



Australian Government
The Treasury



News Bargaining Incentive

Consultation paper

November 2025

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In the spirit of reconciliation, the Treasury acknowledges the Traditional Custodians of country throughout Australia and their connections to land, sea and community. We pay our respect to their Elders past and present and extend that respect to all Aboriginal and Torres Strait Islander peoples.

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Consultation Process

Request for feedback and comments

This paper seeks views on options for Australia’s News Bargaining Incentive announced on 12 December 2024, and is informed by discussions with stakeholders since the announcement. Interested parties are invited to comment on the proposed implementation details. Submissions must be lodged electronically at the Treasury website.

Treasury also welcomes the opportunity to discuss your views in a meeting.

Treasury will consult with stakeholders on the legislative materials, ahead of finalising legislation, in line with standard practice.

Closing date for submissions: 19 December 2025

Submissions can be lodged via the Treasury website at <https://consult.treasury.gov.au/c2025-718159>.

Please address any enquiries to the contact details below.

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The principles outlined in this paper have not received Government approval and are not yet law. As a consequence, this paper is merely a guide as to how the principles might operate.

Implementation of the News Bargaining Incentive

Introduction and background

The News Media and Digital Platforms Mandatory Bargaining Code

The Government considers that a strong and diverse news sector is vital for a healthy democracy. However, the Australian news media industry has experienced major disruptions from the digitalisation of the economy, and particularly the digitalisation of the advertising industry. Advertising is one of the primary income streams for news businesses, so the shift to online advertising has been detrimental for the revenue models of Australian news media businesses and their ability to continue producing high-quality public interest journalism. At the same time, digital platforms have used news content to drive traffic on their platforms, while also becoming a vital distribution channel for news businesses and, in many cases, a necessary trading partner.

The News Media and Digital Platforms Mandatory Bargaining Code (the code) was introduced on 3 March 2021 to address the bargaining power imbalances between large digital platforms and Australian news organisations. The code ensures digital platforms fairly remunerate Australian news organisations for news content and support Australia's news sector. It is a mandatory code of conduct implemented in response to the Australian Competition and Consumer Commission's (ACCC) Final Report¹ on its inquiry into the impact of digital platform services on the state of competition in media and advertising services markets.

The code incentivises digital platforms and news businesses to reach commercial deals independently of the code itself. A review² conducted in 2022 found that the code had been a success in its first year with over 30 commercial agreements reached by Google and Meta (13 of which were made by Meta), and a cross-section of news businesses. The review found that the agreements were highly unlikely to have been made without the code. It has been widely reported that the total annual value of these deals is approximately \$200 to \$250 million to the news sector, of which Meta's deals are estimated to be worth around \$70 million per annum. Due to strict non-disclosure clauses, it is not possible to verify these estimates, however, to date Treasury has not received any information to indicate they are inaccurate.

The code provides no recourse if news is withdrawn from a digital platform

While it has been successful in creating deals between digital platforms and news businesses, the code can only apply to digital platforms that carry news on their services. In practice this means that, without further incentive, a platform withdrawing news entirely from its service would render designation under the code ineffective (as there would be nothing to negotiate or arbitrate over).

A withdrawal of news from any large platform would affect all news publishers in Australia, regardless of whether they have commercial deals, notably including a significant number of small publishers that are heavily reliant on digital platforms to distribute their content. Additionally, if the code is circumvented by one platform, it would leave a multimillion-dollar funding gap for news businesses and may leave only one platform under the code. Ultimately, this outcome would have flow-on adverse impacts for readers and other beneficiaries of public interest journalism in Australia.

¹ <https://www.accc.gov.au/inquiries-and-consultations/finalised-inquiries/digital-platforms-inquiry-2017-19/final-report-and-executive-summary>

² <https://treasury.gov.au/publication/p2022-343549>

The News Bargaining Incentive

The intention of the News Bargaining Incentive (the incentive) is that the Government will collect no revenue from it. The incentive is targeted at ensuring the adoption of commercial arrangements as envisioned under the code. The Government is therefore considering options for an effective mechanism to reinforce the code in a way that cannot be circumvented by digital platforms withdrawing news content. A significant proportion of Australians use digital platforms to access news, and the Government wants this to continue. The Government recognises that public interest journalism is a public good, given it provides benefits to broader society, not just its readers, by its reporting assisting in maintaining an open and accountable society and informing public debate and policy. Correspondingly, its under-provision can lead to significant social, economic and democratic harms. Given the increased reliance on, and negotiating imbalance with, digital platforms, the Australian Government considers that large digital platforms should contribute to the sustainability of news and journalism in Australia.

The incentive was announced by the then Assistant Treasurer and the then Minister for Communications on 12 December 2024³ as a mechanism to support Australia's news sector by incentivising digital platforms to renew or enter into commercial deals as envisioned under the code, thereby addressing bargaining power imbalances. Large digital platforms that choose not to enter or renew commercial agreements supporting Australian journalism will pay the incentive, whereas platforms that do engage in commercial agreements and support will be able to reduce their liability, ideally to nil, with a deduction.

The Government announced the incentive will apply for income tax years commencing on or after 1 January 2025, and will be limited to large, digital platforms operating significant social media or search services, irrespective of whether they carry news content.

Treasury is mindful that digital markets are fast-moving and the interaction of news media with platforms will change over time as markets change. The incentive will seek to balance flexibility in its scope and operation, while providing a level of certainty to platforms and news businesses.

The incentive is separate to the Government's initiatives such as the News Media Assistance Program (News MAP),⁴ which is designed to directly support the sustainability of public interest journalism across Australia, particularly at the regional and local levels.

Purpose

The purpose of this consultation paper is to seek stakeholder views and feedback to inform the Government's policy considerations on the design of the incentive. The paper seeks stakeholder input on the following key policy issues:

- Definitions for the threshold for application.
- The rate of the charge and details of the deduction mechanism.
- Potential implementation considerations.
- Regulatory costs for the affected digital platforms.
- Interactions with government assistance, codes and tax laws.

³ <https://ministers.treasury.gov.au/ministers/stephen-jones-2022/media-releases/albanese-government-establish-news-bargaining-incentive>

⁴ <https://www.infrastructure.gov.au/media-communications-arts/news-map>



Following consideration of submissions on the consultation paper, exposure draft legislation will be developed for public consultation.

Issues

The incentive will be delivered through a charge and a deduction mechanism. Details of a potential incentive structure are set out below, along with overall design considerations. Aspects of the incentive design may be interdependent, with individual settings having implications for others. These relationships and impacts will be considered in finalising design and legislative settings.

Scope of the incentive

The incentive is intended to apply to large digital platforms operating significant social media or search services, irrespective of whether they carry news content. Consistent with the legislation enacting the code, ‘digital platform’ will likely not be defined in the legislation and in which case it would take on its ordinary meaning.

Legislating the criteria for determining which entities are within scope for the incentive would require defining for the purposes of the incentive what “social media” and “search services” are, and what elements make these businesses “large” and their social media or search services “significant”.

These definitions should be narrow and targeted to ensure the incentive does not inadvertently capture services that do not support the incentive’s objective of promoting commercial deals in markets with a competitive imbalance as envisioned under the code, while remaining flexible enough to capture future market developments. Any legislative definition should align where possible with other definitions used by the Australian Government, including definitions to be consulted on as part of forthcoming consultation on the Scams Prevention Framework.

It is intended to specifically exclude services that do not generate significant digital advertising revenue and/or have no or limited links to news media and thus have a lower impact on the viability of news businesses in Australia, for example services focused on dating, gaming or instant messaging.

What is a social media service?

Social media, for the purpose of the incentive, could be defined using its ordinary meaning. Alternatively, a bespoke definition could be used, or an existing definition such as the definition of ‘age-restricted social media platform’ in section 63C of the Online Safety Act 2021^{5/6}.

What is a search service?

A search service for the purposes of the incentive would be defined narrowly, excluding search functionality covering only a single website, inventory systems and other search related services operating for a single website or database rather than the internet at large. This could be achieved either by using the ordinary meaning of the term, a bespoke definition, or an existing definition (such as the one found in the eSafety Commissioner’s Internet Search Engine Services Online Safety Code⁷, made under the Online Safety Act.)

⁵ [Federal Register of legislation – Online Safety Act 2021](https://www.legislation.gov.au/C2021A00076/latest/text)
[~https://www.legislation.gov.au/C2021A00076/latest/text](https://www.legislation.gov.au/C2021A00076/latest/text)

⁶ A statutory review of the Online Safety Act 2021 was completed in 2024 recommending the current definitions of the online industry sections are simplified.

⁷ [Schedule 6- Internet Search Engine Services Online Safety Code Class 1A and Class 2B \[PDF 267KB\]](#).



At first instance, entities will need to self-assess their liability for the incentive, including determining whether their activities meet the definition of social media and search services. Given the purpose of the incentive is to incentivise entities to enter commercial deals, it may be that an avenue is needed for entities to confirm whether they are within the scope of the incentive so they can have confidence about whether deals are required. Stakeholder views on this issue are welcomed.

What factors determine the size and significance of a platform and its services?

The Government envisions only “large” digital platforms offering a social media or search service deemed “significant” in Australia as being within scope. This is due to the bargaining power imbalance created by their size and significance within Australia. There are several criteria that could be used to determine whether a platform is “large”, and whether an in-scope social media or search service is “significant”.

- A digital platform offering social media and/or search services could be considered “large” if it is part of a group that has gross annual revenue above a certain threshold attributable to Australia. “Group” for this purpose would mean the entities consolidated for accounting purposes as a single group. Treasury’s initial modelling of the incentive indicates that \$250 million may be an appropriate threshold. This threshold would both provide certainty for firms about whether they are potentially in scope for the incentive, with an additional “significance” test also required to ensure the incentive’s objective of remedying competitive imbalance is met.
 - Alternative measures of revenue could be considered to determine whether a platform is “large”. For example, instead of gross annual revenue, the threshold could apply to revenue attributable to digital advertising, since the rationale of the incentive is that the entities benefitting the most from the digitalisation of advertising should contribute to the public good of news media. Treasury notes that alternative measures of this type would increase complexity in administration of the incentive, so its initial view is that these should only be pursued if a gross annual revenue test, when combined with other parameters such as the test for significance, causes significant unintended outcomes.
- Determining the “significance” of a service within Australia will ensure the incentive is only applied to firms which are likely to have a bargaining power imbalance with news businesses. An effective test may require one or more criteria to be met. Some examples of potential criteria include:
 - Revenue test criteria, such as a minimum amount of revenue generated from providing the service in Australia could be the required level to deem a social media or search service “significant”.
 - Market power criteria, such as whether the digital platform is a major or dominant supplier of social media and/or search services in Australia as determined by a percentage of market share or another measure.
 - The size of a platform’s Australian user base.
 - Whether or not viable alternative services are available for Australian users.

When does the incentive commence?

The incentive has been announced as applying for income tax years commencing on or after 1 January 2025. Stakeholder feedback is sought on the incentive's commencement date, noting the intention for digital platforms to respond to the incentive by renewing or entering into commercial deals as soon as possible.

Questions

Q1: *How do you think “social media” and “search services” should be defined for the purposes of the incentive? Do you anticipate that a process for confirming the application of these definitions will be needed, and if so, what form should it take?*

Q2: *Is a gross annual Australian market revenue threshold appropriate for determining whether a platform is “large”, or should a different measure be used?*

Q3: *If gross annual Australian market revenue is the appropriate threshold, what level of revenue should it be set at?*

Q4: *What criteria should be used to determine the “significance” of a social media or search service in Australia?*

Q5: *What sources of data are best used to assess the size of companies and significance of their services?*

Q6: *What administrative costs are likely to be incurred by platforms that are potentially in scope?*

Q7: *When should the incentive commence?*

Calculation of the incentive liability

The liability calculation will be designed to incentivise total commercial deals in the order of magnitude of recent deals. That is, any digital platform that made deals in relation to the code and continues to make deals with Australian news organisations similar to those that already exist or have recently existed should not incur a new liability under the incentive. The incentive will apply on a group basis (referred to as the in-scope entity), rather than to individual companies. As with the definition used in relation to the size of the platform, “group” in this context refers to entities consolidated for accounting purposes as a single group.

An in-scope entity's incentive liability will be calculated by applying the incentive rate to a revenue base, then reducing the liability with a deduction to reflect eligible expenditure:

$$\text{Incentive liability} = (\text{charge base} \times \text{incentive rate}) - (\text{eligible expenditure} \times \text{deduction rate})$$

Charge base: Identifying the most appropriate base

The charge base should ensure the liability effectively incentivises meaningful engagement between digital platforms and news businesses, and is simple to comply with and to administer.

This aspect of the design depends on the revenue streams of the population of in-scope entities. Once the scope of the incentive has been settled and the population of in-scope entities has been defined, it will be clearer whether a wide charge base is most effective, or whether a narrower base should be adopted.

The **first option** is to set the charge base as total gross revenue generated in Australia (exclusive of GST), aggregated across the whole group. The incentive liability would then reflect the size of the overall entity. It is also simple, reducing the compliance burden on in-scope entities.

Determining how much of an entity's revenue is generated from Australia is not expected to be a complex calculation. Records of revenue disaggregated by jurisdiction are understood to be held for foreign tax compliance purposes.

The **second option** is to define the charge base as the total group revenue generated in Australia from digital advertising. Digital advertising revenues have largely facilitated the switch from traditional news business models to highly digitalised business models. This has led to a decline in the number of outlets engaged in news media production in Australia and has increased reliance on digital platforms for news distribution. It may therefore be appropriate to link incentive liabilities to digital advertising revenues such that the businesses that have benefitted the most from the technological shift will contribute the most to the public good of Australian news and journalism.

However, there are other similarly lucrative sources of income for large social media platforms and search engines, including the sale or licensing of user data and subscription fees.

Treasury's preferred option is for the charge base to be the total gross group revenues generated in Australia arising in a fiscal year, exclusive of GST (Option One). The incentive is not intended to raise any revenue, and those entities that are already engaging in commercial deals should not face unduly complex compliance rules to report a nil liability. To this end, the simplest option should be chosen.

Question

Q8: Which of the two proposed options for the charge base is most appropriate for the incentive? Is there another option that would be effective and minimise the compliance burden?

Charge base: Ensuring certainty

It is important that the design of the incentive liability calculation provides certainty for digital platforms. The incentive is intended to strengthen existing obligations, not to create a new financial burden. It should not be the case that a digital platform engaging appropriately with news organisations incurs a liability simply because fluctuations in revenue unexpectedly increase the charge base.

Furthermore, it is understood that most existing deals span multiple years. It could be difficult to predict future revenue growth and therefore estimate whether a future liability will arise at the time a multi-year deal is being negotiated.

Treasury's consultation option to address this issue and provide certainty would be to set the charge base using revenue figures from a prior year. Given that most existing deals are understood to cover three-year periods, it may be ideal to calculate current year liabilities using revenue figures from three years prior.

For example, consider a deal being negotiated to cover fiscal years 2027, 2028 and 2029. This option would result in the 2027 liability being calculated using revenue figures from 2024, the 2028 liability being calculated using revenue figures from 2025, and the 2029 liability being calculated using revenue figures from 2026.

Questions

Q9: *Do you prefer the charge base to be calculated using current year revenue figures, or revenue figures from a prior year? If you prefer a prior year, which prior year is the most appropriate?*

Q10: *Are there any additional mechanisms through which commercial deals and commitments should be recognised as part of the incentive, to provide certainty for existing and ongoing deals?*

Incentive rate

The rate applied to the charge base will be set such that in-scope entities will be better off supporting Australian news media production than incurring an incentive liability. The level of the incentive rate needs to take into account how the charge base is defined and the deduction rate (see below) to ensure the final liability mechanism effectively incentivises commercial deals. For example, in setting the incentive rate, the cost of the deals as well as the cost of administering and negotiating them will need to be accounted for to ensure the incentive rate makes commercial deals more attractive than paying the charge.

Limited information about existing deals between digital platforms and news media producers is available due to commercial sensitivities. The 2022 review of the code⁸ found that over 30 commercial deals had been reached by Google and Meta, and estimates place the annual value of these deals at around \$200 – \$250 million⁹. While no information has been received to date to contradict previous estimates, further detail on the value of these agreements is being sought to ensure that the incentive rate is set appropriately.

Question

Q11: *Can you provide information on the value of existing commercial deals between digital platforms and news producers, and/or annual gross revenues generated in Australia by digital platforms operating social media or search engine services? (Please see page 3 for details of submission confidentiality).*

Based on these figures and public information about the revenue of major digital platforms, preliminary modelling suggests that the value of existing deals is approximately equivalent to 1.5 per cent of gross annual group revenues generated in Australia by in-scope entities. Treasury welcomes additional information from digital platforms on these estimates to refine this analysis.

Given these estimates, and assuming the charge base is total gross Australian group revenues (exclusive of GST), initial modelling indicates that the incentive rate should be set at 1.5 per cent times by the deduction rate. If the deduction rate is 150 per cent of eligible expenditure (see Q20 on setting of the deduction rate) then the incentive rate should be set at 2.25 per cent in order to incentivise deals equivalent to 1.5 per cent of revenue. A lower deduction rate would mean setting a lower

⁸ News Media and Digital Platforms Mandatory Bargaining Code, The Code's first year of operation (November 2022), <https://treasury.gov.au/publication/p2022-343549>

⁹ See the May 2022 report for the Judith Neilson Institute: [Instruments and objectives; explaining the News Media Bargaining Code \[PDF 807KB\]](#).

incentive rate to incentivise that level of deals, for example, if the deduction rate was set at 120 per cent of eligible expenditure this would mean setting the incentive rate at 1.8 per cent.

As another example, if evidence instead suggests that existing deals are equivalent to around 1 per cent of gross annual group revenues generated in Australia by in-scope entities, and that a deduction rate of 150 per cent of eligible expenditure is required to incentivise platforms to enter into deals instead of paying the charge, the incentive rate could be set at 1.5 per cent in order to incentivise deals equivalent to 1 per cent of the charge base.

Question

***Q12:** At what rate should the charge be set (bearing in mind the charge base and deduction rate) to ensure that in-scope entities are incentivised to continue entering into commercial deals in the order of magnitude of recent deals, and that in-scope entities without deals enter into deals of a similar proportion of their revenue?*

Defining eligible expenditure

Appropriately defining the expenditure that is eligible for the deduction is important to ensure the right types of spending attract the deduction.

Broadly, there are three types of expenditure that could be eligible: expenditure incurred under a commercial deal; expenditure incurred through an arbitrated agreement under the code (in the event a platform is designated); and indirect support such as funding grants or initiatives that support public interest journalism.

Commercial deals: Defining the scope of eligible commercial deals

A commercial deal in this context is a contract or agreement between a digital platform and a news business providing remuneration for the use or carriage of news content on a service operated by a digital platform. Generally, this would be a lump sum payment or a fixed series of payments over the term of an agreement for the use of a news business' content. However, there could be other deal structures such as an agreement to share relevant advertising revenue linked to the content of a news business. If such agreements remunerate the business for news content, then the intent is to include them as eligible expenditure under a commercial deal. Further information on these types of arrangements would assist to ensure they can be included if appropriate.

Question

***Q13:** What types or structures of commercial deals exist and should be eligible for the deduction?*

Commercial deals: Defining the scope of the parties to the deal

Another key question is how the incentive ensures that the recipient of eligible expenditure under a commercial deal is a professional news business that produces news of importance to Australia. The code provides a process for news business registration that goes to these objectives. One option would be to use that existing mechanism, i.e. provide that the commercial deal must be between a digital platform and any news business registered under the code.

A variation of this approach would be to use the same criteria as required for registration under the code, but not require a news business to be registered by the Australian Communications and Media



Authority (ACMA) to be eligible. Registration would be sufficient, but not required, to pass the tests. It would be up to digital platforms whether to insist that a news business is registered, with the registration process available should platforms require a higher level of certainty that a news business would meet the tests. Keeping the same criteria would mean news businesses that are already registered would not need to reapply or be reassessed. A further alternative is to create an entirely new set of criteria for the incentive. However, this approach is not preferred as it would increase compliance costs and involve duplication of the existing process.

The code stipulates four registration tests¹⁰ that must be met for the existing register:

- The content test requires that the primary purpose of each news source is to create and publish core news content. “Core news content” is defined in legislation¹¹, and broadly covers reporting on issues that inform public debate and democratic discussion, as well as significant current issues.
- The professional standards test requires that news sources have editorial independence from the subjects of their coverage, and are subject to one of the professional codes of practice listed in the code or in regulations, or analogous internal editorial standards.
- The revenue test requires that the annual revenue of the news business corporation exceeds \$150,000 in the preceding year, or in at least three of the five preceding years.
- The Australian audience test requires that news sources operate predominantly in Australia for the predominant purpose of serving Australian audiences.

Chapter 4 of Treasury’s review of the code¹² discusses the registration of news businesses under the code in more detail. The review found that the registration criteria had worked effectively and that there was not a sufficiently strong case to amend them at that point in time. A broad range of entities are now registered, and it remains open for new entities to apply. This suggests that using the current registration criteria will appropriately allow digital platforms to enter into commercial deals with a broad range of news businesses and have associated expenditure recognised under the deduction. Formal registration of a news business by ACMA under the code would be available to confirm a news business meets the tests, but registration would not be a prerequisite for a deal to be recognised. This is Treasury’s preferred approach.

It is intended that the incentive would recognise commercial deals agreed between groups of eligible small news businesses and a digital platform. News businesses would need to ensure they are authorised by the ACCC to collectively bargain without breaching competition laws. There are some existing authorisations published by the ACCC for groups of news businesses to collectively bargain with certain digital platforms¹³. For other arrangements, the ACCC’s small business collective bargaining ‘class exemption’ provides for groups of businesses with an aggregated turnover of less than \$10 million in the prior financial year to complete a one-page notice form to obtain legal protection for collective bargaining. Businesses that fall outside the scope of the class exemption can still use the ACCC’s authorisation and notification processes to seek legal protection for collective bargaining¹⁴.

¹⁰ Under these tests the relevant news business does not need to be Australian-owned or Australia-headquartered to be eligible for registration or deals.

¹¹ *Competition and Consumer Act 2010*, s52A.

¹² <https://treasury.gov.au/publication/p2022-343549>

¹³ <https://www.accc.gov.au/by-industry/digital-platforms-and-services/news-media-bargaining-code/news-media-bargaining-code>

¹⁴ <https://www.accc.gov.au/public-registers/class-exemptions-register/collective-bargaining-class-exemption-0>

Question

Q14: *Would there be significant unintended outcomes if the code registration process was used to define news businesses for the purpose of defining eligible expenditure – please provide examples? How would an alternative process address these issues?*

Commercial deals: Ensuring balanced distribution of support among news businesses

Guardrails are needed around the distribution of commercial deals among news businesses. The Government has already made clear that a single large deal would not be sufficient to offset the liability of a platform. On the other hand, platforms will not be required to enter into deals with all eligible news businesses. If news businesses are guaranteed a deal, it would impact their approach to the commercial negotiation.

The incentive is not the only policy that supports news businesses; it is complemented by the Government's News MAP framework and associated funding. The News MAP package of measures provides support for public interest journalism and media literacy, including \$99.1 million over three years in grants to the news sector. The incentive is not intended to raise revenue, but the Government will consider options to distribute assistance if it becomes clear that a platform will pay the charge rather than entering into commercial deals.

Options for an integrity provision to address this issue include:

- A proportional cap on the maximum value of the largest deals eligible for the deduction. For example, the rule could stipulate that the maximum value of the largest deal that will attract the deduction is one third of the total eligible expenditure of the platform. For deals that exceed the cap, the deduction to the liability will be limited to the level that is available to a deal at the maximum value. This is a relatively simple option, which benefits from a clear test that would be easily verified.

For example, consider a digital platform that has \$30m worth of commercial deals that are eligible expenditure with relevant news businesses – one deal worth \$15m, and five deals each worth \$3m. With a proportional cap, the maximum value of the largest deal(s) recognised for the deduction to the liability is limited to \$10m (one third of \$30m total eligible expenditure). The digital platform's deduction to its liability in this case is calculated by multiplying \$25 million [$\$10m + (5 \times \$3m)$] in eligible expenditure by the deduction rate.

- A tiered approach that increases the deduction rate (for a certain proportion of the deduction) for deals with smaller news businesses and collective agreements with multiple smaller news businesses.

For example, if the deduction rate was 150 per cent generally, a 170 per cent deduction rate could apply for collective deals with small news businesses, with the higher deduction rate limited to 25 per cent of the platform's eligible expenditure.

Mandating a minimum number is not considered to be a viable option, since this would unduly interfere with the commercial nature of the bargaining process.

A proportional cap on the maximum value of the largest deal, set as a substantial percentage of eligible expenditure, is the preferred option because it is simple and expected to be effective.

Questions

Q15: *Should there be a cap on expenditure with any single news business corporate group to provide greater assurance that multiple deals will be entered into? If so, what should the cap be as a proportion of eligible expenditure?*

Q16: *Is a proportional cap on the maximum value of the largest deals, set as a substantial percentage of eligible expenditure, an appropriate mechanism to ensure a minimum level of diversity in deals reached under the incentive? If not, what alternative mechanism should be considered?*

Commercial deals: Transparency issues

Commercial deals are not usually reported publicly and often contain confidentiality clauses limiting the disclosure of details. It is important that confidentiality is maintained for several reasons, including the fact that disclosed information could affect the negotiation of other deals. At the same time, there is a legitimate interest in which entities have been party to these deals and the overall value of deals that a digital platform has entered into. This information is important for public policy purposes, including for related policies supporting the news sector and for any future review of the incentive.

If transparency of eligible expenditure is required, there are many options for the scope of reporting, such as:

- a periodic reporting requirement of the number of deals, the total value of deals, and the names of news businesses with which the platform has entered into deals; or
- collection of relevant information by the ATO as part of the lodgement process.

An enforcement mechanism would be needed to ensure compliance with reporting obligations. There are penalties already in place for failure to report information where required under the tax law, and a similar mechanism could be used for the purposes of the incentive.

Question

Q17: *What information, if any, do you think should be reported in relation to the incentive? How should that information be collected?*

Arbitrated determinations under the code

In the event a platform is designated under the code, and parties do not reach agreement on remuneration in negotiation or mediation, final offer arbitration can be used to settle remuneration. In this instance parties are required to comply with a determination made by the arbitration panel (s52ZZE of the CCA). To avoid doubt, it is intended that any payments made by digital platforms to news businesses under a determination made under the code (even if not a commercial deal) would be counted as eligible expenditure for the deduction.

Other eligible expenditure

While commercial deals will be the primary form of expenditure that attracts a deduction, the incentive will also recognize meaningful contributions to the news sector in Australia made by digital platforms. Prior to the implementation of the code, some digital platforms provided assistance to news businesses through support programs. These programs were not commercial deals. Rather, they were financial commitments to various news businesses or sectors of the news industry.

For example, one digital platform committed emergency funding to local publishers affected by COVID-19. Another platform partnered with an Australian journalism foundation, investing in a fund to support regional and digital newsroom innovation. One platform entered into a deal with the Australian Associated Press, a news wholesaler, which is not eligible to be registered under the code as a news business. These programs are examples of meaningful expenditure committed to supporting news production in Australia.

Options for including eligible expenditure outside of commercial deals include:

- To allow expenditure on programs similar to the above to be eligible for the deduction. This would require a definition on the allowable purpose of this expenditure. Digital platforms would be able to support news production through programs that commit genuine and meaningful support to the sector.
- To not allow expenditure on these programs to be eligible for the deduction. This would focus expenditure on commercial deals but may not fully capture the objective of providing support for the sector that promotes production of public interest journalism in Australia. It would also avoid complications with identifying an exact definition of eligible expenditure and the purpose of support programs.
- To allow expenditure on these programs to be eligible for the deduction with a cap on 'other' expenditure outside of commercial deals. This would limit the portion of other eligible expenditure that can reduce a digital platform's incentive liability. The cap could be expressed as the highest of a proportional cap (a percentage of the total eligible expenditure – for example 25 per cent) and a cap set at a dollar value (for example \$15 million - set at a level that could allow smaller platforms to initially make greater use of 'other expenditure' until the time they achieve greater scale).

Question

***Q18:** Should appropriate additional expenditure be eligible for the deduction? If so, should additional guardrails such as a proportional cap be put in place?*

Potential limits on the use of eligible expenditure

There have previously been suggestions from stakeholders in relation to the code that news businesses receiving funding under commercial deals should be required to use those funds for a specific range of purposes. The final design of the code did not include such restrictions. Similarly, it is proposed that the incentive will not include restrictions on the use of funds received from a commercial deal or other eligible payment from a digital platform.

Arrangements under the incentive will be commercial in nature. It may therefore not be appropriate or practical for government to direct the use of funds. Furthermore, there are a broad range of activities that are important for a news business to produce journalism content, making it difficult, and likely unhelpful, to restrict the use of funds.

If digital platforms choose not to incur eligible expenditure and the incentive does raise revenue, the Government will consider whether requirements should be imposed on recipients of any resulting grant funding as part of considering distribution arrangements.

Question

Q19: Do you agree that no limits should be placed in legislation on how eligible expenditure is used by the recipient news businesses?

Rate of the deduction for eligible expenditure

The rate of the deduction for eligible expenditure will be set such that in-scope entities will be incentivised to support news media in Australia, rather than pay the charge. In-scope entities will be able to reduce their charge liability, in part or in full by claiming a deduction for eligible expenditure.

Preliminary modelling suggests that a rate of 150 per cent may create a strong incentive to support news media in Australia, based on the estimated value of pre-existing commercial deals, with additional allowance for the costs associated with making and administering deals. Treasury is seeking further information to determine whether this rate is appropriate.

Question

Q20: What do you think the deduction rate should be?

Options for a crediting mechanism

There may be cases where a digital platform incurs more eligible expenditure than can be exhausted through the deduction mechanism. In these cases, a refundable credit will not arise. That is, even if the calculation results in a negative number, the excess will not be repayable.

However, a crediting system could be implemented such that any excess eligible expenditure can be carried forward to reduce the liability in a future year. This would provide a smoothing mechanism to eliminate a liability if, for example, unexpected fluctuations in revenue and eligible expenditure would otherwise result in a liability.

For example, consider a digital platform that has a revenue base of \$250 million and incurs eligible expenditure of \$4 million. Assuming a charge rate of 2.25 per cent and a deduction rate of 150 per cent, the liability is calculated thus:

$$(\$250\text{m} \times 2.25 \text{ per cent}) - (\$4\text{m} \times 150 \text{ per cent}) = -\$375,000$$

The liability cannot be less than zero. A crediting mechanism would allow the \$375,000 to be carried forward to a future year. If, for example, in the following year the digital platform still incurred \$4 million of eligible expenditure but the revenue base increased to \$300 million, the carried forward credits could be used to reduce the liability:

$$(\$300\text{m} \times 2.25 \text{ per cent}) - (\$4\text{m} \times 150 \text{ per cent}) - \$375,000 = \$375,000$$

Question

***Q21:** Do you think a crediting mechanism is necessary? If so, do you think there should be limits to when carried forward credits can be utilised?*

If a multi-year agreement has been entered into before the commencement of this measure, the incentive will still apply to the periods after commencement. That is, an incentive liability may arise if the digital platform does not incur sufficient eligible expenditure under existing agreements. Incentive liabilities would be calculated in the same way as if the deal had been struck after 1 January 2025; no special transitional rules would apply.

Interactions with other government assistance, codes or tax laws

Deductibility of the incentive

In-scope entities that do not incur eligible expenditure by contributing towards news media production will be liable to pay the incentive. This liability will not be deductible for corporate income tax purposes, in accordance with the usual non-deductibility of penalty charges.

This outcome is both consistent with existing tax law (as it applies to, for example, superannuation guarantee charge) and fair. The incentive would have limited effectiveness if the net impact of incentive liabilities was reduced by a corporate income tax deduction.

Those in-scope entities that do properly support news media production will generally be able to claim a corporate income tax deduction for their eligible expenditure. In-scope entities will therefore be better off entering into commercial deals than incurring an incentive liability for two reasons: eligible expenditure will reduce the incentive liability (ideally to nil), and eligible expenditure is deductible for corporate income tax.

Interaction between the incentive and government measures related to the digital economy

The Government has announced several measures responding to digital economy and digital platforms related issues. While some measures may affect a similar population of stakeholders, they exist to solve distinct policy issues. The incentive addresses bargaining power imbalances, ensuring that large digital platforms contribute to the sustainability of news and journalism in Australia, but with a clear preference for this to be done through the renewing or entering of commercial deals.



The News MAP sets out a framework to guide government intervention to support public interest journalism and media diversity in Australia. It contains a range of measures including a focus on the sustainability of independent and regional news businesses.

These measures have been designed to fit within the wider context of the Government's response to the digital economy. Where appropriate, elements of different policies affecting digital platforms may be addressed together for simplicity and to ensure the minimum possible administrative burden on participants.

Annex A – Summary of consultation questions

Q1: How do you think “social media” and “search services” should be defined for the purposes of the incentive? Do you anticipate that a process for confirming the application of these definitions will be needed, and if so, what form should it take?

Q2: Is a gross annual Australian market revenue threshold appropriate for determining significance, or should a different measure be used?

Q3: If gross annual Australian market revenue is the appropriate threshold, what level of revenue should it be set at?

Q4: What criteria should be used to determine the “significance” of a social media or search service?

Q5: What sources of data are best used to assess the size of companies and significance of their services?

Q6: What administrative costs are likely to be incurred by platforms that are potentially in scope?

Q7: When should the incentive commence?

Q8: Which of the two proposed options for the charge base is most appropriate for the incentive? Is there another option that would be effective and minimise the compliance burden?

Q9: Do you prefer the charge base to be calculated using current year revenue figures, or revenue figures from a prior year? If you prefer a prior year, which prior year is the most appropriate?

Q10: Are there any additional mechanisms through which commercial deals and commitments should be recognised as part of the incentive, to provide certainty for existing and ongoing deals?

Q11: Can you provide information on the value of existing commercial deals between digital platforms and news producers, and/or annual gross revenues generated in Australia by digital platforms operating social media or search engine services? (Please see page 3 for details of submission confidentiality).

Q12: At what rate should the charge be set (bearing in mind the charge base) to ensure that in-scope entities are incentivised to continue entering into commercial deals in the order of magnitude of recent deals, and that in-scope entities without deals enter into deals of a similar proportion of their revenue?

Q13: What types or structures of commercial deals exist and should be eligible for the deduction?

Q14: Would there be significant unintended outcomes if the code registration process was used to define news businesses for the purpose of defining eligible expenditure – please provide examples? How would an alternative process address these issues?

Q15: Should there be a cap on expenditure with any single news business corporate group to provide greater assurance that multiple deals will be entered into? If so, what should the cap be as a proportion of eligible expenditure?

Q16: Is a proportional cap on the maximum value of the largest deals, set as a substantial percentage of eligible expenditure, an appropriate mechanism to ensure a minimum level of diversity in deals reached under the incentive? If not, what alternative mechanism should be considered?

***Q17:** What information, if any, do you think should be reported in relation to the incentive? How should that information be collected?*

***Q18:** Should appropriate additional expenditure be eligible for the deduction? If so, should additional guardrails such as a proportional cap be put in place?*

***Q19:** Do you agree that no limits should be placed in legislation on how eligible expenditure is used by the recipient news businesses?*

***Q20:** What do you think the deduction rate should be?*

***Q21:** Do you think a crediting mechanism is necessary? If so, do you think there should be limits to when carried forward credits can be utilised?*

Annex B – Summary of major design elements and options

Key design specification	Options	Consultation approach
Scope	- To determine if a service is in scope use the definitions contained in the <i>Online Safety Act 2021</i> and associated codes. - Alternatively, use a different definition either contained in existing legislation or bespoke for the incentive. - Size could be determined by gross annual revenue in Australia of at least \$250 million (exclusive of GST) or a suitable alternative amount. - Alternatively, use a different revenue measure could be used, or other quantitative criteria. - Determining the “significance” of a service within Australia may require one or more criteria to be met. Some examples of potential criteria include Australian service revenue, market dominance measured by market share, platform user base, and/or whether a viable alternative service is available to Australian users.	Use ordinary definition of ‘social media service’ and ‘search service’ or a definition that aligns with an existing legislative definition, for example definitions under the Online Safety Act and associated codes. Firms with a gross annual revenue in Australia of at least \$250 million (exclusive of GST) would be considered in scope. Significance to be determined by service revenue, with additional tests such as market share and whether viable alternative services are available to Australian users to be considered.
Charge base: revenue type	- Total gross annual group revenues generated in Australia (exclusive of GST). - Gross annual group revenues generated in Australia from digital advertising (exclusive of GST).	Total gross annual group revenues generated in Australia (exclusive of GST).
Charge base: year	- Current year revenue - Revenue arising in prior years	Revenue arising in the preceding three years.
Incentive rate	2.25 per cent (assuming the consultation approach for the charge base and deduction rate). - Another rate based on stakeholder input on existing deals.	2.25 per cent.
Eligible expenditure	Include commercial deals made with entities registered under the code or also those that meet similar requirements,	Include commercial deals made with entities registered under the code or meeting similar

	arbitrated determinations under the code, and direct support paid to news businesses (with or without a cap).	requirements, arbitrated determinations, and direct support paid to news businesses (subject to a cap).
Deduction rate	150 per cent (assuming the consultation approaches for charge base and incentive rate). - Another rate based on stakeholder input on existing deals.	150 per cent.