



**REVIEW OF THE NEWS MEDIA AND DIGITAL  
PLATFORMS MANDATORY BARGAINING CODE**

**GOOGLE'S RESPONSE TO TREASURY'S  
CONSULTATION PAPER**

**6 MAY 2022**

## INTRODUCTION & SUMMARY

We welcome the opportunity to provide our perspective as Treasury undertakes its review of the News Media and Digital Platforms Mandatory Bargaining Code (the **Code**).<sup>1</sup> The process seeks to establish the extent to which the Code, during its first year of operation, has achieved its policy objective of sustaining public interest journalism in Australia.

In the last twelve months, Google has continued to develop partnerships with news businesses across the Australian news spectrum (from large national organisations to independent, regional publishers). Many of these commercial partnerships predate the Code, and build upon our proud history of partnering with news businesses globally over the past two decades to strengthen quality journalism. We value the current position of non-designation under the Code that enables Google to develop our commercial partnerships mutually, in a way that makes sense for our business, and in a non-adversarial context.

Multiple proof points demonstrate the substantial contribution made by Google to the Australian news industry, including:

- **60 commercial partnerships** with Australian news businesses, representing **183 individual mastheads**, providing revenue and enabling these businesses to deepen their relationship with their audience
- A **prominent body of public support from news businesses** about the impact of their partnerships with Google, fostering greater innovation, depth and quality of coverage of public interest journalism
- **Tools and training developed and launched** to support the digital transformation of Australian news businesses, in collaboration with news organisations and leading professional organisations nationally, so far resulting in the upskilling of over 4,000 Australian journalists and news industry professionals.

We articulate these benefits in further detail in **Section A** of our response.

Looking forward, we see the potential for minor refinements that will allow industry participants, including regulators, news businesses and digital platforms, to jointly contribute to the Code's objectives into the future.

We see scope to refine the Code's application by the ACMA in three key ways:

- **Provide further guidelines in relation to the content test** to ensure that resources are directed towards news businesses primarily advancing the Code's objectives
- **Clearly reflect the scope of registered news businesses and news sources** in the register maintained by the ACMA, and
- **Limit the opportunistic registration of websites that syndicate or rewrite other news businesses' content.**

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<sup>1</sup> The Australian Government the Treasury, [Review of the News Media and Digital Platforms Mandatory Bargaining Code](#) (Consultation Paper, 1 April 2022).

Our reasoning for these refinements is further explained in **Section B** of our response.

Google is committed to engaging with the Australian and global news media industry in alignment with our mission to ensure that the world's information is universally accessible and useful.

## **A. BENEFITS GOOGLE PROVIDES TO NEWS BUSINESSES**

Over the past 20 years, Google has collaborated closely with the global news industry and provided billions of dollars to support the creation of quality journalism in the digital age.

Google's products are built to provide relevant and useful information for everyone, ensuring that people around the world are able to find and navigate to sources of quality news. By connecting people to quality information, we play a constructive role in enabling a sustainable, independent, and diverse news ecosystem.<sup>2</sup>

Through our products (which send billions of visits a year to Australian news publishers), our training and tools, and our direct funding of news organisations, Google is one of the world's most significant financial supporters of journalism.<sup>3</sup>

Section A provides an overview of this contribution across commercial deals, funding and training, and the significant value our products deliver to news businesses.

### **Google has entered into 60 commercial deals through Google News Showcase**

Google News Showcase is a product and licensing program that benefits publishers and readers. Readers get more insight on the stories that matter to them with curated story panels across several Google services. Participating news businesses will increase their revenue through monthly payments from Google, including for access to paywalled content to provide users with free access to select stories. On top of this, news businesses can grow their business through high-value traffic to their sites and deeper relationships with their audience. Google began signing agreements with Australian news businesses for the product as early as June 2020, and launched Google News Showcase in Australia in February 2021.<sup>4</sup>

Google has signed multi-year Google News Showcase deals with 60 news businesses representing 183 mastheads (see Attachment 1) and is in discussions with several others (see next section). To be included in Google News Showcase, mastheads must maintain a website with a history of publishing comprehensive current events journalism, and be able to meet the product requirements (e.g. curate an agreed number of panels per day and technically integrate with the product).

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<sup>2</sup> ['How Google supports journalism and the news industry in Australia'](#), Google (Web Page).

<sup>3</sup> See, for example, Sundar Pichai, [Our \\$1 billion investment in partnerships with news publishers](#) (Blog Post, 01 October 2020).

<sup>4</sup> Kate Beddoe, ['Answering your top questions about Google News Showcase'](#), Google The Keyword (Blog Post, 10 February 2021).

Google is especially committed to ensuring that our commercial deals allow us to partner with and support a diversity of Australian news businesses. We have closed deals with news businesses that provide national, regional and local news, and span commercial, public and not-for-profit business models. We have also successfully completed collective negotiations with members of Country Press Australia, which represents 100 local and regional news businesses.

Multiple news businesses have spoken to the benefits and impact on their journalism of participating in Google News Showcase. An extensive list of quotes is provided in Attachment 2. For example:

**SBS Director of News and Current affairs Mandi Wicks** said: *“Through SBS’s agreement with Google, we hope to reach more Australians. The Showcase agreement recognises the importance of exploring and celebrating diverse perspectives for the purposes of increasing understanding between Australians.”*<sup>5</sup>

**Andrew Manuel, President of Country Press Australia**, said: *“Local newspapers are often the only source of local news and provide a platform for informed public debate. This agreement will help sustain public interest journalism across regional Australia well into the future with a monetary exchange, innovation changes as well as enabling a sustainable online model for traditional newspaper publishers.”*<sup>6</sup>

**Angela Priestley, Publisher & Co Founder, Women’s Agenda**, said: *“As an independent news publication that’s 100% female owned and run, we’re excited to be joining the Google News Platform to further share our daily news journalism. We’re also incredibly grateful to the Google team for creating this opportunity.”*<sup>7</sup>

Now over one year into its operation, Google News Showcase has seen news businesses of all sizes and business models receive significant new licensing revenue in return for their editorial expertise.

### **Google continues to actively negotiate commercial deals**

Google continues to negotiate commercial deals with Australian news businesses, and we are in advanced commercial discussions with 78 additional news businesses. We continue to enter into new commercial arrangements with news businesses under Google News Showcase when they are eligible. We are also always keen to identify other opportunities for commercial partnerships with Australian news and media businesses.

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<sup>5</sup> [‘Google adds AAP, SBS and more to News Showcase initiative’](#), B&T Magazine (Article, 12 October 2021).

<sup>6</sup> Kate Beddoe, [‘Country Press Australia titles to join Google News Showcase’](#), Google Australia Blog (Blog Post, 3 September 2021).

<sup>7</sup> [‘Google adds AAP, SBS and more to News Showcase initiative’](#), B&T Magazine (Article, 12 October 2021).

## **Commercial deals are subject to confidentiality, but public statements are available**

Google has a long history of entering into commercial arrangements with Australian news businesses. These arrangements are always commercial-in-confidence. To demonstrate the materiality and benefits of these deals, we include below a non-exhaustive outline of public statements made by Australian news businesses. These statements, and the significant volume of deals Google has completed in the market, demonstrate Google's significant direct contribution to news businesses through commercial deals.

We have also attached a complete list of news businesses that are currently included in Google News Showcase. We offer Google News Showcase deals to news publishers which are able to meet our minimum product requirements. These relate to the publisher's digital capabilities (for example, the publisher needs to have a website and complete product integration work), the type of content (comprehensive current event journalism in English) and the volume of content published. Under News Showcase agreements, Google pays for the time and effort provided for editorial curation and, in the case of paywalled publishers, for users to have some access to articles beyond the paywall. We determine final deal terms through negotiation on volume and value metrics using objective criteria such as audience size and amount of content supplied.

## **News businesses have publicly outlined the benefits of these deals to journalism**

Australian news businesses' public statements speak to the benefit of Google's commercial deals to journalism (Attachment 2 provides a range of such quotations). For example, following the ABC's conclusion of its commercial deal with Google, in December 2021 ABC Managing Director David Anderson shared plans to hire over 50 regional journalists across more than 20 regional underserved locations, to provide greater coverage of regional stories in areas that are under-served by the media.<sup>8</sup>

Following the conclusion of the commercial deal with The Guardian Australia, they announced they would expand their state news coverage in New South Wales, Queensland and Victoria, and Dan Stinton, Managing Director Guardian Australia outlined a substantial increase in headcount as a result of their commercial deal with Google, saying: *"In the last 12 months, we've brought almost 50 people into The Guardian in Australia. They've been in a number of areas, including the state-based expansion, but we've also significantly expanded our audio and podcast team, we've significantly expanded our video and distribution team, and we've significantly expanded our general newsroom and reporting team, as well as a few commercial roles."*<sup>9</sup>

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<sup>8</sup> ['ABC to hire over 50 regional journalists across more than 20 'news desert' locations after Facebook, Google deal'](#), ABC News (Article, 3 December 2021).

<sup>9</sup> Tess Connery, ['Dan Stinton on expanding The Guardian's state level coverage'](#), Mediaweek (Article, 21 March 2022).

## **Market disclosures demonstrate the materiality of these deals**

ASX Listing Rules 3.1 and 3.1A require listed entities to notify the ASX of any information they expect to have a material effect on the price or value of an entity's securities. Both Nine Entertainment Corporation<sup>10</sup> and Seven West Media<sup>11</sup> made ASX disclosures upon closure of their commercial deals with Google, demonstrating the materiality of their deals over their five year terms. SWM Managing Director and CEO James Warburton said *"Together, (the agreements) underpin our sustainability and enable us to continue to build our digital platform"*.<sup>12</sup>

The Nasdaq Stock market has similar disclosure obligations to disclose any material information that would reasonably be expected to affect the value of securities. On 17 February 2021 News Corporation disclosed that they had agreed a three year partnership with Google globally.<sup>13</sup>

These statements and disclosures provide clear evidence that Google's commercial deals are having a meaningful impact on the sustainability of Australian news businesses.

## **Positive recognition of the impact of Google's deals for the news industry**

The positive impact of the partnerships that Google has built with Australian news businesses over the past 12 months has been publicly recognised by a range of stakeholders.

The Treasurer, the Hon. Josh Frydenberg MP, and the Minister for Communications, Urban Infrastructure, Cities and the Arts, the Hon. Paul Fletcher MP have both publicly acknowledged the efforts that Google has taken to negotiate commercial deals with Australian news businesses and their contribution to journalism.

The Treasurer has stated: *"Everything that I have heard from parties in both the news media business and digital platforms is that these are generous deals, these are fair deals, these are good deals for the Australian media businesses, deals that they are making off their own bat with the digital giants."*<sup>14</sup>

Minister Fletcher has also noted Google's collaboration with News Corp on the Digital News Academy (discussed below), and Nine's decision to hire 18 additional journalists at The

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<sup>10</sup> Nine Entertainment, [Agreements with Digital Platforms](#) (ASX Announcement, 1 June 2021).

<sup>11</sup> Seven West Media, [Seven West Media signs Google and Facebook agreements](#) (ASX Announcement, 3 May 2021).

<sup>12</sup> Seven West Media, [Seven West Media signs Google and Facebook agreements](#) (ASX Announcement, 3 May 2021) 1.

<sup>13</sup> ['News Corp and Google Agree to Global Partnership on News'](#), News Corp (Web Page, 17 February 2021).

<sup>14</sup> Jack Snape, ['Treasurer Josh Frydenberg describes agreements between Google and news publishers as 'good deals'](#), ABC News (Article, 17 February 2021).

Australian Financial Review, and new trainees at the Sydney Morning Herald and The Age as “the result of deals done by Australian news media businesses with the giant global digital platforms Google and Facebook” in his blog post on the one year anniversary of the Code.<sup>15</sup>

The news business statements and disclosures above, combined with the breadth and depth of our commercial deals (outlined in Attachment 1), clearly reflects the significant contribution that Google is making to the Australian news landscape through our commercial agreements with news businesses and other initiatives.

### **Commercial deals are just one pillar of Google’s support for the news industry**

Google also makes other significant contributions to Australia’s news ecosystem. Google’s products help news businesses attract new audiences, monetise their content and understand how users engage with their websites and apps.

### **Google’s products help connect users to important, authoritative news sources and deliver referral traffic, monetisation and insights to news businesses**

News businesses also continue to derive substantial value from referral traffic sent from Google products including Search and Google News. Every month we send Google users globally to news sites 24 billion times.<sup>16</sup> Users (from Australia and internationally) click from Google Search results through to Australian news websites, which gives publishers the opportunity to make money by showing those users ads, requesting contributions or converting users into paying subscribers. For example, in 2018, Google Search accounted for 3.44 billion visits to Australian news publishers — further supporting these publishers to grow and monetise their audience by showing their own ads, showing other articles or signing up people as new paying subscribers.

Through Google’s products, users are able to quickly navigate to Australian news websites where they can receive trustworthy and timely information from a variety of sources that enable them to better understand the world around them from multiple points of view and make educated decisions. Users will often discover additional news sources while using Google’s products, and many go on to form long lasting relationships with these news media businesses.

In addition to providing valuable referral traffic to news businesses, Google also provides value in the form of data and insights through free services such as Search Console, Google Analytics and Realtime Content Insights. These services help news businesses to monitor and improve the performance of their websites. Google also provides tools that

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<sup>15</sup> Paul Fletcher MP, [‘News Media Bargaining Code: One year old and working’](#), Paul Fletcher MP Federal Member for Bradfield (Blog Post, 3 March 2022).

<sup>16</sup> Richard Gingras, [‘Setting the record straight on news’](#), Google The Keyword (Blog Post, 26 June 2020).

support the creation of news content (e.g. Google’s Journalist Studio)<sup>17</sup> and its monetisation (e.g. Google Ad Manager).

## Google News Initiative

As part of the Google News Initiative (**GNI**),<sup>18</sup> Google provides free training, tools and direct funding of digital transformation initiatives for news businesses.

Through the GNI, we offer free training in digital skills and capabilities, and programs like the GNI Innovation Challenge and the GNI Digital Growth Program to accelerate small and mid-sized news organisations’ business growth. We also offer products like Subscribe with Google, News Consumer Insights and Google Trends, to help publishers understand their audiences, grow reader revenue and increase newsroom efficiency. Since we launched the GNI in 2018, we’ve directly funded and trained hundreds of news businesses in Australia. We have a particular focus on news businesses in regional communities, including over the last few years training more than 4,000 journalists in digital tools and more than 200 publications in new methods of engaging audiences and generating revenue.

A few examples of this work are included in the following paragraphs.

The **Google News Lab** program funds partnerships and training to newsrooms and journalists. Training is focused on pressing topics in journalism such as trust & misinformation, local news, inclusive journalism and emerging technologies. In 2021 alone Google’s Australian News Lab team trained 1600 journalists representing over 100 newsrooms. Some News Lab training has been delivered in partnership with the Walkley Foundation<sup>19</sup>, and The Walkleys and Google have co-produced a series of webinars to share key concepts from the Google News Initiative, such as our Fundamentals<sup>20</sup> and Verification<sup>21</sup> training modules.

**Crosscheck Australia**<sup>22</sup> is a partnership with First Draft News to train journalists and counter election misinformation. With Google’s support, First Draft has trained over 100 journalists in the lead up to the Federal Election in how to spot, verify and respond to misinformation and provided an online hub for reporters to address misinformation as and when they see it. Google is also working with AAP to tackle misinformation through their translated fact checks, which are distributed to 40 culturally and linguistically diverse communities, free of charge.

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<sup>17</sup> [Google Journalist Studio](https://journaliststudio.google.com/), *https://journaliststudio.google.com/* (Web Page, 2022).

<sup>18</sup> [‘Everyone, everywhere, benefits from a healthy news industry’](#), *Google News Initiative* (Web Page).

<sup>19</sup> [‘Training Resources’](#), *The Walkley Foundation* (Web Page).

<sup>20</sup> [‘Google News Initiative: Advanced Research Techniques’](#), *YouTube* (Video, 12 June 2020).

<sup>21</sup> [‘Google News Initiative: Online Verification Techniques’](#), *YouTube* (Video, 10 July 2020).

<sup>22</sup> [‘CrossCheck Australia’](#), *First Draft* (Web Page, 2022).



AAP CEO Lisa Davies spoke to the benefit of the partnership: *“With Google’s support, AAP FactCheck has been able to engage with Culturally and Linguistically Diverse Communities that we previously were unable to serve. This project has not only allowed us to increase our efforts to debunk misinformation throughout the lead-up to the upcoming federal election, but has given us the ability to put this important content in front of a broader cross-section of Australians. Articles debunking misinformation capable of influencing the electorate are meticulously translated into Arabic, Vietnamese and Simplified Chinese before being provided free of charge to publications targeting those language groups. We hope to continue working with Google to deepen the trust we have begun building within those CALD communities.”*

In 2022, Google also funded the **Media Diversity Australia political fellowships**, which support newsrooms’ efforts to boost the diversity of talent within political bureaus. Three young journalists joined the AAP, Sydney Morning Herald and Guardian press gallery bureaus in the lead up to the federal election, bolstering their coverage, as the nation votes. Mariam Veiszadeh, Chief Executive Officer, Media Diversity Australia spoke to the benefits of the partnership: *“We’ve offered three bright young Australians the opportunity to work in leading political bureaus, including time spent in Canberra’s Press Gallery, during the 2022 Federal Election. Our Political Fellows are powerfully addressing an obvious gap in national media: culturally diverse perspectives in the coverage of Australian federal politics.”*

**Project Kookaburra** provides an example of a program funded by the Google News Initiative.<sup>23</sup> Project Kookaburra is a program aimed at accelerating the digital transformation of existing regional news publishers and creating a foundation for new all-digital journalism. Through this work we have identified successful regional publishing models<sup>24</sup> that have been shared with a global audience,<sup>25</sup> as well as helping 100+ publications to deploy Google ads and better understand their audiences. Case studies with local and regional news businesses like the Sunraysia Daily, Yorke Peninsula Country Times and Narrandera Argus speak to the benefits of this program and are available on the site’s homepage.<sup>26</sup> For example, Michael Ellis, Managing Director, Yorke Peninsula Country Times said: *“Project Kookaburra has given the Yorke Peninsula Country Times the confidence to transition content online and build a digital audience. With support and advice from the Kookaburra team, we have developed and are now running a modern website specifically for our farming content, Farming Extra. This has been our first foray into posting content online throughout the week—rather than only after the hard copy newspaper is out — and our first attempt to grow a digital subscriber base. We plan to use the site to run campaigns, including helping local agricultural bureaus attract new members.”*<sup>27</sup> An example of the impact Project Kookaburra’s last cohort of news businesses have seen is provided in our

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<sup>23</sup> [‘Project Kookaburra Webinar Series’](#), The Walkley Foundation (Web Page).

<sup>24</sup> [‘Project Kookaburra webinars’](#), The Walkley Foundation (Web Page).

<sup>25</sup> [‘GNI Conversations: Sustaining the News Industry’](#), YouTube (Video, 18 November 2020).

<sup>26</sup> [‘Project Kookaburra webinars’](#), The Walkley Foundation (Web Page).

<sup>27</sup> Google News Initiative, [Yorke Peninsula Country Times sharpens its audience focus](#) (Case Study, November 2020) 2.

Project Kookaburra video,<sup>28</sup> and this project continues with five local news businesses from across Australia.

Google also provides **direct funding support** to Australian news businesses during times of crises. Throughout the early days of the COVID-19 pandemic, Google provided emergency funding grants to 77 Australian news businesses, most of whom were regional and local news providers, through the GNI Journalism Emergency Relief Fund.<sup>29</sup>

### **Case study: Digital News Academy**

A recent example of Google's ongoing and significant contribution to Australian journalism outside of our commercial agreements is the Digital News Academy that we have jointly launched in partnership with News Corp Australia and the Melbourne Business School. This partnership offers a curriculum dedicated to digital storytelling.<sup>30</sup>

The nine-month course is open to journalists at News Corp, leading regional publisher Australian Community Media and a number of smaller news businesses (such as Times News Group in Victoria, Region Media in the ACT, Newsport in Queensland, National Indigenous Times in WA and the Murray Pioneer in South Australia). It is expected that other news businesses may sign up to the Academy in coming months. The program welcomed its first cohort of 50 journalists in March 2022, and we expect that around 750 media professionals will complete the course over the first three years.

Google is directly funding this program and will also contribute staff, facilities and expertise to the Academy, providing Australian journalists with access to Google's global network of experts in technology and news. Crucially, this program has been co-designed with the Australian news industry and academics aligning on how to best support journalism.

News Corp Australasia's Executive Chairman, Michael Miller, spoke directly to this shared commitment, stating that: "*Mel (Silva, Google Australia's VP and Managing Director) and I are very aligned on the impact we want to have on journalism, and therefore on Australia*".<sup>31</sup>

The program has also been recognised as an example of what partnership between news organisations and technology platform can look like, with the International News Media Association stating: "*If you're looking for a sign of what peace in our time looks like between media and the digital platforms, then Australia should again become your focus — this time thanks to the launch of News Corp-Google's Digital News Academy*".<sup>32</sup>

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<sup>28</sup> ['Google News Initiative: Project Kookaburra'](#), YouTube (Video, 11 December 2021).

<sup>29</sup> ['Journalism Emergency Relief Fund - How to apply'](#), Google News Initiative (Web Page).

<sup>30</sup> ['Bringing power to your story'](#), Digital News Academy (Web Page, 2021).

<sup>31</sup> James Madden, ['Digital evolution: News Corp, Google unite to train journalists'](#), *The Australian* (online, 30 January 2022).

<sup>32</sup> Robert Whitehead, ['Australia turns heads with a News Corp-Google news media academy'](#), *International News Media Association* (Article, 31 January 2022).

## B. WORKABILITY AND SUSTAINABILITY OF THE CODE

A key objective of the Code is to help sustain public interest journalism in Australia.<sup>33</sup> As noted in the Consultation Paper:

*“An underlying objective of the Code is to help sustain public interest journalism in Australia. The Code therefore focuses on news businesses comprising news sources whose primary purpose is to create ‘core news content’. A focus for the review will be the extent to which commercial deals have promoted the creation of core news content by Australian news businesses in metropolitan and regional areas.”<sup>34</sup>*

We have engaged closely with the Government during the development of the Code and have been transparent about our concerns.<sup>35</sup> We thought it could be helpful to share some complexities arising from the interpretation of the Code which have become apparent over the past 12 months. Our comments focus on the operative provisions of the Code, namely those relating to the ACMA’s registration of news businesses.

Our main concern relates to the application of the content test, resulting in the registration of news businesses that do not have the primary purpose of producing core news content. It is our understanding that the intent of the Code is to support the production of public interest journalism by news businesses that focus on the production of such content, to ensure that public interest journalism continues to be available for consumption by Australians. The Code and explanatory materials achieve this goal by requiring that a news business and its news source/s have the primary purpose of producing “core news content”. It is important to the workability and integrity of the Code that there remains a valid distinction between “core news content” and “covered news content”. To the extent that this distinction is becoming blurred, it will have negative impacts on the news ecosystem and the workability of the Code.

The lack of adherence to the objectives of the Code is likely to undermine the intent to sustain public interest journalism as highlighted below.

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<sup>33</sup> The Australian Government the Treasury, [Review of the News Media and Digital Platforms Mandatory Bargaining Code](#) (Consultation Paper, 1 April 2022) 5. See also The Hon Josh Frydenberg MP and The Hon Paul Fletcher MP, [‘Parliament passes News Media and Digital Platforms Mandatory Bargaining Code’](#), *The Hon Josh Frydenberg MP Treasurer of the Commonwealth of Australia* (Media Release, 25 February 2021).

<sup>34</sup> The Australian Government the Treasury, [Review of the News Media and Digital Platforms Mandatory Bargaining Code](#) (Consultation Paper, 1 April 2022) 5.

<sup>35</sup> See, for example, Google, [Submission to the Senate Economics Legislation Committee](#) (Submission to Inquiry into Treasury Laws Amendment (News Media and Digital Platforms Mandatory Bargaining Code) Bill 2020, 18 January 2021); Google, [Draft News Media and Digital Platforms Mandatory Bargaining Code](#) (Submissions in Response, 28 August 2020); Google, [Mandatory News Media Bargaining Code](#) (Response to the ACCC’s Concepts Paper, 5 June 2020).

## I. Blurring of core news content and covered news content

Currently, the register maintained by the ACMA includes:

- publishers that primarily focus on particular topics (such as travel, culture and lifestyle content, including product reviews and city guides),<sup>36</sup> and infrequently publish core news content on their websites / news sources;
- publishers that focus on news and developments in particular industries (such as the property sector), which occasionally includes news content of broader interest that may be properly categorised as core news content. We note that the Revised Explanatory Memorandum offers an example of “Caterers First News”, a fictional political lobby group and publisher of “a news website and daily email newsletter which reports on topical Australian catering news and events”, as an applicant that would fail the professional standards test in the Code. We assume that Caterers First News would also fail the content test given its focus on the catering sector, which is surely “specialty or industry reporting”,<sup>37</sup> and
- publishers of primarily opinion and commentary<sup>38</sup> relevant to a subset of the population, such as investors / traders, which occasionally include news content of broader interest that may be properly categorised as core news content.

Consistent with the provisions and objectives of the Code, and with the integrity of news journalism in Australia, the ACMA should register news sources only where:

- they regularly create more core news content than other content;
- they create core news content regularly relative to production of other content (as opposed to ad hoc); and
- core news content is regularly given more prominence compared to other content.

Overbroad registration of news business may have the following consequences:

- **Diverts resources to the development of non-core news content:** Registration of websites that focus on producing covered (and other loosely termed) news

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<sup>36</sup> We note that section 52A of the Code provides that “core news content” is content that reports, investigates or explains issues or events that are:

- 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.

The Revised Explanatory Memorandum emphasises the need for core news content to be of “public significance”, and (at 1.72) provides that “Matters that are principally private or special interest are not intended to be included” in the definition of core news content.

<sup>37</sup> We note that the Revised Explanatory Memorandum (at 1.101) provides that covered news content is intended to exclude “specialty or industry reporting”. Since “covered news content” includes “core news content”, this means that “specialty or industry reporting” is also excluded from “core news”. See [Revised Explanatory Memorandum](#), Treasury Laws Amendment (News Media and Digital Platforms Mandatory Bargaining Code) Bill 2021 (Cth) 1.101.

<sup>38</sup> We note that the Revised Explanatory Memorandum at 1.73 provides “Pure opinion or commentary on news content will generally not be considered core news.”

content, effectively broadens eligibility beyond that intended by Parliament and may have the result of diverting funding and other support away from genuine core news-producing news businesses if any platforms are designated in future such that the Code obliges them to participate in arbitration.

- **Creates unrealistic expectations of funding.** Allowing businesses that do not have a primary purpose of creating core news content to register creates an unfounded expectation among those businesses and similar businesses that they are entitled to receive payment from digital platforms.
  - For example, Google has been approached by a number of smaller and independent publishers of niche lifestyle publications and city guides, seeking commercial deals. Google has engaged with those publishers over the course of several months to identify potential opportunities for mutually beneficial commercial partnerships. In some instances, despite Google's best efforts to put flexible offers on the table based on comparable market deals underpinned by fair value exchange, the publishers' commercially unreasonable expectations have prevented these negotiations from progressing further.
- **Creates an uneven playing field in markets for other content:** The registration of websites that primarily produce broader interest content (and have core news on a part of their website), could distort competition in the supply of these other types of content. Take travel content as an example. If the travel section of a registered news businesses' website is included in the news source, then under the Code they would be eligible to demand payments from designated digital platforms for such content to the extent it is covered news content, while their unregistered rivals such as Australian Traveller, Executive Traveller, Lonely Planet or Finder.com.au/travel, would not.

We recommend further guidance be provided to clarify that core news content is content that is of *public interest to a broad population of Australians* (whether they are in a particular local or regional area, or nationally) and excludes content that is primarily focused on a particular topic, such as industry-specific news, sports, recreation, arts, lifestyle or entertainment. We believe this is consistent with the existing definition of core news content in the Code, but that it has been incorrectly interpreted more broadly which has led to unintended consequences. Further guidance could usefully be given on what is “specialty or industry reporting”, which is excluded from covered (and therefore also core) news content, and what are “private or special interest” matters that are intended to be excluded from core news.<sup>39</sup> Examples of core news content and content that is not core news content should be given, by reference to actual articles where possible.

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<sup>39</sup> We note that the ACMA's News Media Bargaining Code Eligibility Guidelines contain no reference to the exclusion of “specialty or industry reporting” from the core news content category.

## II. Consistent treatment of “registered news businesses” and “registered news source/s”

The register of eligible news businesses maintained by ACMA currently:

- contains separate columns headed “registered news business” and “registered news source/s and content link”; and
- includes entries under the heading “registered news business” that are often (incorrectly) broader than the relevant “news source/s”.<sup>40</sup> For example, near the top of the register, the registered news business West Coast Radio Pty Ltd is considerably broader than <https://www.coastlive.com.au/news/> and <https://www.917thewave.com.au/news>.

**Register of eligible news businesses**

The register will be progressively populated as news businesses are registered by the ACMA.

News business corporation	Australian Business Number	Registered news business	Registered News Source/s and content link	News source type
Inside Story Publishing Pty Ltd	40 617 195 230	Inside Story	Inside Story ( <a href="http://insidestory.org.au">http://insidestory.org.au</a> )	A website or part of a website
West Coast Radio Pty Ltd	65 009 090 671	West Coast Radio Pty Ltd	97.3 Coast FM ( <a href="https://www.coastlive.com.au/news/">https://www.coastlive.com.au/news/</a> ) 91.7 The Wave ( <a href="https://www.917thewave.com.au/news/">https://www.917thewave.com.au/news/</a> )	Two websites or parts of websites

We acknowledge that news businesses publish a mix of stories of broad interest to attract a broader audience and cross-subsidise the production of core news content. We understand the desire to ensure that Code rights also apply to covered news content of registered news businesses. However, the Code is clear that a criterion for registration is that the primary purpose of **each news source** must be to create and publish core news content.

One category of news source identified in the Code is “a website or part of a website”. If a news business requests registration of a news source that is “part of a website”, that “part of a website” should be clearly identified on the register **as the news source and the registered news business**, so that it is clear that only the covered news content on that “part of a website” is subject to the Code. In other words, it should be clear (consistent with the Code’s provisions) that the registered news business is not entitled to claim

<sup>40</sup> The Code defines “news business” as a “news source or combination of news sources”.

remuneration from designated digital platforms for covered news content on other parts of the website (or other websites or sources of content) because part of the website meets the content test.

Going forward, ACMA should identify with greater specificity the parts of websites that are registered (and meet the core content criteria) as news sources and registered news businesses. The layout of the register of eligible news businesses should be revised to eliminate confusion about what news sources comprise the “registered news business”. We suggest that the “registered news business” and “registered news source/s and content link” columns of the register are merged.

### **III. Opportunistic registrations**

We are also concerned with the possibility of opportunistic registrations by publishers who are not legitimately focused on producing public interest journalism. For example, publishers (whether established or recently formed) that only feature core news articles that have been syndicated or rewritten from original articles by other news providers, solely in order to meet the core content test, might obtain registration and seek commercial deals with designated digital platforms.

Such registrations would encourage plagiarism / copying of original news content by publishers of non-core news while also diluting the return on investment of news outlets that ‘broke’ the core news story, disincentivising investment in such content. To the extent such registrations result in those publishers extracting commercial deals from designated digital platforms, they are likely to encourage additional opportunistic registrations, competing with legitimate news businesses for commercial deals with designated digital platforms. This goes against the Code’s efforts in respect of “*promot[ing] the creation of core news content by Australian news businesses in metropolitan and regional areas*”, the recognition of original news and the sustainability of the Australian news sector.

We consider that it should be clarified that the ACMA is required to take into account the applicant’s production of original news content, and the bona fides of its operations, as part of its eligibility assessment. We consider that this could be covered by the existing core content test criteria in the Code, which enables the ACMA to take into account “any other relevant matter”.

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We again welcome this opportunity to provide our perspective as Treasury undertakes its review of the Code.

## ATTACHMENT 1 - LIST OF SHOWCASE DEALS

Since June 2020, Google has signed Google News Showcase deals with 60 news businesses representing 183 mastheads.

<b>Showcase Partner</b>	<b># mastheads</b>
Australian Associated Press	1
ABC	1
Australian Community Media	24
Barrier Daily Truth	1
Border Watch	1
Bundaberg Media Pty Ltd	1
Cairns Local News Pty Ltd	1
Central Queensland Media Pty Ltd	2
Coast Community News	1
Elliott Consolidated Newspapers Pty Ltd	1
Gannawarra Times	1
Geelong Independent Pty Ltd	1
Greenstone Media Pty Ltd	1
The Guardian	1
Gympie Today Pty Ltd	1
Independent Australia	1
Junkee	1
Latrobe Valley Express	1
Mamamia	1
Maryborough Advertiser	1
Mclvor Group of Businesses Pty Ltd	1
McPherson Media	11
Midland Express	1
MMP Star	5
Murray Pioneer	1
News Corp Australia	37
Newstate Media Newcastle Pty Ltd	1
Newstate Media Pty Ltd	1
Nine	8
North East Media	3
North Western Courier Pty Ltd	1



<b>Showcase Partner</b>	<b># mastheads</b>
Out Publications Pty Ltd	1
Phillip Island & San Remo Advertiser	1
Polaris Media Group Pty Ltd	1
Private Media	2
Region Group	1
SBS	1
Southern Cross Austereo	2
Schwartz Media	2
Sentinel-Times	1
Seven West Media	21
Shepparton Newspapers	1
Solstice Media	3
Star News Group Pty Ltd	11
Starts at 60 Pty Ltd	1
Sunraysia Publishing Co Pty Ltd	1
The Conversation	1
The Coonamble Times	1
The Gilgandra Weekly	1
The Mareeba Express	1
The Moorabool	1
The North Central Review Pty Ltd	1
The Numurkah	1
The Warragul & Drouin Gazette	1
The Yorke Peninsula Country Times	1
Times News Group	6
Yahoo Australia	1
Western District Newspapers	1
Wimmera Mallee News Pty Ltd	1
Women's Agenda	1

## ATTACHMENT 2 - ADDITIONAL NEWS BUSINESS TESTIMONIALS

**Times News Group's Managing Director Warick Brown** said: "Google have been nothing but supportive and respectful of the energy and effort that goes into publishing hyper-local community content ... Google understands the authority regional newspapers have in the communities they serve, and by providing us with a platform on Google News Showcase they will help take our content further and reach larger audiences. Their financial support is a benefit to us and public interest journalism. We can now invest back into our team of journalists to continue to be the voice of the community."<sup>41</sup>

*Below quote provided to Google by Warick Brown on 2/5/22*

"Times News Group was able to reinvest into the recruitment of 2 additional journalists as a result of the News Showcase partnership and has observed an increase in Google News referrals. Times News Group also benefited from training programs provided by Google that build digital journalism skills in the newsroom and keeps us on the forefront of digital news media coverage and execution. Times News Group is firm in the opinion and the position that the News Media Bargaining Code should be refined to provide a narrower definition of news businesses and ensure that niche or industry-specific publications are excluded - therefore preserving the underlying objective of the Code (to help sustain public interest journalism in Australia). The investment into predominantly traditional media publishers and creators will ensure the future of historic reporting on people, news and events ensuring important moments in our country are documented and referenced long into the future."

**Seven West Media Chairman Kerry Stokes AC** said: "This is a great outcome for Seven West Media and for Google. Our new partnership recognises the value, credibility and trust of our leading news brands and entertainment content across Seven and West Australian Newspapers. I'd like to thank Prime Minister Scott Morrison and the Chair of the Australian Competition and Consumer Commission, Rod Sims, with particular recognition of Treasurer Josh Frydenberg, who has been instrumental in the outcome of this ground-breaking agreement. Their outstanding leadership on the implementation of the proposed News Media Bargaining Code has resulted in us being able to conclude negotiations that result in fair payment and ensure our digital future ... The negotiations with Google recognise the value of quality and original journalism throughout the country and, in particular, in regional areas. Google is to be congratulated for taking a leadership position in Australia and we believe their team is committed to the spirit of the proposed code."<sup>42</sup>

**Seven West Media Managing Director and CEO, James Warburton** said: "This is another significant step in Seven West Media's transformation journey... Google recognises the

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<sup>41</sup> ['First independent regional publisher signs with Google'](#), *Geelong Times* (online, 3 May 2021).

<sup>42</sup> Chris Pash, ['Seven West Media does deal with Google for news payment'](#), *AdNews* (online, 15 February 2021).

strength of our audiences through our engaging content and leading platforms. We are excited to be partnering with them as we pursue the next stage of our strategy.”<sup>43</sup>

**Australian Community Media CEO, Tony Kendall** said: "As a digital and content-focused media company serving Australia's major regional population centres, ACM is always looking for new ways for our trusted news brands to deliver their unrivalled local news coverage to the widest possible audience. ACM was pleased to be a launch partner on Google News Showcase, and since February 2021 we have been curating trusted local journalism for Google News users across 24 of our regional titles. Beyond News Showcase, ACM has been partnering closely with Google to increase the reach of our journalism through Google's products, accelerate our digital transformation through close collaboration on strategic projects, and enhance the capabilities of our journalists through partnership on the Digital News Academy.”

**The Conversation Media Group CEO, Lisa Watts** said: “In recent years we've noticed Google has been increasing its effort to promote journalism that has gone through a rigorous process of fact checking. The Conversation only works with academics who are experts in their field, and all our articles are carefully curated by professional journalists. This means we're in a perfect position to work with Google to try and provide a stream of reliable information that can meet the needs of audiences.”<sup>44</sup>

**Schwartz Media CEO, Rebecca Costello** said: "This is a chance to take a leading role in putting quality journalism in front of people. It helps take the rigour of what we do at The Saturday Paper, The Monthly and 7am and connect it to broader audiences. It is one way of addressing the age of misinformation in which we live.”<sup>45</sup>

**Solstice Media Managing Director, Paul Hamra** said: “With local news under stress, finding new channels and new audiences for our premium content, in safe and curated environments, is a high priority. This opportunity will give us access to new markets and provide additional commercial benefits.”<sup>46</sup>

**Private Media Head of Publishing Operations, Zoe Dattner** said: “Private Media has always welcomed the opportunity to explore new platforms and experiment with how we get our journalism out there, and we're looking forward to what we can learn by having Crikey and SmartCompany appear on Google News Showcase.”<sup>47</sup>

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<sup>43</sup> Chris Pash, [‘Seven West Media does deal with Google for news payment’](#), *AdNews* (online, 15 February 2021).

<sup>44</sup> [‘How Google supports journalism and the news industry in Australia’](#), *Google* (Web Page).

<sup>45</sup> Natasha Gillezeau and Max Mason, [‘Google will pay for news on fresh platform’](#), *Australian Financial Review* (online, 26 June 2020).

<sup>46</sup> Natasha Gillezeau and Max Mason, [‘Google will pay for news on fresh platform’](#), *Australian Financial Review* (online, 26 June 2020).

<sup>47</sup> [‘How Google supports journalism and the news industry in Australia’](#), *Google* (Web Page).

**Independent Aus Founder David Donovan** said: “Google has been an absolute pleasure to deal with. We are very excited to be part of Google News Showcase, which is another avenue for us to promote our ground-breaking investigations and stringently fact-checked articles. We look forward to continuing our productive business relationship well into the future.”<sup>48</sup>

**Star Observer publisher Lawrence Gibbons** said: “We are pleased to be a part of Google News showcase. This partnership provides much needed support and allows us to generate vital, independent news coverage for Australia’s LGBTQI community.”

**Polaris Media CEO David Redman** said: “The Australian Jewish News is supportive of Google taking initial steps to support quality public interest news journalism through their News Showcase, which we have partnered with them on. We look forward to working with Google on expanding this and other programs that are needed to help the publishers of quality public interest news journalism survive at a time when independent journalism has never been more important.”

**Star News Group Managing Director Paul Thomas** said: “Our agreement with Google to licence our content through Google News Showcase has led to an increase in the production of local news by our company for our communities. This increased content has also required an increase in journalists to write this vital local public interest journalism.”

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<sup>48</sup> [‘How Google supports journalism and the news industry in Australia’](#), Google (Web Page).