

# THE FUTURE OF MEDIA

## DMG Media Ireland

### Introduction

DMG Media Ireland is a multiplatform publisher of news, sport, business and entertainment across two national newspapers (the Irish Daily Mail, Irish Mail on Sunday) and five websites, Extra.ie, Evoke, Rollercoaster.ie, OneFabDay.ie and MailonLine. Employing 130 staff in Dublin, our brands reach 3.6 million Irish citizens every month with career professional journalists providing quality content. We are members of the Press Council of Ireland and all our publications operate within the Press Council Code of Practice. We are also active members of Newsbrands Ireland and the IAB.

In addition to the development and launch of our own digital brands ([www.extra.ie](http://www.extra.ie), [www.evoke.ie](http://www.evoke.ie)), we have also expanded our portfolio of digital brands through the acquisition of complementary websites such as [www.rollercoaster.ie](http://www.rollercoaster.ie), and [www.onefabday.com](http://www.onefabday.com). In doing so, we are adapting and reinventing our business in response to the consumer switch to digital media from newspapers whilst navigating by the same high standards and codes of practice which have served the news publishing industry well for centuries. While consumers choose to read content in new ways, the same ethical pillars of factual, accurate, honest and reliable journalism continue to inform DMG Media's output across all its titles.

We recognise that media plays a crucial role in sustaining democracy and there are live examples of real and active threats to democracy when balance is lost.

This same balance is under threat in our republic. Irish publishers (and broadcasters in fact) are at a competitive disadvantage from multiple sources. As a nation, we tax reading through the imposition of VAT on newspapers and we unfairly punish news publishers through an antiquated defamation system. Through a distorted advertising system anonymously monopolised by Google and FaceBook, we compete for business locally against scale players who take advantage of global cost efficiencies while producing no content themselves.

Delivering factual accurate and informative journalism to Irish citizens is expensive and news publishers must be properly funded through the generation of commercial revenues to do so.

We welcome the mission and opportunity the Commission has before it to address this lack of balance and protect the national consumption of media. Whilst we all welcome competition, Irish media companies need to be afforded a level playing field now to avoid being casualties in the very near future. Without the action of the Commission, it is likely that some household names we take for granted as the sources of Irish news will simply cease to exist in the vacuum of random social posts masquerading as news.

## **RESPONSE**

### **DMG Media Ireland**

1. DMG Media Ireland welcomes the opportunity to respond to the consultation on the Future of Media in Ireland. As a major publisher across five websites and two national newspapers, DMG Media Ireland has a substantial stake in the shape of media in Ireland both now and in the future.
2. DMG Media Ireland is a significant provider of public service content as defined in the consultation and as such, we believe our response is best placed to focus on Question 1 and specifically the systems which 'may be required to support and sustain public service content, e.g. high quality independent journalism, in an increasingly competitive and consolidated market'.
3. In summary, we believe that commercial news publishers' ability to invest in quality journalism at local and national level is threatened by the lack of a level playing field in competing with big tech and its exploitation of inequality of bargaining power. In addition, when competing with publicly funded public service media, we believe greater transparency is required to avoid the potential distortion of competition caused by publicly funded content in the commercial marketplace. In the absence of measures to address these issues, commercial news publishers may be unable to sustain their investment resulting in decreased diversity of news publishing and plurality of providers.

### **Dominance of Search and Social Media Platforms**

4. The major area of concern regarding a level playing field is the dominant market power of the major search and social media companies in the digital advertising market, particularly Google and Facebook.
5. As media consumption habits have evolved over the last number of years from print to digital, so too have news publishers' offerings with many publishers now operating a 'digital first' policy in terms of publication. And as advertisers follow readership, while the print advertising market has decreased, the digital advertising market has increased massively during the same period. The digital advertising market is now c. €500 million, well in excess of print advertising's peak of €367 million in 2007 and a significant multiple of the current print advertising market of c. €70 million.
6. In a total advertising market of c. €1 billion (2019), digital's share is c. 50% with only c. 5% of this figure (€26 million) earned by the members of Newsbrands, the trade organisation which represents the national news publishers in Ireland. The

vast majority of the remaining revenues (€425 million) are shared between the two major search and social media companies, Google and Facebook. As news consumption has moved online, news publishers have become heavily dependent on Google and Facebook to generate user traffic, which is then monetised through advertising.

7. The result is therefore a complete imbalance of power between the news publishing industry, required by law to be both plural and diverse and offering a vast range of content and political viewpoints aimed at every segment of the audience – and the tech giants, not only dominant in their native markets of search and social media but seeking to extend that dominance across other markets as they emerge. This has been recognised by, inter alia, the UK Competition and Markets Authority last year in its report which stated ‘publishers have very little choice but to accept the terms offered by these platforms, given their market power’

- **Programmatic Advertising**

8. One of the major obstacles to news publishers being able to make a satisfactory return is the complex and opaque nature of the digital advertising market, effectively controlled by the two global platforms, Google and Facebook, but with revenue streams filtered through a host of intermediaries.
9. Digital advertising is placed in two ways: either through a direct commercial relationship between the advertiser and the publisher, or through the programmatic process where, every time a page is viewed by a member of the public, ads are served through an electronic auction by which, in theory at any rate, the marketing requirements of the advertiser are matched to data stored about the consumer.
10. We know, because the markets concerned are reasonably transparent, that for every euro spent by a print advertiser or a digital advertiser which books space directly with DMG Media Ireland, we receive c.80 cent. However, the opacity of the programmatic advertising market means that neither we nor the advertiser know for certain what proportion of the programmatic advertiser’s euro reaches the publisher. We estimate in our case that it is only around 50%. This is because of the large number of intermediaries in the ad-tech supply chain, and the market position of Google DoubleClick Ad Exchange against other ad exchanges.
11. This appears to be borne out in the UK. Research by the advertisers’ body ISBA in the UK last year shows digital news publications receive on average only 51p in every £1. Lack of transparency in the digital ad supply chain means that where the other 49p goes is not clear – ISBA reported they were unable to account at all for 15p of every advertiser’s £1 – the ‘unknown delta’.

12. We believe that full transparency is required to ensure intermediaries are giving full value to both advertisers and publishers, and to root out anti-competitive practices.

- **Algorithms**

13. An additional problematic practice is the operation of algorithms in the surfacing of news publishers' content to users. Through their algorithms, both Facebook and Google and other platforms can control and manipulate the market in digital news, favouring some publishers and penalising others. These are effectively editorial decisions as the algorithms which govern search and social media are not neutral but are editorial decisions written as computer code and likely reflect the changing commercial, social or political priorities of the platforms. We believe this to be unfair and potentially anti-competitive.

14. Google operate the largest ad serving platform in Ireland, (Google Ad Manager) used to deploy display and video ads on publisher sites. Google often applies oblique algorithms that can demonetise a publisher's inventory with no clear explanation or reason. Examples of this include invalid traffic and incorrect content safety classification and the publisher will have no insight into the logic or reasoning behind these costly decisions.

15. These algorithms are secret to which changes can be made without warning, explanation or means of redress, creating serious harm to news publishers whose visibility is suddenly and inexplicably diminished. This occurred to DMG Media when in June 2019, a core algorithm change by Google caused MailonLine's search visibility to crash by 50% overnight.

16. A potential solution would be to require the full transparency of algorithms. This is necessary to demonstrate that all news providers are treated in the same way, without discrimination for commercial, political or any other reasons. Transparency would also allow news publishers to adapt their search engine optimisation when algorithms are changed, ensuring fair competition and secure business planning, rather than subjecting publishers to the arbitrary swings in search and social media performance seen at present.

17. This transparency would have to be enforced; there should be a regulatory authority to rule on complaints from third parties including news publishers regarding discrimination in algorithms and/or specific recourse to the courts.

## - **Payment for News Content**

18. A further issue illustrating the imbalance of power between news publishers and social media and search platforms is the absence of adequate consideration paid by the platforms for news publishers' content. The platforms use our content to drive and retain traffic on their networks with little or no compensation. In doing so, they are in a position to accumulate data provided by users accessing news content and sell that data to advertisers without having properly to reward news publishers.
19. Publishers, as part of an industry which is naturally and rightly fragmented, have been unable to challenge the monopoly power of the platforms for the news content they supply.
20. We await the imminent transposition into Irish law of the Publishers licencing right contained in Article 15 of the EU Copyright Directive this year, which introduces the legal standing for publishers already enjoyed by music, film and broadcasters in respect of copyright online. However, it is uncertain as to the level of revenues to be derived from the new right until negotiations with the platforms are commenced and concluded.
21. In this regard, it may be useful to look to other jurisdictions addressing this issue. We believe that the Australian Competition and Consumer Commission's proposed approach provides a potential template for Ireland. There, the proposed legislation does not rely on copyright but regulatory action under competition law to remedy imbalances in negotiating power.
22. It includes, inter alia;
  - An obligation on platforms to enter into negotiations with publishers to agree payment terms
  - Time limits to ensure negotiations are not stalled
  - If negotiations fail, a mandatory arbitration process with a 10 day time limit
  - Disclosure to ensure that the platforms reveal the information necessary to value news content for the relevant platform
  - Penalties if agreements not observed
  - Advance notice and explanation of algorithm changes

### **Public Service Media/Commercial News Providers**

23. A second area of concern for news publishers is lack of transparency of publicly funded news publishing and its monetization in the digital advertising market.

24. DMG Media Ireland is not a broadcaster, and public service broadcasters have not been in the business of publishing newspapers. Therefore, whilst over the decades our news titles and RTE may have had political and cultural differences, commercial rivalry has been limited, with the exception of the RTE Guide, to the overall advertising market across all media.
25. However, the coming of the digital has changed that. The unlimited possibilities of the internet have destroyed the rationale of that arrangement. Satellite, cable, and now streaming have brought new competitors into the entertainment market, global players with vastly greater resources than RTE.
26. RTE, as opposed to concentrating on its core service, has over the years expanded, offering not only more broadcast channels, but also becoming a major player in news delivered through the written word and video by launching an ever more ambitious online news service, RTE.ie.
27. In doing so, RTE, as a digital news publisher, is now competing directly for revenues in the online digital marketplace with other news publishers and has made the task of existing news publishers, most of whom who have successfully migrated their journalism from print to digital, all the more challenging.
28. The challenges are manifold. Commercial news publishers as they migrate from print to digital have to make a choice to focus on mainly either subscription revenue *or* advertising revenue. Mass-market titles such as Extra.ie and TheJournal.ie have opted for the advertising business model. Others such as the Irish Times and recently the Irish Independent have opted for the paywall/subscription model which, whilst offering a reliable revenue stream, reduces audience reach, and therefore page-views. As online advertising is based on page-views, any benefit subscription revenue brings has to be balanced against reduced advertising revenue.
29. RTE does not charge for its online news services. In addition to posing an extra challenge to the news publishers' subscription model by creating an expectation of free delivery of online news, this means that, as the largest Irish public service digital content provider, RTE.ie derives the largest share of digital advertising revenues of all news providers in the country (albeit this share, and indeed the total share enjoyed by Irish news publishers, pales into insignificance in comparison to the massive share enjoyed by the global search and social media platforms).
30. Were this as a result of the operation of market forces in a competitive marketplace, it would be normal. However, if RTE derives its position in digital advertising as a result of public funding i.e. the licence fee, we believe this would be an unfair distortion of competition and risks undermining the sustainability of

commercial public service content providers such as DMG Media Ireland and other digital news providers by reducing revenues critical to their success. The absence of transparency as to the use of its public funding is unhelpful.

31. It is therefore, critically important to ensure fair competition between the independent news media and the licence fee funded public service media particularly in its role as online publisher competing with commercial news publishers for audience share and revenues. We would welcome greater transparency and accountability on the part of RTE, independently verified, which would assure its competitors that RTE's public service and commercial activities are being carried out at arm's length and that the principles of fair competition in the marketplace are being properly applied.

### **Looking Ahead**

32. It is the responsibility of industry, including news providers, to adapt to changes, identify audiences and build successful products and services, including the continued provision of high quality public service content, to serve those audiences. However, this requires a level playing field to secure the resources in order to sustain news publishing. If this is hindered by anti-competitive practices, it is the responsibility of the relevant authorities to take steps to ensure a fair and competitive market place thereby unlocking digital competition

33. Such steps may include, inter alia;

- Enforcement of transparency of algorithms through legislation or regulation
- Prompt implementation of EU Copyright Directive to ensure the copyright licencing regime provides appropriate revenues for news publishers
- A market examination of digital platforms and of the digital advertising market by the Competition and Consumer Protection Commission with a view to assessing whether intervention is necessary to reduce platform dominance and to increase transparency and competition in the advertising market

### **General**

34. In addition to the concerns raised in respect of a level playing field, DMG Media Ireland would welcome the Commission's consideration of the following:

- **Defamation**

35. The Commission may be aware of the draconian defamation laws in place in Ireland which operate in ways which have a significant chilling effect on public debate. The current situation significantly impacts the ability of DMG Media Ireland and other news publishers to operate in a fair and effective manner to the benefit of Irish consumers.

36. A European Commission report published late last year has expressed concerns about Ireland's defamation laws. The Report notes that frequent defamation claims, the high cost of defending claims and the high damages awarded in Irish claims, are seen as a constraint to media freedom a detriment to reporting on corruption.

37. DMG Media Ireland has played an active role through Newsbrands in highlighting to Government the adverse impact of the current regime and as part of the review of the 2009 Defamation Act, has called for, inter alia, the following changes;

- the introduction of a 'serious harm' test, already in operation in a number of jurisdictions including the UK
- a cap on damages, which in Ireland is often multiples of those awarded in other jurisdictions
- the abolition of juries, which would likely reduce costs and shorten duration of trials
- specific protection for news publishers in respect of user generated comments on articles published

38. Given that the review commenced over four years ago (November 2016), we would welcome a recommendation from the Commission that there be no further delay in publishing the review.

- **Tax relief**

39. Given the current challenging market conditions and the impact of Covid 19, we recognise that there are major challenges ahead for Ireland Inc. in restarting the economy. Advertising will be central to this and we understand that consideration is being given to the introduction of a tax credit scheme for advertisers as a way of fuelling business momentum. DMG Media Ireland would support such a scheme.

40. It is important however, that any scheme is constructed in such a way as to ensure that significant spend goes to news publishers and broadcasters, which use it to



fund socially valuable news services, rather than flow directly to the already hugely profitable search and social media platforms.

## **Conclusion**

DMG Media Ireland plays an important role in the effective functioning of Irish society through the provision of outstanding public interest journalism to Irish customers under any or all definitions of public service content including the working definition of the Commission.

We believe that in order to secure a sustainable future for high quality journalism, the Commission's recommendations should aim to achieve the following;

- For Publishers, that we and the global tech companies are able to work together in a business relationship that is transparent, competitive and ensures digital news publication is an enterprise which generates appropriate revenues to deliver investment in high quality journalism
- For Irish consumers, that they have access to at least as wide a range of local regional, national and specialist news sources as they have enjoyed in the print era, and the pluralism of those news sources is guaranteed by commercially funded independence.

