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FABRICATING STATELESS INCOME: DECONSTRUCTING THE DISCOURSES OF MULTINATIONAL PLATFORM CORPORATIONS' TAX AVOIDANCE STRATEGIES IN AUSTRALIA AND CANADA

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While upending domestic and global news media's advertising income streams via the provision of superior "commercial datafication" (Mansell, 2021) and "digital tracking and profiling" (Christl, 2017) functionalities, Multinational Platform Corporations (MNPCs) have also implemented opaque strategies to minimize their domestic and global tax liabilities. These strategies have been an important contributor to both Meta and Alphabet's surging profits over the past decade – for Meta, from just US\$1.5b in 2013, to \$39b in 2023 and, for Google, now listed as part of its parent company Alphabet, from a US\$12.73b profit in 2013 to US\$74b in 2023. In terms of Australian taxes, the Australian competition watchdog, the ACCC, estimates Meta's total income in the 12-month period to June 2023 at around \$5b, which might be undercount additional direct payments from Australia made by customers directly to Meta Platforms Ireland. Ireland has a much lower tax rate compared with many other jurisdictions (Buckingham-Hones & Tadros 2024). And in 2022 Facebook Australia declared \$1.25 billion as revenue from advertising but paid just \$31 million in tax (Jolly, 2024).

These spectacular levels of profitability have been achieved despite a proliferation of local and some transnational 'diverted profits tax' laws (Colbran & Farhat, 2023; Dunne, 2016) designed to prevent companies from shifting revenue from high-tax countries to low tax jurisdictions. MNPCs have been able to not just continue to transform the majority of their revenue into "stateless" income (Kleinbard, 2016), which is not taxed in the country where the income is generated (nor, often, even in the country where the corporation is headquartered) but to get better at this and other forms of tax avoidance, via improving both their ability to "navigate institutional complexity" (Kornelakis & Hublart, 2022) and, as this paper argues, to shape national and transnational discourses about their strategies. While conscientiously legal, governments across the world are nonetheless deprived of significant revenues: an analysis of the so-called "Silicon Six" (including Meta) has estimated their "tax gap" – the difference between

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expected tax liabilities, and actual tax payments made— at approximately \$100 billion for the period 2011-2020 (Chowdhary & Diasso 2022).

This paper explores the response of Google and Facebook to the Australian Government's 2021 imposition of the News Media Bargaining Code (NMBC) between 2020 and 2024 and the way it subsequently framed and adapted its global strategies, as exemplified by the respective corporations' responses to Canada's Bill C-18 (the *Online News Act*). This paper, and the broader project it is part of, draws on submissions to and reports from government commissions of Inquiry and subsequent legislative deliberations in both Canada and Australia (and particularly the Australian Competition and Consumer Commission's (ACCC)'s original Digital Platforms Inquiry (2017-19), the subsequent Digital Advertising Services Inquiry (2020-21) and the ongoing Digital Platform Services Inquiry (2020-25) and the voluminous submissions that respond to the ACCC's 14 "reports" from these three inquiries by, especially, Meta and Alphabet, but also Amazon, Apple and others. It also draws on a burgeoning trove of journalistic and scholarly analysis of these inquiries.

The paper applies and seeks to extend Radsch's re-theorization of the categories of policy intervention available to governments to address the reality that despite operating and indeed facilitating local and global 'public spheres' and providing primary access, for many of their billions of users, to the news and information needed for informed citizenship, the MNPCs operate within a "platform logic" which is "based on a business model designed around datafication, engagement, and profit maximization and **not** the values that define the logic of journalism, i.e. public interest, accuracy, newsworthiness etc. (Radsch, 2023). Drawing on Radsch's triad of categories of contestation – of "taxation and subsidies"; "copyright and licensing" and "competition and anti-trust", this paper focuses on the way in which taxation and subsidies are contested, i.e. framed, discussed and argued over. This is partly because the ACCC's NMBC, combined other onerous legislative compliance requirements, with shrewd inducements for 'voluntary' 'free market' (and secretive) negotiations and 'deals' between Google and Facebook and Australian news organizations can be seen as a form of 'stealth tax' on these MNPCs, and because their multilayered responses to the NMBC can also be viewed as part of their broader suite of tax-mitigation schemes.

The NMBC has seen upwards of \$200m flow into Australian news organizations *per annum* since 2021, and as such the NMBC is much admired by regulators beyond Australia (Bossio et al., 2022; Dugmore, 2021; Lever, 2021; Meese, 2021; Schiffrin et al., 2021). In the USA, the Journalism Competition and Preservation Act, and in Canada, the Canadian Online News Act and, in UK, the Digital Competition Bill seek to emulate some elements of NMBC. In less wealthy countries, the NMBC is also much studied; in South Africa, the peak journalism body, the South African National Editors Forum (SANEF), is lobbying for the local Competition Commission to take Australian-like action sooner rather than later. (Dugmore, 2021).

This project (and initially, this paper) argues that both Facebook Australia's retaliatory week-long 'news shutdown' in Australia, and more recently, as announced on March 1 2024, that the company will "deprecate Facebook News" and decline to continue their previous NMBC 'designation avoidance' commercial deals with domestic news media

companies back in 2020/21 and Alphabet (Google) virulent public opposition to the NMBC in 2021, have not, in the grand scheme of things, generated long-term *public* pressure NOR the development of domestic counter-narratives. Put differently, discourses of opposition to this fiscal maneuvering, has been uneven and largely ineffective in reducing the range and scope of MNPC's revenue and profit externalization. There is no serious and sustained critique of or capacity to delegitimize their tax avoidance practices and seemingly endless profitability super-spiral.

As such, the paper explores four discursive frames:

- **Legalistic frame** that emphasise each MNPC's particularly exemplary corporate 'citizenship' in each of jurisdictions they operate in, accentuating their conscientious compliance with local laws and global treaties;
- **Normalisation frames** that situate their tax avoidances as "standard practice" and which thus partially frame their aggressive tax structuring as necessary for their competitiveness (and the 'social good' of maximising shareholder value);
- **Fear frames** that raise the spectre of localised economic regression and stagnation if the MNPC's operations and tax mitigation strategies are curtailed via ex-ante regulation. These fear frames are often augmented with references to their MNPC's roles as staunch local job creators, and the repeated provision of data about the large numbers of local customers who 'depend' on the MNPCs for advertising services.
- **Technological illiteracy frames** that seek to create a perception of blundering state governments' inadvertently "breaking the internet" with antiquated and naïve approaches. This kind of framing often appeals to the authority of global tech luminaries (and academics) such as, for example, Tim Berners-Lee, arguing that particular government policies are both foolish and risky. Regarding the NMBC in Australia, for example, Berners-Lee warned that the code "risks breaching a fundamental principle of the web by requiring payment for linking between certain content online." (Google blog, 2021)

This paper thus suggests that Australia's NMBC, for all its success in extracting income for journalism directly for a three-year period (and perhaps longer), has also provided these particular MNPCs with something of a "discursive laboratory" where new rhetorical strategies are birthed, refined and updated. The paper explores how MNPCs have been able to carefully manage public sentiment and elicit what is effectively an elite quiescence via developing and propagating sophisticated discourse-shaping strategies that simultaneously reframe and narrow the terrain of debate, and how these augmented strategies are being operationalized, and are now playing out, in Canada and elsewhere.

References

Australian Competition & Consumer Commission (ACCC) Digital Platforms Inquiry, Final Report ,June 2019, p. 122.

Bossio, D., Flew, T., Meese, J., Leaver, T., & Barnet, B. (2022). Australia's News Media Bargaining Code and the global turn towards platform regulation. *Policy & Internet*, 14(1), pp. 136-150.

Browne, B. (2021). *The Future of Work in Journalism - By Jim Stanford Economist and Director*, The Australia Institute. Australia. Retrieved from <https://policycommons.net/artifacts/2039155/the-future-of-work-in-journalism/2791598/> on 02 Mar 2024

Buckingham-Jones, S., & Tadros, E. (2024). How PWC helped Facebook argue its bill down in tax fight with ATO. <https://www.afr.com/companies/media-and-marketing/how-pwc-helped-facebook-argue-its-bill-down-in-tax-fight-with-ato-20240308-p5fau>

Christl, W. (2017). Corporate Surveillance in Everyday Life: How Companies Collect, Combine, Analyze, Trade and Use Personal Data of Billions. Cracked Labs. <https://crackedlabs.org/en/corporate-surveillance>

Colbran, E., & Farhat, S. (2023). Diverted profits tax and multinational anti-avoidance law-practical insights. *Tax Specialist*, 26(4), 183-191.

Cohen, N., Hunter A., & O'Donnell, P. (2019). Bearing the Burden of Corporate Restructuring: Job Loss and Precarious Employment in Canadian Journalism, *Journalism Practice*, 13:7, 817-83

Chowdhary, AH & Diasso, SB. (2022) *Taxing Big Tech: Policy Options for Developing Countries* https://www.southcentre.int/wp-content/uploads/2022/12/TCPB27_Taxing-Big-Tech-Policy-Options-for-Developing-Countries_EN.pdf

Danckert S. (2021) Iron Rod: Why the ACCC's top dog isn't for turning, *Sydney Morning Herald*, November 6 2021 <https://www.smh.com.au/business/the-economy/iron-rod-why-the-accs-s-top-dog-isn-t-for-turning-20211104-p595yx.html>

Dunne, J. (2016). The MAAL and the diverted profits tax - a comparative. *Taxation in Australia*, 51(1), 21-27

Dugmore, H. (2021). Thinking globally, acting locally: Reviving and sustaining South African journalism in a post-Covid world. UniSC and Rhodes University https://research.usc.edu.au/esploro/outputs/report/Thinking-globally-acting-locally-Reviving-and/99522204202621?institution=61USC_INST#file-0

Google Blog, (2021). Answering your top questions about the News Media Bargaining Code, <https://blog.google/intl/en-au/company-news/outreach-initiatives/top-questions-news-code/>

Jolly, N. (2024). A tax on social media companies is the cost-of-living solution we need <https://mumbrella.com.au/the-weekend-mumbo-a-tax-on-social-media-companies-is-the-cost-of-living-solution-we-need-853878>

Leaver, T. (2021). Going Dark: How Google and Facebook Fought the Australian News Media and Digital Platforms Mandatory Bargaining Code. *M/C Journal*, 24(2).

Lee, K., & Molitorisz, S. (2021). The Australian News Media Bargaining Code: lessons for the UK, EU and beyond. *Journal of Media Law*, 13(1), 36-53.

Mansell, R. (2021). European Responses to (US) Digital Platform Dominance in Jin, DY (Ed) *The Routledge Handbook of Digital Media and Globalization* (1st ed.). Routledge 2021

Meese, J. (2021). Journalism Policy across the Commonwealth: Partial Answers to Public Problems, *Digital Journalism*, 9:3, 255-275,

Kleinbard, E. D. (2016). Capital taxation in an age of inequality. *S. Cal. L. Rev.*, 90, 593.

Kornelakis, A., & Hublart, P. (2022). Digital markets, competition regimes and models of capitalism: A comparative institutional analysis of European and US responses to Google. *Competition & Change*, 26(3-4), 334-356

Radsch, CC. (2023) Platformization and Media Capture: A Framework for Regulatory Analysis of Media-Related Platform Regulations. *UCLA Journal of Law & Technology, Platforms and the Press*, 28, no. 2 (Winter 2023): 175–223.

O'Regan, T., & Young, C. (2019). Journalism by numbers: trajectories of growth and decline of journalists in the Australian census 1961–2016. *Media International*

Schiffrin, A., Clifford, H., & Adjin-Tettey, TD. (2022). Saving Journalism 2: Global Strategies and a Look at Investigative Journalism Washington, DC: Konrad-Adenauer-Stiftung

Wilkinson, S. (2019). The Long Decline of Canadian Journalism: Fewer Permanent Jobs, Less Security 21 Nov 2019 <https://thetyee.ca/Mediacheck/2019/11/21/Long-Divide-Canadian-Journalism-Star-Metro-Closure/>

Winseck, D. (2017) "Shattered Mirror, Stunted Vision and Squandered Opportunities." *Mediamorphosis*, February 9. <https://dwmw.wordpress.com/2017/02/09/shattered-mirror-stuntedvision-and-a-squandered-opportunities/>