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# Big Tech vs the Free Press

## Beyond censorship, Big Tech's capture of digital ad revenue poses a major threat to the free press. But it could now face a united transatlantic front

At the end of February 2021, two remarkable developments took place. First, Facebook and Google were trying to bully Australia over a new law requiring the Big Tech platforms to share digital advertising revenues with Australian media companies. Second, a dramatic shift over global taxation rules resulted from the G20 finance ministers' summit.

In a mostly unreported announcement, US Treasury secretary Janet Yellen told her G20 counterparts that the Biden administration was dropping the Trump administration's demand that US technology companies like Google and Facebook be allowed to voluntarily opt out of a proposed global digital tax agreement. This so-called 'safe harbor' provision was strongly opposed by the EU, and for several years had deadlocked negotiations over calls for tech companies to pay a larger share of their taxes in the countries where they operate.

For years, Facebook, Google, Amazon, Apple and other companies had shopped for tax havens, setting up skeleton operations in low-tax countries and booking all sales through that country. With the Biden administration signalling a new US openness to a common digital tax, as well as a global minimum corporate tax, Big Tech companies may soon be facing a united transatlantic front.

Part of that front is being driven by a fight for survival among traditional media outlets, not only in Australia but all over the world. Besides being gushing firehoses of Covid-19 and election disinformation, another of Google and Facebook's dangerous impacts has been undermining the financial stability of media outlets, from Australia to the EU to the US state of Maryland.

## Big Tech is draining the press

How do Google and Facebook threaten the financial well-being of the

free press? These two companies alone suck up an astounding 60 per cent of all online advertising in the world (outside China). With Amazon taking another 9 per cent, that leaves a mere 30 per cent of global digital advertising revenue to be split among thousands of media outlets, many of them local publications. With digital online ads now comprising over half of all ad spending (and projected to grow further), that has greatly contributed to underfunded and failing news industries in country after country.

Australia's situation is typical. Its competition commission found that, for every AU 100 spent by online advertisers in Australia, AU 47 goes to Google and AU 24 to Facebook, even as traditional advertising has declined. Various studies have found that the majority of people who access their news online don't go to the original news source, instead they access it via Facebook's and Google's platforms which are cleverly designed to hold users' attention. Many users never click through the links, instead they absorb the gist of the news from the platforms' headlines and preview blurbs.

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Effectively, the digital media platforms have turned thousands of publishers and broadcasters into little more than uncompensated ghost-writers for their platform content. Note that Facebook and Google could tweak their design and algorithms to purposefully drive users to the original news sources' websites. But they don't. They prefer to repackage and monetise product from the original producer without paying for it. In other industries, that's called theft.

So Australia decided to fight this duopoly with some rules-setting of its own. A new law requires large digital media companies to compensate Australian media companies fairly for re-packaging and monetising their proprietary news content. Media outlets around the world are watching to see how this plays out.

## Raw, naked platform power

Google initially made threats over the proposal, but finally negotiated deals with Australian news publishers to pay them some compensation. But Facebook flexed its digital muscles by cutting off Australia entirely from its platform for several days. This prevented Aussie news publishers as well as everyday users, including important government agencies like health, fire and crisis services, from posting, viewing or sharing news content.

The result was jarring, the proverbial 'shot heard "round the world".' Facebook censored Australian users more effectively than the Chinese communist government ever could, prompting charges of 'big tech authoritarianism.' Facebook finally relented to Australia's requirement, in return for some vague and uncertain concessions. But the message of raw, naked platform power was unmistakably clear.

Now a similar battle is playing out in the US state of Maryland. Over the last 10 years, US newspapers' advertising revenue has decreased by 62 per cent, and without that funding newsroom employment dropped by nearly half. That decline coincided with a huge increase in digital media use. Squeezed by these economics, Maryland approved the US's first tax on digital ad revenue (earned inside its state borders), targeting companies like Facebook, Google, and Amazon. The measure is projected to generate as much as USD 250 million in its first year, dedicated to schools. The tech giants are threatening lawsuits against Maryland, even as legislators from the US states of Connecticut and Indiana have introduced similar measures.

## The bigger picture: what's at stake

One of the most important, unsettled debates of the Internet age is whether digital media platforms like Facebook, Google/YouTube and Twitter are the new 'public square,' a kind of global free speech Agora, or just the latest techno variety of old-fashioned publishers and broadcasters. Or a hybrid in between.

Even before the this year's seminal events – the US Capitol ransacking and Facebook, Google, and Twitter deciding to discontinue 'publishing' the president of the United States – the Big Tech firms acted as publishers by turning over crucial decisions to their "engagement" algorithms about which content is featured at the top of users' news feeds, and what is promoted and amplified. Their sophisticated 'long tail' publishing machines use precise content-targeting to niche users, showing different content to different people, including political ads.

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These are not passive online chat boards, and the Big Tech platforms are not merely managers of the digital public square. They are 'robot publishers,' in which algorithms perform the essential duties of an editor. From a legal or accountability standpoint, it should matter little that there is a supercomputer behind the curtain instead of a human. In fact, these companies have more in common with the New

*and stop undermining the world's media and news outlets*

York Times, Bild and Rupert Murdoch than they do with an online wikiboard or free speech corner in London's Hyde Park.

Yet existing law does not treat these companies like a publisher or broadcaster, especially when it comes to liability or accountability. The digital media platforms like to hide behind the fact that they have billions of users generating content, which resembles an AT&T-like "common carrier" or public square role. But that should not obscure the centrality of their publisher role.

## Threat to the open internet?

Critics of the Maryland and Australian approach claim it threatens the principle of an open internet. They essentially demand that traditional news sources bear the financial burden of continuing to produce quality news without fair compensation – much as it demanded that Napster be allowed to distribute copyrighted music for free without compensating musical artists and record companies.

But the "open internet" principle must be balanced by the "copyright principle," which was established years before the Internet was even invented. Copyright law mandates that any individual person or organization cannot swipe someone else's content and monetize it without paying for it. There is something basic and fair about the digital media giants paying for the original news content that they use to drive traffic to their own sites.

The open internet principle is contributing to media financial instability throughout the world, and taken to its logical conclusion will cannibalize what's left of the news media. With no credible news sources to rely upon, Facebook, Google and Twitter would be even more overrun by the disinformation for which the platforms have become notorious. They are eating their own seed.

Democracies must stop this broken digital media ecosystem before these companies break our democracies. France and Austria have passed laws similar as Australia; Canada says it will adopt this approach, and possibly India too.

A lot is at stake in this battle over digital advertising-sharing, and the EU and US should lead the way to ensure that Big Tech media respect the sanctity of copyright law and stop undermining the world's media and news outlets. Unfortunately the Biden administration has been noticeably quiet, perhaps understandably, since it has a lot on its plate in

its first months.

It's also unfortunate that the EU's two-year old Copyright Directive has not yet been implemented by most member states. However, it is significantly weaker than Australia's new law, because it does not compel tech companies to submit to binding arbitration with news publishers if they can't agree on terms. Law professor Martin Kretschmer at the University of Glasgow says, "The Copyright Directive is already yesterday's law."

But a united transatlantic front at the G-20 over global taxation rules provides an opportunity for the EU and US to negotiate with other leading nations to establish a new standard that reins in these many toxicities of the Big Tech monopolies. It's time for governments on both sides of the Atlantic to step up their games.

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