would

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45 *Committee Hansard*, 23 November 2017, p. 7.

46 *Submission 24*, p. 4.

47 *Submission 24*, p. 13.

48 *Committee Hansard*, 23 November 2017, p. 11.

49 *Submission 24*, pp. 8–9.

likely not 'provide sufficient protection to everyone who engages in public interest journalism'.<sup>50</sup> The ALA noted a case in 2017 in which an AFP officer requested and obtained the call records of a journalist without a warrant, without facing any disciplinary consequences.<sup>51</sup>

7.54 The ALA advised the committee that freedom of speech laws should be consistent across different areas of application:

There does seem to be a bit of a disconnect in focusing on the importance of freedom of speech in particular areas and yet having limitations on other areas. Clearly the most important thing is for law to be applied evenly across the different subject matters, whether it's unionism, national security or border protection. Clearly, there are some sensitivities around that, but, to have the fundamental premise of freedom of speech being the presumption and then any limitation on that being clearly demonstrably necessary in proportion to the risks that are faced is essential for the integrity of the legal system more broadly, and for the integrity of the journalists' ability to report fairly and freely on government activities.<sup>52</sup>

### ***Defamation and freedom of speech laws***

7.55 A significant number of witnesses and submitters stated that Australia's defamation and libel laws played a significant part in curtailing journalists' efforts to pursue public interest stories.<sup>53</sup> This was not necessarily due to the damages awarded for publication of material found to be libellous, but the legal costs of defending defamation cases.

7.56 Professor Michael West, an investigative journalist with two decades of experience working for large Australian mastheads, submitted that Australia's defamation framework was far more restrictive for journalists than the US model:

In Australia journalists can be sued whether a story is true or not. The costs of paying lawyers and defending lawsuits are prohibitive. Law firms are shutting down bloggers. Even the threat of litigation is often enough to deter journalists from writing the truth. It leads to self-censorship.

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50 *Submission 24*, pp. 8–9.

51 Luke Royes, 'AFP officer accessed journalist's call records in metadata breach', *ABC Online*, 29 April 2017, <http://www.abc.net.au/news/2017-04-28/afp-officer-accessed-journalists-call-records-in-metadata-breach/8480804> (accessed 4 January 2018).

52 *Committee Hansard*, 23 November 2017, p. 9.

53 See, for example, Ms Rebecca Costello, Chief Executive Officer, Schwartz Media, *Committee Hansard*, 21 August 2017, p. 41; Schwartz Media, *Submission 10*, pp. 1–2; Mr Ian Skurrie, *Submission 33*, p. 2; Professor Peter Fray and Professor Derek Wilding, *Submission 34*, p. 12; Freeline Group, *Submission 51*, p. 3; Ms Prue Davidson, *Submission 52*, p. 6; Ms Sally McCausland and Mr David Vaile, *Submission 53*, p. 2; MEAA, *Submission 64*, pp. 24–25.

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In the US, it is far harder to sue journalists. The bar is higher and requires evidence of malice on the part of the journalist rather than claims of reputation damage.<sup>54</sup>

7.57 Dr Berg also suggested that some features of Australia's legal system made it difficult for private media organisations to compete on a level playing field, in particular its 'onerous defamation law', as well as section 18C of the Racial Discrimination Act.<sup>55</sup>

7.58 The Freeline Group and Independent Australia both made submissions that drew out the significance of this for journalists who were not backed by a major publication and independent publishers. Independent Australia wrote:

Lastly, a reform of defamation law would also encourage public interest journalism. Since journalists can be sued regardless of whether a story is accurate, they are often reticent to investigate sensitive issues or powerful people. Legislation should protect the ability of the fourth and fifth estates to expose truth, especially with regard to powerful institutions or individuals, without threat of costly litigation. Legislation to restrict the ability of powerful and well-funded parties to limit public interest journalism through expensive litigation would be of great benefit to publications.<sup>56</sup>

7.59 The Freeline Group submitted that Australia's libel laws were the 'major single barrier to independent publishers', highlighting that this was noted by Max Suich in 1990, who wrote:

The surprise [barriers from libel laws] lay in their cost, both financially and intellectually. The financial cost arises not necessarily from losing any case. There is a significant cost in obtaining advice prior to publication. There is an even greater cost in taking advice if a writ should drop and an exponentially greater cost if an experienced Q.C. is engaged for, first, advice, and then the preliminaries to court action.

If the case should go to court it is often subsidised by the plaintiffs, corporation, union, or organisation, which means the plaintiff does not bear the cost out of his or her own pocket.

A mischievous try-on by a wealthy plaintiff which is withdrawn or left to languish just before an actual court appearance, could easily cost \$35,000 [1990]: a significant burden to a small newspaper. Of course if it goes to court but is then settled on the basis of each paying their own costs, the bill might be \$100,000 [1990].<sup>57</sup>

7.60 Regarding the effects of defamation laws on journalists, Professor Pearson told the committee:

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54 *Submission 22*, p. 6.

55 *Submission 16*, p. 5.

56 *Submission 55*, p. 7. See also Freeline Group, *Submission 51*, p. 3.

57 See *Submission 51*, p. 6. See also Max Suich, 'Press Independence' in the Communications and Media Law Association (CAMLA), *Communications Bulletin*, vol. 10, no. 2, Winter 1990, p. 1.

There are enormous problems with what is called the 'qualified privilege defence'. It has a reasonableness component which courts can have read down. Nevertheless, it is an attempt to allow for situations where overwhelming matters of public interest might be excusable in defamation terms because there is such public concern that the matter should be reported upon.<sup>58</sup>

7.61 Professor Pearson proposed to the committee that:

...in light of the lack of constitutional protections for public interest journalism in Australia, the Commonwealth should build into every identified restriction on media freedom a 'public interest journalism' defence, which would excuse a 'legitimate and demonstrated public interest in freedom to communicate on this occasion', where the court would take evidence on the importance of the matter of public concern, the publisher's genuine track record of adherence to professional ethical standards, its resolve to remedy past breaches (if any), and its commitment to train their staff in legal and ethical issues. It should encourage other Australian jurisdictions to take a uniform approach.<sup>59</sup>

7.62 The MEAA noted that Australia's 'uniform national defamation law regime' commenced operation in January 2006 by Council of Australian Governments (COAG) agreement. Its submission highlighted that any changes to the law must be universally agreed by jurisdictions. The MEAA suggested that this framework should be reviewed, noting that an ongoing review by New South Wales, which was to serve as a template for broader discussions for reform with states, appears to have not progressed since 2015.<sup>60</sup>

7.63 Some other measures were advocated for in evidence. For instance, Schwartz Media submitted that any reform of defamation provisions should include a strict cap on damages and the introduction of a tribunal system to avoid using and paying lawyers for cases that could be resolved outside the courts.<sup>61</sup> Mr Tim Burrowes, the Founder of Mumbrella, suggested that a professional membership of some bodies could potentially include support or additional protections for members involved in libel cases. He added that some of these initiatives were currently in the early stages of implementation overseas, or had been discussed among APC members.<sup>62</sup>

7.64 In respect of libel laws, the Attorney-General's Department informed the committee that

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58 *Committee Hansard*, 11 July 2017, p. 33.

59 *Submission 7*, pp. 1–2.

60 MEAA, *Submission 64*, p. 25.

61 *Submission 10*, p. 2.

62 *Committee Hansard*, 11 July 2017, pp. 3–4.

Defamation is the responsibility of the states and territories. Uniform legislation was agreed between the states and territories in the then Standing Committee of Attorneys-General to regulate this issue.<sup>63</sup>

### ***Protection for whistleblowers and journalists' sources***

#### *Whistleblower protections*

7.65 Carrying on from the discussion above, the committee received some evidence suggesting that current whistleblower protections are similarly fragmented across sectors and jurisdictions, insufficiently robust in particular sectors, and had been weakened by Commonwealth national security laws introduced in 2014–2015.<sup>64</sup>

7.66 Ms Talbot argued that it was not only journalists who should be protected by law, but also their sources:

It's not only the journalists themselves that need protection; there's also a need to make sure that people who are making disclosures that are in the public interest don't suffer penalties from that. In the legislation, we've highlighted perhaps some of the starkest examples of when people who are disclosing injustice, or even criminal activity in terms of special intelligence operations, themselves become subject to criminal laws. The integrity of the entire processes all around becomes undermined, because if there's illegal activity happening, and there's no threat to national security if that illegal activity is revealed, there's a clear public interest in understanding that illegal activity has happened.<sup>65</sup>

7.67 Ms Talbot highlighted in particular that current provisions were too fragmented across sectors and jurisdictions:

The public sector, the private sector and corporations—yes. One can never be certain that, once they go through those steps, they'll have done it in an adequate manner and will enjoy the limited protections that do exist. So there is definitely a need to clarify and unify whistleblower protection—and across the jurisdictions as well.<sup>66</sup>

7.68 In his submission, Professor Joseph M. Fernandez cited the findings of the MEAA regarding whistleblowers and recent national security legislation:

We've seen the greatest assault on press freedom in Australia in peacetime. The Government's pursuit of whistleblowers through legislation has been unprecedented. As MEAA has argued, when you go after whistleblowers

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63 Attorney-General's Department—answers to questions on notice (received 21 December 2017), p. 10.

64 See, for example, Professor Mark Pearson, *Submission 7*, pp 2–3 and *Committee Hansard*, 11 July 2017, pp. 32–33; Professor Joseph M. Fernandez, *Submission 35*, p. 8; Ms Clare O'Neil, Director, Corporate Affairs, SBS, *Committee Hansard*, 23 November 2017, p. 21; Dr Andrew Morrison RFD, SC, Spokesperson and Ms Anna Talbot, Legal and Policy Adviser, Australian Lawyers Alliance, *Committee Hansard*, 23 November 2017, pp. 9 and 11.

65 *Committee Hansard*, 23 November 2017, p. 9.

66 *Committee Hansard*, 23 November 2017, p. 9.

you go after journalism. In recent times a variety of federal laws designed to hunt down whistleblowers and prosecute them were passed with bipartisan support. This has undermined journalists' ethical responsibility to protect their confidential sources. In essence, what we're seeing is the criminalisation of journalism, and the criminalisation of truth telling.<sup>67</sup>

7.69 Professor Fernandez also highlighted the recent 'grim' findings of the MEAA:

Many whistleblowers have been sacked or forced to leave their job; some have received death threats, been diagnosed with post-traumatic stress disorder and have had their names and reputations tarnished within the industry, effectively preventing them from finding employment in the same field.<sup>68</sup>

### *Shield Laws*

7.70 Australian shield laws at a Commonwealth level offer discretion for the courts to excuse a journalist from disclosing the identity of sources, in consideration of 'the public interest in the communication of facts and opinion to the public by the news media'.<sup>69</sup> Professor Pearson submitted that it was difficult for journalists to know what protections shield laws could offer them, as they differed so much between jurisdictions:

The other big area, of course, is the shield laws at the Commonwealth level, where you invite a court to essentially weigh the importance of the confidentiality of sources—that relationship between journalists and their sources as an example of important public confidence—and weigh that against other interests that might be at play in a particular case. That's what most shield laws try to do in one way or another. There is another great example of where state and Commonwealth laws differ in their wording and in their application, and it is so difficult for a public interest journalist or any journalist operating in the modern environment where their work transcends borders, but all of these different kinds of laws, restrictions and permissions or exemptions apply at different levels to their work as their work is published in these different jurisdictions.<sup>70</sup>

7.71 Moreover, his submission suggested that these protections could be broadened to categories of people other than journalists, given that academics, non-government organisations, journalism students and 'serious bloggers' were also undertaking good public interest journalism in the modern digital era.<sup>71</sup>

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67 Interview with Mr Paul Dobbie, Communications Officer of the MEAA, cited in *Submission 35*, p. 8.

68 MEAA, *The Chilling Effect: The Report into the State of Press Freedom in Australia in 2017*, 2017, p. 55, cited in *Submission 35*, p. 8.

69 *Evidence Act 1995*, section 126K, cited by Professor Mark Pearson, *Submission 7*, p. 3.

70 *Committee Hansard*, 11 July 2017, p. 33. See also the view expressed by Ms O'Neil, SBS, *Committee Hansard*, 23 November 2017, p. 21.

71 *Submission 7*, p. 4.

7.72 Dr Fernandez submitted that shield law provisions have been 'whittled down over the years', including through recent national security laws introduced between 2014 and 2015, referred to above. He commented that ongoing cases may prove instrumental in determining whether shield laws were sufficiently robust:

While it is said that applications for disclosure of sources have largely failed since the introduction of shield laws in most states and territories, some pursuits for journalists' confidential sources are in progress...<sup>72</sup>

### ***Copyright Law***

7.73 A number of submitters and witnesses drew the committee's attention to the matter of copyright.<sup>73</sup> These submissions focused on two related issues: the reproduction of material by news aggregators, leading to a loss of revenue by the producer of the original material; and the use and reproduction of stories by journalists—whether by modification or direct plagiarism—without acknowledgement of sources.

7.74 Some evidence considered there may be number of gaps and/or loopholes in current legislation allowing aggregators to re-use written work without paying for it. One submitter argued that, although news photographs, videos and artwork are protected by copyright law, written work is not.<sup>74</sup> Another noted inconsistent requirements between online and offline organisations:

There is a gap in current legislation that allows online content aggregators to operate without the same accountabilities and respect for copyright that offline organisations are bound to. This has shifted the profitability from content creators to content aggregators, even though they do not produce the same level of value to the public.<sup>75</sup>

7.75 Another submitter explained that the common practice of internet aggregators to present 'collections of headlines of stories' in e-newsletters and websites, with links to the original stories:

...would appear to be blatant breach of copyright but it is legal because common law has established that a single line of text – a headline – is too short to be copyrighted. Australian aggregators also are excluded from recent amendments to the Copyright Act which provide for courts to order internet service providers to disable sites located outside Australia and which provide access to copyright material. Aggregation therefore is a legal practice which is able to operate on a low cost, high margin basis largely by

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72 *Submission 35*, p. 8.

73 See, for example, Mr Chris Snow, *Submission 4*, pp. 1–2; *Submission 11*, p. 1; *Submission 17*, p. 2; *Submission 32*, p. 7; Free TV Australia, *Submission 45*, p. 8; Ms Jane Canaway, *Submission 48*, p. 2; Freeline Group, *Submission 51*, p. 4; Digital Industry Group Inc., *Submission 63*, pp. 3–4; MEAA, *Submission 64*, p. 11; Mr Roger Colman, *Submission 69*, p. 10; Ms Jane Schulze, *Committee Hansard*, 11 July 2017, p. 22; Mr Ross Mitchell, Director, Broadcasting Policy, Free TV Australia, *Committee Hansard*, 11 July 2017, p. 41.

74 *Submission 17*, p. 2.

75 *Submission 32*, p. 7.

using genuine journalists' and publishers' material while profiting from advertising sales.<sup>76</sup>

7.76 In 2017, a number of journalists whose work had been copied by others without acknowledgement, payment or authorial consent, took to Twitter to share their experiences with the hashtag #journotheft. In its submission, Freeline Group gave an example of this happening to one of their members:

Recently a freelance journalist in this group publicised the fact that she had a major investigative story almost immediately copied by other Australian outlets. It was a sensitive story that required several months of painstaking investigation and building up the trust of informants. The original quotes and most of the information from the story was republished by a number of media outlets, rewritten slightly but not substantially different to her original story. The copies either carried no byline or were published under a staff byline of the copying site. This was done without the consent of the freelance journalist or any attribution or payment to her.

We are concerned that there seems no effective mechanism to regulate publishers or journalists that repeatedly engage in such breaches.<sup>77</sup>

7.77 This report has noted efforts to reform EU, as well as Spanish and German copyright law (Chapter 5). A submission to this inquiry by two academics argued that the development of a similar licensing scheme in Australia requiring aggregators to pay a fee for use 'would need to grapple with the existing debate over the merits of the current fair dealing regime', which provides exceptions for use of copyrighted material. They further noted that '[S]ome current practices may well not amount to fair use, but this appears not to be an option local publishers wish to explore'.<sup>78</sup>

### **Other Commonwealth policies**

7.78 Some evidence advocated for the Commonwealth to more freely and publically share data collected through the Australian Bureau of Statistics (ABS).<sup>79</sup> This, they suggested, would encourage innovation in journalism and also allow fact-checking of media stories. Ms Jacqui Park, the Chief Executive Officer of the Walkley Foundation, told the committee:

One of the programs we've supported through our innovation program is a tool to unlock the ABS data and provide it in infographics so that any news organisations can pick that up. For example, we could be thinking about something like an arm's length news service that has access to data out of

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76 *Submission 4*, pp. 1–2.

77 *Submission 51*, p. 4.

78 *Submission 32*, p. 13. For a discussion of the fair dealing regime, see Australian Law Reform Commission, *Copyright and the Digital Economy: Final Report*, ALRC Report 122, November 2013, Chapters 5 and 6.

79 Ms Jacqui Park, Chief Executive Officer, Walkley Foundation, *Committee Hansard*, 22 August 2017, p. 36; and Mr Andrew Elder, *Submission 61*, pp. 4–5.



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the health department. You can imagine the kind of very useful journalism that could come out of that.<sup>80</sup>

7.79 The Freeline Group noted a number of fees that could be reduced by the Commonwealth, to assist independent journalists pursue stories, including Freedom of Information requests, ASIC company searches, and digital court transcripts.<sup>81</sup>

### **Committee view**

7.80 In general, the committee heard compelling evidence that the Commonwealth should consider making some adjustments to taxation and legislative systems, in order to encourage a healthy and diverse public interest journalism sector in Australia.

7.81 These kind of policy changes would assist the sector in indirect, market-based ways, which would not only come at a comparatively low-cost to the government and taxpayers, but would also go some way to ensuring that the Commonwealth's general policy approach to support for media would not directly compromise the principles of freedom and independence of the press.

### ***Tax settings***

7.82 It was clear to the committee that there was real potential for the Commonwealth to encourage a healthy news media sector by making moderate adjustments to certain tax settings. This approach was generally supported by evidence, as a low-cost, market-based approach to assisting journalism that would maintain the principle of government non-intervention in the media sector directly.

7.83 It is clear to the committee that the Commonwealth should consider broadening the eligibility criteria for DGR status, to encourage more private support for not-for-profit media organisations. Although Australia does not historically have the high levels of philanthropy that the US does, this is clearly a policy option that the Commonwealth has to potentially unlock philanthropic funding to revitalise the media sector.

7.84 Of course, this should be done judiciously, so as to make eligible only providers of quality journalism, and ensure that private companies cannot exploit the measure as a tax loophole.

7.85 Similarly, the committee considers that offering a tax rebate for all Australians subscriptions to quality news providers should be at least considered by the Commonwealth. This should include a cost-benefit analysis that models its effects for the news sector and cost to the Commonwealth Budget.

### **Recommendation 4**

**7.86 The committee recommends that the Commonwealth develop and implement a framework for extending deductible gift recipient (DGR) status to not-for-profit news media organisations in Australia that adhere to appropriate standards of practice for public interest journalism.**

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80 *Committee Hansard*, 22 August 2017, p. 36.

81 *Submission 51*, p. 12.

## **Recommendation 5**

**7.87 The committee recommends that the Treasury undertake cost-benefit modelling on extending the tax deductible status of news media subscriptions to all Australians, not just those who can already claim the cost of subscriptions through existing income tax arrangements, for subscriptions to news media organisations in Australia that adhere to appropriate standards of practice for public interest journalism.**

### *Laws restricting freedom of expression*

7.88 This committee received evidence expressing concern that journalists wishing to investigate some public interest issues may be unduly inhibited by current laws.

7.89 In particular, submitters emphasised that despite recent reforms to attempt to moderate some of the more severe prohibitions on reporting in the ASIO Act and the Border Force Act, the law remains sufficiently oppressive that journalists are reluctant to report relevant stories—even when reportage would not negatively impact national security or border protection.

7.90 In considering this evidence, the committee affirms the paramount importance of laws related to national security and border protection, and reiterates that some sensitive material is not suitable for public release on account of national security.

7.91 However, the committee also notes that freedom of political expression and freedom of the press are fundamental democratic rights that Australia holds dear, so that any limitations on these rights must be both demonstrably necessary and proportionate. The committee is of the view that a lack of clarity in these laws and the perception that anyone reporting on national security matters may be penalised, regardless of whether reporting of a story actually poses any security threat, may inhibit some journalists from reporting issues of significant public importance.

7.92 Given the potential harm this chilling effect of national security laws may have, the committee considers there is a need for an audit of the current laws that impact on journalists reporting on matters that touch on or focus on national security and border protection, to identify unjustifiably harsh or draconian laws, inconsistencies in the law or and any lack of clarity in the law, and to consider whether there is a need for further reform of the way relevant laws apply to journalists. The committee considers that the Australian Law Reform Commission is the most appropriate body to undertake such a task.

## **Recommendation 6**

**7.93 The committee recommends that the Australian Law Reform Commission conduct an audit of current laws that impact on journalists reporting on matters that touch on or focus on national security and border protection, to identify and analyse unjustifiably harsh or draconian laws, inconsistencies in the law and any lack of clarity in the law regulating the work of journalists in this context, and to consider whether further reform is needed to achieve an appropriate balance between the need to preserve national security and the need for journalists to be able to carry out their work in the public interest.**

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### *Defamation laws*

7.94 The committee notes that the Commonwealth worked closely with the states and territories to develop a uniform set of defamation laws in 2005.

7.95 The committee notes indications that there appears to be an appetite for COAG to review the framework of existing defamation laws, especially considering this framework has been implemented for more than a decade without assessing potential areas that could be improved.

7.96 Given the National Uniform Defamation Law 2005 was agreed in the COAG context and given that it covers the majority of defamation law in Australia, it would be appropriate for the Commonwealth to investigate how it can work through this forum to assist the states and territories to review and reform our defamation laws, or to reinvigorate efforts already underway to do so, to ensure those laws are consistent with a viable, independent public interest journalism sector, work appropriately with whistleblower protection regimes, and generally operate effectively in the digital age.

### **Recommendation 7**

**7.97 The committee recommends that the Commonwealth work with state and territory jurisdictions through the Council of Australian Governments to complete a review of Australian defamation laws, and subsequently develop and implement any recommendations for harmonisation and reform, with a view to promoting appropriate balance between public interest journalism and protection of individuals from reputational harm.**

### *Protections for whistleblowers and sources*

7.98 The committee received evidence that the fragmented nature of current legal provisions concerning whistleblowers and journalistic sources, both across sectors and jurisdictions, can lead to a great deal of uncertainty for some journalists pursuing stories. The committee considers that the Commonwealth should look to harmonising these laws, in part to make it easier for journalists to pursue legitimate stories in the public interest.

7.99 The committee is aware that the Parliamentary Joint Committee on Corporations and Financial Services (JCCFS) completed an inquiry into whistleblower protections in September 2017.<sup>82</sup> Although the JCCFS report did not consider the effects of current provisions on journalists in great depth, this committee notes and endorses that committee's recommendation that Australia's whistleblower framework should be harmonised across sectors and jurisdictions.

7.100 The committee also notes that in its 2009 report on a comprehensive scheme for whistleblower protection in the Commonwealth public sector, the House of Representatives Standing Committee on Legal and Constitutional Affairs also suggested that extending whistleblower protections to the private sector was a matter

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82 Parliamentary Joint Committee on Corporations and Financial Services, *Whistleblower Protections*, September 2017.

that should be considered in the future. At paragraph 9.30 of its report, that committee stated:

Australian legislation on protection for disclosures concerning misconduct within the private sector appears piecemeal. In view of the concerns raised on the issue during the course of this inquiry, the Committee considers that protections for the disclosure of wrongdoing within the private sector could usefully be reviewed in the future.<sup>83</sup>

7.101 The committee notes that the Treasury Laws Amendment (Enhancing Whistleblower Protections) Bill 2017 was introduced to the Senate on 7 December 2017, to be considered fully in 2018. This legislation would extend the limited corporate whistleblower protections in the Corporations Act 2001, and broaden existing protections for the kind of individuals making disclosures, and the types of disclosures that can be made.<sup>84</sup> However, members of this committee will also look to the Commonwealth's response to the JCCFS report, to see if the in-depth recommendations made by its report have been appropriately considered.

### **Recommendation 8**

**7.102 The committee recommends that the Commonwealth look at ways to expand whistleblower and shield law protections, and to harmonise those laws between the Commonwealth and state and territory jurisdictions, noting the work in this area already underway.**

#### ***Copyright***

7.103 The committee received some evidence on enhancing Australia's copyright regime. This focussed heavily on the difficulty for publishers and journalists in monetising content published through aggregators, and in dealing with the reproduction of stories or, indeed, with cases of direct plagiarism.

7.104 The committee is aware of the recent report by the Productivity Commission into intellectual property, which may lead to some administrative and legislative reform in the area.<sup>85</sup>

7.105 Additionally, the committee understands that copyright legislation is currently being considered by the European Union which is intended to address the use of news content by aggregators through asserting publishers' rights. This overseas experience may provide policy options that can be applied locally in the future, and should be monitored.

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83 House of Representatives Standing Committee on Legal and Constitutional Affairs, *Whistleblower protection: a comprehensive scheme for the Commonwealth public sector*, 25 February 2009, p. 178.

84 See the second reading speech made by Senator the Hon Mathias Cormann, *Senate Hansard*, 7 December 2017, p. 63.

85 Productivity Commission, *Intellectual Property Arrangements*, Productivity Commission Inquiry Report, No. 78, 23 September 2016. See also Australian Government, *Australian Government Response to the Productivity Commission into Intellectual Property Arrangements*, August 2017.

7.106 The committee would also like to note that, as discussed earlier in this report, there seems to be a growing willingness on the part of aggregators to cooperate with elements of the media sector and journalists to assist in building more sustainable models of monetising original content. This is a positive development, and should be encouraged going forward.

7.107 There may very well be a role for the Commonwealth to play in this space in the future. However, beyond the matters discussed, the evidence received by this committee about this complex policy matter did not go to a level of specificity or depth that would enable the committee to reach firm conclusions about whether reform to copyright law is desirable or practical at this stage.

**Senator Catryna Bilyk**

**Chair**



## **Additional Comments by Coalition Senators**

1.1 Coalition Senators were sceptical about the value of yet another inquiry into Australia's media landscape after multiple inquiries into media reform proposals. Coalition Senators opposed it on the grounds that it would be a waste of limited public resources. Enhancing public interest journalism requires action and not more inquiries.

1.2 Coalition Senators believe that the largely substance-free committee deliberations and recommendations have proven this view to be correct.

1.3 The Coalition Government's media reform package will have a meaningful and beneficial effect on public interest journalism and yet throughout the time this committee existed, and indeed prior to its formation, Labor and the Greens obstructed and opposed this legislation at every stage.

1.4 Consequently, Coalition Senators find it difficult to take many of the concerns expressed by Labor and Greens Senators regarding public interest journalism seriously.

1.5 Some of the ideas considered in the report, such as a new and vaguely defined Commonwealth body to offer direct financial support for journalism, are fraught with danger and could radically change the relationship between government and independent media. Coalition Senators strongly oppose this concept and the unorthodox proposal to fund this body with a new tax on content aggregators such as Facebook and Google.

1.6 Coalition Senators are open to encouraging philanthropic investment in not-for-profit journalism through the tax system, while noting commercial media outlets are, and will likely remain, the mainstay of news gathering and investigation in Australia.

1.7 Coalition Senators agree that Commonwealth laws can impact the work of public interest journalism and that an Australia Law Reform Commission audit is a worthy proposal.

1.8 Coalition Senators agree that defamation laws can affect public interest journalism but note they are primarily the responsibility of state governments.

1.9 However, much of the Committee's deliberations bore little relationship to the purported objective of the inquiry. For example, at the Committee's first public hearing on 17 May 2017, Labor and Greens senators aimed many of their questions at exploring the level and structure of executive remuneration at Fairfax.

1.10 Whilst Labor and Greens Senators spend their time grandstanding, Coalition Senators supported the Government's actions to preserve and enhance public interest journalism in Australia. This includes:

- The comprehensive and holistic media reform package, which abolished licence fees for commercial broadcasters and repealed redundant ownership and control rules;

- A \$60.4 million Regional and Small Publishers Jobs and Innovation package, funded in the 2017-18 Mid Year Economic and Fiscal Outlook (MYEFO), to support small regional publishers, in particular to meet the challenges on a changing media environment;
- Adequately funding the ABC and SBS to \$1.3 billion each year; and
- The provision of substantial additional funding for community radio broadcasters, with \$6.1 million additional funding in the 2017-18 Budget and a further \$12 million in the 2017-18 MYEFO.

1.11 Coalition Senators believe that these are meaningful, real-world actions that are having a genuine positive impact on the provision of public interest journalism in Australia.

1.12 Coalition Senators will continue to pursue real reform that will enhance and underpin the provision of public interest journalism in Australia rather than providing little more than platforms for Labor and Greens Senators to prosecute their ideological agendas.

**Senator James Paterson**

**Senator Jonathon Duniam**



# Appendix 1

## Submissions

- 1 Dr Bill Birnbauer
- 1.1 Supplementary to submission 1
- 2 Mr David Havyatt
- 3 Mr Robert Webb
- 4 Mr Chris Snow
- 5 Mr Adrian Jackson
- 6 Mr John Tebbutt
- 7 Professor Mark Pearson
- 8 Dr Tess Newton Cain
- 9 Mr Brian Savvas
- 9.1 Supplementary to submission 9
- 10 Schwartz Media
- 10.1 Supplementary to submission 10
- 11 Dr Denis Muller
- 12 Professor Rodney Tiffen
- 13 Public Interest Journalism Foundation
- 14 Civic Impact of Journalism Project
- 15 Country Press Australia Inc.
- 16 Dr Christopher Berg
- 17 Mr Tim Lloyd
- 18 West End Community Association
- 19 Deakin University
- 20 Professor Fran Baum
- 21 Mr Michael Dillon
- 22 michaelwest.com.au
- 23 The District Bulletin
- 24 Australian Lawyers Alliance
- 25 Croakey
- 26 Dr Alex Wake and Mr Gordon Farrer
- 27 Business Council of Co-operatives and Mutuals

- 28 Australian Communications and Media Authority
- 29 Community Broadcasting Association of Australia
- 29.1 Supplementary submission to 29
- 30 Dr David Nolan, Ms Jo Chandler, Dr Stephanie Brookes, Dr Michelle Imison
- 31 inkl
- 32 Mr Lindsey Jackson
- 33 Mr Ian Skurrie
- 34 Professor Peter Fray and Professor Derek Wilding
- 35 Dr Joseph M Fernandez
- 36 Indigenous Remote Communications Association
- 37 The New Beats Project
- 38 Google Australia and New Zealand
- 39 Journalism Education & Research Association of Australia
- 40 Facebook Australia
- 41 Federation of Ethnic Communities' Councils of Australia
- 42 Mr Jack Latimore
- 43 Congress of Aboriginal and Torres Strait Islander Nurses and Midwives
- 44 Associate Professor Tim Dwyer, Dr Fiona Martin, Dr Penny O'Donnell
- 45 Free TV Australia
- 46 Ms Ashlee Betteridge
- 47 Mr Ray Bange
- 48 Ms Jane Canaway
- 49 Dr Lee Duffield
- 50 News & Media Research Centre, University of Canberra
- 51 Freeline Group
- 52 Ms Prue Davison
- 53 Ms Sally McCausland and Mr David Vaile
- 54 MediaScope
- 55 Independent Australia
- 56 Ms Joy Ringrose
- 57 Mr Peter Mair
- 58 ABC
- 59 Asia Pacific Journalism Centre
- 60 Media Diversity Australia
- 61 Mr Andrew Elder

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- 62 SBS
- 63 Digital Industry Group Inc.
- 64 Media, Entertainment & Arts Alliance (MEAA)
- 65 Mr Timothy Whitfield
- 66 The Walkley Foundation
- 67 Justice for Children Australia
- 68 The Conversation Media Group
- 69 Mr Roger Colman
- 70 Mr Michael Lang
- 71 Ms Elizabeth Murray
- 72 Mr Harley Comrie
- 73 Mr Richard J. Harding
- 73.1 Supplementary submission to 73
- 74 Dr Tanya Notley & Associate Professor Michael Dezuanni
- 75 Mr Michael Taylor, Australian Independent Media Network

## **Tabled documents, answers to questions on notice, additional information and correspondence**

### **Tabled documents**

- 1 Document tabled by New Beats Project at public hearing on 21 August 2017 - Updated Redundancy Timeline
- 2 Document tabled by Crinkling News at public hearing on 17 May 2017 - Newspaper, Issue No.36
- 3 Document tabled by Crinkling News at public hearing on 17 May 2017 - Summary of Stanford Study
- 4 Document tabled by Mr Joel Thickins at public hearing on 19 May 2017 - Opening Statement
- 5 Document tabled by Nunn Media at public hearing on 22 August 2017 – Document

**Answers to questions on notice**

- 1 Fairfax Media - answers to questions on notice from public hearing 17 May 2017 (received 30 May 2017)
- 2 Media, Entertainment and Arts Alliance - answers to questions on notice from public hearing 17 May 2017 (received 31 May 2017)
- 3 Professor Peter Fray, UTS - answers to questions on notice from public hearing 17 May 2017 (received 2 June 2017)
- 4 Journalism Education and Research Association of Australia (JERAA) - answer to question on notice from public hearing 11 July 2017 (received 4 August 2017)
- 5 Facebook - answers to questions on notice from public hearing 22 August 2017 (received 15 September 2017)
- 6 Google – answers to questions on notice from public hearing 22 August 2017 (received 23 November 2017)
- 7 News Corp Australia - answers to questions on notice from public hearing 22 November 2017 (received 12 December 2017)
- 8 Attorney-General's Department - answers to questions on notice (received 21 December 2017)
- 9 Department of Communications and the Arts - answers to questions on notice (received 22 December 2017)
- 10 Australian Communications and Media Authority - answers to questions on notice (received 22 December 2017)
- 11 News & Media Research Centre, University of Canberra - answers to questions on notice (received 5 December 2017)
- 12 The Treasury – Answers to questions on notice (received 22 December 2017)
- 13 Department of the Prime Minister and Cabinet - answers to questions on notice (received 18 January 2018)
- 14 SBS - answers to questions on notice from public hearing 23 November 2017 (received 19 January 2018)

**Additional information**

- 1 Additional information provided by Associate Professor Mark Ritson, correction to evidence given at a public hearing on 22 August 2017
- 2 Additional information provided by The Conversation - Editorial Guidelines 2017

**Correspondence**

- 1 Correspondence to the committee from Google Australia, received 17 May 2017

## **Appendix 2**

### **Public hearings and witnesses**

#### **Wednesday, 17 May 2017 – Sydney**

CHESHER, Mr Matthew, Director, Legal and Policy, Media, Entertainment & Arts Alliance

CRERAR, Mr Simon, Editor-in-Chief, BuzzFeed Australia

EASTWOOD, Mr John Jo (JJ), Chief Executive Officer, HuffPost Australia

FRAY, Professor Peter, Professor of Journalism Practice, University of Technology Sydney

GREGSON, Miss Grace, Private capacity

HOWDEN, Ms Saffron, Editor, Crinkling News

HYWOOD, Mr Greg, Chief Executive Officer and Managing Director, Fairfax Media

MAGUIRE, Ms Tory, Editor-in-Chief, HuffPost Australia

McINERNEY, Ms Katelin, Director, Media, Media, Entertainment & Arts Alliance

MEHTA, Miss Diya, Private capacity

MURPHY, Mr Paul, Chief Executive, Media, Entertainment & Arts Alliance

WALLBANK, Mr Paul Ian, Private capacity

WEST, Professor Michael, Principal, Westpub

#### **Friday, 19 May 2017 – Melbourne**

THICKINS, Mr Joel, Partner, Head of Australia and New Zealand, TPG Capital (Australia)

#### **Tuesday, 11 July 2017 - Sydney**

ALMEIDA, Mrs Alice, Private capacity

BROWNLOW, Ms Megan, Partner, PricewaterhouseCoopers

BURROWES, Mr Tim, Founder and Content Director, Mumbrella

MARTIN, Dr Fiona, Discovery Early Career Research Fellow, Senior Lecturer Online and Convergent Media, Department of Media and Communications, University of Sydney

McCARTHY, Ms Justine, Legal Counsel, Regulatory and Business Affairs, Seven West Media

MITCHELL, Mr Ross, Director, Broadcasting Policy, Free TV Australia

MURRELL, Dr Colleen, Co-Secretary, Journalism Education and Research Association of Australia

O'DONNELL, Dr Penny, Senior Lecturer in International Media and Journalism, Department of Media and Communications, University of Sydney

PEARSON, Professor Mark, Professor of Journalism and Social Media, Griffith University; and Private capacity

ROMANO, Associate Professor Angela, Vice President Networks, Journalism Education and Research Association of Australia

SANGSTER, Ms Jodie Alexandra, Chief Executive Officer, Association for Data-Driven Marketing & Advertising

SCHULZE, Miss Jane, Managing Director, Australia/New Zealand, Standard Media Index

SHRIVELL, Ms Denise, Founder, MediaScope

WAKE, Dr Alexandra, Executive Member and Media Officer, Journalism Education and Research Association of Australia

WALADAN, Ms Sarah, Head of Legal and Regulatory Affairs, Free TV Australia

WHITFIELD, Mr Timothy, Director, Technical Operations, GroupM

WOOLLEY, Mr Darren, Chief Executive Officer and Founder, TrinityP3

### **Monday, 21 AUGUST 2017, Melbourne**

BERG, Dr Christopher, Senior Fellow, Institute of Public Affairs

COSTELLO, Ms Rebecca, Chief Executive Officer, Schwartz Media

CREED, Ms Tamsin, General Manager, Private Media

DODD, Associate Professor Andrew, Chair, Public Interest Journalism Foundation

KETCHELL, Mr Misha, Editor, The Conversation

KNOWLTON, Ms Cassidy, Editor, Crikey

LATIMORE, Mr Jack, Collaborator, IndigenousX

MISHRA, Mr Gautam, Chief Executive Officer, inkl Pty Ltd

MORGAN, Mr Bruce, Executive Director, Country Press Australia Inc.

MULLER, Dr Denis, Senior Research Fellow, Centre for Advancing Journalism, University of Melbourne

RICKETSON, Professor Matthew, Professor of Communications, Deakin University

SHERWOOD, Dr Merryn, Chief Investigator, New Beats, La Trobe University

SIMONS, Associate Professor Margaret, Board Member, Public Interest Journalism Foundation

SIMONS, Professor Margaret, Board Member, Public Interest Journalism Foundation

TAYLOR, Mr Ben, President, Country Press Australia Inc.

ZION, Professor Lawrie, Lead Chief Investigator, New Beats, La Trobe University

### **Tuesday, 22 August 2017, Sydney**

BISSET, Mr Jon, Chief Executive Officer, Community Broadcasting Association of Australia

GARLICK, Ms Mia, Director, Policy Australia and New Zealand, Facebook

KERR, Miss Aine, Manager of Journalism Partnerships, Facebook

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PARK, Ms Jacqui, Chief Executive Officer, Walkley Foundation  
PELLEGRINO, Mr Jason, Managing Director, Google Australia Pty Ltd  
RANDALL, Mr Phillip, President, Community Broadcasting Association of Australia  
RITSON, Professor Mark, Adjunct Professor of Marketing, Melbourne Business School  
RYLE, Mr Gerard, Director, International Consortium of Investigative Journalists  
VIJ, Ms Ishtar, Head, Public Policy and Government Relations, Google Australia Pty Ltd  
WALTON, Mr Christopher, Managing Director, Sydney, Nunn Media

**Wednesday, 22 November 2017, Canberra**

FEATHERSTONE, Mr Daniel, General Manager, Indigenous Remote Communication Association  
FISHER, Dr Caroline, Assistant Professor, News and Media Research Centre, University of Canberra  
FULLER, Dr Glenn, Assistant Professor, News and Media Research Centre, University of Canberra  
GRAHAM, Mr Chris, Publisher and Editor, New Matilda; General Manager, National Indigenous Radio Service  
PARK, Dr Sora, Director, News and Media Research Centre, University of Canberra  
REID, Mr Campbell, Director, Corporate Affairs and Editorial Management, News Corp Australia  
TAYLOR, Mr Michael, Managing Editor, The Australian Independent Media Network

**Thursday, 23 November 2017, Sydney**

CARROLL, Mr Jim, Director, News and Current Affairs, SBS  
MORRIS, Mr Gaven, Director, News, ABC  
MORRISON, Dr Andrew, RFD, SC, Spokesperson, Australian Lawyers Alliance  
NEUMANN, Dr Nico, Private capacity  
O'NEIL, Ms Clare, Director, Corporate Affairs, SBS  
SUNDERLAND, Mr Alan, Editorial Director, ABC  
TALBOT, Ms Anna, Legal and Policy Adviser, Australian Lawyers Alliance  
WICKS, Ms Mandi, Director, SBS Radio, SBS