

*Research, analysis and opinion on international media law*

## Google ordered to pay former politician in defamation case



## Australian court rules that Google must pay former politician AUD715,000 over “relentless, racist” videos on YouTube

An Australian court has ordered Google to pay a former politician AUD715,000 over two defamatory videos, described by a judge as “relentless, racist, vilificatory, abusive and defamatory”.

The Federal Court issued its ruling on 06 June, and found that the Alphabet company intentionally made money by hosting the two videos on its YouTube website. The videos were viewed nearly 800,000 times since being posted in 2020.

John Barilaro, the former deputy premier of New South Wales, sued Google and comedian Jordan Shanks, also known as

friendlyjordies, in the Federal Court over the videos, which drove him out of politics.

The court heard that Mr Shanks uploaded videos that describe Mr Barilaro as “corrupt” without citing credible evidence, and mocked his Italian heritage. Judge Steve Rares described the videos as amounting to “nothing less than hate speech”.

Mr Barilaro resigned from politics a year after Mr Shanks posted the defamatory videos. The judge, Mr Rares, commented that “Google cannot escape its liability for the substantial damage that Mr Shanks’ campaign caused.”

## UK to overtake Germany as Europe’s largest media market

The UK is set to overtake Germany as Europe’s largest media market in the coming years, according to PwC’s latest Global Entertainment & Media (E&M) Outlook 2022-2026, which forecasts revenue to reach GBP83 billion this year.

The report, published on 21 June, highlights expected growth of 4% each year over the next four years, to reach an anticipated GBP97 billion by 2026.

Mary Shelton Rose, Partner and UK Technology, Media and Telecoms Leader at PwC, commented: “The UK entertainment and media market is forecast to emerge from the past few years of uncertainty to greater clarity about the underlying forces driving sustainable growth.”

Market growth continues to be driven by mobile internet, with internet advertising spend expected to total over a third of total E&M revenue by 2026.

Spend on home and mobile internet will account for a fifth of total market revenue by the end of the forecast period.

According to the report, the UK will continue to be the leading market for OTT video in Western Europe, and the third largest market globally after the US and China.

Dan Bunyan, Partner at PwC Strategy&, commented: “OTT video has been one of the biggest beneficiaries of the shift to spending more time at home and the UK market is proving to be one of the largest markets globally for the biggest players.”

Mr Bunyan noted that live sport will also present new opportunities. ■

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## Amcomri Entertainment buys library assets of UK-based Flame Media in a CAD3m deal

Canada's Amcomri Entertainment has announced its acquisition of the library assets of Flame Media in a CAD3 million deal.

Flame Media, based in Australia and the UK, has more than 500 TV titles and 2,200 hours of programming in its content library.

The deal was financed through a GBP1.6 million loan from Head Gear Films, an arm's length financier of film and television, and up to GBP100,000 of deferred consideration.

The transaction closed 15 months after the death of Flame Media's founder and CEO, John Caldon. Under the terms of agreement, Flame Media will be operated by Amcomri's content distribution business, Abacus Media Rights.

Commenting on the deal, Robert Price, CEO of Amcomri, said: "We have the utmost admiration for the high-quality library and senior management team that Mr. Caldon assembled over the last 12 years."

Mr Price continued: "This acquisition, fully aligned with our buy-and-build growth strategy, strengthens our global offering in the factual and documentary TV content distribution and library markets, building on the remarkable success we have enjoyed in those sectors through our subsidiary, Abacus Media Rights."

The deal boosts Amcomri's TV content library to 4,750 hours of programming. ■

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← Outside the courthouse, following the ruling, Mr Barilaro told reports that he felt "cleared and vindicated".

He added: "It was never about money," he said. "It was about an apology, removal. Of course, now an apology is worthless after the campaign has continued. It's taken a court to force Google's hand."

Before the lawsuit was resolved, Mr Shanks continued to upload YouTube videos with

disparaging comments about Mr Barilaro and his lawyers. The judge said he would refer Mr Shanks and Google to the authorities "for what appear to be serious contempts of court by bringing improper pressure ... not to pursue this proceeding".

The judge found that the former politician had been the "subject of a relentless, racist, abusive and defamatory campaign conducted on YouTube".

## US appeals court rejects Florida social media law

A US appeals court has blocked parts of a controversial Florida law that sought to prevent social media companies from banning politicians.

A three-judge panel of the court unanimously rejected the law on 23 May, on the grounds that it is an unconstitutional violation of the First Amendment.

In a 67-page detailed opinion, Circuit Judge Kevin Newsom summarised the legal position, 'Put simply, with minor exceptions, the government can't tell a private person or entity what to say or how to say it.'

Mr Newsom, an appointee of former President Donald Trump, continued: 'We hold that it is substantially likely that social media companies — even the biggest ones — are private actors whose rights the First Amendment protects.'

The Florida legislation was signed last year by Ronald DeSantis, the 46th governor of Florida, and was intended to restrict social media platforms from banning any candidate running for public office in the state. The legislation includes fines of up to USD250,000 a day for violations, and bars censorship of "journalistic enterprises".

During a May 2021 bill-signing ceremony, Mr DeSantis said: "Some of these massive, massive companies in Silicon Valley are exerting a power over our population that really has no precedent in American history."

The bill targets social media companies with more than 100 million users, such as Twitter and Facebook. ■

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Commenting after the ruling, Mr Barilaro said: "I am emotional today. To hear His Justice read out the reasoning and the evidence and the case itself again is a little bit traumatizing."

He added: "But I'm happy it's the end of the journey. You've got to be either courageous or stupid to take on Google, and maybe it was a bit of both."

Google was asked to remove the videos, and avoid legal action, in December 2020. ■

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