



ABC submission to the Departmental consultation on Revenue Distribution under the News Bargaining Incentive

May 2026

Introduction

The ABC welcomes the opportunity to provide comments to the Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts on its consultation paper proposing a Statutory Payment Scheme (SPS) for distributing revenue collected as a result of the News Bargaining Incentive (NBI) scheme.

The ABC broadly supports the NBI scheme and the SPS, although it has some specific concerns about both. This submission provides comments on aspects of the SPS. The Corporation has made a separate submission to Treasury in relation to draft legislation to enable the NBI.

In particular, in relation to the SPS, the ABC accepts the consultation paper's proposal that the number of people employed in the process of creating original news for Australian audiences is a reasonable proxy for the creation of public-interest journalism in Australia. However, the definition of "eligible journalists" proposed in the consultation paper is too narrow.

The Corporation also believes that the evidentiary mechanism by which recipient media organisations demonstrate the number of eligible journalists they employ should not be unduly onerous.

News Media and Digital Platforms Mandatory Bargaining Code

The NBI scheme seeks to address shortcomings of the News Media and Digital Platforms Mandatory Bargaining Code ("Code"), which was developed by the Australian Competition and Consumer Commission (ACCC) to support the creation of public-interest journalism by addressing bargaining imbalances between the major digital platforms and news media businesses.

As a result of the introduction of the Code in 2021, the ABC was able to negotiate content arrangements with Google and Meta and to apply the resulting revenue to expanding its resource capacity in regional and rural Australia. The Corporation was able to employ more than 60 additional regional journalists, including placing

journalists in 10 communities where it had not previously had a presence. In effect, the agreements generated a return on the ABC's investment in news content that it was able to use to deliver additional high-quality journalism to the Australian public.

The ABC is hopeful that the NBI will enable similar commercial arrangements that support public-interest journalism.

Statutory Payment Scheme

The proposed SPS complements the NBI by providing a means for distributing monies collected when eligible technology companies do not, or do not fully, offset the charge payable under the NBI scheme's charge-and-deduct model. Thus, while the SPS shares the Code's policy objective of supporting Australian news organisations' continued investment in news and journalism, it cannot employ a market-based mechanism.

Instead, as proposed, the SPS would divide NBI revenue proportionately between news organisations on the basis of the number of people employed in the creation of "core" news content at each organisation. It effectively uses the employment of news content makers as a proxy for organisations' contribution to the creation of public-interest journalism in Australia.

The ABC recognises that, as a matter of policy design, the SPS is intended to be applied mechanically and consistently to ensure that there is no possibility or perception of government interference in the editorial independence of news organisations.

It is important to note that the proposed SPS will not enable news organisations to plan with certainty in the same way that deals struck under the Code or NBI scheme will. Negotiated commercial arrangements specify what news organisations will receive over the life of the deal, allowing them to plan their use of funds over multiple years. In contrast, the level of funds distributed between organisations as a result of the charge will vary from year to year and could change significantly if eligible search or social platforms choose to enter into or exit deals. This will make it hard for news organisations to make plans or long-term commitments to public-interest journalism as a result of funds distributed through the SPS.

Defining eligible news organisations

The SPS should apply to organisations that are eligible to participate in the Code and NBI. The ACMA registration process under the Code provides a simple, established and consistent means for determining eligibility.

The ABC is not currently registered with ACMA, as it was able to secure arrangements with Google and Meta following the passage of the Code and saw no need to do so. The ABC does not believe it would have any difficulty meeting the criteria.

Payment allocation formula

The Corporation agrees that the idea of using the number of people employed in news content-making as the basis for the allocation formula represents a reasonable, if imperfect, proxy for the contributions of media organisations to public-interest journalism in Australia.

Eligible personnel

However, the term “eligible journalist”, which is used for this purpose in the consultation paper as the basis for determining eligibility, may be problematic. For example, people working as editors, researchers and news camera operators will all materially contribute to news creation and should be counted for the purposes of the SPS. However, not all such people will necessarily identify as journalists.

Likewise, there are many people who identify as journalists, but are not currently employed in the production of news content.

The ABC believes the SPS should make clear that all FTE personnel involved materially in the creation of original public-interest journalism for Australian audiences are included in the allocation formula. A term such as “eligible news content-makers” may be more useful for the intended purpose.

The SPS should recognise that news content can take a variety of forms, including traditional radio and television bulletins, current affairs programs, online and social media news stories, vertical news videos and news podcasts.

The ABC understands the rationale for excluding people who primarily present news content, rather than create it. While the word “primarily” in the paper’s formulation may provide the solution, the ABC notes that a hard exclusion of presenters would potentially exclude people involved in original news creation. For example, the presenter of a 7pm ABC News bulletin will present news content for the 30-minute duration of the bulletin, but will be engaged in editorially meaningful work for the remainder of their shift and is clearly not merely a presenter. Likewise, the presenter of 7.30 will not only be involved in editorial work outside of the program, but will undertake news content creation in the form of interviews of public significance during the program itself.

For the avoidance of doubt, the definition of eligible news content-makers should include correspondents stationed overseas by Australian news organisations in order to report on world events in a way that provides an Australian perspective for the benefit of Australian audiences.

Evidentiary reporting requirements

It is reasonable to expect that news organisations should provide evidence of the news content makers that they employ in order to access funds under the SPS. However, this should not be unduly onerous on eligible organisations.

The ABC believes that the simplest and most effective model for this would be to require that eligible organisations seeking to access funds provide a declaration

signed by their chief executive officer setting out the number of FTE staff meeting the requirements of an eligible news content-maker they employed during the relevant period. Claimed staffing numbers would be subject to potential audit and penalties would attach to the provision of inaccurate reporting.

This follows the model applied to employers under the *Workplace Gender Equality Act 2012* and to Commonwealth entities under the *Public Governance, Performance and Accountability Act 2013*.

As a matter of principle, any evidentiary reporting by news organisations must be able to be done in a way that does not have potential privacy implications for their staff. Required reports should only ever include staff numbers in aggregate.

Timing of the application of the allocation formula

The consultation paper is silent on whether the FTE counts used in the allocation formula would be based on a particular point in time or a longer-term average. The ABC notes that the latter approach has the advantage of smoothing out minor fluctuations in staffing numbers. It proposes that the allocation formula be based not on a point-in-time snapshot but on the average number of FTE eligible news content makers throughout the whole of each allocation period for each organisation.

Additional support for activities

The ABC supports the idea of applying weighting factors in the allocation formula that increase support for journalism in regional and rural areas, small news businesses and news organisations serving marginalised communities.

As an organisation that has journalists around the country, including in 56 regional locations, the Corporation notes that weighting factors for news content-makers will likely need to be applied on a per-FTE basis, rather than on a brand or organisational level, as would be the case with small news businesses and those serving marginalised communities.

Payment conditions

The ABC understands the objective of including payment conditions to safeguard the public interest. However, the proposed requirement that news organisations maintain at least the number of FTE news content-makers used to determine a payment over the course of a payment period is likely to prove impractical.

Small fluctuations in the news workforce are normal and can occur for a range of reasons. They should not lead to penalties under the scheme.

As proposed, a requirement to maintain the same number of FTE staff throughout an allocation period would also appear to inhibit or penalise reasonable structural change in news organisations. This would include circumstances beyond the control of news organisations that may nonetheless require them to reduce the size of their workforces within an allocation period. For example, should the ABC be forced to reduce the size of its news staff as a result of a future reduction in its budget

allocation, it would be unreasonable for the scheme to inflict penalties on the Corporation.

While such circumstances might be managed by introducing mechanisms for distinguishing between “reasonable” and “unreasonable” staff reductions, doing so would introduce subjectivity into the scheme.

The simpler solution would be not to include a retention obligation in the scheme. The ABC notes that organisations that reduce their news workforce during an allocation period will only be eligible for a smaller proportion of the allocated funding in the next period.

Penalties should be reserved for significant misreporting of eligibility or employment numbers.

Scheme administration

The ABC recognises the need for regular reporting as a means of ensuring transparency about the recipients of funding under the scheme.

In addition, such reporting can be expected to provide the public policy benefit of providing information about the state of the news industry that can be used in the formulation of future policy to support public-interest journalism.