

# Media code will level the digital playing field

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# Media code will level the digital playing field

**O**UR economy is experiencing a digital revolution. The way we shop, how we work and how we communicate has been turned on its head by developments in new technology.

Nowhere are these changes more apparent than in our modern media landscape.

The rise of the digital platforms, in particular Google and Facebook, have eaten into the advertising revenue base of traditional print, TV and radio media businesses.

Since 2005, there has been a 75 per cent decline in dollars spent on print advertising, while at the same time spending on online advertising has increased almost eightfold.

Conscious of the rapid changes taking place in the media marketplace and their impact on competition in the online advertising market, the government commissioned the Australian Competition and Consumer Commission in 2017 to undertake a major review.

The review went for 18 months and was world-leading.

It found the online advertising market had become increasingly concentrated.

For every \$100 spent on online advertising in 2019, \$53 went to Google and \$28 to Facebook.

Google has captured about 95 per cent of all advertising revenue associated with internet searches, while Facebook accounted for 62 per cent of online display advertising revenue.

These digital platforms were



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found by the ACCC to be “unavoidable trading partners” for news media businesses and maintained a bargaining position that was significantly in their favour.

This bargaining power imbalance has, to date, prevented news media businesses from being paid a fair price by the digital platforms for original content they generate.

As a solution, the ACCC has recommended to the Morrison government a bargaining code be established, governing the relationship between news media businesses and the digital platforms.

The government has accepted this recommendation and, on Wednesday, we will be introducing into parliament legislation to enact a mandatory code, the objective of which is to support a diverse and sustainable Australian news media sector.

Under the code, Facebook and Google will be required to engage in good faith negotiations with eligible news media businesses.

An eligible news media business is one whose primary purpose is to produce public-interest journalism for Australian audiences and whose annual turnover is greater than \$150,000 in the last year, or three of the last five years.

It does not cover trade publications, sports broadcasts and light entertainment programs.

Eligible news media businesses will be able to negotiate individually or collectively and digital platforms will be able to make standard offers to avoid unnecessary costs.

If the parties cannot reach agreement after a three-month period of negotiation, news media businesses can pursue the matter through a binding, final offer arbitration process.

In this event, a three-person independent panel will be presented with an offer by each side from which they choose one.

The arbitrators can either be selected by the parties or they can be appointed from a list of experts overseen by the Australian Communications and Media Authority.

In determining what is the best

final offer, the arbitrators are required to consider a range of factors, including the cost of producing original news content and the benefits accruing to the media businesses of having their content accessed on the digital platforms.

This is known as two-way value exchange.

The code also provides for a set of minimum standards with which the digital platforms must comply.

This includes a requirement of 14-days advanced notice of significant and human-made algorithm changes affecting the ranking and display of news content.

The implementation of this new mandatory bargaining code is a world-first and major reform.

The world is watching as every other major developed economy is confronting similar challenges with the rise of the digital giants.

Some have tried implement their own solutions, but have yet to find an effective and enduring one.

It is the intention of the Morrison government to ensure a sustainable and viable media landscape in Australia.

For this to occur, Australian news media businesses need to be fairly compensated for generating original content and the rules of the digital world should mirror the rules of the physical world.

The mandatory bargaining code being introduced today is a major step forward towards this end.

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