Pressing Matters

A summary of two papers on payments from platforms to publishers

James Forder
Academic and Research Director

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Summary

- Technological development in recent decades has created serious challenges for the newspaper trade.
- It has been claimed that some of the difficulty they face arises from exploiting market power by certain online platforms that allow users to post snippets of news from traditional publications without payment.
- It has therefore been proposed that regulations be created which would have the effect of requiring such payment.
- However, the best evidence contradicts the view that such market power exists.
- In fact, although the platforms certainly benefit from carrying the news snippets, the traditional publishers also benefit substantially and there is no good reason for additional payments to be made.
- Mechanisms requiring such payments run a severe risk of disturbing the technological development and innovation process in the industry to the long-term harm of consumer interests.
- In any case, abuses or market power, if they occur, should be dealt with by established competition law. The practice of designing custom-made regulations for particular sectors creates legal complexity and facilitates interest-specific lobbying.

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About the author

James Forder is Academic and Research Director at the Institute of Economic Affairs. He is also an academic economist and a historian of economic theory. He has written principally on central bank independence, the history of the Phillips curve, and the work of Milton Friedman. He is a fellow of Balliol College, Oxford.

Introduction

Traditional news media, particularly printed newspapers, have had a very tough time. At first view, technological developments of the last few decades might have benefited them. They have reduced the costs of producing and certainly of disseminating news. However, in doing so, they have also increased the competition the established media firms face. There has been increased competition both in the provision of news, and in the market for the sale of advertising space.

At about the same time, large online platforms have come into existence and become part of the news-dissemination infrastructure. By various means, small news snippets originating with other organisations appear on platforms such as Facebook with a link to the originator. Evidently both Facebook (and others in a similar position) and the originators of the news benefit from this arrangement. However, it has come to be alleged that the platforms benefit from the arrangement more than the media providers and consequently that the platforms should be paying the original publishers of the news to have it appear on their platforms.

In this context, it is claimed that certain of the platforms – notably Facebook and Google – have market power, and that the use of this power allows them to avoid payment to the news publishers. The existence of this market power would be a market failure, calling for state action to redress the balance. The alleged failure of Facebook and Google to pay for this content is also seen as contributing to the difficulties of traditional news publishers, and may be suggested both to threaten their financial viability or at least their ability to continue to provide high-quality news. The remedy is frequently seen to be that arrangements should be made by which the platforms will be required to pay a fair amount to the news publishers.

However, the argument appears to be multiply flawed. Its logic is questionable. The factual claims about market power which are essential to it appear dubious. The best research calculating the relative benefits to the platforms and publishers from their interaction suggests they are well-enough balanced to be left alone so that no payment should be made. Easy-to-anticipate further consequences of such payments being required are likely to be detrimental to the development of the news industry and digital platforms. The wider outlook which appears to motivate some of the support for the proposal is threatening economic development more generally.

In what follows, I focus on summarising two recent papers on the matter – one by Matthew Lesh, 'Breaking the News', for the IEA, and one by Jeffrey A Eisenach of NERA Economic Consulting, 'Meta and the News: Assessing the Value of the Bargain', and offer some additional comments.

The logic of the argument

The argument, stripped to essentials, is that platforms benefit from the provision of quality news and that they act so as to make its provision financially non-viable. It would be curious if that were the case. It should be noted, of course, that from the point of view of social welfare, whilst the provision of quality news may well be important, its provision *by the traditional news publishers* is an irrelevance. If it is the case that platforms benefit from displaying news content to an extent greater than the cost of supplying it; and if it is the case that traditional publishers will go out of business, we can expect platforms to find other ways of acquiring that news, including perhaps by producing it themselves.

The claims about market power

In practical terms, in this argument, attention usually focuses on the alleged market power of Facebook and Google. The character of the power in question is said to be that these organisations are in such a market position that it is a business necessity for traditional publishers to have their material appear on the platforms. The traditional news providers, on the other hand, do not have a similar market power since there are many of them, and the news from any particular one is of little or no importance to the platforms. The platforms are therefore in the position of 'monopsony buyers' of the news items and are able to hold down the price. A crucial question is therefore whether these platforms do have market power or, putting it slightly loosely, whether they are 'must have' outlets for the traditional publishers.

Eisenach argued that Facebook in particular does not have such power on two grounds:

1. The traffic going to news publishers from Facebook, whilst worthwhile, is not great. It is estimated to be worth something like 1 per cent or 1.5 per cent of the publishers' total revenue. In the absence of Facebook, some of that traffic would find its way to the publishers by other routes. The amount is simply not enough to make Facebook a 'must have' resource;
2. Other platforms, such as Twitter, which are not alleged to have market power, appear not to pay for news from the publishers. If those known to have no market power make no payment, the absence of payment is no indication of such power.

The value of services exchanged

It is agreed that platforms and traditional publishers both benefit from the appearance of news on the platforms. The attractiveness of using the platforms is enhanced by the presence of news, and readers are led to the publishers' websites (or possibly their print editions) by what they read on the platforms. It is also agreed that any payment made (in either direction) should reflect the relative benefits accruing to the two sides of the transaction. That is to say, for example, only if value of hosting news to the platforms is greater than the value to the publishers of having it hosted, should the platforms pay, and then they should pay only the difference in the values. Much effort has gone into seeking to understand these values.

Eisenach made a careful study of the benefits to Facebook of having news on the site. He noted in particular and with much evidential detail that:

1. Links to news content are a very small proportion of what Facebook users see in their feed;
2. Research suggests that users generally feel there is too much news on platforms, but at least in the case of the UK that feeling is much more marked in relation to Facebook than other platforms;
3. Unsurprisingly, research also shows that social media such as Facebook is the preferred news source for only a relatively small proportion of people (and much smaller than either television or specialist news websites and apps);
4. The proportion of people using Facebook for its news content has been shown to have been in marked decline since 2016.

Eisenach naturally drew the conclusion that the value to Facebook of news is small and declining. He further argued that even the small percentage of items in a user's feed that are news items suggests an overestimate of the value of news to Facebook. He suggested that if news were not there, it would be replaced by something else, and users would to some extent engage with that. Further, he pointed out that advertisements are targeted at the users not the items viewed, so that in the absence of news they would be attached to other items. For both reasons, the loss of advertising to Facebook, Eisenach argued, would be less than proportional to the loss of items in a user's feed. Lesh, similarly, points out that Amazon has built up very effective advertising without any news.

He also observed that Facebook has been consciously diminishing its news content. That clearly suggests the organisation appreciates that it is not greatly valued by its users.

Considering the value of appearing on Facebook to the news publishers, Eisenach noted that the publishers expend considerable resources on posting items on Facebook and seeking to maximise the traffic it delivers to their own sites. Although convincing data is sparse, he estimated that the value to news publishers of traffic brought to them by Facebook might be something like 1 per cent to 1.5 per cent of their total revenues. Lesh also points to numerous indications of the publishers benefiting from having their news on the platforms.

Lesh also notes the not inconsiderable point that Facebook and similar products provide valuable resources for journalists and in that way contribute to the production of news by its publishers. He also cited several studies showing that Google News, at least, pushed traffic towards news websites and so was not a substitute for them. He cited numerous other pieces of evidence of platforms driving users to news websites in large quantities.

Overall, there seems to be no convincing case that platforms benefit disproportionately from this interaction. It should also be noted that even if there is a market failure, inaccuracies in the calculation of appropriate responses can lead to outcomes less efficient than the original one.

Further issues arising in mandating payments

The nature of the internet, and internet platforms, is that they have disrupted the old ways of doing business. This is detrimental to some interests and beneficial to others. It is impossible to know how the industry might settle in the longer term. As Lesh argues, various routes have been and are being tried by traditional news publishers. Any, or indeed all of these might prove effective and provide ways for traditional news publishing to flourish in a market environment, subject to market discipline and market reward. The proposal to mandate payments from some organisations to others for the performance of specific actions removes most of the market discipline. It makes the rewards to the traditional publishers depend upon the ongoing willingness of the regulator to require payments to them, and is not a proper reflection of consumer satisfaction.

If requiring such payments is contemplated, consideration should be given to what further consequences they will have. Without specific knowledge of the rules by which payments are calculated, it is hard to be specific about their likely effects. However, some definition is required of the qualification for receiving payments. Then it must be clear that a very encompassing definition will result in the creation of entities, ostensibly supplying news, but actually existing because of the subsidy they can attract from the platforms. This serves no useful purpose and wastes economic resources as a direct consequence of the regulation. No doubt for this reason, in places where such payments are required, such as Australia, eligibility has been more restricted. The difficulty with that has proven to be, as Eisenach observes, that the arrangements favour large and powerful media organisations. He cites evidence that 90 per cent of revenues arising from the arrangement have gone to the three largest media companies.

As a general proposition it seems unlikely that the largest media companies will be those most in need of subsidy, or those most lacking in bargaining power in the marketplace. On the other hand, it is likely that they will be well placed to continue lobbying governments and regulators for the maintenance and possibly enhancement of the payments they receive. The scheme, once created to favour large organisations is unlikely ever to do anything other than favour them more and more as time goes on.

As Lesh notes, depending on the details of a scheme, it might well be that it promotes not the responsible journalism which is supposedly endangered by the platforms' market power, but the clickbait journalism that will attract payments. Or, the rules might incentivise the platforms simply to carry less news. That would have the potential to be damaging to the news publishers.

A different kind of consideration, but potentially a very important one, emphasised by Lesh, is the effect that the proposed payments may have on innovation and the development of technology and practice in this market. The fact that the arrival of the internet has shaken-up traditional news reporting and publication does not mean that there is no way for it to survive in the new environment, but merely that such a way has to be discovered. There are, as Lesh notes, clear signs of a return to a 'subscription' model of news publishing being effective, but equally, The Guardian has returned to profit without subscriptions. What is required is experimentation. But what payments from the platforms are in effect intended to do, is make that experimentation unnecessary. Since innovation might well come from market entrants, the Australian experience of platform payments benefiting the largest organisations is again telling. The proposal for platforms to subsidise news providers threatens to stifle market innovation.

The wider outlook from which the proposal arises

If it is true that platforms have market power over traditional publishers and are using it to distort prices, there is a case that they should be prevented from doing so. However, that should be achieved through competition law and the courts. Instead, it is proposed to customise specific regulations aimed at this particular sector. The expansion of such an approach threatens us with an impenetrably complex system of regulations governing all sorts of activity. We end up with an economic system that is law-governed only in the formal sense that all the rules arise through a process of legal enactment. In fact, there would be no common framework controlling behaviour, but each sector would be regulated according to the balance of lobbying power and political influence in that particular area. It is a recipe for crony capitalism.

There is a further point that the seeking of customised regulation to the benefit of a particular sector is itself suggestive of objectives which are not those of economic efficiency. Indeed, as Lesh noted, the advocacy of requiring payments by platforms for news is frequently couched in terms of the social desirability of maintaining journalistic standards. As Eisenach said, there is no relationship between the difficulties of maintaining quality journalism and any presumed market power of online platforms. The difficulties of maintaining quality journalism arise from the low costs of producing online content and the consequent large number of often low-quality competitors in the market. To require platforms to pay the traditional news publishers is mere opportunism, not principled policymaking.

It should also be noted, as Lesh implies, that the interest that these media companies then have in keeping in favour with the regulator and hence, at one remove, the government, may itself be something that damages their objectivity in reporting and commenting on the news. More generally, the threat from the proposed payments is that, in seeking to address an imagined market power in an ever-changing environment, policymakers will create a permanent arrangement where it is political and lobbying power that is crucial in achieving business success.