



Australian Government

News Media and Digital Platforms Mandatory Bargaining Code: The Code's first year of operation

Government Response

18 December 2023

Australian Government response

Recommendation 1

The Government should consider directing the ACCC to prepare reports on:

- the extent to which digital platforms make available covered news content of Australian news businesses and
- whether significant bargaining power imbalances exist between these digital platforms and Australian news businesses.

Response

The Government supports the recommendation.

It will introduce legislative amendments that would facilitate the Australian Competition and Consumer Commission (ACCC) preparing periodic reports on the digital platforms that should be covered by the Code. The ACCC will have compulsory information-gathering powers to assist it to prepare these reports.

Recommendation 2

The Government should consider addressing, in its response to Interim Report No. 5 of the ACCC's Digital Platform Services Inquiry, whether ACCC information-gathering powers could be used to obtain information about commercial agreements between digital platforms and news businesses.

Response

The Government supports the recommendation.

In its fifth interim report released on 11 November 2022 as part of the Digital Platform Services Inquiry, the ACCC recommended that as part of the new digital competition code framework, the relevant regulator should have information-gathering powers in order to collect data from companies, many of which are global entities in overseas jurisdictions.

Treasury consulted on the ACCC's fifth interim report recommendations between 20 December 2022 and 15 February 2023.

The Government published its response to the ACCC's fifth interim report on 8 December 2023. The response noted that part of designing the new framework would include considering the broader allocation of powers for the regulator to enforce the regime and undertake roles under other reforms. The Government will consider the extent of the ACCC's information-gathering powers, including in relation to commercial agreements between digital platforms and news businesses, as part of that process.

Recommendation 3

Treasury, in consultation with the Department of Infrastructure, Transport, Regional Development, Communications and the Arts, should monitor registration outcomes for consistency with the policy objectives of the Code.

Response

The Government supports the recommendation.

The Government accepts the review's finding that the registration provisions have worked effectively overall, and that there is not a sufficiently strong case to amend them at this point in time. However, there appear to be a small number of cases where the provisions, as currently drafted, have not delivered outcomes consistent with the Code's objectives. It will therefore be important to continue to monitor registration outcomes. This issue should be revisited in the future review proposed in recommendation 5.

Recommendation 4

The Australian Communications and Media Authority should consider administrative issues arising in relation to the registration process.

Response

The Government supports the recommendation, noting that it is important for registration processes to operate as effectively and efficiently as possible, consistently with the existing provisions of the Code.

Recommendation 5

The Government should consider reviewing the Code again after 4 years of its operation.

Response

The Government supports the recommendation. It accepts the review's finding that it will be important to review the Code again in the future in light of commercial, technological, and regulatory developments.