

## **DMG Media—written evidence (FON0030)**

### **House of Lords Communications and Digital Select Committee inquiry: The future of news: impartiality, trust and technology**

1. This response is made on behalf of DMG Media, publishers of the Daily Mail, Mail on Sunday, MailOnline, Metro and metro.co.uk and, through its sister company Harmsworth Media, the i, inews and New Scientist.
2. The Committee's inquiry comes at a time of huge challenges for journalism. Not only are there ongoing conflicts in Ukraine and Gaza, 2024 is a year in which no less than 64 countries, representing half the population of the world, face national elections.<sup>1</sup> Well-resourced, accurate reporting could not be more important. But where are those resources, and how will they be sustained as the digital revolution gathers pace?
3. We are very grateful to this Committee for the support it has given to the Digital Markets, Competition and Consumers Bill (DMCCB), which should become law by the summer. It is a ground-breaking piece of legislation, and the principles-based approach of its digital sections should ensure that Digital Markets Unit will have the flexibility it needs to tackle new problems as they emerge. Other parts of the Bill present worrying problems, which we shall address.

### **Executive Summary**

4. The difficulties in sustaining and monetising a reliable news service are huge. 2024 began with the news that the latest 450 redundancies at Reach – by far the UK's biggest publisher by number of titles – would include the highly-respected Editor of The Mirror, Alison Phillips. This was on top of 350 job losses last year. The company blamed a 21% drop in online pageviews and 13.7% fall in digital revenue, caused by Facebook and other social media platforms de-prioritising news.<sup>2</sup> Meanwhile it was reported that staff at The Guardian have been told that the weak advertising market will see the newspaper record a £39m loss for 2023.<sup>3</sup> But the fickleness of digital platforms and poor return on digital ad sales are by no means the only problems facing the news industry. In this paper we shall examine:
  - The threat to subscription revenue from highly proscriptive cancellation requirements set out in the DMCCB.

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<sup>1</sup> <https://time.com/6550920/world-elections-2024/>

<sup>2</sup> <https://www.theguardian.com/business/2024/jan/14/alison-phillips-to-quit-as-daily-mirror-editor-amid-reach-budget-cuts>

<sup>3</sup> <https://www.thetimes.co.uk/article/guardian-braced-for-job-losses-as-online-ad-drought-hits-publishers-2gn7d5d3v#:~:text=Staff%20at%20the%20Guardian%20newspaper,the%20wider%20digital%20advertising%20market.>

- The threat to digital ad revenue from recent action by the Information Commissioner over cookie consent, which could result in news publishers being obliged to give away their content for free.
- The threat to digital ad revenue from Google's Privacy Sandbox, which according to our testing will not compensate for the deprecation of cookies in the Chrome browser.
- The challenge in monetising new channels for news delivery. It is vital news publishers invest in the future by developing new channels for their content, such as TikTik and podcasts - but while we have had great success finding new audiences, monetising the traffic is far from easy.
- The challenge of AI. Questions around AI and copyright remain unresolved. AI depends on huge volumes of news content. It is very important that news publishers remain in control of the content in which they have invested, and that the law gives them the means to negotiate satisfactory licensing deals.
- Trust in news. As AI threatens a huge increase in the volume of unreliable news on the internet, could the Recognised News Publisher definition developed for the Online Safety Act provide a simple means of helping the public to identify responsible news sources without risking freedom of expression?
- Plurality. As the market for news becomes simultaneously ever more diverse and global in its scale, existing British publishers will have to consolidate in order to compete. They cannot do so effectively under rules written for the era of print and terrestrial broadcasting.

### **The threat to digital subscriptions from the Digital Markets Bill**

5. Our industry has campaigned ever since the 2018 Cairncross Review for the advertising measures contained in the DMCCB. They should go a long way to address the anti-competitive practices of the tech platforms, by ending self-preferencing in digital ad auctions, ensuring transparency of algorithms and delivering fair payment for the use of news content.
6. This is vitally important because the platforms' dominance of ad markets increases with every year which passes. In 2023, a sluggish market for advertising generally, all the growth in UK advertising revenue was taken by the platforms. Overall, the market grew by 2.6%, but national newsbrands' revenue (print and digital) fell by 8% and regional newsbrands by 14%.<sup>4</sup>
7. This should improve once the Digital Markets Unit has designated platforms with Strategic Market Status and started issuing conduct

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<sup>4</sup> [UK ad spend to grow in 2023 - but only the tech giants will benefit - Press Gazette](#)

requirements. However, that is likely to be at least a year away, and may be longer if amendments to the DMCCB's appeals process, made by the Government in response to tech platform lobbying, broaden the grounds on which appeals can be made. The amendments have rightly faced criticism by peers from all parties during committee stage debates in the Lords, and we are optimistic they will be overturned.

8. In the meantime, many publishers have tried to safeguard their revenue streams by introducing subscription schemes. In the case of DMG Media we operate subscriptions for the i and New Scientist websites, and recently introduced them for premium content on MailOnline.
9. Unfortunately, in addition to its core digital measures, the Digital Markets Bill also imposes requirements on subscriptions. This part of the bill was originally separate legislation, sponsored by the Department for Business and Trade rather than the Department for Culture, Media and Sport. We are sure no one would disagree that someone who has taken out subscription, possibly on the spur of the moment, should not be able to cancel it easily and quickly. Indeed, the original consultation paper for the Bill called for businesses to 'provide consumers with a mechanism to cancel a subscription contract that is straightforward, cost-effective, and timely.'<sup>5</sup>
10. However, when the Bill was drafted this became a requirement that consumers must be able to cancel a subscription in a single communication, delivered by any means. At risk of being facetious, this could include by tweet or even carrier pigeon. The cost of compliance is now estimated at £1.2 billion in the first year alone. But more significantly it threatens to hugely increase churn and rob businesses of the chance to improve their service through contact with consumers.
11. The current industry norm is for subscriptions to be taken out online and ended by a phone call to a call centre. This gives consumers a window of bargaining power and businesses an opportunity to offer an alternative package. We find a large proportion of consumers are not dissatisfied with our service as such but have subscribed to a package which doesn't suit them. At present around 40 per cent of subscribers seeking to cancel actually continue their subscription, but with a different, often cheaper, package.
12. If subscriptions are to be maintained as a sustainable source of revenue to fund reliable journalism, it is vital that businesses are allowed to maintain call centres as their chosen channel for cancellation – with any guarantees that are necessary to ensure reasonable response times and opening hours. One solution, tabled by Lord Black of Brentwood in a series of Lords amendments would be to return to a principles-based requirement that businesses must enable consumers to cancel 'in a manner that is

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<sup>5</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1004096/CCS0721951242-001\\_Reforming\\_Competition\\_and\\_Consumer\\_Policy\\_Web\\_Accessible.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1004096/CCS0721951242-001_Reforming_Competition_and_Consumer_Policy_Web_Accessible.pdf) p.90

straightforward, timely and does not impose unreasonable cost on a consumer', with the detail left to guidance notes.

13. Alternatively, the requirement could be amended on the face of the Bill in a way that would leave businesses with the option of arranging cancellation of subscriptions via call centres, subject to guarantees on response times and opening hours. DMG Media has worked on a draft for such an amendment, which we would be happy to share with the Committee if there is interest.
14. Another issue which bedevils news sites with subscriptions is the tax rules. Print newspapers and news websites updated periodically like a newspaper are zero-rated for VAT; rolling news websites, which arguably offer a more valuable service to the public, must pay VAT on both subscriptions and advertising. It is hard to see the logic of this distinction.

### **The threat to digital ad revenue from the ICO's cookie consent policy**

15. In November last year The Information Commissioner (ICO) wrote to 53 of the UK's 100 most-visited websites demanding that their cookie consent screens give equal prominence to 'Accept All' and 'Reject All' cookie options.<sup>6</sup> In general, the websites concerned operate consent screens that position 'Accept All' or its equivalent alongside a 'Manage Cookies' button which takes the user to a second screen where they can choose how they would like to configure their cookies, including a Reject All option. This has been widely accepted as complying with the law for a number of years, and it is not clear why the ICO is now interpreting it more rigidly, or whether its new interpretation would be supported by the courts.
16. Cookies allow advertisers to personalise their advertising so it is served to users whose browsing history suggests they may have an interest in the product being advertised. Personalised advertising is more efficient for advertisers than contextual advertising, which is simply sold against the editorial content around it, and therefore delivers a higher yield. At present very few users have enough concerns about data privacy to go to the second page to switch off cookies. However, it is reasonable to assume that if 'Accept All' and 'Reject All' appear side by side on the first layer of the cookie screen a much higher proportion of users will choose 'Reject All'.
17. The problem for publishers is that users who chose 'Reject All' will not be paying for the product they consume. At present 93% of MailOnline users choose 'Accept All'. The experience of competitors who have trialled placing 'Reject All' with equal prominence to 'Accept All' on the first consent screen is that the consent rate drops to 50%. Our modelling shows this would cause a 41% drop in monthly ad revenue. When Apple introduced App Tracking Transparency (ATT) the consent rate dropped

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<sup>6</sup> <https://ico.org.uk/about-the-ico/media-centre/news-and-blogs/2023/11/commissioner-warns-uk-s-top-websites-to-make-cookie-changes/>

even lower, to 30%. This would cause a 60% drop in monthly revenue. In money terms, this means the ICO's action threatens to cost DMG Media between £27.6m and £40.8m on MailOnline in the UK alone – the impact across Europe will be even greater.

18. Unfortunately, the ICO has also decided that Reject All must exclude all cookies, including those used for purposes other than personalisation, such as brand safety, ad measurement, frequency capping and business analytics. Without these cookies advertisers will be unable to check their ads have been served in the correct way and therefore very reluctant even to place contextual advertising, leaving publishers with no revenue at all. Meanwhile, reliable journalism requires teams of reporters, photographers, editors and lawyers, all of whom have to be paid.
19. There may be a solution to this problem. A number of major news websites in the EU, including Der Spiegel, Bild, Le Monde, La Repubblica and Corriere della Sera, operate a system known as Consent or Pay. This gives users the choice either to accept cookies, and pay for their news by receiving personalised advertising, or pay a small subscription charge and receive their news without cookies or ads. This has been approved by European data protection authorities as long as the cost of a subscription does not exceed the revenue lost as the result of being unable to serve personalised advertising. DMG Media has contacted the ICO to suggest developing a similar model, which we believe would enable us to give a cookie-free service to those users who want it, without losing revenue.
20. However, we have expressed concerns in the past that, until the DMU becomes operational, the only regulator in the digital arena is the ICO, and it often acts as though its only remit is data privacy. We are sure the Committee would recognise that, while it is right that people's data should be protected, it is equally important that the public should have access to reliable, independent news, and that advertising has always been an efficient way of funding it at the lowest possible cost to the consumer.
21. The committee may think it is time to reexamine data protection law, so that the ICO has to take into account priorities other than data privacy, or make the ICO part of a wider, more comprehensive regulator. We are not aware of any other business which is obliged by a regulator to give consumers the choice to enjoy its products completely free of charge. How would a supermarket survive if it was forced to give customers the choice to walk out with their shopping, without stopping at the till?

### **Privacy Sandbox**

22. There is likely to be further pressure on advertising revenues from the introduction of Google's Privacy Sandbox. In essence this replaces the tracking of individuals by third-party cookies with the grouping of user actions and content consumption in cohorts, through which advertising can be targeted. Critics have been concerned that many components of ad tech today do not appear to be supported, namely tracking limitations and video delivery, which puts Google at a competitive advantage. With

Google moving operations into its Chrome browser, there are also increasing concerns related to auction manipulation.

23. After a successful campaign by the Movement for an Open Web, a coalition of independent adtech companies and news publishers, the Competition and Markets Authority (CMA) launched an investigation which ended with a series of commitments from Google, and Privacy Sandbox is now being rolled out under CMA supervision. Deprecation of third-party cookies began in January this year, limited to 1% of Chrome browsers for testing purposes, Scale up will start at some point after July, subject to CMA approval.
24. At present very little advertising is being sold through Privacy Sandbox. However, the results of testing by DMG Media for the CMA give cause for great concern. Our modelling shows that our revenue per thousand impressions (cpm) on our Google Chrome traffic is 31% lower with Privacy Sandbox in place of cookies. In contrast, removing third-party cookies without adding Privacy Sandbox causes a 35% drop in cpm. This suggests deprecating third-party cookies will cause a very significant drop in revenue, which Privacy Sandbox will do little to ameliorate. The CMA is still overseeing Privacy Sandbox and we are supplying it with the results of our testing. It is hard not to draw the conclusion that, as feared, the result will be more control for Google and considerably less revenue for publishers.
25. From our perspective, Privacy Sandbox appears to be another example of a tech platform using data privacy as a lever to reinforce its own dominant position. We very much hope the DMU will take this into account before deciding whether or not to authorise the full roll-out of Privacy Sandbox.

## **The challenge in monetising new channels for news delivery**

### **TikTok**

26. As the digital universe expands, news publishers must invest in an ever-increasing array of expertise to present news in different formats. Although a news story on TikTok may cover exactly the same event as a news story in our newspapers or on our websites it must be presented very differently, and different formats are required by Instagram, YouTube, X (Twitter), podcasts and every other platform which has a significant audience. Over the last year we have invested heavily in TikTok, hiring dedicated staff to convert news to the short form video format needed to attract users.
27. As far as growing an audience is concerned the investment has been very successful. In October last year the Daily Mail became the biggest news publisher account on TikTok globally, and now has 7.8 million followers for its main account, with a total of more than 10 million when other accounts under the Mail umbrella are included.<sup>7</sup> With one in ten of the British

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<sup>7</sup> <https://www.dailymail.co.uk/news/article-12965603/Daily-Mail-passes-10million-followers-TikTok-biggest-news-publisher-worldwide.html>

population now using TikTok as a news source this is a significant achievement, though it should not be over-egged. The most followed account on TikTok, Senegalese-Italian comedian Khabane Lame, has 162 million followers, and American dancer Charli d'Amelio 152 million.<sup>8</sup>

28. Our TikTok traffic is growing rapidly, but converting this investment into revenue is more difficult. TikTok's own monetisation is focused on e-commerce. It does this in two ways: direct deals with merchants on which it takes a commission share of sales generated, and running contextual product placements overlaid on content, for which the content creator does not receive any reward while TikTok takes a share of sales.
29. TikTok does sell contextual advertising between videos, but this is limited to a very small number of publishers who have been invited to take part in its Pulse Premiere programme, which is focused on TV, sport and fashion. Sky Sports is the only UK participant; other European partners include Conde Nast, BuzzFeed and Hearst Magazines. Our request to participate has so far been refused and as far as we aware no UK news publishers have been allowed to join.
30. This means at present the only viable means of monetising news on TikTok is native sponsorship. TikTok is not afraid to do deals; despite the BBC telling staff to delete its app over security fears, TikTok is partnering with the Corporation in a boot camp scheme to help 100 TikTok content creators break into television.<sup>9</sup> However, neither news publishers nor advertisers are likely to consider sponsorship for serious news or investigative journalism. Instead, investment has to be made in creating bespoke content for advertisers, often also requiring payment to TikTok to generate views via its algorithm. For example, the American broadcasters of Love Island worked with us to produce sponsored content to promote the show, which we ran on our main channel. However, until TikTok can be persuaded to support business models which allow news publishers to monetise serious journalism it is unlikely to fulfil its potential to become a valuable news source for younger users.
31. One of the virtues of the system of digital regulation to be established by the DMCCB is that it has great flexibility to address new platforms and new problems. The Australian Government recently announced that it believed TikTok should be included in the country's ground-breaking News Media Bargaining Code.<sup>10</sup> The Committee may think a similar recommendation should be made to the Digital Markets Unit when it considers platforms for Strategic Market Status (SMS).

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<sup>8</sup> <https://www.statista.com/statistics/1078315/most-followers-tiktok-global/#:~:text=TikTok%20creator%20and%20comedian%20Khabane,the%20platform%20in%20December%202023.>

<sup>9</sup> [BBC & TikTok Partner To Find New Generation Of TV Stars \(deadline.com\)](https://www.bbc.com/news/technology-61844444)

<sup>10</sup> <https://www.mediaweek.com.au/tiktok-should-be-included-in-news-media-bargaining-code/>

## YouTube

32. Google-owned YouTube is another platform which requires specially created content, in which we have made a significant investment. Inevitably broadcasters, with access to large quantities of footage, are the biggest news providers on YouTube, but former print news publishers have had successes as well. Daily Mail reporters Richard Pendlebury and Jamie Wiseman's Ukraine Frontline series of filmed war reports have received 3.8 million views on YouTube.
33. But again, monetising the investment is a problem. YouTube sells ads around videos and shares the revenue with the publisher of the video. But its treatment of publishers is highly discriminatory. It maintains a list of premium publishers, such as Conde Nast, which receive as much as \$7-8 revenue per 1000 ad placements delivered (CPM), while other publishers receive as little as 27 cents cpm. There is little or no transparency on how or why YouTube decides content from one news publisher deserves 25 times the revenue offered to another.
34. It is highly likely that when the DMU decides which platforms are designated with SMS status Google will be high on the list. It is vital that the designation includes its YouTube subsidiary so the DMU can investigate this discriminatory pricing and use its powers to impose transparency and fair dealing.

## Podcasts

35. An unexpected phenomenon of the last year has been the delivery of news content via podcast. Reporting court cases is one of the basic functions of journalism. In the digital age court reports are still the best-read stories on local news sites, and major cases capture the public interest in the way few other items of news can. The Daily Mail's Northern Correspondent Liz Hull broke new ground last year by delivering coverage of the trial of neonatal nurse Lucy Letby, eventually found guilty of murdering seven babies in her care, via a podcast. The Trial of Lucy Letby ran to 64 episodes and 13 million downloads, and podcast coverage of other trials has followed; at the time of submission The Trial series of podcasts has recorded 22 million downloads.
36. However, while podcasts can deliver large audiences it is again not always easy to turn that into revenue. As with so many digital businesses, it is a market in which the winners take all. There are around 5 million podcasts available in app stores, of which 95 percent have five listeners or fewer. The market has coalesced around two main platforms, Apple and Spotify, and there are big rewards for the podcasters they promote most heavily, with one per cent of podcasts accounting for 99% of downloads.<sup>11</sup> American comedian Joe Rogan, whose Joe Rogan Experience regularly

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<sup>11</sup> <https://news.sky.com/story/podcasting-boom-may-have-peaked-as-big-tech-is-sound-for-the-pounds-12887691>



tops the charts worldwide, has a multiyear global deal with Spotify reputed to be worth \$250m.<sup>12</sup>

37. However, the total ad revenue for UK podcasts, while growing, is much smaller, with a forecast of £64m by 2025. Apple and Spotify do not charge for podcasts as they use them as a means to drive subscriptions and there is a lack of transparency around audience figures. The best-remunerated ad vehicle is integrated host-reads, where presenters read ads in their own voice, as happens on *The Rest is History*, but there is very little programmatic advertising. Despite its popularity, our *The Trial* series has been classified by advertisers as news content, for which they are reluctant to pay, and the advertising we have sold has mostly been low-yielding spot inventory. Podcasts have yet to develop a properly viable business model.
38. Reluctance to place advertising against serious news is an endemic problem across all digital news channels, and very worrying at a time when the need for accurate, well-resourced news has never been greater. Research carried out by DailyMail.com in the US, and replicated for MailOnline in the UK and metro.co.uk, shows that news, politics and comment are the lowest earning categories of content, measured per thousand impressions. Sport, personal finance and travel deliver the best returns.

### **The Challenge of AI**

39. DMG Media supplied evidence to the Committee's most recent report on Large Language Models, and welcomes its findings, especially those on the importance of supporting creative industries by protecting copyright. As set out in our submission, we continue to believe generative AI poses an existential threat to news publishing, through the breach of our copyright both to train LLMs and inform their output.
40. We are continuing work on possible legal action and have found references to the CNN/DailyMail dataset, created in 2015 by DeepMind and containing 220,000 MailOnline articles, 70% of the entire dataset, in no less than 351 academic articles concerned with training LLM. In the USA the New York Times has launched the first legal action against an AI developer for breach of copyright in text rather than images.<sup>13</sup> It is suing both OpenAI and Microsoft for use of its content taken from the CommonCrawl general dataset, which forms the basis of most LLMs. DMG Media content also figures prominently in this dataset. Meanwhile in the UK, a High Court judge has ruled against an attempt by Stability AI to argue that a case brought by Getty Images over the unauthorised use of its image archive should be struck out because the training had taken place outside the UK. The case will now proceed to trial.

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<sup>12</sup> <https://www.theguardian.com/technology/2024/feb/02/spotify-joe-rogan-podcast-contract-details>

<sup>13</sup> <https://www.nytimes.com/2023/12/27/business/media/new-york-times-open-ai-microsoft-lawsuit.html>

41. Other news publishers have taken different approaches. Axel Springer, which publishes the English language websites Business Insider and Politico as well as its German titles, has struck a deal said to be worth 'tens of millions of Euros' with Open AI.<sup>14</sup> Under this deal OpenAI is making a one-off payment for the use of Axel Springer's archive and a second annual sum for the use of content to inform its generative output going forward. Apart from a deal with Associated Press<sup>15</sup> for the use of its archive, we are not aware that OpenAI has reached an agreement with any other publisher; where there have been negotiations, the terms offered by OpenAI appear to have been inadequate. Google appears not to be offering any financial recompense for use of copyright material, instead offering publishers use of its products.
42. Legal actions involve great risk for both AI developers and news publishers. If an AI developer loses a court case, it could be ordered by the court to destroy any LLMs trained in breach of copyright. If a news publisher loses it would then be open season for LLMs to use its copyright content without restriction. At present most publishers are reinforcing their terms and conditions and blocking the crawlers of AI developers where they can.<sup>16</sup> With OpenAI this is relatively straightforward, because its crawlers only scrape for AI purposes, and an increasing number of publishers are blocking OpenAI's crawlers until they are offered a licensing deal.
43. Blocking Google's crawlers is more difficult because it has a number of crawlers and is not transparent about the use made of the content scraped. Therefore, a publisher may find that in trying to prevent its content being scraped for AI it has blocked a crawler which also scrapes for search. This in turn would mean that its content is not listed in search results, denying the publisher traffic and ad revenue.
44. This may explain why OpenAI is doing financial deals with some publishers, in order to guarantee enough licensed content to secure its position. It is also an example of how Google is able to use dominance in one market, in this case search, to attempt to leverage dominance in another adjacent market, in this place the currently competitive market for generative AI. We would suggest this problem should be high on the list for Digital Markets Unit to examine once it has statutory powers.
45. At present UK copyright law is robust, as befits a nation with world class creative industries, contributing £108 billion to the economy and supporting 2 million jobs.<sup>17</sup> However, that protection is under threat.

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<sup>14</sup> <https://www.ft.com/content/7cd439bc-29cd-44f9-8676-4761e27bc3a8>

<sup>15</sup> <https://apnews.com/article/openai-chatgpt-associated-press-ap-f86f84c5bcc2f3b98074b38521f5f75a>

<sup>16</sup> An unintended consequence of blocking may be the introduction of bias into AI output. Researchers in the US have discovered that while most mainstream publishers block AI crawlers, extreme radical opinion sites tend not to [Most Top News Sites Block AI Bots. Right-Wing Media Welcomes Them | WIRED](#)

<sup>17</sup> [https://www.gov.uk/government/news/ambitious-plans-to-grow-the-economy-and-boost-creative-industries#:~:text=One%20of%20the%20Prime%20Minister's,value%20added%20\(GVA\)%20annually.](https://www.gov.uk/government/news/ambitious-plans-to-grow-the-economy-and-boost-creative-industries#:~:text=One%20of%20the%20Prime%20Minister's,value%20added%20(GVA)%20annually.)

There is already an exception to copyright protection for text and data mining for academic purposes, which is doubtless why Google and others presented their early work on AI as academic research, as evidenced by very large number of papers we discovered referencing the CNN/DailyMail dataset.

46. There have been persistent attempts to extend this exception to allow text and data mining for commercial purposes. Negotiations overseen by the Intellectual Property Office to strike a voluntary deal between AI developers and rightsholders have made no progress. Meanwhile the EU is pressing ahead with its AI Act, which will allow text and data mining for commercial purposes, but with an opt-out for rightsholders. Unfortunately, how this opt-out will be exercised is not clear and, while AI developers will be required to be transparent the content used in LLMs, it is also not clear how will rightsholder will be able to prevent their content being scraped.
47. We understand the tech platforms are still lobbying for a text and data mining exception in the UK. The Government must not be persuaded to make any changes which weaken existing copyright law. Indeed, it needs strengthening to make it absolutely clear to AI developers that they cannot ingest copyright content without licensing agreements. Whether it is achieved through legislation, or Conduct Requirements from the DMU, AI developers must be required:
  - to list all content used in training LLMs and generating output;
  - to identify all crawlers used and for what purpose;
  - to separate crawlers according to purpose; so that rightsholders have a clear choice about which to block and which to license;
  - to impose heavy penalties on AI crawlers which scrape content in defiance of a machine-readable signal (such as robots.txt) that it is blocked.
48. In this way a robust licensing framework could be created which would support news publishers and the other creative industries on which AI depends for both training and output, rather than giving a green light to industrial scale copyright theft, which will lead to the destruction of both.

### **Trust in news**

49. The Committee is right to be concerned about apparently falling levels of trust in news. However, we would question whether surveys which show falling levels of trust actually demonstrate a lowering of journalistic standards or reflect a natural human reaction to a robust and pluralistic news media, where there are a huge variety of voices expressing sharply contrasting views.
50. It is instructive to compare international trust in news surveys with international press freedom surveys. The country which stands in first

place in the 2023 Edelman Trust Barometer<sup>18</sup> is, believe it or not, China. Second and third are Indonesia and Thailand. If you then turn to the 2023 Reporters Without Borders World Press Freedom<sup>19</sup> survey, China is 179<sup>th</sup> out of 180 countries surveyed – only North Korea is lower. Indonesia is 108<sup>th</sup> and Thailand 106<sup>th</sup>. Britain, last of 28 countries surveyed by Edleman Trust Barometer, is 26<sup>th</sup> for World Press Freedom – lower than desirable, but a long way from 180<sup>th</sup>, and a position which will doubtless improve when the iniquitous section 40 of the Crime and Courts Act is repealed.

51. So perhaps the dictators know what they are doing – only give the public one version of the truth and they will believe it. Allow many voices to speak, and there is a risk some people will believe none of them. However, scepticism is healthy, and democracy cannot work without a free and pluralistic media. It is also an inescapable fact that the digital age has removed the cost barriers to entering journalism. Without the need for a printing press or a broadcasting licence, anyone can call themselves a journalist, whatever their qualifications and resources. The development of AI will make this problem worse, when to the cacophony of the internet will be added AI output, machine generated from unidentified sources, complete with hallucinations.
52. How can the public be guided through this without threatening free speech and democracy? There have been attempts to rate news publishers, such as NewsGuard, an American commercial operation, but they suffer from being driven by arbitrary value judgments on news content, which often appear simply to reflect the prejudices of the people who run the business.
53. A great deal of thought was given to this question during consultation with the DCMS on the Online Safety Bill, where there was a need to identify responsible journalism to protect it from automated censorship by social media platforms. The solution was to look at the structures a news organisation has in place, rather than to try to make inevitably subjective judgments about the quality of its content. Does it have a business address in the UK, a person who takes legal responsibility for what it publishes, a standards code, and policies and procedures for handling complaints? The definition eventually formulated is set out at Section 56 of the Online Safety Act, and is also incorporated into the National Security Act, where there is a similar need to identify responsible news organisations.
54. The News Media Association (NMA) also discussed with the DCMS the possibility of introducing a kite-marking scheme, based on the press card scheme, which has operated successfully for many years. Under this a number of gatekeepers, such as the NMA and the National Union of Journalists, would have the power to issue news organisations with an

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<sup>18</sup> <https://pressgazette.co.uk/media-audience-and-business-data/trust-in-media-uk-edelman-barometer-2024/>

<sup>19</sup> <https://rsf.org/en/2023-world-press-freedom-index-journalism-threatened-fake-content-industry>

electronic identifier which would enable to online platforms to immediately identify content which is produced by recognised news publishers and therefore exempt from the Act. In the event the DCMS decided the scheme was a matter for private arrangement between the NMA and the online platforms, and it was not progressed. However, the technology is straightforward, and it could be adapted to alert members of the public to when news content they are reading is supplied by a responsible news organisation against whom they have redress, and when it is not.

### **Plurality in the digital age**

55. When the news broke that DMG Media's parent company DMGT was planning a bid for the Telegraph, it was greeted by an article by Conservative MP David Davis, in which he argued that 'DGMT had nearly a 40% share of the UK print market... Extending that any further would have serious and worrying implications for our democracy'.<sup>20</sup> He burnished his thoughts with a 1931 quote from Stanley Baldwin, speaking about newspaper proprietors seeking 'power, and power without responsibility – the prerogative of the harlot throughout the ages.'
56. David Davis's argument might have been pertinent in 1931, or even in 1981, but in the digital age everything is changed. Gone are the days when the news media were neatly divided into two silos: with newspapers providing opinionated, campaigning journalism, highly competitive and entirely commercially funded, and broadcasters operated under charters which guaranteed their place on the airwaves, and in the BBC's case state funding, in return for a commitment to impartiality in their news coverage. 40 years on broadcasters are clearly finding it more and more difficult to prevent presenters expressing their views, and in the case of GB News it is the station's selling point. In the case of the BBC, many would argue that whatever impartiality rules should demand, the selection of stories, choice of language and tone of interviews betrays a pervasive left-liberal viewpoint.
57. Until the 1990s the only text journalism produced by broadcasters was programme guides, today their websites publish text-based news in hot competition with newspaper websites - indeed the BBC's is the biggest in the UK by far, and is expanding aggressively into local news, to the chagrin of hard-pressed regional news publishers. Meanwhile former print publishers have also invested hugely in their websites and as described above are rapidly developing video and podcasts as channels for their content.
58. In a world where everyone's smartphone gives instant access to myriad sources of news, newspapers' share of the market is constantly falling. Ofcom's 2023 news consumption report<sup>21</sup> shows that only 26% of adults

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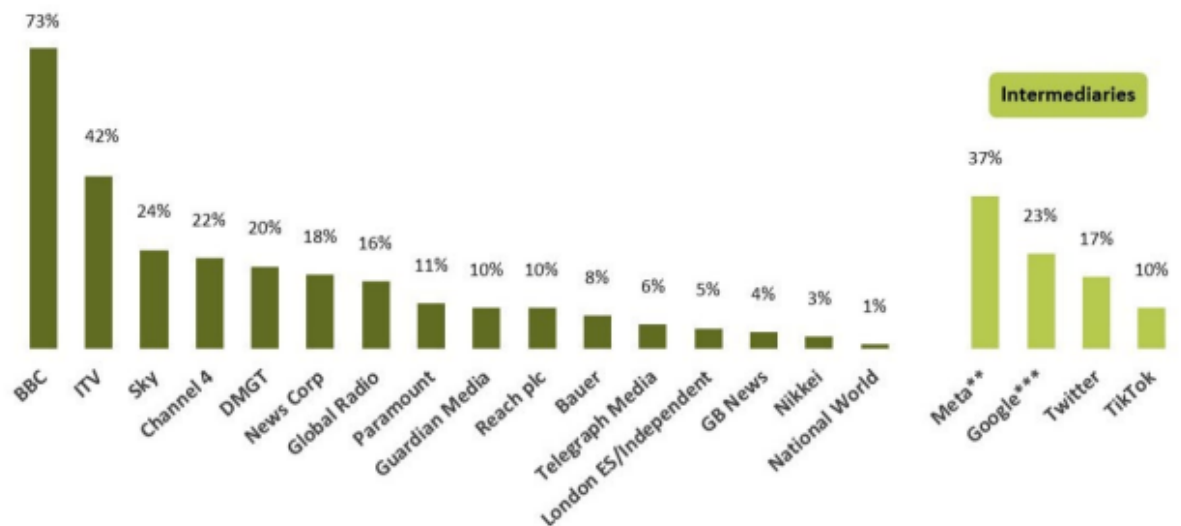
<sup>20</sup> <https://www.theguardian.com/commentisfree/2023/sep/28/daily-mail-telegraph-uk-press-lord-rothermere-david-davis>

<sup>21</sup> <https://www.ofcom.org.uk/research-and-data/tv-radio-and-on-demand/news-media/news-consumption>

now use print newspapers as a source of news. The crucial marketplace is online, where 68% get their news, and broadcasters, tech platforms, digital natives and print publishers all compete. Online the public can choose from a huge variety of news sources, including Google News, YouTube, Apple News and a host of other very well resourced overseas-based players, such as the New York Times and CNN.

59. According to Ofcom, by the far the largest UK provider of news across all platforms, including TV, radio, online and print, is the BBC, used by 73% of the population. The BBC’s closest competitors are ITV (42%), Meta (37%), Sky (24%) and Google (23%). DMGT is in seventh place with 20% and Telegraph Media Group, the cause of David Davis’s concern 14<sup>th</sup>, with just 6%.

**Figure 9: Cross-platform retail providers used for news nowadays**



Source - Ofcom News consumption in the UK: 2023

60. If these figures are rebased to 100 to represent market share, the BBC has 20%, ITV 12% and Meta 10%. DMGT (6%) and the Telegraph (2%) combined would have 8%. The truth is that across all platforms the news media in the UK is hugely diverse and pluralistic.
61. Despite the competitive pressures, journalism is a great British export. Three of the 20 largest news websites in the US are British owned (MailOnline, the BBC and Guardian).<sup>22</sup> British journalists run a number of the best-known US news organisations – CNN (Mark Thompson), the Wall Street Journal (Emma Tucker), Washington Post (William Lewis) and the New York Post (Keith Poole).
62. But compared to the tech platforms with which they have to compete, and negotiate to secure revenue, British media companies are minnows. The revenue of Google and YouTube’s owner Alphabet in 2023 was \$297 billion, Meta \$127 billion, Apple \$383 billion. The BBC’s total revenue was £5.7 billion, DMGT’s £1 billion, the Telegraph Media Group just £0.25

<sup>22</sup> [Biggest websites for news US: Top 50 updated each month \(pressgazette.co.uk\)](https://www.pressgazette.co.uk/biggest-websites-for-news-us-top-50-updated-each-month/)

billion. DMGT and the Telegraph combined would be a quarter of the size of the BBC and 0.4% the size of Alphabet.

63. If Britain is to maintain a world-class news publishing industry it must have the resources to attract the best talent, negotiate with tech giants, invest in new formats and operate on a global scale. This means competition rules must change. It is no longer meaningful to measure plurality across rigid silos such as print, TV or radio. Yes, plurality of news is important, and should be preserved, but in a world where there is only one search engine and two AI developers, news publishers will have to consolidate. Plurality of news must be measured across the whole spectrum that any member of the public can access on their smartphone.

*February 2024*