



2 October 2020

MEDIA RELEASE

The ACCC's News Media Bargaining Code is a threat to Australia's democracy

Australian Community Futures Planning has released a major essay on the Australian Competition and Consumer Commission's draft News Media Bargaining Code and the verdict is that the Code constitutes a serious threat to Australia's democracy.

ACFP's Founder Dr Bronwyn Kelly, author of the essay, said today that the ACCC has proposed an extraordinarily unfair and anti-competitive intervention in Australia's information market under cover of an argument that the intervention in favour of news media businesses is "justified because a strong and independent media landscape is essential to a well-functioning democracy."

But Dr Kelly's essay, [*Prospects for journalism, the free information market and democracy in Australia under the ACCC's News Media Bargaining Code*](#), examines whether the Code as drafted will in fact deliver a strong and independent media and a well-functioning democracy and finds that it is much more likely to deliver the opposite.

"The prospects are not good at all", said Dr Kelly, "either for healthy and diverse journalism or for our democracy itself."

"This Code picks winners and losers and the list of losers is long: it includes news consumers, web users, taxpayers, the ABC and SBS, journalists and quality journalism itself, independent producers of content in current affairs or social commentary (eg., small journalism businesses, vloggers, bloggers, YouTubers and podcasters), public broadcasting, search engines, social media, and finally democracy."

"The only winners are the existing members of the news oligopoly – Murdoch, Nine, and to a lesser extent, Seven West and Ten".

Dr Kelly's detailed examination of the Code shows that it is based on a raft of fictions: including suggestions that news content is being stolen by Google and Facebook and that there is a bargaining power imbalance between Google/Facebook and the news media businesses that is forcing journalists to accept "terms of service which are less favourable".

"There are few who would quarrel with the ACCC's assertion that Google has extraordinary market power in the search engine section of the market. However, the ACCC has not established that this equates to a *bargaining power* imbalance which is unfairly affecting news media businesses. And even if an imbalance exists, the Code will not just neutralise it, it will reverse it, creating a whole raft of new information market structure imbalances and problems which have much more potential to undermine democracy than any current power balances."

“The Code facilitates what is in effect a new form of cross-media takeover,” Dr Kelly said. “It’s a facilitated raid. And at its worst it will lay the foundations for a vertical integration within the market structure – one which allows monopoly control of both search functions and news.”

“Structured as it is the Code does not offer Australians the prospect of fairly re-balancing any supposed bargaining power imbalance in such a way as to ensure that the interests of democracy and news/information consumers will be well served. For those interests to be served we would have to devise a Code which does not unlevel the playing field of competition so strongly in favour of one type of information provider – the commercial news oligopoly – against all the other information traders. Unfortunately, this Code unlevels the field for everyone but the oligopoly of offline news providers – the big businesses of Murdoch and Nine. And the danger down the track is that these two businesses will end up running *both* the news content production and distribution platforms *and* the services that allow us to search for their competitors in content production. It’s a ghastly prospect,” said Dr Kelly.

Dr Kelly’s essay proposes a more sensible community engagement process for development of a sound, ethical regulatory framework for Australia’s free, open and efficient information market.

“It is obviously worth going back to the drawing board to develop a decent regulatory code for our information market,” said Dr Kelly. “Let’s ask the people that the Australian Competition and Consumer Commission didn’t put first but should have – the consumers of information. An intelligent conversation with them is possible and vital at this turning point in our democracy.”

Find the full essay, *Prospects for journalism, the free information market and democracy in Australia under the ACCC’s News Media Bargaining Code* at https://543a0e22-a7ba-40a3-aea3-cc0010263a7e.filesusr.com/ugd/2b062e_9e3ed8ec55824bddb8c354f178e93bb4.pdf

Contact Australian Community Futures Planning at:

Mobile: 0432 347 043

Website: www.austcfp.com.au

Email: drskelly3791@gmail.com



acfp

Australian Community Futures Planning

Connecting Australians with a network of expertise to build
Australia’s first National Community Futures Plan

Australia Together



Dr Bronwyn Kelly is the Founder of Australian Community Futures Planning, author of [*By 2050: Planning a better future for our children in 21st century democratic Australia*](#), and creator of the videocast series [*The State of Australia in 2020*](#).

