

Briefing Note Digital Markets Unit

The News Media Association (the “**NMA**”) is the voice of UK national, regional and local news media in all their print and digital forms - a £4 billion sector read by more than 47.3 million adults every month. Our members publish around 900 news media titles - from The Times, The Guardian, The Daily Telegraph and the Daily Mirror to the Manchester Evening News, Kent Messenger, and the Monmouthshire Beacon.

High-quality independent journalism informs and engages the public, debunks misinformation, brings together communities, and holds the powerful to account. This work is essential to a democratic society. However, news publishers have, for years, operated in a deeply dysfunctional digital market that has stymied them from realising fair returns for their content. This is true for all of our members, but it is the local and regional publishers that are hardest hit; to them, delay in putting the Digital Markets Unit (“**DMU**”) on a statutory footing is particularly damaging. Urgent and incisive pro-competitive reform is needed to rebalance the platform-publisher relationship and restore competition to the digital advertising market to safeguard the future of news media. We therefore welcome the Government’s commitment made in the Autumn Statement 2022 to bring forward the Digital Markets, Competition and Consumer Bill during this parliamentary session.¹

Key Points

- Providing the DMU with statutory powers and the tools it needs are pro-growth measures and directly benefit UK businesses and consumers through lower prices.
- Persistent delays to presenting a competition bill in Parliament are damaging UK press plurality, consumer choice and eroding the current counterweight to fake news.
- The DMU urgently requires legislative powers to:
 - level the playing field so publishers may negotiate fair payment for their content, helping to secure the long-term sustainability of independent journalism, especially local journalism; and
 - curb persistent market abuses that are exacerbating the cost-of-living crisis for UK consumers and businesses and costing households over £500 per year.
- The DMU is in shadow form, staffed and ready to start work.

¹ HM Treasury, [Autumn Statement](#) 2022

1. The news consumption trend from print to digital means it is essential that digital markets function in a fair and transparent way to secure the long-term sustainability of journalism. The latest audience data shows online reach for news media was 79 per cent of all adults (aged 15+), while 41 per cent of adults read in print. As such, titles are becoming increasingly reliant on digital revenue streams, where profit margins are considerably smaller due to the dominance of the tech platforms – the average digital reader is worth approximately eight times less to a publisher than a print reader.² The sector nonetheless has risen to the challenge by increasing the rate of digitalisation, innovation, making efficiencies and is increasingly driving reader revenues through subscription models. UK publishers have reached the limit of what they can do to create workable digital revenue streams without substantial change in the way digital markets are regulated to create a level playing field. Urgent Government action is needed to redress the unfair commercial relationship between publishers and platforms in order to protect the future of a plural press in the UK.
2. Platforms generate a significant portion of advertising revenue from news media content. The latest figures calculated by Matt Elliott, professor of economics at Cambridge University, estimate UK news publishers generate £1 billion in UK revenues for Google and Facebook every year.³ In addition, trusted news content lends credibility to platforms and is an important component to their business models. As the Competition and Markets Authority (the “**CMA**”) recognises, news is one of the key reasons why consumers go online⁴- a fact confirmed during the Covid-19 lockdown by over half of online adults in Britain (52 per cent).⁵
3. Despite the economic importance of news to platforms, which brings traffic and revenue to their sites, platforms refuse to pay for news publisher content beyond occasional token gestures that represent a drop in the ocean compared to the value of that news content to platforms. Contrast this with a scenario in which newsagents refuse to pay publishers for the newspapers they sell – it would be unthinkable. And yet, platforms continue to abuse their entrenched market power – acutely aware that they are the only real modern-day conduit between online readers and online news websites. This is a fact that will impact press plurality, consumer choice and erode the current counterweight to fake news.
4. Likewise, radio stations pay to play music, cinemas pay to screen films and TV channels pay to air programmes. There would rightly be a public outcry if these channels made it their policy to take all proceeds generated from using a creator’s content. This begs the question why the Government is continuing to allow Google and Facebook to

² 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.

³ Matthew Elliott “[Value of News to Digital Platforms in the U.K.](#)”.

⁴ Para 2.26 CMA and Ofcom “[Platforms and content providers, including news publishers](#)”.

⁵ Para 2.26 CMA and Ofcom “[Platforms and content providers, including news publishers](#)”; and Pg.7 Ofcom’s “[Online Nation 2021](#)” report.

generate an estimated £1 billion in UK revenues off news publisher content, but not pay the news publishers who made that revenue stream possible.

5. The underlying legwork to stop abuse of digital markets has been done and legislative action is now long overdue. The CMA and Ofcom have outlined how an enforceable code of conduct overseen by the DMU could ensure that platforms with significant bargaining power agree fair and reasonable terms with news publishers.⁶ Between the Cairncross Review,⁷ the Furman Review,⁸ and the CMA's market study,⁹ there is ample empirical evidence to demonstrate that both national and regional news media are suffering as a direct result of the anti-competitive practices of a handful of dominant digital platforms such as Facebook, Apple and Google.

"The broken market has made it more difficult for news publishers to survive, let alone thrive".¹⁰

6. The CMA has held off on multiple pledges since 2020 to bring forward a market investigation that would seek to address these failures due to repeated promises from Government to allocate parliamentary time to put in place the appropriate pro-competition regime. The CMA concluded, in its 2020 market study final report, that a dedicated regulatory body such as the DMU, with the right tools and ongoing enforcement powers, would be better placed to swiftly resolve the anti-competitive digital environment than the CMA itself.¹¹ Had the CMA known that the Government would delay presenting a digital competition bill to Parliament beyond 2020, it may well have decided to push forward with, and concluded, a market investigation in 2020, with remedies in place by now.
7. In addition to supporting the sustainability of trusted news, a fully functional DMU with adequate powers will support true competition in the digital economy, driving down prices for business and consumers across the economy. Although services such as search and social media appear to be free to use, they are paid for indirectly via advertising. In 2020, the CMA demonstrated the costs of digital advertising (£14 billion in the UK in 2019) were reflected in the prices of goods and services across the economy and estimated to a cost £500 per household.¹² The rapid growth in the digital advertising markets since 2019 suggest the figure today would be far greater. The CMA calculated that Facebook and Google made a combined excess profit of £2.4bn in 2018;¹³ since 2018 the reported profits of those two companies have more than doubled.

⁶ CMA and Ofcom "[Platforms and content providers, including news publishers](#)".

⁷ Dame Frances Cairncross "[the Cairncross Review: a sustainable future for journalism](#)".

⁸ Expert Panel "[Unlocking digital competition, Report of the Digital Competition Expert Panel](#)".

⁹ CMA Market Study on "[Online Platforms and Digital Advertising](#)".

¹⁰ House of Lords Communications and Digital Committee First Report of Session 2021-22 on "[Freedom for all? Freedom of Expression in the Digital Age](#)".

¹¹ The CMA pledged to bring forward a market investigation reference if the DMU was not (see CMA [Market Study](#) on Online Platforms and Digital Advertising, published 1 July 2020).

¹² Para 9 CMA Market Study on "[Online Platforms and Digital Advertising](#)".

¹³ DCMS and BEIS "[A New Pro-Competition Regime for Digital Markets - Government Response to Consultation](#)".

8. Despite having been first out of the starting blocks to understand and document the issues relating to excess profits and a lack of adequate competition in digital markets, the UK is now lagging behind Europe,¹⁴ Australia,¹⁵ America,¹⁶ Canada,¹⁷ and New Zealand,¹⁸ who have progressed legislation to level the playing field between platforms and publishers. The EU Digital Markets Act (the “DMA”) came into force in November 2022, and most of the provisions will apply from May 2023.¹⁹ 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. Many believe the DMA is not nearly as good as the DMU model could be, because it will enforce one code of conduct across all platforms, rather than tailored codes.²⁰
9. However, if the UK continues to delay, it may be forced to follow, rather than lead, global digital regulation, bowing to pressures from market dominant players trying to avoid conflicting regulatory regimes. Professor Damien Geradin, speaking before the House of Lords Communications and Digital Committee,²¹ described how the UK in 2018 was pioneering regulatory approaches not “*discussed on the Continent or anywhere else*”. However, the UK had since stalled:
- “we are almost four years later and there is still no legislation”. Instead, there has been “consultation on the top of consultation [vis-à-vis the new pro-competition regime] ... there must be a time for action”.*²²
10. It is crucial to realise that the harm identified in the Cairncross Review has only increased since its publication in 2019. Delay to the pro-competition regime has only exacerbated issues as the profits of Apple, Google and Facebook have increased.²³ It is regrettable that evidence demonstrating the unfair commercial relationship between publishers and platforms has not led to action. The DMU is staffed and ready, already operating in shadow form. It simply requires legislation to give it the teeth it needs to do the job.

¹⁴ The EU is introducing its own pro-competition framework by way of the [Digital Markets Act](#).

¹⁵ In February 2021, the Australian Federal government enacted the [Australian News Media and Digital Platforms Mandatory Bargaining Code](#), to redress bargaining power between digital platforms and Australian news businesses.

¹⁶ The [Journalism Competition and Preservation Act](#), is currently before the US Congress.

¹⁷ The [Online News Bill](#) received its being progressed through the Parliament of Canada.

¹⁸ The Commerce Commission has [provisionally authorised](#) the News Publishers’ Association of New Zealand to negotiate collectively terms and conditions with Meta and Google for news media content on digital platforms.

¹⁹ As confirmed in this Financial Times story, “[Google in last-ditch lobbying attempt to influence incoming EU tech rules](#)”

²⁰ Communications and Digital Committee Uncorrected [oral evidence](#): the Digital Markets Unit, Tuesday 1 February 2022.

²¹ Communications and Digital Committee Uncorrected [oral evidence](#): the Digital Markets Unit, Tuesday 1 February 2022.

²² Communications and Digital Committee Uncorrected [oral evidence](#): the Digital Markets Unit, Tuesday 1 February 2022.

²³ The Guardian, “[Google, Apple and Microsoft report record-breaking profits](#)”.

- 11.** To ensure news media publishers can continue to invest in the high-quality news and journalism that is vital to a democratic society, urgent action is needed to restore balance, fairness, and competition in the digital economy.

“The Competition, Consumer and Digital Markets Bill has wide support and should be prioritised... There are many areas in the economy where stronger competition is required in the interests of consumers, small business and economic growth and this bill is an essential stepping stone to driving this issue forward.”²⁴

January 2023

²⁴ [BEIS Committee Chair, Darren Jones MP](#)