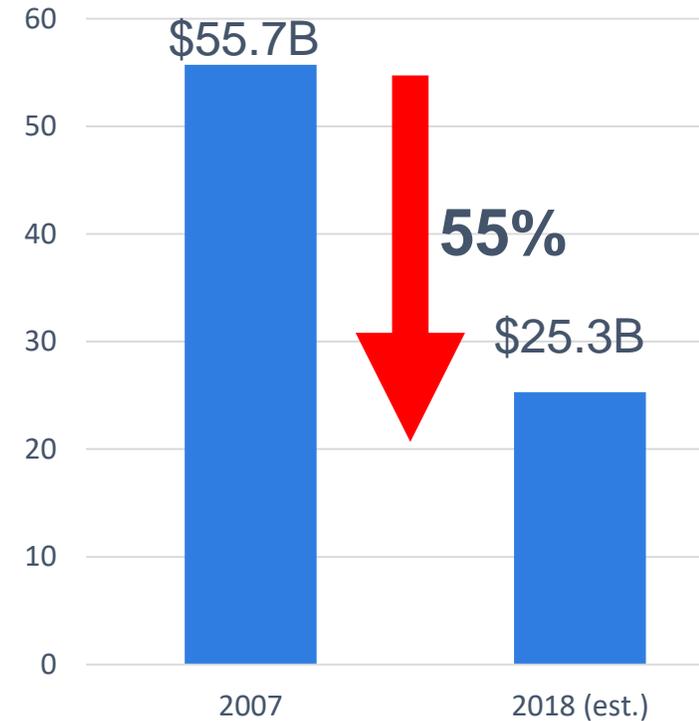
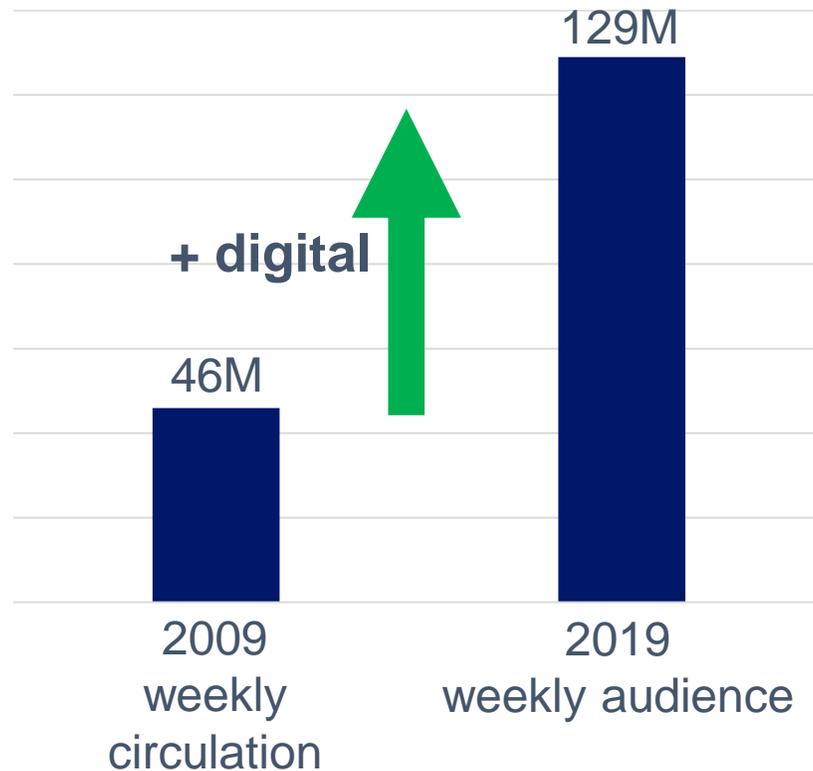




News Publishers and Google's Anticompetitive Conduct

U.S. NEWS AUDIENCE IS UP, REVENUE IS DOWN

News media reaches 129 million
U.S. adults each week.

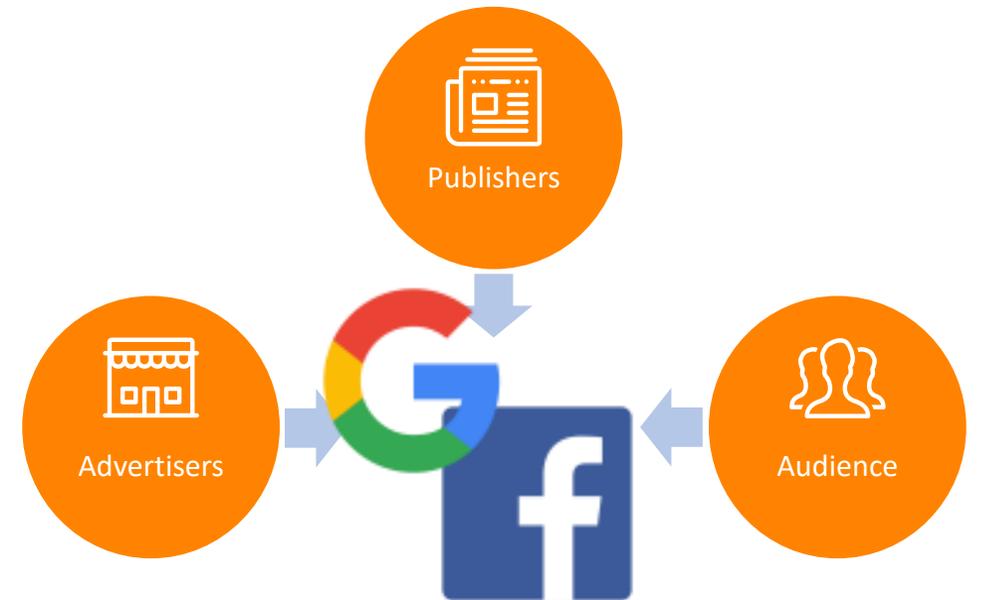
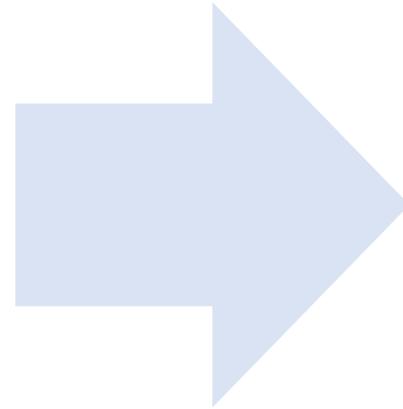


DIGITAL MARKETPLACE

INTERMEDIARIES CONTROL THE ONLINE ECOSYSTEM



Publishers used to have direct relationships with their audience and advertisers.



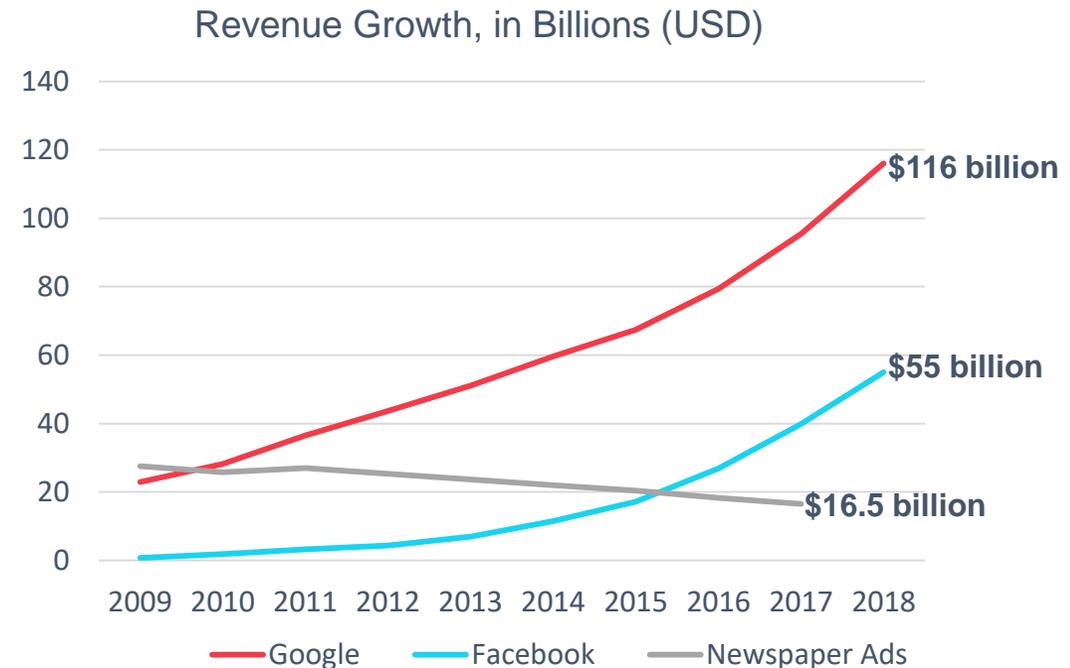
Now they must rely on intermediaries.

PUBLISHERS INCREASINGLY CAN'T RELY ON ADVERTISING REVENUE

Google and Facebook extract monopoly rents from online advertising, meaning many publishers can't generate enough ad revenue to fund their newsrooms.

60 percent of all U.S. digital ad revenue that goes to Google and Facebook.*

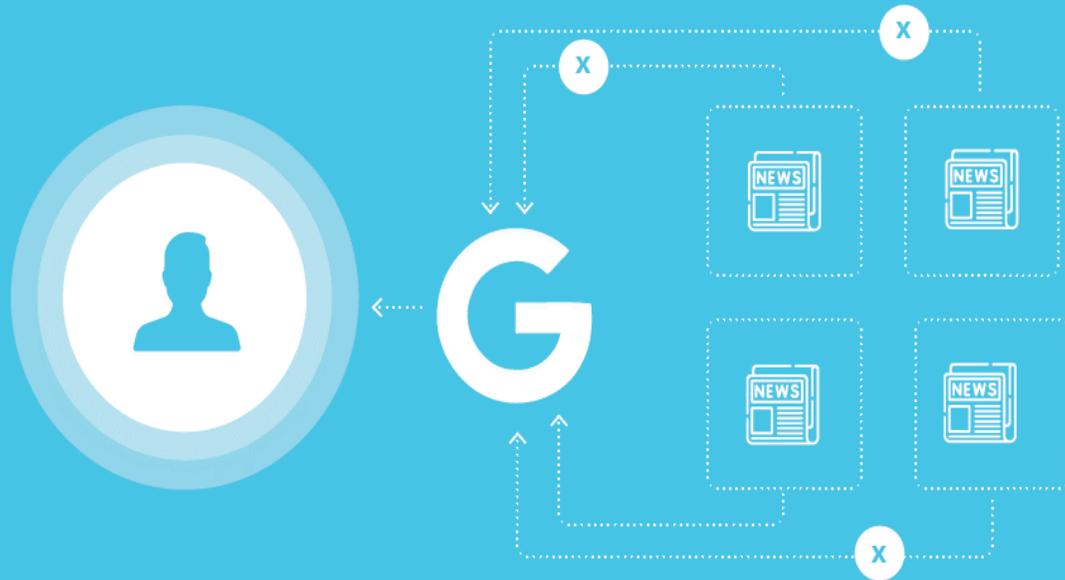
90 percent of ad revenue growth that went to Google and Facebook in 2018.*



News Media Alliance White Paper

How Google Abuses Its Position as a Market Dominant Platform to Strong-Arm News Publishers and Hurt Journalism

AMP FORMAT: GOOGLE HAS PLACED ITSELF BETWEEN NEWSPAPERS AND USERS



The user no longer visits the publisher's website directly, but instead views a copy of the article hosted on Google's servers.

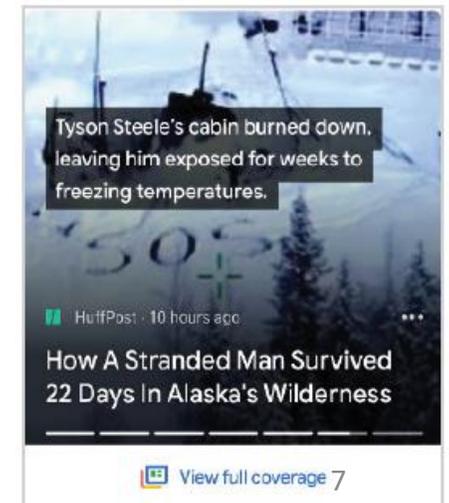
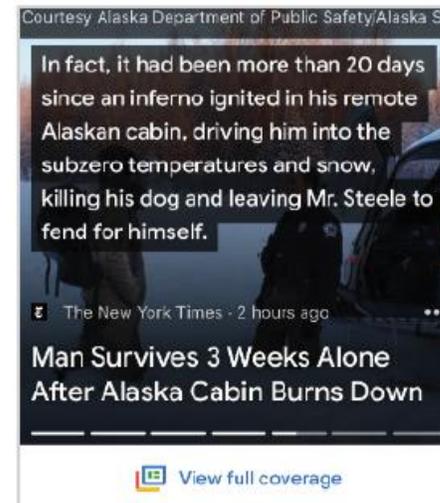
Google controls the AMP elements of the format, its functions and capabilities, and encourages users to stay within the search results page.

In many cases, AMP reduces publisher subscription conversion rates and ad revenues, and makes it harder to develop relationships with readers.

The non-negotiable AMP URL API Terms of Use require publishers to agree to let Google copy, store, host, and directly serve their content to users.

GOOGLE NEWS: CAROUSEL OF ARTICLES

- The Google News app differs significantly from earlier versions;
- Collections of headlines with high-quality images;
- Personalized “briefings” as well as curation on major news topics.

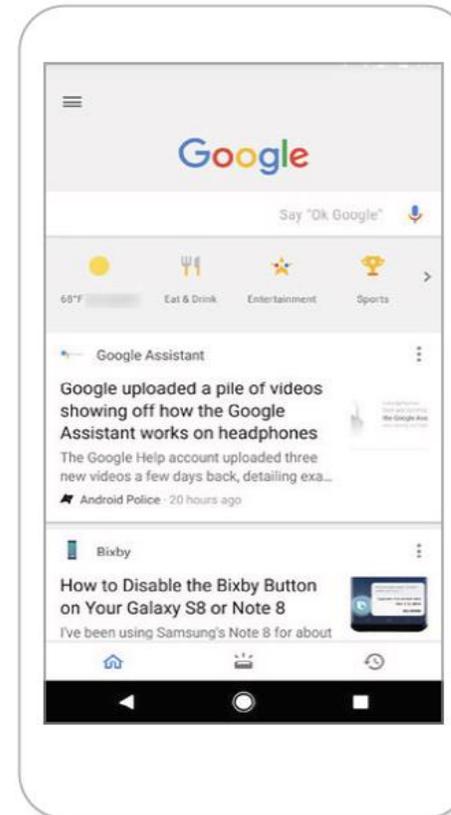


GOOGLE DISCOVER: A MOVE TOWARDS SOCIAL

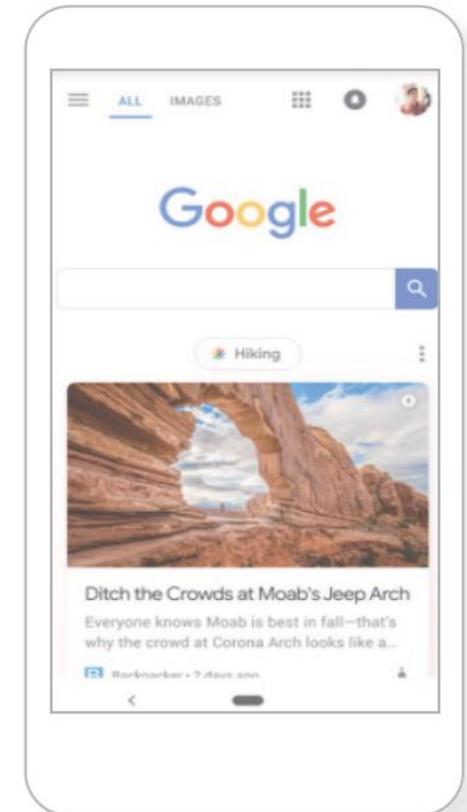
FUNDAMENTAL SHIFT IN HOW GOOGLE THINKS SEARCH

- Highly customized feed targeted to the individual user;
- Both current news and older, evergreen content;
- A clear move towards social media;
- Relies heavily on articles in the AMP format.

“Google would likely face an uphill battle convincing a court that its use of high quality news photos in an aggregation product like Google Discover, which is not fueled by search queries, constitutes fair use.”



Google Feed



Google Discover 8

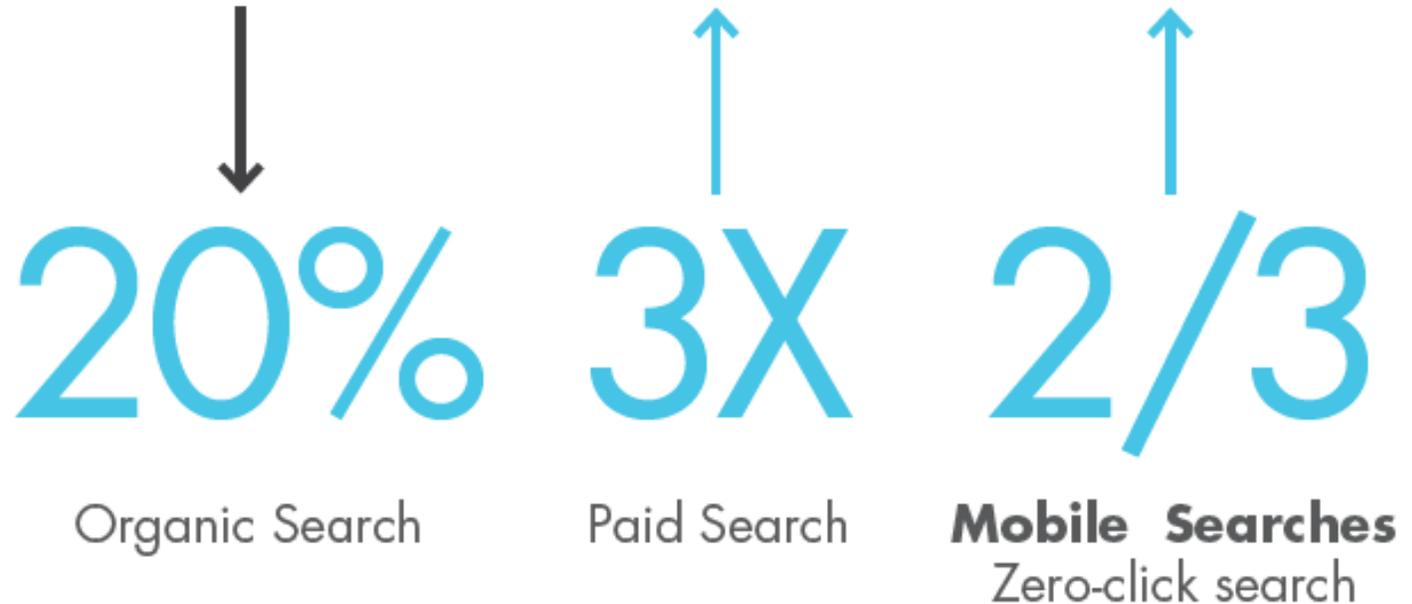
EFFECT OF GOOGLE'S WALLED GARDEN

SEARCH RESULTS DOMINATED BY PAID ADS, RICH SNIPPETS

Removes Incentive for Users to Click Through to Original Content

In the past three years:

- Organic down by almost 20%;
- Paid nearly tripled;
- Almost two-thirds of mobile searches end without a click.



GOOGLE ASSISTANT

FAILS TO GIVE CREDIT TO ORIGINAL PUBLISHER – THIS IS NOT FAIR USE

- Google’s use of content authorized for one product in another product entirely is yet another example of its misuse of its power as a market dominant platform.
- While some publishers have consented to Google’s use of excerpts in text-to-speech, **most of the news industry has not provided knowing consent to this use of their content on Google Assistant.**



“When Google Assistant provides an audio response, that audio response obviously does not contain any link to the original article. In that setting, the quid pro quo that supports any fair use defense is absent.”

Here are your local news headlines.

LEGAL OPTIONS

We need **BOTH Copyright AND Competition Remedies**



A court taking a hard, fresh look at Google would likely find that many of its current uses of newspaper content exceed what fair use under copyright law permits – and thus, that Google has no legal right to use this content absent a license.

However, as the facts outlined above portray, news publishers have not had the ability to rely on copyright law to protect their publications in the face of Google's near monopoly power, which Google repeatedly deploys to extract undue concessions from the news publishers and increase that market dominance. ■

“TAKE IT OR LEAVE IT” COPYRIGHT TERMS

- Many of the uses of content would likely not constitute an allowable “fair use” if litigated today.
- Per Google’s own terms of service, publishers must waive copyright to be found in search:

“When you upload...content...you give Google a worldwide license to use, host, store, reproduce, modify, create derivative works, communicate, publish, publicly perform, publicly display and distribute such content....”



OUR SOLUTION: MINIMAL SAFE HARBOR FOR PUBLISHERS

Legislation to provide a **modest antitrust safe harbor** to allow news publishers to collectively negotiate with online platforms.

Market-based solution that levels the playing field for a short period of time for an industry that needs an urgent fix.



Questions