

The News Media Association's response to the Digital, Culture, Media and Sport Select Committee's [Inquiry](#): *"Sustainability of Local Journalism"*

Why Is It Important?

- Trusted local journalism is absolutely vital for society and democracy, providing editorially controlled, reliable sources of news and information for communities right across the UK;
- Published in 2019, the Cairncross Review highlighted the challenges facing a sustainable future for journalism but, to date, no significant action has been taken by government to support local news publishers;
- Despite local journalism being more in demand than ever before, with rising audiences, local news media needs support while the sector manages the transition to digital.

Briefing

Local news media audiences are growing. The latest data, published by JICREG, shows local news media is read by 42 million people in print and online across the country, 78.5% of the 15+ population.

This local journalism is vital for society and democracy, providing editorially controlled, reliable sources of news and information for communities across the UK. Local journalists are at the heart of their community, reporting on the stories that matter to residents; they hold the powerful to account and shine a light on the important issues that would otherwise go unscrutinised. At a time when misinformation and disinformation is rife online, local news publishers are a much needed and valued beacon of trust.

The Cairncross Review, published in 2019, highlighted the challenges facing a sustainable future for journalism, yet this has resulted in no action from government that has led to any tangible results supporting local news publishers. There is a strong future for independent, commercial local news media in the UK, but their business model is challenged, and short-term interventions are required to support transition to sustainable digital-first business models for local publishing.

To support long-term sustainability of independent local journalism, the government should act by:

- Bringing forward legislation early in the next parliamentary session to provide the Digital Markets Unit with statutory powers; including a requirement for large tech platforms to negotiate with local, regional, and national news publishers over payment for content
- Providing a package of targeted, short-term financial measures to support local publishers' transition to digital-first business models, including extending local newspaper Business Rate Relief, and introducing new tax reliefs for journalism and advertising

- Limiting the scope and scale of the BBC’s online news services, expanding the BBC/NMA Local News Partnership, and encouraging negotiation and collaboration with commercial publishers
- Building on the success of the ‘All Together’ Covid-19 advertising campaign, with a long-term government advertising partnership with news publishers which – like ‘All Together’ - specifically prioritises local news publishers
- Maintaining the statutory obligation to place public notices in printed local newspapers to protect the public right to know and safeguard this important revenue stream for local journalism
- Ensuring a robust, watertight and workable exemption for news publishers’ content in the Online Safety Bill, as supported by this Committee

1. Introduction

1.1. The News Media Association (the “**NMA**”) is the voice of UK local, regional and national newspapers in all their print and digital forms - a £4 billion sector read by more than 47.9 million adults every month in print and online. Our members publish over 900 news media titles - from Manchester Evening News, Kent Messenger, Monmouthshire Beacon through to national publishers including The Times, The Guardian, The Daily Telegraph and the Daily Mirror.

1.2. The NMA welcomes the inquiry into the “*Sustainability of Local Journalism*” (the “**Inquiry**”), launched by the Digital, Culture, Media and Sport Select Committee (the “**Committee**”). From the outset, we are pleased to report on the growing audience reach and importance of the provision of trusted local journalism. The sector is focused on building on its achievements as it increases the rate of digitalisation and innovation to create a sustainable business model for local publishers. The latest data from JICREG Life is Local shows that online audiences for local news media have surged by 17.9% in 2021, as records numbers seek out trusted local journalism to help them navigate the coronavirus pandemic. Latest JICREG audience data shows that 42 million people now access local journalism in print or digital each month, with sharp increases seen in the consumption of local news on mobile, especially among younger age groups.

1.3. The growth of the sector is indicative of local news continuing to be a valuable commodity in the modern age with a vibrant future. However, it is regrettable to report that, despite public interest in local news and local publisher innovation, the digital market in which the news media must operate remains hostile to local publishers, stifling the opportunity of such titles to reach their full potential. In the Advertising Association/WARC ad spend report for Q3 2021, the category Internet Pureplay (which is overwhelmingly comprised of Google and Facebook) took £18.9 billion, 92%, of the total spent on digital advertising in the UK in the year to Q3 2021, while national and local news - which produce so much of the content that the platforms feed off without paying for it – took £579.6 million, less than 3%.¹ This figure is notable when considering the future sustainability of local

¹ Furthermore, in 2019, Google and Facebook took 80% of the £14bn spent on digital advertising in the UK, while national and local news - which produce the content that the platforms feed off without paying for it – took just

journalism as people trend towards consuming news digitally rather than in print. The unfortunate reality is that platforms are happy to profit from the revenue generated from the sharing of local news publisher content, free-riding on the efforts of journalists who work hard to spearhead the truth on matters such as the Covid-19 pandemic, local government and now how the Ukrainian crisis is impacting local communities.

1.4. The news media industry is grateful that the Committee continues to take an interest in the business models and long-term sustainability of local journalism, and we welcome your Inquiry. However, it is also met with some frustration by our members. From our archives it is apparent that over the last decade the NMA has responded to at least 21 consultations from various parliamentary committees, government bodies and departments relating to the sustainability of local press and what must be done to safeguard its otherwise prosperous future. In this regard, the threat to local journalism is well documented; we have consistently set out the challenges faced by local publishers operating in a dysfunctional digital market that precludes them from fair payment for content. It is with great disappointment that, despite frequent consultation for more than 10 years, we must relay to the Committee that very little action has been taken that has led to tangible results. We therefore hope the Committee's inquiry will provide an impetus to accelerate the necessary action by government.

1.5. Action must be the highest priority. To that end, the government should act urgently to place the Digital Markets Unit (the "DMU") and the pro-competition regime on a statutory footing. This is essential for local news publishers to flourish properly online. This will complement the Online Safety Bill which has now been introduced to parliament - the DMU is in effect the other side of the same coin in ensuring a safe and fair online environment. While the legislation for the DMU and the broader regime is being put in place – and we trust this will be forthcoming in the next session - Section 2.3 of this response sets out a package of interim measures which the government can swiftly implement to safeguard the welfare of the local news media industry until the DMU and pro-competition regime take effect. We are asking the government to consider our recommendations, which we are happy to discuss in more detail.

2. Response

2.1. *How are public service broadcasters, particularly the BBC, supporting or disrupting local journalism?*

2.1.1. If the balance is right, the BBC performs an important role in curating news that bolsters the agenda of debate and scrutiny that is fundamental to our democracy. However, in recent years the BBC has rapidly pushed the envelope of its remit, harming the welfare of a vibrant and plural news media industry. As scrutiny is vital to ensure the BBC is fulfilling its function, we welcome the Inquiry's focus, and ask that Members consider the significant consequences that local news publishers are enduring as a result of the BBC's expansion online.

4%. INews, "[Google and Facebook could wipe out local journalism unless the Government acts now, editors warn](#)".

- 2.1.2.** The NMA’s local and regional members have stressed that they cannot hope to compete with the BBC’s continued expansion into written news online, especially local news, despite their growing readership. The BBC’s uniquely free-to-use service, funded by taxpayers via the Licence Fee, fundamentally affects the ability of commercial titles to build a sustainable business model; it is difficult for publishers’ titles to gate their content behind a paywall to build a digital subscription model when the BBC is running similar content on its website for free, often lifting or reproducing stories that originate from local newspapers without attribution.
- 2.1.3.** Understandably, therefore, we are particularly concerned about the BBC’s ‘Across the UK’ plans, published in 2021,² which seek to make the BBC “*more local than ever before*”³. In ‘Across the UK’, the BBC suggests the pandemic has “*accelerated the decline in local media business models*”. While the economic pressures on local media are well documented, this conclusion is plainly wrong – as evidenced by the sector’s rapidly-growing audiences and investment in recruitment of journalists. The BBC’s uninformed prediction of the demise of commercially viable local media in fact risks precipitating such a decline.
- 2.1.4.** The BBC has an understandable desire to fulfil its purpose, set out in the Charter, to “*provide impartial news and information to help people understand and engage with the world around them*” but we note that this provision should include “*content not widely available from other United Kingdom news providers.*” Indeed, it must be noted that the expansion of the BBC’s online local offering does not add to coverage regionally or locally; instead, it largely replicates the output of commercial newspapers. Rather than plugging any alleged democracy gap, it targets an audience already well-served and unfairly competes with local titles using its globally known brand and public money to provide a similar service subscription/ad-free.
- 2.1.5.** In equal measure, it is difficult to see the rationale for, or benefit to, British society of the large volume of written news and feature material produced by the BBC’s online services, which falls outside the remit of hard news. ‘Soft news’ is an area well-served by commercial news publishers. There is no public value in the BBC’s additional coverage of such content, including long reads and feature material, highly shareable videos of animals, online games, food recipes, entertainment reviews and celebrity news, as well as comment articles *inter alia*. Such an expansion is a needless use of taxpayers’ money, and unduly poses a direct challenge to commercial news media providers that provide a wide range of news and information to readers and rely on this content diversity to provide sustainable revenue streams.
- 2.1.6.** Rather than unduly competing with local commercial providers, as they do already and will even more if they are allowed to push ahead with their ‘Across the UK’ plans, the BBC should seek to continue its support for the independent commercial sector via existing schemes such as the BBC/NMA Local News Partnership (“**LNP**”), including the Local Democracy Reporting Scheme (the “**LDRS**”). Despite previous assurances to the industry about funding through to the end of the current Charter period in 2027, we are concerned by recent BBC statements that it cannot guarantee protected status for the LDRS, though it simultaneously announced the BBC will find funds for further BBC expansion into local

² BBC, “[The BBC Across the UK](#)”.

³ BBC, “[The BBC Across the UK](#)”, Pg 7 ‘Online Services’

news,⁴ competing with the nation's local publishers. The news media sector has raised concerns around the impact of BBC plans to ramp up its local news services, but the BBC has so far declined to withdraw the plans.

2.1.7. It is imperative that the scope and size of BBC online news services are scaled back, with online content that directly and unduly competes with local news publishers being stopped. This can be achieved by:

- withdrawing the local news proposals set out in the BBC's 'Across the UK' plan - specifically the removal of plans to hire 100 journalists as part of a "*new network of digital community reporters*";
- increasing BBC investment in partnership schemes, building on the LNP and LDRS model;
- greater collaboration with the commercial sector, for example through web-linking to local news stories, including commissioning/syndication, sharing of BBC video footage and archive material with the commercial sector;
- avoiding soft news, comment and analysis (e.g., human interest and entertainment stories, long reads, Behind the Headlines, etc.);
- withdrawing BBC News Daily email which directly competes with commercial alternatives; and
- opening up BBC Sounds to include podcasts from commercial publishers.

2.2. What has been the impact of the 2019 Cairncross review on local journalism, and what more needs to be done?

2.2.1. The Cairncross Review joins the roster of excellent reports which unanimously and unequivocally evidence that local news publishers are precluded from realising fair returns for their content due to the anti-competitive practices of large tech platforms.⁵ Publishers do not want special treatment; they want a normal commercial relationship and level playing field, so they are fairly paid for their content. However, despite the undeniable evidence set out in the CMA's Online Platforms and Digital Advertising market study, that should have seen to the immediate end of such an anti-competitive environment for local publishers, any subsequent action leading to tangible change is *de minis* thus far.

2.2.2. The DMU is the CMA's proposed solution for regulating the unfair trading relationship *between the platforms and publishers*. The NMA believes the DMU has every potential to be the world-leading digital regulator, with tools to address businesses and consumers' competition concerns with monolithic Big Tech monopolies. It is a cause of great frustration, therefore, that the legislation needed to put the DMU on a statutory footing has continuously been delayed on the basis that government cannot find parliamentary time.⁶ Indeed, the CMA has held off on multiple promises since 2020 to bring forward a market investigation that would seek to address these market failures and assist news publishers, based on the understanding that the government would provide the DMU with

⁴ Public Accounts Committee Oral evidence: BBC Efficiencies and Reform, [HC 995](#).

⁵ Other reports include: i) CMA [Market Study](#) on Online Platforms and Digital Advertising, and ii) Unlocking digital competition, [Report](#) of the Digital Competition Expert Panel.

⁶ As confirmed in Communications and Digital Committee Uncorrected [oral evidence](#): the Digital Markets Unit, Tuesday 8 February 2022.

the necessary powers to better resolve the anti-competitive environment.⁷ Had the CMA known that the government would not have produced a bill to Parliament by February 2020, it may have decided to push forward with, and concluded, a market investigation in 2020, with remedies in place by now. Instead, we are without remedies and still await the enabling legislation to allow the DMU to produce codes of conduct and make pro-competition interventions. Even at our most optimistic, we are unlikely to see remedies in place and working effectively until the end of 2023-2024.

2.3. The NMA has welcomed the government’s clear commitment to give the Digital Markets Unit the statutory powers it urgently needs, however this crucial legislation must now be brought forward as a matter of urgency. The Queen’s Speech this year presented an obvious opportunity to take this forward via a Digital Competition Bill.

The news media industry has called for assistance on the unfair trade relationships between digital platforms and news titles for over a decade. The NMA has also called for the DMU’s legislation to be expedited in our responses to the consultations concerning: i) the CMA’s “*Mobile Ecosystems Market Study Interim Report*”; ii) the CMA’s “*Annual plan 2022-2023*”; and iii) the DCMS and BEIS’ “*A New Pro-Competition Regime for Digital Markets*”.

2.3.1. Concern about the undue delay to the process of putting the DMU on a statutory footing was heard at a recent House of Lords Communications and Digital Committee oral evidence session with competition experts Dr Liza Lovdahl Gormsen and Professor Damien Geradin.⁸ Professor Geradin spoke of the UK initially being a global leader in digital regulations in 2018, considering regulations that were not being “*discussed on the Continent or anywhere else*”. Professor Geradin noted that the UK had since stalled: “*we are almost four years later and there is still no legislation*”.

2.3.2. We agree with Professor Geradin that there has been “*consultation on the top of consultation [vis-à-vis the new pro-competition regime] ... there must be a time for action*”. The NMA and its members have responded (and continue to respond) to multiple consultations and requests for evidence from various governmental bodies, which oftentimes duplicate questions previously answered. It is important to note that repetition of questions without action causes delays and forces consumers and businesses to operate in a dysfunctional market for an ever-growing period. These repeated calls for evidence also place an undue burden on publishers, especially smaller publishers, adding to their pressures while delivering little by way of tangible results.

⁷ A pledge to bring forward a market investigation reference if the DMU was not forthcoming was made in the CMA [Market Study](#) on Online Platforms and Digital Advertising, published 1 July 2020. In October 2020 Dr Andrea Coscelli gave another public commitment, specifically to direct action against Google and Facebook through a “*combination of antitrust and market investigation references*” if, a year from the publication of the CMA’s Digital Taskforce Report, the UK government had not handed down new laws for a regulatory framework in the Financial Times, “[Top UK competition official threatens action against Google and Facebook](#)”. Once more, we see a similar commitment from the CMA to revisit its decision to not bring forward a market investigation reference made on 14 December 2021, provided that the legislation required to bring the proposed pro-competition regime into force “*is not laid before Parliament for some time*” in Para 9.12 of the CMA’s Mobile Ecosystems Market Study Interim [Report](#).

⁸ Communications and Digital Committee Uncorrected [oral evidence](#): the Digital Markets Unit, Tuesday 1 February 2022.

- 2.3.3.** With no known timetable available for the legislation, there is no telling when a fully staffed DMU, ready to replace the work otherwise done via the CMA’s market investigations, will be operational. Compounding this, it has been confirmed that Meta, parent company of Facebook, has launched a hiring spree for lobbyists and lawyers as it prepares to battle the incoming digital regulations.⁹ The government delays have thus only served to give undue opportunities to Big Tech platforms to cloud the incoming digital regulations, thereby weakening the position of local news publishers whose resources for legal and lobbying support could not hope to match a fraction of some of the world’s largest tech companies.
- 2.3.4.** In the European Union, the Digital Markets Act (the “**DMA**”) was provisionally agreed in March and is anticipated to be ratified during the summer and put into effect during 2023.¹⁰ In 2018, the European Commission’s approach to regulating digital markets was at a nascent stage, only gaining momentum in 2020. This highlights the speed at which international bodies and countries are developing and negotiating digital regulation in response to a persisting and growing structural phenomenon. There are fears that the DMA is not nearly such a good solution as the DMU could potentially be, because it will enforce one code of conduct across all platforms, rather than tailored codes for different platforms.¹¹ The NMA is concerned that, once the DMA is established, it may be tricky for the UK government to adopt a different line (in the form of the DMU), since Google and others could argue that it is unreasonable to expect them to comply with two different codes in one continent. Professor Geradin echoes these concerns, stating that “*while Britain could have been a rule setter, it might end up being a rule taker*”.¹² This jeopardises the decade of hard work from the news media industry, as well as that of the CMA, DCMS and BEIS *inter alios*.
- 2.3.5.** It is crucial to realise that the harm identified in the Cairncross review has not ceased since its publication. Delay to the pro-competition regime has only exacerbated issues. The profits of Apple, Google and Facebook are now far higher than they were at the start of the Cairncross review.¹³ It is regrettable that empirical proof demonstrating the unfair commercial relationship between publishers and platforms has not led to action. It is vital that the government understands that the local news media cannot continue to invest in the high-quality journalism that is essential for democracy and society in such anti-competitive conditions – action must now be the highest priority.

2.4. *How can the Government support local news outlets to develop sustainable business models?*

- 2.4.1.** The government has a notable ability to support local news outlets. For example, in 2020-2021, the government partnered with the newspaper industry on the Covid-19 Ad Campaign, namely: the “*All Together*” campaign. This multi-million-pound partnership,

⁹ Politico, “[Facebook ramps up UK lobbying hires as privacy battles loom](#)”.

¹⁰ As confirmed in this Financial Times story, “[Google in last-ditch lobbying attempt to influence incoming EU tech rules](#)”

¹¹ Communications and Digital Committee Uncorrected [oral evidence](#): the Digital Markets Unit, Tuesday 1 February 2022.

¹² Communications and Digital Committee Uncorrected [oral evidence](#): the Digital Markets Unit, Tuesday 1 February 2022.

¹³ The Guardian story, “[Google, Apple and Microsoft report record-breaking profits](#)”.

with print and digital advertising spend specifically weighted to benefit local news publishers, provided unparalleled levels of collaboration across a senior team of publisher experts, OmniGov and the Cabinet Office. News titles interpreted government policy for their audiences and delivered sponsored content in a compassionate and relevant tone unique to each publication to drive trust, deepen understanding and change behaviour. News publishers delivered 70 briefs to 600 national, regional, local and community titles over 18 months. This delivered real value for money for government and demonstrated how news media is an effective partner for government advertising. Building on this mutually beneficial success story, the government, as the biggest UK advertiser, should undertake a comprehensive review of its advertising expenditure going forward, consider the proportion it spends with global tech platforms, and commit to continuing to be a significant advertising partner with local news titles. Indeed, an advertising partnership to assist local publishers is not unprecedented. Just this month the Australian House of Representatives Standing Committee on Communications and the Arts made 12 recommendations to assist local news publishers - one of which being that the Australian Government should *“review government advertising expenditure across all departments and agencies with a view to ensure a minimum of 20% of government print advertising is placed in regional newspapers”*.¹⁴

- 2.4.2.** However, as mentioned in the introduction of this response, the only way the local news publishing industry can properly flourish is through levelling the playing field between platforms and publishers, ensuring the latter are properly remunerated for the former’s use of their content. Indeed, the government must act to ensure that reliable, responsible, fact-checked journalism does not suffer because online platforms have appropriated much of the revenue which once funded it. However, as neither the DMU nor a mandatory news media bargaining code appears to be imminently forthcoming, it is vital that the government provides local news publishers with a package of interim measures that can be applied immediately to ensure that local media remains vibrant and plural. Our outlined measures are not intended to be permanent, but to act as a stopgap over the next three to five years until the full establishment of the DMU and the pro-competition regime the government has promised.

Compel Tech Platforms to Pay for the Content They Carry

- 2.4.3.** It is imperative that the DMU and the pro-competition regime is put on the statute books to balance the playing-field between platforms and publishers and to ensure fair payment for content. However, whilst we await legislation on the DMU’s responsibilities and powers, the government must implement a news media bargaining code to resolve the imbalance in the interim period. To assist, we **Annex** to this response a workable framework for a draft bargaining code through the medium of current legislation. This can then be readily subsumed into the new regulatory regime for digital gatekeepers administered by the DMU, when legislation to empower the DMU is finally passed. Implementing the bargaining code will also allow the government to stay true its promise of ensuring the *“UK’s media and press sectors are able to flourish online”*.¹⁵

Watertight Exemption for News Publishers in the Online Safety Bill

¹⁴ Mumbrella, [“Committee recommends minimum 20% of Govt print ads placed in regional papers”](#)

¹⁵ DCMS’ [policy paper](#) *“Digital Regulation: Driving growth and unlocking innovation”*.

- 2.4.4.** We are pleased with the Online Safety Bill’s definitions of “*News Publisher Content*” in Clause 49 and “*Recognised News Publishers*” in Clause 50. News publisher content posted onto, or shared via, in-scope user-to-user services (i.e., social media platforms), is excluded from the safety duties imposed by the Online Safety Bill via Clause 49.
- 2.4.5.** The fundamental issue that risks undermining the news publisher exemption itself, however, is that the Online Safety Bill does not contain a duty **not** to remove news publisher content from those services. Instead, it creates significant incentives through high penalties to make platforms and search engines err on the side of caution whenever their algorithms encounter content that might put them at risk and to favour a zealous approach to police and take-down news publisher content. This risks undermining press freedom and restricting public access to news.
- 2.4.6.** It is reassuring that alongside the publication of the revised Online Safety Bill, the DCMS Press Release stated that “*Ministers will also continue to consider how to ensure platforms do not remove content from recognised media outlets.*”¹⁶ As the Online Safety Bill passes through parliament the NMA will monitor closely for a robust, watertight and workable exemption for news publishers’ content, as supported by this Committee. We ask that the Committee continues its support for this exemption.

Journalism Tax Relief

- 2.4.7.** The NMA and our members have called on the government to introduce targeted interventions which would quickly provide support directly to the producers of public interest journalism. A refundable tax credit system could be introduced whereby bona fide, recognised publishers are able to claim a proportion of the salaries of existing qualifying reporters deployed to cover public interest journalism and to incentivise and fund the employment of new reporters specifically for the areas outlined above.
- 2.4.8.** In the UK, the creative industries benefit from the creative industry tax reliefs which include support for local orchestras, theatre, art galleries and so on. Why not for local journalism that is so vital to our democratic society? This form of relief should be adapted and extended to news organisations which employ journalists for specific purposes. For example, companies would qualify if they were registered in the UK and paid Corporation Tax. Qualifying expenditure would include the salaries of reporters involved in areas of public interest journalism. A claim could be made as an additional deduction to reduce the company’s profits or increase its loss – thereby reducing the amount of Corporation Tax due. If a company made a loss, then a proportion or all that loss could be surrendered for a payable tax credit at an amount to be agreed. The annual cost for the journalists would be £37.5 million (1,500 journalists at a gross allocation of £25,000 per journalist) plus an administration framework costing around £250,000 per year, bringing the total funding required to £37.75 million per year for a period of between three and five years.
- 2.4.9.** The UK government would not be setting any precedent for providing emergency funding and third-party direct support for journalists. Financial support for the press is the norm in several countries. For example, in France, Norway and Sweden media authorities

¹⁶DCMS [Press Release](#).

administer a wide range of established grants for training, hiring correspondents, production, research and innovation. In Canada, the state provides three different kinds of tax relief valued at a total of \$595 million (CAN). The NMA put forward a detailed proposal to the Department for Digital, Culture, Media and Sport.

Business Rates Assistance

2.4.10. When it was introduced in 2016, the NMA and local news publishers welcomed the Business Rates Relief. Under the scheme, local news publishers receive a £1,500 business rates discount for office space occupied by local newspapers. The scheme was subsequently extended and will now apply for an additional five years, until 31 March 2025. However, although the scheme has proved useful, publishers have found that the amount they are able to save is relatively modest. Ensuring a sustainable future for journalism has been identified as an important priority for government and local news publishers are particularly in need of further assistance.

2.4.11. Local news publishers can be quickly and easily included in business rates relief by expanding a scheme which is already in place. In both Scotland and Northern Ireland, the business rates holiday has been extended to include local news publishers, due to the vital role local newspapers play in keeping their communities safe, holding power to account, and communicating important public health information to the public.

2.4.12. On 26 October 2020, we wrote to the Chancellor to explain that we believe extending this relief in England and Wales would be a quick and straightforward way to provide immediate assistance to local publishers. We also appealed to extend tax relief for local publishers in the Autumn Budget and Spending Review 2021. It was regrettable to subsequently read that the Chancellor had provided tax relief to support theatres, orchestras, museums and galleries, but not the local news media. Having examined other relief programmes, such as the charity rate relief, we believe there is a strong case for an 80% rates relief. Furthermore, expanding the scope of the hereditament to include premises that are used for publishing activities and associated administrative services which contribute to the production of local newspapers would deliver more much-needed value to local publishers. We strongly recommend that these measures be implemented immediately to help local publishers.

Maintain the Mandatory Newspaper Publication of all Public Notices

2.4.13. The NMA has warned of the grave problems which could result from the government's proposals for changes to the planning system, originally outlined in 'Planning for the Future' and 'Changes to the Current Planning System'. We fear these could have profound adverse effects on public consultation and engagement in the reformed planning process and might also put at risk essential local news media titles, with wider consequences for the communities they serve. They would put in jeopardy the system for alerting the public to proposals through the current statutory requirements for mandatory publication of planning notices in newspapers.

2.4.14. If the government decided against retaining mandatory newspaper publication of planning notices in the reformed system, this would obstruct and diminish public alert, input and engagement in development proposals, rather than improving public consultation. As the

Cairncross Report warned, such a decision could also weaken the viability of many local titles, to the further detriment of their communities and loss of public oversight and democratic engagement.

2.4.15. We have explained in detail the hugely damaging consequences that abolition of the statutory requirement would have, backed by independent research findings. The Housing, Communities and Local Government Committee's report 'The future of the planning system in England' has since called for the existing system to be maintained, underscoring the importance of keeping public notices in printed local newspapers while exploring opportunities to further public engagement through digital solutions.

2.4.16. We have also presented to government details of a new UK-wide public notices online portal which the local newspaper industry, through the NMA, is currently developing, which will be launched in 2022 making public notices (planning, traffic, licensing etc) more digitally accessible while retaining the all-important statutory requirement on local authorities to publish them in independent printed local newspapers.

2.4.17. We would therefore welcome a commitment from the government that the current system of mandatory newspaper publication of all public notices will be maintained.

Advertising Tax Relief

2.4.18. The NMA has joined forces with other media sectors to call for a tax credit for advertisers who place their advertising with specific UK-based categories of media, - such as radio, television, newspapers and magazines - which invest in valuable UK content such as journalism. The advertising tax credit would not only help these media companies, it would also help British businesses, especially small businesses, get back on their feet, and stimulate consumer demand and wellbeing. The credit would exclude social media and search companies which do not invest in UK content.

2.4.19. The Treasury could benefit by £1.1 billion to £2.3 billion in net extra tax revenues from a 10% tax credit and by £2.8 billion to £5.9 billion from a 30% tax credit.

2.4.20. The news media industry, which has provided so much benefit to the public during the coronavirus pandemic through the provision of trusted journalism, is facing a crisis of unprecedented proportions. We believe that direct and targeted, short-term interventions by government, such as the ones outlined in this representation, are necessary to safeguard the future of independent journalism in this country. We would once again ask that government recognises the news media industry's value to the public and the threat it is currently under by putting in place these measures. The NMA is happy to assist in any way.

2.5. *What role does social media play in local journalism?*

2.5.1. As described in detail above and documented extensively in various reports commissioned by government including the Cairncross Review, Furman Report, the CMA online advertising market study, as well as several reports of this Committee, there are fundamental issues in the relationship between local news media titles and the tech

platforms which need to be addressed in order for local journalism to have a truly sustainable future.

- 2.5.2.** As people trend towards consuming news digitally rather than in print, ensuring the digital market functions in a fair and transparent way is essential for the long-term sustainability of local journalism. JICREG figures show that, in 2017, news media's online reach was 22% of all adults (aged +15) living in Great Britain, which since has increased to 70% in 2021. Conversely, a downward trend is visible in print form, which had a reach of 41% in 2017 to 30% in 2021. The downward trend for the reach of printed newspapers is likely to be exacerbated by rising energy prices impacting paper production and distribution, which will inevitably be worsened greatly by the war in Ukraine. As such, local titles are becoming more reliant on digital revenue streams, where margins are far smaller, and a large portion of advertising revenue generated around news media content is taken by intermediaries including social media platforms.
- 2.5.3.** Notwithstanding these structural issues and the much-needed remedies, local news media is an extremely important part of the social media ecosystem, providing highly trusted news, information, and entertainment as an antidote to the misinformation and fake news proliferating online.
- 2.5.4.** The role of local news media in countering misinformation on social media has been graphically illustrated during the coronavirus pandemic. A survey in September 2020 found that 70% of local editors said they or their journalists had actively corrected or counteracted misinformation about coronavirus spread by others on social media. Countless studies have revealed the gulf in trust between in news media and the social platforms. For example, in 2020, the Reuters Institute for the Study of Journalism found that news organisations are four times more trusted for coronavirus news and information than social media.
- 2.5.5.** As a beacon for trusted news and information on social media, many local and regional news media outlets now enjoy large audiences on social media platforms. The Manchester Evening News was named by social media analytics company NewsWhip as one of the world's most successful publications on social media with nearly 10 million engagements with readers in January 2022. The Liverpool Echo has nearly half a million followers on Twitter while The Herald in Scotland has 120,000 followers.
- 2.5.6.** Journalists are adept at using social media as part of their reporting and it is part of the fabric of the modern local newsroom, with the platform being used to augment and add impact to campaigns and appeals as well as general reporting. Some local publications now employ social media editors who are tasked with ensuring local journalism has the maximum possible exposure on social media using engagement data and analytics. And, while such schemes do not replace the need for structural reform to level the playing field between publishers and the platforms, publishers have worked with the platforms through successful initiatives such as the Community News project which has seen Meta provide funding for community reporters working in local news titles.

2.5.7. Sadly, in recent years, journalists have increasingly found that social media can also be used as a platform for unacceptable attacks by those who would seek to silence them through threats and intimidation. A separate survey of regional journalists in September 2020 asking about their experiences of abuse as a direct result of their profession, found that more than 80% said the problem has got ‘significantly worse’ since they began their careers. A large majority of respondents said they encounter general abuse online every day, with 40% spending more than an hour each week reading and dealing with it. The NMA welcomes the efforts of government to tackle this problem through the National Action Plan for the Safety of Journalists and through industry initiatives such as Reach plc’s appointment of an online safety editor.

2.5.8. Social media can be a force for good in local journalism, but only if the relationship between the platforms who act as gatekeepers and who surface the content produced by news media publishers and those publishers is fair, transparent, and open.

2.6. *How are partisan and hyper-partisan news outlets disrupting local news production?*

2.6.1. The news media sector welcomes competition on a fair and level playing field but, as described above, it has encountered severe problems with the tech platforms and their stranglehold over the digital advertising ecosystem.

2.6.2. In the past, the industry has encountered difficulties with ‘council newspapers’ – newspapers published by local authorities which are designed to look like real independent newspapers but are in fact nothing more than propaganda from the local authority. These publications were widely criticised as they mislead readers into thinking they are reading real local journalism while diverting advertising funds (including public notices which are important for local democracy) away from genuine local papers.

2.6.3. Following years of campaigning by the NMA, 10 years ago the government made changes to the Local Authority Publicity Code to restrict the frequency of these publications and limit their impact on local newspapers. Unfortunately, some councils have flouted the ban with government forced to launch an investigation into Haringey Council’s magazine Haringey People over concerns that the publication could be breaching the rules. It has also been reported that Waltham Forest Council continues to defy the guidelines by publishing its Waltham Forest News publication seven times in 2021 and claiming it is the “*largest local newspaper*” in the area. In August 2019, a High Court judge found that restricting council papers promotes freedom of expression when he dismissed attempts by Hackney and Wandsworth councils to challenge the rules. The NMA and our members urge government to enforce the rules and put an end to these publications once and for all.

2.6.4. The NMA has also voiced its concerns around publications produced by political parties which, like the council newspapers, mimic the look and feel of independent local papers but are actually full of political party content rather than independent news. The NMA has seen multiple examples of these types of publications, which appear in greater numbers around the local and national elections, from all the main parties to a greater or lesser degree.

3. Conclusion

3.1. As the Committee recognise in their call for evidence, local journalism is vital for society and democracy. News media publishers are, by far, the biggest investors in local journalism, publishing some 900 titles and employing thousands of journalists. This local journalism is attracting a larger audience than ever before as investment in digital platforms gives publishers greater reach. However, monetising this reach in the digital environment is far harder than print. The average digital reader is worth approximately eight times less to a publisher than a print reader.¹⁷

3.2. The government has committed to ensure the “UK’s media and press sectors are able to flourish online”.¹⁸ Indeed, the government has been clear that the digital regulation regime must:

*“support [the government’s] objectives on press sustainability, helping to rebalance the relationship between publishers and the online platforms on which they increasingly rely”.*¹⁹

3.3. It is, therefore, crucial that the government publishes its legislative timetable for the Competition Bill that will provide the DMU statutory powers. This should be announced in the Queens Speech 2022 at the very latest and brought forward early in the next session. In the interim period between now and the legislation for the DMU and pro-competition regime, the government should provide local news publishers with the package of measures outlined in Section 2.3 of this response to ensure they are able to continue with their high-quality output.

3.4. The NMA would welcome the opportunity to discuss this response with the Committee, and for the NMA and its local members to give oral evidence if applicable.

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News Media Association
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¹⁷ Specifically, Deloitte estimated that the industry’s average annual revenue per print media user was £124 in 2016, compared to £15 per digital media user. See: Deloitte, “[UK News Media: an engine of original news content and democracy](#)”; Mediatique, DCMS, [Overview](#) of Recent Dynamics in the UK Press Market, April 2018.

¹⁸ This is a tenet of one of the government’s three key objectives - “Promoting a flourishing democratic society”, as seen in DCMS’ [policy paper](#) “Digital Regulation: Driving growth and unlocking innovation”.

¹⁹ DCMS’ [policy paper](#) “Digital Regulation: Driving growth and unlocking innovation”.



Explanatory notes

Digital platforms are the gatekeepers to the modern economy. News media businesses cannot access a significant proportion of their audiences without dealing with Google and Facebook (in particular). The gatekeepers therefore hold substantial bargaining power and can unilaterally impose commercial terms on news media businesses without variation. This imbalance of power forces publishers to accept terms that might otherwise be detrimental to their long-term commercial interests, whilst also creating a degree of business dependency that jeopardises investment and dissemination of high-quality UK journalism.

As other jurisdictions ranging from Australia to France have recognised, statutory intervention is necessary because of the public benefit provided by the production and dissemination of news, and the importance of a strong independent media in a well-functioning democracy. For too long, news providers have been unable to negotiate equitable remuneration for the licensing of journalism for commercial use by large online platforms. High quality, independent journalism informs and engages the public, debunks misinformation, brings together communities and holds the powerful to account.

The following draft Bill includes clauses that can be inserted into the Enterprise Act 2002 (“EA02”), which is the main legislation that aims to ensure that markets work well in the UK. The clauses aim to provide a level playing field such that platforms’ market power cannot be misused, and news media receive appropriate compensation for the production of trusted news content.

The clauses complement the UK’s present market investigation regime, which empowers an independent and well-established regulator, the Competition and Markets Authority (“CMA”), to act at arm’s length from the Executive and Parliament. The Enterprise and Regulatory Reform Act 2013 gives the CMA a primary statutory duty to promote competition, both within and outside the UK, for the benefit of consumers. In developing its strategic and operational plans Ministers have asked the CMA (inter alia) to be willing to consider potential competition concerns in business-to-business markets, including the effects of differences in bargaining power between firms in a supply chain.

The proposed clauses ensure consistency with the Online Safety Bill by mirroring the definitions of “*recognised news publisher*”, “*user-to-user service*” and “*search service*”.

The proposed clauses would specify the significant bargaining imbalance between all recognised news publishers on the one hand and user-to-user services and search services on the other hand as an “*adverse effect on competition*” for the purposes of section 134 EA02. The remedies team in the CMA would therefore be required to draft a mandatory bargaining

process, which would legally bind all parties in the same way as its market investigation remedies. Such a task sits squarely within the CMA's expertise and the procedural safeguards and timetables contained within the EA02 could be adopted. There would be no need for the designation of digital platforms and the registration of news businesses (the model adopted in recent Australian legislation).

The clauses support the sustainability of the UK news media sector by giving the CMA a duty (building on the recent market study into online platforms and the digital advertising market in the UK, without needing to conduct the lengthy market investigation process) to introduce a statutory bargaining process that applies to news media businesses and digital platforms when bargaining in relation to the licensing of journalism for commercial use by large digital platforms. This would address the immediate need. In the longer term, the process could readily be folded into the new regulatory regime for digital gatekeepers, which will be administered by the Digital Markets Unit, which is part of the CMA.

Amendments to the Enterprise Act 2002 in relation to digital platforms

1. The mandatory bargaining process

- (1) The Enterprise Act 2002 (EA02) is amended as follows to give the Competition and Markets Authority (CMA) regulatory functions in respect of a mandatory bargaining process.
- (2) For the purposes of Section 134 EA02, the significant bargaining imbalance between user-to-user services and search services on the one hand and recognised news publishers on the other shall be deemed to represent a feature that prevents, restricts or distorts competition in the market or markets for the distribution of news content in the United Kingdom.
- (3) The CMA shall have the duty to remedy the adverse effects of this feature under Section 138 EA02 as if the CMA had made this decision itself under Section 136 EA02, including the applicable timetables, consultation processes, transparency, appeal processes, duty to monitor compliance, and duty to consider revisions.
- (4) In remedying this feature, the CMA shall issue an order under Section 161 EA02 (or accept undertakings under Section 159 EA02) setting out a process which user-to-user services, search services and recognised news publishers shall be required to follow when agreeing terms for the distribution of news-related material by user-to-user services and search services.

2. Executive and legislative oversight

- (1) Before issuing its order or accepting undertakings under Section 1(4) above, and in addition to the consultation processes set out in EA02, the CMA shall provide the Secretary of State with a copy of its proposed remedy who shall, if s/he approves the proposal, lay a copy before Parliament as soon as practicable.
- (2) If the Secretary of State does not approve the proposal, s/he shall give the CMA written reasons why s/he does not approve the proposal and may give the CMA written directions requiring the CMA to modify the proposed remedy.

- (3) If the Secretary of State does not approve the proposal, the CMA shall resubmit it to the Secretary of State under subsection (1) within 40 days of receiving the Secretary of State's written reasons or directions under subsection (2), whichever is later.
- (4) Where a proposal is laid before Parliament, if neither House passes a resolution disapproving the proposal within 40 days—
 - (a) the CMA shall issue its order or accept the undertakings, and
 - (b) it shall come into force in accordance with provision made by the CMA.
- (5) The statutory timetable in the EA02 is paused from the date on which the Secretary of State is provided with a copy of the proposed remedy until Parliament approves it (or fails to disapprove of it within 40 days of it being laid).
- (6) If either House passes a resolution disapproving the proposal within 40 days of it being laid, the CMA shall reconsider the remedy taking account of the resolution and resubmit a proposal to the Secretary of State under subsection (1) within 40 days of the resolution, with the statutory timetable in the EA02 remaining paused until Parliament approves it (or fails to disapprove of it within 40 days of it being laid).

3. Remedy provisions

- (1) In drafting its remedy under Section 1(4), the CMA may include provisions relating to—
 - (a) bargaining between user-to-user services and search services on the one hand and recognised news publishers on the other in good faith in relation to news-related material made available by user-to-user services and search services, whether collectively or individually;
 - (b) compulsory final offer arbitration where parties cannot come to a negotiated agreement about remuneration relating to the making available of news-related material on user-to-user services and search services within three months after bargaining starts;
 - (c) a requirement that user-to-user services and search services provide recognised news publishers with a list and explanation of the data that their service collects (whether or not it shares the data with the recognised news publisher) about the recognised news publisher's users through their engagement with news-related material made available by the service, this list and explanation to be updated and supplied annually;
 - (d) a requirement that, if requested by a recognised news publisher or the CMA, the user-to-user service or search service supplies it with the data and information relevant to assessing the benefit that the service receives from the news-related material of each recognised news publisher;
 - (e) a requirement for user-to-user services and search services to provide recognised news publishers with 28 days' advance notification of planned changes to an algorithm or internal policy or practice that is likely to have a significant effect on either (a) the ranking of the recognised news publisher's covered news-related material made available by the service, or (b) the display and presentation of advertising directly associated with that content;

- (f) a requirement that this notification describe the changes to be made and their expected effect in comprehensible terms, and explain how the recognised news publisher can minimise any negative effects;
 - (g) non-differentiation requirements stipulating that user-to-user services and search services shall not differentiate between recognised news publishers because of matters that arise in relation to their participation or non-participation in the process;
 - (h) contracting out, so that a user-to-user service or search service may reach a commercial bargain with a recognised news publisher outside the process about remuneration or other matters.
- (2) The CMA may include any other provisions which it believes are required or desirable to remedy the feature or its effects comprehensively.
- (3) The CMA may exclude from its remedy any user-to-user services, search services or recognised news publishers that are de minimis if there is a reasonable justification for doing so.

Definitions:

4. Meaning of “*recognised news publisher*”

- (1) “*Recognised news publisher*” means any of the following entities—
- (a) the British Broadcasting Corporation,
 - (b) Sianel Pedwar Cymru,
 - (c) the holder of a licence under the Broadcasting Act 1990 or 1996 who publishes news-related material in connection with the broadcasting activities authorised under the licence, and
 - (d) any other entity which—
 - (i) meets all of the conditions in subsection (2), and
 - (ii) is not an excluded entity (see subsection (3)).
- (2) The conditions referred to in subsection (1)(d)(i) are that the entity—
- (a) has as its principal purpose the publication of news-related material, and such material—
 - (i) is created by different persons, and
 - (ii) is subject to editorial control,
 - (b) publishes such material in the course of a business (whether or not carried on with a view to profit),
 - (c) is subject to a standards code,
 - (d) has policies and procedures for handling and resolving complaints,
 - (e) has a registered office or other business address in the United Kingdom,
 - (f) is the person with legal responsibility for material published by it in the United Kingdom, and
 - (g) publishes—
 - (i) the entity’s name, the address mentioned in paragraph (e) and the entity’s registered number (if any), and
 - (ii) the name and address of any person who controls the entity (including, where such a person is an entity, the address of that

- person's registered or principal office and that person's registered number (if any)).
- (3) An "*excluded entity*" is an entity—
 - (a) which is a proscribed organisation under the Terrorism Act 2000 (see section 3 of that Act), or
 - (b) the purpose of which is to support a proscribed organisation under that Act.
 - (4) For the purposes of subsection (2)—
 - (a) news-related material is "*subject to editorial control*" if there is a person (whether or not the publisher of the material) who has editorial or equivalent responsibility for the material, including responsibility for how it is presented and the decision to publish it;
 - (b) "*control*" has the same meaning as it has in the Broadcasting Act 1990 by virtue of section 202 of that Act.
 - (5) In this Act—
 - (a) "*entity*" means a body or association of persons or an organisation, regardless of whether the body, association or organisation is—
 - (i) formed under the law of any part of the United Kingdom or of a country outside the United Kingdom, or
 - (ii) a legal person under the law under which it is formed;
 - (b) "*news-related material*" means material consisting of—
 - (i) news or information about current affairs,
 - (ii) opinion about matters relating to the news or current affairs, or
 - (iii) gossip about celebrities, other public figures or other persons in the news;
 - (c) "*publish*" means publish by any means (including by broadcasting), and references to a publisher and publication are to be construed accordingly;
 - (d) "*standards code*" means—
 - (i) a code of standards that regulates the conduct of publishers, that is published by an independent regulator, or
 - (ii) a code of standards that regulates the conduct of the entity in question, that is published by the entity itself.

5. Meaning of "*user-to-user service*" and "*search service*"

- (1) In this Act "*user-to-user service*" means an internet service that has links with the United Kingdom, by means of which content that is generated by a user of the service, or uploaded to or shared on the service by a user of the service, may be encountered by another user, or other users, of the service.
- (2) In subsection (1) the reference to content that may be encountered by another user, or other users, of a service includes content that is capable of being shared with such a user or users by operation of a functionality of the service that allows the sharing of content.
- (3) For the purposes of subsection (1) it does not matter what proportion of content present on a service is content described in that subsection.
- (4) "*search service*" means an internet service that—
 - (a) is, or includes, a search engine that has links with the United Kingdom, and

- (b) is not a user-to-user service.
- (5) A user-to-user service or a search service *“has links with the United Kingdom”* if—
 - (a) the service has a significant number of United Kingdom users, or
 - (b) United Kingdom users form one of the target markets for the service (or the only target market).
- (6) References in this Act to an internet service, a user-to-user service or a search service include such a service provided from outside the United Kingdom (as well as such a service provided from within the United Kingdom).
- (7) In this Act—
 - “content”* means anything communicated by means of an internet service, whether publicly or privately, including written material or messages, oral communications, photographs, videos, visual images, music and data of any description;
 - “encounter”*, in relation to content, means read, view, hear or otherwise experience content;
 - “internet service”* means a service that is made available by means of the internet, which includes a service that is made available by means of a combination of the internet and an electronic communications service (as defined in Section 32(2) of the Communications Act 2003);
 - “search”* means search by any means, including by input of text or images or by speech;
 - “search engine”*—
 - (a) includes a service or functionality which enables a person to search some websites or databases (as well as a service or functionality which enables a person to search (in principle) all websites or databases);
 - (b) does not include a service which enables a person to search just one website or database.