



Australian Government
The Treasury



Ministerial Submission

MS24-000430

FOR ACTION - Government Response to Meta's removal of Facebook News

TO: Assistant Treasurer and Minister for Financial Services - The Hon Stephen Jones MP

TIMING

Urgent – as requested by your office.

RECOMMENDATION

- That you sign the letter at [Attachment A](#) addressed to the Chair of the Australian Competition and Consumer Commission (ACCC) requesting the ACCC's advice.

Signed / Not signed

- That you sign the letters ([Attachment B](#)) to Australian news media publishers regarding today's announcement by Meta Platforms Inc (Meta).

Signed / Not signed

- That you note the requested factsheet ([Attachment C](#)) provided earlier today for potential public dissemination on the News Media and Digital Platforms Mandatory Bargaining Code.

Noted

Signature

Date: /03/2024

KEY POINTS

- In relation to Meta's announcement today on the withdrawal of Facebook News in Australia, your office requested letters to be sent to:
 - The ACCC: requesting the ACCC's advice in relation to the News Media Bargaining Code

- News Media Publishers: alerting them of Meta’s decision and that you have sought advice from the ACCC.
- Also attached is a fact sheet on the Code that was provided earlier in support of your media announcement.

Clearance Officer

s 22

Competition and Consumer Branch
Market Conduct and Digital Division
01/03/2024

Contact Officer

s 22

Ph: s 22
Mob: s 22

CONSULTATION

The ACCC was consulted on both letters. DITRDCA provided contact details for publishers.

ATTACHMENTS

- A: Letter to the ACCC from the Hon Stephen Jones MP
- B: Letter to publishers from the Hon Stephen Jones MP
- C: Fact sheet on News Media Bargaining Code



THE HON STEPHEN JONES MP
ASSISTANT TREASURER AND MINISTER FOR FINANCIAL SERVICES

Ref: MS24-0000430

Friday, 1 March 2024

Ms Gina Cass-Gottlieb
Chair
Australian Competition and Consumer Commission
GPO Box 3131
CANBERRA ACT 2601

via: s 22 [REDACTED] @accc.gov.au

Dear Ms Cass-Gottlieb

I am writing to seek urgent advice from the Australian Competition and Consumer Commission (ACCC) in relation to the News Media and Digital Platforms Mandatory Bargaining Code (the Code).

As you are aware, Meta Platforms Inc (Meta) has announced its global decision to remove Facebook News (its dedicated news tab) in Australia and in the United States of America in early April. This replicates Meta's decision in September last year in the United Kingdom, France, and Germany. Meta has also indicated it will not enter into new commercial deals for traditional news content in these countries. I note the decision does not at this stage remove the ability to access news on Facebook or Meta's other platforms.

Under the Code, I may make a designation determination that specifies a corporation as a *designated digital platform corporation* (designated digital platform) and one or more of its services as *designated digital platform services* of the corporation (designated service). To make a designation determination I must consider:

1. Whether there is a significant bargaining power imbalance between the digital platform and Australian news businesses (**bargaining limb**); and
2. Whether the platform has made a significant contribution to the sustainability of the Australian news industry through agreements relating to the news content of Australian businesses, including agreements about remuneration (**sustainability limb**).

The Code specifies that I may consider any reports or advice of the Commission in making a designation determination. In the circumstances of Meta's announcement, I am proposing to consider the potential application of the Code in relation to Meta and its relevant services, Facebook and Instagram. Given the ACCC's subject matter expertise, I request the Commission's advice to assist with my consideration of the first of the designation criteria. Specifically, I request that the ACCC provide advice on:

- Whether a significant bargaining power imbalance exists between Meta in respect of the Facebook and Instagram services and Australian news businesses; and
- the extent to which covered news content of Australian news businesses are made available on these services.

I ask that the ACCC works with the news media sector to obtain information that would help inform any decision under the Code, particularly in relation to Meta, and whether it is an “unavoidable trading partner” for Australian news media organisations. Separately I am writing to Australian publishers to request their assistance with any requests they may receive from the ACCC.

As part of this request, I ask that the ACCC provide advice on implications for the Australian news media sector of any proposed designation determination of Meta in respect of its Facebook and Instagram services. As above, I request that the ACCC relies on its existing expertise in the markets for the provision of digital platform services and information gathered from engagement with Australian news media organisations.

Further details regarding this request will be settled shortly. However, I request that the ACCC’s advice regarding Meta and its Facebook and Instagram services be provided as a priority.

I have copied this letter to the Hon Michelle Rowland MP, Minister for Communications.

Yours sincerely

The Hon Stephen Jones MP

CC: The Hon Michelle Rowland MP, Minister for Communications



THE HON STEPHEN JONES MP
ASSISTANT TREASURER AND MINISTER FOR FINANCIAL SERVICES

Ref: MS24-000430

Friday, 1 March 2024

RECIPIENT NAME
PUBLISHER
ADDRESS

Dear **XX**

I am writing to advise that Meta Platforms Inc (Meta), formerly Facebook Inc, has announced its decision to remove Facebook News in Australia.

Meta notes its decision only affects the dedicated news tab on Meta's Facebook service. Therefore, users will still be able to view news on Facebook in feed in Australia and news publishers will continue to have access to their Facebook accounts and pages. As a publisher, you will still be able to post links to your content and direct people to your websites in the same way any other individual or organisation can.

Meta has made this decision on a global basis. While the decision will take effect in Australia and the United States from April onwards, the Facebook News tab was removed in the United Kingdom, France, and Germany in September last year. The removal of Facebook News does not go as far as Meta's decision in Canada to remove all news content from its services.

Meta has said that it will not enter into any further commercial agreements with Australian news media organisations for the provision of news media content on its digital platforms service(s). Meta's actions will have a significant local impact. The decision removes a significant source of revenue for Australian news media businesses and the Government has noted that publishers deserve fair compensation for the content they provide.

The Australian Government's News Media and Digital Platforms Mandatory Bargaining Code (the Code) set up a framework to incentivise agreements (within and outside of the Code) which compensate news media organisations for the value derived from their content.

The Australian Government is committed to the Code and is seeking advice from Treasury and the Australian Competition and Consumer Commission (ACCC) on next steps. Therefore, I ask for your cooperation with any requests for information from the ACCC. It is important that the Government makes policy decisions in the best interest of Australians and your assistance will help the Treasury and the ACCC in forming its advice to Government on next steps.

I have copied in the Hon Michelle Rowland MP, Minister for Communications and Ms Gina Cass-Gottlieb, Chair of the ACCC.

Yours sincerely

The Hon Stephen Jones MP

CC: The Hon Michelle Rowland MP, Minister for Communications and Ms Gina Cass-Gottlieb, Chair of the ACCC.

News Media and Digital Platforms Mandatory Bargaining Code

Factsheet

What is the Code and its purpose?

The News Media and Digital Platforms Mandatory Bargaining Code ('the Code') aims to address bargaining power imbalances to ensure that digital platforms fairly remunerate Australian news businesses for news content, thereby helping to sustain public interest journalism in Australia.

The Code provides incentives for digital platforms and news businesses to reach commercial deals outside of the Code. Where that does not occur, it provides a framework (following designation of a digital platform) for good faith negotiations, and if required, arbitration between the parties.

How does the Code operate?

The Minister may bring individual digital platforms under the Code – that is, 'designate' them. Once designated, a digital platform is subject to the terms of the Code. The process for designation is set out below.

Steps	Process/Considerations
<i>Step 1:</i> The Minister considers the key criteria for designation	<p>The Minister may designate a digital platform after considering:</p> <ol style="list-style-type: none"> Whether there is a significant bargaining power imbalance between the digital platform and Australian news businesses (bargaining limb); and Whether the platform has made a significant contribution to the sustainability of the Australian news industry through agreements relating to the news content of Australian businesses, including agreements about remuneration (sustainability limb). <p>When making a designation determination, the Minister may consider any Australian Competition and Consumer Commission (ACCC) reports or advice.</p>
<i>Step 2</i> Give Notice	The Minister must give the corporation notice in writing that the Minister intends to make a determination specifying a designated digital platform and service(s).
<i>Step 3</i> Issue Determination	After 30 days has elapsed (starting on the day the notice is given), the Minister makes the designation determination.
<i>Step 4</i> The Code is in operation	<ul style="list-style-type: none"> Registration enables news businesses to, for example, participate in the bargaining, mediation, and arbitration processes in the Code with designated digital platforms. <ul style="list-style-type: none"> News businesses may be registered by Australian Communications and Media Authority (ACMA) if they satisfy tests relating to annual revenue, the type of news content they publish, having a predominantly Australian audience, and professional and editorial standards. A list of news businesses that have already been registered is on ACMA's website.

	<ul style="list-style-type: none">• Where registered news businesses are not satisfied with the outcome of negotiations with designated digital platforms, they can trigger provisions in the Code, including:<ul style="list-style-type: none">– requiring designated digital platforms to engage in good faith bargaining for up to three months followed by mediation; and– if a commercial deal still cannot be reached, registered news businesses may initiate a compulsory arbitration process to determine the amount of remuneration that designated digital platforms must pay them.• The Code also imposes general obligations on designated digital platforms, including that they:<ul style="list-style-type: none">– provide advance notice to registered news businesses when they make major algorithm changes,– must not differentiate between any news organisations, including registered and unregistered news organisations, due to their participation or non-participation in the Code.
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History of the Code

The Code was created to address concerns identified by the ACCC in its July 2019 report on digital platforms. The report found substantial bargaining power imbalances between some digital platforms and Australian news media organisations which meant news media organisations were not fairly remunerated for the value their content provided for digital platforms. In particular, the 2019 report identified bargaining power imbalances between Australian news businesses and each of Google Search and Facebook (now Meta) due to the fact these services were both “unavoidable trading partners” for news businesses.