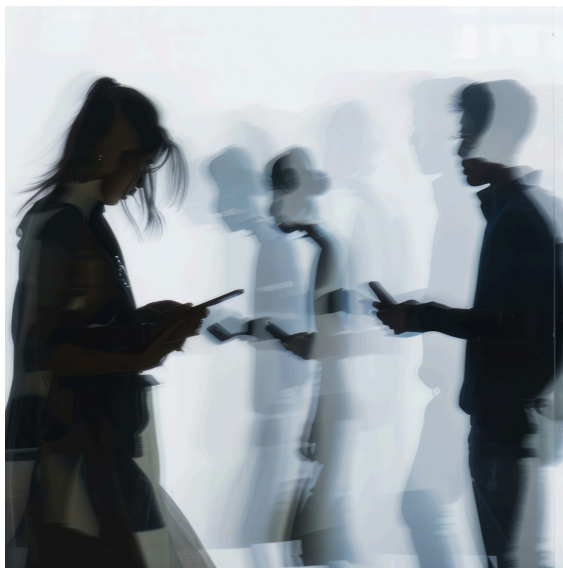


Centre for Media Transition



Hi there

Media in motion



Yet again, it's been a tumultuous time for the media. Last month the UK's *Press Gazette* unveiled [a live tracker](#) to monitor mistakes resulting from the use of AI in journalism. Tomorrow [the last weekday printed edition](#) of the *Northern Daily Leader* hits the streets of Tamworth. And all the while we're in the thick of a media stoush for the ages, a media melee with the lot: big personalities; surprising revelations; and eye-watering claims. Right before our eyes, the heaviest of media heavyweights are slugging it out for what they say is fair.

And, of course, cash.

Kyle, Jackie O and ARN? No! I'm talking about the News Bargaining Incentive. Last month, the government released its draft legislation for the new scheme, which aims to redirect funds from digital platforms to news media. It builds upon the News Media Bargaining Code (NMBC) introduced in 2021. As I explained to [Danny Chifley on 2SER Breakfast](#) this week, 'If you break it down, we're just talking about getting some of the big digital platforms to pay for news content.'

Beyond that, of course, there's a lot to digest. The draft legislation that would establish the Incentive itself is set out in three short proposed Bills, with most of the mechanics in the 'Administration Bill'. The draft Bill imposes a charge of 2.25% on the Australian revenue of large platform companies with annual Australian revenue in excess of \$250m that provide

'significant' social media and search services. These are essentially the largest digital platforms, but the draft Bill does exclude some types of service, meaning that messaging apps such as WhatsApp, professional networking platforms such as Linked In, and AI providers such as ChatGPT would not be included. Those are highly significant exclusions. Currently, [the included platforms](#) appear to be Google, Meta and TikTok.

That's not the end of the story, because the amount a platform is liable to pay under the charge would be offset by amounts it pays to Australian news businesses, either by arbitrated payments under the News Media Bargaining Code or by commercial deals otherwise recognised under the Administration Bill. To encourage these commercial deals, rather than rely on the default payments under the charge, a platform is able to offset not just the amount they spent, but 150% of the value of deals with larger news businesses and 170% of the value of deals with small or medium news businesses.

In other words, the government is saying to Google, Meta and Tiktok: make commercial deals with news businesses, or we're going to levy a charge that will cost you a lot more. And we're going to do this whether or not you carry news.

For today's newsletter, the CMT is doing a deep dive into the proposed News Bargaining Incentive. Derek sifts through the draft legislation to identify major issues, before Julie details how funds raised by the new charge might be distributed. As Derek and Julie note, there are currently two consultation processes: Treasury is consulting on the draft legislation; and the Department of Communications is consulting on how funds raised by the charge would be distributed.

From our perspective, of course, it's not enough for funds to be redistributed to journalism. The funds should be redistributed to *public interest journalism*. That is, to support quality journalism of the sort recognised this week with the award of the [Pulitzer Prizes for Journalism](#), and of the sort honoured annually by Australia's Walkley Awards. To round out today's newsletter, Monica explains some of the tensions behind the scenes at the Walkleys. These tensions appear to be driven by different conceptions of good reporting.

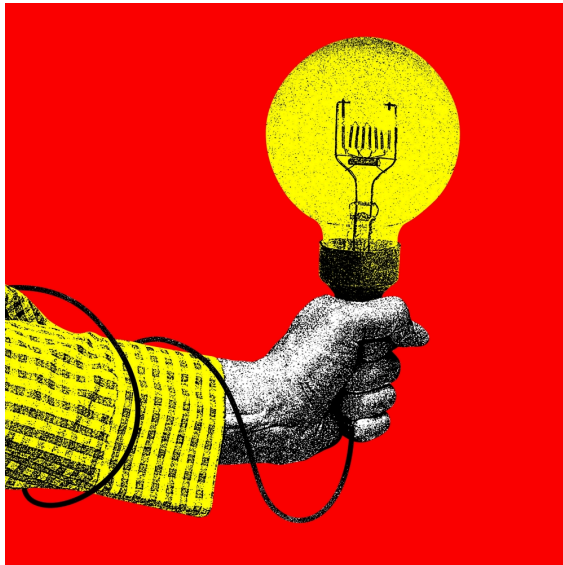
So here's my suggestion. First, we all get together and agree on the best way to redistribute funds from platforms to news. Second, we agree on which news deserves such funding - and awards. Easy, right?



Sacha Molitorisz

Senior Lecturer, UTS Law

NBI – Next Big Idea, please



Déjà vu. In 2021 we said, ‘Well, we think it’s flawed, but let’s back it anyway because it might lead to lots of cash.’

That was the News Media Bargaining Code. Five years later, it’s the News Bargaining Incentive. Like its predecessor, it should help fund journalism in Australia. But with all the experience of the NMBC behind us, could some of the flaws not be fixed?

Let’s start with the good bits. Imposing a levy on the revenue of significant social media and search services operating in Australia should mean money flows into the levy fund and out to local news businesses. That’s assuming it doesn’t run into a trade blockade from the US or some other legal obstacle, and that – as Julie explains below – we get the design of the distribution side right. Thankfully, the scheme appears relatively simple and key aspects are the same as in the model proposed by Treasury last year. The extra recognition of smaller news businesses – by way of the 170% offset – should offer some encouragement to platforms to make deals with smaller players. All good so far.

We’ll explain in our submission the long list of problems we see in the proposed scheme. For now, I’ll deal with four.

The first problem arises from the limited ways in which investments in news businesses can be made. One way is via arbitrated agreements under the News Media Bargaining Code, which continues as Part IVBA of the *Competition and Consumer Act*. The other is via ‘commercial deals’ made with news businesses, under cl 18 of the proposed News Media Bargaining Administration Bill. As we’ve said before, based on Julie’s research for [CMT’s recent report](#) on news funding, there should be a third way of making contributions – via industry funds that the platforms themselves set up or contribute to and which distribute payments at arms’ length to news organisations.

The second problem is the continued existence of the NMBC. Why is there still a need for this arbitrated agreements scheme? The ‘carrot’ factor – encouraging voluntary agreements rather than formal, regulated arrangements – is now supplied by the threat of the levy being imposed in the absence of commercial deals under the NBI scheme. Unlike in Canada, Meta can’t simply walk away from the NBI with no repercussions. What’s more, the formal NMBC agreements can only come into existence if the mandatory bargaining process is first opened up by the Treasurer ‘designating’ the platform. This can happen if

the Treasurer decides the platform has not made a significant contribution to the sustainability of the Australian news media. Who knows what that actually means or how the Treasurer will make the decision, but certainly no platform or service has yet been designated.

The continuation of mandatory bargaining under the NMBC seems even more nonsensical when we acknowledge that the new scheme provides its own built-in back-up – one that avoids unnecessary discretionary decisions by a politician. This is because the NBI legislation says that if a platform hasn't made contributions that represent 2.25% of its revenue, it will need to make up the shortfall via payments to the ATO that will go into the levy fund. There is no need for a decision by the Treasurer or for penalties to be imposed on a platform for failing to comply with NMBC requirements. And in a practical sense it's hard to see a platform enduring all the onerous requirements of the NMBC mandatory bargaining process, when it could make separate voluntary arrangements ('commercial deals') or just accept the levy. On the other side of the table, I suppose it's possible to see a very small number of larger news businesses electing to force the negotiation for a deal made just for them, but for most smaller news businesses the resources drain would surely make it not worth the effort.

A final part of this problem is that neither the givers nor the takers of these designated deals are required to tell anyone (apart from the ATO) about them. Unfathomably, this flaw is not addressed in the proposed legislation, even though the concurrent paper on the distribution scheme for the levy recognises the importance of accountability and includes reporting requirements.

The third and more fundamental problem concerns the possible outcomes of the NBI scheme – ie, the number and type of news businesses that could end up being funded by the new scheme. The Administration Bill makes some attempt to spread the money around by prohibiting a platform from claiming more than 25% of its offsets from payments made to a single news business. That should ensure that at least four news businesses will be funded by each participating platform. But there's nothing preventing the same larger, more influential news organisations striking deals with each of Google, Meta and TikTok. Worst case scenario: Google, Meta and TikTok make deals with the same four news media businesses, and that's the end of it. And maybe I'm misunderstanding how it's supposed to work, but on the papers released so far it looks like the big media companies who are able to secure their own commercial deals with the platform are also the first in line for distributions from the levy fund. This is because the basis of levy fund payments proposed in the accompanying distribution paper is the number of FTE journalists as a proportion of all journalists employed by participating news organisations. I must have it wrong. That would be madness, or at least grossly unfair to Australia's smaller news producers.

This leads to an overriding conceptual question: what are we actually seeking to achieve in this regulatory intervention? The NMBC seems designed to compensate news organisations for the use of their content by platforms. The purpose of the new

commercial agreements under cl 18 of the draft bill is wider because the expenditure can be either for making news content available on the platform *or* for the production of news by a news business. And the payments under the levy scheme are broader again. As Julie explains below, the current proposal is for the money in the levy fund to be distributed according to the number of journalists the news businesses employ. This approach is explained in the distribution paper as follows: ‘Journalists are integral in the production of news content. They play a leading role in gathering, verifying, and disseminating information to inform the public. FTE journalists provide a reasonable approximation for actual investment in news and journalism.’

While there may be some problems in using the FTE measure as the sole means of assessing the distribution of levy funds, I’d suggest the underlying rationale here gets closest to what we really want to achieve when we say digital platforms, as key participants in the contemporary information environment, should support the costs of journalism – just as telcos support the costs of making telecommunications services available in regional and remote areas, and as pay TV and streaming services should support the costs of making Australian content. But then this is what we’ve been saying since 2018. It’s getting harder to hide the strain in presenting a happy face.



Derek Wilding
CMT Co-Director

An incentive to distribute



When first announced in late 2024, the News Bargaining Incentive was intended to incentivise deals between digital platforms and news organisations, rather than raise revenue from digital platforms. But in practice there are scenarios where some funds will be raised. Now, in parallel with the Treasury consultation on the new legislation, the Communications Minister is consulting on how funds raised through the Incentive will be distributed to benefit Australian media.

In [the consultation paper](#) it released last month, the government proposes that this distribution will happen through a formula-based ‘Statutory Payment Scheme’, with eligible news organisations entitled to a share of the fund annually, based on the number of

journalists they employ. The consultation paper suggests the policy reflects the role of journalism in a healthy democracy, connecting communities and social cohesion, and supports 'continued investment in public interest journalism, diversity of media voices, and quality journalism'. It says the proposed distribution formula gives 'certainty, transparency and proportionate funding'.

The revenue raised - and therefore the amount of the fund to be distributed - will vary, depending on how much of the Incentive is offset each year by 'eligible expenditure' under the legislation. In other words, if the platforms covered by the Incentive don't make sufficient deals with news media and have to pay all or part of the new 2.25% tax charge, that leftover money will be distributed under this new scheme. The intention is to distribute 'as soon as practicable' once the government collects the revenue. The consultation is currently seeking feedback on eligibility criteria, the payment allocation formula, additional support for certain journalists (with a focus on underrepresented media and audiences), payment conditions and administration.

While noting that these distributions are 'fundamentally different' from the types of commercial deals covered by the schemes, it proposes similar tests to those under the original News Media Bargaining Code, including: a \$150,000 revenue threshold; a 'core news content' requirement; a professional standards test; an editorial independence test; a dominant purpose of serving Australian audiences; and ownership and control requirements. Eligibility of news organisations will be confirmed through a one-time registration, using the existing ACMA system under the NMBC, and payment allocation will be determined by information submitted by eligible news organisations each year. As Derek notes, some of these will perpetuate problems from the NMBC. For example, the revenue threshold shuts out smaller news businesses that are critical contributors to the above policy goals, both from making deals and from benefitting from revenue raised. Instead of being part of this new long term scheme, it leaves the smallest businesses only eligible to apply for short term NewsMAP funding programs, where they already compete against the bigger players.

To apply for the new fund, it's proposed that eligible news organisations will have to show evidence of journalists employed and that their role involves primarily producing core news content. The paper asks for feedback on various elements, including on the definition of eligible journalists. It suggests the definition could extend to editorial roles such as videographers, graphic designers and others directly involved in producing core news content, but also canvasses how viable or appropriate it would be to include options for more administrative roles or other production costs.

The formula may include 'weightings' to 'improve the equitability of support'. The government's preferred approach is to give weighting to specified categories of journalists, such as those working in rural and regional areas and in news organisations 'servicing or representing marginalised communities' and 'small business' (under \$10m), but is asking for feedback on the categories and weighting values. The government is looking to set conditions on payments to 'safeguard the public interest' and 'increase the likelihood that

support flows to public interest news'. This includes proposing a preferred approach where organisations maintain minimum numbers of journalists during the reporting period, as well as giving the scheme investigatory powers and imposing penalties for organisations found to have misrepresented eligibility or employment.

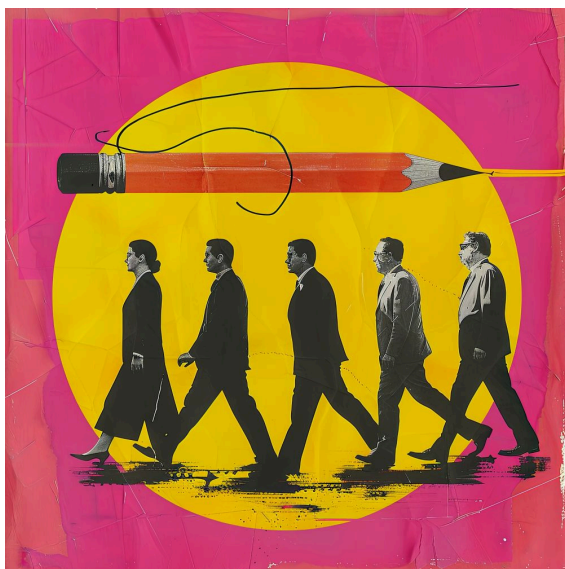
Finally, the paper addresses transparency provisions for the new fund, suggesting that it will report on payment recipients, funding amounts, aggregate industry figures/outcomes, penalties and parties excluded for non-compliance, temporarily or permanently. This is interesting as it contrasts with the relative lack of transparency of the News Media Bargaining Code and of any commercial deals done under the new Incentive scheme.

The CMT is currently preparing a detailed response to the consultation, which closes on 18 May 2026 in parallel with the legislation consultation.



Julie Eisenberg
PhD Candidate

When the Walkley board walks



Journalists often diss the idea of winning a Walkley - until they win one. With a silver (or even better, a gold) quill tucked safely under arm, journalists are more than ready to acknowledge that having one is a prestigious accolade and affirmation by your peers that your work is more than merely good, but an exemplar of how ethical, impactful journalism ought to be done. But the Walkley Foundation which administers the prizes has been in turmoil and indeed become news itself. And more than a few journalists are questioning what

impact the turmoil and its resolution will have on the prestige associated with winning an award still regarded as the greatest of gongs for Aussie hacks.

Back in 1956 when the [Walkley Awards were created](#), they were administered by the then journalist's union, the Australian Journalists Association. In 1992, the AJA amalgamated with two other unions to become the Media Entertainment and Arts Alliance – the MEAA. The MEAA was the custodian of the award until 2000, when it established the Walkley Foundation to manage the peer-reviewed awards.

The MEAA was, and remains, represented on the Foundation board, but recently concern was raised that the union was exercising excessive control over it and the distribution of prizes. That concern was spearheaded by three journalists on the Foundation board – Victoria Laurie, Sally Neighbour and Adele Ferguson - who resigned when the MEAA rejected their push for more independent board members to ensure good governance. In effect, the then board members wanted an amendment to the Foundation’s constitution to ensure a majority of board members were independent of the MEAA. The change wouldn’t have affected the three MEAA-appointed board directors.

Now the foundation has appointed four new board members and will operate without a chair. The decision has been criticised as leaving the Walkley Foundation [union dominated](#). And why would that be a problem? *The Sydney Morning Herald* [reported](#) in December 2025: ‘ There have been suggestions the internal battle has arisen due to the union’s increasing tendency to take positions on contested matters, albeit those that are largely supported among its membership.’

Those positions included the MEAA passing a resolution calling for ethical reporting about the Israel-Gaza conflict in late 2023, based on a [petition](#) it supported, which was signed by hundreds of journalists and media workers. The response of some mainstream news media editors to their journalists signing that petition was swift – ranging from ‘best not to sign petitions’ to ‘you’ve ruled yourself out of covering this conflict’. More broadly, it raised interesting questions around what impartiality as a characteristic of good journalism means in the midst of a conflict in which the huge death toll of Palestinian civilians looks very deliberate.

If indeed the MEAA’s backing of the petition was a factor in the renegade Walkley Foundation directors’ 2025 decision to walk, that means three of the finest journalists this country has produced think differently to the union about what good journalism looks like. It’s easy to see how a particular view of what good journalism is could skew the awarding of Walkleys to some and not others.



Monica Attard
CMT Co-Director

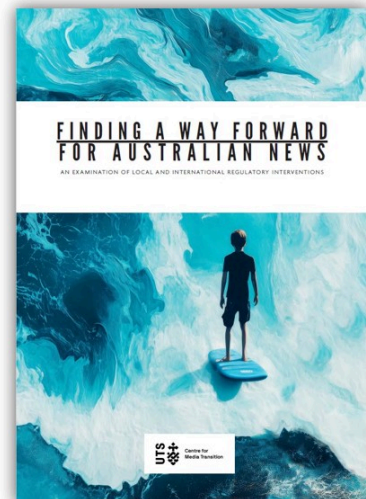
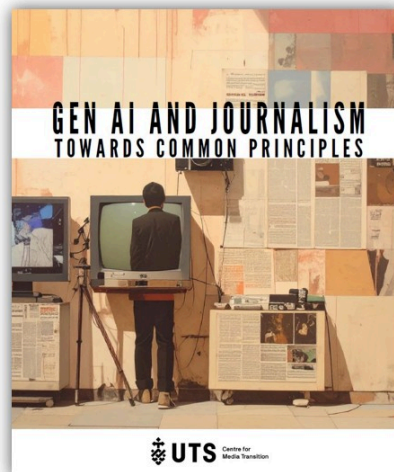
We hope you have enjoyed reading this edition of the *Centre for Media Transition newsletter* - The News Bargaining Incentive and Walkley walkouts - Issue 6/2026
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