

## Digital Publishers Alliance

### Submissions on News Bargaining Incentive: *News Media Bargaining (Administration) Bill 2026* and Revenue Distribution Model

18 May 2026

#### 1. Introduction

- 1.1 The Digital Publishers Alliance (**DPA**) is an industry association representing over 150 leading media titles from more than 70 independent digital publishers across Australia. Our members directly employ over 2,500 Australians in full-time and contractor roles and generate combined annual revenues exceeding \$350 million.
- 1.2 Our member organisations span from digital publishers with three full-time staff through to larger independent publishers like *Mamamia*, *The Conversation*, *Broadsheet*, *The Daily Aus*, *The Squiz*, *Man of Many*, *Region Media* and dozens more. This diversity of scale within the independent sector means our members have varying capabilities to negotiate with digital platforms, making it essential that the new bargaining framework is designed with the needs of smaller and independent publishers in mind.
- 1.3 Our members reach a large majority of Australians each day, and for many we are their preferred source of news. Many young people have their first experiences with professional journalism via our members, as well as culturally diverse audiences who only access news through some of them. Our members provide considered, professional journalism that helps bring vital information, facts and discourse to discussions being had every day around the country. Independent publishers are integral to the very fabric of our society.
- 1.4 The DPA has a keen interest in ensuring that government policy supports a diverse and sustainable Australian news media sector. Independent digital publishers are critical to maintaining diversity of ownership and voices in Australian journalism. We therefore have focussed this submission on how the News Media Bargaining Incentive (**NMI**) can be designed to ensure that smaller and independent publishers, and not just large established media companies, benefit from this policy intervention. This submission has been prepared with the assistance of the DPA's lawyers, Good Company Law.
- 1.5 This submission responds to the two consultations concerning the NBI. The submission should be read in full in relation to each consultation, noting that there are responses to the detail of each consultation in the following sections of the submission.
  - (a) Parts 4 - 6 (inclusive) respond to specific issues relating to the News Media Bargaining Administration Bill 2026 (**Admin Bill**).
  - (b) Part 7 responds to the Revenue Distribution Model for NMI revenue.

## 2. Summary

2.1 This submission proposes the following revisions to the NMI framework so that it is best structured to ensure broad and fair access to its benefits for small and independent news publishers.

2.2 In the News Media Bargaining (Administration) Bill 2026 (**Admin Bill**):

- (a) Require at least 25% of eligible expenditure apply to small and medium business entities;
- (b) Increase the offset rate for small and medium business entities to 200%;
- (c) Increase the minimum number of deals a platform may include in any NMI offset;
- (d) Remove exclusions of LLMs and business / professional networking from search and social media service definitions;
- (e) Include a mechanism to add / vary service definitions within the rules and a statutory review trigger;
- (f) Define eligible news businesses as those which primarily create 'covered news content' rather than the narrower 'core news content'.

2.3 The DPA has also made a separate submission on the Statutory Payment Scheme for NMI distribution, which contains the following revisions:

- (a) Create a reserve of 15% of NMI revenue to be distributed to small and medium news publishers.
- (b) Define eligible news businesses as those which primarily create 'covered news content' rather than the narrower 'core news content';
- (c) Apply a broader definition of 'news staff' for the payment allocation formula, instead of 'journalist'; and

### 3. Support for the NMI's policy intent

- 3.1 The DPA broadly supports the government's objective of securing a durable contribution from large digital platforms to support the sustainability and diversity of Australian journalism through introduction of a NMI charge. The main design improvement from the News Media Bargaining Code (**News Code**) is that the liability no longer depends on whether a platform continues to carry news, closing the loophole that allowed Meta to withdraw from news and render the News Code practically useless. We have made some suggestions on tweaks and amendments to make the legislation more equitable.
- 3.2 The DPA has been very vocal about the issues with the original News Code, and this exposure draft still contains significant structural weaknesses that risk reproducing many of its problems. With manageable revisions these weaknesses can be avoided, and the NMI framed in such a way that it represents a step-change improvement in policy outcomes from the News Code.
- 3.3 The DPA's members are primarily small to medium size digital news publishers. They represent core of media diversity in Australia. The NMI will generate a stream of funding for the news industry which will serve its object of sustainability. But unless the NMI framework duly considers the interests of small and medium publishers, it will fail on its objective of supporting diversity.

#### 4. NMI Offset Rate and Amount

4.1 The Explanatory Memorandum to the Admin Bill (**EM**) states that the purpose of the NMI is to promote the sustainability and diversity of the Australian news media sector. To protect the needs of smaller and independent publishers and ensure the NMI meets its policy objective of supporting a sustainable and diverse news media sector, there are some areas that require revision.

##### (a) The NMI Offset Amount

- (i) Section 20(1)(d) of the Admin Bill effectively provides that a platform could satisfy its entire obligation by doing just four deals. This means that the largest media groups may absorb most of the commercial benefit, while many smaller publishers are left to compete for residual attention. For example, a platform may choose to deal with Nine, News, Seven and Ten, and do no deals at all with SME publishers. Framed this way, the NMI offset does not do enough work to support media diversity.
- (ii) *Proposal:* At least 25% of deals made by platforms should be with small or medium business entities (as defined in section 6), and the cap should be changed to no one deal being more than 15% of the total. This will ensure a fairer range of deals is done.
- (iii) Implementation:
  - (A) Amend section 20(1)(d)(i) by substituting "15%" for "a quarter,".
  - (B) Insert a new subsection 20(1)(d)(iii) which provides "uses totals for news business corporate groups consisting only of small or medium business entities to make up at least 25% of the sum".

##### (b) The NMI Offset Rate

- (i) Section 20(1)(b) of the Admin Bill provides that deals done with large media companies offset 150% of their obligations, and deals with smaller publishers offset 170% of their obligation. The EM states at [1.80] an intention to create an incentive for platforms to support smaller news business corporate groups which have fewer financial resources. DPA strongly submits that a 13% increase in the offset amount compared to larger news businesses does not create a realistic incentive for platforms to do deals with small and medium business entities, and will concentrate all expenditure on the largest incumbents. Further, left unaddressed this amplifies the threat to diversity arising from the obligation to enter only four deals, discussed in point 4.1(a) above.
- (ii) *Proposal:* The offset rate for SMEs should be increased to 200%, creating a greater differential from larger publishers' offsets and overall a stronger

incentive for platforms to enter deals rather than simply paying the NMI amount.

(iii) *Implementation:*

(A) Amend section 20(1)(b)(i) to replace “170%” with “200%”.

## 5. Scope

- 5.1 The broader policy rationale for the NMI is to ensure that digital platforms which benefit commercially from Australian news content — through user engagement, advertising revenue, or their role as distribution channels — contribute fairly to the news media businesses that produce it.
- 5.2 Improperly narrowing the scope of subject platforms narrows the positive impact to news publishers and leaves power imbalances unaddressed. The NMI Charge is only payable by ‘social media services’ or ‘search services’ which meet relevant significance and revenue criteria, pursuant to section 13 of the Admin Bill.
- 5.3 The underlying determination that relevant services are search and social media has not been properly reconsidered since the 2019 Digital Platforms Inquiry Final Report which found that Google was dominant in search, and Facebook (now Meta) in social media<sup>1</sup>.
- (a) The ACCC stated in that report that it had focused primarily on Google and Facebook as the largest and most impactful platforms, but that its recommendations were intended to be *‘forward looking and adaptable to other digital platforms where appropriate’*.
- (b) The Explanatory Memorandum for the News Code states that in making a designation determination, the Minister must *‘consider whether there is a significant bargaining power imbalance between Australian news businesses and [the digital platform]’*. Whilst the News Code was intended to apply to Google and Meta, it was not limited in application to social media and search services. Nor was the News Code limited in application to social media and search services. In this sense it was designed in a way that accommodated evolution of digital platform services that may impact Australian news publishers.
- 5.4 The Admin Bill now proposes to frame the NMI as applicable only to search and social media services, in a way that is deliberately narrowly defined. Of particular concern are the explicit exclusions of LLMs (e.g. ChatGPT) and social platforms with a business purpose (e.g. LinkedIn.) There is no policy rationale for their exclusion, nor any explanation for so limiting the NMI’s application – particularly where it represents a departure from earlier positions. Further, there is no mechanism to review or add further services which become relevant in future, other than via a full legislative amendment process. These are fundamental flaws in the Admin Bill which must be addressed to ensure future-proofing and capability to meet its policy objectives.
- (a) LLMs or AI chat bots have a recognised impact on the news industry and there is a clear policy rationale for including them. Even Rod Sims, architect of the News

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<sup>1</sup> ACCC, Digital Platforms Inquiry Final Report, June 2019, p 4:  
<https://www.accc.gov.au/system/files/Digital%20platforms%20inquiry%20-%20final%20report.pdf>

Code, is calling for this<sup>2</sup>. Services like ChatGPT benefit from news content which it can ingest from news publisher websites, and then summarise in response to a user query, much like a traditional search service. There has been a decrease of worldwide search traffic of 15% in the past year, driven predominantly by AI search.<sup>3</sup> In the EU, the European Commission is examining whether Google's AI overviews use publisher content in ways that may harm competition and divert user attention away from news organisations<sup>4</sup>, reflecting wider concerns about AI LLMs' impact on news. AI companies are entering content deals with news publishers<sup>5</sup>. The NYT v OpenAI litigation is testing the substitutability of AI outputs for reading original journalism and the resulting harm to the market for news content. Further, ChatGPT is now generating ad revenue<sup>6</sup>. For these reasons, its operation and impact on the news industry is largely analogous to that of a traditional search service like Google.

- (b) Social media platforms for business purposes (defined in the Admin Bill as 'professional networking services') also benefit from news publishers' content and derive revenue from advertising sold on their platform<sup>7</sup>. Annexure A depicts the presentation of news content via LinkedIn, alongside offers for advertising. This clearly positions LinkedIn as a distribution channel for news publishers which earns advertising revenue from the display of that content. On this basis they are more logically included than excluded.

5.5 The original NMI consultation paper (November 2025) stated that the service definitions<sup>8</sup>:

- (a) were intended to be narrow, "while remaining flexible enough to capture future market developments"; and
- (b) intended to specifically exclude services that do not generate significant digital advertising revenue "*and/or have no or limited links to new 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.*"
- (c) Neither of these positions would now justify the explicit exclusion of LLMs or business social media platforms. Paragraph 5.4 above provides a clear policy basis for their inclusion. Each represents an evolution of the way digital platforms impact Australian news publishers, and impact '*the viability of news businesses in Australia*', clearly implying relevance for the NMI. They do not fall

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<sup>2</sup> <https://www.afr.com/companies/media-and-marketing/ex-accs-boss-rod-sims-says-chatgpt-ai-should-pay-for-news-content-20230416-p5d0vb>

<sup>3</sup> <https://www.cjr.org/analysis/traffic-apocalypse-google-ai-overviews-killing-click-throughs-news-sites.php>

<sup>4</sup> <https://www.reuters.com/legal/litigation/googles-ai-overviews-hit-by-eu-antitrust-complaint-independent-publishers-2025-07-04/>

<sup>5</sup> [https://www.buzzstream.com/blog/partnerships-in-ai/?utm\\_source=chatgpt.com](https://www.buzzstream.com/blog/partnerships-in-ai/?utm_source=chatgpt.com)

<sup>6</sup> <https://openai.com/index/new-ways-to-buy-chatgpt-ads/>

<sup>7</sup> See Annexure A: sample of AFR content on LI platform with advertising offer from LI.

<sup>8</sup> Treasury, News Bargaining Incentive Consultation Paper, November 2025:

[https://storage.googleapis.com/files-au-treasury/treasury/p/prj38f28c23f2accd6993e91/page/c2025\\_718159.pdf](https://storage.googleapis.com/files-au-treasury/treasury/p/prj38f28c23f2accd6993e91/page/c2025_718159.pdf)

within the contemplated exclusions in the 2025 consultation paper of ‘dating, gaming, or instant messaging’.

- (i) *Proposal:* AI companies and social media for business purposes should not be excluded from the Admin Bill. Further, there must be a mechanism to review and add subject service types in future.
- (ii) *Implementation:*
  - (A) Delete section 8(3)(d) which excludes business social media (described as professional networking) from the definition of ‘social media service’.
  - (B) Delete section 9(c) which excludes LLMs from the definition of ‘search service’.
  - (C) Amend section 7 as follows:
    - (1) In s7(1)(a) delete the words “other than a service”. The effect of this will be to push all ‘significance’ determinations into the rules – whether they be inclusions or exclusions.
    - (2) Add a new subsection (c) providing that “the Rules may prescribe additional significant digital platform services which are liable to pay the NMI Charge, and in such case any reference to ‘significant social media or search service’ in the Act is deemed to include the additional service.
  - (D) Add a statutory review trigger to ensure that the Act is operating as intended, this may mirror the review trigger included in the News Code and appearing at CCA s 52ZZS.

## 6. Eligibility

- 6.1 The Admin Bill defines eligible expenditure for the purpose of offsetting by reference to ‘news business corporate groups’. Section 11 defines ‘news business corporate groups’ by reference to the ACMA registration criteria from the Code. It covers businesses which are already registered, or which would otherwise meet the registration criteria.
- 6.2 Of particular concern is the ‘content test’ for ACMA registration which requires that the news business primarily creates ‘core news content’ (see CCA s52N). The Code applies two news definitions which have been transplanted into the Admin Bill. ‘Core news content’ is narrower, effectively ‘hard news’<sup>9</sup>. ‘Covered news content’ is broader and includes both core news and ‘issues or events of interest to Australians’. Applying the ‘content test’ in the Admin Bill means that only deals with hard news publishers are eligible for NBI Charge offsetting. This is a fundamental flaw in the bill.
- 6.3 Many smaller and independent publishers and many do not fit neatly into legacy classification frameworks of ‘core news content’. Some mix public-interest reporting with analysis, social interest journalism, local accountability content that investigates and reports on issues of significance to the health, safety and financial wellbeing of Australians. This is delivered through websites, podcasts, newsletters or mixed explanatory formats and often not included in tight definitions.
- 6.4 Limiting NMI offset eligibility to news businesses which primarily produce core news content will prevent the NMI from achieving its policy objective of supporting news diversity in Australia. Substantial parts of the Australian news media sector — specialist, consumer, business, lifestyle and cultural publishers for example — would be excluded from the regime intended to support the sector.
- 6.5 The application of the Code only to ‘core news content’ producers was a key failing. The NMI now has the opportunity to rectify this flaw and produce a regime which truly supports diversity in the Australian news sector.
- (a) *Proposal:* Expand a broader and clearer understanding of eligible news businesses, including a more modern interpretation of journalism. This includes clarifying that specialist, community, local and digital-native publishers are not excluded merely because they publish in contemporary formats or cover beats outside the narrowest conception of traditional general news. NBI eligibility should extend to news operators who primarily produce ‘covered news content’.

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<sup>9</sup> “Core news content” means content that reports, investigates or explains:

- Issues or events that relevant in engaging Australians in public debate and in informing democratic decision-making; or
- Current issues or events of public significance for Australians at a local, regional or national level.

(b) *Implementation:*

- (i) Amend section 11(1)(b)(ii) to read: “all of the requirements in paragraph 52G(2)(c) of the Competition and Consumer Act 2010 are met in relation to the news business, but with each reference in section 52N of that Act to 'core news content' instead being a reference to 'covered news content’”.

## 7. Additional submissions for News Bargaining Incentive Revenue Distribution – Statutory Payment Scheme

7.1 The DPA has written a separate submission in response to the Statutory Payment Scheme, but in the interests of transparency include the details below. If the platforms don't facilitate news media deals and pay the levy instead, this is how the distribution mechanism can be improved to ensure it's fair for smaller and independent publishers.

### (a) Diversion of Funds

- (i) Currently 100% of the funds received from the levy will be distributed by the mechanism, but this will only entrench existing structures and disadvantage innovative news media with small headcounts.
- (ii) *Proposal:* 15% of the collected funds be diverted into a fund to be distributed to publishers which fall within the definition of small or medium business entity in the Admin Bill, as determined by an average of the preceding 3 years of revenue. This reflects the reality that the biggest gaps in the current ecosystem are not just operational funding, but the capacity to experiment, build new products and adapt business models so that journalism can reach and engage audiences in new environments.
- (iii) *Implementation:*
  - (A) Structure the Payment Allocation Formula so that there are two categories of incentive revenue.
    - (1) 85% of the total incentive revenue will be distributed via the payment allocation formula (with amendments proposed to expand relevant staff definition); and
    - (2) 15% of the total incentive revenue will be distributed via separate fund to support small and medium business entities (**SME Fund**)
  - (B) The SME Fund can be distributed via:
    - (1) Additional grant rounds of the News Innovation Fund, or
    - (2) An independent third-party with clear and fair funding rules, or
    - (3) Any other method of the government administering the funds

### (b) News Media Eligibility

- (i) Currently the only eligible businesses are those who are registered with ACMA, however this is a generally opaque, subjective process that less than 90 publishers have qualified for. The same concerns as outlined in

point 6 above regarding eligibility of a news business to qualify for offsetting the NMI Charge applies for NMI revenue distribution equally. Limiting eligibility to creators of core news content would replicate a fundamental flaw in the News Code, and substantially limit the capability of the NMI to meet its policy objective of supporting news media diversity. We refer to and adopt point 4 in our Admin Bill submission here.

- (ii) *Proposal:* Eligibility to receive distribution of NMI revenue should be extended to news businesses that produce covered news content rather than just core news content. Where this change is applied in the Admin Bill (as proposed above), it should also be applied for revenue distribution, to ensure equitable outcomes across the news sector.
  - (iii) *Implementation:* Apply the same qualification criteria used in the definition of ‘news business corporate group’ in the Admin Bill, amended as proposed by DPA to change the ‘content test’ to refer to ‘covered news content’.
- (c) **FTE Definition**
- (i) Modern journalism is no longer black and white, and many people are involved in the process of creating and amplifying journalism outside the original creators.
  - (ii) *Proposal:* Broadening the eligible FTE definition to include technology and operational roles whose work directly informs and impacts editorial decisions. This can include, but is not limited, to audience and data analysts, distribution specialists and other behind-the-scenes roles that are integral to a modern journalism operation. We estimate that this would roughly double the number of eligible news staff.
  - (iii) *Implementation:* Replace the definition of ‘journalists’ with a broader defined term such as ‘news staff’. This would include both journalists and other relevant staff involved in the production of news content and editorial decision-making.

## **8. Conclusion**

- 8.1 The NMI represents an exciting opportunity for the Government, digital platforms and news publishers to ensure that Australian audiences benefit from a sustainable and diverse Australian news industry.
- 8.2 By adopting the proposals in this submission, the NMI will deliver on its objectives and provide a blueprint for effective regulation.
- 8.3 As with previous submissions, these views represent the majority of DPA members, while also acknowledging that every publisher holds their own individual views and differences. The DPA is grateful for the opportunity to provide this submission and would be happy to provide any further information that might assist.