

"Online news aggregation and neighbouring rights for news publishers" – [redacted], April 2017.

The study takes an economic perspective on the introduction of news publishers' rights, focusing on the impact of the news aggregators on the traffic referral to publishers' websites. It provides for a wide and interesting literature review on the latter and usefully considers some theoretical and empirical issues linked to the multi-sided market dynamics.

Empirical studies summarised in this paper show that news aggregators already have a positive impact on publishers' advertising revenue because they refer traffic to publishers' websites, hence providing additional viewers of publishers' advertisements, with no substitution effect between services. It is important to note that there is no evidence presented on the direct impact on news publishers' revenue as such: it is assumed that the revenue follows the clicks: "On balance, they [news aggregators] direct additional traffic to news publishers' websites and thereby increase rather than reduce their online revenue. (...) If the substitution effect dominates, the original news publishers lose revenue: if the quantity effect dominates they gain revenue."

The study refers broadly to the introduction of a new neighbouring right, without providing clear distinctions between the DE and ES law and the COM proposal: everything (including the ES and DE legislation) is called "the introduction of a new neighbouring right", without a proper prior analysis of the content of the proposal. This is likely to confuse readers or give a biased view of the topic.

The main, if not the only, empirical test for the introduction of an ancillary right is the traffic referral and the analysis of multi-sided market dynamics which concludes that price at the level of zero can be a market efficient outcome. Also, the analysis of the positive impacts of news aggregation on press publishers' websites is rather incomplete (it is only based on referral traffic, which is considered positive as no substitution effect is found in the literature of the subject). The paper fails to explain why more traffic equals more revenues for press publishers. This is not necessarily the case today and it may be even worse in the future, if publishers do not manage to attract more advertisers.

There is no equivalent analysis of the positive impacts of the use of news publications for platforms and social networks. The paper mentions specifically that Google News is ad-free and has no direct revenue to share, which is an oversimplification of the discussion. Google News, although it is free and has zero ads, is worth about \$100 million to Google, as it directs readers to Google search engine, where they do searches that do produce ads.

The paper also emphasises that the new rights may entail economic costs in terms of reduced innovation and protect incumbents at the expense of innovators. This is a theoretical statement which, notwithstanding its pervasiveness in the paper, has not yet been confirmed by any empirical studies, as confirmed by the author: "These empirical studies cover only the impact of news aggregators on traffic and revenue [n.b. the studies are only on traffic referral – whether the revenue follows is not established] for the original content publishers – the producer surplus. They do not examine the impact on the production of original news content or the long-term dynamic effect of on the supply of innovative products. (...) They find that the presence of the aggregator leads newspapers to specialize in news coverage and changes quality choices from strategic substitutes to complements. This shift is likely to increase the

Comment [redacted]: The impact of clicks on advertising revenue can only be positive, it cannot be negative, by definition. How strong the positive effect is depends on the click-through rate. This is highly variable across articles, ads and newspapers. We can try to find some empirical evidence on CTR for newspaper online advertising, but – however small they are – they will all be positive and therefore show an increase in ad revenue.

Comment [redacted]: This is indeed an important point. I would be grateful if you could elaborate on these distinctions and explain what, in your view, the main differences are.

Comment [redacted]: See my comment 1.

Comment [redacted]: Grateful if you could give me the source for this figure.

More generally, I think that indirect effects might be the only potentially and theoretically valid economic argument that could be used in favour of an ancillary right. However, there is no empirical evidence yet that supports this claim. The German BKartA has rejected this argument in its opinion – as I explain in the paper. The Spanish CNMC report also underplays this argument. I would be happy to adjust the text on this point and leave some wider margins for interpretation there. However, it opens a much wider debate on the extent to which rights holders can claim a share in indirect revenue. In economics, this debate is covered under the externalities question. News aggregators, and platforms in general, try to internalize as much as they can of the externalities generated by suppliers and users. Whether other users can claim part of that externality depends on their market power. As the DE and ES cases show, newspapers have very little, if any, market power in online news markets. Trying to strengthen their market power through regulation has so far not proven to be effective.

Comment [redacted]: I will add evidence from Spain that several smaller news aggregator start-ups had to close down as a result of the legislation. The only remaining start-up news aggregator, Meneame, is under heavy pressure to close but has not been taken to court yet by news publishers. They expect this might happen anytime.

Comment [redacted]: Indeed this is a weakness of existing studies. However, there is no evidence that the production of news has decreased or increased. I am happy to emphasize this point more. To be balanced, I would also have to point out then that in the absence of evidence there is no justification for a policy initiative.

quality of newspapers and overall social welfare, though the effect on newspapers' profits is ambiguous".

The quantitative analysis presented in the paper considers the market mostly from the perspective of number of articles, which has not decreased, according to the paper. The paper fails to clarify subtler issues such as the importance of quality of news, whether new sources of news can replace current ones and what the "superstar effects" on the pluralism and quality of information may be.

Finally, some more light could be shed on the changing news consumption behaviour. Demand-side evidence from large-scale representative surveys shows that in 2016, social media, news aggregators and search engines are the main way to read news online for 57 % of users in the EU. 47 % of them browse and read news extracts on these websites without clicking on links to access the whole article in the newspaper page, which erodes advertising revenues from the newspaper webpages.

Comment [redacted]: Indeed an important factor that I mention in the paper. But the broader question is how – if at all – quality is linked to revenue. There are many low quality high revenue newspapers! Think about the UK tabloid press.

Comment [redacted]: I have underlined the importance of news article rankings and the superstar effect in the paper, although there is no quantitative evidence yet. I also said that these effects cannot be addressed through copyright reform.

Comment [redacted]: The empirical evidence cited in the first part of the paper proves the contrary: there is no substitution effect, the quantity effect dominates. This results in an expansion of revenue.