



**DEMOCRACY
COUNTS**

POWERED BY MCKINNON

Response to the News Bargaining Incentive (NBI) exposure draft legislation

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ABOUT DEMOCRACY COUNTS

The Democracy Counts campaign¹ is a national initiative aimed at renewing Australia's democracy by addressing modern challenges such as misinformation, foreign interference, and outdated lobbying rules. The campaign is supported by a coalition of organisations and Australians who care about the functioning of democracy in Australia. Key goals include:

- **Electoral funding and lobbying reform:** Ensuring transparency and accountability in political funding and lobbying practices;
- **Public interest journalism:** Investing in journalism that provides reliable information to the public;
- **Civics education:** Increasing the quality and relevance of civics education to better equip citizens with the knowledge and skills to participate in the democratic process;
- **Regulating social media:** Implementing regulations to prevent misinformation and foreign interference on social media platforms; and
- **Impartial public service:** Protecting the public service from political interference to ensure it operates independently and fairly.

The campaign emphasizes the importance of truth and the public interest in decision-making, advocating for commonsense reforms to strengthen Australia's democratic system.

When it comes to regulating social media, we believe platforms must meet basic obligations like any other industry that shapes public debate.

The Democracy Counts campaign is powered by McKinnon – a truly independent, non-partisan, not-for-profit organisation, that believes real change is possible - but only if we take a long-term view in facilitating the development of political leadership, increasing public sector productivity, creating a thriving democracy and accelerating policy innovation.

We have prepared this submission in close consultation with a wide variety of small to medium sized, independent, news media outlet member associations, including:

- Local and Independent News Association (LINA);
- the Community Broadcast Association of Australia (CBAA);
- the Digital Publishers' Alliance; and
- the Public Interest Journalism Initiative (PIJI).

This submission serves to inform policymaking in both the Department of Communications (recommendations on the News Bargaining Incentive) and Treasury (around the application of a levy on social media platforms and the distribution of funds generated).

¹ democracycounts.org.au

NEWS BARGAINING INCENTIVE

We support the efforts of successive governments to ameliorate the impacts of overseas-headquartered social media companies disrupting the traditional business model of news publishing and broadcasting sectors that once thrived on local advertising revenue.

We commend attempts to secure a fair share of revenue from foreign social media players, to replace lost funding streams that Australian news media can reinvest into public interest journalism.

Nationwide, it's estimated that over 19% of Australian community radio stations and newspapers have folded as a result of this market disruption – so far – and this impacts our functioning democracy by reducing informed discussion and debate.

Our community attitude survey research² reflects public opinion that “social media companies are neither expected nor trusted to lead the push for better standards. In lieu of this, responsibility largely rests with the Federal Government to take the lead on driving reform...”

The News Bargaining Incentive (NBI)³ is aimed at ensuring that large digital platforms contribute to the sustainability of news and journalism.

The incentive encourages these platforms to renew or enter commercial deals with eligible news publishers, with generous offsets provided to reduce their liabilities.

Platforms that do not enter or renew these agreements will face a charge on their Australian revenue, which will be distributed back to the news media sector.

The NBI is designed to support Australia's news sector by incentivizing commercial deals and ensuring that digital platforms do not sidestep their obligations under existing laws to fairly compensate media organisations. The incentive is expected to generate between \$200 million and \$250 million in revenue which will be entirely distributed to newsrooms.

We feel that improvements can be made on the reforms that are currently proposed and have identified policy risks and potential unintended consequences that will see the most vulnerable news publishers and broadcasters potentially miss out on a reasonable share of the \$200 million pool of funds being redistributed.

Through this reform process, the government has a rare opportunity to meaningfully support small, independent, news media organisations that deliver public interest journalism around the country (in particular local media in rural, regional, and remote, Australia).

² [McKinnon Poll: Unpacking Australian attitudes towards social media | McKinnon - McKinnon](#)

³ [Consultation on the News Bargaining Incentive now open | Prime Minister of Australia](#)

PUBLIC INTEREST JOURNALISM

One of the key goals of the Democracy Counts campaign is to rebuild trust in mainstream media and revive quality public interest journalism which underpins an informed, and engaged, voter base.

An important part of this is to support mechanisms to deliver increased funding for public interest journalism.

Democracy works best when people have access to reliable information and decisions are visible and accountable. Public interest journalism helps communities understand what governments are doing and why - and strengthens trust by making debate more informed and transparent.

Large social media companies have taken audience and advertising revenue from traditional media. Unlike traditional media, they have not re-invested that revenue back into journalism - and advertising revenue that once funded journalists now goes to foreign and unaccountable entities.

That means the media no longer has the resources to cover state and federal politics in much depth, depriving citizens of the ability to know what is going on. When transparency and accountability are lost, democracy loses the capacity to debate its future.

Large social media companies should be forced to pay their fair share of tax. Some of that money should be allocated to public interest journalism - online and through traditional channels - and to replace local media outlets that have been lost over the last decade. A strong democracy that makes good decisions needs informed and robust debate.

The shift of advertising revenue to large digital platforms has impacted the funding of public interest journalism that warrants intervention.

The government has an important role to play not only in platform regulation (bargaining, safety, taxation), but also in ensuring the long-term sustainability of public interest journalism. As part of this we argue that public intervention to support legacy, community and emerging news organisations can be justified on democratic, and not on purely commercial, grounds.

The government has long supported interventions to support small, independent, and specialist players in the market, on democratic (not commercial) grounds. The News Media Policy Framework⁴ sets out clear rationale for policy intervention in the news media to foster:

⁴ <https://www.infrastructure.gov.au/department/media/publications/news-media-assistance-program-governments-role-news-and-journalism>

- **Democratic health:** Diverse media leads to informed voters, enabling civic engagement and stronger accountability from leaders;
- **Community cohesion and resilience:** Independent news is critical for building inclusion and belonging, emergency preparedness, response and resilience; and
- **Delivery against obligations to address market disruptions:** Government must intervene to ensure the survival of essential public goods during market disruption, in line with precedent from other industries (eg. the taxi industry when disrupted by Uber).

The Australian government has a strong record in supporting Public Interest Journalism through a range of programs rolled out, in part, as a response to workplace upheavals experienced during the COVID-19 era. These include:

- **News Media Assistance Program (News MAP):** A four-year program with over \$150 million to support the sustainability of public interest journalism, including local and community news. This fund expires this financial year, with no replacement identified by government going forward;
- **News Innovation Fund:** Grants of \$10,000 to \$9 million to support news publishers with initiatives such as improving news production or organisational capability;
- **News Bargaining Incentive (NBI):** Draft legislation to establish a News Bargaining Incentive that encourages digital platforms to do commercial deals with eligible news publishers; and
- **Journalism Assistance Fund:** Provides a proportion of the wages for journalists producing core news content that is distributed digitally, with minimum grants of \$39,000 over three years.

These initiatives aim to ensure the sustainability of journalism and support the development of a diverse media landscape in Australia. The current exposure draft legislation seeks to further improve the existing News Bargaining Incentive.

‘NEWS DESERTS’

In Australia there were an estimated 578 regional and rural newspapers in March 2020. In the 10-year period from 2008 to 2018, 106 local and regional newspaper titles folded across the country. They left 21 of Australia’s 537 local government areas without coverage from a local newspaper in both print and online formats, which included seventeen local government areas in regional Australia.”⁵

This trend has continued apace over the past 6 years. The Australian Communications and Media Authority (ACMA) has recorded a 19% reduction in traditional news

⁵ Mining a news desert: The impact of a local newspaper’s closure on political participation and engagement in the rural Australian town of Lightning Ridge. Australian Journalism Review 43(1):00-114

coverage as a result of increasing news consumer reliance on social media and international digital players.

While this augurs badly for the quality of information and discussion nationwide, it is of even greater concern that some regions have become ‘news deserts’ – becoming wholly without a dedicated local media outlet.

The effect is an increasingly fragmented and less vibrant local public sphere that has led to growing complacency among individuals about political affairs. Local residents highlight a dearth of reliable, credible information and lament the loss of the newspaper and its role in community advocacy and fostering people’s engagement with political institutions, especially local government.

Research⁶ by the Public Interest Journalism Initiative in 2024 has revealed Local Government Areas that are now ‘news deserts’. We present this data below, also indicating their corresponding federal electorates.

Local government area without local publisher news outlet	State	Federal Division
Anangu Pitjantjatjara Yankunytjatjara	SA	Grey
Barcoo Shire	QLD	Maranoa
Belyuen Shire	NT	Lingiari
Broken Hill City Council	NSW	Parkes
Bulloo Shire	QLD	Maranoa
Coomalie Shire	NT	Lingiari
Croydon Shire	QLD	Kennedy
East Arnhem Region	NT	Lingiari
Etheridge Shire	QLD	Kennedy
Flinders Ranges Council	SA	Grey
Kingston, District Council of	SA	Barker
Maralinga Tjarutja	SA	Grey
Mount Remarkable, District Council of	SA	Grey
Northern Areas Council	SA	Grey
Orroroo Carrieton, District Council of	SA	Grey
Paroo Shire	QLD	Maranoa
Palm Island Aboriginal Shire	QLD	Herbert
Peterborough, District Council of	SA	Grey
Quilpie Shire	QLD	Maranoa
Roxby Downs, Municipal Council of	SA	Grey
Robe, District Council of	SA	Barker
Roper Gulf Region	NT	Lingiari

⁶ <https://piji.com.au/wp-content/uploads/2024/12/2409-AND-Report-Sep-2024.pdf>

Upper Gascoyne, Shire of	WA	Durack
Wagait Shire	NT	Lingiari
West Arnhem Region	NT	Lingiari
West Daly Region	NT	Lingiari
Woorabinda Aboriginal Shire	QLD	Flyn

Beyond a concern for a *geographic region* losing a local news service, Democracy Counts also underscores the important role that specialised news services play in Australian society.

This includes print and broadcast players that serve Culturally and Linguistically Diverse (CALD) audiences, Indigenous media, people with disabilities (e.g. radio for the print impaired), and those with special interest (such as religion).

Of course, also, the government has a stake in communicating emergency services information to warn of flood, fire, and other disasters, and to promote preparedness.

SHORTCOMINGS OF LEGISLATION AS CURRENTLY DRAFTED

Democracy Counts supports the objective of the legislation – to incentivise digital platforms to negotiate commercial deals with news publishers to support ongoing funding for public interest journalism.

While the legislation, as drafted, would support larger news publishers to continue their services (which is a good thing), it risks leaving small, independent publishers and broadcasters who serve local communities and diverse interests behind.

The unintended consequences of the legislation as currently drafted include:

- 1. Excluding small news publishers providing vital services to local communities:** small, non-profit, volunteer and student-led media operations risk being left out because they don't meet revenue thresholds, don't meet the definition of "journalists" and lack the resources and power to negotiate successfully with platforms;
- 2. Making 'news deserts' permanent:** Anti-competitive measures will disadvantage new players entering the market, including disincentivising existing local media outlets from reinvesting in local news production; and
- 3. Giving global digital platforms undue influence:** Allowing digital platforms to decide which newsrooms they'll target for dealmaking, ultimately risking the



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editorial independence of these newsrooms and creating opportunity for anti-competitive collusion and foreign interference in Australian democracy.⁷

⁷ Recently, for example, there is significant public policy debate and news coverage of US headquartered multinational corporations avoiding the payment of Australian tax. Where businesses like Meta/Facebook and Google/YouTube might opt to form direct commercial relationships with large publishers and broadcasters, funding recipients might self-censor their usual coverage of such topics.

RECOMMENDATIONS FOR LEGISLATIVE AMENDMENTS:

- 1. The Incentive structure:** The current draft allows platforms to offset up to 25% of their total charge through commercial deals. Under the current draft, a platform could satisfy its entire obligation by striking deals with as few as four major media players.
 - **The risk:** This shifts the focus from market-wide, public good, obligations to a deal-making exercise with large incumbents that risks collusion to exclude smaller competitors.
 - **Instead:** The Incentive must require that at least 25% of all deals are made with small and medium publishers (revenue under \$50M) to ensure a diverse media ecosystem.
- 2. Bargaining power:** Under the current draft, deals done with large media companies attract a 150% offset rate, or a 170% offset rate for small and medium publishers.
 - **The risk:** Weighting is insufficient to overcome the administrative burden platforms face when negotiating multiple small-scale contracts.
 - **Instead:** Increase the offset rate to **200%** for publishers with an income under **\$10 million**. This creates a compelling financial reason for platforms to engage with the "long tail" of the news industry.
- 3. Scope and eligibility gaps:** The current definitions create arbitrary barriers for emerging newsrooms. The policy should:
 - **Remove the \$150k revenue test:** Currently, newsrooms must earn \$150k p/a to be eligible, which focuses the policy on income over purpose. Many newsrooms provide vital public interest journalism but fall below this threshold, particularly those that serve small and regional communities. Eligibility should be based on editorial standards and public interest output, not bank balances. Approximately 58% of CBAA's community broadcasters (185 organisations) and 35% of LINA's members are excluded from eligibility under the News Media Bargaining Code by design, all community broadcasters and a further third of LINA members are excluded by capacity, leaving only the biggest news organisations to benefit from potential deals.

DISTRIBUTION OF LEVY FUNDS

If a platform pays a levy instead of making deals, the government proposes distributing funds based on the number of full-time equivalent (FTE) journalists.

Tying funds strictly to FTE counts ignores the reality of independent news and new organisations, which rely heavily on volunteer labour and founder-led production.

Non-profit and purpose-driven community-led media nonetheless rely on generating revenue to support their operations and should not be unfairly disadvantaged. Returning funds only to incumbent news publishers based on FTE role will embed media concentration.

Instead, funding should be allocated equitably in accordance with Australian Government's policy objectives for news and journalism, as articulated in the News MAP Policy Framework⁸. Eligibility should be based on editorial standards and public interest output and recipients.

Alternative weighted formula: To address market imbalance and better support underserved communities, we propose a tiered weighting system for newsrooms earning under \$10M:

- **150% weighting** for meeting one criteria (regional/remote, small business, or marginalised community).
- **175% weighting** for meeting two of the above criteria.
- **200% weighting** for meeting all three.

Publishers with commercial deals should be ineligible for levy funds from that same platform's obligations to avoid doubling benefits to incumbents.

RECOMMENDATIONS SUMMARY

1. Treasury to amend the News Media Bargaining Code to remove the \$150,000 revenue test.
2. Remodel the offset mechanism that allows platforms to make deals with large media players to the exclusion of small outlets.
3. Establish an industry-managed, small independent journalism fund that attracts the maximum offset:
 - a. Objectives in line with the Government's policy objectives for news and journalism, as articulated in the News MAP Policy Framework *News Media Assistance Program: Government's role in news and journalism (2024)*.
 - b. Deals with this fund attract the maximum supported offset under the scheme, levelling the playing field for small producers without administrative burden for platforms or government.
4. Set aside funds from any levies paid to strengthen media diversity and sustainability measures within the news industry.
5. Treasury considers tax DGR status for an independent grants distribution agency

⁸ *News Media Assistance Program: Government's role in news and journalism (2024)*



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McKinnon and the Democracy Counts campaign trust that this submission will be useful to departmental officials and elected representatives in working to refine and enhance the News Bargaining Incentive scheme.