



PUBLIC INTEREST JOURNALISM INITIATIVE and
THE JUDITH NEILSON INSTITUTE FOR JOURNALISM AND IDEAS
joint submission to the

AUSTRALIAN COMPETITION & CONSUMER COMMISSION'S
Mandatory news media bargaining code
Concepts paper

5 June 2020

EXECUTIVE SUMMARY

Following a summer of bushfires, a global pandemic has demonstrated not only the importance of reliable news media - to provide accurate information and to bind communities – but also their vulnerability. The impact on news publishers and broadcasters has been devastating. Less than a year since the ACCC handed down the Final Report of its Digital Platforms Inquiry, more than a hundred news titles have ceased publishing, and hundreds of journalists have lost their jobs. Without intervention, more news businesses will close this year when JobKeeper payments end.

Against this backdrop, the task of developing the Mandatory News Media Bargaining Code (Code) to ensure a fair value exchange between news media businesses and Google, Facebook and their subsidiary platforms is urgent and important. By redressing the imbalances identified by the ACCC,¹ the Code has the potential to ensure that those who invest in original journalistic content are fairly rewarded by digital platforms that derive significant direct and indirect value from it - and also that there is due recognition of the direct and indirect value that, in turn, news media businesses derive from digital platforms.

The timetable is ambitious, with the ACCC and the Government moving quickly. However, we consider that a pragmatic, workable Code can be developed in the prescribed timeframe, including with certain features that might be considered 'interim'. To this end, PIJI and JNI submit that the Code should:

1. **Provide a hybrid negotiating framework** to enable larger players in the market to have a direct 'negotiate and arbitrate' relationship with the digital platforms if desired, while allowing for smaller media organisations to be part of a collective arrangement;
2. **Allow an interim value measure:** in the absence of precise data on the value derived by digital platforms from news (an issue that should be pursued), an 'interim' value may need to be determined, particularly for participants in a collective arrangement, and that such a value might take into account the share of revenue raised from Australian advertising; the Australian public's contingent valuation and/or the cost of the ongoing creation of quality local news; and
3. Similarly, **include a pragmatic distribution model**, at least for those in the collective arrangement, while a more precise formula is developed. Any delivery mechanism should take into consideration investment in 'news', but we acknowledge other factors could also be taken into account.

PIJI and JNI recognise that 'public interest journalism' is a subset of 'news' but propose that a broadened notion of 'public interest journalism' should be adopted for the purposes of the Code. Public interest journalism builds communities and fosters democracy by facilitating public discussion, ensuring diversity of voice, providing open justice, holding public power to account and providing accurate and reliable information. To this effect, the Code should work towards ensuring platforms place priority (including algorithmic priority) on public interest journalism, and on news that is local, original, reliable and trusted.

Even so, the Code alone will not be sufficient. It is no panacea. Australian news media businesses are under considerable strain. Together, the newspaper, free-to-air and radio

¹ ACCC, Digital Platforms Inquiry Final Report (June 2019) 12-13, 119 and 174.

markets were worth a total of \$9 billion in 2019 and employed nearly 30,000 people.² According to Australian Bureau of Statistics' figures, there were 25,000 full-time 'journalists and other writers' employed in Australia in the November 2019 quarter.³ Those numbers continue to fall, but they ought to be growing. By providing 'information and commentary on contemporary affairs', news media bring together communities and foster democracy. Just when they're sorely needed, the Australian news media are at risk. The Code is a crucial step, but it is only one step in ensuring a thriving and sustainable media. Others are needed.

² IbisWorld, Information Information Media and Telecommunications - Australia Market Research Report (Report, 2019) <https://www.ibisworld.com/au/industry/newspaper-publishing/169/> <<https://www.ibisworld.com/au/industry/free-to-air-television-broadcasting/1816/>> <<https://www.ibisworld.com/au/industry/radio-broadcasting/638/>>.

³ Australian Bureau of Statistics, [EQ08 - Employed persons by Occupation unit group of main job \(ANZSCO\), Sex, State and Territory, August 1986 onwards \(Pivot Table\)](#) (cited in Nik Dawson et al, 'Layoffs, Inequity and COVID-19: A Longitudinal Study of the Journalism Jobs Crisis in Australia from 2012 to 2020' (forthcoming, 2020) 5).

1. INTRODUCTION

The Public Interest Journalism Initiative (PIJI) and Judith Neilson Institute for Journalism and Ideas (JNI) welcome the opportunity to comment on the ACCC's Mandatory News Media Bargaining Code: Concepts Paper (Concepts Paper) published on 19 May 2020. We want to see public interest journalism survive and thrive throughout Australia, including in local communities, and believe the development and adoption of the News Media Bargaining Code (Code) is an important step toward ensuring the sustainability of public interest journalism in this country.

Our two organisations have come together to develop this joint submission as we share a common interest in the sustainability of public interest journalism.

As the ACCC's Digital Platform Inquiry Final Report (DPI Final Report) highlighted, public interest journalism in Australia is in crisis and in urgent need of help. The advertising revenue model that once funded reporting has shifted away from journalism. Classifieds have moved onto dedicated websites such as Craigslist and Gumtree. For every \$100 spent in digital advertising, Google and Facebook capture \$71, leaving the remaining third to be split among all other market participants.⁴ As the ACCC determined, digital platforms are not solely responsible for the collapse of the news media's business models, but they do bear some responsibility.

With this collapse, newsrooms across Australia have shrunk and closed. The ACCC found that 106 unique local and regional newspapers closed over the period 2008-09 and 2017-18, representing a decline of 15 per cent.⁵ PIJI is tracking changes to news production, and availability through its [Australian Newsroom Mapping Project](#).⁶ Across the country, the crisis has worsened dramatically due to the economic shock of COVID-19. According to the map data at the time of writing, at least 21 titles have permanently closed just between April and June 2020, most of them in Queensland. A further six were lost through being merged into other properties. The future of dozens of other rural and regional titles that are temporarily suspended, is yet to be announced.

The growth in digital publications observed since the start of 2019 – such as the expansion of News Corp Australia's digital community news titles, particularly in New South Wales – is not sufficient to offset the aggregated loss across the sector. For example, although recently closed print titles are pivoting to digital, such consolidations are likely to negatively impact job numbers and the location of those jobs.

The translation of total contractions in terms of jobs is hard to quantify,⁷ but data from the Australian Bureau of Statistics (included in the DPI Final Report) shows that from 2006 to 2016 the number of people employed as journalists and writers fell by nine per cent and by 26 per cent for traditional print journalists.⁸ In 2018, the Media, Entertainment & Arts Alliance

⁴ ACCC, above n 1, 122.

⁵ Ibid 321.

⁶ Gary Dickson, Australian Newsroom Mapping Project. Available at: <https://piji.com.au/the-australian-newsroom-mapping-project/>

⁷ Margaret Simons and Gary Dickson, [Availability of Local News and Information](#) (PIJI, 16 June 2019) 7.

⁸ ACCC, above n 1, 310-1.

estimated that 3,000 journalists lost their jobs between 2011 and 2017 through redundancies alone.⁹

Further job losses are forecasted as news businesses around the country continue to grapple with the economic impacts of COVID-19. There may be additional losses when the temporary prop of the government's JobKeeper support for the sector concludes. On 14 May 2020, BuzzFeed closed its news operations in Australia with the loss of 40 jobs.¹⁰ Meanwhile, News Corp announced a restructure of its regional and metropolitan publishing divisions, which is expected to amount to hundreds of jobs losses.¹¹ The Australian Associated Press is also scheduled to close in late June 2020 unless a purchaser is found, with an estimated loss of 600 positions, including 200 journalists and 100 photographers.¹²

These industry contractions, closures and job losses will seriously affect the depth and breadth of public interest journalism in Australia, particularly in suburban, regional and rural areas. The emerging deficits in the quantity and quality of available local news and information threaten community cohesion and economic recovery during these uncertain times and undermine Australia's democratic systems.¹³ Many Australian communities face the real possibility that the essential service of local news will no longer be there for them.

This joint submission by PIJI and JNI is divided into six sections:

- Section 1 comprises this brief introduction.
- Sections 2 and 3, respectively, provide some background information about PIJI and JNI.
- Sections 4, 5, 6 and 7 focus on four areas of particular concern to PIJI and JNI.
- Section 4 discusses the definitions of news and public interest journalism to be adopted in the proposed Code.
- Section 5 addresses the need to ensure that the Code, particularly its bargaining framework, accommodates all participants in the news media ecosystem, including smaller industry players.
- Section 6 addresses the issues of data sharing, algorithmic transparency, Code monitoring, enforcement, and revision.
- Section 7 highlights the need for government to recognise that while the Code is a very important and welcome initiative, additional complementary reforms and policy measures are required to ensure public interest journalism has a sustainable future in Australia.

The joint submission also includes five annexures.

⁹ Lawrie Zion et al, *New Beats Report: Mass Redundancies and Career Changes in Australian Journalism* (2018) 5 (citing Media, Entertainment & Arts Alliance, Submission #64 to the Senate Select Committee into Public Interest Journalism (2017) 6).

¹⁰ Alexandra Wake, 'Nine Reasons You Should Be Worried About the Closure of BuzzFeed News in Australia', *The Conversation* (14 May 2020).

¹¹ Zoe Samios, 'News Corp to Axe Hundreds of Jobs' *The Sydney Morning Herald* (27 May 2020).

¹² Amanda Meade, 'AAP to Close After Wire Service Tells Staff It is No Longer Viable' *The Guardian* (3 March 2020).

¹³ Simons and Dickson, above n 7, 13; Margaret Simons, Gary Dickson and Rachel Alembakis, [The Nature of the Editorial Deficit](#) (PIJI, 20 November 2019).

Annex A: Members of PIJI's Board of Directors and Expert Research Panel

Annex B: PIJI Research Projects Relevant to the Code

Annex C: Members of the Board of Directors and International Advisory Council of JNl

Annex D: Preparation of the Joint PIJI-JNl Submission

Annex E: Members of the PIJI Policy Working Group and Joint Project Team

2. THE PUBLIC INTEREST JOURNALISM INITIATIVE (PIJI)

The Public Interest Journalism Initiative (ACN 630 740 153) was established in late 2018 as a limited-life, non-partisan initiative (3-5 years) to work to ensure that Australia develops a sustainable ecosystem of independent, pluralistic journalism. It is philanthropically funded and conducts research to inform practical policy solutions and public conversation on the importance of an effective, independent news media. As a non-profit company limited by guarantee, PIJI is governed by a board of independent, voluntary directors with expertise in media, law, public policy, research, philanthropy and business.

Over its first 18 months, PIJI has completed five research projects with another four in development (see Annex B: PIJI Research Projects), and has contributed to government and industry inquiries including the Senate Standing Committees on Environment and Communications Press Freedom Inquiry, the ACCC's Digital Platform Inquiry (DPI) and Treasury's consultation on the DPI Final Report.

PIJI's work is guided and informed by the following six principles:

IN THE PUBLIC INTEREST: news and current affairs media with the primary purpose of recording, investigating and explaining issues of civic significance; that forms an essential service for the citizens and communities of Australia, including their role in national emergency infrastructure.

PLURALITY: diversity of voices and types of news media providers

EVIDENCE-BASED: policy design informed by rigorously established, objective evidence

NEUTRALITY: does not unjustifiably favour any particular media outlet, type, platform or organisation

INDEPENDENCE: independent and non-partisan (when formulating and evaluating policy initiatives)

PRACTICAL: the context in which policy recommendations are implemented, including the consideration of factors such as timing (eg. unintended time lag before funding available to recipients) and duration (eg. whether short term remedial relief or long-term industry support is required)

Information about the members of PIJI's Board and its Expert Research Panel is set out in Annex A.

3. THE JUDITH NEILSON INSTITUTE FOR JOURNALISM AND IDEAS (JNI)

The Judith Neilson Institute for Journalism and Ideas encourages quality journalism in Australia and internationally through grants and education and is a forum for civil and evidence-based debate. The Institute collaborates with traditional and emerging news organisations on a wide range of projects. In its first year, it has helped generate more than 500 pieces of original journalism, including news stories, podcasts, videos and magazine articles. Journalists in national, regional and local media reported on subjects as diverse as the coronavirus pandemic, climate change, Asia and the Pacific Islands, First Nations peoples, arts, business, and issues affecting older Australians. This year it will launch Asian Stories, a long-term project to encourage more reporting and analysis on Asia and greater engagement between Australian journalists and their peers across the region.

Information about the membership of the Board and International Advisory Council of JNI is set out in Annex C.

4. DEFINITIONS

The aim of the Code is to create a fair value exchange between news media businesses and digital platforms. This requires a definition of ‘news’.

PIJI and JNI submit that ‘news’ must be defined with reference to ‘public interest journalism’. Further, we propose that the Code’s definition of news must be broad enough to encompass the broader community-building role of public interest journalism as well as its democracy-building role. Public interest journalism supports both thriving democracy and thriving communities. We acknowledge that the definition of news may encompass content that is beyond public interest journalism. However, for the purposes of our submission, we focus on the interests of public interest journalism.

A. News and Journalism

News is difficult to define.¹⁴ The term can incorporate a very wide range of content, from an original piece of investigative reporting to a personal social media post. In the DPI Final Report, the ACCC narrowed the definition of news to ‘information and commentary on contemporary affairs that may or may not be produced and presented by journalists’.

We accept the ACCC’s definition as a foundation and add, in our view, the definition should be broadened to reference journalism’s three defining characteristics.¹⁵

First, journalism comprises reporting, but also ‘analysis’ and ‘commentary’ on the news. In this way, ‘news’ for the purposes of the Code should also take in current affairs, and also encompass comment, analysis and opinion.

Second, journalism involves a process of curation of the news. In the ACCC’s definition of journalism, this is captured in the phrase ‘discovering, gathering, assessing, producing, and publicly presenting’ the news.¹⁷ Merely uploading footage to YouTube should not constitute ‘news’ for the purposes of the Code.

And third, journalism is governed by professional and ethical standards. This means that journalism must be conducted and published in line with recognised journalistic standards and with a number of codes and principles already well recognised in the industry such as the Australian Press Council, Media, Entertainment & Arts Alliance, the Independent Media Council, and the broadcasting codes of conduct registered by the Australian Communications and Media Authority.

¹⁴ Stephen Lambie, *News As It Happens: An Introduction to Journalism* (Oxford University Press, Melbourne, 2011) 34

¹⁵ The ACCC has defined journalism as, ‘The activity of discovering, gathering, assessing, producing, and publicly presenting the reporting, analysis, and commentary on news. It is a process undertaken by journalists acting in accordance with their interpretations of professional ethics.’ ACCC, above n 1, 282.

¹⁷ *Ibid.*

B. Public Interest Journalism

In particular, the Code should define ‘news’ with direct reference to ‘public interest journalism’. Public interest journalism is not necessarily the same as journalism that interests the public. For example, misinformation may attract the general population’s attention, but its lack of veracity is not ‘in the public interest’.

The ACCC has defined ‘public interest journalism’ as:

Journalism with the primary purpose of recording, investigating and explaining issues of public significance in order to engage citizens in public debate and inform democratic decision-making at all levels of government.¹⁸

Among other things, this captures the watchdog role of the news media, which holds the powerful to account. It also captures court reporting, which is essential for the rule of law. For instance, court reporting can inform young people that ‘one punch’ assaults resulting in death may lead to mandatory imprisonment for 10 years while also informing corporations about legal standards of corporate conduct and the consequences of illegal actions. Many definitions similar to the ACCC’s have been adopted, including by the Federal Government and by PIJI.

However, in its Concepts Paper, the ACCC noted that this definition may be too narrow for the purposes of the Code. We agree. As a wide range of stakeholders have told PIJI and JNI, public interest journalism can foster community, not just public debate and democracy. This view of public interest journalism is particularly relevant in regional Australia. In this way, news about the local sporting team, or about the changed opening hours of the visiting doctor, qualify as public interest journalism. The importance of this community-building role of public interest journalism has come to the fore during the bushfires of 2019/2020 and the COVID-19 lockdown¹⁹, with increased recognition of news as an ‘essential service’.²⁰ Even before COVID-19, infrastructure and essential services have been found necessary ‘to support the effective functioning of local economies and the quality of life’ in the regions.²¹

Often, public interest journalism informs the democratic process. Sometimes, however, it serves an additional function, by connecting community, particularly in regional and remote areas. As the COVID-19 epidemic has underlined, it also plays a key role in providing the public with accurate information on important issues. The definition of ‘news’ adopted for the Code must be broad enough to encompass the community-building nature of public interest journalism.²²

¹⁸ Ibid 285.

¹⁹ The Hon Paul Fletcher MP, Minister for Communications, Cyber Security and the Arts, ‘Public Interest News Gathering Program Opens for Business’ (Media Release, 7 May 2020).

²⁰ Kristy Hess and Lisa Waller, ‘Local Newspapers Are An “Essential Service”. They Deserve a Government Rescue Package, Too, The Conversation (1 April 2020)

²¹ Regional Australia Institute, [In]Sights for Competitive Regions: Infrastructure and Essential Services (November 2015).

²² PIJI, Margaret Simons, David Pearce, Eddie Ahn, and Gabrielle Hedge are currently formulating a legislative definition of public interest journalism. See Annex B, below.

At a more granular level, we might also take a factor-based approach to identifying public interest journalism. These defining factors might include: location, which recognises that the definition of public interest journalism can vary according to geography, and that in regional Australia a report on rural family life might qualify as public interest journalism – that local matters; investment, which recognises that an investigative story that took several journalists many weeks to research and assemble is very different from a report that involved few resources and little time; originality, which recognises a story that essentially duplicates an earlier story is of considerably less value; credibility, which recognises that a story from a trusted and credible news source is to be preferred; and diversity, which recognises that one of the overriding goals of the Code and any wider reform must be to promote media plurality.

Above all, we submit that the definition of ‘news’ for the purposes of the Code ought to comprise journalism that fosters and informs democracy and the community. This includes local news, local sports news and news about when the local health centre is open. It allows for new entrants to the field, and for journalism produced in accordance with professional and ethical standards.

5. ACCOMMODATING ALL PLAYERS

A. Bargaining Framework

As detailed in the Introduction (see *section 1*), PIJI and JNI strongly believe that an important requirement for the healthy provision of public interest journalism is a vibrant and flourishing news industry.

Furthermore, a dynamic news industry is mutually beneficial for news organisations and digital platforms alike in their future growth. Media closures reduce the volume of original, credible content available to enhance search results, user experience and the development of other products and services, and deplete the diversity of voice.

For these reasons, the Code must capture all news contributors regardless of organisational size. This requires careful consideration of the different needs across larger media players such as News Corp Australia, Nine, Network Ten and Seven West Media; small-to-medium industry players, for example, Australian Community Media, Elliott Newspapers, Schwartz Media, Star News Media, community broadcasters, First Nations media organisations, Country Press Australia members and other rural newspapers; the public service broadcasters, SBS and ABC, as well as magazines, social media based news organisations and emerging market entrants.

As the business models and interests of these news organisations differ, it is difficult to envisage a singular bargaining approach (bilateral negotiation, collective bargaining, collective boycott and collective licensing, as set out in the ACCC's Concepts Paper) will suit all parties. For example, larger businesses such as News Corp Australia may have the resources and capability to negotiate directly with individual digital platforms, but the smaller news media organisations clearly do not. For those smaller organisations, the ability to negotiate collectively with the digital platforms or participate in a collective licensing arrangement will be essential. Similarly, some larger players may not wish to negotiate directly with the digital platforms for all types of news content. When the supply of content can be easily monetised, direct negotiation with the digital platforms may be appropriate; however, when content cannot be easily monetised, collective bargaining or participation in a collective licensing arrangement would be more suitable.

PIJI and JNI therefore submit that the Code should avoid a 'one-size-fits-all' approach or treat each of the four bargaining frameworks as 'either or' options. Instead, the Code should adopt a 'dual carriageway' or hybrid approach that permits a media organisation to engage in bilateral negotiation with the digital platforms if it so chooses but also provides each media organisation with the ability to 'opt out' of bilateral negotiation and participate in a collective negotiating framework instead. In our view, the collective negotiating framework could take the form of a collective bargaining model or a collective licensing model. PIJI-JNI recommend further investigation to determine which of these models provides best fit for this Code, both in principle and practical terms given the time imperative to progress to an operational code.

The collective boycott option outlined in the Concepts Paper is not appropriate for the purposes of this Code for several reasons. First, such a model would increase the existing market imbalance by providing Google and Facebook with greater negotiating power vis-

a-vis news businesses. Second, it creates imbalance among media businesses, with the larger organisations able to hold smaller organisations ‘hostage’ as individual negotiations unfold. Third, it does not enable an ‘all of industry’ Code as the public service broadcasters could not participate due to the terms of their respective charters.

B. Calculating Direct and Indirect Benefit/ the Fair Value Exchange

PIJI and JNI acknowledge the two-way relationship between the digital platforms and news media businesses.

For example, news media businesses benefit from Google and Facebook in the form of audience referrals and distribution of news content, respectively. The direct and indirect benefits the digital platforms receive include high quality search results (Google) and an enhanced experience for their users on its platform (Facebook). We believe that all players (digital platforms and news media businesses) should receive fair remuneration for the value they provide to each other.

However, determining the direct and indirect values between the digital platforms and news media businesses (with any degree of precision) is exceptionally difficult. Facebook and Google have said the exchange is already fair.²³ Chairman of Nine Peter Costello has stated that Facebook and Google should pay news businesses \$600 million per year to make the value exchange fair.²⁴ The executive chairman of News Corp Australia Michael Miller has suggested that figure is closer to \$1 billion per year.²⁵

With no relevant commercial information in the public domain, PIJI and JNI are unable to verify the accuracy of any of these claims and are therefore reluctant to comment on or suggest a business figure to the ACCC. That said, PIJI and JNI accept the ACCC's finding that the platforms hold significant market power, and currently benefit more from the original content developed by news media businesses than news media businesses derive from the referrals from, and distribution of news content on, the digital platforms.

We note that the ACCC has requested additional information from the digital platforms pursuant to its statutory information-gathering powers. However, setting aside questions on the provision of such information, the collection and analysis of robust and reliable data to determine the actual value exchange between news media companies and Google and Facebook is likely to take considerable time. For that reason, we suggest that the ACCC considers using, at least as an interim solution, one of three possible mechanisms to determine the fair value exchange, recognising that each is a 'second best' alternative:

- (1) The digital platforms pay a percentage of their annual revenue or advertising revenue
- (2) Setting a percentage of the amount of investment by news media businesses each year to produce news, including public interest journalism
- (3) The Australian public's willingness to pay (also known as 'contingent valuation')

The first option is based on a straight calculation of a percentage of the digital platforms' annual revenue or advertising revenue, to be paid to the news media businesses. Of that

²³ Jessica Goodfellow, 'Google Mounts Australia Legislation Defence, Says Economic Value of News Is "Very Small"', Campaign (3 June 2020).

²⁴ Max Mason and John Kehoe, 'Tech Giants Should Pay Media \$600m: Costello', Australian Financial Review (14 May 2020).

²⁵ Hannah Blackiston, 'Google Australia Paid Over \$100m in Taxes in 2019; Settling Its Bill with the ATO', Mumbrella (15 May 2020).

amount, a percentage and/or minimum dollar threshold could be quarantined for public interest journalism purposes.

The second option would involve the ACCC determining a percentage of the amount of money news media businesses, including providers of public interest journalism, expend each year to provide news, and this figure would serve as a proxy for fair exchange on indirect value. This also provides an investment incentive.

The third option is to reflect the value the public places on the provision of news, including public interest journalism. For example, preliminary PIJI-funded research into the question of the public's willingness to pay for sustained and enhanced public interest journalism (within the confines of the ACCC's previous definition of public interest journalism) suggests that there is an aggregate willingness to pay for public interest journalism between \$380 million and \$740 million per year, with a mid-point best estimate of \$560 million.²⁶

This third option deserves some elaboration. It says approval of a Code outcome should ensure that public interest tests are met. The willingness to pay cited is, in fact, for the community benefits of the journalism and reflects social value that may or may not be part of commercial pricing and payments. To the extent that the Code bargain does not enhance funding of public interest journalism of the kind desired by the community ('internalising the public good'), then it has not fully met this test, whatever other commercial arrangements it might provide.

This community value could therefore serve as useful guidance for the ACCC's consideration, recognising:

- that the amounts cited were for healthy provision of public interest journalism within the major and minor players (print and broadcasting including own on-line);
- recognising that the sums derived were explicitly conditional upon complementary public budget measures providing for the public service broadcasters, and for related targeted budget and tax support schemes; and
- PIJI continues to conduct research on this community valuation and to track how it changes over time, to increase precision.

C. Distribution of Money

The current imbalance in negotiating power harms all news media business (both large and small), and we recognise that any money received from digital platforms should be annually distributed annually among news media businesses.

The distribution of funds should take place in accordance with a model (to be reviewed by the ACCC every 12 months) that recognises the contributions of, and investments made, by the larger and smaller players to the production of news in Australia. We anticipate that

²⁶ See the Centre for International Economics, [Tax Concessions for Public Interest Journalism: Examining the Case for Tax Incentive Based Funding](#) (20 November 2019); Glenn Withers, [Community Value of Public Interest Journalism](#) (PIJI, October 2019); Glenn Withers, [Community Value of Public Interest Journalism](#) (PIJI, April 2020).

the larger players will receive a substantial sum of money under any such formula; however, we believe that a significant percentage of the funds should be allocated to smaller players to ensure diversity of voice. We favour the prioritisation of news organisations who invest in public interest journalism, with an emphasis on local news coverage in outer-metro, rural and regional areas.

The proposed temporary adoption of an investment-assessed model would be straightforward to apply, thereby avoiding difficulties associated with alternative formulae that turn on the number of clicks or words in news articles. Over time, and if deemed necessary, the model might be expanded to include factors such as geographical location, community-building nature, originality and diversity of news content (as outlined in *section 4(B)*).

As stated above, we believe the Code should cover all news media businesses, including public broadcasters, the ABC and SBS, which are important contributors to the news media ecosystem and the provision of public interest journalism. However, we note that the public broadcasters form a special category of news media business as they are already publicly funded and invest heavily in public interest journalism. Therefore, an argument may exist that they not receive funding under the terms of the Code but this is a matter for the consideration of the ACCC and the government.

6. OTHER CODE-RELATED ISSUES

A. Data Sharing and Algorithmic Transparency

PIJI and JNI submit that the Code is not the appropriate instrument for addressing the use of personal and other data by digital platforms. The ACCC noted in the DPI Final Report that the digital platforms' significant market power derives in part from the use of people's data. Better regulation in the privacy arena will provide more transparency and integrity around issues of data use for all parties. PIJI and JNI support the reform of privacy law to address such concerns, alongside the implementation of a Code (See *section 7*, below).

On issues of algorithms, PIJI-JNI submit that increased transparency would better inform the questions around value exchange. At the moment, information asymmetry persists in favour of the digital platforms on this point. This inequity may be partially solved by an algorithmic explainer rather than more extensive transparency²⁷, a solution that may be more practicable. With the ACCC's increased expertise in this area, this may allow appropriate scrutiny without requiring the revelation of the commercial sensitive algorithms themselves. Aside from the specific business concerns that are the focus of the Code, there is also wider social concern that the prioritisation of content viewed by users is currently determined in opaque ways. We note that the ACCC's current Ad Tech Inquiry is likely to shed more light on this issue²⁸, and its response outside of this Code.

However, the Code should include enforceable obligations on the digital platforms with regard to both:

- notification of changes that significantly affect news media organisations; and
- algorithmic rankings.

Digital platforms should notify news media businesses of algorithmic changes that will have significant, detrimental impact upon the flow of traffic to their operations. This issue is raised by Consultation Questions 30 to 35. (We note that Consultation Questions 30 to 35, given their broad scope, begin to reveal the breadth of the current lack of transparency attending algorithms.) Bearing in mind the public good aspect of journalism, we suggest that the amount of notice required should turn on the percentage of a news media business's traffic that might be affected by an algorithmic change. The precise threshold (eg, 5 per cent) and required notification period would require sensitivity analysis and should be agreed between the parties, especially as the impact of changes in traffic flow will vary for each news media business. PIJI and JNI believe adequate notification of algorithmic change will be an important compliance requirement for the digital platforms within the Code.

Furthermore, our general principle under the Code, is that algorithmic rankings should favour original, local, trusted and reliable content. This conforms to the factors that we have outlined in the *Definitions section (section 4)*. We accept that this is easier said than

²⁷ Derek Wilding, Peter Fray, Sacha Molitorisz and Elaine McKewon, (The Impact of Digital Platforms on News and Journalistic Content (University of Technology Sydney, 2018).

²⁸ See, eg, ACCC, Ad Tech Inquiry: Issues Paper (10 March 2020).

done, with numerous ongoing academic and industry initiatives striving to ‘surface’ such content.²⁹

B. Code monitoring, enforcement and financial penalties for non-compliance

PIJI and JNI note that it is the intention of the government to introduce a draft bill into Parliament that, if enacted, will empower the ACCC to adopt the Code. Both the bill and the Code must ensure in so far as is possible that the ACCC has sufficient powers to adequately monitor and enforce any parties’ compliance with the Code.

In particular, the ACCC must have the power to impose significant financial penalties, including penalties calculated by reference to a percentage of the non-compliant organisation’s annual turnover, if a breach of the Code is proven. In the absence of such penalties, parties will not be sufficiently incentivised to comply with the Code. Most particularly, instances of non-compliance by the digital platforms are highly likely to have a deleterious effect on news media businesses and public interest journalism. PIJI and JNI are of the view that the penalties that the ACCC may impose on corporations for violating mandatory Part IVB codes under the Competition and Consumer Act 2010 (Cth) are inadequate for the purposes of the Mandatory News Media Bargaining Code.

PIJI and JNI believe that the ACCC would be best placed to oversee resolution of disputes under the Code, although an independent tribunal such as the Australian Competition Tribunal could also perform this function, either on an original basis or as an appellate body for the ACCC’s decisions.

C. Code revision

Due to the fast-changing nature of the digital platforms, the Code, once adopted, should be reviewed by the ACCC after an initial 12 months, and in its entirety every three years to ensure that it remains fit for purpose.

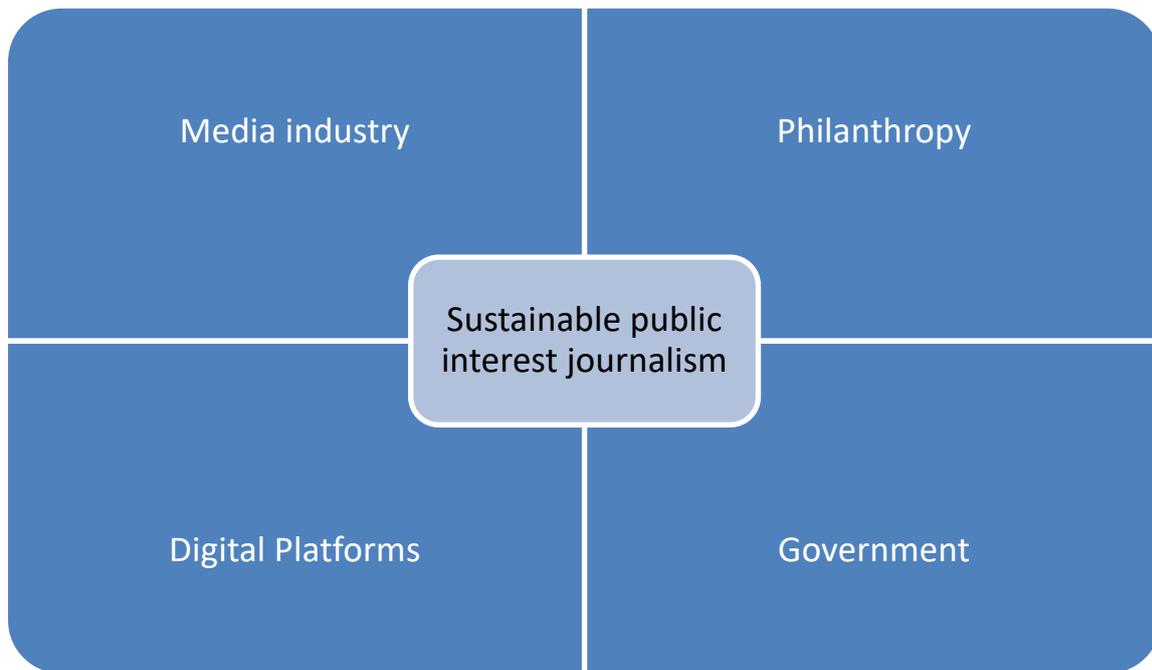
However, the definition of news and provisions relating to the distribution of money to news media businesses should be reviewed annually. It is essential that any weaknesses and oversights in any of these aspects of the Code are identified and corrected promptly, given the radical rate of change in the news and digital platform industries and the emergence of new (or rise of other) digital platforms and news-based organisations.

²⁹ To name three: News Guard, The Trust Project, deepnews.ai.

7. MORE THAN A CODE IS REQUIRED TO SUSTAIN PUBLIC INTEREST JOURNALISM IN AUSTRALIA

A Code between the digital platforms (at this stage dominated by Google and Facebook) and news media businesses is an important step to addressing the decline of public interest journalism in Australia and recognising the need for the media’s diversity of voice to include SME news operators and new market entrants. Both the government and the ACCC should be commended for its work in this regard.

However, PIJI and JNI believe that more than a Code is needed to ensure the survival and sustainability of public interest journalism in Australia. Multiple policy levers (short and long term) must be used to address the seriousness and extensiveness of the problems facing public interest journalism in this country. The levers across media, digital platforms, philanthropy, and government can intersect and complement one another, to ensure a sustainable public interest journalism eco-system in Australia.



Media industry levers

In its submissions to the ACCC on the Preliminary Report of the Digital Platforms Inquiry dated 20 February 2019 and to the Treasury’s consultation on implementation of the DPI Final Report, PIJI argued that tax rebates or incentives to encourage investment in public interest journalism would provide a significant (and immediate) benefit to news media businesses. Based on the Research and Development Tax Incentive Scheme, PIJI’s proposed scheme would allow news media businesses to claim a tax incentive for costs incurred on public interest journalism activities. For example, on the ACCC’s own calculations, a 25 per cent rebate on the current levels of expenditure by commercial news media businesses, estimated to be \$600 million a year, would result in a benefit of approximately \$150 million per annum.

Neither the ACCC nor Treasury endorsed PIJI's recommendations made in response to the DPI Final Report and Regulating in the Digital Age, the government's response and implementation roadmap for the Digital Platforms Inquiry. However, research commissioned by PIJI and conducted by the Centre for International Economics (CIE) suggests that a tax rebate scheme for public interest journalism is 'worth serious consideration, with a number of clear avenues for further investigation'.³⁰

PIJI and JNI recognise that the success of any tax incentive scheme will turn on the additionality associated with the scheme and the magnitude of the public benefits associated with public interest journalism. CIE's initial findings on additionality and magnitude are very promising. CIE has said there is indirect evidence to suggest that the additionality for public interest journalism may be around 1. Moreover, building on survey work into the willingness of Australian tax payers to pay for an increase in public interest journalism,³¹ CIE calculated that there was an aggregated willingness to pay between \$380 million and \$740 million per year. In addition, CIE's preliminary benefit cost analysis (BCA) using these benefits for a tax incentive scheme suggests that the benefit cost ratio could range from .97 to 1.90, if additionality of 1 is assumed. If additionality of 1.5 is assumed, the BCA would be between 1.46 and 2.84.

PIJI is currently undertaking further analysis of legislative drafting and eligibility requirements for such a scheme as well as an assessment of the suitability of tax mechanisms to incentivise private investment in public interest journalism. Both project results are expected in mid July 2020. For further information, please refer to Annex B: PIJI Research Projects Relevant to the Code.

A. Philanthropic levers

PIJI and JNI also agree that if public interest journalism is to survive and thrive in Australia, harnessing philanthropic support for journalism is essential. As PIJI suggested in its submission to Treasury's consultation on implementation of the DPI Final Report, government can encourage philanthropic support for journalism by:

- creating a new category of charitable purpose for public interest journalism within the Charities Act 2013 (Cth)
- creating a new deductible gift recipient (DGR) category for public interest journalism within Division 30 of the Income Tax Assessment Act 1997 (Cth)
- creating a new independent charitable organisation with a principal purpose to support public interest journalism in Australia and providing it with a specific listing in s 30.105 of the Income Tax Assessment Act 1997 (Cth).³²

We note that Treasury did not support amending legislation the Charities Act 2013 (Cth) and Income Tax Assessment Act 1997 (Cth) in Regulating in the Digital Age. It preferred to implement previously announced DGR reforms before considering further changes,

³⁰ The Centre for International Economics, above n 26.

³¹ Withers, above n 26.

³² See also the submission of Philanthropy Australia dated 16 September 2019 to Treasury's consultation on implementation of the DPI Final Report (which PIJI endorsed).

including changes to eligibility. However, in light of the adverse impacts experienced by news media businesses in Australia as a consequence of the COVID-19 pandemic, we urge Treasury to consider amending tax legislation as a matter of priority. Philanthropy remains an under-utilised resource in Australia, and with the appropriate support and encouragement could emerge as an important funding source for public interest journalism, particularly in rural and regional communities.

B. Governmental levers

Government has already provided funding to regional and small publishers via the Regional and Small Publishers Innovation Fund administered by ACMA; and in April announced the creation of the \$50 million Public Interest Newsgathering Program for commercial television, newspaper and radio businesses in regional Australia,³³ and \$41 million tax rebates for the spectrum fees paid by broadcasters.³⁴ PIJI and JNI welcome all three initiatives.

However, ongoing public support is needed to support a vibrant, diverse media sector. Options for further reform should include direct grant funding for long-form and investigative journalism and documentary production; financial assistance programs that include both commercial and community non-profit news organisations that invest in public interest journalism; funding for domestically produced 'other language' news services; consideration of taxation changes to allow DGR status to encourage philanthropic support for news services (as suggested in *section 7(B)*, above); consideration of tax rebates (as outlined in *section 7(A)* above); ongoing copyright reform (including in the area of authorisation liability); and consideration of changes to privacy law, and media ownership laws to ensure the viability of struggling enterprises.

³³ The Hon Paul Fletcher MP, Minister for Communications, Cyber Security and the Arts, 'Immediate COVID-19 Relief for Australian Media as Harmonisation Reform Process also Kicks Off' (Media Release, 15 April 2020).

³⁴ Max Mason, 'Content Quotas Go In \$100 million Media Rescue Package', Australian Financial Review (15 April 2020).

**ANNEX A:
MEMBERS OF PIJI’S BOARD OF DIRECTORS AND EXPERT RESEARCH PANEL**

Directors

Declared industry interests

Professor Allan Fels AO

Professor Allan Fels AO is a Professor of Law and of Economics at the Universities of Melbourne, Monash and Oxford. Professor Fels was Chair of Australian Competition and Consumer Commission and its predecessor bodies, the Trade Practices Commission and the Prices Surveillance Authority from 1989 until 2003.

Eric Beecher

Eric Beecher is Chair of two influential media groups – Private Media, which publishes Crikey, The Mandarin and Smart Company, and Solstice Media, which publishes The New Daily and InDaily. In 1990, Eric became a founder, CEO and major shareholder in The Text Media Group, a public company that produced newspapers, magazines and books. Text Media was acquired by Fairfax Media in 2003 and Eric formed Private Media Partners, which acquired crikey.com.au in 2005. Since then he has been a founding shareholder and chairman of Eureka Report and Business Spectator.

- Chair, Private Media
- Chair, Solstice Media

Professor Glyn Davis AC

Glyn Davis is the Chief Executive Officer of the Ramsay Foundation, the Distinguished Professor of Political Science at the Australian National University, a Visiting Fellow at the Blavatnik School of Government and a Visiting Fellow at Exeter College, Oxford. He recently completed nearly 14 years as Vice-Chancellor of the University of Melbourne.

Leslie Falkiner-Rose

Leslie is an experienced print, radio and television journalist who now focuses on strategic communications and collaborative educational, social and cultural change initiatives. Leslie, who holds a Masters in Philanthropy and Social Investment, is a Trustee of the Ruffin Falkiner Foundation; on the Advisory Board of the Master of Social Impact at Swinburne University; a member of Philanthropy Australia’s Storytelling Steering Group and a Board member of Creative Clunes, which hosts the annual regional Booktown Festival.

- Digital Content Creator; Falkiner Media Services

Adam Ferrier

Adam Ferrier is a multi-award-winning advertising creative strategist and founder of the agency, Thinkerbell. He is also a leading Australian consumer psychologist and author of *The Advertising Effect: How to change behaviour* (Oxford University Press, 2014), and *‘Stop Listening*

- Thinkerbell clients include Foxtel; New Media Works

to *The Customer*' (Wiley, 2020). Adam is a regular media commentator who has a weekly segment, #mastersofspin, on Sunrise (Seven Network). He is a frequent guest on the ABC's Gruen series and appears on shows like The Project (Ten Network) and Sky News.

- Co-founder; s p a c e
- Board member; TRIBE

Karen Mahlab AM

Karen Mahlab is Founder and CEO of Pro Bono Australia. In 1999, Karen launched Pro Bono Australia as one of Australia's first social purpose business ventures. It is now a major gateway and media organisation for the Australian not-for-profit sector. Prior to establishing Pro Bono Australia, Karen was CEO of the Mahlab publishing Group (1989-2012).

- Founder and CEO; Pro Bono Australia

Dr Sophie Oh

Sophie Oh, with her husband Grant Rule, is co-founder of the Susan McKinnon Foundation. The Susan McKinnon Foundation is a non-partisan organisation passionate about building Australia's long-term capacity to meet social and economic challenges. Support is provided to activities that ensure the effectiveness of government, including scrutiny from independent media. Sophie holds a Doctorate of Health Psychology and has spent over a decade working in a range of health prevention areas, including TAC, VicRoads and QUIT. She has a passionate belief in the importance of the implementation of evidence-based public policy.

Dr Margaret Simons

Margaret is an award-winning freelance journalist, author and journalism academic. She is well known as a writer and thinker on the future of journalism. From 2012-2017 Margaret was director of the Centre for Advancing Journalism and the coordinator of the innovative Master of Journalism degree at the University of Melbourne. From 2017-2019 she was an Associate Professor of Journalism at Monash University. Margaret has won one Walkley Award, two Quill awards and has published 13 books.

- Board member; Public Interest Journalism Foundation
- Principle; Media, Education, Training and Advice Centre

Professor Marilyn Warren AC QC

Professor Marilyn Warren is a Vice-Chancellor's Fellow of Monash University and an Adjunct Professor at the Law Schools of Monash and Victoria Universities. Marilyn is the former Chief Justice of Victoria (2003-2017) and Lieutenant Governor of Victoria (2006-2017) and previously was a Judge of the Supreme Court of Victoria (1998-2003). In 2018 she was a member of the Monash University Vice-Chancellor's Global Leaders' Summit and in 2020 Marilyn Warren will be the Judge in Residence at the University of Melbourne Law School.

Chair Declaration:

As PIJI Chair, I have received and approved the declaration of all interests by individual PIJI directors and am satisfied that there is nothing further to be disclosed outside the itemised interests listed above.

Signed:



Professor Allan Fels

Date: 05/06/20

Expert Research Panel members

[Dr Margaret Simons](#) Chair of Research

[Associate Professor Jason Bosland](#) Melbourne Law School, University of Melbourne

[Professor Axel Bruns](#) Digital Media Research Centre, Queensland University of Technology

[Associate Professor Andrea Carson](#) Department of Politics, Media and Philosophy, La Trobe University

[Associate Professor Andrew Dodd](#) Centre for Advancing Journalism, University of Melbourne

[Professor Julian Thomas](#) Technology, Communications and Policy Lab, RMIT University

[Professor Glenn Withers AO](#) Australian National University

ANNEX B: PIJI RESEARCH PROJECTS RELEVANT TO THE CODE

The Australian Newsroom Mapping Project

Project Leader: Gary Dickson, PIJI

This research project gathers and presents data, reflecting different types of change in news production and availability across Australia. This project is now in next stage development to visualise additional categories of data that also act as indicators of change in news availability. Public data releases occur at the end of each month.

Current release: <https://piji.com.au/research/the-australian-newsroom-mapping-project/>

Community value of public interest journalism

Project Leader: Prof Glenn Withers, Applied Economics and Australian National University

This 12-month project is part of PIJI's ongoing work to understand how the community values public interest journalism. It includes [six-monthly omnibus surveys](#) by Essential Media, which commenced in November 2019. A final survey will be conducted in October of 2020, accompanied by a deeper analysis of trends in public sentiment across demographics and comparisons by Applied Economics.

Expected release (final survey and analysis): November 2020.

The financial impact of COVID-19 on media businesses

Project Leaders: PIJI and Country Press Australia

A 12 month project conducted in partnership with Country Press Australia that will track and assess the financial health of news media companies, particularly small and medium publishers, in rural and regional areas following the impact of COVID-19 .

Expected release (first survey): mid July 2020

Legislative definition of public interest journalism

Project Leaders: Dr Margaret Simons; David Pearce, Centre for International Economics; Eddie Ahn and Gabrielle Hedge, DLA Piper

This next stage research builds on the analysis conducted by the Centre for International Economics for PIJI in late 2019, which examined the applicability of a research and development (R&D) style rebate to support public interest journalism. This project includes legislative drafting for such a measure and a implementation guide, detailing issues for consideration in determining eligible activities.

Expected release: mid July 2020

Tax mechanisms to incentivise private investment in public interest journalism

Project Leader: David Pearce, Centre for International Economics

This project will assess the suitability of tax mechanisms to incentivise private investment in public interest journalism. It is a complementary project to PIJI's research into a R&D tax rebate for organisational investment.

Expected release: mid July 2020

ANNEX C:

JUDITH NEILSEN INSTITUTE FOR JOURNALISM AND IDEAS MEMBERS OF THE BOARD OF DIRECTORS AND INTERNATIONAL ADVISORY COUNCIL

Board of Directors

The Hon. Jim Spigelman, AC QC, Chairman - former Chief Justice of New South Wales and former chairman of the Australian Broadcasting Corporation

Mark Ryan – Executive Director, JNI

Bridget Fair* - Chief Executive Officer of Free TV Australia.

Edward Jewell-Tait - member of the Investment Committee of the Judith Neilson Family Office.

Paul Kelly* - Editor-at-Large at The Australian.

Jonathan Teperson - Chairman of the Judith Neilson Family Office and Chairman of the JNFO Investment Committee.

Kate Torney* - CEO of the State Library of Victoria and former Director of ABC News and Head of Asia Pacific News.

**Directors with a declared interest in, or direct involvement with, a media organisation. They were not involved in the preparation or approval of this submission.*

International Advisory Council

Desi Anwar – Indonesia – veteran journalist and currently host of CNN’s Insight program.

Yuen-Ying Chan – China/United States – former US-based journalist and foreign correspondent. Co-founder of the Journalism and Media Studies Centre at Hong Kong University.

Steve Coll - United States - Dean of the Columbia University Graduate School of Journalism, a staff writer at The New Yorker, the author of eight books of nonfiction, and a two-time winner of the Pulitzer Prize.

John Lloyd - United Kingdom - Contributing Editor for the Financial Times and co-founder of the Reuters Institute for the Study of Journalism at the University of Oxford.

Kyle Pope - United States – Editor-in-Chief of the Columbia Journalism Review, former editor and foreign correspondent.

Bruce Shapiro - United States - Executive Director of the Dart Center for Journalism and Trauma, a project encouraging innovative reporting on violence, conflict and tragedy worldwide.

Siddharth Varadarajan – India – co-founder of online news outlet The Wire and former editor of The Hindu.

Haiyan Wang - China - Associate Professor at the School of Communication and Design at Sun Yat-sen University.

ANNEX D: PREPARATION OF THE JOINT PIJI-JNI SUBMISSION

PIJI-JNI Submission Development Processes

The joint PIJI-JNI was developed by PIJI's Policy Working Group and the joint project team.

The PIJI Policy Working Group consists of three members of PIJI's Board—Professors Glyn Davis AC, Allan Fels AO and Marilyn Warren AC, QC —and is chaired by Richard Eccles. Richard Eccles was appointed as an independent chair from 28 April 2020.

The joint project team comprises Anna Draffin (PIJI's Chief Executive Officer), Gary Dickson (PIJI's Research and Projects Manager), Mark Ryan (JNI's Executive Director) and Anthony Bubalo (JNI's Chief Operating Officer) and two consultants from the University of Technology Sydney (UTS)— Drs Karen Lee (Senior Lecturer, Faculty of Law) and Sacha Molitorisz (post-doctoral research fellow at the Centre for Media Transition).

Information about the members of PIJI's Policy Working Group and the joint project team can be found in Annex F.

Given the possibility of perceived and/or actual conflicts of interests for some PIJI directors who are industry practitioners, the PIJI board delegated its authority to approve the joint PIJI-JNI submission to the PIJI Policy Working Group at its board meeting on 29 May 2020. PIJI directors Margaret Simons, Eric Beecher and Karen Mahlab were recused from board discussions on the ACCC Code project. Within JNI, the joint PIJI-JNI submission was reviewed and approved by Jim Spigelman (chairman of JNI) and Jonathan Teperson (chairman of the Finance Committee of the board of JNI).

Please refer to Annexes A and C for the list of PIJI and JNI directors' interests.

The joint PIJI-JNI submission was approved by the PIJI Policy Working Group and joint project team on 5 June 2020.

External Consultation

Members of the PIJI Policy Working Group and joint project team met with representatives from the following organisations to discuss the issues raised by the Concepts Paper:

ACM
Alliance for Journalists' Freedom
Australian Broadcasting Corporation
Australian Local Government Association
Copyright Agency
Community Broadcasters Association of Australia
Country Women's Association
Country Press Australia
Elliott Newspapers
Facebook
Free TV
Google
Guardian Australia
McPherson Media Group
Media Entertainment and Arts Alliance
Melbourne School of Government, The University of Melbourne

National Farmers Federation
Network Ten
News Corp
Nine
Schwartz Media
Seven West Media
Solstice Media
Special Broadcasting Service (SBS)
Star News Group
The Conversation
University of Canberra, News & Media Research Centre
University of Technology Sydney, Centre for Media Transition
Walkley Foundation
WIN Television

These discussions have informed the thinking of the authors of this joint PIJI-JNI submission.

We are grateful to the representatives who met with us and wish to thank them publicly for spending their time and sharing their thoughts with PIJI-JNI.

ANNEX E: MEMBERS OF THE PIJI POLICY WORKING GROUP AND JOINT PROJECT TEAM

PIJI Policy Working Group

Richard Eccles (Independent Chair)

Richard Eccles enjoyed a successful career as a senior public service leader having held Deputy Secretary positions since May 2010, across several portfolios, including the Department of the Prime Minister and Cabinet; Health and Aged Care; Regional Affairs, Local Government, Arts and Sport; and Communications and the Arts. This is underpinned by a total of over 30 years' experience in the public and non-profit sectors.

Career highlights include world leading reforms in cyber safety; driving reforms in the Australian media landscape; leading the Australian Government's World Cup Bid Taskforce and involvement in major sporting events; leading major reforms in copyright to protect Australian creators and industries; and social and economic policy reforms in Indigenous Affairs.

Richard left the Australian Public Service in March 2020. He is currently Chair of the Policy Working Group of PIJI; a Board member of Epilepsy ACT; and a member of the Match Committee of Federal Golf Club.

Participating PIJI directors:

Professor Glyn Davis AC

Professor Allan Fels AO (Chair)

Professor Marilyn Warren AC QC

Please refer to Annex A for information about PIJI's board of directors.

Joint Project Team

Anna Draffin, Chief Executive Officer, PIJI

Anna Draffin was appointed the Chief Executive Officer of PIJI in April 2020, having served as Interim Executive Director since August 2019. She is a strategically focused senior executive with over 20 years' experience in shared value strategy and stakeholder engagement across the corporate, government, philanthropic and non-profit sectors. The former Deputy CEO of Philanthropy Australia and Chair of YWCA National Housing, Anna is currently a director of ShareGift Australia, a fund that works with ASX-listed companies, and sits on the Victorian Government's Metropolitan Partnerships - Inner Metro, advising on jobs, services and infrastructure.

Mark Ryan, Executive Director, JNI

Mark Ryan undertook the initial study that resulted in the establishment of the Judith Neilson Institute and led its early development. He is a former journalist and was senior political adviser to Australian Prime Minister Paul Keating. For 25 years he was a senior executive at Westfield

Corporation, an adviser to the Lowy family and a number of major public companies and institutions. He is a director of the Lowy Institute and an Ambassador of the Victor Chang Cardiac Research Institute. He consults to the Judith Neilson Family Office, the Lowy Family Group and major public companies.

Anthony Bubalo, Chief Operating Officer, JNI

Anthony has worked as a diplomat, intelligence analyst, speechwriter, researcher and management consultant. As a Principal with Nous Group he helped to design the operating model for the Judith Neilson Institute. He was previously the Deputy Director and Research Director at the Lowy Institute. As one of the Institute's founding researchers, he established its Middle East program and was a regular commentator on Middle Eastern politics in the Australian and international media. Before joining the Lowy Institute, Anthony was an officer of the Department of Foreign Affairs and Trade from 1991 to 2003. He served in Australian diplomatic missions in Saudi Arabia and Israel and was Middle East Analyst with the Office of National Assessments from 1996 to 1998.

Dr Karen Lee, Project Consultant

Karen is a senior lecturer in the Faculty of Law at the University of Technology Sydney (UTS). She is a specialist in communications regulation. Her PhD, for which she received the UNSW Faculty of Law's PhD Research Excellence Award, involved an in-depth study of the development of three telecommunications consumer codes by working committees of the Communications Alliance – the peak self-regulatory body in the Australian telecommunications sector. Her book *The Legitimacy and Responsiveness of Industry Rule-making*, which was based on her thesis, was published by Hart Publishing in September 2018. She has also published in the *Federal Law Review*, the *Media and Arts Law Review* and the *Australian Journal of Competition and Consumer Law*; and is a contributor to *Australian Telecommunications Regulation*, edited by Alasdair Grant and David Howarth, and *Telecommunications Law and Regulation*, edited by Professor Ian Walden.

Dr Sacha Molitorisz, Project Consultant

Sacha is a postdoctoral research fellow at the Centre for Media Transition, in the Faculty of Law at UTS. He has an interest in privacy, trust and news media, and his expertise spans media, law and ethics. After studying law and English literature at UNSW, Sacha accepted a cadetship at The Sydney Morning Herald, where for 19 years he had a front row seat for digital disruption while working as a writer, editor, reviewer and blogger. In 2012 he began teaching media and ethics courses at UNSW and NYU Sydney, and in 2017 he completed his PhD, which applied Kantian ethics to internet privacy. His book *Net Privacy: How We Can Be Free in an Age of Surveillance* was published in April 2020.

Submission disclosure: Dr Molitorisz has had occasional contact with his supervisor and colleague Professor Derek Wilding at the Centre for Media Transition at the University of Technology Sydney during the preparation of this submission. However, the development of this submission has been independent of Professor Wilding's preparation of submissions in response to the ACCC's Concepts Paper.