



COMMONWEALTH OF AUSTRALIA

# Proof Committee Hansard

## SENATE

SELECT COMMITTEE ON THE FUTURE OF PUBLIC INTEREST  
JOURNALISM

**Impact of search engines, social media and disinformation on journalism in  
Australia**

(Public)

TUESDAY, 11 JULY 2017

SYDNEY

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**SENATE**

**SELECT COMMITTEE ON THE FUTURE OF PUBLIC INTEREST JOURNALISM**

**Tuesday, 11 July 2017**

**Members in attendance:** Senators Paterson, Singh, Xenophon.

**Terms of Reference for the Inquiry:**

To inquire into and report on:

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

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**BROWNLOW, Ms Megan, Partner, PricewaterhouseCoopers**

**BURROWES, Mr Tim, Founder and Content Director, Mumbrella**

**Committee met at 08:59**

**ACTING CHAIR (Senator Singh):** I declare open this hearing of the Senate Select Committee on the Future of Public Interest Journalism. The audio is streaming live via the web and can be found at [aph.gov.au](http://aph.gov.au). Before the committee starts taking evidence, I remind all witnesses that in giving evidence to the committee they are protected by parliamentary privilege. It is unlawful for anyone to threaten or disadvantage a witness on account of evidence given to a committee, and such action may be treated by the Senate as a contempt. It is also a contempt to give false or misleading evidence to a committee.

The committee prefers all evidence to be given in public, but under the Senate's resolutions witnesses have the right to request to be heard in private session. It is important that witnesses give the committee notice if they intend to ask to give evidence in camera. If a witness objects to answering a question, the witness should state the grounds upon which the objection is taken and the committee will determine whether it will insist on an answer having regard to the ground which is claimed. If the committee determines to insist on an answer, a witness may request that the answer be given in camera. Such a request may, of course, also be made at any other time.

I welcome Ms Megan Brownlow and Mr Tim Burrowes. Would you like to make an opening statement?

**Ms Brownlow:** It might be useful if I share with you some of our revenue forecasts for the media industry sectors that provide news. These are from PwC's new outlook report, which covers the period 2017 to 2021. For free-to-air television, we are forecasting an annual decline on average of minus 4.7 per cent over the next five years—that is a CAGR, compound annual growth rate. For premium subscription television, we are forecasting a 1.3 per cent CAGR; for newspaper publishing, a negative 4.5 per cent CAGR; for radio, a 2.3 per cent CAGR; and for internet advertising, 85 per cent of which goes to digital pure plays like Google and Facebook, we are forecasting an annual average growth rate of 7.2 per cent. The implication of these numbers, as it concerns this inquiry, is that the ongoing shift of income away from news-generating media means there will be continued cost-cutting, particularly to areas that are harder to monetise like quality journalism.

Also relevant to you is an excellent piece of research conducted recently by the News and Media Research Centre at the University of Canberra. They surveyed 2,000 Australians using the YouGov survey tool, and the findings are telling. Television is still the main source of news for a quarter of us, followed by social media at 16 per cent and then newspaper sites and apps at 13 per cent. There are large generational differences, however. For young people, 18- to 24-year-olds, social media is the main source of news for 38 per cent of them. For older people, 65-plus, the main source for 50 per cent of them is television. Finally, one of the most important findings of this new study is that the more diverse your news consumption, the more you trust the news. This suggests that diversity is worth protecting for Australians to get the most value from their news media. That is my opening statement.

**Mr Burrowes:** I am perhaps wearing two hats today: one as a commentator writer about the media and the other as an owner of an independent media outlet. As a journalist, I have roughly spent 10 years on newspapers, 10 years working on business magazines and then the last eight years or so in digital publishing. I started Mumbrella originally as a blog in 2008. For the last 15 years or so, I have specialised in writing about the media and marketing industry in the UK, the Middle East, and Asia, and for the last decade or so here in Australia. In addition to those perspectives, I am also a publisher and media business owner in its own right. Our company is one of these independent media outlets that we are talking about. We are profitable. We employ around 30 people here in Australia, including something like 10 journalists, depending on how you define their roles. We make our money through advertising, through conferences, through running awards programs, through training and through a subscription product, all of which have the reader or the audience at the heart of it.

My view on the outlook for public service journalism is maybe not as pessimistic as some but not as optimistic as others, but there are some clear models where journalism can be self-sustaining that are beginning to come through. What is really interesting is how many different models we are seeing here in Australia at the moment. You have got titles like *Crikey* that charge for a daily email. You have the successful paywalls of the *AFR* and *The Australian*. There are accompanying newspaper publications like *The Conversation*, which is funded by the universities. There is *The New Daily*, which is funded by the super funds, and the *Guardian Australia*, which is underwritten by a philanthropist. There are different models coming through. In Mumbrella's case, most of our journalists write content, which we monetise by putting ads next to it online or on emails. But we also ask our journalists to curate the content of industry conferences, which people may pay to attend. Yes, we also have journalists create what we call 'native advertising', where we help brands talk to our audience in an authentic way.

As an observer of the media, the area that concerns me most at the moment is the fading of local newspaper journalism. As I say, I spent my formative years as a journalist pouring through council committee agendas, attending council planning meetings, covering courts and visiting the local police station—all of that really important grassroots stuff. It tended to be that each story we covered was very important but only to a very small number of people—unglamorous but important work. That is what is not happening anymore—covering councils, where journalists in every town attend every council meeting and write about every planning application. That is the stuff that is expensive and is not happening. As I am sure everybody in this room is aware, when the journalist is not in the room we will often never know what we don't know. It is also a really important training ground. If it is not already too late for the local role, it soon will be.

My view is that when we do talk about the problems facing traditional media, the TV industry is not the first place we should be looking at right now, even though they are undoubtedly the best at lobbying for help. For all of their complaints, TV revenues in my view have not fallen anywhere near as much as the print industry, and their rising costs, again, have largely been their own doing—up-bidding against each other for sports content, bidding against each other for US studio content deals; those sorts of things. If there is help to be given, it strikes me that the focus should be on how to help support grassroots journalism. Local and niche journalism is where it feels like market failure is already occurring, and that feels like the most fruitful place to focus the conversation.

**ACTING CHAIR:** Thank you both. What you have both touched on there is that in your own organisations you are observers of journalism and you are taking your own experiences of the past to that. On this issue of declining reporting through local grassroots journalism, be it planning applications or what have you, in your view there is clearly a shift from television and newspaper journalism to the online world, even though, Ms Brownlow, I think you mentioned that a quarter of us still source our news from TV, which is quite interesting. I suppose a quarter is not the majority, is it? With that shift, what do you think the impact on public interest journalism is?

**Ms Brownlow:** Public interest journalism is worthy of protection because it supports democracy. If it cannot be commercialised, we end up having, as Tim rightly described, a market failure. Therefore, some mechanisms need to be reviewed or introduced to ensure that public good is continued. What we see with agencies like Screen Australia, the ABC and SBS are government supported attempts to deal with that impact. Where that impact is happening, particularly in local areas, as Tim is pointing out, is really worth protecting through government support. So the impact would be the loss of those outlets and coverage if we do not have that support.

**ACTING CHAIR:** Are you specifically talking about the government funding of public broadcasters in that sense, or beyond that?

**Ms Brownlow:** Partly, but there may be other ways that government can affect the outcome to ensure continued public good—for example, reforming media regulation. I am not making a comment about the particular set of reforms that are on the table now; I am making a comment about reviewing the entire regulatory framework that we operate under. They are the sorts of areas where government, I think, has a really strong role in ensuring an improvement to allow the sustainability of local news and public interest journalism.

**ACTING CHAIR:** Do you want to shed some light on what some of those mechanisms are that should be reviewed?

**Ms Brownlow:** Currently we have a system where we regulate according to distribution channel. If news sources choose to reach a reader or viewer via that method, that platform or that pipe versus that method, that platform or that pipe then, depending on what distribution choice they have made, they can either be subject to a range of regulatory imposts or not. That doesn't make sense. I think that, if we looked for more relevant ways of capturing players in a regulatory net, we should be looking for criteria like level of influence and income generated. Those are much more relevant criteria for designing a regulatory framework, which only government can do.

**Senator XENOPHON:** Thank you very much for being here today. In terms of the decline, one of the crises that the media has found is that the revenue flows aren't there. The so-called rivers of gold from the old classified advertising days are well and truly gone. A common complaint that's been put to me by large and small media organisations is the power of Facebook and Google and their ability to control the data. What some are saying to me privately is, 'Well, we have to do business with them even though it's not on favourable terms, because we're pretty much stuffed unless we use their search engine.' I note *The Economist*, on 6 May, did a cover story about data and the new rules of competition, and it was saying antitrust rules must catch up with what needs to be done. Is that part of the problem and part of the solution in terms of the power of Facebook and Google—leaving aside issues of whether their rate of tax is appropriate or not—over the data and the fact that they seem to have media organisations over a barrel with the power they have over the data?

**Ms Brownlow:** Potentially. It is interesting to see the situation in the US, where there's been a request for respite from antitrust legislation for the news producers—the traditional newspaper publishers—so they can bargain collectively with Google and Facebook for better terms in the arrangements, because they are recognising that their traffic in the online environment comes from these big sources—either search through Google or social media through Facebook. That's not going to change, and so, given that, what would be, in their view, a better outcome would be if they could collectively negotiate with them. And so they've asked for a limited antitrust exemption. That's one approach.

**Senator XENOPHON:** Is this here or overseas?

**Ms Brownlow:** No, in the US. And it has seen a partnership between some competitors so *The Wall Street Journal* is in it, *The Washington Post* is in it, *The New York Times* is in it.

**Senator XENOPHON:** So you have got Jeff Bezos and Rupert Murdoch in partnership on this issue. That is an unusual alliance.

**Ms Brownlow:** That is correct.

**Mr Burrowes:** I would add that there is arguably more than one face of Facebook and Google as well. So on the one hand you have got Facebook absolutely making its advertising revenues but on the other hand, as you alluded to, it is an incredibly important part of the solution as well when it comes to helping find audiences, helping reach audiences.

**Senator XENOPHON:** That is right, and that is what media organisations have said: they help us find audiences but it is on their terms and they have control over the data and all the analytics.

**Mr Burrowes:** They have control of the data, the analytics and, more importantly, the algorithm. Media organisations tend to be tempted to write stories to their Facebook algorithm because, if you need traffic, you need to show up on people's news feeds, and that becomes potentially an interesting distorting factor when you are writing for what is going to be shared Facebook rather than necessarily what would arguably be most important to your core audience.

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

**Senator XENOPHON:** I will put these two or three issues to you and would like to get your response in this context. There is the issue of the power of Google and Facebook. Leaving aside issues of whether they are paying appropriate rates of tax, and there is the diverted profits tax that the government has introduced, there is an existential crisis in journalism in the sense that there are many hundreds of fewer journalists than there were a few years ago. Country journalists I speak to say they have some cracker yarns about local government, which they cannot run because they do not have the resources to go to the meetings or to turn up to the local council to look at planning records or whatever, even though there are good stories. In a package of measures to improve public interest journalism, do you have a test for say civic journalism, public interest journalism or whatever you want to call it? Do you attach to that certain tax breaks a bit similar to, say, R&D tax breaks, where you value the importance of that information to make it easier for people to employ journalists? Do you have tax breaks for donations to small and medium sized media organisations? Regional journalism is struggling. What is a formula here, in addition to tackling the power of Google and Facebook, to make it more equitable to actually get more journalists on the ground to provide the content, to be employed? Because this inquiry is very much about: what is the future of public interest journalism and what are solutions for it as well?

**Ms Brownlow:** All those potential solutions are very interesting and promising, and it would be great to see them modelled to see if they actually are genuine solutions. That would be a logical next step, to test that.

**Mr Burrowes:** I would add to your point that a test of public service is—

**Senator XENOPHON:** Can we call it 'civic journalism'? 'Public service' sounds as though it is going to be done out of government departments.

**Mr Burrowes:** Let's call it 'civic journalism'. Clearly one organisation we have at the moment, which is a voluntary organisation, and I am a member of it, is the Australian Press Council. I know there has been talk in the

past about whether that should be some sort of stamp of authority that says: you might have certain additional protections from libel, for instance, if you are a member of if not that body—

**Senator XENOPHON:** And privacy laws and the like?

**Mr Burrowes:** Correct—yes. So that becomes an interesting thought. And whether there is room for some sort of regulator that if you agree to have an arbiter, such as a press council, then that might be one of the things which allows you to be labelled as a civic journalist. Certainly, there have been a couple of regulators in the UK where there have been attempts to link legal protections to membership. It is probably too early to say yet whether they are successful and not.

**Senator XENOPHON:** Could you put on notice to provide us with some more detail in relation to that. That would be useful.

**Mr Burrowes:** Yes.

**Senator XENOPHON:** Going back to the issue: more and more journalists are being sacked. We have seen it with the proposed Fairfax retrenchments and the redundancies there. Other media organisations are trimming and cutting, whether it is journalists, camera operators, film editors, sub-editors. In other countries, France has a system of subsidy which, I think, many would find anathema to it, but we do fund public broadcasting in this country through the ABC and SBS. Would it be a bridge too far to say that there ought to be some similar system? I don't know how familiar you are with the French system, but do you look at that? Or do you have a system that is more market driven in the sense where people still have to show their worth but they can get tax write-offs to encourage the employment of journalists and content creators? How do you do it? What do you see as a solution to this mess?

**Ms Brownlow:** I think unless you quantify the outcome of those two alternatives, you could not make an informed decision between the two. They are both really interesting measures that could be explored. Given that there is precedent in other territories, that would provide inputs to actually model that and check if it is the right solution. Then you would have to overlay what the Australian culture suggests. Unlike the US, we do not have a strong system of high profile philanthropists. So, potentially, one of the solutions—that philanthropy solution—might not work here. We do not have a Jeff Bezos to buy a newspaper. The other cultural difference with us is we are probably more averse to having overt government intervention in the way the French system has set up. So you would have to combine using the precedent with understanding what our local market is. But all of these potential solutions would be really good to explore to solve the problem.

**Senator XENOPHON:** For instance, in Norway, which has a population of 5.3 million, there are 431 local communities in that population. Almost half of those have their own newspaper. They have subsidies directed specifically towards newspapers in a 'difficult market position'. Those subsidies totalled 36 million euros in 2006. I do not have the latest figures. That was less than two per cent of the total revenue of the press. I would have thought that something like that in Australia would, culturally, be anathema to many who say, 'Why should some publications get a subsidy?' And does that compromise independence of those publications? Would a publication pull its punches if it knows that it is relying on a government subsidy in terms of being critical of the government of the day, for instance.

**Ms Brownlow:** And that is the hazard that you face. But there would be other ways of achieving the same end—

**Senator XENOPHON:** Such as tax breaks? They would be less interventionist?

**Ms Brownlow:** So you have indirect interventions, like tax breaks, that essentially shift the decision-making to the market rather than have that direct and potentially hazardous editorial interference through subsidy. We have quite good precedents that we can draw from. So in the film and television production sector, for example—and I know this as the deputy chair of Screen Australia—we have shifted Screen Australia from a very direct approach of subsidising film and television to a much more indirect market-driven approach that you would have to say, on all assessment, is really successful. That is where there are production offsets and tax rebates for supporting Australian productions that are great employers of Australians. They are the sorts of solutions, I think, that would probably meet with favour by Australians.

**ACTING CHAIR:** Although those tax offsets are not quite enough to allow us to compete with the other players in the global market in that space. I might come back to Senator Xenophon. Before I go to Senator Paterson, I want to look at this issue of tax offsets in a different way—perhaps from the consumer end. Do you think a kind of tax deductibility might be useful for those who want to take out a subscription, for example, for the sake of accessing public interest journalism in some particular innovative form or platform? Is that sort of thing of interest in ensuring we protect public interest journalism?

**Mr Burrowes:** My initial reaction is that individual Australians do love a tax break. It is about consumer psychology. There is no sensible reason why we are perfectly willing to step across the road and pay \$3.50 for a coffee, yet many people are not prepared to buy a newspaper anymore. If we can give people a different way of thinking about—

**Senator XENOPHON:** You know, \$3.50 for a coffee is cheap!

**Mr Burrowes:** It is, particularly at this end of town. If we can give people a way of reframing how they are spending their money, even when it is relatively small amounts, that does instinctively feel like quite an interesting idea.

**ACTING CHAIR:** Ms Brownlow, you mentioned before this thing about people's media habits. Those of older Australians tend to still be sticking to the box, and the younger Australians are going to social media more to get their news. Can you expand on what is the pace of that kind of trend? Is this something we are seeing slowly over a long period of time, or is it happening really quickly?

**Ms Brownlow:** It is dramatic. The acceleration of that shift is quite dramatic, and we see that as indicated with the revenue shift. What happens with media businesses, including those businesses that are news producers and are ad-supported largely, is that you will see a consumer behaviour trend and then the ad dollars follow behind. There is usually a lag. As we have been following the movement of the ad dollars, we know that the consumer shift has occurred ahead of that trend. We have seen that shift in ad dollars, which is the more quantifiable piece, happen very dramatically. You think about the fact that some of these businesses that we are describing now have the vast majority of the internet advertising pie—and that piece of the pie is nearly 50 per cent of the entire ad market. Some of them are only teenagers—Facebook is only 13 years old—so these are very dramatic shifts. Then, when you look into the future and you see some of the new technologies that they are investing in and how those new technologies will be the way we will consume news in the future—for example, through messaging and through voice-activated services that are artificially intelligence-driven—these are also areas that are going to be dominated by tech businesses, not news content-creating businesses.

**Mr Burrowes:** Can I add to that point in terms of the accelerating shift. Another factor which seems to happen is that when you have big media-buying agencies that buy advertising on behalf of their clients, they tend to also act upon sentiment as well. There is always a lot of talk about 'the shiny new digital thing', so, arguably, we have seen advertising move out of traditional media—certainly print media—faster than even the consumers have shifted. One of the big reasons that newspapers—and magazines even worse—are having so many problems is that they are not getting the support of the media agencies, the advertising-buying community, because they've already moved over to digital, arguably faster than the audiences have.

**ACTING CHAIR:** When we talk about the advertising share online, we're talking about Facebook and Google, pretty much, aren't we? We've heard here in the committee that collectively Facebook and Google extract around \$4 billion to \$5 billion of advertising revenue per year in Australia. With that happening, how much longer do you think that television is going to be the main source of news for the majority of Australians? How long until social media becomes the main source?

**Ms Brownlow:** The offsetting factor is our ageing population. As people get older, they watch more telly, and that's going to maintain television for quite a while. But, if you look at the most popular programs on television, they're not news. So it's about what will be maintained in terms of the networks' investment. What are they going to support? They'll support sport, because that aggregates Australians as no other content does, and then big reality television programs that can be very compelling for viewers but also accommodating of the new type of advertising, which is product placement built in.

**ACTING CHAIR:** Ms Brownlow, you talked about this need to quantify and model these various types of different solutions, whatever they may be, before introducing them in Australia. What is the risk of introducing solutions without undertaking that kind of modelling?

**Ms Brownlow:** High. I think it would be decisions made in an environment that is less informed than it could be and more based on instinct, lobbying and loud voices, rather than evidence based. We're dealing with something as important and as fragile as our democracy, so it's worth the effort.

**ACTING CHAIR:** What sort of evidence would it be useful for the government to obtain before it embarks on introducing such massive change?

**Ms Brownlow:** I think the logical next step would be to identify a few solutions that seem the most logical and palatable, so applying the criteria of whether it feels like Australians would accept them and whether there is actually enough data to model these to really genuinely get a robust outcome and answer and then compare those that you've chosen for their level of impact and their cost efficiency.

**Mr Burrowes:** The one thing I would add on that is time, because in two years time it feels like the scenario is going to be different again. A lot of this is happening right now, so there isn't a great deal of time to study something for a year or two on whether it works.

**Ms Brownlow:** But you don't have to use a university. You can use PwC!

**ACTING CHAIR:** On that plug of advertising that we're doing right here—

**Mr Burrowes:** You could call that native advertising!

**Senator PATERSON:** Ms Brownlow, I want to come back to a comment you made earlier about the current media regulation framework. Correct me if I am wrong, but you were alluding to the fact that it's not a very effective mechanism for ensuring diversity. Could you just expand a little bit on why you think that's the case.

**Ms Brownlow:** The current framework is too old and it is fragile and broken. It does not address the current media landscape and the globalisation of our media consumption now. It fairly obviously needs updating, because it excludes such big, important parts of what we consume now, particularly online.

**Senator PATERSON:** Is there any particular aspect of the current framework that you think is particularly out of date or a particular barrier to media companies becoming modern?

**Ms Brownlow:** Yes. The core issue I see is how it assesses who should be caught in the regulatory net and the fact that that assessment is based entirely on how you distribute content and the channels you use to distribute content, not other, in my view, more relevant criteria like your influence, your contribution to Australian content, perhaps even news content, and the income you are generating from the Australian consumers and advertisers.

**Senator PATERSON:** So the important thing about a media outlet is not the platform that it uses?

**Ms Brownlow:** Yes.

**Senator PATERSON:** That leads me to the conclusion that you think that the most egregious part of the current framework in the two-out-of-three rule.

**Ms Brownlow:** Do I think that is the most egregious part of the current framework?

**Senator PATERSON:** Or put it in your own words, if you prefer. I have lead you there.

**Ms Brownlow:** Thank you. I think changing the two-out-of-three rule is just tinkering when the bigger picture needs addressing. I would feel dissatisfied if we go to all the effort of making these small changes that are really just housekeeping without addressing the bigger problem.

**Senator PATERSON:** You categorise them as small but do you think they are necessary?

**Ms Brownlow:** I think they are an incremental step.

**Senator PATERSON:** So if I am a publisher and I publish a newspaper that has a small circulation in a capital city and I also own a radio station and I would love to get involved in TV, I cannot now because of the two-out-of-three rule but I could have a competitor who owns a radio station like I do and an extremely popular news website with enormous reach, that a huge proportion of Australians read, and they would be able to buy a television station but I would not be able to. Do you think that is an absurd situation?

**Ms Brownlow:** Yes, it is absurd. This is where we have ended up with the framework that looks at distribution only.

**Senator PATERSON:** So would it make more sense to replace or get rid of a platform or a distribution focused regulation for an alternative one?

**Ms Brownlow:** Yes.

**Mr Burrowes:** I would just add that there are probably lessons to be learnt from Ofcom in UK, which about 15 years ago now became the regulator of effectively all media regardless of platform and from that point onwards set some, I think, quite good media policy. So I think there are some good lessons to learn from that. The one other point I would make is that I certainly would not argue that TV and radio should be treated precisely the same as other channels, purely because they use public airwaves and that gives them an advantage that other media do not have. So I do not think that we can completely lose that point of view either.

**Senator PATERSON:** But we already regulate them in a separate way to newspapers.

**Mr Burrowes:** Correct.

**Senator PATERSON:** With standards and complaints and those sorts of things.

**Mr Burrowes:** Correct.

**Senator PATERSON:** But I do not think that there is any proposal on the table to do away with that. I have a question for both of you. You have both observed the media industry for a long time in Australia. On the consensus that exists between the major media players and their representative bodies in support of the government's proposed reform package, in your view, how common is that kind of consensus in the industry?

**Ms Brownlow:** It is rare historically. Looking into the future, we expect it to be more common, because of this shift in the landscape from being a domestic market to a global market. So, finding scale economies through mergers and acquisitions is something that we have seen over the last little while. Beyond that is joint marketing, as we saw with the set-up of ThinkTV, and then joint cost sharing, which we have seen some of and which we expect to see more of. It will become more common. It is a marriage of convenience to some extent, but it is a positive thing.

**Senator PATERSON:** Before I come to Mr Burrowes, can you think of a time in the past when there has been that level of consensus on a media reform package?

**Ms Brownlow:** I can't; no. Can you?

**Senator PATERSON:** No. Mr Burrowes?

**Mr Burrowes:** I tend to agree. Certainly, at least in the last decade, there has not been a moment when any of the major media players has been able to sign up to a process like this. Clearly, a lot of politics has gone on behind the scenes—'politics' with a lower case 'p'—and internally within these media companies. You can look at the interests of, say, a Foxtel. They are not aligned necessarily with the interests of a Seven West Media group, where there are different environments and different rules over, for instance, the antisiphoning rules. It feels like there has been a lot of give and take behind the scenes to get to something where there is consensus between the big players.

**Senator PATERSON:** The fact that their interests are not perfectly aligned makes their consensus all the more remarkable, doesn't it?

**Mr Burrowes:** I think what they have seen is that it is in all of their interests for there to be changes to the current regulations. I don't think anyone would argue that. They are completely out of date now. They were out of date 10 years ago. So, it is absolutely in all of their interests that they do find consensus. I suppose the remarkable thing is that they did not find it earlier.

**Senator PATERSON:** To come to a separate topic now: Mr Burrowes, you were talking before about potentially linking some legal privileges for journalists, such as liable protection, access to tax deductibility or donations, with membership of a body like the Press Council or the Press Council. Certainly, the UK has started to go down that path, and, as you said, it will be interesting to see how that goes. Wouldn't that fundamentally change the character of a body like the Press Council, which is supposed to be an industry regulator? Would it give it more the characteristic of a government regulator?

**Mr Burrowes:** You are completely right. That makes me very nervous, because I think as soon as an organisation has a say in the economic outcomes of the people it regulates, it absolutely changes the nature of it. So I would be very nervous about any sort of regulatory status. Even with some form of arms-length aspect to it, always at some point you have an intersection between any form of government and, for want of a better phrase, freedom of the press, and it is very fraught territory—again, as we have seen in the UK. They have been arguing about it for at least the last three or four years, I would say, and I am not sure they are through to the other side on it just yet.

**Senator XENOPHON:** Chair, can I ask a direct supplementary to Senator Paterson's line of questioning.

**ACTING CHAIR:** Yes.

**Senator XENOPHON:** One of the concerns—and there has been some controversy over a recent board appointment to the Australian Press Council—expressed to me by some organisations is that they are happy to subscribe to robust mechanisms, the same sorts of mechanisms of the Press Council, but they do not necessarily want to be a member of that body. They still want to get the advantage of a robust mechanism to deal with complaints, codes of ethics and codes of standards et cetera. Could there be an alternative mechanism so that, if you are not necessarily a member of the Press Council—and I have no truck with it, apart from their recent board appointment—the principles are there and you have a mechanism to deal with disputes and issues of fairness. They still get those advantages of, say, privacy and defamation law and any other benefits that attach to it?

**Mr Burrowes:** Probably two points on that. Seven West Media already does that. They have their own ombudsman—obviously they own *The West Australian* newspaper—and are not signed up to the Press Council. They do things independently and have done for a number of years. I could not speak to—

**Senator PATERSON:** Isn't there an independent Western Australian Press Council that they are a member of?

**Mr Burrowes:** I believe they were the driving force in creating it. That is my understanding. Again, we look back to the principle of the UK where there is a body which, if memory serves, is Presscom, but effectively it is a regulator for the regulators. They have almost created that system where you could have more than one voluntary regulator that you sign up for so long as the principles are all in place. Then of course the fraught moment comes on agreeing the remit of that body.

**Senator PATERSON:** Australia is a small country and we effectively only have one Press Council or 1.5 press councils. Even the UK—a much bigger country with a much more diverse media landscape—effectively only has two regulators, and my understanding is that one is much larger than the other. If we made it a condition of access to legal benefits, would it be realistic to expect that you have to be a member of a body and that there would be more than one reasonable option to choose from?

**Mr Burrowes:** That is a very good question. We are a member of the Press Council but my instinct is that the Press Council would not exist without the big players of News Corps and Fairfax because of its funding needs. Everyone else tends to get carried along for the ride, and so it is hard to see how you would fund more than one body.

**ACTING CHAIR:** I might go back to the idea of people's media consumption habits, which we touched on at the start. You talked about the importance of having diversity of news media sources to draw from. Can you clarify what you mean by 'diversity'? Do you mean diversity of owners of the main sources of news?

**Ms Brownlow:** Channels—that is what the research found. It was really important finding because—

**ACTING CHAIR:** What research was that?

**Ms Brownlow:** This is the University of Canberra's new piece, which was done by their News and Media Research Centre. They used the yougov survey tool, which is an excellent tool and used around the world, and they spoke to 2000 Australians and really drilled down on their news habits—where they get it, how much they trust it. What they discovered was that if you consume news from a variety of sources—TV, radio, online, newspaper apps et cetera—then you have a higher level of trust in the news you are consuming. I thought two things. Firstly, yes, they are probably super users—they are big news consumers—and so those two things would be correlated because, if you are generally trusting of the news, you probably consume more of it. The other implication is that if you want Australians to trust news that is a value they feel in news and, therefore, there is a benefit in ensuring there is a variety of sources so they can feel that trust.

**ACTING CHAIR:** If that is the case, do you consider the repeal of the two-out-of-three rule would reduce that level of diversity for the majority of Australians who rely on television as their main source of news?

**Ms Brownlow:** I do not think so. However, I have not made a really deep study of the logical outcomes of that occurring. I think that it might prompt a continuation of the merger and acquisition activity we have seen over the last few years anyway. That activity is usually done to create economies of scale and allow businesses to be more sustainable. There are some risks attached for consumers, but I think they can be adequately assessed by the ACCC.

**ACTING CHAIR:** On those risks, do you think it's risky to remove the two-out-of-three rule when Australia already has one of the most concentrated media markets in the world? Is that one of the risks?

**Ms Brownlow:** I think so. You do hear that Australia has a very concentrated media market, but that assessment is made of a subset of the media market. So, when we talk about media concentration, we're only looking at part of the market. If we go back to what Australians have recently revealed is their main source of news, social media and television were both higher than the websites and apps of news publishers like News Corp and Fairfax.

**Mr Burrowes:** Could I add a couple of points there. In the macro, there are some very obvious outcomes of removing the two-out-of-three rule. It seems very likely, if that happens, that News Corp will be much more closely aligned with Ten. It seems very likely that the news output of the Sky News newsroom will become aligned with Ten's newsroom.

**ACTING CHAIR:** So it would become even more concentrated than it currently is?

**Mr Burrowes:** Yes. Right there you have a concentration. There's a view on whether, in creating efficiencies and allowing businesses that would otherwise struggle to come together, the benefits might outweigh that, but it feels like, as night follows day, that will be one obvious outcome.

**ACTING CHAIR:** Do you think in that sense, with those mergers and acquisitions that would occur post removal of the two-out-of-three rule, that would mean a loss of journalism jobs?

**Ms Brownlow:** It depends on what protective measures were put in place around content and particularly the requirements for local content to be continued. There would be ways of ensuring that provision of local content, particularly in regional and underserved areas, was continued. That would have to be part of any approval, I think.

**Mr Burrowes:** I suppose it feels like either way there will be a loss of jobs, just because of the changing market. I am not sure that the removal of the rule necessarily automatically means there'll be a greater loss of jobs.

**ACTING CHAIR:** Do you think, though, it's still risky to remove this two-out-of-three rule when that reform of the broader regulatory framework hasn't been done?

**Ms Brownlow:** I would prefer there to be a focus on a broader regulatory reform. That seems pressing to me given the declines in revenue that I shared with you earlier. The order probably comes down to how easily either of them could be done. I think that, with change like this, you don't get the opportunity to always choose the order. Sometimes what can be done gets done first. So is it risky? Yes, because we quite desperately need a significant regulatory overhaul. So yes.

**Senator XENOPHON:** I have some supplementary questions. Going to the issue of the two-out-of-three rule, you talked about protective measures, and I put this to both of you, given the parlous state of the media at the moment. There is Channel 10, without forensically drilling into that. There are the redundancies. The old 5DN newsroom in South Australia used to have 14 journalists, and it is now Cruise and Mix and has people just reading the news. They don't have any journalists on the street anymore, and that's typical. It's not a criticism; it's just typical of what is happening. What sort of protective measures do you think could work to actually get more content providers on the ground? In terms of the two-out-of-three rule, you have talked about other measures that might be needed to actually encourage public interest or civic journalism in this country.

**Ms Brownlow:** Perhaps some of the mechanisms you referred to earlier could be employed to serve the goal of protecting local content and local news. I, personally, am more attracted to market-oriented measures rather than—

**Senator XENOPHON:** Such as?

**Ms Brownlow:** Tax breaks, for example, rather than direct regulatory impost content quotas.

**Senator XENOPHON:** Should either of you wish to do so, could you give some thought as to what those tax breaks could look at and how they would look and get back to us?

**Ms Brownlow:** Certainly.

**Mr Burrowes:** The other point I would add is that ACMA already has the ability to put license conditions on TV broadcasters and radio broadcasters.

**Senator XENOPHON:** In terms of content or in news content?

**Mr Burrowes:** In terms of content and other things. Whether there is an ability to make conditions around keeping newsrooms in certain spots or the number of people and those things, there may be some potential to do something around that when licenses are changing hands or businesses are coming together.

**ACTING CHAIR:** I want to quickly go back, Mr Burrowes, to when we were talking about job losses being the fallout of the two-out-of-three rule coming into effect. I think you said there could be job losses regardless or something like that. It is never good to have job losses, particularly in this industry. We have already seen so many Fairfax journalists' jobs going. To be able to sustain diversity, is it better to look at the issue of jobs going under a framework that sustains that diversity as one that removes those diversity safeguards? Do you know what I mean? Obviously neither is a good outcome. One's going to have those diversity safeguards and one isn't.

**Mr Burrowes:** I totally accept your point. I think it is probably worth making the point as well that—as I say, I have been a journalist for more than 20 years. For most of that time, I have seen job losses being made—efficiencies, if you want to use that word, coming in. Often they are around newspapers being subedited from bigger and bigger areas, and the subeditors tend to be looking after more and more newspapers and have less and less local knowledge as a result. That has felt like an inevitable trend that has nothing to do with changing any of the regulations. Unfortunately, there are a lot of companies, particularly listed companies, where they have to worry about the next quarter's results or the next year's results. The easiest way to hit the next year's numbers is always taking cost out rather than investing for the future. That has always been a major issue behind journalism job losses. It is a very easy way for a CEO to do the next year's numbers. I think that probably exists completely separate to any changes to ownership laws, for instance. I would probably argue that you almost need to treat the two things as two separate things.

**ACTING CHAIR:** When it comes to the diversity situation, if you're going to have these job losses post-two-out-of-three rule, then on the ground—I think we talked about safeguards. If those safeguards aren't there, then on the ground the jobs are gone and the stories aren't being told. At least, at the moment, while we still have that rule in place, there is that diversity on the ground. There may end up being less of them, but they're still there.

**Mr Burrowes:** Yes, you could certainly strongly make the argument that it guarantees a certain number of voices. It does not guarantee, though, how strong those voices are.

**ACTING CHAIR:** But, still, that they are there. Would it be preferable to retain the two-out-of-three rule as well as introduce support measures for the journalism industry? Can't we have both? You talked about safeguards; can't we have them now?

**Ms Brownlow:** Yes. But any legislation that looks at just a subset of the industry seems irrelevant—just a problem or an obstacle. It is taking up too much time and oxygen when there are bigger problems to solve.

**Mr Burrowes:** I would add to that point that we have in front of us right now this package of measures. Let us assume that they do go through: there is arguably everything to gain by then putting a much wider focus on a future framework with an Ofcom-style regulator, for instance. There is a moment right now where there is some rare consensus, and some changes that will arguably take us forward from where we are right now are possible, but there is a much bigger opportunity to look to the future with a thought-out and thoughtful framework. But that is the sort of thing that needs detailed policy work over months and years rather than a knee-jerk action. That feels like that would have to follow what is on the table right now. It would be a real shame if it does not.

**ACTING CHAIR:** Thank you, Mr Burrowes and Ms Brownlow, for appearing before us this morning.

**Mr Burrowes:** Thank you.

**Ms Brownlow:** Thank you.

**SHRIVELL, Ms Denise, Founder, MediaScope**

**WOOLLEY, Mr Darren, Chief Executive Officer and Founder, TrinityP3**

[10:02]

**ACTING CHAIR:** Welcome. Would either of you like to start by making an opening statement?

**Ms Shrivell:** I will go first, if I may.

**ACTING CHAIR:** Okay.

**Ms Shrivell:** Thank you very much for having us today and seeing some of my colleagues this morning. Thank you for the opportunity to offer my views to this inquiry into the future of public interest journalism. As is commonly known, advertising revenue, which once underpinned the business model of media and journalism, continues to shift from a defined market of traditional TV, radio and print to advertising that is traded programmatically through digital channels dominated by Facebook and Google. Marketers now bypass traditional media to reach audiences who increasingly consume content from a fragmenting and fast-evolving range of local and international online platforms. This is the unstoppable trend.

The revenue that media now attracts through digital advertising is largely based on quantity of audience over quality of audience. To compete and survive in this environment, we have seen newsrooms centralise and deplete, and some parts of media focus more on sensation and division over substance in lockstep with political parties who tailor their message and often their actions to a voracious 24/7 news cycle—all then amplified, usually unchecked and without counter, across a narrow news network and numerous social media bubbles. In short, disruption and lack of trust in both the media and our political landscapes are no coincidence.

Mainstream media is calling for regulatory change to level the playing field in this landscape. In what is already one of the most concentrated media ownership markets in the world, experts forecast further concentration, leading to even more dominance from fewer news sources. It is not clear how increasing the power of local incumbents will make them more competitive against global platforms and ensure the role of the fourth estate. These complex and challenging issues, combined with rises in global uncertainty, have placed a firm focus on the performance and role of public interest journalism as a pillar of our democracy and how a diversity of media voices and true new sources can reach time-poor audiences while being financially supported unencumbered by political interference, commercial conflict and media owner shock jock bias.

Australia, of course, is not alone in trying to find solutions to these challenges, but we are unique. With dominant media owners, a small multicultural population and as one of a handful of countries worldwide to have compulsory voting, our media usage, particularly in regional areas, is inhibited and narrowed by one of the slowest and most unreliable internets in the developed world. Australian voters who are not actively engaged with news and politics are highly vulnerable to fake social media news, bias and agenda-led mainstream media narratives. But public interest and investigative journalism is alive, with much of the heavy lifting now being done by independents. While titles such as *Independent Australia*, *New Matilda*, *Crikey*, *The Big Smoke*, *The Saturday Paper*, John Menadue's *Pearls and Irritations* and journalists such as Lucie Morris-Marr, Michael West and Claire Connelly do not enjoy mainstream reach, their content is promoted, debated and moderated within social media communities such as the very active #auspol on Twitter.

Marketers and advertisers also have a role to play by taking action on brand safety and being more aware of the content they are appearing around and their revenue is supporting. Stop Funding Hate in the UK and Sleeping Giants in the US are successful grassroots initiatives which highlight divisive and inflammatory content. Advertisers are then asked to boycott their presence.

To conclude, the perfect storm is upon us. Australia's media industry requires regulatory reform but only with more comprehensive policy to identify, protect and support public interest and investigative journalism, while mainstream media and global media giants require greater regulation and oversight applied to the revenue they attract and the content they create and distribute to mass audiences. In the long run, this can only build some level of rigour and trust back into big media, engage more interest in journalism and enhance our Australian democracy.

My submission outlines examples, gives hard numbers, maps the media landscapes and offers solutions to many of the points that I have raised. Thank you very much.

**Mr Woolley:** I am here today because for 17½ years we have been advising major advertisers on how they should go about investing their advertising dollar most effectively. One of the big shifts that we have seen in the past 10 years is the growth, obviously, of the digital aggregators. In fact, in February 2017 Facebook had a reach

of 17 million active users, and Google's YouTube had 15 million active users during that month. So the actual reach is very attractive for advertisers.

**Senator XENOPHON:** Is that Australia?

**Mr Woolley:** Yes, Australia only. They are unique users in Australia. So this is where the advertising dollars are flowing to. The fact that the content that appears within both of those comes from other parties that have created that content is of concern to advertisers, but it is not part of the commercial decision-making process. However, they are concerned about the quality of the content that goes there because there are big issues around brand safety and their advertising appearing on those platforms against content that may be deleterious to their brands. This is an issue which both Google and Facebook have said that they will address and that they are taking steps on. But they do not take responsibility for the conduct because they do not see themselves as content producers but purely aggregators and distributors.

The Australian media owners, like advertisers, have also provided that content that they prepare to these platforms free of charge. They are now paying the cost. Under the terms that they have done that, they are unable to generate the types of revenue. We saw that last year in Australia, according to the IAB, of \$6.8 billion in digital advertising revenue approximately two-thirds went to Google and Facebook. This is advertising revenue from Australian advertisers that is not going to the content producers. The advertising pie does not grow in proportion to the number of channels; it grows on the level of investment seen there. Australia has traditionally had one of the highest costs of advertising of any market in the world. The digital advertising market has actually offered a discount to that because, rather than buying reach, purely, they are buying impressions, and so, with two platforms that are reaching 17 million and 15 million, advertisers are able to buy individuals within that market and impressions with those individuals.

As to the idea of the content being shared for free, it is interesting that it has now become an issue, because it would be interesting if, for instance, the national broadcaster's program *Four Corners*, which runs for approximately 45 minutes, were streamed on to, say, Foxtel, and they sold advertising in that particular program for their own benefit, because that is effectively what is happening with the digital aggregators: they are taking content from other providers and then commercialising that for their own benefit. If the same thing happened with the national broadcaster's product, I am sure that the public and the government would be outraged. Yet we seem to accept this as just terms of business and part of the market platform.

The next big issue for advertisers, as I have touched on, is brand safety. At the moment, there is a rise in what is called 'fake news', which is leading to the public having question marks over the quality or importance of that news, and so it creates an environment where advertisers do not feel that they are getting the right environment for them to be able to advertise in. This is an issue that needs to be addressed because, while the internet has democratised the opportunity for people to create and disseminate their messages in their news reporting, it has been done with no firm measure of quality or even of truthfulness. So it raises a big question for advertisers which they are unable to address. Thank you.

**ACTING CHAIR:** Thank you to both of you. Thank you also to MediaScope for your submission. It is almost quite entertaining in itself, with the layout of how you have provided it. I have to, obviously, highlight the issue you have raised about independent media doing some of the heavy lifting these days. From my own personal content, the independent media is probably more my mainstream, but obviously is not still in the mainstream in that way. I guess that goes to the heart of the issue of public interest journalism. These are the players who are doing a lot of that work through various platforms, as we know, most of which are online of course. How do we support those to become more mainstream, if they are the future as far as public interest journalism goes? They do not, themselves, have the majority of advertising at all, if any. Have you thought about the ways in which or the mechanisms by which they can be supported?

**Ms Shrivell:** You are right: I think that they are showing in the landscape at the moment a lot of analysis and insight and investigation that we perhaps do not see coming out of some of the mainstream media. There are exceptions and glimpses, and I highlight some of those in my submission. For any media owner now, the name of the game is diversification of revenue streams. I think that, in regard to public interest journalism, commercial conflict is very top of mind and I think that the independent media owners struggle because, firstly, they do not have perhaps the reach to audience; they perhaps have a quality audience and an engaged audience but perhaps not a volume of audience. As I mentioned in my opening statement, media is now basically bought on volume rather than quality. So it is challenging for them. A lot of publishers now are doing things like events, and Tim mentioned that his publishing company relies on revenue through events. Again, a commercial conflict may come into play if that is done by an independent media owner who is doing investigative journalism.

It is incredibly challenging for them to monetise what they do and keep providing the quality and quantity of journalism that we require. There are other ways to monetise: subscription, of course—people paying for content. We have already spoken a few times this morning about various tax breaks and tax levies. But you are right that that is a real, absolute challenge for them, and I think that, as part of this process, that should be part of the suite of solutions put forward in any kind of media reform.

**ACTING CHAIR:** When you say the suite of solutions put forward, you mean like tax discount or offset in relation to subscriptions, for example.

**Ms Shrivell:** Absolutely. There may also be things that can be done to help give them a better voice. Better access to politicians might be one of them. A better opportunity to gain a gallery pass is an example for some independent media journalists. My understanding is that it's a little difficult at the moment. I could be wrong; I'm not exactly sure of what the process is. But there are things like that that could help them get a little bit more reach for the journalism that they're providing. But I'm quite sure some level of consideration in terms of subscription tax breaks would be very welcome by them.

There are also issues—and I think Michael West brought this up in his testimony—around defamation. Quite often that's an inhibitor of them gaining revenue, so there should be an easier way for them to go through that process.

**ACTING CHAIR:** Have you thought about who should pay for these kinds of tax breaks? If we're to come up with some kind of mechanism in that way, who's paying for it?

**Ms Shrivell:** Certainly the very engaged readers or consumers of this kind of journalism could. I think that, if there were a tax incentive to help to monetise that, it would be really welcome. It would be a user-funded type of thing where there was some kind of incentive.

**ACTING CHAIR:** You have Google and Facebook collecting massive amounts of revenue from advertising—\$4 billion to \$5 billion a year in Australia. Have you thought about whether they should be helping subsidise some of this diversity in the independent sector that we're talking about?

**Ms Shrivell:** That certainly seems to be something that's been discussed overseas. *Media Watch* last night certainly highlighted the Canadian study where that's been discussed. How do they support journalism through the money that they attract? I noted yesterday on Twitter Dave Donovan, who is the editor and owner of Independent Australia, says that, when he puts one of his articles up on Facebook, it costs him \$100 to \$150 to amplify it to his audience. So there are perhaps some other things along those lines that can be done to help with the distribution of the content that they're creating.

**Mr Woolley:** The fact is that the online internet model is a freemium model. They offer content free.

**ACTING CHAIR:** Is that a word?

**Mr Woolley:** It is amongst the digital media. Freemium is offered free of charge. This is a way of getting the viewers—the audience—into that content. The idea is usually then to upsell into a premium model, so it is free to start with to get you in and then has an opportunity to upsell into subscribing or something similar. The fact of the matter is that Facebook, Google and YouTube have become so successful and so dominant in the marketplace that a very small number of people convert up. As we see in many of the studies, young people in particular would not pay for what they see as public interest journalism or news.

I think that there is a role for Google and Facebook to pay some sort of compensation to the content—except that they were given that content by the media content creators in the first place. Those media content creators gave the content because they wanted to increase their audience. Now they have actually lost out in revenue from that content, turn around and go back to Google and Facebook to say, 'You need to pay us for that content'. It is interesting. *Four Corners* is a 45-minute program. It makes it ideal for another 15 minutes of advertising. I am sure there'd be any number of advertisers that would be very happy to pay for advertising on *Four Corners* except that it won't run on the national broadcaster.

**Senator XENOPHON:** Maybe Trump Tower from their program last week!

**Mr Woolley:** What I'm saying is that, if that happened in traditional media, there'd be an outcry, and yet that is exactly what's happening with Google and Facebook. They are taking this content into their walled garden, where they commercialise it free of charge and they do not share. In fact, they're charging advertisers to appear in there and they're keeping that money. It's interesting that the market forces created a model that works very well for two major players but ultimately works against the interest of the public in having a diverse set of voices. They will argue that they allow a diverse set of voices because anyone can have their content distributed there.

**ACTING CHAIR:** Very interesting. Senator Paterson.

**Senator PATERSON:** Mr Woolley, why do your clients choose to advertise on these new platforms? Why do they advertise now on Facebook or through Google instead of just buying a TV ad or putting an ad in a newspaper?

**Mr Woolley:** One of the big issues has been that, traditionally, compared to the global market, Australian traditional media such as TV, press and radio have been expensive in a cost-per-thousand measure. The reason that was traditionally given by the media owners and the media industry was that Australia is a very large geographic space with a relatively small population. To do things like distribute television signals, magazines, newspapers and the like was costly. Digital has come in at a much lower cost per thousand, effectively, and has an incredible reach. While there are millions of websites available for advertisers to advertise on, it becomes problematic to work out which ones, whereas when it is consolidated with such huge reach of 17 million or 15 million Australians where you can go to two platforms and basically cherry-pick your audience out of there at a relatively low cost per thousand, it just makes commercial sense.

**Senator PATERSON:** So in that way it is a positive for your clients and people who want to reach an audience. They have a lower-cost way of reaching their audience than they did before because of this competition.

**Mr Woolley:** Yes from a purely financial basis, but now there are questions being asked about some of the metrics that both Google and Facebook provide. For instance, if I buy a 30-second television ad on any of the networks, it will run for 30 seconds. On Google and Facebook, if it runs for five seconds, it's deemed to be seen, and so now there are questions around the value that these represent with the metrics that are actually developed by the digital industry itself.

**Senator XENOPHON:** Are you saying that their metrics aren't as robust as they say they are? When they sell iPods or whatever, are you saying there is a need for greater transparency in terms of what they're selling or a greater robustness around what they're selling?

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

**Senator PATERSON:** I want to go back to why advertisers choose to use these services over the alternative. The other advantage you have alluded to is that they can better target and reach their audience in a more accurate way. When I am sitting watching television, there are so many ads broadcast that are totally irrelevant to me that someone has paid money to reach me. That is not a very effective use of their money. It also happens online, but much less often. Is that another reason why they do that?

**Mr Woolley:** There is that. And another issue in regard to digital media is viewability in that the TV ad will run and whether the people are, first of all, in the room watching it, or are the right audience you are trying to target, the data available to you is reasonably robust to allow you to make that decision. There is an estimate that around half of all digital ads are not seen by anyone, and yet they are recorded as being seen. So there is around 50 per cent wastage in viewability. As an advertiser, you would then need to apply that to what your other media options would suggest, as far as your wastage goes. One of the clear things is to minimise wastage. Yes, you are able to target specific individual types—not individuals—through both Google and Facebook. But then there are questions around the actual measuring of the performance of that.

**Senator PATERSON:** I guess another advantage is that there are lower barriers to entry in digital advertising. If I am a small business and I want to run an advertisement, I am not going to be able to afford to get someone to record a television advertisement for me and then broadcast it. That could be quite expensive. I probably cannot afford an ad in a newspaper. But I can certainly afford five bucks to boost my Facebook post or whatever. It is a much lower entry point, isn't it?

**Mr Woolley:** And Think TV would suggest that you would get equivalent value for your dollar. Five dollars on Facebook would buy you the equivalent value of \$5 on free-to-air television—if you could actually access it.

**Senator PATERSON:** Exactly. That is my point: I cannot buy \$5 worth of television advertising but I can buy five dollars worth of Facebook advertising. So if I am a small business that wants to promote what I do, it is a much better option for me, isn't it?

**Mr Woolley:** Yes, of course. And there are many small businesses in Australia that are making a contribution to that \$6.8 billion in digital advertising. But there are also significant large advertisers who are moving a

significant portion of their media budget into this space—in some cases up to 50 per cent—purely looking for the lower cost per thousand. That is because there is no cost of creating the media in the first place.

**Senator PATERSON:** If we were to put a tax on Google or Facebook as a way of ensuring this advertising revenue which used to go through traditional media companies comes back to traditional companies in some way, it is not Google and Facebook that will be paying that tax, it is those advertisers.

**Mr Woolley:** That is correct.

**Senator PATERSON:** So do media companies have a right to that revenue in perpetuity? Your clients previously were vicariously funding media companies—because the purpose was not to fund media companies; their purpose was to reach their audience. Is it fair to put a tax on those clients to fund journalism? Are they the best people to bear the load of that?

**Mr Woolley:** Advertisers in the industry would not be happy with any additional tax on advertising beyond their current taxation regime.

**Senator PATERSON:** In your view, would it be reasonable to tax them for this?

**Mr Woolley:** To tax Google and Facebook?

**Senator PATERSON:** We could say we are taxing Google and Facebook, but we know who would end up picking up the tab. Is it fair that they would pay to fund journalism? Are they the right people in society to bear the burden of funding journalism?

**Mr Woolley:** Ultimately the cost would be passed onto the consumer, because it would be an impost on the companies themselves.

**ACTING CHAIR:** But these are companies making massive profits. We are talking about Google and Facebook.

**Mr Woolley:** The senator's point was that that would then flow on to the cost of advertising for the advertisers themselves. In some cases, that additional cost to the advertisers could be to small businesses such as my own business, if I advertise on Google or Facebook, or very large businesses, many of whom are already struggling to deliver profits. Google and Facebook are certainly making significant profits.

**Senator PATERSON:** Given the market power that Facebook and Google have, it is pretty reasonable to assume that any tax that was put onto them they would ultimately be able to pass onto the clients—

**Mr Woolley:** They would pass it on.

**Senator PATERSON:** They would not pay it out of the goodwill of their hearts if they could pass it onto the clients.

**Mr Woolley:** That's right. So if I can clarify: would it be fair to put it onto Google and Facebook on the basis that they are making billions of dollars in profit? Yes, except the consequence would be an impost on all advertisers in Australia if you did that, because it would be passed onto them.

**ACTING CHAIR:** You may say that, but that may or may not be the case. It depends what kind of mechanism or framework would be put in place, I suppose.

**Senator XENOPHON:** Mr Woolley, will it inevitably be passed on because of their monopoly power? It is almost a monopsony situation that they have got.

**Mr Woolley:** I think it would be very similar to the recent tax on banks in that, if you place a tax on any individual group, they would be looking to find ways of passing that on.

**Senator XENOPHON:** Far be it from me to be defending the government in supporting the tax—Senator Paterson is getting nervous about me defending the government! In that case it was a distinction because the smaller regional banks, depending on the level of their deposits, were exempt from it. One of the arguments was that there was an alternative, so it would actually help level the playing field post GFC and the bank guarantees that greatly favoured the big banks. So there is an alternative in the sense that one of the competitive pressures on the big banks not to pass that tax onto the customers is that people could actually switch to the small regional banks with their quite extensive regional networks. But there is no real alternative to Google and Facebook, is there?

**Mr Woolley:** No, there are no alternatives. There are very small alternatives. To pick up on Senator Paterson's point, there are very few alternatives for small business beyond digital media.

**Senator XENOPHON:** We have discussed the issue of tax breaks. There is an issue of looking at the market power of Google and Facebook, just as we have an access regime in our competition law about having access to poles and wires, telecommunications and railroad infrastructure. I think it is the old part IIIA of the Competition

and Consumer Act—Senator Paterson might correct me if I have the wrong part. If you could change the law so that the data analytics Google and Facebook have, which is at the core of their commercial advantage, could be accessed by others—in other words, if that were opened up—would that make a difference in terms of making it less likely that any additional tax on Facebook and Google would be passed onto consumers? Is that an alternative—that data analytics could be opened up to small businesses, to competitors, to be able to use it on the basis of a fair access regime?

**Mr Woolley:** Opening the analytics within what the industry calls walled gardens, would certainly provide greater insight for advertisers and their agencies to make decisions. I am not sure how that would work in regard to evening out the distribution of revenues through there. But certainly it would be advantageous to understand the workings within Google and Facebook. I am sure they would have concerns around commercial confidentiality. But one of the big challenges for advertisers is: how do you make an informed decision about where your advertising is to be invested?

**Senator XENOPHON:** You have said that, over the years, Google and Facebook have changed their metrics. There is almost a competition argument. I do not want to single them out on this but there is a compelling argument that if they have been promising one thing and delivering another—and they can say it was because the algorithm was wrong or that metrics were not quite right—consumers should either get a refund or be treated differently. We have recently seen the European case involving a multibillion-dollar fine against Google. That is about the way they have used their market power. Is it a case of our competition laws really not keeping up-to-date with the power of Google and Facebook in this emerging market?

**Mr Woolley:** In the case in Europe, there were breach of privacy issues using their Gmail data. The competition laws, like most legislation, are lagging behind the marketplace because we have had a fundamental massive change in the media landscape because of digital media. And so to look at the dominance of those two platforms in this marketplace would I think be an advantage to everyone.

**Senator XENOPHON:** You have mentioned the \$6.8 billion in digital ad revenue. The figure I have been bandying about is that Google and Facebook are taking \$3.2 billion of that. That figure is clearly wrong?

**Mr Woolley:** That figure of \$6.8 billion from the IAB was for 2016, and the estimate was 65 per cent of that. So that would give you about \$3.8 billion.

**Senator XENOPHON:** I said \$3.2 billion. I was \$600 million out. I stand corrected.

**Ms Shrivell:** Jane Schulze, who will appear in your next session, will be able to give you the exact number.

**Senator XENOPHON:** All right, I will put that on notice to Miss Schulze—I just want that down to the last hundred dollars!

**Ms Shrivell:** She may be able to do that!

**ACTING CHAIR:** There are clearly big challenges for the future of Australian journalism. It does get down to the role of policymakers in addressing some of those challenges. Do you have any ideas or mechanisms to address some of those challenges? Obviously we know what the government has put forward with its media reforms to date. You are in this space.

**Ms Shrivell:** The solutions!

**ACTING CHAIR:** Yes, the solutions!

**Ms Shrivell:** I wish I could be that straightforward. It is a really complex, challenging environment. I think there are some hints in some previous inquiries—from Finkelstein to Leveson. We are seeing overseas markets trying to address these challenges. I think there are hints out of all these inquiries we have had in the past and in overseas markets. Defamation laws, tax breaks, tax levies—they seem to be the things that are constantly mentioned at the moment. I thought Megan Brownlow, from PwC, made a very good point this morning about modelling some of the solutions that are being put forward. To my mind, out of the suite of media reforms that are currently in place, there has not been a lot of modelling or discussion about what happens next. Tim Burrowes gave some really good hints about what we can expect to happen in the short term based on the repeal of the 'two out of three' rule. There are issues that have come up quite recently around things like plagiarism. That is another issue facing journalists today. So there are a raft of issues to address. My concern with the current legislation is that none of that is being addressed.

**ACTING CHAIR:** None of it is being addressed?

**Ms Shrivell:** None of the concerns about the importance of public interest journalism are being addressed as part of the current reforms within the media ownership package.

**ACTING CHAIR:** One of the components of the media ownership package is the abolition of the 'two out of three' rule.

**Ms Shrivell:** Yes, that seems to be the big one.

**ACTING CHAIR:** Obviously the real risk with that is the loss of diverse city that we currently do still have on the ground. I come from a small state where regional voices are really important. That is obviously a real concern. Is that a concern that you have in relation to what we define as public interest journalism, which is obviously up for debate as well? That can be those important stories on the ground. I think we had some examples this morning, including a planning application in a local community. If those kinds of stories are not getting reported, told and shared in regional outlets because it is all being consolidated, where does that leave us as far as public interest journalism goes?

**Ms Shrivell:** And there has been very little evidence or discussion that I have seen about how those kinds of issues will be addressed if the 'two out of three' rule is repealed. To my mind, as we have said, the perfect storm is upon us. This is the opportunity to really address some of those issues. I think you raised a very good point about defining exactly what is public interest journalism. Senator Dastyari often brings up his example of the 'dog blog'; he looks at lifestyle journalism and asks whether that is public interest journalism. For this debate, I suppose we are really focusing on fourth estate style journalism, which really is a pillar of our democracy. I think there are real concerns. Tim Burrowes said this morning that he thinks the death knell has already been rung for grassroots, local council, very localised journalism. In the last week or so, there have been some interesting reports coming out of the UK about some support for artificial intelligence produced journalism addressing local government journalism. So there are solutions being spoken about.

**Senator XENOPHON:** Seriously, how can you do AI produced journalism if it involves some dodgy dealings in the council? All it does is look at planning applications; it does not give you the story behind it. It needs to have a person on the ground asking questions and digging deep, doesn't it?

**Ms Shrivell:** I think part of the challenge is that there are a lot of solutions being suggested—whether right or wrong—but at the moment there is not a framework in place where different solutions can be trialled and disregarded if they are not working or brought into the suite of journalism solutions that we have. Remember also that Darren and I and the people you are seeing this morning work in a very fast-changing environment. We are talking about Google and Facebook now, but businesses like Amazon are very much on our horizon.

**Senator XENOPHON:** How do you see the challenge from Amazon in the context of this inquiry—apart from the fact that Jeff Bezos owns *The Washington Post*?

**Ms Shrivell:** There is a feeling that they may come in and be another addition to what is already a duopoly and make some inroads into a landscape that is already under a lot of pressure.

**Mr Woolley:** We are dealing with a category and industry that usually does not encourage government involvement. In fact, they are very big on self-regulation. The Press Council and other bodies within the advertising industry very much want to look after their own backyard. Senator Paterson, your observation about the alignment of the media owners shows that it has got to the point where they cannot address this issue themselves, and so they are looking for some type of government intervention. Overnight, there was news from the US that the major media players are approaching the US government to give them exemptions on the antitrust legislation to be able to negotiate collectively their own deals with the duopoly of Google and Facebook. That is interesting. It is certainly something that could be considered here. When you have got the major players, in return for that, you should also ensure that public interest journalism is protected—as you would do with a licence for a broadcaster to ensure they also meet the obligations for community standards and expectations.

Another area may be that there is a huge discrepancy in the way metrics are delivered from traditional media compared to digital media. I am not sure what the government role in that would be, but we should certainly get some alignment so that there is an equitable and equal playing field between the two. They are competing for the same category of advertising dollar, and yet they are playing on separate rules. There is one set of rules for traditional media, which has been developed and evolve over decades. The other set of rules has basically been made up by two or three of the major players and forced upon the industry. That is another area. Ultimately, there is also a responsibility to sit with the media owners themselves, because there are examples everywhere of media owners and proprietors who are being very successful in withdrawing from both Facebook and Google and continuing to get growth outside of those platforms. So it is not just completely about changing the landscape, because the landscape exists.

**Senator XENOPHON:** How successful have they been in withdrawing from Google and Facebook? It seems that there is a dependency upon media organisations. If they do withdraw from Facebook and Google, that imposes some significant challenges to get the same number of eyeballs and clicks on their website, does it not?

**Mr Woolley:** What they are doing is still using the platform but not giving away the content. They put teasers out there and then people have to go outside of the walled garden to access it.

**ACTING CHAIR:** Thank you for the education on terms like 'freemiums' and 'walled gardens'!

**Ms Shrivell:** There is a trend also for marketers to reach their audiences directly—perhaps in the same way that some politicians are reaching their audiences directly—so they do not need the middleman. As an industry, that is another challenge that we face: marketers do not need that middleman of media now.

**ACTING CHAIR:** Thank you for appearing before the committee today.

**ALMEIDA, Mrs Alice, Private capacity**

**SANGSTER, Ms Jodie Alexandra, Chief Executive Officer, Association for Data-Driven Marketing & Advertising**

**SCHULZE, Miss Jane, Managing Director, Australia/New Zealand, Standard Media Index**

**WHITFIELD, Mr Timothy, Director, Technical Operations, GroupM**

[10:55]

**ACTING CHAIR:** I now welcome witnesses appearing together as part of a panel. Information on parliamentary privilege and the protection of witnesses and giving evidence to Senate committees has been provided to you. I now invite you to make a short opening statement. At the conclusion of your remarks, I'll invite members of the committee to ask questions.

**Ms Sangster:** I'll give you a very brief background on who we are. We're an industry association representing around 650 corporations in Australia—mainly the larger end of town corporations that are involved in marketing. That will be from the brand side, so your banks, insurance companies, retailers et cetera, the suppliers to the industry and, also, the agencies. Our role is advocacy, education, thought leadership research et cetera.

I want to make a brief starting statement before I pass over to my colleagues. What I'm really representing here is the marketing and advertising industry and the behaviour of advertisers, which has changed quite dramatically probably in the last 10 years. We're realising that marketing and advertising play a massive role—a substantial role—in paying media channels, which then, in turn, produces journalists and quality content. There has been quite a change in how marketing and advertising has been approached in the past 10 years. There are three key areas that I will touch on. I will touch on, firstly, the changing media landscape, secondly, how brands now approach advertising and why that's changed and, thirdly, what advertising actually is these days and why that's important.

Firstly, the media landscape has changed. If I look at how it was 10 years ago, marketers and advertisers had limited channels to reach their audiences, so they were reliant on TV, radio, newspapers et cetera. With the advent of digital, the number of channels that are now available to reach consumers has substantially changed. Secondly, anybody can publish, so that has fuelled the number of channels available. Thirdly, how organisations go about marketing has changed. They're trying to be more relevant and targeted, rather than doing broad mass advertising.

Taking into account that changing media landscape, the second thing that has changed is brands' approaches to advertising and how they go about it. Whereas previously—10 years ago—it was very much about getting a mass message out there and using the traditional channels to do so, now, with data, that has changed a lot. Brands are trying to understand their audiences—what makes them tick and what they're interested in. They are looking to find out where their audiences are—so how they can reach their audiences. An example of that may be: a few years ago there was a campaign that was run by a travel insurance company who made the assumption that people watching *Getaway* on TV would like to buy travel insurance. But, actually, looking at the data and the analytics behind it, that's not where their audiences were, because people watching the travel shows were people who wanted to go on holiday but perhaps couldn't. The people who would buy travel insurance—

**Senator XENOPHON:** That's why I watch it.

**Ms Sangster:** That's why I watch them too. But those people are not necessarily the purchasers of insurance. Using data, they're seeing that their audience is actually somewhere else, and there's a lot of work that goes into that now.

A brand will also look at the messages that work. They will test a lot more—have large campaigns and more testing campaigns—and they'll use the channels and the media that reach those audiences. It's not about putting a mass message out there. It's about less budget or less spending driving higher returns on investment and trying to find channels that cut through the clutter. That's what's driving brands now in how they're doing their advertising. What does this mean? It means that they'll use the channels that are working for them. When we're talking about something like Facebook or Google, there is such a huge shift over to those channels because they can microtarget, they understand their customers and they can reach them a lot more easily.

The last area I want to briefly cover is: what is advertising and what has changed? Previously, 10 years ago, it was very clear you were watching an advertisement—you'd have a TV ad, and it was very clear that's what it was. You'd have an advert in a magazine that said 'advertorial' at the top. You might have a page in a newspaper. But the lines are now blurred because we've moved into a world of content marketing. Brands are themselves becoming publishers, and they are putting out content that is relevant, helpful and valuable to their customers.

There's now a middle point as well in this line between advertising and journalism. Brands are becoming involved in that. I should say it's not just brands; it's also individuals. Anyone can now become a publisher and take on the role. The lines have really blurred and you're starting to see some journalists come into the marketing sphere. You'll start to see some advertisers move over as well into that middle ground, which is what we call content marketing.

That's an outline from me. There's one other thing that is worthy of mention. I feel that there is a need for consumer education and awareness on this, because there is probably quite a low understanding out there in the consumer field around what is happening here, both in terms of the role that journalism plays and also the role that marketing plays. There is a need for that, and that's something that we do as an organisation. We are happy to continue to do so, but it probably needs to be broader than just us. Thank you very much.

**Mr Whitfield:** I don't know if I can beat that, but I'll give it a go. I am the director of technical operations at Australia's largest media company, GroupM. We have a reckoned value of \$2.84 billion, and we represent 197 clients across multiple verticals, such as travel, auto, finance et cetera. We've got clients like Amex, NAB, Westpac, Jetstar and a hundred or so other clients in those areas.

My job is to look at all the technology that exists in the Australian marketplace and understand how that technology is best used for different clients. I'm a little bit like a switchboard operator, where I see clients at one end and technologies down the other end. I connect the two together. To make it nice and simple, one of our clients might be in the fast food business and they want to be able to advertise to clients as they walk past the store with a message that says on their phone: 'Would you like to go in the store and purchase our product? It's on sale.' That requires a lot of technology in the back end to make that work, and my job is to understand the technology in the marketplace in Australia and how that is changing.

One of the key themes in this is the growth of an area called programmatic. Programmatic advertising is the automatic buying and selling of media by computers at superfast speeds. It's very similar to the way that high-speed trading of shares works. All the large publications sell their media, and all the large agencies buy this media at ultra-fast speeds.

The point I'd like to try and present to the committee today is understanding how much of the media dollars are passed through to protecting the integrity of journalists. If I was to take you through a hypothetical but fairly accurate assessment of how media laws could be passed through, it would work thusly. Assume that there is a campaign for a client x that is for roughly \$100,000. That client would want that \$100,000 to be passed through to finding new customers for their product. Unfortunately, some of that money is used for technology—the buyers and sellers of these programmatic fees. A typical rate for a programmatic buyer could be anything up to 40 per cent of the value of that media. So that means, of that \$100,000 campaign, \$40,000 is lost straightaway just to one technology vendor. But on average there are up to 10 technology vendors producing one particular ad so, in total, it is not just 40 per cent which is lost; in some cases it is up to 60 per cent. They did some test cases over in London whereby a publisher purchased their own inventory and found that only 37 per cent of what they were selling made it back to them, the publisher, whereas a whopping 63 per cent was lost by tech. In this market, it is very similar; the lion's majority of fees are taken up by technology.

Most of these technological companies are not domiciled in Australia. Of the portfolio of 250 companies that I follow, the vast majority have headquarters either on an island or in Tel Aviv or in America, and a lot of those company taxes that are paid go overseas. Of the 40-ish percentage that is left of that \$100,000, not all of that makes its way to media either. Before that gets to media, we have to take into account fake news, click farms, non-human traffic—

**Senator XENOPHON:** For the record, could you please explain click farms in 30 words or less.

**Mr Whitfield:** The goal obviously for the advertiser is to have their product shown to humans who may be in the idea of going and purchasing the product. So if it is Ford, am I interested in going and buying a Ford Klueger? That money is eroded by many things, one of them being click farms. Click farms would be in two different categories, either human or non-human. A human click farm could be a large group of people working together in a factory, in very much a sweatshop styled factory, where they are paid to click on ads to artificially drive up the price and make it look like they are real humans.

**Senator XENOPHON:** So like a call centre but a click centre?

**Mr Whitfield:** Exactly.

**ACTING CHAIR:** And is this happening in Australia?

**Mr Whitfield:** When it comes to the internet, I would like to say that most of these issues are global and none of them are specifically targeted to foreign versus domestic; this is a global issue.

**Senator XENOPHON:** Where are the click farms? Where do they tend to be?

**Mr Whitfield:** If I was able to locate exactly where they are, they would change. There are a lot of sophisticated ways to be able to hide the true locations. But there are also other companies out there designed to find them. These are real issues. Fake news is another issue that erodes this money. Instant articles is another one of these issues that erodes the money. So that 40 per cent goes down and down. The actual amount that, I think, goes towards funding journalism, paying for journalists in this market can be as low as between 10 and 20 per cent of that media spend. If the total digital spend in Australia was roughly \$2 billion then a very small percentage of that is actually going towards paying journalists at the moment and that is the type of thing that I would like to be presenting to the inquiry today.

**Miss Schulze:** I would like to say we are very lucky to have Tim here today because he is the expert on that whole programmatic trading technology. It is such a crazy world; it changes so fast. Even though I am involved in this industry every day, I cannot keep up and I have to read him on LinkedIn to know what the latest thing is. Many thanks to the committee for the opportunity to appear here today. I probably come from a unique background because, for more than 15 years, I was a print journalist, and for the last three years of that, I was a media editor at *The Australian*.

It was my time as a journalist list that triggered my business journey because, before 2009, it was impossible to get any accurate ad spend data and, as a business journalist specialising in media, I and the whole industry were blind to any ad spend trends so, as a direct consequence, my business partner and I created Standard Media Index.

Just as background, our business now publishes highly accurate ad spend data, which is sourced directly from the media agencies that buy corporate Australia's advertising each month. Just to make that clear, we represent corporate advertising in Australia—the top 400 advertisers, essentially—not the small businesses and the mums and dads that buy advertising. For the past eight years, I have been tracking the ad spend of newspapers and other media affected by the growth in the digital media and it is clearly not a happy story.

Back in 2009, newspapers attracted 20 per cent of all advertising out of media agencies and for digital the share was about five per cent. Today, newspapers secure about seven per cent of total agency bookings and digital has about 27 per cent of the total spend out of media agencies—so it is inverted. At the same time, Australia's newspaper groups have been leading the world in terms of monetising their content online. SMI now produces data for the US, UK and New Zealand market and we can clearly see that relative to these other countries Australia's news media industry is gaining more revenue from selling ads around their newspapers' websites than in any other country. Last year, the digital sales teams of News Corp, Fairfax, the old APN and Western Australian newspapers sold to media agencies advertising worth more than \$200 million—and that is excluding the programmatic bookings that Tim spoke of, so the figure is actually going to be slightly higher. As a result, digital now represents 23 per cent of total agency revenues to the news media industry which highlights the huge progress the industry has made to transform what was once just a print-only industry.

Despite such progress, traditional news media publishers continue to face more and more challenges. It is a common mantra in the media world that a newspaper ad that once sold for the equivalent of one dollar a CPM has an equivalent digital value of 10c. But that value has now decreased further, as per what Tim was saying, with most estimating to 3c to 4c, as this new form of digital trading called programmatic buying has taken off. In this world of online advertising auctions fuelled by computer algorithms, the amount of money returned to the publishers who actually created the content is even less.

At SMI, we can see that programmatic is the fastest growing area of digital media. This calendar year to date, that market has grown by 40 per cent from the same five months last year and now represents 18 per cent of all money agencies are spending on digital. But this area can also be controversial as there has been concern raised globally that these computers inadvertently place ads for well-known brands on unpalatable websites, which has the unintended consequence of damaging the brand being advertised. As a result, we fully expected more digital money to shift back to quality news sites but that is yet to happen. What is worse, news media publishers are not even getting their share of the programmatic market.

Last year, SMI and the news media's peak body NewsMediaWorks created the first database to show actual ad spend for news media's print and digital assets. It is called the News Media Index and this time the data came not just from media agencies but also from all the small business advertisers as well. But when we released the NMI Q3 data in May, we were surprised that, despite all the brand safety issues swirling around programmatic advertising, these quality news sites still did not get their share of programmatic spend. Indeed, their share of total programmatic spend was less than 10 per cent of the total.

The other major market challenge is competition from large digital organisations that do not produce any content but use the content of news media publishers to fuel their business without paying for it. Google and Facebook have obviously become distribution platforms that distribute not only user-generated content but also the content of news media producers. In the process, they are taking the lion's share of digital ad spend coming from media agencies. These two companies, just the two of them, in the 2016 calendar year attracted 40 per cent of all digital advertising coming from media agencies. So that is 40 per cent of all corporate Australia's digital advertising.

I do not have a magic solution as to how this can be fixed, but I would simply note the following. As a former journalist, I am a member of the Copyright Agency and every few months or so this independent body deposits about \$10 into my bank account, which reflects my portion of payments made by libraries and similar organisations who have photocopied or used stories that I wrote in my previous journalistic career. My question is: how do large online companies manage to evade Australia's copyright laws? I'm not a lawyer, so I don't know the answer. Is it simply that the law has not kept up with the digital age? Why are there no copyright payments in the digital world?

Secondly, SMI also has product category ad spent data and, as such, we can see the combined ad spend for all of Australia's local, state and federal governments. Further, we can see that, across all tiers of Australian governments, a full 30 per cent of all digital budgets are spent on search and social media. I would simply suggest that, if our governments want to foster a healthy, local media industry with strong news-gathering resources, surely it would be in the public interest to only buy digital advertising from companies employing local journalists. Thank you.

**ACTING CHAIR:** Thank you, Ms Shulze. Mrs Almeida.

**Mrs Almeida:** Congratulations on pronouncing my surname correctly—it's my husband's, and I'm still getting it wrong. Thank you for your time today and thank you for allowing me to the opportunity to voice my opinion. I currently work for a global marketing intelligence company that I am not representing today; I am representing myself with my 16 years of media research experience and insight. I've worked for some of Australia's largest publishers such as Fairfax and news and also TV networks Seven and Nine. My specialty is around media measurement and media consumption, and I am a consumer and brand specialist.

There has been quite a lot of discussion around Google and Facebook and, whilst I agree that they are big beasts and a lot of work that needs to be done with them, I think that a lot of publishers wouldn't be where they are without the support of the likes of Google. Just to highlight that: last year Google contributed 35.5 per cent of traffic to the news and media industry. When you think about your own media consumption habits—when I heard of the Grenfell fire in London, the first thing I did was go to Google and type it in. Whatever publisher came up is the article I read. This behaviour we are starting to see across all different Australians—from young to old. Publishers need Google to work with them for that reason.

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

The other issue that I want to talk about is—and it's something that I feel quite passionate about—the clickbait and propaganda articles that seem to be out of control at the moment. When I worked at Fairfax many years ago, we were one of the dominant publishers online, and there was probably one other competitor at that time. These days they are one of six or seven different major competitors. They are competing for the same audience and they are competing aggressively—and I am not speaking on behalf of Fairfax now but on behalf of all of them. They are getting dirty with their tactics on how to get the audience across. The one way that some publishers are doing this is by sensationalising articles and putting headlines which are completely misleading and representing.

An example that I want to showcase—and this only highlights one of many, many examples; I could sit here for five hours and talk about all of the latest articles in the past month—is the announcement of the latest census results. This is something that I got incredibly frustrated about. A particular publisher in Australia published a headline that said: Muslim population soars ... as religion becomes the second-biggest in Australia.' It is a 77 per cent jump.

That kind of headline only incites anger, hate and angst in the community. Having a look at the e-comments within that article, every single one was negative towards Islam or Muslims in Australia. It was a complete attack

on them, and the only reason the publisher did this was because they know that it would drive clicks. We are starting to see this happen more and more. The fact of the matter is, technically, it is kind of true, if you have a look to see how they have done it: what they did was clump every single form of Christianity into one group, which equated to 52 per cent and then Islam is at 2.6 per cent. So they have been creative with the results from the census and misrepresented the actual findings of this article. This is becoming more and more common when they're fighting for audiences. This is something that I think needs to be considered seriously, and these publishers need to be held accountable for the damage they're doing to journalism in Australia.

Another area that I want to touch on is: publisher loyalty is on the decline, as well as brand loyalty, in Australia. People are becoming less loyal even in relationships—divorce is on the rise. But I think it's something that we're starting to see with publishers in particular. No longer do you sit down and read a particular newspaper or, every morning, log on to a particular website. Because everyone picks up their mobile device in the morning and looks to see what people are actually reading on Facebook or Google, they're being suggested articles based on their online behaviours. That in itself is another topic that we can also touch on, because publishers are now starting to recommend articles based on online behaviours. But my online behaviours don't really represent the kind of content that I want to seek out online. I'll park that one as well.

Another area that I want to touch on is: I think it's up to the government. I think that you play the most crucial role in fostering a culture that encourages public interest journalism. I've got numerous friends who are journalists, and they are restricted in particular areas of content that they want to write on. You all hear the stories of journalists who come out of university and are passionate about writing the big-hitting stories, but then they start at a publisher and they're not allowed to write anything. This is where I really appreciate the opportunity to talk today. As I said, I am a consumer specialist, and one of my areas is to track how people are consuming content online and what devices they are actually visiting from.

**ACTING CHAIR:** Thank you to all of you. I'm learning so many new words for my lexicon today with 'freemium', 'programmatic' and 'click farms'. I might start with you Mr Whitfield. Let's talk about this programmatic advertising. What does it mean for the news media industry? I ask that because obviously our focus is on public interest journalism. What I'm interested in is: do the problems with programmatic advertising underscore the strength of the traditional media in that sense?

**Mr Whitfield:** That is a very good question. Maybe a good way to try to understand that is to just dig a little bit deeper into programmatic and understand how Australia is evolving in its programmatic journey in comparison to overseas countries and the growth of programmatic in terms of where the dollars are and the alignment between programmatic and the media. If I can touch on those points, that might help. I can give you a really quick analogy about programmatic, if you like. Is that okay?

**ACTING CHAIR:** Yes.

**Mr Whitfield:** Do you remember the movie *Ferris Bueller's Day Off*?

**ACTING CHAIR:** Yes.

**Mr Whitfield:** There was a scene where they go to the Chicago exchange—

**Senator XENOPHON:** That movie always reminds me of Sam Dastyari!

**Mr Whitfield:** They go to the Chicago exchange, and they're buying and selling and yelling and screaming on the floor. The right hand indicates whether you're buying or selling and the left hand indicates how many units you want to buy—so whether it's frozen orange juice or pork belly. These days, if you go to the Chicago exchange, it's whisper quiet because it's computers buying and computers selling stocks at high-volume trading. The same thing has happened in media over the last 20 years. If you wanted to go and buy the home page of the *Sydney Morning Herald* 20 years ago, you'd jump on the phone and ask: 'Can I go and buy it? Yes or no? What's the rate? Is it available?' Now, it's whisper quiet as two computers buy and sell.

They trade inventory, which is what we call it, online. Around 30 per cent of the Australian inventory is traded programmatically. The top part will always be done by people buying and selling media. They say, 'I want the home page of the *Sydney Morning Herald*; I'll just go and buy that.' Programmatic, generally, is where you're buying an audience—where you're buying people who are interested in news, sports, weather, travel or finance. It's certainly on the rise. In this market here, we find that most of the programmatic spend is currently domiciled in Australia. So most programmatic dollars are bought by News Corp, Fairfax Media, Yahoo!, MCN and Mi9—so the top five programmatic media companies.

There is a minority, but it is still in high double digits, of programmatic media which goes overseas. That could be going anywhere. There are 264 different sellers of this media globally. We were alluding to this earlier. When you buy media, you buy an eyeball—you buying a person programmatically. You do not know which country

they are from, you do not know the website they are visiting and it is very hard to generate the audience. We spoke about brand safety. That could be on one of the three main categories for brand safety, which is terrorism, illegal downloads and adult content. All of those are available to buy programmatically and we need to stay away from them to keep brands safe.

So there is a very strong link between the growth and the reliability of Australian journalists and the digital and programmatic media as that grows—more data, better targeting and more sophistication to really find a person who is in the market for a holiday or the next credit card or the next home loan, at the right time and in the right mood. That is the role of programmatic. We summarise it as: right user, right time, right message. Does that make sense?

**ACTING CHAIR:** Yes. I am digesting it.

**Miss Schulze:** The trouble is that it is lower yielding for the publishers. That is the trouble. It is a great solution for advertisers and all the rest, but, from a publisher perspective, because of what Tim was saying before about ad tech, there are all the different funnels that the messaging goes through. There are overlays of so many bits of data to find the right person who does want to go on that holiday. By the time it ends up at the publisher, there is hardly any money left and it is certainly not enough to compensate what is being lost from print and it is further eroding the overall margins for publishers in the digital media as well.

**ACTING CHAIR:** How does programmatic deal with premium audiences? What sort of premium would the front page of a trusted news site look like?

**Mr Whitfield:** Maybe a good way to look at this would be by price. Programmatically, generally we have three tiers of inventory. The first tier might be wanting to buy specifically just the home page of a large premium website. I am not picking on *The Sydney Morning Herald* here for any particular reason; it is just the first website that comes to mind. This is not sharing their rate cut. Hypothetically, the price might be around \$20 CPM. CPM stands for 'cost per thousand'. That means that, for every thousand visitors that go to *The Sydney Morning Herald* homepage, you pay \$20. Then, if you want to look somewhere deeper inside their website—news vertical, travel et cetera—you might go down to \$8. And then you could soak up programmatically just all the remnant inventory—things that they could not sell by having a sales force. One of the other things about programmatic is that, because it is a computer selling it, you do not need to employ as many people. There are fewer taxpaying journalists out there or sales people out there in programmatic. That might go for \$2. The sales funnel would be \$20 down to \$8 and down to \$2. That would be a very typically styled sales funnel: premium to vertical and then to remnant inventory inside programmatic.

**ACTING CHAIR:** With something like Google and Facebook, do you think they provide advertisers and marketers with the right tools to target the right audiences properly?

**Mr Whitfield:** Absolutely. Facebook has two very key products in their market. One is called Custom Audience, CA, and the other one is called FBX. With Custom Audience, every time you click on 'like' or 'share' as a consumer, or you comment, you add your own most valuable bit of information, your data, to their database. They can then use that information to target to you a message you would be interested in: travel, a holiday—a vertical. You might have clicked on a friend's picture in Phuket, and they will use that to put you in the category of someone who is interested in going to Phuket and they will target that to you. They are very good at creating very customised databases.

**Senator XENOPHON:** Can I just ask a few questions in relation to that? You said in your opening statement, Mr Whitfield, that about 10 to 20 per cent of that digital spend goes back to journalism. How do you work that out? It seems to me to be a lot less than that, or are you saying that that that goes to traditional media—*The Sydney Morning Herald*s, the News Corp websites? Is that what you meant?

**Mr Whitfield:** Yes. Let me try to elaborate on that. Apologies if I have not made that clear. What I meant to say is: assume that Brand X have a \$100,000 campaign and they would hope that the majority of that money would go to media to try to present a—

**Senator XENOPHON:** It's a very reliable brand, Brand X!

**Mr Whitfield:** Then, when they have got that \$100,000, first of all they have to pay 10 different technical companies in order to be able to make that one ad appear on your phone or on your computer. There are a number of wheels working in the background to make that overall mechanism work. The amount of money that actually goes to the publisher is the minority. It is closer to 40 per cent. But that number is actually further eroded by things such as viewability, whether the ad is seen or not seen; human or non-human traffic; and whether it is on a brand-safe or a non-brand-safe website. The total sum of all of those—viewability at the moment is roughly around 50 per cent in market, so half the ads are not seen. And this market is moving towards trading only on

viewable ads. So, if you go to a website and hit 'page down' 10 times and your ad is at the very bottom of the page, you don't want to pay for it. If you are driving down a freeway and there is a billboard and the billboard is facing into the forest, you don't want to pay for it. About half the ads are not viewable on the internet, so that 40 per cent has an effective value now of 20 per cent. Then ad fraud in this market and brand safety concerns represent about 4.5 per cent.

**Senator XENOPHON:** What do you mean by ad fraud and brand safety?

**Mr Whitfield:** Ad fraud is the overall term for non-human or click farm traffic. There are 11 subcategories inside that, but click farms are certainly one of them—data centre traffic, spiders, robots. These are all terminologies for computers that are automatically downloading ads. There are some things that the Senate could recommend which are some very simple methodologies to eliminate this. If, for example, we have got click farms, they all have to operate under certain IP addresses, certain constraints. We are able to identify those fairly easily. The one recommendation to the Senate would be to put forward an open list, a black list, of known click farms, known robots and known spiders.

**Senator XENOPHON:** I am transfixed by all this!

**Mr Whitfield:** Sorry.

**Senator XENOPHON:** Why are you apologising? It takes a lot to transfix senators on anything!

**ACTING CHAIR:** I want to know who comes up with these terms!

**Miss Schulze:** Advertising has just changed so much in a given space.

**Senator XENOPHON:** I am just trying to understand this from a public policy point of view, because this is, in a sense, one of the things that is driving revenue away from traditional media. It is hurting public interest journalism. It is hurting news content. In a sense, it can cannibalise off the existing media outlets. It is like a double whammy. If you have a blacklist of these click farms, presumably they will keep changing their IP addresses but presumably you can work out an algorithm to identify the click farm. Is that right?

**Mr Whitfield:** Spot on. That is exactly right. It would be very simple to build on the good work that some of the Australian councils have already put together. There is the IAB, the Interactive Advertising Bureau. Some of the other councils that people are here from today have done some work in identifying these click farms. At the moment, the difference is that these are just best efforts of individual companies; there is no gravitas associated with it, because the government may not have been aware, obviously—without any criticism—and therefore not put them on a blacklist. But, if it was endorsed and it was said that these are known click farms and known robots and spiders, it would represent a reinvestment into the community of around—rough numbers—\$200 million, which is obviously a very—

**Senator XENOPHON:** What do you mean by a 'reinvestment'? It means that advertisers will not be blowing \$200 million.'

**Mr Whitfield:** And that money would be reinvested back into good-quality advertising, which would include Facebooks and Googles but also include the News, Fairfax, Yahoo, MSN et cetera.

**ACTING CHAIR:** Where do you come up with \$200 million?

**Mr Whitfield:** My job is to look at the 197 clients in our business. I have a data centre of about six billion rows of data from GroupM. When we look at that data at an aggregate level, we have identified that the number we are seeing from our sample size that around 4.7 per cent of overall numbers of ads shown fall into these black lists. Our job is to manually steer away from them. By identifying them and categorising them as wrongdoers, all advertisers can get behind this initiative and therefore reinvest that money towards good advertising that would normally be wasted.

**ACTING CHAIR:** Doesn't that show that the Googles and Facebooks do not provide the right tools for advertising, that through this programmatic system the content is ending up on these wrong sites?

**Mr Whitfield:** To some degree, yes, but it is not based on any lack of effort from anyone's part; it's just lack of direction—being able to focus beyond a singular vision. I think everyone is working on it independently.

**Senator XENOPHON:** Given that Google and Facebook have changed their metrics a number of times, and we have heard that from a previous witness, to what extent can they deal with these issues to work out what real people are looking at compared to click farms or computers opening up these ad links, which inflate their advertising figures? If they had the will to do so, could they be part of the solution? In other words, have Google and Facebook got the capacity to deal with these issues with some urgency and to deal with it effectively?

**Mr Whitfield:** I think all of the publishers, including Google and Facebook, have the ability to do so. I think that everybody needs to have a seat at the table in order to try and find a solution.

**Senator XENOPHON:** But they have chosen not to do so—haven't they?

**Mr Whitfield:** No, I don't think I can say that. I don't feel that anyone has been any better or any worse than anyone else. I don't think this is a reflection of any malice or anyone being disingenuous. The landscape is changing very quickly here and everybody is struggling to keep up. I will try and put that into perspective—and I will finish on this and then hand over to my colleagues. I am actually an engineer from Macquarie uni and when I got into this space 17 or 18 years ago, there were I think three or four different pieces of technology in play. Now, in the current version of the mediascape that you would have heard of before, there are upwards of 5,000 pieces of technology in play. That proliferation of technology that is exploding becomes very hard to try and keep up with.

**Senator XENOPHON:** Perhaps I might step back a bit. I am not suggesting anyone is doing this deliberately. But Google and Facebook or, indeed, other organisations do have the wherewithal to be able to tackle this head-on if they had the will to do so or if they were directed to do so—is that right?

**Ms Sangster:** There is one additional point I think we need to make here. We have to look at the advertisers. Programmatic is quite a new approach to advertising, so it is in its infancy. What we have seen probably in the last year is a lot of pushback because I don't think the advertisers or the marketers were aware that their advertising either wasn't appearing or was appearing in the wrong place. Now, you are seeing the organisations—your Procter & Gambles et cetera—stand up and say, 'Hold on a second, we've got to make sure that our advertising dollars are being seen, that we're not being put next to brands that don't align with our values' et cetera. They are playing a role in correcting the market and they shouldn't be spending their advertising dollars on marketing or advertising that can't be seen. So I'm not 100 per cent sure it needs to be a regulated outcome. No company should be spending advertising dollars if they don't know where those dollars are ending up. I think that's an important point to make.

**Mrs Almeida:** Going back to Google and Facebook, my understanding is that both organisations are looking at ways to combat—'like' farms are like click farms, because obviously with campaigns on Facebook, the more likes they get then the more success they think they've achieved. I know that Facebook, maybe two or three years ago, were looking at ways to combat that. With regard to Google and fake news, I've seen something recently that they are working on an algorithm to come up with content that is deemed fake and they are putting that at the bottom of the search filter. I know both organisations are looking at combating these two different areas. I know I sound like I'm in the Facebook and Google camp, and in ways I am because I do see that they're a huge benefit to advertisers. Yes, I see that they take money away from publishers and everything, but I come from a consumer perspective and a brand perspective. These two platforms deliver huge audiences, and this is what the brands and the consumers want.

Touching on what we mentioned before with programmatic, a lot of programmatic is done on tracking people's online behaviours and then serving them content or ads that they think this person is in the market for. This can be incredibly useful or incredibly frustrating. Some companies are doing it really well, some companies are doing it really badly or really poorly. An example is: I recently purchased a holiday to Hawaii and then, the next day, I was served an ad to the exact same place that I'd just booked a lot cheaper. As a consumer, of course I was frustrated. As a research and analytics person, I thought, 'There are algorithms to prevent this, why aren't brands implementing it?'

There are a lot of organisations that are doing really good things, and there's obviously a lot of—one of the biggest challenges with the digital industry is we need to standardise so many different areas. I was part of the IAB measurement research council when they came up with the preferred measurement provider, which is Nielsen. The reason they did that was because there were about six different measurement providers in market, and any publisher would go to market stating the results from a measurement provider that they were deemed the best, so there had to be a standardisation for that. I see that there needs to be standardisation rolled out in many different areas, and programmatic is one of them because, as I said, some are doing it well and some are doing poorly.

**Senator PATERSON:** You have all worked either with or for advertisers, so I am interested in asking or seeking your views on some questions I asked of Darren Woolley on the previous panel, which some of you were in the room for and some of you weren't. I will briefly summarise it. Advertisers used to inadvertently fund journalism because that was the only way of reaching their market: you had to go through a newspaper or television station or a radio. Maybe advertisers felt good about the fact that they were supporting journalism, but that wasn't the purpose of why they were advertising through those means. Now they have other alternatives available that might be better suited to their business purposes. My question is: is it a role for government to

ensure that the revenue that inadvertently funded journalism before continues to fund journalism in the future? Should government effectively put a tax on advertisers, whether it is through Facebook or through Google, in order to ensure that that revenue that used to be there remains there.

**Ms Sangster:** I will make a very brief comment on this. As Tim mentioned earlier about Facebook and Google, the reason a lot of advertisers have swung over there is because they have got products that are highly targeted and really do deliver to an audience. Advertisers can make quite a small spend but reach the people who are really going to buy their products. What has not happened in the media—they've been stuck with quite an old business model, which was, 'I'm going to take advertising and push that out to everybody', and they've been a little late to the game in understanding their audiences, investing in data, investing in all of that rich information that sits behind it that could allow them to do something quite similar with that, but maybe on a smaller scale.

I don't know if it's necessary that the government needs to start stepping in here, because some of it is a commercial reality that they need to be looking at new revenue streams and new ways to harness that audience so that they too can provide advertisers with deep information about their audience. There is that part to take into account too. I am not 100 per cent answering your question; it's just another lens that I think we need to look through.

**Senator PATERSON:** Sure.

**Miss Schulze:** To that point, News Corp has done a deal the Quantum, where they are selling the—

**Ms Sangster:** It's only just started, a year ago. If you think about Facebook, it's a digital platform that was digital from day one. They were collecting data from day one. I am not saying it is right or wrong, I am saying that you're not starting from the same starting point. Facebook has been doing this for however many years it has been doing it for. Coming in late to the game are the more traditional players, who are now trying to play catch-up and look at new ways of generating revenue. It's quite a hard thing to do, but they do need to do it; it's a commercial reality that they need to do it.

**Miss Schulze:** I would just raise what I said before about the Copyright Agency: there's copyright as an existing body of law; there's an existing independent body that oversees distribution payments to the authors of content. I just do not understand, personally, why the online world doesn't apply in copyright land. What is it that if someone in a library photocopies a story I wrote in *The Australian* 10 years ago I get two cents, but if someone puts it on Google, I get nothing.

**Senator PATERSON:** Funnily enough, I'm also a member of the Copyright Agency from a previous life, and occasionally I get payments. I guess the reason is because Google is directing traffic to the person who owns the copyright, for example, *The Australian*, and *The Australian* gets the benefit of that advertising revenue from Google directing that traffic to them. Google hasn't taken it from *The Australian* website and republished it on their own website in a way that's taken away that copyright from the original owner. There would be nothing to pay because they haven't reproduced it. When I photocopy a newspaper and I distribute it to my class if I'm a lecturer or some students in a class, I've taken it out of its original context. I've taken away the advertising around it. There's no way they can monetise it. You've broken the paywall, effectively.

**Mr Whitfield:** I would like to rephrase your question to whether there should be more of a level playing field when it comes to advertising. I just want to underpin the size or the quantum of the difference of the playing field. I did a little bit of research before I came here and I looked at the difference between how large social media channels, such as the ones you are thinking about, are working in Australia versus how a traditional media, such as Fairfax, works. I had a look at their numbers. Fairfax is a large company. In 2016 it generated, if my memory serves me correctly, about \$1.3 billion and it employed circa 5,100 people. This generates a revenue per head of around \$233,000 per person. Now some people at Fairfax will be earning way more than that, some people under that, but they have to generate a profit and generate good quality journalism based on that number.

If I look at the same ratio for that social media channel, it is my understanding that they generated in the vicinity of \$700 million and have 70 employees; therefore, it has a revenue per head of \$10 million. I think that underpins the difference between the two different ways that media is consumed and the two different ways, in the back end, that one can have much deeper pockets and can work a lot more tax effectively. The other way to look at that same thing is that if it was a level playing field, then that social media company wouldn't have 70 employees, it would have 3,000 employees all working here paying tax.

The other way to look at it, and the other pressure that senators should think about, is actually the NBN. I understand this is a step sideways, but please hear me out on this. In my previous role as a chief technology officer of one of these ad tech companies I had to set up four different data centres: Sydney, Singapore, Stockholm and Atlanta, Georgia. The price per gigabyte for these data centres was the same in three of those four

places. All over the world, whether it is America, Europe or Asia, it was at that stage—it was a few years ago—\$5 per gig. That same data to buy here in Sydney was \$50 a gig; it was price prohibitive. It was simply because we just didn't have and still don't have the infrastructure in place at the moment to support fast internet. So of the 250 ad tech companies, 90-plus per cent of them are all domiciled in Singapore or overseas. The traffic has to go overseas to come back, so when you open your phone and you read content, all of that traffic from your phone goes overseas and comes back. If you happen to be travelling overseas and you find that your phone and your websites are working much faster, it's because the infrastructure works much better. One suggestion to the senators to help would be to allow Australian domiciled companies to have something, whether it be tax breaks or other incentives, to encourage them to have servers located in Australia—in Sydney, Melbourne, Perth—rather than having them go overseas, like Telstra, which is currently putting in more systems over in Singapore.

**ACTING CHAIR:** Mrs Almeida, going back to what you were talking about earlier, do you agree that the traditional media—TV, radio, news—are now in a kind of symbiotic relationship with the Googles and Facebooks of the world? Do you think it is simplistic to argue that the Australian media are simply competing with them? Do you know what I mean? Is it more symbiotic?

**Mrs Almeida:** I do not want to overcomplicate the answer here, but whenever you look at something like this you have to look at the different generations, because they are acting very, very differently. However, you also have to look at the generational shift, because although predominantly online is, say, 50 and below, it is starting to infiltrate to the older generation, and they are becoming a lot more reliant on online.

In relation to whether they are working side by side, there is a constant battle that seems to be playing out—and I do not know whether these guys will back me up on this. Professor Mark Ritson from Melbourne is constantly questioning the value of digital measurement and the credibility of it. I have worked in TV measurement and I have worked in digital measurement, print and outdoor. I have worked across all the different areas. Although digital is the most accountable and the most recordable, there are still some holes that need to be filled in. However, when you look at the other media, the measurement methodologies behind that are very questionable and never seem to really get questioned.

One thing I am looking at is that each medium has its place and they are all starting to work together. So, what we are seeing is that when people are watching TV they are picking up their mobile phone during the ad break and are on social media, or they are watching the program and are tweeting or snapchatting or whatever it is that they are doing on their mobile device. So, we are seeing that the two mediums, particularly TV and digital, are working very closely together. Print is where I see the biggest kind of breakaway from digital, because it is very rare to find a segment of people who do both. And if they do both, it is just on the weekends, when they might buy a newspaper. But predominantly from Monday to Friday a lot of people are digital. And when you look at the hourly access data to particular new websites you see that the spike happens just before work and then dips and then it happens again at lunchtime and then it dips and then it peaks again during the commute home.

So, to answer your question in a longwinded way, some media work hand in hand with social and the likes of Google. There are some, such as print, which I see are struggling to make that connection. As I said, the measurement behind each different medium needs to be taken into consideration. I think Mr Woolley touched on that before—that there was a disparity between the different metrics. One of the complications with agencies when they are buying a cross-media campaign is that they are not comparing like with like when it comes to measurement. So, that is something that overcomplicates it as well.

**Senator XENOPHON:** I am just thinking about what Marshall McLuhan said all those years ago, that the medium is the message. What do you say now? The message is the medium?

**Mr Whitfield:** The platform is the medium.

**Senator XENOPHON:** Yes, the platform is the medium. I want to go back to what was discussed and perhaps wrap this up by asking all of you to take this question on notice—some of the matters you have raised about the 'click farms'. For some reason I just think of lots of chickens in a shed somewhere! But obviously these click farms need a pesticide or some sort of herbicide in order to be dealt with. In short summary—and perhaps I could invite all of you to put an answer to this in writing, should you wish to do so—there are several fundamental reforms that need to be done, because even these changes would make a difference in terms of ensuring that advertising dollars are going where they are meant to be going rather than being dissipated, and that in turn has an indirect effect on journalism in this country. So, what are the four or five key reforms that you think need to be made from a legislative point of view to deal with these things head on? And are other jurisdictions dealing with these things effectively, or not?

**Mr Whitfield:** Thank you very much for the question. I think if it came down to a couple of key bullet points I would say, in no particular order, that we would certainly be ahead of the world should we decide to take a proactive stance on eliminating things such as click farms and robotic activity from our media, and the other thing is that we could try to eliminate ad fraud, which is a way to try to buy 'likes'—'like farms'—or buy not only clicks but views of advertising. It is currently 100 per cent legal to go and create a website and buy traffic on that website and create fake audiences.

**Senator XENOPHON:** In terms of the proactive stance to eliminate click farms and robotic activity, you are saying that it can be done with algorithms and by having a regulatory approach?

**Mr Whitfield:** Yes.

**Senator XENOPHON:** And in terms of eliminating ad fraud, at the moment there is nothing illegal about setting up a site in order to enable clicking on to something?

**Mr Whitfield:** Correct. If you wanted to you could, for the price of \$100, go and create a website on how to cook mac and cheese and then go and buy stacks of viewership of that particular website of you cooking mac and cheese and then you could go and sell tens of thousands of dollars worth of media on that website, and it would be 100 per cent legal, unfortunately.

**Senator XENOPHON:** So, what do you do? You have a particular product that you want to sell, you set up the website, you buy the activity, you buy friends or likes or eyeballs—

**Mr Whitfield:** Yes. There are companies out there that will sell you traffic to your website. Let's say hypothetically that those companies are selling it at 1c per visit to your website, but you are selling that activity on your website at, say, \$20. You are making a massive profit, and you are just ripping off valid activity in Australia.

**Senator XENOPHON:** But this is quite different from when people boost Facebook 'likes'.

**Mr Whitfield:** Yes, they are two different issues.

**Senator XENOPHON:** And the difference there, just for the purposes of putting it on the record for the *Hansard*, is that Facebook is actually getting it out to genuine people—

**Mr Whitfield:** Yes, 100 per cent. This is not a Facebook—

**Senator XENOPHON:** That is right. That is a legitimate source of revenue for Facebook; we don't want to tackle that.

**Mr Whitfield:** No.

**Senator XENOPHON:** But you are saying that people actually set up these unofficial—

**Mr Whitfield:** It is a big business, and I believe from some anecdotal stories I have had from New York that people are out there collecting multimillion-dollar salaries from setting up fake websites, and I think it is something that could be dealt with through education and through a regulatory committee.

**Senator XENOPHON:** Thank you. Sorry: given my age, I'm not as familiar with these things as you youngsters are! Does that mean, though, that the mischief is that they are not real eyeballs?

**Mr Whitfield:** Correct.

**Senator XENOPHON:** So, that is what it boils down to. If it is going to real people, that is at least something.

**Mr Whitfield:** Correct. They are not real eyeballs insofar as they are not people who naturally want to consume that content and buy that flight to Phuket or buy that hamburger or buy that credit card. They are people who have been forced or coerced, either through the buying of that traffic or through some other means, to view that website. You might have heard of things like pop-unders or pop-overs and these types of technologies. There are very simple, tangible ways forward that we can take to say that this is a bad activity and be able to take a proactive stance on cutting it out from the market.

**Senator XENOPHON:** So, we would be world leaders if we could actually tackle those two things?

**Mr Whitfield:** In my professional opinion I believe so, yes.

**Senator XENOPHON:** So, taking a stance on eliminating the click farms and robotic activity and eliminating ad fraud—

**Mr Whitfield:** Correct.

**Senator XENOPHON:** And you are saying that if there is political will and a will to enforce that then legislatively we could actually make a real difference?

**Mr Whitfield:** That is my opinion, correct.

**Senator XENOPHON:** In terms of the \$6.8 billion spent on ad spend in Australia, what impact in dollar terms—again, I think this might be a stab in the dark, but can you give me a ballpark figure, your informed, educated guess, and I ask others on the panel to consider this, on what difference that makes in terms of click farms, robotic activity and ad fraud? How big are they, do you think?

**Mr Whitfield:** I did a back-of-the-envelope calculation with this. I will give you my best guess.

**Senator XENOPHON:** We had an NBN based on that, so go ahead!

**Mr Whitfield:** I would say that it was north of \$200 million for Australia.

**Senator XENOPHON:** That is for both?

**Mr Whitfield:** Correct.

**Senator XENOPHON:** Well, that would still make an appreciable difference.

**Mr Whitfield:** I believe so, yes.

**ACTING CHAIR:** It could be more, obviously.

**Mr Whitfield:** Absolutely. My understanding is based on percentages, extrapolated out for the entire marketplace, and understanding what percentage and how that is changing. But it changes over time, by region et cetera. My initial estimations put it north of \$200 million.

**ACTING CHAIR:** Just to be clear, you are calling on there to be government regulation of advertising for the advertising industry in respect to this and fraud?

**Mr Whitfield:** Sorry if I was not clear. I feel that there is a lot of work that is happening already and is working well inside the organisation. There are a lot of committees where we should try to do this. What I am saying is that I believe that we could amp that up and we could do a lot better with tighter alignment between what the industry bodies are already working on in Australia—the Internet Advertising Bureau, for example—and tighter alignment between that through to what the government is doing. I think that with government endorsement and backing, we could be a world leader in eliminating ad fraud and click farms.

**ACTING CHAIR:** Would anyone else like to comment on that idea?

**Ms Sangster:** I don't know how you would regulate that. The fact that they exist now—they shouldn't exist; they do exist. I truly believe that market forces will play a role in solving the ad fraud problem, because, whether it is an agency or whether it is a brand, neither should be buying media when they don't understand what that media is. If they are, they have no business doing what they are doing. I do think you will find that market forces will find the swing back. Brands will say, 'I don't want to buy media unless I understand what that media is.' It will swing back to high-quality media that is safe media that people want to be aligned to and want to be alongside. I think we will see a bit of a swing back, and we are already seeing brands saying that they are pulling their media spend from certain places because they don't believe either that they are being seen or that they are being aligned alongside content that they want to be aligned to. I think it is too early to jump in now and say we need regulation when this is something that has only been around, or at the top of the agenda, for probably a year. I think it is too soon.

I think it might be a little bit simplistic as well to think that all of that money—if we did solve that problem of ad fraud—goes back into the right media, because it may be that all of that money goes into other digital platforms. Advertisers will spend money with any platform or with any media that delivers the result to them. The reason that they are spending their money with the Facebooks, the Googles et cetera at the moment is because they have the products that allow them to target their audiences. Advertisers will continue to spend where they think they are going to get the results. Part of it has to be that the traditional media is providing new product services et cetera that allow advertisers to reach their audiences in different ways. I think it might be a little bit simplistic to think that we can tackle both of these with regulation. I think it might be a bit of 'market forces will sort it out'.

**Miss Schulze:** In terms of market forces, with all of these issues around digital, whether it is visibility or whatever, there seems to have been, since the start of this year, a lot of questioning around digital—'Is it working well? Are the ads going to the right places?'—because of what the computers are doing. We are starting to see that in our data as well. For April and May, there was no growth in digital ad spend from a year-on-year perspective. This has been a huge change. I think it first happened in February. We looked at the data and, since 2009, there had never been a month that there had been negative growth in digital ad spend. That just makes it harder for the news media publishers though, because they trying to recoup some of what they have lost from print through digital, and now digital is starting to plateau. It is further compounding the issue for them.

**ACTING CHAIR:** Has anyone done any investigative work on the link between the programmatic providers and the click farms?

**Ms Sangster:** In what way?

**ACTING CHAIR:** To see how we can resolve this kind of ad fraud.

**Mrs Almeida:** My suggestion would be to talk to the likes of Google and Facebook—in particular Facebook—because of the like farms that they came across a couple of years ago. It is slowly coming back to me that they put an algorithm together where they noticed that a lot of brands were purchasing for like farms and all the likes were coming from India when a lot of the brands weren't in that region. These companies are already putting systems in place to prevent like farms, so I would recommend, if it is possible, to talk to those organisations.

**Senator XENOPHON:** On notice: I invite the panel to come up with any specific recommendations. I note Ms Sangster's concerns in relation to that. That's fair enough. I think it's important to have robust discussion of the legislative reforms that are needed there. Could you also consider, perhaps on notice, that one argument that's been put is that, because Google and Facebook control the data—there was a cover story in *The Economist* back on 6 May talking about this—do you need to have something almost like an access regime so people can access the data? News organisations large and small tell me that they are at a disadvantage in not being able to access the specific data that Google and Facebook have access to. It seems as though they have a monopoly over that information. Could you consider that in the context of a supplementary submission and get back to us within a couple of weeks? That would be terrific.

**Miss Schulze:** As per the ACCC access regime?

**Senator XENOPHON:** Yes. It has been used for railway tracks and telecommunications. Can it be used for data?

**ACTING CHAIR:** I thank all of you for all of your evidence today.

**PEARSON, Professor Mark, Professor of Journalism and Social Media, Griffith University; and Private capacity**

[12:07]

**ACTING CHAIR:** Welcome. Information on parliamentary privilege, the protection of witnesses and the giving of evidence to Senate committees has been provided to you. Is there anything you wish to add about the capacity in which you appear today?

**Prof. Pearson:** I am appearing not on behalf of my organisation—it was a personal submission—although I am here with my organisation's approval.

**ACTING CHAIR:** Thank you. I now invite you to make a short opening statement, and at the conclusion of your remarks I will invite members of the committee to ask questions.

**Prof. Pearson:** Thank you for having me here, and congratulations to the committee on the work that you have done thus far. My submission was relatively narrow compared to many of the other 50-plus submissions, and the reason for that is that my expertise is relatively narrow. My main expertise is in researching and interpreting media law for the purposes of journalists and journalism students—in other words, how they might navigate the law.

For the 10 years until last year I was Australian correspondent for Reporters Without Borders, so a lot of my work does venture into that area of independence of the media and freedom of the press. The point of saying that is to note that there are much better experts than me in particular areas of the law and policy and many of those have made submissions to you.

The thrust of my submission was that I see a very serious shackle upon public interest journalism in Australia which has become more of a problem with the advent of the internet and social media, and that shackle is the number of laws that continue on the books and continue to be passed that impose various conditions, responsibilities and restrictions upon journalists and the enterprise of public interest journalism. Only some of these are within the purview of the federal parliament and only some of them you would have some input into as senators. Nevertheless, the internet, of course, does not work to state, national or jurisdictional boundaries. Journalists now have to operate under a litany of laws from all levels of government and internationally in trying to go about their work. Because some of these do come under your purview and because the federal parliament does have all sorts of important connections with the states, I do believe there can be some system put in place that would offer some encouragement to review the public interest journalism implications of legislation when it is proposed but also to take the initiative to have actual public interest journalism defences built into legislation as it is proposed and retrospectively built back into some of those items of legislation that already exist

That was the thrust of my submission. The key areas of the law that I see as problematic area clearly the suite of national security laws, which, interestingly enough, do have an independent national security monitor as an interface between the public and the parliament on the application of those laws. Other Commonwealth laws include consumer law, privacy law and intellectual property law. Then you start going into state laws like defamation, for which there are uniform defamation laws—not totally uniform. The Commonwealth have played a key role in making them relatively uniform through the former COAG system. Then you get the various areas of the common law that apply to the media as well. I neglected to say two important Commonwealth laws there: the evidence law to do with source protection for journalists, which some of you senators would have been involved with in its more recent iteration; and, of course, freedom-of-information laws, which impact upon journalism—

**Senator XENOPHON:** And whistleblower protection laws?

**Prof. Pearson:** Of course—and whistleblower protection laws, which interface to some extent with the journalism source protection laws.

That is my preliminary statement. I am keen to be of any assistance I can be to you.

**ACTING CHAIR:** Thank you very much. I want to start by focusing on your views of this whole shift away from TV and newspaper journalism to online. What is the impact of that on public interest journalism? That goes to the heart of how we then tackle what kind of systems or mechanisms we put in place to protect it.

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

Commonwealth level, at the royal commissions and commissions of inquiry that have been conducted over the past few decades to see how so many of them resulted from important work of investigative journalism across corruption, policing, mental health.

**Senator XENOPHON:** That includes The Moonlight State from your state.

**Prof. Pearson:** Of course, it was a landmark investigative work. We are left with mainly the ABC, some elements of the other traditional newspaper media and some elements of new media, like *The Guardian*, conducting what we might call 'investigative journalism'.

In my own sector of journalism education, there has been some great work done there too in collaboration with some of these organisations, with journalism lecturers and student journalists contributing to that sort of work. While that is very good for us and our students, it would be very sad if most investigative journalism was left to: students who are just at the start of their career; academics who are doing it on the budget of the universities they work for; and, as one colleague recently suggested, retired journalists who do it for a hobby. We really do need this rich vein of dedicated journalism for this public interest journalism enterprise.

**ACTING CHAIR:** Looking at your submission, I was thinking what international examples there might be that Australia can turn to for guidance in some of the approaches you have suggested.

**Prof. Pearson:** Unfortunately there aren't enough. One of the reasons there are not all that many is because most comparable democracies, if not all comparable democracies, actually have free expression or free press enshrined in their constitution or, as in the United States, as the first amendment to the constitution. So what happens in that situation, depending on the particular country, is that by being there in the constitution, it is already front and centre in any legislative proposal and in any appeal on such grounds in the court cases. Australia, as an exception to that, needs to have some of the devices that operate that way, because I do not see in the foreseeable future us having any constitutional change in that regard. The High Court's very limited implied freedom to communicate on matters of politics and government, which it has developed over the past couple of decades, is not enough. Firstly, not all journalism is about politics and government and commentary on that; secondly, it has been read down significantly since its first few decisions in the early 1990s.

**Senator XENOPHON:** Do you mean since the David Lange case?

**Prof. Pearson:** Yes.

**ACTING CHAIR:** You talk about this public interest journalism defence.

**Prof. Pearson:** Yes. Again, I am not an expert in drafting such legislation and I accept that any such defence or any such wording would be dependent on the context in which the particular laws are proposed. But in my submission, I do mention a couple that are a reasonable example of that. One is the uniform defamation laws. There are enormous problems with what is called the 'qualified privilege defence'. It has a reasonableness component which courts can have read down. Nevertheless, it is an attempt to allow for situations where overwhelming matters of public interest might be excusable in defamation terms because there is such public concern that the matter should be reported upon.

The other big area, of course, is the shield laws at the Commonwealth level, where you invite a court to essentially weigh the importance of the confidentiality of sources—that relationship between journalists and their sources as an example of important public confidence—and weigh that against other interests that might be at play in a particular case. That's what most shield laws try to do in one way or another. There is another great example of where state and Commonwealth laws differ in their wording and in their application, and it is so difficult for a public interest journalist or any journalist operating in the modern environment where their work transcends borders, but all of these different kinds of laws, restrictions and permissions or exemptions apply at different levels to their work as their work is published in these different jurisdictions.

**ACTING CHAIR:** As well as applying to different types of media—for instance, different regulations that apply to print media versus broadcast media.

**Prof. Pearson:** Yes, and even when you get down to something as simple as the court's interpretation of what might be sub judice contempt of court. We have seen the recent example of the federal politicians being warned over their so-called potentially scandalising comments. That law operates differently for journalism and traditional media than it does for commentators in social media. The reason for that, and particularly in the sub judice area, is that it hinges on whether there is a tendency, as a matter of practical reality, to influence an upcoming trial. What the courts in Victoria have found is that mainstream media outlet using its social media account or publishing something in its traditional product does have such a real and definite tendency to influence the future jurors, whereas any ordinary person using social media would not have the reach to do so. This does not account for the fact that things are—

**Senator XENOPHON:** Can you say that again? You are saying that traditional media outlets such as *The Herald Sun* or the *SMH's* website can reach lots of people—

**Prof. Pearson:** And therefore they are more likely to be charged with contempt of court in that sub judge format of prejudicing the trial because they stand to prejudice the upcoming trial because of their reach.

**Senator XENOPHON:** I read somewhere that entertainers like Taylor Swift have many millions of Twitter and Facebook followers and would have a bigger reach than some of these media outlets.

**Prof. Pearson:** Keeping it within an Australian context, it is basically the explanation as to why your colleague Senator Derryn Hinch was found in breach of the disobedience contempt law but not found in breach of the prejudicial publicity law because of his blogging a few years ago on that high-profile case. The court found that he did not have the reach through his blog and Twitter account to have the potential impact on the trial, whereas on the other element—

**Senator XENOPHON:** Of his disobedience of the suppression order—

**Prof. Pearson:** the court found that he had actually disobeyed the court order. My point is this: that there is two-speed kind of system at play where the traditional media are at a disadvantage with that kind of law—at a disadvantage against social media users. Even in somewhere like Victoria no single individual using social media or retweeting something that someone else has posted that might damage a trial, no single individual would be charged with contempt of court, but the traditional media providers would be and so they have to step back. They can't actually publish something as racy or as potentially interesting to the public about the matter as is doing the rounds on social media.

**ACTING CHAIR:** I want to ask you about the fact that Australia does not have a constitutionally entrenched right to freedom of expression in the same way as the US. We also have one of the most concentrated media markets. What do those facts mean for journalism and our democratic system?

**Prof. Pearson:** I heard the previous panel speaking about the internet and the under 50s. When you talk about the concentration of media, it is very much broken up into those sorts of demographics. For those who are internet users or regular social media users, the concentration of traditional media ownership is much less of a problem. The concentration of global media platforms is a different issue, of course, but the concentration of our traditional media—the old Murdoch-Fairfax kind of problem we have had over the last few decades—is less of a problem for those demographics, but is still as much a problem for the audiences whose main diet is the traditional media. Typically, that is the older newspaper buyers who may well think they are getting three different kinds of news when they buy the *Gold Coast Bulletin*, *The Courier Mail* and *The Australian*, which share a lot of the content and, many would argue, have a similar perspective or world view. I'm sorry if that sounds as if I haven't answered your question directly, but I think it's a lot more complicated now than bemoaning the concentrated media because the demographics of it mean that some have more media available to them than ever on an age basis. You also have to look at the location basis and what is available to people in regional and provincial areas as well.

**Senator XENOPHON:** The issue of contempt laws is an impediment to free speech and there is a debate about where the line for the respect for the courts should be. Lord Denning said in that 1968 judgement—I do not have the citation in front of me—that courts shouldn't be too precious and they can justify what they do through their judgements and their decisions. There is also the issue of section 70 and section 79, where we had the celebrated case of former Senator Conroy's offices and staffers being raided by the federal police—which I would imagine would have been quite an awful event for them—in relation to NBN leaks. Many in the community would say that if a public servant gave information to a politician in relation to problems with the NBN rollout, that would have been very much in the public interest. You are talking about a suite of measures to have a strong framework for public interest journalism, is that correct?

**Prof. Pearson:** Yes. I do not have all the logistics of it in place. As I have said, there are people who could do this. I see two elements to it. One would be that you need to be notified in some way or to be aware when the media might be impacted by an upcoming law. That's a problem in itself because the traditional media used to put a lot of resources into submissions to various legislative proposals and so on, but I fear they are not doing it as much now because of fewer resources. Another factor is that the sector is not as tightly bonded as it used to be, because of various ownership changes.

**Senator XENOPHON:** Other evidence we have heard today really goes to the changing media landscape and effectively there is less money for public interest journalism, but your submission, in my view, takes a different tack in that you look at the legal impediments to public interest journalism. You look at a framework in which we are making it more difficult for journalists to do their job, but that is all part of the same jigsaw puzzle.

**Prof. Pearson:** Yes, it is. I am sure there are all sorts of incentives that many of my colleagues have suggested for sponsoring new models of journalism and all of that kind of thing—

**Senator XENOPHON:** Or bolstering existing models.

**Prof. Pearson:** That's right. The legal impediments are so important and occupy so much time. You have someone like the former *Four Corners* journalist Chris Masters who spoke to students and said that he was spending—I forget the percentage he said—a large percentage of his time dealing with lawyers trying to navigate all these different laws for important parts of journalism. He would have created much more public interest journalism if he hadn't had to deal as often with lawyers and spend as much time there, let alone the times he was having to appear in court to defend his work.

**Senator XENOPHON:** There are contempt cases as well.

**Prof. Pearson:** Yes. I see two elements at play. One would be: ideally, there should be something like the independent national security monitor—some kind of public interest journalism advocate.

**Senator XENOPHON:** How would you see that working?

**Prof. Pearson:** It hasn't worked well enough to have the different industry sectors sponsoring these sorts of things. It is ad hoc because of their resources and time. Even if it is a part-time government post—

**Senator XENOPHON:** What role would it play?

**Prof. Pearson:** They would be on the alert to identify and make submissions on public interest defences for forthcoming legislation and combing the existing legislation and by referring to experts and industry people to find problem areas within the existing laws. Inconsistencies across state and Commonwealth laws that are there but rarely used against the media—where there is not really a problem but there is some publishing restriction. I have just done piece of research that's being published internationally showing all of the different restrictions on mental health reporting across the different states and territories. That's the sort of place where such a monitor would be able to encourage the various attorneys-general of all jurisdictions to come together and say, 'Look, hold on, a piece of public interest journalism works across these borders, so why are there all of these different restrictions on this area of reporting?' You get the same thing with the reporting on juveniles, sexual offences, prisoners. There are eight or nine different laws in each of these areas.

**Senator XENOPHON:** Can we just explore that? In the old pre-internet days, I was told by some old hands in the journalism trade that if there was something that was subject to a suppression order in one state, the other state could publish that. *The Herald Sun* could run a story that couldn't be published in South Australia and *The Herald Sun* would make sure that they wouldn't physically get several hundred copies distributed to South Australia—probably more to the south-east of South Australia. There might be two or three editions of the paper—the early edition and the metro addition—and a particular edition wouldn't go interstate. You can't really do that online, can you? You can't actually put up or wall that says that, if you're from South Australia, don't access this article that's on a Victorian based website. So, in effect, it nullifies those sorts of safeguards that they used to have where you could physically stop the publication of something or physically stop the distribution of a publication in a jurisdiction where there was a suppression order, for instance. So how do we deal with that in the internet age?

**Prof. Pearson:** Suppression orders are a whole different kettle of fish. My colleague at the University of Melbourne, Jason Bosland, has done a lot of really important work in the area of suppression orders and their ineffectiveness under that principle of open justice. One device that is used to get around that now is that, if a person is an international celebrity in some way, the suppression order is broken internationally rather than nationally. I do not think it is necessarily a good thing that those devices are used to break suppression orders. But you are quite right about the analog days. I recall one with a senior Queensland political figure on sexually related charges where the newspaper was on sale in Tweed Heads in New South Wales, with his photo on the front page, but you just walked a few hundred metres into Queensland and you were not allowed to—

**Senator XENOPHON:** It would be too purulent for me to ask you who that was and it is not relevant, so I will not ask you the name of the politician.

**Prof. Pearson:** But then you have other devices being used. I use the example with my students of a South Australian political figure who two or three years ago was on charges related to accessing inappropriate material to do with children. *The Advertiser's* device was to run a political story on the front page but on page 18 or something have a story about 'a' political figure facing these sexually related charges. So there are still devices.

**Senator XENOPHON:** That is right. I think the front page said that this particular politician had stepped down from their ministerial post and then it was buried in the paper a story about an unnamed politician facing charges.

**Prof. Pearson:** Yes, and I think that was a sensible device to use, because it was very much in the public interest that the South Australian community knew that a senior minister had stood down. They had to know that. And it was much less important—with this separation—that a particular politician was facing such charges.

**Senator XENOPHON:** I want to go to the issue of defamation law. While we have broadly uniform defamation laws, a common complaint from both plaintiffs and defendants—having practised for both plaintiffs and defendants and having been both a plaintiff and a defendant in defamation matters—is about the costs involved if you are defending or bringing an action of a defamation and the other side has deep pockets and the primary thing that you want to do is clear your name or to show that in fact you did not defame anyone, depending on what side of the fence you are on. I note your comments about the need for reform but would there be anything to stop a particular state saying, 'We will have a different cost jurisdiction for defamation and it will be fast-tracked, still using the framework of the uniform defamation laws, the rules of qualified privilege et cetera. If you bring an action in this state, you may not get the same damages but you will be able to get a fast-tracked low-cost resolution to the matter one way or the other, whether you are a plaintiff or a defendant'? Is that something that could potentially work, or do you think there will be forum shopping?

**Prof. Pearson:** There is always the opportunity for forum shopping, which was one of the reasons for those uniform laws being introduced anyway, because most of the higher profile defamation cases concern people with substantial reputations in different jurisdictions. I think in principle that could work. Court costs are an important issue. Lawyers' fees are also an issue, but with defamation you may well get lawyers taking on cases on a contingency basis.

**Senator XENOPHON:** Yes, but, having been one of those lawyers who does things on contingency, the issue is that, if the plaintiff loses the case, they could end up losing their home because of the court costs—

**Prof. Pearson:** Yes.

**Senator XENOPHON:** and defamation cases are notoriously expensive to run. If there were a statutory regime whereby the laws were the same—were still relatively uniform—but the procedure were different, in the sense that you could fast-track a case at low cost, so that, if you were a plaintiff and you elected to go in a particular jurisdiction, the damages might be less but then your risk for costs would be much less, do you think that could show a way forward?

**Prof. Pearson:** It could, but surely the better way is to work with the various attorneys-general to get some agreement on that approach, and then it is a level playing field and you are not going to have forum shopping. I have often thought that a solution to defamation would be to have some kind of public trust established where the plaintiff agrees that any damages awarded go back into the trust, and it would only take on the most clear-cut cases and be self-perpetuating through that device.

**Senator XENOPHON:** So if you're a plaintiff and you win an award, part of the damages would go back into the trust?

**Prof. Pearson:** Part or all, because most people, I would suggest, want their reputation cleared; they are motivated either by clearing their reputation or the revenge factor—

**Senator XENOPHON:** or getting a new swimming pool—

**Prof. Pearson:** or getting the damages as compensation, but if, in the clearest cases, you had it going back into a public trust then you would have this body that was only taking on the most clear-cut cases but would sit there basically as a fake-news combat vehicle—

**Senator XENOPHON:** Fake news is different from defamation, though, isn't it?

**Prof. Pearson:** I am more concerned with the fake news that is defamation—the fake news that really does set out to damage someone's reputation, which does exist in the new media but I think has always existed in certain elements of the traditional media.

**Senator XENOPHON:** How would you deal with that, though? So you have a public trust. Do you think that there is more fake news that ends up defaming people or that is used as a vehicle to defame people's reputations?

**Prof. Pearson:** I have not researched the number of stories that are to do with people's reputations, but we do know that there is a whole lot of fake news that is in the realm of celebrity gossip, and we have seen a prominent example of that in the courts recently.

**Senator XENOPHON:** The Rebel Wilson case?

**Prof. Pearson:** Yes. We saw a similar one a few years ago with Lleyton Hewitt's wife.

**Senator XENOPHON:** Which would no doubt have been very distressing to the Hewitts. They are subject to lots of magazine stories about their marriage, and I imagine that would be—

**Prof. Pearson:** You could take that as a prime example—

**Senator XENOPHON:** I imagine that would be very distressing. Can I just put on the record that both Hewitts have been quite distressed by that and have said so publicly.

**Prof. Pearson:** Yes, and that would be an example of where, possibly, the plaintiffs would be happy to have the case contested and replenish the fund of the public trust that is combating—

**Senator XENOPHON:** But does that go to the issue of a tort of privacy? I am not suggesting we do that here in Australia, but in France the rules, in terms of celebrity journalism, are quite constraining because of torts of privacy, but the argument is that that actually protects politicians as well, when it ought not to protect them, in terms of their private lives.

**Prof. Pearson:** My problem with torts of privacy has always been that all of the other countries that have them do have a constitutional protection or a human rights instrument operating in their region which equally protects freedom of expression and a free media, and so you get this contest in the courts on an equal basis.

**ACTING CHAIR:** So you are saying that, to have something like a tort of privacy, we would need to have a human rights charter or some other—

**Prof. Pearson:** Not necessarily, because you could also have this strong public interest journalism protection. In other words, the two elements of my proposal are that you have some advocate who's putting to committees like yours the need for public interest journalism protection, and the second element is that you have that built into these proposed legislative instruments as they're put forward—and, retrospectively, those that already exist there. You have such an advocate, in a secret way, in the metadata legislation, don't you? You have—

**ACTING CHAIR:** Yes. There's an advocate.

**Prof. Pearson:** a journalism advocate there, operating in secret, reviewing metadata applications for journalists. Why not have a transparent one operating for the sake of public interest journalism nationally, but feeding down to the states through the Attorney-General?

**ACTING CHAIR:** Do other jurisdictions have such a thing—a public interest advocate?

**Prof. Pearson:** Not that I know of, no.

**Senator XENOPHON:** I have a couple more questions. In the context of defamation laws—having a public interest exemption or defence—you've actually gone into some detail in respect to that. You've made reference to the uniform defamation act, which offers guidance on qualified privilege. Do you have any other specific wording that you think could be useful to a framework of public interest?

**Prof. Pearson:** Within defamation?

**Senator XENOPHON:** Yes, within defamation, and more broadly as well.

**Prof. Pearson:** Part of your ambit is fake news, and one of the ironies of this particular defence is it's essentially set up to defend material that can't be proven as true but is overwhelmingly in the public interest that it be published. That's why it gets so precise in its wording as to the sorts of things the court might look at to demonstrate that, while it can't quite be proven as true, it's overwhelmingly in the public interest. Our problem is that it goes to things like the credibility of the journalist's sources, and so it may not be used in—

**Senator XENOPHON:** And they need to protect those sources as well.

**Prof. Pearson:** That's right. They need to protect the sources, but the court is meant to take into account the calibre of the sources that are being used. If an investigative journalist's hands are tied with an obligation of confidentiality, then they are not going to be able to use this defence if the court is looking closely at the credibility of their sources. The second traditional problem with it has been the aspect of reasonableness and the extent to which the publisher acted reasonably in the circumstances.

**Senator XENOPHON:** Should there be a separate tort of fake news? Should there be a separate action for fake news, because there is a distinction—or you could argue that there is a line—between defamation and fake news? Or do you just look at the effect on an individual? Sometimes fake news may not be targeted at an individual, but it propagates a falsehood that many could regard as being corrosive to a democracy and needs to be corrected.

**Prof. Pearson:** I would be very, very reluctant to propose any new torts in that way, given the fragility of media freedom in this country anyway. I would defer to your suggestion that we would look at the actual impact upon people. If it is actionable in Australia anyway, I don't see why a lot of it couldn't be dealt with under

Consumer Law. If it's a corporation creating the fake material—and they're doing that as part of their business model—one would think that that was misleading and deceptive conduct in the course of business.

**Senator XENOPHON:** I'll go back a step, though, because defamation law is about individuals. I'll word this carefully: if there was fake news about people of a particular belief system or religion, where a media outlet would say—I suppose it goes to vilification laws, doesn't it?

I suppose the most awful example is what happened in Nazi Germany to people of Jewish faith, where they didn't mention people particularly, but they built up this awful hatred of people of Jewish faith, which paved the way, many would say, for the Holocaust—the mass murder of people and the genocide. Would defamation laws cover that or would we need to look at other statutory protections in terms of racial and religious vilification and hate speech?

**Prof. Pearson:** It would be more the latter. One of the classic cases in that area of the Racial Discrimination Act was actually to do with a Holocaust denier from South Australia many years ago.

**Senator XENOPHON:** Sadly, I'm familiar with him, yes.

**Prof. Pearson:** But the defamation laws aren't of much use with that kind of thing unless it's targeted at a small enough group of individuals or named individuals. Defamation may have been an alternative mechanism available in the Bolt case, for example, because there was named individuals and certain imputations in the article about those individuals. But it was pursued more on the basis of the racial discrimination class of people involved.

**Senator XENOPHON:** I actually introduced a bill which was taken up by the then government on journalist shield laws. The South Australian government seems reluctant to go down the same path. How important is that in terms of protecting sources of journalists, because it does have that effect of—

**Prof. Pearson:** Any step towards source protection is valuable, and the fact that that came from the Commonwealth parliament was particularly encouraging. It was a very positive step. That said, all shield laws have an exemption. They have a balancing process involved in them, which is typically balancing the protection of sources as a public good against other rights and interests at play. When it's in the court, typically it's to do with the interests of justice that are being balanced against that. So, while it was a very positive step, there are all sorts of examples where you would see a court erring on the side of the other public interests, such as national security or the interest of justice if it was a high-profile enough criminal trial, for example, where it arose.

A problem that the Commonwealth parliament can address, at least through its negotiations with the states, is the varying wording across the different jurisdictions on shield laws and the fact that, as you mentioned with South Australia, so many do not yet have them. That would be a really positive development—

**Senator XENOPHON:** So a recalcitrant state Attorney General.

**Prof. Pearson:** Pardon?

**Senator XENOPHON:** It's because of a recalcitrant state Attorney General.

**Prof. Pearson:** They said that for many years about defamation, but they managed to get the right moment where all the stars aligned and it went through as a relatively uniform act.

**Senator XENOPHON:** To wrap-up, effectively your thesis is that it's not just about having a number of journalists do their work. The Chris Masters example that you've given is that many good journalists are being tied up by—'red tape' isn't quite the right phrase—legal tape. That impedes their ability to do their work. If you get rid of that, you'll be getting more bang for your buck, if you like, out of investigative journalists the country over.

**Prof. Pearson:** Absolutely.

**Senator XENOPHON:** What's to stop a state from saying, 'We're going to make it easier; we're going to have fast-tracked, low-cost defamation resolution in our state'? You're still using uniform defamation laws. Is it your understanding that, if there was a public interest journalism exemption or defence that was strengthened, a state can't do that because that would break the agreement between all of the states that have uniform defamation laws? What's your understanding of the Constitution?

**Prof. Pearson:** I'm not an expert on court costs and jurisdiction—

**Senator XENOPHON:** No, leaving aside court costs.

**Prof. Pearson:** As far as a public interest journalism defence goes, I think that would need to be done uniformly because of the uniform nature of those defamation laws. While defamation law has all sorts of faults and shortcomings, it is at least one major area of the law concerning journalists that is relatively uniform as it stands, unlike contempt and court reporting restrictions on children, sexual matters and mental health. All of these

others represent seven, eight or nine different laws in the different states and territories and at Commonwealth level.

**Senator XENOPHON:** But there is nothing to stop a state, from a procedural perspective, leaving the uniform defamation laws intact to make it simpler, quicker and cheaper for matters to be resolved.

**Prof. Pearson:** Nothing that I know of.

**ACTING CHAIR (Senator Xenophon):** Thank you very much for your submission and evidence today. You will be sent a copy of your evidence so you can make any corrections to transcription errors, which are very rare because of the quality of Hansard. If there are any other matters arising out of your evidence that you wish to add, I invite you to make a supplementary submission.

**Proceedings suspended from 12:56 to 13:58**

**McCARTHY, Ms Justine, Legal Counsel, Regulatory and Business Affairs, Seven West Media**

**MITCHELL, Mr Ross, Director, Broadcasting Policy, Free TV Australia**

**WALADAN, Ms Sarah, Head of Legal and Regulatory Affairs, Free TV Australia**

**ACTING CHAIR (Senator Paterson):** Welcome. I understand information on parliamentary privilege and the protection of witnesses has been made available to you, as has information on the giving of evidence to Senate committees. I now invite you to make a short opening statement and, at the conclusion of your remarks, I will invite committee members to ask questions.

**Mr Mitchell:** On behalf of broadcasters represented by Free TV Australia, I would like to thank the committee for the opportunity to be present here today.

Commercial free-to-air television is the trusted face of Australian news and current affairs, and our members are proud of their commitment to public interest journalism. Free TV members employ hundreds of journalists throughout Australia, producing over 430 hours of news and current affairs related programming each week. Over 11 million Australians tune into at least one of the commercial free-to-air broadcasters' news programs each week. Our members employ high-calibre, award-winning investigative journalists who play a key role in providing the checks, balances and transparency that are vital to a healthy democracy.

So central is our commitment to accuracy and fairness in news and current affairs programming that we have enshrined the obligations in our code of practice. This sets us apart from the purveyors of fake news. Our commitment to fairness and impartiality is set out in black and white and is enforceable by the ACMA.

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

We haven't sat still in the face of this tsunami. Our members have developed new, feature-rich offerings to meet the changing expectations of our audience. But, in order for this transformation to continue, our members need capital and scale to invest in their businesses. That's why we as an industry strongly support the government's media reform package. The existing media ownership rules are outdated, belonging to a pre-internet era. The ownership restrictions only apply to television, radio and printed local newspapers, completely missing the fact that the world has changed. In the current media landscape, these outdated rules only serve to deny Australian media companies access to scale and capital, both of which are essential to continue developing products and services and remaining competitive against the tech media giants.

Just as important is removing the world's highest broadcast licence fee. This fee was essentially a superprofits tax in an era when content could only be delivered over broadcast spectrum. Abolishing the licence fee is critical to the industry continuing to invest in high-quality local content and regional and local news. Both these measures are important tools in ensuring that commercial television broadcasters are able to continue to produce the news services so many Australians rely on.

Free TV believes this committee should be looking at three distinct approaches to support Australian journalism. The first is ensuring that the current media providers are placed in the best possible position to continue to invest in quality journalism and to compete with the unregulated online providers. That is why we highlight the importance of passing the media reform package currently before the parliament.

The second is reviewing other aspects of our regulatory scheme to ensure it does not amplify the imbalance between the creators of content and the money made by platforms off the back of it. One area that warrants particular attention here is copyright laws. It is important to remember that, before you can search for a news report on Google or share it on Facebook, a local media company has had to invest in creating that content. This involves having journalists on the ground, camera operators and sound techs to put the stories together. The advertising revenue generated by both Google and Facebook is made possible by the content they are able to access. In many cases, this is journalistic content. But these companies do not pay for the content from which they earn their revenue, nor do they invest in creating or employing journalists.

This is why we must seriously engage with the debate around copyright laws in this country. Google and Facebook are making a strong case for weaker copyright protections for content creators. This is nothing more than a naked strategy to gain access to more free content against which to generate revenue. This committee should instead be looking at whether we need to strengthen our copyright protections in order to encourage online platforms to make fair payment for the content they profit from.

Another area is the pricing of broadcast spectrum. The media package currently before the parliament locks in pricing for a five-year period. This will be reviewed, and we need to ensure that in this process future pricing takes into account the public interest benefit of ongoing free-to-air television services.

Thirdly, we support calls to investigate further the options for tax measures to incentivise local journalism. The two measures that are most commonly raised are attacks on Google, Facebook and others which would generate revenue to support local journalism coupled with some form of tax incentives for those companies who produce it. It is clear that we must make the changes necessary for a strong and viable local media industry. The future of a diverse range of uniquely Australian journalistic voices depends on it. I thank the committee.

**ACTING CHAIR:** Thank you very much.

**Senator XENOPHON:** Thanks very much for your submission and your opening statement. I just want to go to the issue of your submission saying that supporting the media reform package will ensure companies can invest and transform their businesses, so presumably that would mean, more likely, mergers in the business in the media landscape.

**Mr Mitchell:** There are two elements of the package that I would highlight to the committee, which are equally as important as each other. That is the reduction in licence fee and the imposition of a spectrum tax closer to international best practice. That release of capital is important in itself for the ability of our broadcaster members to invest in their businesses.

**Senator XENOPHON:** Could we just pause there: that is in part to offset the changes to gambling advertising as well, is it not?

**Mr Mitchell:** The two are not directly linked but they are part of the same package.

**Senator XENOPHON:** But how much do you think Free TV will be losing from the changes in gambling advertising?

**Mr Mitchell:** Free TV hasn't actually got a number on that to share with you to date.

**Senator XENOPHON:** But it would be less than—that either means you don't have the number or you don't want to share the number. Does that mean that—

**Mr Mitchell:** Luckily enough, Senator, the two are actually the same thing today.

**Senator XENOPHON:** Can you say this though: is it fair to say that the amount of revenue that may be lost as a result of the changes to the gambling supports betting rules will be less than the amount of the licence fee reductions?

**Mr Mitchell:** The answer to your question is yes, but the points I would make are that we see the changes in the licence fee in their own right, because for many years we paid the highest broadcast licence fee in the world. It existed in a time when spectrum was the only game in town for delivery of video content. We're now living in a world where over 40 per cent of that spectrum has been sold off and is being used to provide competing services. In its own right that licence fee stands, because it was a complete outlier in terms of world public policy in broadcast space to bring us from 115 times the USA and closer in line with international best practice. So, quite aside from other elements of the package, we see the justification for that licence fee as standing on its own right. We thank you for your support on that as well.

**Ms McCarthy:** Obviously, it is fair to say that yes, the gambling restrictions will cost us significant amounts of revenue, and that will partially offset some of the benefit of the licence fee.

**Senator XENOPHON:** Sure, I understand that. The third point on page 7 of your submission is: Competition laws and other media ownership restrictions remain to protect against any substantial lessening of competition. But you have said that this will enhance public interest journalism, I think, broadly. The fear that journalists have expressed to me from both the print and electronic media from Free TV is that this will inevitably lead to a consolidation, and that consolidation will lead to more retrenchments in media, more redundancies and fewer journalists actually reporting the news with journalists doing more with less and having to cut corners, particularly in relation to investigative journalism. That's if nothing else is done, if there aren't any other protective mechanisms to deal with it. You have made reference to tax measures. You have made reference to tackling the Google-Facebook tsunami. What do you say in specific terms could lead to more journalists working in free TV doing those important investigative stories, delivering the news? What sorts of specific tax measures do you think ought to be implemented and how would you envisage that? The devil is in the detail here, particularly given the negotiations that are occurring between the crossbench and the government in terms of media ownership laws.

**Mr Mitchell:** Can I start by just addressing some of the preamble to your question there. Concerns around consolidation, I understand, are genuinely held by lots of people in this debate, but I would make the point that that consolidation can happen in two ways. It can happen in an untidy way, where people are forced to the wall, as it were, and you end up with news outlets cutting jobs and services. That is one way that you can lose a diversity of voices, and that is the track that we are on at the moment.

**Senator XENOPHON:** Or a television network goes into administration.

**Mr Mitchell:** Or, indeed, a television network goes into administration—correct. You can either keep going down that path or you can take the steps you need to take to have a strong and vibrant local media sector. I understand where you are trying to take me with the question, so I will not continue to bang on about the media reform package, although that is crucial in that process.

**Senator XENOPHON:** But the media reform package could include amendments that deal with how you give appropriate tax breaks to media organisations large and small to encourage public interest journalism so that, instead of looking at retrenching journalists, you are actually looking at taking them on.

**Mr Mitchell:** Yes. Certainly there are other areas of our businesses that benefit from things like tax offsets and producer offsets, but we have not got for you today a fully worked-through model about which we could say, 'Here is our preferred way of doing it.' We are more than open to the conversation between now and when the report is finalised around what those tax arrangements should be. From our perspective, the principle should be a model that is applicable to all sides of the media industry, regardless of their business model, as it were. Some of the media commentary has been around: do you have a subscription tax deductibility and apply it at that consumer level? That one would be of a slight concern to those businesses that don't run a subscription model—ourselves and people like community papers. So we would be looking, as part of the conversation we may well have with you over the next few months, to make sure that it is at that level where it is agnostic to the media industry that you're looking to support.

**Senator XENOPHON:** Sure, but can I put this to you? From my point of view, there is some urgency. Fortunately the chair is Senator Paterson, not Senator Dastyari, because he would probably take issue with this, but this committee has important work to do. It will report at the end of the year. Is that right?

**Mr Mitchell:** December.

**Senator XENOPHON:** In December. But I expect that there will be some considerable negotiations between the crossbench and the government which will raise issues of appropriate tax breaks, appropriate mechanisms as to how you encourage public interest journalism, including definitional issues of what is public interest journalism. Doing a two-hour special on the Kardashians may not qualify as public interest journalism, unless they are running for public office. I'm not sure. They would probably win! But, perhaps you could consider mechanisms and formulas for what will encourage public interest journalism so we can have that diversity of opinion and whether indeed there ought to be, in competition law, a diversity-of-opinion test in terms of merger-and-acquisition laws and issues of market power so that there is that diversity of opinion. You have got News Corp, which runs a Phillip Adams column as well as Andrew Bolt columns—one more than the other, but you can have, within a media organisation, quite diverse opinions.

**Mr Mitchell:** For sure.

**Senator XENOPHON:** I genuinely ask that you provide that to the committee perhaps in the next couple of weeks, because that might be quite relevant to not only this committee but also a broader public policy debate as to what would work. I do not know whether other members of the panel want to add to that. In other words, newsrooms are shedding staff. It is getting tougher. You talk to journos in the electronic print media and they are doing it really tough and it is pretty disheartening for a lot of professional journos. How do we turn that around? It seems to me that Google and Facebook have actually ripped all the revenue away from free TV. Has there been an estimate done of what impact that has had on free TV generally?

**Mr Mitchell:** Certainly we have advertising data that is publicly available. If you at the last 10 years, in terms of a share, free TV advertising revenue went from a share of about 27 per cent of advertising to, in 2016, 22 per cent. The telling stat is the online, which was at 8½ per cent in 2006 and is now at 50 per cent. So 50c in every dollar that is spent in advertising in this country goes online.

**Senator XENOPHON:** But how much of that does free TV do?

**Mr Mitchell:** In absolute dollar terms, in 10 years we have gone from about \$4.2 billion annually to a touch over \$3 billion. Online has gone from \$1.3 billion to over \$7 billion in 10 years.

**Senator XENOPHON:** And that \$4.2 billion to \$3 billion is not inflation adjusted, presumably?

**Mr Mitchell:** No; it is.

**Senator XENOPHON:** It is inflation adjusted?

**Mr Mitchell:** Yes.

**Senator XENOPHON:** But it is still a significant drop of about—

**Mr Mitchell:** That is in 2016 dollars.

**Senator XENOPHON:** So it still about a 27 per cent drop in revenue. That does not make for a stable business model for free TV, does it?

**Ms McCarthy:** That is right. What is really important to bear in mind is that audiences for news have not declined by anything like that level. While there have been small declines as people are consuming some content online, the demand for television news remains very high. It is the advertising revenue to support that model that is moving online.

**ACTING CHAIR:** Do you have figures on news audiences over that same time frame, for example?

**Ms McCarthy:** We do not have them to hand.

**Mr Mitchell:** We are very happy to take that on notice.

**ACTING CHAIR:** That would be helpful; thank you.

**Mr Mitchell:** They are easy to come by; it is just that we do not have them right in front of us. Apologies for that.

**Senator XENOPHON:** We heard evidence earlier today about issues to do with click farms and robotic activity—click farms sounds like something to do with battery hens—and computers rather than real people looking for ads. We heard about ad fraud, where no-one is actually looking at it but they are pumping up the figures—pumping up the tyres; well, they are actually pumping up imaginary tyres. At least with ratings figures you get a pretty good idea and you know how many eyeballs are looking at something. What do you say ought to be done with that sort of ad fraud with some of the online advertising that we are seeing?

**Mr Mitchell:** TV is a medium where your ads are 100 per cent viewable 100 per cent of the time. That is the primary benefit of bringing your advertising spend to TV. You are never sure of the viewability of your online ads or what they have been placed next to. I think that has been an issue that has been around in the news over the last month of so. Beyond that, it is difficult for me to give advice to the committee on what can technically be done on matters of which I am not a technical expert.

**Senator XENOPHON:** Just in broad policy terms, you may want to take that on notice. You may also want to take on notice whether Free TV would generally support measures to tackle head on—and it might be that Australia is a leader on this internationally—the issue of ad fraud and click farms. So could you look at that?

**Mr Mitchell:** Yes.

**Senator XENOPHON:** You may want to take on notice the question, in broad policy terms, of whether free TV would generally support measures to tackle head on the issue of ad fraud and click farms. Going to the issue of fake news, if a TV network broadcast something that is fake news, you have got the ACMA, and there are sanctions. If it is bad enough, you can actually have licence conditions being placed on you or, I suppose, in a worse case scenario, lose your licence. I could not imagine that, but you do have that Damocles sword over your head if you do something wrong.

**Mr Mitchell:** That is precisely right.

**Senator XENOPHON:** But online, you are competing with fake news. What do you say ought to be done to deal with fake news?

**Mr Mitchell:** First and foremost, you need to have a strong traditional media sector that is capable of calling it out for what it is. I had a good look through the submissions from both Google and Facebook to try and get a better understanding of the actions that they are taking to address this issue. In the case of Facebook, they are talking about users reporting or upskilling people to be able to pass information and question what they are reading in a better way. Facebook further suggested that they can tweak their related articles, so once you have read a story, fake or otherwise, you then have offerings of alternative points of view. The fundamental problem with all of that is that there really is not an alternative point of view to a 'Hillary Clinton has got tongue cancer' story or 'There is a bunker full of Hillary Clinton votes in a bunker in Ohio'.

**Senator XENOPHON:** Did she have a stroke as well?

**Mr Mitchell:** I could keep going on them. The first point I would make is that you need a strong and vibrant traditional media sector to call that out for what it is, if Google and Facebook are unwilling to tackle the issue themselves. Simply relying on Australians to pass the information themselves, to question it and to do their own research as to whether what they have just read is fake news or otherwise is ignorant of the world in which we live, where we are all time poor. We had some evidence today that when one of your people saw the Grenfell Tower fire in London, the first thing they did was Google it. To expect that that time-poor person would then have to go and question everything that she had read and do further research of everything she read online flies in the face of just how busy our lives are at the moment.

**Ms McCarthy:** Certainly the ACMA's recent research suggests that Australian consumers are perhaps a bit more savvy in this regard in that while a lot of people reported high consumption of news on social media, they also quoted a high degree of mistrust, and were very much relying on mainstream media when they wanted a voice of truth.

**ACTING CHAIR:** There is quite a lot of survey data which shows that Australians are very discerning even within the mainstream media about how much trust and faith they put in different types of media, so they are able to separate a broadsheet from a tabloid, and commercial talkback radio from the ABC. They put extraordinary different levels of trust in those institutions, so I think they are not as naive as you are implying, Mr Mitchell—that they kind of just accept everything that is put to them.

**Ms Waladan:** No, that is right. I reiterate Mr Mitchell's comments that that is why it is so important why we have a really strong local media voice because, if we lose that, then that voice will be drowned out by the proliferation of fake news et cetera so it is really important. We welcome the committee's consideration of what can be done to make sure that that voice remains strong.

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

**Senator XENOPHON:** With the media package as it is now, your members can't really guarantee that there won't be any retrenchments in newsrooms—that's the tsunami you described of the impact of Google and Facebook. You would need some other measures to insulate against that to ensure that journalistic numbers are maintained or increased, would you not?

**Mr Mitchell:** We'll come back to you on what the other measures might be. They could certainly assist. The media reform package—the two or three elements that we've talked about—would greatly assist in our companies being able to reconfigure themselves to best meet the challenges that we've talked about. If you look at any TV guide today, the commitment to news and current affairs programs has never been larger. Quite what their response would be is a bit of crystal ball gazing, but—

**Senator XENOPHON:** That's not necessarily the case. *Today Tonight* has managed to survive in Adelaide. I have to mention *Today Tonight* for Bridget Fair, who's in the audience, since she knows my interest in *Today Tonight*. It's managed to survive in the smaller media markets of Adelaide and Perth where it performs a very valuable role in local content and local stories, but it hasn't survived in the rest of the country for the network.

**Mr Mitchell:** Yes. There will be individual cases. If you look across an entire schedule, you'll see that the amount of news being made today has never been greater.

**Senator XENOPHON:** You may wish to take my final question on notice. One of the complaints that's been put to me by media organisations large and small is that Google and Facebook have access to the data and they know exactly who's looking at what and who's spending on what, and recently there was the European Union case involving a massive fine against Google. Would it make it easier for your members if they could have statutory access to that data? At the moment you're flying blind to some degree. You just don't have those metrics and the forensic data that Google and Facebook have, which Free TV and, indeed, other media organisations don't have as well. Perhaps you could take that on notice. That's one of the issues that's arisen out of today's hearing.

**Mr Mitchell:** Yes, I'll certainly take you up on your invitation to take that on notice, Senator.

**Senator XENOPHON:** Thank you.

**ACTING CHAIR:** Mr Mitchell, coming back to your opening statement, you mentioned in relation to media reform that one of the reasons it is important is that the current regulations prevent media companies from

reaching the scale and accessing the capital that they need to compete. Could you explain what it is about the media regulation framework at the moment that prevents that from happening?

**Mr Mitchell:** At the moment, you have a situation where you've got regional broadcasters who can't be purchased by anyone else because that would breach the 75 per cent rule—the two-out-of-three rule. You have a situation where they'll have to be essentially stand-alone players with all of the business costs—the corporate costs and the overheads themselves—whereas you have other players who are obviously able to share some of those costs across a number of companies and gain the benefit of the scale and scope.

**ACTING CHAIR:** Sorry to interrupt. What you are saying is that these are fixed costs that a player has to bear no matter how large they are and it would be better, from a business point of view, if they were able to spread that across a larger business?

**Mr Mitchell:** That is correct.

**ACTING CHAIR:** That's to scale. What about capital? What is it about the current arrangements that prevents access to capital?

**Mr Mitchell:** Capital comes in two ways under this package. There is the immediate changing of the broadcast licence fee to something that looks a lot more like international best practice. It's not there yet, but it's a lot closer to it. There is an immediate release of capital to be able to reinvest in local content, jobs and services to face the new challenges. It also comes, obviously, from partnering with other agencies that are currently precluded under the ownership rules.

**ACTING CHAIR:** So the removal of, say, the two-out-of-three rule could allow both a media company to have more scale and spread those fixed costs, but it could make that media company a more attractive prospect for investment and, therefore, get that capital that it needs as well?

**Mr Mitchell:** That is correct.

**ACTING CHAIR:** So what would you say to people who say we should take the media reform package as it is but delete the two-out-of-three rule and pass it without the two-out-of-three rule? Would that kind of reduced package still meet those objectives?

**Mr Mitchell:** No. It would be a package that has missed an opportunity to fundamentally update our media rules. The two-out-of-three comes from a pre-internet era. It relates only to printed newspapers, for example. The more recent online papers that have come into Australia—the *Daily Mail* and *The Guardian*—do not count. I think if you were to exclude that from the package, you would have missed an opportunity to modernise Australia's media ownership framework.

It is also important to bear in mind that it is ostensibly there to protect diversity. But there have been occasions where the existence of the rule itself has actually had the reverse impact of that. Previous Senate committees have heard from Southern Cross Austereo in relation to the ARN assets of APN when they were up for sale in Queensland. Southern Cross Austereo was invited to have the conversation around whether they would be interested in purchasing those assets. They were. But because of the operation of the two-out-of-three, they were not able to proceed with that transaction. So you have this bizarre situation where a rule that is set up to try and protect diversity has actually led to News Corp buying the remaining papers in Queensland. To us, it is a very important part of this package. It should be supported in its entirety.

**ACTING CHAIR:** You talk about it as a missed opportunity. Aside from that, what would the consequences be of the failure for the media reform to pass if things just continued as they are?

**Mr Mitchell:** We have covered a lot of that today in terms of the tsunami that is being faced by traditional media sectors in this country. Whether it is us, whether it is radio, whether it is subscription television or whether it is print, we all need the entirety of this media package. Different companies see different bits of it as being important to them across the media sector. But, as a package, the Australian media sector needs this to take us forward. We simply cannot continue to try and compete with Google and Facebook with, essentially, one hand tied behind our backs.

**ACTING CHAIR:** You mentioned that kind of consensus in the media industry. In your experience of the media industry—and in the experience of any other members of the panel—how common is it to have all the major media companies and their advocates united on reform package?

**Mr Mitchell:** I have not spoken to anyone yet who has ever seen it before.

**Senator XENOPHON:** As we were talking, a journalist from the Northern Territory wanted me to comment on a story that has just broken about how Nine News Darwin is set to lose its local bulletin. A dozen jobs are being cut. Reading from the ABC:

Sweeping cuts at Nine News Darwin mark the end of a standalone commercial news bulletin for the Northern Territory, and about a dozen staff will lose their jobs.

They will be getting their weeknight bulletins and weekend bulletin from Queensland, with the weekend bulletin in the Northern Territory being the Brisbane bulletin aired instead. Brisbane and Darwin are a long way from each other. I guess the question is—and I do not expect you to take ownership of that decision, but it is one of your members: would changes to media laws have made a difference to that?

It is a big deal for a major network to shut down a local bulletin in a capital city. It is approaching the size of Hobart, but it is the smallest territory in population. That's a pretty big deal in the Northern Territory in terms of the local—

**Mr Mitchell:** I don't have any—

**Senator XENOPHON:** Are you aware of it? I only just found out about it.

**Mr Mitchell:** Yes. You are telling me.

**Senator XENOPHON:** I'm a reliable source!

**Mr Mitchell:** Thank you very much for that. It would be silly of me to comment on the specifics of that case, but, on the limited information you have just shared with us, it is just another illustration of the pressures that the industry is under.

**Senator XENOPHON:** To be fair to Nine, the ABC report says neither Channel Seven or Ten Network have locally produced bulletins in the NT, with the ABC being the only Northern Territory station with a locally produced nightly news bulletin. So that means that's the end of—

**Ms McCarthy:** We don't have a licence in Darwin.

**Senator XENOPHON:** So the Seven Network doesn't have a licence in Darwin?

**Ms McCarthy:** No.

**Senator XENOPHON:** I think that's a fairly reasonable excuse as to why they wouldn't be producing a bulletin. I think their shareholders would kick up a fuss if they produced a bulletin in Darwin without a licence there!

**ACTING CHAIR:** Just on that, Ms McCarthy, is the reason Seven doesn't have a licence because of the reach rule? Is that a potential reason why you wouldn't have a licence in Darwin?

**Ms McCarthy:** I actually don't know who holds licenses in Darwin or whether there are two licensees or three, but—

**ACTING CHAIR:** Perhaps take that on notice.

**Ms McCarthy:** I think it is a two-licence market. Someone would be carrying our service into Darwin. We would have an affiliate.

**Senator XENOPHON:** Can you foresee circumstances where if more advertising revenue was coming in it would make a difference? If more revenue was coming in overall and you could do something about the haemorrhaging of revenue going to Google and Facebook, surely that would make a difference in terms of the ability to provide more news in local areas.

**Mr Mitchell:** Without question. It helps us across the board in all of our local content.

**Senator XENOPHON:** One argument that has been put to me is that these changes to the media rules, whilst there has clearly been across-the-board unanimity that this should go ahead amongst major media organisations, all it will do is delay the inevitable, unless there are some other structural changes to deal with the haemorrhaging of advertising to Google and Facebook. It will help you, but in the longer term the business model is not looking too flash, because of that haemorrhaging of revenue to Google and Facebook. You actually need something else, either tax write-offs, tax incentives or other things to claw back that revenue so you are in a stronger position.

**Mr Mitchell:** We have taken on notice the question of what that could look like, but, certainly, we recognise the committee's desire to explore other mechanisms to help.

**Senator XENOPHON:** Actually, that wasn't the question. The question was simply passing the government's bill unamended would help media organisations and networks and Fairfax and News Limited, but it would not provide a long-term solution to the problem of the revenue that is haemorrhaging to Google and Facebook. You actually need to do other things to address that fundamental issue, which has been largely responsible for ad revenue going from \$4.2 billion to \$3 billion for free TV. You can just say 'yes' and agree with me if you like.

**Ms Waladan:** It is very hard to speculate, but the passage of the media reform legislation would facilitate the industry being able to transition, and—

**Senator XENOPHON:** Transition to what though? You are bleeding revenue to Google and Facebook.

**Ms Waladan:** It would provide a very important step towards modernising the businesses.

**Senator XENOPHON:** But a step to what though? You are still bleeding revenue.

**Ms Waladan:** I would be speculating.

**Senator XENOPHON:** They are still sucking away revenue.

**Mr Mitchell:** It puts us in a better position to highlight that. Your invitation just to say yes, I suppose, is fair enough in one respect because, obviously, any measures that provide an additional revenue stream are helpful.

**Senator XENOPHON:** But it's something that regulators around the world haven't tackled. The fact that the Europeans have recently tackled Google with a multibillion dollar fine indicates the scope of the problem and the degree of their market power.

**Mr Mitchell:** I think part of the challenge of this committee, listening to lots of the evidence that you have heard and read in some of the transcripts, is that we are at very much the bleeding edge at the moment in the issues that you are considering.

**Senator XENOPHON:** Did you say leading edge or bleeding edge?

**Mr Mitchell:** One of the two.

**Senator XENOPHON:** I couldn't hear; I'm still deaf from the Elvis Costello concert.

**Mr Mitchell:** I said bleeding edge.

**Senator XENOPHON:** You said bleeding edge—okay.

**Mr Mitchell:** I think I might have taken your bleeding metaphors a little bit too far perhaps, but anyway.

**Senator XENOPHON:** I think it's a good one. Thank you very much.

**ACTING CHAIR:** Thank you very much to the witnesses for your time and your evidence today. It was very helpful.

**Mr Mitchell:** Thank you very much.

**MURRELL, Dr Colleen, Co-Secretary, Journalism Education and Research Association of Australia**

**ROMANO, Associate Professor Angela, Vice President Networks, Journalism Education and Research Association of Australia**

**WAKE, Dr Alexandra, Executive Member and Media Officer, Journalism Education and Research Association of Australia**

[14:42]

**ACTING CHAIR:** Welcome. I understand that information on parliamentary privilege and the protection of witnesses in giving evidence to Senate committees has been provided to you. Would you like to make any remarks about the capacity in which you appear?

**Dr Murrell:** I'm also from Monash University.

**Prof. Romano:** I'm from the Queensland University of Technology and I'm a journalism lecturer and the honours coordinator.

**ACTING CHAIR:** Would you each like to make an opening statement, or will one of you make it on the behalf?

**Dr Murrell:** I'm going to make an opening statement. Thank you very much for inviting us and for actually doing this work in the first place. I'm representing JERAA, which is the Journalism Education and Research Association of Australia, which is the peak body representing journalism educators and researchers in tertiary education. I would also like to mention two of our colleagues who can't make it today: that is Associate Professor Matthew Ricketson from Deakin and Associate Professor Johan Lidberg from Monash.

JERAA's primary aim is to raise the standards of teaching and training in journalism, and to foster excellence and integrity in the future generation of journalist. We also give prizes for research that addresses questions of importance related to the media.

This submission from the JERAA executive addresses three terms of reference: firstly, ensuring a viable, independent and diverse media; secondly, supporting the future of public broadcasters in delivering public interest journalism; and, thirdly, dealing with fake news, propaganda and public disinformation.

We believe that journalism in the public interest is journalism that is interested in the common good. It holds people in power in question and explores important policy areas that aren't just about clickbait et cetera. JERAA broadly agrees with the statement, put out on 31 May this year by CEOs from Australia's major commercial media companies, in support of media reform and a competitive and independent media sector that is able to deliver checks and balances in a healthy democracy. However, we believe that a competitive and independent media sector should extend beyond commercial media to include publicly funded broadcasters, community broadcasters, online media outlets, start-ups and journalism produced by students within the university sector. In answer to the question, 'Should government intervene to support public interest journalism?' we say yes, and believe it can be done while also ensuring that any support does not jeopardise recipients' independence. Three major studies detailed in our submission have shown that financial support need not compromise media independence if safeguards such as statutory eligibility criteria are in place.

JERAA suggests the following: tax breaks for digital and print publishers engaged in producing public interest journalism and/or a general basic subsidy for all publishers—and we include the commercial media here—to support any areas of their content production that engage in public interest journalism and in particular rural and regional reporting; the setting up of an Australia Council-like body operating at arm's length from government to fund public interest journalism projects and provide seed funding for digital start-ups; an endowment fund for journalism education, with contributions from both government and philanthropic bodies, to support public interest journalism projects housed and administered by journalism and media schools in Australian universities; and the taxation of global companies, such as Google and Facebook, who make money from media articles paid for and written by media companies. Taxation experts should advise how this money could be retrieved and then ploughed back into the industry. Australia also needs to properly fund the ABC and SBS so they can practice meaningful public interest journalism. The ABC and SBS should be funded to at least the levels before the last round of cuts in 2014. Summarising the findings of 43 research studies, in a 2016 paper Nielsen and his colleagues noted a positive relationship between strong public service media and strong private sector media, not the negative relationship that the crowding-out hypothesis would lead us to expect.

In terms of fake news, propaganda and public disinformation, our priority is to increase digital media literacy education, because younger Australians, including schoolchildren, who are such prolific users of new media, need skills to critique such media, in addition to technological competence. JERAA works to improve journalistic

education on these matters by conducting research and equipping the future generation of journalists with a better understanding of how they can tackle a future of disruptive bots and digitally engineered fake news stories. We also believe that Facebook, Google and other rich aggregators of news content should be required to do more than the minimum to assist in the fight against fake news and hate speech. This could be done through legislation and fines as have been introduced recently in Germany; however, JERAA recommends that greater emphasis should be placed on encouraging self-regulation by social media companies, robust fact-checking services and increased media literacy in Australian communities. Today we're sad to hear of redundancies at Channel 9. The Northern Territory will lose its nightly bulletin in Darwin, leaving only the ABC to do local television.

**Senator XENOPHON:** Thank you very much for your comprehensive submission with its many references. This inquiry is looking at the future of public interest journalism in the context of the government's bill to deal with the two-out-of-three rule in terms of the government's media reform legislation. What do you say would make an immediate difference? You've given some solutions, but short of a scheme that would involve giving Australia Council-style grants or something like that to journalists, do you think a system of tax incentives or tax breaks would make a difference towards having more rather than fewer journalists working in the media landscape in Australia?

**Dr Murrell:** I think that in Australia we shouldn't be so scared of giving either indirect or direct subsidies.

**Senator XENOPHON:** I suppose we do that through the ABC and SBS, don't we?

**Dr Murrell:** Yes, but little else, really, when you compare it to the situation in lots of international countries.

**Senator XENOPHON:** Who do you think has the best model? You have the French and you have the Norwegians—who do you think?

**Dr Murrell:** It really depends on what their goals are. If you look at countries like Belgium, they are trying to cater for the fact that there are Francophone and Flemish communities. If you look at Norway and Finland, they are trying to solve the problems of the Sami-speaking people that don't have representation otherwise in their newspapers. I think the best models are probably in countries like Sweden, where they use a broad approach and they use both direct and indirect forms of subsidy. They are quite large amounts of money. Through the EU as well.

**Senator XENOPHON:** We have a situation where we have a government that wants to reduce the deficit. Unless there is a revenue stream to offset that, I would imagine that there would be political resistance within the government. I don't think I am being presumptuous to say that. An obvious revenue stream would be Google and Facebook. In your view, what would be the obvious revenue stream to deal with these sorts of issues?

**Dr Murrell:** I think that that is definitely one of the cases. A number of countries have pursued this up to now, but nobody has managed to do it successfully, as far as I'm aware. The EU has recently taken on Google with a large fine in not an unrelated area, but I think that it could certainly be pursued. I think that tax subsidies are definitely worth looking at.

**Senator XENOPHON:** Can I go to the issue of fake news. What would you define as fake news?

**Prof. Romano:** To add to the last question before we move on to the issue of fake news, I think Professors Wilding and Fray of UTS put forward the idea that one shouldn't be putting a levy on organisations like Google and Facebook, and they put forward a number of reasons for that. They argue that Google and Facebook are not unpopular—unlike the banks, where there is a banking levy. I don't think it is an issue of popularity. I think, in terms of how the public tends to view these situations, that they may love Google and Facebook but they are not convinced that these organisations pay a reasonable amount of tax for the income that they earn.

**Senator XENOPHON:** It is also the way they derive that income in terms of being able to piggyback, if you like, off of the content creators.

**Prof. Romano:** I would say that JERAA does not comprise of any taxation specialists, so we are not in a position to give great advice about that. We simply put forward that there is a strong public sentiment in favour of exploring options in terms of increasing that revenue and looking through maximising tax outcomes. I wouldn't imagine that is an exactly unprecedented sentiment to be expressed.

Looking into fake news, how do we define fake news? It does have multiple elements to it. Some of it can be quite inadvertent—those cases where there is either a lack of rigour in terms of how information is being found and checked, or there is that issue of political or personal bias that leads to a particular slant on how one understands what is happening in the world. That leads to information that is misleading, inaccurate and sometimes completely false. The current concerns about fake news are more about those elements of information that are deliberately embellished or fabricated to add on to what is happening in reality or things that are

completely, blatantly made up. We can say in Australia that we are fortunate compared to many countries around the world, in that fake news has not been as big a problem as we have seen in Asia for quite a number of years, where fake news has had the quite extreme consequences of causing social division and, in some cases, quite large amounts of damage to individuals or particular social groups.

**Senator XENOPHON:** Can you give an example of some of the more egregious?

**Prof. Romano:** In Pakistan recently there was a story circulated about a particular journalism student and claims that he had blasphemed. That student was grabbed by mobs and killed, and it seems that this was just a hoax. The police have no evidence that he ever made the blasphemous statements that he was accused of. In a country like Indonesia, there are a lot of inflammatory comments put out about different political parties or different political forces by rival factions or, sometimes, by certain community-based groups, which are not necessarily political per se but have vested interests in—

**Senator XENOPHON:** It happens here in Australia too.

**Prof. Romano:** unseating such interests. We in Australia tend to know the situation in America better, but in Asia we have seen this existing for quite a few years. It's not as high profile in our media, so we don't know as much about it. In terms of Australia, we haven't had a serious problem, but we do need to be aware of the fact that certain vested interests can manipulate news, and they have quite masterful examples now to copy from of how it's done. We want to be alert to the situation and prepare.

Our key proposal would be promoting digital media literacy. You can do fact checking, and it is important to have nimble fact-checking organisations that can respond very quickly, but we'd say—

**Senator XENOPHON:** Sorry, can you just pause there. Will that fact-checking organisation be something that has the imprimatur of a respected organisation or the imprimatur of the state? Would it be something that's—

**Prof. Romano:** We have the model of RMIT and ABC coordinating with their fact-checking unit. We would encourage funding of those kinds of organisations. Certainly, when funding is tight for media organisations, it is the subeditors and the traditional fact checkers who tend to be the first to lose their jobs. They're not the public face of what is seen in those media organisations, and they are often given the axe quite early in the piece.

We would support robust fact checking, but recognise that that fact checking often needs to occur quite quickly after the event. Once people have been exposed to inaccurate information—there's been a lot of research over many decades that shows that once you start to believe something, even when you're shown the facts that show it's not true, you tend not to believe those facts. You stick to your original beliefs.

**Senator XENOPHON:** That can be very corrosive in a democracy, in the sense that people can make a decision as to who they support—who they vote for—based on fake news or false information; can it not?

**Prof. Romano:** It can have quite strong political implications. We probably see it most strongly in areas like, 'Are you pro- or anti-vaccination?' Those are political decisions, in a sense, but they're actually often personal decisions. It certainly can affect support for political parties or for various political decisions, actions or policies as well.

Recognising that fact checking isn't always the answer and it's not always possible to occur in the kinds of time frames that it would be most effective, we do support digital media literacy in schools because our young people are enormous users of new and social media. We don't need an overhaul of the curriculum or to crowd out the existing curriculum. We would be looking at those existing classes that all the students already do—English, science, maths, geography, history and all those types of classes—and simply enhancing that curriculum. When students are doing what they already do—looking for information—they are assessing which information sources are the best ones to use: 'Are those information sources reliable? When do we need to cross check?' And it is having a little bit of appetite for the information. Just those simple tweaks of the curriculum could help to increase literacy amongst them.

**Senator XENOPHON:** Whilst that would no doubt be welcome, and it's obviously a matter that will be considered by this committee, for those who have already gone through school—those who are already absorbing that information and acting on it, particularly voters—it's kind of too late for them; isn't it?

**Prof. Romano:** This is true. You can introduce things through schools and it is important to look at schools because, as I said, that generation has incredibly intense media users. For the rest of the population, sometimes those fact checkers in and of themselves—even though they may not necessarily convince you to change your mind—have an educative function every time they do something or if they put forward, 'This particular claim has come out and we've used these different sources and debunked the myth in this way or that way.' It's almost like

an exercise or a learning experience in how to, I guess, smell when there's a rat and how one goes about checking. So they actually may also have broader educative functions for communities.

I think we also want to look at history to a certain extent. Every time there's a new medium—centuries ago it was pamphlets and newspapers, last century it was radio and technologies like that, and now we're looking at these new media forms—there are levels of disinformation that come through those new media. I think societies take time in which they learn the skills for how to recognise what's good-quality material and what is not. So we want to recognise that maybe in the next five to 10 years there's a big learning curve for society.

**Senator XENOPHON:** But doesn't it have to be more than recognition? If something is fake news, with the corrosive and damaging effect that can have, do we need to go down the path that you've referred to in the submission at heading 3.4, at the bottom of page 8, which says:

Several countries have attempted to address the issue of fake news through legislation. A recent example is Germany, which has called for EU-level laws against hate speech and fake news. Germany has also drafted a new national law, the Network Enforcement Act. If passed, the Act will impose fines on social media companies that do not swiftly remove 'obviously illegal' content such as hate speech, incitement, threats, and fake news.

You go on to say that it's been widely criticised on the basis of constitutional freedoms, but can anyone—whether it's you, Professor, or anyone else—comment on what's happened in Germany since you made that submission? Is it still going?

**Prof. Romano:** Yes. Since we made the submission, the German Bundestag has passed that law. It is now in effect. It has happened, I think, in the last two weeks or a week ago. So it is very new. It passed in June. It has come into effect, and I think that will be something to watch during the course of the Senate select committee's life.

**Senator XENOPHON:** Can you elaborate on what it actually involves?

**Prof. Romano:** My German is not fabulous. In a broader sense, it basically puts the onus on social media companies to be alert to what is happening within their domains and to detect when there is information that may involve hate speech, defamation, incitement to violence and those kinds of threats.

**Senator XENOPHON:** Fake news is what I'm particularly interested in.

**Prof. Romano:** Yes, fake news—to be aware of that, but probably not so much the fake news that is banal and benign, such as maybe something about Hillary Clinton's cat or something like that, as serious fake news that may have some implications for political or social life or public safety, and to withdraw that as soon as possible. The critique of that is that in some cases, yes, it will be quite clear cut that this is hostile, hate speech and despicable—it should be pulled off, and it is easy to decide—but that it may be beyond the scope of some of the social media companies to make rapid-fire decisions to pull off stuff quite quickly when we know that historically there have been some contentious claims that may have gone to court about this comment or that comment, and courts can take months to decide whether this was fair comment or something that was defamatory or, for some reason, vexatious. Within the German context, it provides an interesting example to see how it will progress in its first few months and to observe whether it is effective or not. There are also concerns that it may even be slightly unconstitutional, although somehow or other it has passed through parliament, so I guess that will be something to watch. We would put forward that maybe an approach that would be taken is that, rather than developing a specific law around network enforcement in the way that Germany has, we would look at existing laws and making sure that, as much as possible, those laws are robust and cover the social media companies and the kinds of activities that may occur within the social media networks.

**Senator XENOPHON:** Thank you.

**ACTING CHAIR:** There are so many interesting issues to pursue here, so I'll try to limit my questions to just two separate ones for the sake of time. I want to pick up on two things you've mentioned in your opening statement, Dr Murrell. The first you only mentioned in passing, but I think it's worth drawing out, because we've heard some other evidence about it: the crowding-out effect and the extent to which public broadcasting impacts on the viability of private media. I'm not sure if you heard it, but Greg Hywood, the CEO of Fairfax Media, appeared before the committee about a month ago, and he made quite strong remarks about how he believes that the ABC in particular is having a crowding-out effect on Fairfax. He said, in essence—I am kind of summarising—that they are in a war for eyeballs and anything that takes eyeballs away from them to an alternative competitor impacts on their profitability. But, from your opening statement, I got the sense that you did not agree with that. So I just wanted to provide an opportunity to comment on that or expand on that.

**Dr Wake:** We do have some evidence in there and some references to some reports that have found that government support for public interest journalism does not jeopardise editorial independence, and there has been

a long history in many democratic countries of various political persuasions that support media industries, public and private, alongside each other. A 2014 study from the London School of Economics looked at the European Union, the United States, Canada and Australia and found that government support for public interest journalism does not jeopardise editorial independence.

**ACTING CHAIR:** Sorry to interrupt. I see independence as a separate issue, which is the second line that I want to come to soon. I am specifically referring to the crowding-out effect, which is the idea that taxpayer support for a public media organisation impacts on the viability of private media organisations that have to compete with it and collect revenue through advertising.

**Dr Wake:** Again, the research that we refer to has found that a competitive and independent media extends beyond commercial interests to public sector broadcasters, community media, online and journalism produced by students. We found that they do not crowd each other out and in fact work hand in hand together. I will try to find that exact reference—which I only read this morning and now I seem to have lost. We would refer you to the Schweizer, Puppis, Kunzler and Studer, London School of Economics report, *Public funding of private media*. It clearly says that they can work very well side by side and hand in hand.

**ACTING CHAIR:** What year was that publication?

**Dr Wake:** 2014.

**ACTING CHAIR:** Just coming back to Mr Hywood's comments, doesn't it logically follow that there is a limited number of eyeballs available for media organisations and we cannot grow it unless we grow our population—so there is a fixed amount—and media organisations compete with each other to attract those eyeballs and, if you are a private media provider like Fairfax, whose profitability is linked to their ability to sell advertising, attracting more eyeballs makes them more viable and attracting fewer ones makes them less viable? So it would seem to logically flow that the existence of an alternative source of news which is free and is funded by taxpayers would make it harder for Fairfax to compete because they are losing potential eyeballs because people have a choice and then will, for example, go to the ABC rather than Fairfax? Do you not agree with that? If not, why not?

**Dr Wake:** Overall, our submission overall argues that government media should be supported—and by 'government' I mean public sector broadcasters, the ABC and SBS—and so should commercial media and community media. Certainly there is only a certain number of eyeballs. I do not know how you read the news, but I certainly do not stick to one publication or one news outlet and my kids certainly do not—they surf all over the place. I think that we need to have a diversity of media available—and the more the merrier in the Australian market. I do not think that we can continue to rely on advertising to fund an incredibly important part of our society. The media is vital to democracy, and we cannot just give that over to advertisers to pay for; we need to come up with other ways of funding that. And that is what some of the suggestions here today are about—for example, putting a tax on Facebook and Google and license fees for devices. I would like to charge my children to use their own devices. There are all sorts of different ways that you can raise funds, and it should not just be the old advertising model.

**Dr Murrell:** As well, if you just rely on free-market principles, what has happened today in Darwin is an example of what can happen—Channel Nine is losing jobs and everyone will be watching the ABC. Fairfax has issues that extend beyond simply competing with the ABC at the moment.

**ACTING CHAIR:** No doubt. I think we could say, though, that the media industry in Australia is far from a free market. It is highly regulated—and, according to the evidence from the media companies, in a very unfavourable way to them that disadvantages them against their competitors. And it obviously has substantial state intervention in \$1 billion a year of funding for public broadcasting. So, I do not think what we are seeing is really the free market in action, isn't it?

**Dr Murrell:** Yes, but actually the amount of money that goes to the ABC is far less than, say, the licence fee money that goes to the BBC. The BBC does get some of its profits—its money—siphoned off to help other broadcasters and other local media, but then they are getting an awful lot more money in the first place.

**ACTING CHAIR:** Sure, but it is also much more than is provided in New Zealand or the United States. It is a spectrum, and we are probably somewhere in the middle. It is pretty generous in the context of such a declining revenue for private media providers. Relatively, proportionately, the ABC and SBS are getting larger, because their funding—although you mentioned that there have been some cuts in recent budgets—has been much more stable than the falling revenues for private media providers.

**Dr Murrell:** Yes, but all media are in trouble at the moment, and parliamentarians should be more aware of that than most people, because essentially it is especially local governments, courts—and eventually your own parliament will not get covered properly.

**Dr Wake:** And you do not need to take from one to give to the other. Surely we can find ways of finding money for commercial as well as a strong ABC and SBS. It is not necessarily one or the other. Both should be supported. We need a range of voices. We do not need just the ABC and Fairfax. We need the commercial outlets to provide that variety, and we need strong community media, strong online media, and media that is innovative and is producing stories in a way such that young people want to engage with it. It is all well and good for us to talk about 'fake news' and how we interact with it, but anyone who has kids is terribly worried about what their kids are seeing—and believing—right now.

**Prof. Romano:** I think also in this set of circumstances we look at what the threat is to the traditional commercial media, and it is not necessarily the publicly funded media. The threat clearly comes from a very rapid pace of change in the whole media ecosphere, if you like. If one was to suddenly—bam!—shut down the ABC, it would certainly be a short-term impetus for all those ABC listeners and viewers who might switch to the commercial media. But that is not actually a long-term solution anyway, even if you were going to do something so radical—which is so remarkably improbable that we would not even necessarily want to go in that direction. What we do want to do is look at how the modern mass consumer does consume all the different media that are available. How do we increase that appetite for good-quality television, radio, print media and so on amidst that diversity? And I think having high-quality products, innovative products, increases the overall appetite and the desire to stay so that we can actually see in some senses that when the ABC does great television, radio and online work it enhances the profile of traditional media more generally and those traditional organisations and the desire to keep them as part of the overall palette of what we consume during the day. So, I do not see them as necessarily undermining but creating a broader sense of what it is that we still include in our lives.

Now, there are also people in this country who will never switch from the ABC to commercial, and vice versa. There are those who do cross over. We are willing, if it would be useful, to dig further into the report by Nielsen and his colleagues, which did indicate that there was absolutely a relationship between public-funded and commercial media rather than a competitive one. We can pull out some more of those findings and send a short summary of that to you if that will be helpful.

**ACTING CHAIR:** Thank you. That would be good. Let's move to the second issue now, the issue of independence, particularly if the government were to be involved in funding in some way directly more media organisations than it does today. You mentioned in your opening statement a number of possible models—tax breaks for public interest journalism. I know this is something we could spend literally hours on. But without going too far into it, how could we define public interest journalism in a way that would be broadly accepted and not controversial? I suspect that different people have a different idea of what constitutes public interest journalism.

**Dr Wake:** We say in our statement that public interest journalism is journalism that matters to everyone in society; it is about the common good, general welfare and security for all.

**ACTING CHAIR:** I appreciate that as a holistic high-level summary. For taxation purposes it might not be all that helpful. If you are applying to the ATO to get DGR status or some other tax break, that is a pretty big truck to drive.

**Dr Wake:** I was going to go onto specific impact journalism, which is reporting on the courts, parliament and local government, and investigative journalism. I am not sure we have a fuller definition.

**ACTING CHAIR:** Do you envisage as part of that that you might get people applying for and registering under this system that would have a campaigning journalism or perspective journalism side? I am thinking that Greenpeace, for example, might like to dedicate an arm to environmental investigative journalism. Is that the kind of thing that you expect should be included?

**Prof. Romano:** As Bill Birnbaeur pointed out in his submission, which I believe is submission No. 1, the American system does have a model for that. It has written up relatively clearly that one can distinguish between something that has an educative function and something that is advocative. And we would certainly be looking at the educational function being the priority here. We would not be seeking simple advocacy as being public interest in and of itself, unless there happened to be advocacy within what was a broader educational—

**ACTING CHAIR:** Sure. But included in the American tax code under that educative function are most of the American think tanks, which take very strong ideological positions—from the Heritage Foundation on the right to

American Progress on the left. They take very strong points of view. I think that is healthy; I am not being critical. Would you expect, and accept, as part of this that there would be journalism from a perspective?

**Prof. Romano:** If you are saying that would mean we might have a broader variety and stronger political opinions being expressed by those media, yes, it quite probably could happen. But there would have to be a quality educative function there. When we are talking about some of those think tanks, they do have strong politics associated with them. But they come from a very strong fact based, analytical, logical perspective; they are not just putting forward what might be rhetoric and propaganda.

**ACTING CHAIR:** No, I am not suggesting that. I am just interested in your view. I suspect that some of the advocates of this have ProPublica in mind, a very large American public interest fund for journalism—very lofty, very high and mighty. But I expect that you would also see a lot of other kinds of journalism that are much more perspective based, and that is not really what people have in mind when they want to open up the tax code or other systems.

**Dr Murrell:** If you look at a lot of the different countries that we have mentioned in our appendices to the report, they have a set of criteria, governed by a kind of press council, based on it being a newspaper that goes out to so many people so many times a week. There is a set of criteria that each country draws up for its own reasons. Sometimes it is because there are failing second media outlets. Sometimes it is to do with language. Sometimes it is to do with the area they are working in. But mostly it is to do with known media that we all read. Or sometimes there are criteria to deal with the kind of journalism that is practised in those media outlets. So it would be for Australia to decide the criteria that go into getting money from some kind of council.

**ACTING CHAIR:** I have one final question in this area. You mentioned the Australia Council, in arts funding, as a potential model. I want to explore that a bit further. The Australia Council has been the subject of public and political controversy about the things it funds and does not fund. Ultimately, members of the Australia Council are appointed by government, by politicians, so there is a possibility that it could have political influence brought to bear on it. I guess even if political influence could not be brought to bear on it in a partisan sense, there is obviously politics without partisanship as well; there are people who have a particular worldview, a particular ideology. How could we ensure that public funds, through an appointed body like that, were not given to media outlets to fund public interest journalism in a way that was not slanted in either a partisan sense or an ideological sense?

**Prof. Romano:** That's not what we see within the academic sector. The Australian Research Council have done a little bit of a model of that. Although it is quite possible that people who are appointed to the Australian Research Council could come from different political slants or have different approaches, the actual applications that come to it are sent out to peer reviewers. There are bodies of experts who have certain status. There are peer review mechanisms that allow different voices to come in. That prevents overall bias within the overall process. One individual application may be subject to bias. It's potentially possible if the reviewers of a particular application did have a certain slant on things by coincidence, but we don't see objections quite as much to that kind of process as we may see to, perhaps, the Australia Council. So that could potentially be one model—

**ACTING CHAIR:** I think there is a fair bit of controversy about ARC funding grants from time to time as well.

**Prof. Romano:** Yes. Obviously there are, and I don't think in life that we're ever going to have one system that is ever going to be without a complaint somewhere or another. If one is looking for the best possible solution to manage this, there are different ways of trying to ensure that, even if a body itself is constituted by appointments by politicians, those who make decisions or feed into those decisions come from a wide range of sources so that one can say, 'We've got a cross-section here of political interests.' They feed in in different ways so that there are ways—

**ACTING CHAIR:** Sure, and I appreciate your point about how it's never going to be free from criticism. Of course it wouldn't be. But perhaps it is even more important in this space, if we were to go down this path, than it is about ARC grants that people are critical of. Someone's going to do some research that some people think shouldn't happen, but, in this space, given its proximity to our democratic system, a grant that was handed out on a partisan basis or an ideological basis could have hugely damaging ramifications. I think we have to meet an even higher threshold than a ARC system should. Do you agree?

**Dr Wake:** Yes, but I think that, as long as the governance is removed from government and there's a wide variety of people there and you have a strong corporate governance model, the likelihood of someone gaming the system or coming up with a particular advocacy thing is highly unlikely. In fact, very unlikely, I would've thought.

**Senator XENOPHON:** Can I just ask a follow-up question, Acting Chair? I think you posed a question about whether—was it the Conservation Foundation or—

**Unidentified speaker:** Greenpeace.

**ACTING CHAIR:** Greenpeace, GetUp! and the IPA.

**Senator XENOPHON:** I was going to mention the IPA. Whether it's from the left, the right or an activist organisation so that they can get the tax breaks, I would feel particularly uneasy about that because I think there's a world of difference between that and, say, Crikey, *The Guardian*, a regional newspaper or the Saturday paper. Whether it's from the left or the right, at least you can show that they are genuine publications. Was it your attachment that talks about what goes on in other countries?

**Unidentified speaker:** Yes.

**Senator XENOPHON:** That was incredibly helpful. Thank you very much for that. For instance, in Norway, it has some criteria there. Your attachment says:

To be eligible for this subsidy a newspaper must:

- provide general news (that is, not be focused on a single issue)
- adhere to the editors' code, set by the editors and publishers' association
- grant editorial independence to its journalists
- not pay dividends ...
- not have profits—

over a certain amount—

- Not be a free newspaper or an exclusively online publication.

Similarly, there is, in other jurisdictions, criteria to say that it's got to be, basically, a fair dinkum publication, it can't be an offshoot of an activist group, a think tank or whatever, and it can't prescribe whether it's from the left, the right or the centre—nor should it. Is that how you get around that so you don't have Greenpeace, GetUp! or the IPA being able to avail themselves of a subsidy that is meant to be there for robust public interest journalism? I mean, there's nothing to stop the IPA and GetUp! advocating their views—

**Dr Wake:** They have no problem getting money themselves at the moment. The IPA and GetUp! seem to do quite well. It's journalism with independence—journalists who sign up to an independent code and stand there and say, 'I'm going to look at this from all points of view.' That's what we need funded. It's not campaigns. They can get money. Some of the journalists who have moved over to work for charities are doing brilliant work. Look at Save the Children's work in South Sudan at the moment—absolutely brilliant. They can raise funds for that. What we need is the kinds of stories that no-one else is interested in. It's Adele Ferguson looking at 7-Eleven. It's that really great journalism that we need to be able to fund. It's expensive and it kills the journalist because of the legal threats and the worry that comes from doing those kinds of stories. That's the kind of stuff we need to be able to support—Fairfax, the *Herald Sun*, ABC—all of those who are actually committed to telling the stories that no-one else wants to tell. I love the work of GetUp! I love the work of Save the Children. Don't tell my husband, but even the IPA does some good work at times. We need the journalists who want to tell real stories.

**ACTING CHAIR:** A quick clarifying question: who would donate to this kind of journalism? Who would donate for Adele Ferguson to do an expose on 7-Eleven's practices, if we're going down the path of a tax-deductible donation? That is why I raised the issue to begin with.

**Dr Murrell:** It wouldn't go to individual journalists like this. It would go to news organisations.

**ACTING CHAIR:** Who would donate? You mentioned tax deductibility as one mechanism. The reason I raised Greenpeace, GetUp! and the IPA is that donors are motivated by causes, principles, values and outcomes and they donate towards those things. I suspect you might find it more difficult for people to donate for that kind of public interest journalism. That is why I was saying that I think the people who are going to take advantage of it are more likely to be Greenpeace, GetUp! or the IPA than Adele Ferguson.

**Dr Wake:** It's unfortunate that we don't have the philanthropic culture in Australia that they have in the United States. It's really sad. We have some people out there—like the wonderful man from Western Australia, Twiggy—who are interested in funding certain things. I'm sure we could encourage more people. Certainly as a first step, as we said, Facebook and Google are the ones we are looking at initially.

**Dr Murrell:** If you go back to what you were talking about with Norway, for example, those aren't philanthropic donations in any way; they're simply direct and indirect subsidies for production and things like that.

**ACTING CHAIR:** Yes. That's why I was separating the two issues.

**Dr Murrell:** One of the things that's maybe changing is that, where it said 'mustn't be an exclusively online publication', there are countries that are now giving, including organisations that are just online, because that's the nature of the beast. Even online media is now pressed.

**Prof. Romano:** Also, in terms of the philanthropically funded, not-for-profit journalism centres that Bill Birnbauer talks about, in practice a lot of the work that they're doing is in collaboration with an existing media organisation. In that way, we would probably be most commonly seeing these collaborations when they are being funded, in combination with some kind of traditional media organisation in many cases, be it the ABC, a commercial organisation or SBS—sometimes with the larger community radio or television broadcasters too, of course.

**Senator XENOPHON:** In terms of best practice models, we're still evolving. There is the fact that the European Union hit Google with a significant fine for, effectively, abuse of market power, but in a sense it relates to their ability to control the data, which in turn has impacted on media organisations here. What is a best practice model in this brave new world? Google and Facebook are almost the Dutch East India Company of the 21st century, given the level of their market power—almost a monopsony. What straightforward measures, if there can be such a thing, can try to revive journalism in this country? Are we talking about tax breaks or subsidies? How would you shape this? You have given a broad outline in your submission. Can I invite you to think about any specific, more prescriptive measures, in addition to your very good submission, that sets out the problems and some of the solutions?

**Dr Murrell:** We are advocating a broad group of different strategies, because I don't think that any one strategy will necessarily work, and that's why we have argued not only for some kind of a council that would distribute money under certain provisions but also for those to be married with philanthropic funds. We would like some money to go towards start-ups and innovation and research. Every single media company is looking for the perfect solution to the flight of classified advertising, but that's not the only problem. There is also digitisation, and that has affected everybody. Research and development would be another thing that we would want to happen, I would imagine.

**Prof. Romano:** I think, as Dr Wake pointed out before, it really does require innovation and creative responses. That's where we like to collaborate with industry at this point in time, and if there was a clear cut answer, Mr Murdoch would have found it at this stage.

**Dr Wake:** The former managing director of the ABC, Mark Scott, did see the online world coming and deliberately put money into that, at the expense of other things. There are some people out there who are thinking ahead. I do find it disturbing that every time we are talking about this issue it's always at the expense of the ABC, that is kind of being punished for thinking in advance of some of these issues and ploughing money into the digital realm 25 years ago. I would just like to urge all media outlets to think about new ways of doing it and for the government to support them. If they've got a good idea, find a way of supporting them. If Fairfax wants to do something, support them. If News Corp wants to do something innovative in public interest journalism, support them. And some of the—

**Senator XENOPHON:** There needs to be a framework, because otherwise Treasurer Morrison would be having conniptions if he thought there was a blank cheque.

**Dr Wake:** I would love a blank cheque for journalism.

**Dr Murrell:** I think we've got to appreciate that there is an emergency out there at the moment, and this goes back to Nick Davies's *Flat Earth News* in the UK—

**Senator XENOPHON:** Could you say that again?

**Dr Murrell:** There is a book from the UK called *Flat Earth News*. I think it came out in 2012, and it listed all the things that were disappearing from journalism. They included local magistrate court cases in regional areas, meaning that those stories didn't get covered. They didn't go up to metropolitan level and didn't go up to national level. All these stories and important social, political, economic and health issues are not getting covered anymore, because nobody goes out to the courts. I have had students this term going out to magistrates courts and even the higher courts, and there is nobody there. Lawyers are talking about it, but where are the reporters?

**Dr Wake:** And in parliament you would have noticed there are not as many political reporters in the gallery. There is hardly anyone at local councils. All sorts of things can happen at local councils that people will never hear about.

**Senator XENOPHON:** There are fewer at state and even fewer at local government.

**Prof. Romano:** I think also, when we discuss this, we need to remember that this is an overall environment, an ecology. We should not leave the Googles and Facebooks and other similar organisations out of the conversation. Those organisations have acted in high-profile ways. They have publicised massively their efforts to address hoax news, to support different forms of journalism and to do this and that, and that's happened in the last six to 12 months. In a high-profile way they've been very strategic about saying: 'Here we are. We're being good.' And they've done that because of public pressure. I'm not saying that the governments or communities can twist the arms of these organisations incredibly easily, but they are acutely aware of the fact they are being watched. Every time the conversations are directed towards them and every time they are included in the conversations, this increases the impetus for them to be good partners in this conversation and to make sure that some elements of their resources also support this environment. We would not solely talk about it in the terms that we have, in terms of just what the media organisations are doing; we would also talk about those accompanying partners who are part of the problem and must be part of the solution.

**ACTING CHAIR:** Thank you. I think that's a good note to end it on. I really appreciate your evidence this afternoon.

**MARTIN, Dr Fiona, Discovery Early Career Research Fellow, Senior Lecturer Online and Convergent Media, Department of Media and Communications, University of Sydney**

**O'DONNELL, Dr Penny, Senior Lecturer in International Media and Journalism, Department of Media and Communications, University of Sydney**

[15:35]

**ACTING CHAIR:** Welcome. I understand that information on parliamentary privilege and the protection of witnesses in giving evidence to Senate committees has been provided to you. I invite you to make a short opening statement. At the conclusion of your remarks, I will invite members of the committee to ask questions. Do you both have an opening statement, or one on behalf of both of you?

**Dr Martin:** We both do.

**ACTING CHAIR:** Okay, please proceed.

**Dr Martin:** I would first like to convey the apologies of Associate Professor Tim Dwyer—he would very much have liked to have been here, but he had a prior trip planned—and to let the committee know that I can take any specific questions on media policy that I cannot address on notice and refer them to him.

It is often argued, and you have certainly heard it in the submissions to this inquiry, that the internet has delivered greater media diversity to Australian consumers, and with it access to more quality journalism; however, in our submission we are arguing that we see the exact opposite at the moment. We have seen today, in Channel 9's withdrawal from the Territory, that local media diversity is decreasing, especially in light of greater social media platform dependence, increasing international news competition—and we haven't discussed that enough, I think, the ingress of the *Guardian* and the *New York Times* and various other organisations into Australia—increasing media concentration, increased sharing of content across news titles and the loss of journalism jobs, which Dr O'Donnell will speak to.

The key problem that we see here is that the government actually doesn't know that much about media diversity in the digital age in Australia. The old school media diversity measures that included things like support for public service and community media are fine, but the measurement of media diversity itself didn't include those voices, so it didn't include the impact or output of public service media and community media, nor that of the digital born news companies. The sort of media diversity policy that we have had has been focused on measures of ownership and voice, to the exclusion of much more detailed information that we can now capture on, for example, the range of authors, sources, genres and topics that are covered, and even the different thematic emphases that different publications might place on particular topics.

Traditional media diversity measures give us little detail about the availability or the range or the accessibility of local news, or of specialist science, business, industrial or education reporting. And they tell us very little about what audiences are actually consuming or sharing. All this information's now available to us if we use big data analytics tools. So we are arguing that if the government really wants to understand how industry restructuring is affecting public interest journalism, it needs to act now, before it introduces new media reform, to investigate what we actually want in terms of public interest journalism and the diversity that exists.

So we have argued that we need to undertake pluralism research for the 21st century to gauge the audience impact of the sort of content that we have and that we are seeing—and particularly from new publications; I am thinking here of Junkee, Pedestrian TV, Vice, BuzzFeed, Huffington Post, *The Guardian*, et cetera. Using news analytics, we can track, over time, what level and what types of public interest news are being produced, consumed and shared. This work can then, really valuably, I think, inform measures like subsidies or tax breaks or levies. Without this type of analysis, we are acting on old assumptions about how the news media work and measures that we have actually discarded or should have discarded by now.

So how can we act to support media diversity and a diverse range of public interest journalism? I think we need really good-quality research that uses the same sorts of tools that industry is using—that is, the analytics tools that inform their business models.

**Dr O'Donnell:** Thank you for the opportunity to be here today. My comments address the first term of reference on the current state of journalism in Australia. That has been a research focus of mine since 2009.

I particularly want to draw attention to what the current digital transformation of journalism means for journalists as workers. It is still the case that professional journalists define and assert control over the daily news agenda, but their workforce is severely depleted and they face relentless and increasingly tough competition from myriad organisations, occupations and social actors who want to grab control of both information flows and

audiences. It is true that news reporting is more participatory and democratic now, but it is also more dispersed and much more market sensitive.

As you have seen from other submissions, we are talking about 3,000 journalism positions having gone from the industry in the last five years, with the majority of those cut from the senior ranks of the two largest newspaper companies, News Corp and Fairfax Media. That is bad news, because newspapers continue to operate the biggest newsrooms, employ the most journalists, produce the most content and set the daily news agenda across all media. Newspapers are still the living heart of the national news cycle. So reduced journalistic capacity in newspapers affects more than the mastheads and their profitability; it actually means less original local news content, less agenda-setting reporting and less story verification and fact-checking for everyone. It also means that the overall position of professional journalists in the Australian media system is much weaker now than it was five years ago. As Paul Murphy noted in the union's 2016 annual report:

Where new jobs are being created, they are in smaller workplaces and rarely with commensurate conditions and entitlements to those built by the union over more than 100 years.

Historically, the Media section of our union—formerly known as the Australian Journalists' Association—has been the largest. But the shrinkage of the industry meant that in late 2016, its membership fell behind that of Equity—

and that is for the first time in the union's history. Journalism practices have always been shaped by economic and technological forces, so I am not here to lament the lost labour of journalism, but it is important to highlight the current reality that links increased job insecurity to journalists' loss of control over journalistic content.

So what can be done? What does this loss of workforce mean and how might it be remedied, and what might the inquiry be able to do, particularly about the ongoing viability of the workforce? I have two quick suggestions. First, we definitely need more information. Our understanding of changes underway in journalism work in Australia is very limited. There are big gaps in our knowledge about the size and composition of the occupation, its working conditions, current practices and professional identity and the issues that journalism and journalists see as important. There is no Australian equivalent of a recent US publication, which I recommend to you, which was called *The News Media: What Everyone Needs to Know*. It is a book that promises to answer every question anyone could ask about the state and fate of journalism in the USA today. We do not have an Australian equivalent, but I think that is the kind of research that we need.

What that lack of information means is that, when the chief executives of Australia's major media companies suggest that the sector currently supports 30,000 jobs, as they did recently as part of their campaign in favour of media law reform, we simply don't know who they are referring to, where they work, what jobs they do and what kind of job security they have.

**Senator XENOPHON:** You're not suggesting that's fake news, are you?

**Dr O'Donnell:** No, I'm not suggesting that at all. I'm just saying that we lack detailed information about who those workers are. We might get more information when the census data on employment in the cultural industries is released in October, and that would be an important data source to follow up. But, in the meantime, I think it is very important to support and endorse a recommendation that's been made to the inquiry by the Public Interest Journalism Foundation, which asks for regular, independent research news media futures in Australia. I'm suggesting you include workforce issues and that that research be reported to the parliament every three years.

The other quick suggestion that I have is to talk to journalists—to invite a broader representation of journalists to come and present information to the inquiry. It's important to remember that the digital transformation of Australian journalism is putting downward pressure on wages and working conditions across all types of journalism, but the trend doesn't affect all journalists in the same way. As various submissions to the inquiry have indicated, freelancers, student journalists, those working in Indigenous, regional and remote media all face specific and particular challenges. I think you should add young journalists to the list as well. We know employers are now tending to hire younger journalists in the belief that they're born digital and therefore they're text savvy, they're engaged with social media, they're more ready to work flexible hours and they're less concerned about content that operates as click bait. It has to be said there is little research evidence in Australia to substantiate that kind of generational thinking. Another incentive that employers might have is that they'll be paying junior wage rates to those younger journalists.

I think it's important to point out that for newspaper publishers wages accounted for 36.5 per cent of overall costs in the 2015-16 period, compared with 20.9 per cent of costs for the internet publishing and broadcasting industry, where labour expenses are kept down by employing more part-time workers or outsourcing.

**Senator XENOPHON:** Was that 36.5 per cent for newspapers?

**Dr O'Donnell:** 36.5 per cent of overall costs for newspaper publishers, compared to 20.9 per cent for the internet publishing and broadcasting industry.

**Senator XENOPHON:** I am sorry to interrupt your opening statement, but does that take into account content makers—people from the advertising division, for instance, who don't actually create the news? Do those figures refer to the content creators or are they overall figures for the organisation?

**Dr O'Donnell:** It is an overall figure for the industry of the wages bill—

**Senator XENOPHON:** But not for the journalists or the camera operators or the sub editors?

**Dr O'Donnell:** For all wages that are paid in the industry.

**Senator XENOPHON:** Thank you.

**Dr O'Donnell:** The point here is that the impacts of digital transformation are unevenly distributed across the media system in ways that disadvantage particular types of Australian news stories or those who are trying to tell Australian news stories more than others. As I say, a second suggestion would be that the inquiry find a way to invite a representative group of working journalists to a future hearing such as this in order to hear their firsthand accounts of the realities of news work both inside and outside today's newsrooms. Those on the front line have a big, if not the biggest, stake in the future of public interest journalism in Australia and they would no doubt welcome the chance to have a say and to let you know what the situation is.

**ACTING CHAIR:** Thank you, Dr O'Donnell, and I assure you we will be hearing from journalists directly, but the main purpose of today's hearing is to hear from academics. There are many more hearings to come yet, and so there will be plenty of opportunity for that.

**Senator XENOPHON:** This inquiry is not reporting until December, but there are still negotiations between the crossbench and the government over the media reform package they've put up. So there is a sense of urgency for some of us on the crossbench as to whether something can be negotiated sooner rather than later without in any way cutting across what this inquiry is doing in terms of long-term recommendations.

In terms of being able to stop the haemorrhaging of journalists who are losing their positions and newsrooms being shut down, as has just occurred today in Darwin with Channel 9, leaving just the ABC as the only TV broadcaster there, would a system of tax breaks be appropriate? Do we tax Google and Facebook? Do we tackle the monopoly power of Google and Facebook? What are some practical measures that can deal with that? Dr O'Donnell, you have reminded me that I actually wrote down, 'Newspapers are still the living heart of the national news cycle.' For my sins while I was waiting to get into the Senate a few years ago, I did a few weeks of talkback on commercial radio—I know that will shock Senator Paterson. I can tell you we would scour the newspapers in the morning, including all the interstate papers, from my desk at 5AA and go through it with the producer as to the stories of the day. We would rely very much on what the newspapers were publishing. They were the story generators for what I was doing. We piggybacked off media organisations. What are some of the solutions there?

**Dr O'Donnell:** Just to follow-up on what I have been talking about: it seems to me that the missing link is attention to workforce. I know workforce isn't typically an issue that is canvassed in media policy and it only comes up in a secondary way when we look at, say, Australian content rules, which are generative of workforce or related to workforce. It really struck me that the media CEOs are pushing this line that the sector supports 30,000 jobs and, hence, the implication is that those jobs are at risk if the media law reforms aren't passed. That is a powerful kind of argument, but I'm not sure that there's much evidence to support that argument. From where I'm looking, a small but significant step ahead in understanding the kinds of changes that are afoot would be to request that media companies provide some more data on the workforces that they employ. Ultimately, the future of journalism needs journalists. At present, what we are seeing is a haemorrhaging of the most senior, experienced, expert journalism out of the system.

**Senator XENOPHON:** That is because it is easier to offer them a redundancy; or a lot of them are taking redundancies because they can see the writing on the wall. I dare say that—

**Dr Martin:** It's a quick way to cost cut.

**Senator XENOPHON:** It is a sugar hit in terms of cost cutting. Also, I heard that some journalists at Fairfax, and I hope this is not unfair, when TPG was hovering, the private equity firm, actually thought, 'I'd better take a redundancy package now because it's going to get worse for me.' Some of them did, even though the TPG and the Hellman & Friedman bids have fallen by the wayside.

**Dr O'Donnell:** I think there is an even more depressing trend. I am also involved in the New Beats report, which looks at the aftermath of redundancy, and what we have found out about the survey research is that a lot of

younger journalists are taking voluntary redundancy because they don't see a future in the industry and there's not that many incentives to stay.

**Senator XENOPHON:** How do you monetise that? We heard from Michael West, who is a financial investigative journalist who now has his own website. In terms of monetising that I think there was some controversy because one media outlet criticised him for doing a deal with GetUp! I am not suggesting that Mr West's robust independence was in any way compromised, having dealt with Mr West over the years. What about a clearing house approach whereby journalists are funded and the work is disseminated more broadly—in other words, they have to work for a particular organisation—or there is a freelance pool of subsidised journalists where people can get access to journalists through tax write-offs? I am not expressing this very well. But you have got somebody like Michael West, who would break a lot of very significant stories, who now still has an audience, still has a following, but nowhere near the audience that he had when he was working for the Fairfax mastheads.

**Dr O'Donnell:** There are two things there. One is that the demand for content has not declined. The demand for content is increasing. That is what Fiona was referring to.

**Senator XENOPHON:** But nobody wants to pay for it.

**Dr O'Donnell:** The market will pay for it. The big media companies are not prepared to pay journalists to produce it. They are slightly different issues. What we see happening is that journalists who have the seniority, the experience, the expertise, are setting themselves up in small businesses. The difficulty that they find, which is a difficulty shared by freelancers across the board—which you will see in the submission from the Freeline Group—is that, when you are in a small business, there simply are not the legal resources and the kind of clout that you have if you are working in a big media organisation, and that lack of clout is a disincentive to pursue stories that tend to need that kind of, if you like, protection in order to be published.

**Senator XENOPHON:** We are talking about defamation laws, for instance?

**Dr O'Donnell:** Defamation, yes.

**Senator XENOPHON:** I think Dr Martin was going to say something.

**Dr Martin:** I was going to challenge that idea that people won't pay for journalism. I actually think that the major media companies—

**Senator XENOPHON:** Sorry. It was a blanket statement, which was foolish of me, but I meant it in the sense that a lot of people get their news for free, and there are a minority of people who will actually pay for it. A lot of people just get their news for free.

**Dr Martin:** In coming online, particularly, the major media companies back in 1995 did not foresee how quickly and how horribly things would go wrong with industry restructuring and competition, particularly international competition, in the journalism market. I have been a subscriber to Fairfax for many, many years, and they were extraordinarily slow to convince me that I should take up a digital subscription. Crikey, however—Eric Beecher and Crikey—were in my email box every day, reminding me that I should subscribe, even if I had a subscription. Sometimes I get confused about when my subscription runs out, because I am still getting emails saying, 'Don't forget that you'll get this special offer if you subscribe.' So I do think that some of the major media organisations could have done better to generate income from subscriptions, from memberships and from other types of opportunities. In Denmark, for example, there is Nordjyske, which is one of the main cross-media organisations in Jutland. It has been really successful in membership, in shopping ventures—actually organising shopping deals for its members—and in all sorts of cross-promotional advertising opportunities. It has been very successful. It has got television programs running that it markets internationally and so on. I think there has just been a slowness to adapt in the major—particularly the former newspaper companies.

**Senator XENOPHON:** Just to wrap up from my end: that leaves us with this existential crisis where newsrooms around the country are slashing journalists and you are losing experienced journalists, that corporate knowledge. That does not any way detract from the young dynamic journalists who are doing their level best to deliver the news in a dynamic way, but you have got a situation where the media organisations say, 'It's going to get for worse for us if we don't do something.' In the submission of the media proprietors, I think what they meant was: 'If we don't consolidate, we're going to end up in administration or worse.' I think that's what they meant.

**Dr Martin:** Australia is a very small market.

**Dr O'Donnell:** Consolidation means job cuts. That is what consolidation means.

**Senator XENOPHON:** How do you militate against those job cuts? Do you balance it with tax breaks, with subsidies, so that there be there are powerful disincentives not to retrench people but actually to take on

journalists and, in a sense, it helps with the business model, where people are getting better information, more in-depth information, investigative journalism, that they would not otherwise see?

**Dr Martin:** I think both tax breaks and subsidies are generally good ideas and have been trialled elsewhere. We have already had the JERAA group talk about Norway and Sweden, but Denmark also uses tax—

**Senator XENOPHON:** I don't think they included Denmark in their list.

**Dr Martin:** There are subsidies in Denmark as well.

**Senator XENOPHON:** Yes, I know. It is not a criticism—I think they are still here! It is a terrific summary.

**Dr Martin:** That is all right, Scandinavia is kind of—

**Senator XENOPHON:** They did include Denmark. I apologise; Denmark is in here somewhere.

**Dr Martin:** Again, there were huge debates just recently, when they had media reform review, about what constituted the sort of journalism that could be funded. I think you are right in asking tough questions about what—say, socially significant news and current affairs—we are going to fund. Is it only investigative journalism and so on? I would argue for a broad—

**Senator XENOPHON:** That could be opinion pieces as well—would you say that?

**Dr Martin:** Analysis, yes; opinion, no. Opinion itself is not necessarily of great value unless it is very, very well researched, and we have seen incidences of appalling inaccuracy in opinion in Australia.

**Senator XENOPHON:** But sometimes the line between opinion and analysis can be blurred.

**Dr Martin:** It can be, yes, but I would prefer funding analysis more than I would funding opinion.

**Senator XENOPHON:** Sure.

**Dr O'Donnell:** I think the other thing to remember is that the big media companies have enjoyed very high levels of profitability over time. Part of the so-called crisis is that profitability isn't at the same sort of high rates as it has historically been. I think there is a lot of room for the market to pick up some of the innovations in journalism that are starting to come through. There are parts of the journalism field in which innovation is, if you like, their main game. I am thinking of the Walkley Foundation, which is attached to the union. They are in partnership with Google with their innovation grants and their incubator workshops, where they are actually fostering young journalists and others to look at how to set up start-ups, how to make them economically viable and so on.

I think there is enough happening in the journalism field in terms of experimentation with innovation. I agree with Fiona that innovation is what is going to be the root to the future of public interest journalism. I think the proposal from the Centre for Media Transition—Peter Fray's and Derek Wilding's proposal—actually suggests that we need to focus on and encourage the market to be picking up some of the slack rather than only looking to government. They seem to me to be suggesting that the parliament could play the most useful role by getting the settings right—the defamation laws, the arrangements for tax breaks and so on. It is more about getting the settings right rather than trying to come up with a magic bullet.

**ACTING CHAIR:** Dr Martin, I am interested in picking up this issue from your opening statement about the internet's impact on diversity. I agree with you when you say that it has had a detrimental effect on the number of journalists employed in Australia—no-one would argue against that.

**Dr O'Donnell:** Particularly on regional and local news, I think.

**ACTING CHAIR:** In terms of the range of sources and news that is accessible to me now as a consumer of media, it is greater than it has ever been and easier than it has ever been. Particularly with international news, for example, I can get it cheaply, easily and more quickly through my devices.

**Dr O'Donnell:** International news, certainly, but is that what we are arguing about? I think one of the things that we really have to look closely at is local public interest journalism. It is journalism about Australia by Australians. Certainly, yes, I can read—and I do—*The New York Times*, *The Washington Post*, the BBC and so on with the remarkable ease. Interestingly, I am only supporting *The Guardian* out of that. *The New York Times* I am not paying for and *The Washington Post* I am not paying for, even though they are encouraging me a lot to do that. That is definitely affecting their economics. However, in terms of diversity, we really don't have a good gauge on what that means in terms of the topics that are being covered. We were talking before about local and state government, for example. How many of those news sources are actually covering local and state government? Do you know? No. I don't either. Certainly if I am looking for local or state government news I am going to go to my local paper, *The Illawarra Mercury*, or *The Sydney Morning Herald*, and sometimes to the *Tele*.

But I do not see a lot of it. And I listen to the radio, of course. I tend to listen to ABC Local. I do not think we know exactly how much local news or current affairs diversity we have.

**ACTING CHAIR:** Sure. Let us put aside the international side and focus on the domestic side. Another thing that I think is also true is that the range of perspectives, or the range of opinions, that we can access now is more diverse than it used to be. It used to be the case that, if I wanted to know about someone's perspective on politics, basically it was just the big gatekeepers, through the big institutions, who decided which ones I could access. The opinion editor at a big newspaper basically decided what opinion I was able to access. Now, I can get it in 10 seconds on Twitter or Facebook or a million other websites, including, as you mentioned, Junkee, Pedestrian, Crikey and others. Do you think it is true that the range of perspectives is more diverse?

**Dr Martin:** I certainly would say that there are more individual voices being heard. And that argument was made at the conference of the Australian and New Zealand Communication Association just last week. We held an opening plenary session with a number of Indigenous media workers, and they said social media had delivered them a platform they never had before. That is fine, except that they are not necessarily funded to do what they are doing. Some of them are. For people like Allan Clarke, who works for NITV and thus is funded by the government, yes, definitely. But Summer May Finlay, who is a public health consultant, absolutely struggles to get funded to do what she does. She works for the Croakey blog, which runs on the smell of an oily rag—\$30,000 a year—yet is providing absolutely essential public health information. So, yes, there is diversity of voice. But is it being paid for? And can we rely on its consistency?

**ACTING CHAIR:** So if it is not international, and it is not voice, I guess you are really concerned about the amount of content—because there are fewer journalists, there is less content.

**Dr Martin:** The reliable, consistent news and current affairs coverage—absolutely. I used to work for ABC Local many years ago, and I still talk to people who work in the ABC in the bush. For example, at a station like ABC Wagga Wagga, there is no way they can cover the news that they should be covering in Griffith. They can barely get to Griffith. They do as much as they can on the phone. But there are a lot of issues that are going uncovered in Griffith because Fairfax has had to cut back its operations there and all of the local news media have had to cut back. So I think that is one of the key issues: we do not necessarily know how much of that consistent, reliable coverage we are getting. We can claim that we have a lot of diversity, but when it gets down to looking at the specifics of what we really want—Fairfax has one science journalist left; they have just let the other one go.

**ACTING CHAIR:** It often used to be the case in Australia that when we talked about diversity we were referring to influence and, in particular, the concern that certain media proprietors might have too much influence. And that is part of the motivation for the media ownership structure that we have—to guard against that. That kind of thing does not seem to be as much of a concern anymore. Correct me if I am wrong. I am inviting you to comment on that.

**Dr Martin:** I think it is a very strong concern. The fact that News Corporation controls around 75 to 80 per cent—it is hard to estimate because I do not have the latest figures—of the print market in Australia is a—

**ACTING CHAIR:** This is an important point: 75 per cent of the publications or 75 per cent of the audience?

**Dr Martin:** You would have to ask Dr Terry Flew, from QUT, about that. I think he did the most recent analysis.

**ACTING CHAIR:** It is not publications, though; it is audience. News Limited has a number of papers. But the reason it has such reach is that they are very popular papers that are widely bought and accessed. It is not because they have 75 per cent of the newspapers.

**Dr Martin:** No, but they have 75 per cent of the share.

**ACTING CHAIR:** Yes, that is right. It is important to note, though, that your capacity to reach an audience is not just limited to the ownership of a number of newspapers, which is what we control.

**Dr Martin:** Certainly not.

**ACTING CHAIR:** It is about how popular they are and how widely read they are, and our media regulation does not deal with that.

**Dr Martin:** No, it does not. But what we are looking at is greater consolidation in Australia through the proposed media reforms, and I think that has consequences for the level of diversity that we will see. One of the first things that happens when media companies merge is that they get rid of the slack. As Penny was saying, we see workforce cuts and generally in the content area—although sometimes in administration as well. There is no doubt that, if the media reforms that are proposed are passed, there will be further consolidation and further job losses and further concentration.

**ACTING CHAIR:** Would you agree, though, that that consolidation can happen without the media reform bill passing—not through ownership changes but through existing journalism companies continuing to sack their staff as they have been or some companies actually failing and ceasing to operate?

**Dr Martin:** Yes, it is possible that that could happen through company failure, but we do not know that yet.

**ACTING CHAIR:** Why would you think it would be any different from what the last five or 10 years have shown? Why would that trend turn around now?

**Dr Martin:** It could be that some of the current players in the Australian market, like *The Guardian*, exit stage right. We have been talking about media competition and what a crisis we are in in the industry. *The Guardian* already is internationally in deep debt. Can it afford to sustain an Australian operation? Can *The New York Times* afford to? If some of that competition were removed, perhaps there would be a better prospect for the existing traditional or legacy publications.

**ACTING CHAIR:** There would still be consolidation, because they would leave. The media landscape would become more consolidated if *The Guardian* were to leave Australia.

**Dr O'Donnell:** The media that we are talking about as being highly concentrated still operates in the legacy media mode and the publications that we are talking about are hardcopy newspapers as well as online services. We know that particular sectors of the community still rely on legacy media, even though we are in this very rich and, as you say, expanding and more competitive digital environment. So maybe that is a demographic issue that will be resolved in time. But the popularity of publications is also related to the alternatives that are available, as you know, particularly with newspapers. Apart from Sydney and Melbourne, most of our state capital cities are one-newspaper towns. So popularity becomes a slightly difficult thing to argue, given that there is not a lot of real competition.

**ACTING CHAIR:** But doesn't that serve to highlight how the media regulation that we currently have has not been effective in ensuring the diversity that it was supposed to?

**Dr O'Donnell:** I am in no way supporting the current media laws. It is testimony to the determination of, I guess, politicians to maintain Australian ownership of Australian media that we are in this kind of regulatory environment that we are in. That is basically what has behind media laws for the last 25 or 30 years. But those laws are woefully inadequate. The three reforms that are being proposed are also woefully inadequate. They in no way address the kinds of challenges that all media companies, and particularly all journalists, are facing at the moment. I know that that is a big statement and the practical reality is that these reforms are before the parliament and need to be decided one way or another, but—

**ACTING CHAIR:** And the media companies certainly do not share that view. I do not think any of them said that it is a silver bullet, but they certainly have not said that this in no way addresses any of their problems. In fact, they have said that it addresses many of their problems.

**Dr O'Donnell:** Senator Xenophon had a question earlier about whether they address those problems in the short term, only for those problems to re-emerge in the medium term with a greater kind of veracity. I agree with you. As to the short-term gain that is being sought, of course, industry wants relief; they are in a very, very difficult situation. But, as to whether those reforms are going to solve the situation, I just do not see any credible evidence that that is the case.

**ACTING CHAIR:** Thank you very much for your evidence this afternoon.

**Committee adjourned at 16:15**