

**SBS SUBMISSION TO THE DEPARTMENT OF INFRASTRUCTURE, TRANSPORT  
REGIONAL DEVELOPMENT, COMMUNICATIONS, SPORT AND THE ARTS  
NEWS BARGAINING INCENTIVE — STATUTORY PAYMENT SCHEME  
CONSULTATION ON REVENUE DISTRIBUTION (APRIL 2026)**

## **Introduction**

SBS is Australia's public media organisation dedicated to the delivery of services for all Australians, with a special remit to serve multicultural, multilingual, and First Nations communities. SBS is also one of the most trusted news brands in Australia.<sup>1</sup> SBS welcomes the opportunity to respond to the Department's *News Bargaining Incentive - Consultation on Revenue Distribution*.

SBS is a provider of trusted, independent, and high-quality public service journalism for all Australians. SBS has a statutory mandate to serve multicultural, multilingual, and First Nations communities and the importance of accurate, balanced and impartial news provided by SBS cannot be overstated at a time when misinformation is proliferating on digital platforms used by Australians.

SBS is a hybrid-funded national broadcaster, that relies on commercial revenue to fund the delivery of content and services. SBS has been a registered news business registered under the News Media Bargaining Code (NMBC) since the inception of the NMBC, and SBS content and services have been supported by a deal with Google made under the NMBC framework. Meta did not seek to negotiate an agreement with SBS, thereby putting SBS at a competitive and economic disadvantage relative to other media organisations in the market who had negotiated agreements with both Meta and Google.

It is essential that SBS be eligible for any revenue distribution associated with the News Bargaining Incentive (NBI or Incentive) regardless of how revenue distribution is established, formulated or calculated.

SBS strongly supports the application of any revenue raised by the Incentive to the provision of high quality and trusted public interest news and journalism in Australia. SBS considers that a Statutory Payment Scheme (Scheme) is an appropriate mechanism to distribute any revenue raised by the Incentive, if digital platforms choose to pay the Incentive instead of entering commercial deals.

SBS recommends that legislation to establish the Incentive and Scheme be introduced and considered concurrently as a package to promote confidence, stability and predictability in the framework.

### **1. Eligibility criteria - Organisation**

#### **Eligibility criteria and registration should be consistent with NMBC**

SBS supports eligibility under the Scheme being consistent with the register of eligible news businesses under the NMBC. The eligibility tests under the NMBC were subject to rigorous scrutiny and are designed to ensure news organisations producing core news content for Australian audiences benefit from the framework. These eligibility tests remain appropriate for the purposes of the Scheme.

SBS is already on the existing ACMA register (i.e. registered prior to the establishment of the Scheme) so would not be required to register again. SBS supports this approach to eligibility as it avoids unnecessary administrative burden for news businesses and promotes stability and transparency.

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<sup>1</sup> Park, S., Fisher, C., McGuinness, K., Lee, J., Fujita, M., Haw, A., McCallum, K. & Nardi, G., 2025. *Digital News Report: Australia 2025*. Canberra: News and Media Research Centre, University of Canberra., <https://apo.org.au/node/330740>

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Unlike the Exposure Draft NBI which proposes to permit unregistered news businesses to benefit from the NBI, the distribution of funds under the Scheme is proposed to be limited to registered news businesses, which SBS supports. The registration process helps ensure that funds raised under the NBI are distributed to appropriate organisations and support continued investment in public interest news and journalism.

## **Information requirements should be the minimum necessary**

SBS acknowledges it will be necessary to require registered organisations to apply with the information needed to determine the payment allocation (i.e., number of FTE journalists employed by the organisation) for each year of funding.

SBS recommends that any required information be the minimum necessary to enable proportional distribution, and to minimise administrative burden for applicants and administrators. Further, SBS recommends that any information requirement or reporting obligation not undermine the independence of SBS. The information requirement must not require employee salaries, for example, as that would be unnecessary and represent an intrusion on privacy and commercial-in-confidence information that could be used to undermine SBS independence and market competitiveness.

Consideration should be given to whether existing reporting mechanisms, such as the annual report Corporate Commonwealth Entities are required to prepare, may be utilised to acquit any application information provision, reporting and/or auditing requirements for the national broadcasters.

## **Interaction between Commercial Deals and Scheme Payments**

The distribution model should include safeguards to prevent double recovery by news businesses that have already received commercial payments from digital platforms under qualifying arrangements. The NBI is designed to encourage platforms to enter into commercial agreements with Australian news businesses, with the Scheme operating as a backstop where revenue is collected. It would not be an appropriate policy outcome if organisations that have already benefited from direct commercial arrangements were also able to access Scheme revenue on the same basis as organisations that did not receive such support.

Without an appropriate adjustment mechanism, the Scheme could further entrench existing disparities in bargaining power by directing both commercial deal revenue and statutory distributions to the same news businesses. This would reduce the amount available to support media diversity, public interest journalism, and news services that are less likely to secure direct platform deals, including services for underrepresented communities.

SBS therefore recommends that applicants for Scheme payments be required to disclose relevant commercial arrangements with digital platforms for the applicable reporting period. Those arrangements should be taken into account in determining eligibility or payment allocation under the Scheme. This could be achieved through a reduction, cap or other adjustment to Scheme payments where a news business has already received qualifying commercial payments, while preserving flexibility for cases where a commercial arrangement is limited, relates to a different platform or does not adequately support the relevant public interest journalism.

This approach would preserve the primary incentive for digital platforms to enter into direct commercial agreements, while ensuring that any revenue distributed under the Scheme is targeted to areas of greatest need and supports the broader policy objectives of media diversity, sustainability, and trusted public interest journalism.

## **2. Payment allocation formula**

### **Formula should retain some flexibility**

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SBS supports the establishment of the Scheme in legislation and considers a formula-based approach to be appropriate as a proportionate and transparent model for distributing funding to news organisations based on their investment in journalists producing core news content.

SBS recommends that the legislative framework retain the flexibility to adjust the payment allocation formula and any weightings via subordinate legislation, as may be necessary in future. Such flexibility should not, however, permit targeted reduction or removal of revenue distribution to SBS via subordinate legislation. Safeguarding revenue distribution to SBS would be consistent with the Government's continuing work related to the *Review of options to support the national broadcasters' independence*.<sup>2</sup>

### Journalist is a proxy for journalism

Overall, SBS agrees that FTE journalists provide a reasonable proxy for direct investment in news and journalism. Output-based approaches, such as number of articles published or hours broadcast, could give rise to gaming on quantity which could have unintended consequences in relation to quality or accuracy. Finance-based approaches, such as revenue or turnover, would be complex to audit and may not accurately reflect news and journalism production component of media businesses.

SBS appreciates that a line must be drawn in terms of how 'journalist' is defined for the purposes of the Scheme. That said, many roles at a news business may be involved in the production of the content of journalism, including presenters and multilingual producers, for example, so consideration should be given to using a slightly broader concept, such as "FTE eligible news producer" in the payment allocation formula, rather than "FTE eligible journalists".

The FTE count should be based on an average over a designated time period, rather than a single point in time snapshot, to avoid gaming and better recognise sustained investment in journalism. It should also build in a mechanism to recognise genuine new investments that may occur at a later point in time.

### Definition of journalists should reflect modern news production

The definition of eligible journalists should be sufficiently broad to reflect modern, diverse, and evolving news production practices and include roles such as fact checkers, social and digital news producers, and subeditors. SBS agrees that the definition of eligible journalists should:

- include all individuals in roles primarily responsible for the production (i.e., investigation, recording, and/or reporting) of core news content – including journalists, photojournalists, videographers and graphic designers that produce core news content in image form; and
- exclude non-editorial managers, graphic designers, and marketers producing non-news or non-informational content as well as narrators.

On the issue of presenters, SBS is of the view that anchors and presenters who present and produce core news content, or also work as senior editors or editorial managers, or who undertake newsgathering, including via interview, should be included. Alternatively, journalists who also have a presenting, anchoring, or interviewing component to their role should be included.

On the issue of news producers, SBS produces news for Australia's diverse multicultural communities in more than 60 languages as well as First Nations communities. Key journalism roles for these services include multilingual producers who originate or sometimes re-express news in a different language, and who are also podcasters; as well as on-air presenters who may also arrange news bulletin footage. These roles should be included as news producers, though they may not be strictly defined as 'journalists', 'photojournalists', 'videographers', or 'graphic designers' (terms that a proposed to be within scope of the definition).

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<sup>2</sup> <https://www.infrastructure.gov.au/have-your-say/review-options-support-national-broadcasters-independence>

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The definition should also ensure that casuals, part time staff, freelancers, and contractors who meet the definition are captured in the FTE numbers, reflecting that these roles also contribute to news outputs.

### **Core news content**

The definition of Core news content should ensure that explanatory, contextual, and translated journalism is included. Public interest journalism includes helping Australians understand civic, health, legal, economic, and social issues in languages and formats they can access and trust.

### **Any assessment and auditing processes should be the minimum necessary and risk-based**

SBS considers it reasonable that credible assessment and auditing processes be undertaken to verify information on FTE journalists, but it is imperative this be the minimum necessary, that it does not impose undue administrative burden and that it does not undermine SBS's statutory independence.

Consideration should be given to taking a risk-based approach to auditing, for entities such as the national broadcasters and commercial broadcasters which are well-known to the Department and subject to existing regulatory oversight for compliance with editorial standards for news (i.e., where there may be implications for claiming that certain content is news produced by journalists).

Consideration should also be given to leveraging existing statutory obligations under the *Special Broadcasting Service Act 1991* and the *Public Governance, Performance and Accountability Act 2013* as well as reporting mechanisms for Corporate Commonwealth Entities so that SBS is not subject to extensive, onerous or duplicative assessment, auditing, or reporting requirements in relation to employee information. In view of the governance and accountability obligations already imposed on SBS, consideration should be given as to whether a statutory declaration would be sufficient for SBS to evidence employment levels and evidence the nature of the roles at SBS.

### **3. Additional support for activities (weightings)**

SBS appreciates that weightings can be used to improve the provision of news and journalism to underserved audiences. SBS provides news and journalism for diverse perspectives and audiences, including multicultural, multilingual, and First Nations communities. It is appropriate that weighting be applied to SBS's FTE journalists that produce First Nations and culturally and linguistically diverse in-language news to improve the provision of culturally appropriate and relevant news to these communities.

If residual revenue is collected, the distribution model must not treat SBS as a generic large media organisation. Through weightings, it should recognise the higher public value, complexity, and cost of serving culturally and linguistically diverse communities, including through in-language journalism.

### **Multiple weightings per organisation should be applied where appropriate**

Multiple weightings for each news organisation should be allowed. For example, two weightings should be applied to SBS for relevant FTE journalists – one weighting for SBS NITV First Nations news, and a second to SBS multicultural language services. Weightings should apply for providers of news serving marginalised communities whether or not they serve national, state or local communities (i.e., geographic coverage should not impact eligibility for weighting on marginalised communities).

Similarly, for example, a regional business that provides LGBTIQ+ news and serves local First Nations communities should be eligible for three weightings.

### **Tiered approach to reflect investment and public value**

SBS supports the proposed 10% loading for organisations providing culturally and linguistically diverse news services. However consideration should be given to whether a single loading adequately reflects the varying levels of investment required to deliver multilingual and multicultural journalism.

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The production of multilingual journalism involves distinct costs that extend beyond conventional news gathering. These include specialist language capability, multilingual editorial workflows, cultural expertise, content adaptation, community engagement, and distribution across diverse audience groups.

A tiered approach would more accurately reflect these differing levels of investment and public value. Such an approach would distinguish between organisations that provide limited CALD content and those that operate dedicated multilingual news services serving multiple language communities at scale.

This distinction is important because multilingual journalism contributes to policy objectives that extend beyond media diversity, including social cohesion, informed civic participation, democratic inclusion, and equitable access to trusted information. These outcomes are particularly important for Australians who may face barriers in accessing news and public information through English-language media alone.

A tiered framework would better align financial support with demonstrated public value, audience reach and operational complexity, while encouraging continued investment in Australia's multicultural media ecosystem.

- CALD / First Nations or reporting and content production for underrepresented communities. 10%
- Dedicated multilingual / First Nations or news services for underrepresented groups. 15%
- Multi-language or First Nations national news operations serving multiple multilingual and or First Nations communities/ underrepresented groups 20%

Factors are based on: talent cost including to support journalism as a career path for underrepresented groups; overhead of training and development and editorial oversight; and that impact of the lack of commercial revenue opportunities in servicing underrepresented groups.

#### 4. Payment conditions

While FTE journalists may provide an appropriate proxy for the production of journalism, and a basis for proportional distribution of revenue, it does not automatically follow that prescriptive conditions should then attach to the use of revenue distributed under the Scheme.

While a level of assessment and auditing is necessary for the purposes of determining equitable revenue distribution across eligible news businesses, it is misguided to apply a grants mindset to the distribution of revenue under the Scheme where the distribution of revenue does not have a direct link to FTE outcomes. It is therefore improper to impose an FTE condition.

While the Scheme would be formula-based and established in legislation to provide a stable model for distributing funding to news organisations, the amount of revenue available for distribution may not be stable or predictable, as digital platforms may or may not elect to do deals of varying terms. There may be peaks and troughs in revenue under the Scheme that prove challenging for news organisations and the government administrator to manage.

Accordingly, SBS urges the Government to retain maximum flexibility in the Scheme for news businesses to utilise distributed revenue as they see fit, which is consistent with the approach in the NMBC, which underpins the existence of the Scheme, and with Treasury's view following consultation as part of its Review of the first year of operation of the NMBC.

Government should resist the attachment of any detailed or prescriptive conditions on the use of the revenue distributed under the Scheme, despite any well-intentioned motivations to do so. The sustainability of a diverse range news businesses is achieved through a range of different funding and business models, and news businesses themselves are best placed to assess how to sustain their operations to produce public interest news and journalism.

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That said, if the condition is to maintain the number of FTE journalists used to determine the payment during the reporting period, that would be consistent with SBS's approach, and SBS would endeavour to manage and adhere to the condition through any revenue troughs. If the condition is to increase the number of FTE journalists in line with distribution, that would likely be unmanageable.

### **Revenue fluctuations will impact all eligible news businesses**

The Scheme proposes broad eligibility and proportional distribution which means that any revenue from the Incentive would be spread across a wide range of registered news businesses. Therefore, the impacts of any increase or decrease in revenue available for distribution will be spread widely, meaning that a significant number of news businesses across Australia may be subject to revenue fluctuations under the Scheme at the whim of digital platforms, year to year.

For example, there would be a widespread drop in revenue distributed to news businesses under the Scheme if a digital platform suddenly started doing deals with the minimum number of news businesses after a period of paying the Incentive. This could result in a sudden, sector-wide reduction in revenue used to employ journalists, with consequential widespread impact on the employment of journalists. The attachment of an FTE maintenance condition during the relevant reporting period under the Scheme would not prevent this outcome.

### **Revenue fluctuations within reporting periods make conditions challenging to satisfy**

In the event conditions are attached to the use of the revenue by news businesses, the achievement of these conditions may also be subject to revenue fluctuations under the Scheme, and the relevant reporting period may not align with the start or end of a commercial agreement between a digital platform and news publisher, which may present challenges and cause unintended consequences.

For example, if a news business employed additional journalists as the result of a direct commercial agreement with a digital platform, this higher FTE journalist number would then impact revenue distribution under the Scheme. A condition under the Scheme that the news business maintain FTE journalists for the reporting period under the Scheme would then 'lock in' FTE for the reporting period, but if a commercial agreement with the digital platform expires or is terminated during the reporting period, the news business may not be able to maintain the number of FTE journalists during the relevant reporting period under the Scheme. The attachment of an FTE maintenance condition during the relevant reporting period under the Scheme would not prevent this outcome and it would be unreasonable to impose such condition.

### **FTE maintenance conditions are problematic**

Unlike direct grant funding, which may be provided for discrete and specific purposes and outcomes, there is no 1:1 relationship or equation between distribution of revenue under the Scheme and the number of FTE journalists at a news business because the number of FTE journalists is the product of other decisions and sources of revenue, and the salaries of various journalists isn't uniform. Therefore, the imposition of a condition that FTE journalists be maintained for the duration of a reporting period under the Scheme is inappropriate, may be unworkable, and may give rise to unintended consequences or disincentivise creative approaches to managing through revenue troughs.

A condition requiring SBS to maintain FTE journalist numbers should not apply in a way that treats Scheme revenue as the sole determinant of SBS's staffing capacity. SBS's journalist numbers may be affected by broader commercial revenue pressures, including advertising market conditions or changes to commercial agreements with digital platforms. Where those factors are unrelated to the Scheme, it would be unreasonable for the Scheme to impose a rigid FTE maintenance obligation without appropriate flexibility, tolerance thresholds, or exceptions.

### **News businesses are best placed to manage sustainability**

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News businesses have a range of business models and deploy a range of initiatives to support the sustainability of their news content production. For example, there may be opportunities to utilise training, new tools, services, or equipment that will deliver beneficial outcomes for news production. News businesses should retain full flexibility to apply revenue under the Scheme to news production initiatives as they best judge in the context of their business.

Given revenue is not stable, it is not appropriate to attach conditions, including maintenance conditions, and news businesses should retain flexibility to manage through revenue peaks and troughs in the provision of core news content.

SBS acknowledges that government payments under the Scheme would be fundamentally different from the commercial deals between news businesses and digital platforms and may be subject to certain requirements around the use of public resources (i.e., the Commonwealth Resource Management Framework and the *PGPA Act 2013*). That said, the Scheme should be grounded as closely in the logic of the underpinning NMBC as a mechanism designed to address the imbalance of bargaining power between digital platforms and news businesses.

SBS urges maximum flexibility in the Scheme for news businesses to utilise distributed revenue as they see fit, which is consistent with the approach in the NMBC, which underpins the existence of the Scheme, and with Treasury's view following consultation as part of its Review of the first year of operation of the NMBC. As Treasury states in its Review of the News Media and Digital Platforms Mandatory Bargaining Code:

*We do not consider there is a persuasive case for regulating how news businesses use funding. In a hypothetical world without bargaining power imbalances, there would be no justification for requiring news businesses to spend remuneration received from digital platforms on public interest journalism, or publicly report how they spend these funds. The Code, in addressing bargaining power imbalances, does not transform remuneration paid by digital platforms into the equivalent of, for example, grant payments from taxpayer-funded government programs (where it may be appropriate to place restrictions on how payments are spent and require public reporting). A requirement to spend remuneration on core news content could also have unintended consequences. For example, it could prevent a news business placing itself on a more secure footing over the medium term by reducing debt, with implications for its ability to produce core news content into the future.<sup>3</sup>*

### **SBS has operational independence**

SBS has statutory independence pursuant to the *Special Broadcasting Service Act 1991* (SBS Act) which includes editorial and operational independence. Any proposed conditions on the level of FTE journalists or the production of core news content at SBS is inconsistent with SBS independence under the SBS Act.

Revenue distributed under the Scheme will not play a determinative role in the number of FTE journalists at SBS. Other than informing a proportional distribution of revenue under the Scheme, there may be no direct relationship between the level of FTE journalists at SBS and revenue distributed under the Scheme.

SBS should not be subject to any conditions as to how it administers the revenue distributed to it under the Scheme, and the imposition of prescriptive conditions, investigations, and penalties on SBS in relation to the level of FTE journalists at SBS would be wholly improper and undermine independence.

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<sup>3</sup> Treasury (November 2022), Review of the News Media and Digital Platforms Mandatory Bargaining Code, pp 10-11.

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### 5. Administration of the Scheme

Rather than introducing prescriptive conditions that may be difficult to administer and may not deliver clear policy outcomes, the Government should use the Scheme as an opportunity to collect targeted information about FTE journalist numbers and the broader health of the Australian news media sector. This information could support more evidence-based public policy and inform the design of better-targeted direct grants to promote media diversity, public interest journalism, and trusted news for all Australians.

To promote revenue stability for the production of public interest news, for news businesses and for government administration of the Scheme, consideration should be given to enacting an NBI that requires digital platforms to nominate (or 'lock in') the approach of either entering commercial agreements or paying the Incentive for a period of 3 years, with a requirement to provide a minimum of six months public notice (i.e. to government and the news business market) if they are going to change their approach for the next 3-year cycle.

Transparent, timely, and regular information sharing by Government regarding this revenue distribution framework will be beneficial in supporting the news industry. It will also be consistent with other Government-administered funds, for which information is reported as a matter of public record.

### Questions

**Q1: Do you have any concerns with the proposed registration and application process?**

The registration process is consistent with the NMBC which is appropriate.

**Q2: Would your organisation meet the criteria as set out under the ACMA register? If not, please explain which component of the eligibility criteria may cause an issue.**

Yes

**Q3: Is the proposed eligibility criteria fit-for-purpose in ensuring that the scheme supports continued investment in public interest news, diversity of media voices, and quality journalism?**

Yes. In view of underlying competition basis for NBI and SPS, and News MAP grant funding – consider increasing the revenue test to limit – at least in line with inflation since 2021 when the NMBC was legislated.

**Q4: Do any of the proposed eligibility criteria present significant costs or administrative burden for your organisation?**

No. Minor administrative burden.

**Questions Q5: Is FTE journalists a good approximation for investment in news and journalism, and an appropriate basis for determining payments to the sector?**

Yes. It is simpler and more credible than alternative approaches.

**Q6: Are the identified editorial roles clear and fit-for-purpose? Are there other roles that should be included?**

The identified editorial roles are clear and fit. Presenters who produce news and multilingual news producers should also be included.

**Q7: Do the proposed evidentiary requirements present any specific difficulties, or a sizeable burden, for your business? Are there any risks arising from these evidentiary requirements?**

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No. But assessment and audit processes must be minimal and not undermine SBS independence.

**Questions Q8: Are the above weighting categories an appropriate and effective means of accounting for the economies of scale and resourcing differences across the sector; and meeting the objectives of the Statutory Payment Scheme?**

They are broadly appropriate. Consideration should be given to public service media weighting.

**Q9: What weighting values would best achieve these aims?**

There should be a tiered approach for organisations providing culturally and linguistically diverse news services to reflect the varying levels of investment required to deliver these:

- 1.1 for CALD/First Nations reporting and content production for underrepresented communities
- 1.15 for dedicated multilingual/First Nations or new services for underrepresented groups
- 1.2 for multi-language or First Nations national news operations serving multiple multilingual and or First Nations communities/underrepresented groups. .

**Q10: Is the proposed retention obligation an appropriate measure to ensure that funding provided to the sector delivers against a clear and valid public purpose?**

No. The FTE retention/maintenance obligation is wholly inappropriate.

**Q11: Are there any risks or other issues we should take into consideration with regard to the retention obligation, including time periods and tolerance thresholds?**

There should be no retention obligation. A condition of that nature is flawed on multiple grounds as set out above.

**Q12: What penalties should apply for organisations that are later found to have mis-reported their eligibility or employment practices?**

Depends on size and severity.

**Q13: Do you have any concerns about the general approach to regular reporting and an event-based notification framework?**

Reporting should be the minimum necessary.

**Q14: What lead-in time would you require for information required under regular reporting and event-based notices? Do you have any concerns about the feasibility of collecting this information, the timing or sequencing of obligations, or disclosure of commercially sensitive information?**

Reporting should be the minimum necessary.

**Q15: Do you have any concerns or views about penalties under the scheme, including the thresholds and penalties for serious non-compliance?**

Penalties should not be imposed other than exclusion from the scheme.