

The News Media Association's letter of response to Ofcom's [consultation](#): The Future of Media Plurality in the UK

1. Background

- 1.1. The News Media Association (“NMA”) is the voice of UK national, regional and local newspapers in all their print and digital forms - a £4 billion sector read by 49.2 million adults every month in print and online. Our members publish over 900 news media titles - from The Times, The Guardian, the Daily Mail and the Daily Mirror to the Yorkshire Post, Kent Messenger, and the Monmouthshire Beacon. Our membership spans the industry - from the largest groups to small, independent, family-owned companies publishing one or two local titles. Collectively these publishers are by far the biggest investors in news, accounting for 58 per cent of the total spend on news provision in the UK.
- 1.2. A thriving and diverse commercial news media, which is free to report without fear or favour, is the foundation of any well-functioning democratic society. It is important for the public to have access to a wide variety of sources, to inform their understanding of the world and engagement with society. The public desire for a plural media was demonstrated most recently in Ofcom's own 'News consumption in the UK' report which shows that people are reading more news sources than they did last year.
- 1.3. However, the news media industry is facing significant disruption, which is threatening the sustainability of the press - most notably from online. This letter sets out at a high-level a non-exhaustive list of our most pressing challenges relevant to the consultation, all of which stand to damage the commercial press and subsequently impact its plurality.

2. Summary of Primary Concerns

- 2.1. **The role of Online Intermediaries:** As described in the independent Furman and Cairncross reviews, the largest online platforms act as gatekeepers to news content. The platforms determine what content is distributed, afforded prominence and how it is presented to the user.
 - Through the use of algorithms some content gets preference over others. There have been concerns that search engines operate on political biases but owing to the lack of transparency over algorithmic inputs and decision making this is unknowable. However, we do know that search engines rate recency over provenance, meaning that a news publisher who invested in breaking a story may not receive prominence for that content. Publishers who subsequently cover a story may receive more traffic. This creates a false incentive for publishers, who need traffic.
 - Platforms scrape news publisher content to enhance their products, to create new features which keep consumers on their services. There are multiple effects from this. Firstly, this reduces the incentive for consumers to access the news publisher site if they can receive highlights of the news in search or in their social feeds. Secondly, as the platforms present publisher content in their own user interfaces, this dilutes the visualisation of the publisher's brand. The concept of 'brand flattening' is where the consumer engages with the media, but is unaware of the

source of information. Over time it is assumed that the consumer will be less likely to engage with a publisher's website, being unaware of the source of information.

All the while, platforms benefit from news publisher content, which enriches their services and fuels their data-driven advertising businesses.

Platforms can impose unfair obligations on news publishers, who are beholden to these dominant, unavoidable platforms. A recent example is the AMP format which publishers are obliged to use if they want to appear in the Top Stories on Android devices. This means that Google can use publisher content without paying for it. The advent of online platforms has also contributed to the decline of advertising revenues for news publishers. Due to their numerous customer-facing services (over 50 in the case of Google) and mandatory policy of user sign-in, these platforms control first party data that enables them to target advertising in a way that very few other digital companies can. This has, over time, enabled them to extract more and more value from the digital advertising market.¹ The NMA and our members believe that it is vital that the new Digital Markets Unit is given the necessary powers to tackle these issues as quickly as possible.

- 2.2. **BBC:** The overwhelming volume of free content offered by the BBC in areas traditionally occupied by the commercial press, such as soft content, undermines the digital strategies of commercial publishers. The BBC's uniquely free-to-use service 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 in order to build a digital subscriptions model to support journalism when the taxpayer funded BBC is running the same content on its website for free. Furthermore, the BBC has continued to encroach into regional news. However, the expansion of the BBC's online local offering does not add to coverage regionally or locally; instead, it seeks to replicate 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 by providing the same service ad-free. To exacerbate the problem, NMA members have reported that it is extremely difficult to hold the BBC to account.
- 2.3. **Online Safety Bill:** The Online Safety Bill places an obligation on platforms with user generated content to have processes to deal with illegal and legal but harmful content. While the NMA welcomes the exemption within the Online Safety Bill for recognised news publishers, we are concerned about social media platforms' inability to properly identify harmful content amongst the vast quantities of posts generated every second. We fear that this inability will likely lead to an increase in the wrongful removal of news publisher and journalistic posts once the bill becomes legislation. Indeed, Facebook has admitted that their algorithms are "*very bad*" at detecting nuance in language.² Moreover, the judgement of the factcheckers that Facebook employs to determine a post's harmfulness is often questionable, especially since, as Facebook admits, they are "*incredibly under resourced and we rely on them tremendously*".³ For a news title to reinstate content to social media platforms, it is likely that they must litigate in the High Court at prohibitive cost that national and, particularly, local titles struggle to finance.

¹As evidenced by the CMA's Market Study Final [Report](#), and ISBA's Programmatic Supply Chain Transparency [Study](#).

² See [here](#) for the oral evidence session in which this was discussed by the House of Lords Select Committee on Communications and Digital.

³ As above.

- 2.4. **Public Notices:** If enacted, the withdrawal of traffic and planning notices from printed local newspapers would seriously harm both the public right to know and the local news media sector. If public notices were withdrawn then local news media titles – which have done so much good during the pandemic - would undoubtedly close due to the impact on revenues, reducing plurality in local markets. The industry has been working on a new digital portal to increase the reach of public notices through local media’s digital platforms, complementing the Government’s broad programme of digitisation, but this should not come at the expense of the statutory requirement to publish the notices in printed local papers.
- 2.5. **Content Scraping:** The act of directly copying articles from news media titles and placing them on fake news websites is increasingly becoming rife. This activity directs ad revenue away from the original publishers, damaging their reputations and the reputation of the UK’s press credibility and plurality *per se*. Unfortunately, there is no body which has a specific duty to regulate this behaviour, meaning publishers must direct resources to take down articles from “*copy-cat*” sites. Ofcom should seek to fill this regulatory lacuna.
- 2.6. **HFSS:** The ban of high fat sugar salt (“**HFSS**”) advertising in the Health and Care Bill, though ostensibly targeted at platforms, will inadvertently harm the ability of news media publishers to monetise their content online. Through the carveout for small and medium-sized enterprises, the ban will allow the biggest platforms for HFSS advertising – the tech platforms such as Facebook - to continue to derive significant revenue from HFSS advertising. Meanwhile, news media publishers, who demonstrably do not have child audiences, will directly suffer because of the policy. We believe that advertisers should be able to advertise their legal products to adult audiences who frequent our sites, and that an exemption for news publishers from the scope of the restrictions would achieve this.
- 2.7. **Official Secrets Act:** The proposals contained in the Home Office’s recent consultation on Counter State Threats jeopardise press plurality by having the potential to silence public interest journalism. The consultation’s proposals make it significantly easier to prosecute journalists and provide them with considerably longer sentences for disseminating confidential Government information without authorisation. Furthermore, despite the Law Commission advocating the inclusion of a public interest defence,⁴ the Home Office’s consultation rejects the proposal. If the Home Office’s draconian measures pass, the wide variety of opinions and information that comes with a vibrant and plural press will likely be silenced as journalists will fear the criminalisation that could await them.

The NMA would welcome the opportunity to discuss the impact of these issues further with you and to further explore Ofcom’s proposals in relation to the Media Public Interest Test.

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⁴ See [here](#) for the Law Commission’s consultation ‘Protection of Official Data Report’, in which the public interest defence was proposed.