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News Bargaining Incentive

KEY MESSAGE

- The Government has announced the News Bargaining Incentive to ensure that large digital platforms contribute to the sustainability of news and journalism in Australia, with a clear preference for this to be done through the renewing or entering into of commercial deals.

KEY FACTS AND FIGURES

- The News Bargaining Incentive is designed to support Australia's news sector by incentivising digital platforms to renew or enter commercial deals as envisioned under the News Media and Digital Platforms Mandatory Bargaining Code that was established in 2021.
- The Government considers that a strong and diverse news sector is vital for a healthy democracy. The incentive is intended to ensure the news sector can continue to deliver quality public interest journalism to Australians.
- The introduction of the incentive was made necessary by Meta's decision on 1 March 2024 to no longer renew or enter into new commercial agreements to remunerate Australian news media businesses for their news content.
  - Google has stated it is committed to renegotiating future payments to news media companies in the spirit of the code. Under the incentive these deals, if maintained at an appropriate level, are intended to fully offset any liability under the incentive.
- The Government does not intend to raise revenue through the incentive, only to encourage digital platforms to enter commercial deals with news businesses, and support public interest journalism, at around the level of recent deals.
- The incentive will include a charge and an offset mechanism. Large digital platforms that choose not to enter or renew commercial agreements supporting Australian journalism will pay the charge. Platforms with these agreements will however be able to offset their liability due to a non-refundable offset against the charge.
- The Government will release a consultation paper on the incentive shortly. We encourage all parties to engage in good faith in the process to ensure the incentive achieves its objective.
- The charge element of the incentive is intended to apply for income tax years commencing on or after 1 January 2025. Following detailed consultation in early 2025 we intend to consult on an exposure draft prior to bringing legislation to the Parliament later in 2025.

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BACKGROUND

Why is there a need for the News Bargaining Incentive?

- News organisations have traditionally been funded by advertising revenue generated by traditional print and broadcast media. This business model has been affected by digital platforms capturing a large share of this revenue.
- The incentive is intended to encourage deals that will benefit the Australian news sector and allow it to continue to produce public interest journalism. It is important for Australians to have access to credible sources of information on current issues and events at the national, regional and local levels.
- The News Media Bargaining Code was introduced in 2021 to encourage digital platforms to enter into commercial deals with news publishers.
- The code acknowledged that large digital platforms are unavoidable trading partners for Australian news media businesses in reaching audiences online, and sought to address the imbalance of bargaining power between digital platforms and news media publishers.
- However, the code has limitations. Platforms can avoid their obligations by removing news. This is not in the best interest of all Australians.
- A significant proportion of Australians use digital platforms to access news, and the government wants this to continue.
- The government is acting to address this, by establishing a News Bargaining Incentive to encourage digital platforms to enter or renew commercial deals with news publishers. It does not intend to raise revenue from this policy.

How is the News Bargaining Incentive intended to function?

- The incentive will apply to large, digital platforms operating significant social media or search services, irrespective of whether they carry news content.
- The government will consult with relevant stakeholders on the technical details of the incentive including the test for application, and the appropriate rates and function of the charge and offset mechanisms.
- The proposed test for application could have three limbs:
  - A digital platform will be considered large if it, together with its related bodies corporate, has gross annual revenue of over $250 million attributable to Australian markets, exclusive of GST.
  - The digital platform must operate a social media and/or search service.

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  : It is expected definitions of these terms will be narrow and targeted to ensure the incentive does not inadvertently capture specific services that do not support the incentive's objective of incentivising commercial deals envisioned under the code. For example, it is not expected to capture dating services such as Bumble and messaging services such as Signal.

  – The social media and/or search service must be <u>significant.</u>

- It is expected that few services will fall within scope of the incentive. We anticipate Meta, Google and TikTok would fall within scope of the incentive.
- The intention of the incentive is not to raise tax revenue.
- The charge element of the incentive and accompanying offset will be set to incentivise commercial deals between digital platforms and news businesses. The consultation process will ensure the rate is set at the appropriate level.
- The calculation of the charge may be based on total gross revenues attributable to Australian markets. It will apply to large digital platforms operating significant social media or search services, irrespective of whether they carry news content.
- Large digital platforms that are subject to the charge will be incentivised to renew or enter into commercial deals to remunerate Australian news organisations for the production of journalism with an non-refundable offset against the charge.
- Entities subject to the incentive will be able to reduce their liability, in part or in full, by claiming against a non-refundable offset for eligible expenditure supporting journalism.
  - This will include expenditure under commercial deals to remunerate news organisations, and other contributions to the news sector.
- The offset will be designed to strongly incentivise entities to renew or enter into commercial deals, rather than pay the charge. Eligible expenditure will offset liability for the charge at a greater than 1 for 1 rate (that is, eligible expenditure of $1 will reduce the liability for the charge by more than $1).

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Interaction with the News Media Bargaining Code

- While the code successfully prompted Meta and Google to reach over 30 first-round commercial deals with Australian news businesses, the code is rendered ineffective by the ability of a digital platform to circumvent a designation decision through removing news.
- This is why Meta has not been designated, as by removing news in response they would remove their obligations under the code, thus harming Australian news businesses who distribute their content on Meta services for no benefit.
- The policy is designed to reinforce the code by incentivising commercial deals as envisioned under the code and ensure digital platforms continue contributing to journalism in Australia. The incentive will ensure digital platforms such as Meta cannot avoid their obligations under the code simply by removing news content.
- The Government has no plans to repeal the code as it still forms an important part of our plan for a sustainable news sector in Australia.
- The incentive is separate to the government's initiatives in the News Media Assistance Program (News MAP). It is designed to directly support the sustainability of public interest journalism particularly at the regional and local levels.

Joint Select Committee into Social Media and Australian Society

- On 10 May 2024, the Assistant Treasurer and Minister for Communications jointly announced that the Government will move to establish a Joint Parliamentary Select Committee into the influence and impacts of social media on Australian society. The Terms of Reference required the Committee to report on Meta's decision to abandon deals under the code, among other matters.

- The Committee's final report was tabled on 18 November 2024. The final report also referenced the recommendations of the Committee's second interim report that was released on 21 October 2024. The government is considering the Committee's reports and will respond in due course.

- The incentive is consistent with recommendation 2 of the Committee's second interim report, including the recommendation that the policy should include consideration of preserving current and future commercial deals.
  - The Committee recommended that 'acknowledging the limitations of the News Media Bargaining Code, the Australian government explore alternative revenue mechanisms to supplement the code, and contribute to systems oversight, such as a digital platform levy. Exploration should include consideration for preserving current and future commercial deals to sustain public interest journalism over the longer term, and to support digital media literacy initiatives."

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- The Coalition made a separate dissenting report which rejected the claim underlying these recommendations that the Code is no longer fit for purpose, citing Treasury's 2022 Review that found the Code was a success to date.

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