

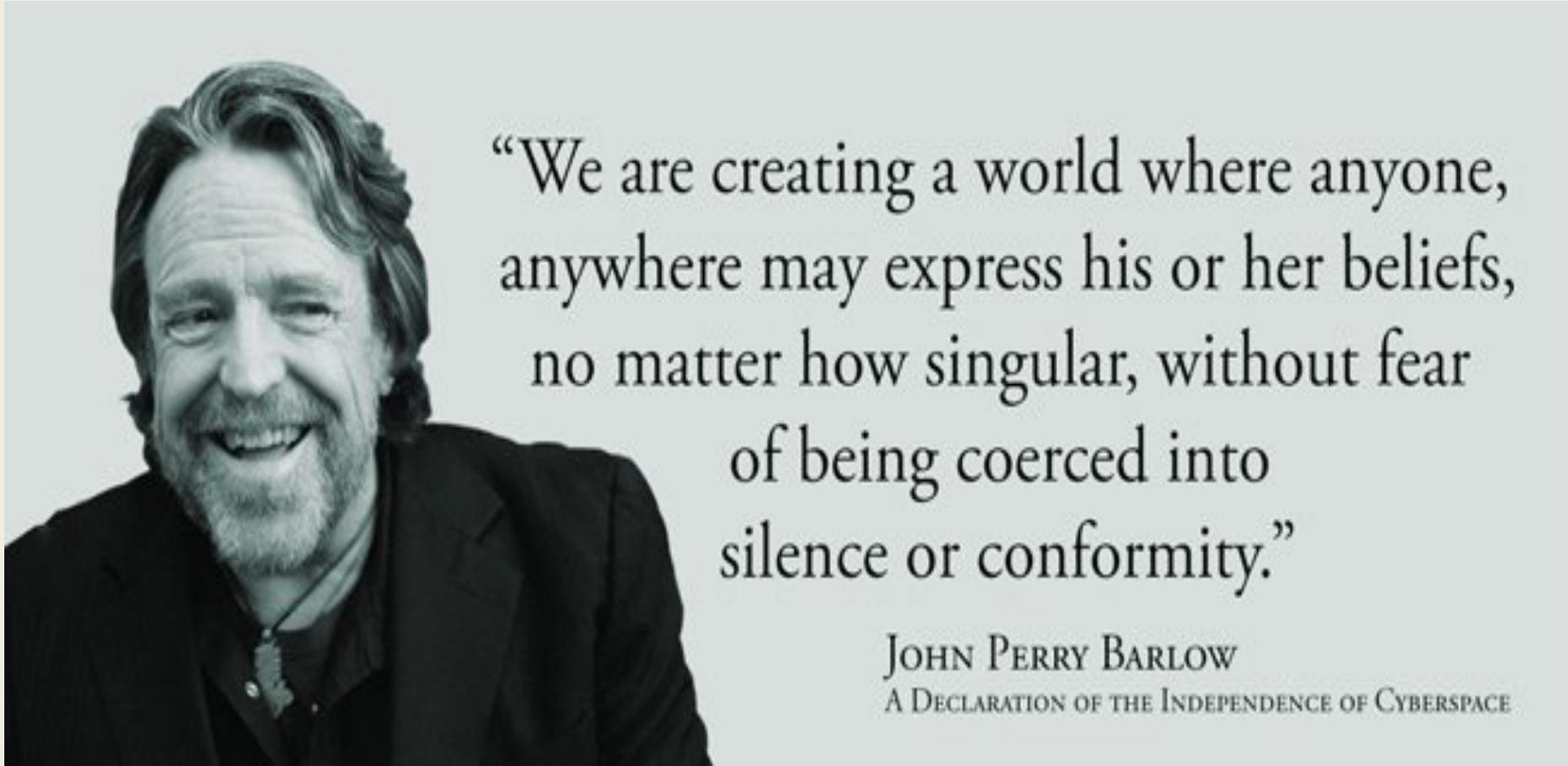


HOW REGULATION HAPPENS:
*DIGITAL PLATFORMS: THE
AUSTRALIAN EXPERIENCE*

Holly Raiche

ALAC

Governing the Internet?



“We are creating a world where anyone, anywhere may express his or her beliefs, no matter how singular, without fear of being coerced into silence or conformity.”

JOHN PERRY BARLOW
A DECLARATION OF THE INDEPENDENCE OF CYBERSPACE

Governing the Internet!

I am seeking to establish that the issue with Facebook is not that it is unregulated, but that it is underregulated

What are 'Platforms/Which Platforms

Online businesses that facilitate **commercial** interactions between at least two different groups with one typically being suppliers and the other consumers.

(Definition: *Information Technology and Innovation Foundation*)

Focus of the ACCC's Inquiry into Digital Platforms

- Online Search Engines
- Social Media Platforms
- Other digital content aggregation platforms

ACCC, Digital Platforms: Final Report

23 Recommendations on:

- **Privacy**

Various provisions to strengthen privacy protection/consent

- **Competition:**

Merger law, notice of acquisitions, changes to search engine and internet browser defaults, inquiry into adtech services

- **Copyright** – mandatory takedown code

- **Consumer protections**

Unfair contract terms/unfair trading practices

- **Supports for journalism** – including

Bargaining Code

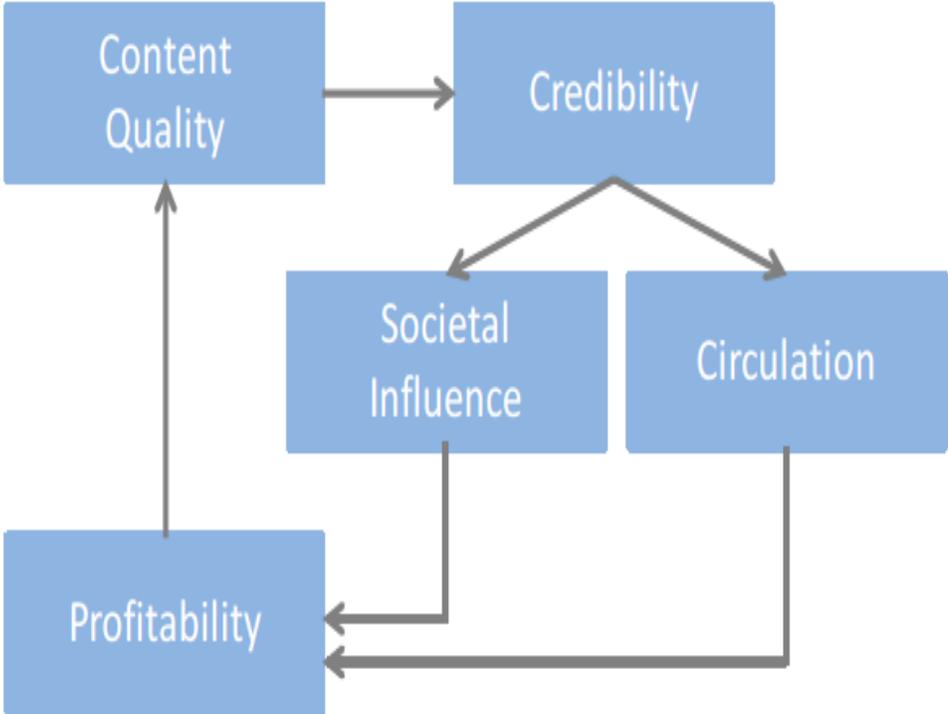
The Adtech Inquiry

The Issues to be addressed: (Interim report due December 2020)

- the **competitiveness and efficiency of markets** for the supply of digital advertising technology services and digital advertising agency services
- the availability to advertisers, publishers and other market participants of **information on activities in those markets**
- the **concentration of power** in those markets
- auction and bidding processes
- the impact of mergers and acquisitions in those markets
- the **behaviour of suppliers** in those markets
- whether the corporate structures of suppliers, or contractual arrangements between suppliers and customers, have a negative effect on **competition or informed decision making** in those markets
- the distribution of digital display advertising expenditure between publishers, digital advertising technology services providers and advertising agencies
- how **competition in those markets** impacts on competition in the market for the supply of digital display advertising services.

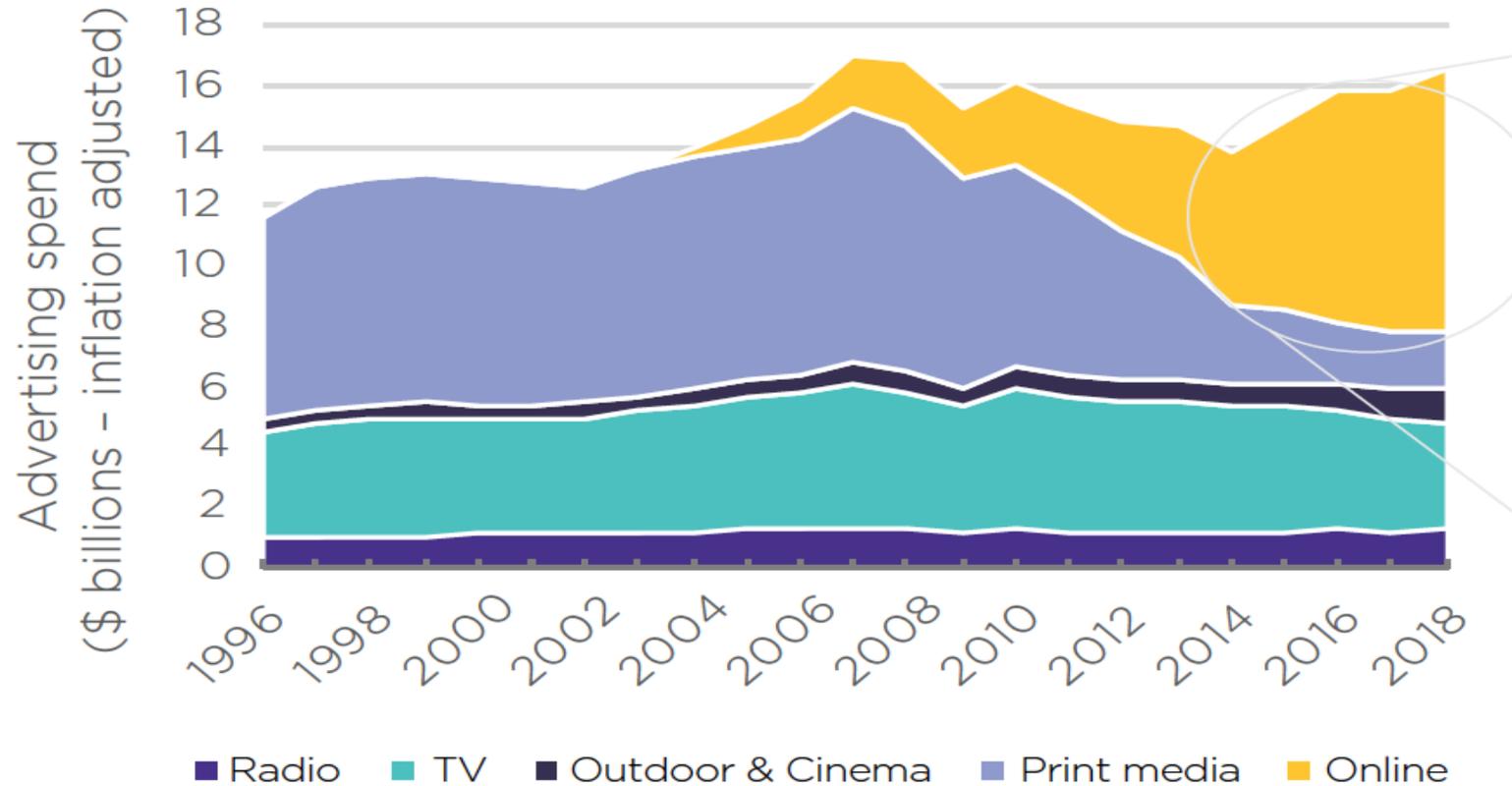
The Journalism 'Death Cycle'

Figure 1: Tracking the newspaper 'death spiral'⁵⁸



Why The Inquiry?

Figure 3 Australian advertising expenditure by media format



The Code/legislation – A Summary

- **Bargaining Rules** – REQUIRING designated digital platform and ‘registered news businesses’ to indicate an intention to bargain in good faith
- **Compulsory arbitration rules** – when the parties cannot come to a negotiated agreement on payment for including news on the designated platform – rules to be followed by an arbitral panel selecting between ‘final offers’ by both parties
- **Minimum standards** – designated digital platforms to provide registered news with advance notification of algorithm changes, information about the collection and availability of user data and advance notification of changes affecting the display and presentation of news content corporations
- **Non Discrimination by digital platforms** – not disadvantaging an Australian news Business

Definitions

Platforms;

- Designated by the Treasurer/Australian subsidiary or corporation itself

News Business

- Registered by the Communications Regulator
- Annual Revenue above \$150,000
- News sources relate to 'core news' content
- Operate predominantly in Aust. and subject to journalistic standards

Core News

- issues of public significance to Australians;
- relevant to engaging Australians in public debate, informing democratic decision making
- content which relates to community and local events.
- not intended to capture any non-news media content, such as drama, reality television, entertainment content or sports broadcasting
- can include opinion and editorial pieces written by journalists

Hey Google, Australians embrace innovators but we don't like bullies.

An Open Letter to Google



As a nation we welcomed you into our lives and have made you our home base on the internet. Your search engine was so good that it became a verb, we no longer search the web, we 'google it.'

But with success comes responsibilities and right now our Government, as our elected representative, is asking you to act beyond your narrow commercial self-interest.

The Australian Consumer and Competition Commission (ACCC) has reviewed your impact on our media and found the impact of your business model — and that of the other dominant digital platform Facebook — on our national life has been disastrous.

You have exploited your understanding of our personal interests and behaviours to draw advertisers away from traditional media, destroying the business model that supported independent journalism for more than 150 years.

In the past decade more than 5,000 Australian journalists have lost their jobs as your share of advertising has grown and grown.

You have also been happy to use stories written by those journalists as if they were your own work, deriving value from something that isn't yours.

Now the ACCC has asked you to recognise this and contribute some of your massive profits back into media in order for this essential element of our nation's public square to thrive.

With this support there would be more journalists who could keep us informed, give all Australians a voice, monitor the activities of the powerful and ensure that all levels of government are held accountable. **But instead of supporting our national interest, you have chosen to put yourself first.**

So here's a few things we would like to put on the table:

While your service may appear free, you make eye-watering amounts of money by selling access to us.

We don't quite know how you do it all, but you don't make \$4.8 billion in advertising revenue without deriving real value from our usage. So maybe it's time to respect us.

You are using your power as one of the largest companies on earth to threaten us.

When we ask you to consider paying a fair amount for the journalism from which you benefit, you threaten to charge us for your search engine. If you don't want us to use your engine just tell us and we'll go elsewhere.

And in supporting your interests you are prepared to push misinformation:

- Your claim that you will need to hand personal information to media companies is wrong.
- Your claim news publishers are going to receive favourable treatment in the algorithm is wrong.

It's as if you have taken every clause of the code and exaggerated it out of context and then attempted to create a smokescreen to scare and distract people.

Countering these claims is actually why we need an independent media — which is the whole point of the code.

Australians embrace innovators, but we don't like bullies.

If you want our ongoing support, we encourage you to make it mutual and reach a fair arrangement that respects our Australian media.

~ from Australians

Add Your Name to the Open Letter
centreforresponsibletechnology.org.au

QUESTIONS

THANK YOU