

TAX STATEMENT FOR YEAR 2019

THIS STATEMENT REPORTS 1099-INT

DEPARTMENT OF THE TREASURY-INTERNAL REVENUE

COPIES FOR RECIPIENT

MILEAGE

MONTH 8 DAY 10 YEAR _____

ODOMETER READING: _____

OF TRIP

OF TRIP

[Guidebook to implement
and claim a public interest
journalism tax rebate]

Guidebook to implement and claim a public interest journalism tax rebate

Investigating taxation for public interest news

September 2020

**[Public Interest
Journalism Initiative]**

Introduction

This paper is guidance for the design and introduction of a Public Interest Journalism tax rebate scheme, intended to encourage investment in public interest journalism in Australia. This is in the context of clear problems with the sustainability of news media in Australia, and in particular the kind of journalism that is vital to democratic and civic health.

The material below draws on, but does not recap, well-established scholarship on the “civically useful” functions of different kinds of journalism, and the nature of journalistic work. We also draw on the findings of parliamentary and government inquiries which have canvassed both the “public good” nature of journalism, and possible policy responses to the crisis in media business models and the future of public interest journalism.

The document has been prepared in the context of the Government’s intention to legislate a Mandatory Bargaining Code for News Media and Digital Platforms, which includes a registration process for News Media organisations based on the concept of “core news”.

We adopt this concept and propose that the same registration process be used. At the time of writing, the Exposure Draft of the relevant legislation is open for public consultation, and PIJI is also making a submission as part of that process.¹ We refer to some issues raised where relevant below.

Otherwise, the suggested design of the scheme is modelled closely on the existing, and well accepted, tax rebate for Research and Development.²

PIJI has sought extensive industry comment on an earlier draft of this proposal, and this document reflects that.

1. PIJI and JNI. Joint Submission on the ACCC Treasury Laws Amendment (News Media and Digital Platforms Mandatory Bargaining Code) Bill 2020 (Exposure Draft).

2. See, for example, Centre for International Economics 2016 R&D Tax Incentive Program Review, report prepared for the Department of Industry, Innovation and Science. <<https://www.industry.gov.au/data-and-publications/review-of-the-rd-tax-incentive>>

This paper is the result of work by a taskforce comprising journalist and journalism academic Dr Margaret Simons, David Pearce of the Centre for International Economics, and Eddie Ahn, Partner at DLA Piper Australia and Gabrielle Hedge, also of DLA Piper Australia.

The Public Interest Journalism Initiative

PIJI is a not-for-profit body established as a limited life initiative (3-5 years) to conduct research, develop policy and promote public discussion on ensuring a sustainable future for public interest journalism. The need for this is evident in the ACCC's own analysis of the challenges confronting providers of news and journalism.

PIJI is determinedly independent and non-partisan. It does not come to the policy table with a fixed view but rather a determination to the hard work is done in thorough research and policy elaboration.

PIJI operates as a major research project of the newDemocracy Foundation.

Background to the proposal

The Digital Platforms Inquiry (DPI) final report recommended that public interest journalism be recognised as a public good, deserving of public funding at a time of crisis caused by the collapse of traditional business models.

In its submissions to the ACCC and during the Treasury's consultation on implementation, PIJI argued that tax rebates or incentives to encourage investment in public interest journalism could provide a significant (and immediate) benefit to news media businesses.³

The ACCC considered this proposal but did not recommend that such a scheme be introduced, despite identifying considerable potential benefit. Nor did the Treasury endorse PIJI's suggested approach, although other recommendations in the PIJI submissions were adopted.

PIJI commissioned three interconnected pieces of research to further explore the idea:

- A report by the Centre for International Economics considering the case for tax concessions for public interest journalism. This report included a cost benefit analysis, and that a rebate scheme along the lines of the existing Research and Development Scheme was worth more detailed consideration.⁴
- A public opinion survey by Essential Media to discern public willingness to pay for public interest journalism. The survey found that 89 per cent of Australians want their media to inform and educate and 46 per cent of Australians would be willing to support increased taxes of \$6 a year to support this.⁵
- A report based on interviews with editors across Australia. The report examined the deficits that had emerged due to declining resources, and found this decline was seriously undermining the quantity and quality of the information available to Australians.⁶

3. Public Interest Journalism Initiative 2019. *Submission to Treasury further to the Final Report*. <<https://piji.com.au/wp-content/uploads/2019/02/piji-accq-inquiry-submission.pdf>>; Public Interest Journalism Initiative 2019. *Submission further to the Preliminary Report*. <<https://piji.com.au/wp-content/uploads/2019/09/piji-submission-treasury-re-digital-platforms-inquiry-120919.pdf>>

4. Centre for International Economics 2019. *Tax Concessions for Public Interest Journalism*. <<https://piji.com.au/wp-content/uploads/2019/11/piji-tax-concessions-for-public-interest-journalism.pdf>>

5. Withers G. 2019. *Community value of public interest journalism*. <<https://piji.com.au/wp-content/uploads/2020/08/1910-piji-community-value.pdf>>

6. Simons M., Dickson G. and Alembakis R. 2019. *The nature of the editorial deficit*. <<https://piji.com.au/wp-content/uploads/2019/11/piji-the-nature-of-the-editorial-deficit.pdf>>

These reports were discussed at a roundtable attended by government, industry, peak bodies and academic experts in November 2019.

Based on this research, PIJI proposed a tax rebate allowing news media businesses with a specified turnover to claim a tax deduction for costs incurred on public interest journalism activities.

The proposal was discussed with senior officials in the then-Department of Communications and the Arts. PIJI was asked to clarify issues of definition and boundaries: for example, how lines could be drawn to distinguish public interest journalism from other kinds of journalism and media content.

As the earlier CIE report identified, similar definition and boundary issues arise with the existing but well accepted R&D tax concession, and have not proved a barrier to the implementation and resulting public benefits of that scheme.

While the issues involved are complex, PIJI believed they were not insurmountable. Considerable international scholarship already exists on the “democratically useful” or civically important functions of journalism, and the nature of journalistic work conducted to fulfil those functions. As well, previous parliamentary and government inquiries have considered the issues, including those of definition.⁷ We have drawn on this previous work.

Overlapping the events described above, the government directed the ACCC to devise a news media bargaining code to address bargaining power imbalances between digital platforms (Google and Facebook in particular) and Australian news businesses. Exposure draft legislation was released on 31 July 2020.

The approach proposed in the Exposure Draft includes a registration process for news businesses, in order for them to be eligible for inclusion in the code and the associated bargaining processes and benefits.

7. Kind H.J. and Møen J. 2015. 'Effects of taxes and subsidies on media services' in Picard R.G. and Wildman S.S. (eds.) *Handbook on the Economics of the Media*. Cheltenham UK: Edward Elgar Publishing; Schudson M. 2008. *Why Democracies Need an Unlovable Press*. Malden, MA: Polity Press; Simons M., Tiffen R., Hendrie D., Carson A., Sullivan H., Muller D. and McNair B. 2017. 'Understanding the civic impact of journalism: A realistic evaluation perspective' *Journalism Studies* 18(11), pp. 1400-1414; See also: Senate Select Committee on the Future of Public Interest Journalism 2018. Report p. 121; Australian Competition and Consumer Commission 2019. Digital Platforms Inquiry Final Report, p. 330.

In order to participate, news businesses must register with the Australian Communications and Media Authority (ACMA). Eligibility requirements comprise:

- an annual revenue benchmark, (currently proposed as \$150,000 a year)
- the requirement that the businesses produce predominantly 'core news content' (definition discussed further below).
- Businesses to be subject to appropriate professional journalistic standards,
- Businesses to operate predominantly in Australia, providing content to Australian audiences.

Once a news business is registered, all its content is subject to the other provisions of the Compulsory Code.

As a result of the release of the exposure draft, we propose that the anticipated registration process for the Code also be used for the Public Interest Journalism Tax Rebate Scheme. That is, if a news media business is eligible for participation in the Code, it would also be eligible for the PIJ Tax Rebate, with the difference that not all publication need be online.

However, we do not suggest that expenditure on ALL content produced by registered news media businesses be subject to the tax incentive, but rather only expenditure on "core news activities".

This reflects the "public good" nature of "core news" which is the basis of justification for the tax rebate. The measure proposed will succeed if it causes additionality in the production of "core news" for the Australian public, with the resulting public goods. As detailed below, we propose a review of the rebate after a period of operation, during which its efficacy in increasing those public goods could be assessed.

As PIJI has argued in its submissions to the ACCC and Government as part of the News Media Bargaining Code process, while the News Media Bargaining Code would be a welcome development, it is not sufficient to address the crisis in Public Interest Journalism.

The first half of 2020 saw an alarming decline of 180 contractions including 29 masthead or station closures and 97 end of print editions.⁸ Recent months have seen news businesses returning from temporary closures and new market entrants emerging to fill gaps in regional coverage such as Queensland. However, broad uncertainty still pervades the news industry.

8. Dickson G. 2020 Australian Newsroom Mapping Project (July 2020). <<https://anmp.piji.com.au>>

As PIJI has observed in its submission on the Exposure Draft, it is highly likely that smaller media organisations – including rural and regional and startup enterprises – will struggle to benefit under the proposed Code. This is because of the lack of peak organisations and the difficulties of the collective bargaining process.

The Code, while a welcome development, does not contain any incentives for investment in public interest journalism. It merely provides a framework for discussion, rather than guaranteeing any particular payment or negotiated outcome. It does not, by itself, guarantee that the public goods of a healthy media will be safeguarded.

Further, it really only relates to transmission of public interest journalism through a digital platform rather than by other means.

More than a Code is required to sustain public interest journalism in Australia, particularly for small to medium players. Complementary policy initiatives to the Code, are required.

This proposal is one such mechanism, which would guarantee support for public interest journalism, based on private sector investment. It is designed to encourage and incentivise investment in the public good of “core news”.

The nature of the tax benefit under the PIJ Tax Rebate

Using the R&D tax rebate as a model, the core tax benefit for eligible organisations under the proposed Public Interest Journalism (PIJ) Tax Rebate would be a refundable tax offset for eligible expenditure on Core News Activities.

By way of background, companies should generally be entitled to a tax deduction at 30% (or lower, for smaller companies) for their business-related expenditure. In effect, such tax deductions reduce the annual tax bill for such companies by 30% of the relevant expenditure. However, for companies that are in a tax loss position (or are otherwise not tax payable entities), the tax deduction can be of limited benefit.

In contrast, a key benefit of a refundable tax offset is that it provides eligible entities with a cash refund of a percentage of their eligible expenditure each year, regardless of whether they are in a tax payable position for the year. The tax refund would be administered by the ATO and claimed through the usual annual income tax returns of the company.

Further, it is proposed that the rate of the offset be higher than the corporate tax rate, to provide additional incentive for eligible entities. For example, under the current R&D tax incentive, the tax offset rate is up to 13.5% points higher than the corporate tax rate. The tax offset rate for the proposed PIJ Tax Rebate has not yet been finalised.

As with the R&D tax rebate, the tax offset rate and refundability of the tax offset could potentially be limited for larger entities that exceed a certain income threshold (e.g. \$20 million per annum for the R&D tax rebate). It remains open for discussion as to whether there needs to be two classes of benefits for the PIJ Tax Rebate.

As with the R&D tax rebate, the proposed PIJ Tax Rebate could potentially have a de minimis threshold. We propose to limit the rebate to entities that meet the same \$150,000 revenue threshold required for participation in the Code.

Defining public interest journalism

Public interest journalism is essential to the proper functioning of democracy. It not only holds power to account but is critical to an informed citizenry. It is institutionally critical to constituting a genuinely deliberative democracy. As the ACCC has found, it is a clear public good, currently under threat due to the collapse of advertising-based business models.

Public interest journalism stands for both highly prized investigative journalism and the essential daily grind: recording, investigating and explaining public policy and issues of public interest or significance with the aim of engaging citizens in public debate and informing democratic decision-making.

In the Digital Platforms Report, the ACCC adopted the following definition of public interest journalism:

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.⁹

Among other things, this captures the watchdog role of the news media, which holds the powerful to account. It also captures activities such as court reporting, which is essential for the rule of law and open justice. 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 PIJ.

9. ACCC 2019. *Digital Platforms Inquiry Final Report*, p. 285.

However, in more recent work, as part of the consultations over the News Media and Digital Platforms Mandatory Bargaining Code, the ACCC has suggested that this definition may be too narrow to capture the whole of the “public good” nature of journalism.¹⁰

While public interest journalism is essential to democratic functioning, this is not its only purpose. Public interest journalism fosters community and civic life in ways that are not directly to do with democratic decision making, but are key to the health and wellbeing of communities and their sense of agency. This kind of journalism has been well captured in the preface to the Media Entertainment and Arts Alliance Code of Ethics as “Journalism that describes society to itself”. Journalists, the Code asserts, “search, disclose, record, question, entertain, comment and remember. They inform citizens and animate democracy. They scrutinise power, but also exercise it, and should be responsible and accountable”.¹¹

This view of public interest journalism is particularly relevant in regional Australia. 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 lockdown¹², with increased recognition of news as an ‘essential service’.¹³ 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.¹⁴

However, the purpose of the proposed PIJ tax rebate, “boundary” issues are clearly of key importance, since not all of the material published by the news media is a “public good” justifying taxpayer support.

10. Australian Competition and Consumer Commission 2020. *Mandatory news media bargaining code: concepts paper*, pp. 3-4.

11. Media, Entertainment and Arts Alliance. Journalist Code of Ethics. <<https://www.meaa.org/meaa-media/code-of-ethics/>>

12. Fletcher P. 2020. Public Interest News Gathering Program opens for business. Media release, 07 May. <<https://minister.infrastructure.gov.au/fletcher/media-release/public-interest-news-gathering-program-opens-business>>

13. Hess K. and Waller L. 2020. ‘Local newspapers are an ‘essential service’. They deserve a government rescue package, too’ *The Conversation*. <<https://theconversation.com/local-newspapers-are-an-essential-service-they-deserve-a-government-rescue-package-too-135323>>

14. Regional Australia Institute 2015. [In]Sights for competitive regions: infrastructure and essential services. <<http://www.regionalaustralia.org.au/wp-content/uploads/Infrastructure1.pdf>>

News Media and Digital Platforms Mandatory Bargaining Code

Similar definitional and eligibility issues have been considered by the ACCC in developing the News Media and Digital Platforms Mandatory Bargaining Code ('the Code'). As we finalise this document, a period of consultation on the draft legislation has finalised. It is not known what the final Code will look like, but the ACCC's approach can be instructive for this scheme.

Eligible content

The ACCC adopted and included in its draft legislation the concept of 'core news content', which overlaps with and expands the previous definitions of public interest journalism, and captures the wider civic importance of news in local communities.

In the exposure draft, "Core news content" is defined as follows:

Core news content is content produced by a journalist that records, investigates or explains:

- issues of public significance to Australians;
- issues relevant to engaging Australians in public debate and in informing democratic decision making; or
- content which relates to community and local events.

[Schedule 1, item 1, definition of 'core news content' in section 52A]

We believe the 'core news content' concept captures the "public good" nature of journalism, and propose that this be adopted for the purposes of the PIJ Tax Rebate.

However, reflecting the position in the PIJI-JNI submission on the Exposure Draft, we believe an amendment is needed to remove the requirement that content be "created by a journalist" in order to qualify as "core news".

Such a requirement unnecessarily and arbitrarily narrows eligibility. It fails to recognise all contemporary practice and news models of journalism. Most obviously it excludes journalism written by volunteers, trainees, student journalists and not-for-profit journalists/newsmakers.

Below we discuss the concept of "Original Journalistic Work" for the purposes of the PIJI Tax Rebate, which also bears upon this issue. Our emphasis, once again, is on the work done or the processes adopted.

Registration

To be eligible for the PIJ Tax Rebate, news media organisations would have to be registered with the Australian Communications and Media Authority.

Under the approach proposed for the News Media and Digital Platforms Mandatory Bargaining Code ACMA must register a news business if the applicant:

- Satisfies minimum annual revenue benchmarks (currently proposed as \$150,000 per year)
- Carries predominantly 'core news content'
- Is subject to appropriate professional journalistic standards set out by an Australian professional body for media or an equivalent set of standards; and
- operates predominantly in Australia for the dominant purpose of serving Australian audiences.

A news business satisfies the professional standards test if each of the news sources it nominates when applying to the ACMA is subject to a professional standard or code and has editorial independence from the subjects of its news coverage.

A news source will be subject to a professional standard or code if it:

- is subject to the rules of the Australian Press Council or the Independent Media Council;
- is subject to the rules of the Commercial Television Industry Code of Practice, the Commercial Radio Code of Practice or the Subscription Broadcast Television Codes of Practice; or
- is subject to substantially equivalent internal editorial standards relating to the provision of quality journalism.

A news source will have editorial independence from the subject of its news coverage if it is:

- not owned or controlled by a political advocacy organisation (such as a political party, lobby group or a union); and
- not owned or controlled by a party that has a commercial interest in the coverage being produced (for example, a publication that covers a sport that is owned or controlled by the sport's governing body).

We propose that these requirements also serve for the purposes of registration for the PIJ Tax Rebate, subject to the amendment proposed in our submission on the Exposure Draft: that is, that internal professional standards should have to include a transparent complaints handling mechanism.

In the broad, PIJI proposes that if a news media organisation is eligible to participate in the News Media and Digital Platforms Mandatory Bargaining Code, it would also be eligible to participate in the PIJ Tax Rebate Scheme, with the proviso that publication would not have to be only online.

However, to benefit from the tax rebate, it would have to identify and claim the tax rebate for expenditure on its core news activities.

The detail of our proposal

The remainder of this paper is in two parts, which together detail our proposal for a Public Interest Journalism (PIJ) Tax Rebate:

- The Public Interest Journalism Tax Rebate: a guide to interpretation. This document, intended as a plain language explanation of the proposal, is modelled on the existing Guide to Interpretation for the Research and Development Tax Rebate.¹⁵
- A framework for the review and assessment of the PIJ Tax Rebate.

¹⁵ Department of Industry, Innovation and Science. The R&D tax incentive: a guide to interpretation. <<https://www.business.gov.au/-/media/Grants-and-programs/RDTI/Research-and-development-tax-incentive-guide-to-interpretation-PDF.pdf>>

The Public Interest Journalism Tax Rebate

A guide to interpretation

Introduction

The Public Interest Journalism (PIJ) Tax Rebate is a self-assessment program designed to encourage industry to conduct public interest journalism activities. The program provides a tax rebate for industry organisations to conduct:

Journalism activities that have the **sole or dominant purpose** of producing core news content.

Core news content is content produced by a journalist that records, investigates or explains:

- issues of public significance to Australians;
- issues relevant to engaging Australians in public debate and in informing democratic decision making; or
- content which relates to community and local events.

In order to be eligible for the rebate, organisations will need to register with the Australian Communication and Media Authority.

ACMA must register a news business if the applicant:

- Satisfies minimum annual revenue benchmarks (currently proposed as \$150,000 per year, though this threshold should be regularly reviewed)
- Carries predominantly 'core news content'
- Is subject to appropriate professional journalistic standards set out by an Australian professional body for media or an equivalent set of standards, including a transparent complaints process; and
- operates predominantly in Australia for the dominant purpose of serving Australian audiences.

A news business satisfies the professional standards test if each of the news sources it nominates when applying to the ACMA has editorial independence from the subjects of its news coverage and is subject to a professional standard or code.

A news source will be subject to a professional standard or code if it:

- is subject to the rules of the Australian Press Council or the Independent Media Council;
- is subject to the rules of the Commercial Television Industry Code of Practice, the Commercial Radio Code of Practice or the Subscription Broadcast Television Codes of Practice; or
- is subject to substantially equivalent internal editorial standards relating to the provision of quality journalism, including a transparent complaints process.

A news source will have editorial independence from the subject of its news coverage if it is:

- not owned or controlled by a political advocacy organisation (such as a political party, lobby group or a union); and
- not owned or controlled by a party that has a commercial interest in the coverage being produced (for example, a publication that covers a sport that is owned or controlled by the sport's governing body).

This guide to interpretation aims to provide useful information for those self-assessing their activities. It cannot cover every situation and is limited to general advice only. Any examples provided are for guidance only and are not finally determinative of whether expenditure on a particular activity will or will not be eligible for the PIJ Tax Rebate.

Self-assessment

Under the Public Interest Journalism (PIJ) Tax Rebate, you must assess for yourself whether you are eligible to register core news activities and claim the rebate in any given year. In order to claim a tax rebate, you will need to ask yourself the following self-assessment questions:

1. Has your organisation undertaken core news activities?
2. Can you identify expenditure or assets used in the core news activities?
3. Have you kept records which describe what you did, the expenditure you claimed and the assets used and the connection between the expenditure incurred, the assets used and the activities conducted?

The focus of this guide is on step 1 of the self-assessment process. It will help you understand whether you have eligible PIJ activity expenditure. If you have spent on eligible PIJ activities, it will help you identify the scope of those activities and the eligible expenditure.

Key messages

- You must self-assess whether you have eligible core news expenditure
- Your organisation must register as a Core News Organisation with ACMA
- This guide will help you decide whether you have eligible expenditure on core news activities for the purposes of the PIJ Tax Rebate
- Keep records which show the specific ways in which your PIJ activities were carried out

Eligible Core News expenditure

For the PIJ Tax Rebate, eligible expenditure includes spending incurred on activities that are either **core news activities** or **supporting core news activities**.

In order to register eligible expenditure, you must have undertaken, or be intending to undertake, at least one core news activity. Certain activities are excluded from being core news activities (See below: *Excluded core news activities*). You may be able to register expenditure on supporting core news activities if they meet certain tests (See below, *Supporting core news activities*).

The next section of the guide will help you to understand what activities constitute core news activities.

Core news activities

To effectively self-assess the eligibility of your work, you must first understand the basic meaning of certain terms within the definition of core news activities.

Core news activities are conducted in the course of **journalistic work** that has the **sole or predominant purpose** of recording, investigating or explaining:

- issues of public significance to Australians;
- issues relevant to engaging Australians in public debate and in informing democratic decision making; or
- content which relates to community and local events.

The core news activity must include **original journalistic work** of **recording, investigating or explaining**. This will include one or more of the following:

- Interviews with people relevant to the subject matter of the content/intended content;
- Accessing, analysing, curating and assessing publicly available information;
- Attending public events in order to observe and report (including virtual or online public events);
- Seeking and receiving relevant information from relevant individuals and organisations and other sources.

1. Informing and engaging Australians

Because core news has the sole or predominant purpose of informing and engaging on issues of public interest, so as to connect communities and/or aid democratic decision making, expenditure must be on activities aimed at producing content for Australians.

This can be circumstance dependent. The content may be aimed at an audience with specific interests – for example, material about a local government may be published or broadcast in an outlet with an audience living in the local government area.

To give another example, the material might have a national focus, but be intended for publication in a periodical with a specialist subject – such as the arts industry, foreign policy or business. This would still qualify as an audience of the public.

Or, in another case, material might be published in a language other than English, and aimed at recent arrivals in the country, or temporary migrants. This would still qualify as an audience of the public.

The requirement for a public audience would NOT be met if:

- The content was only available to members of a club, society or industry association
- The content was distributed only to a closed group of individuals or businesses assembled through a selection process.

The content can be intended for subscribers to a news service, so long as any member of the public with the financial means is able to purchase a subscription. Access to the content must NOT be dependent on being a member of another group – such as an industry association, club or political party.

(See below, *Excluded activities* for more information on this point.)

Examples that meet the test of an audience of Australians

- A journalist live-tweets a court hearing to her followers. Anyone can follow her Twitter feed.
- A journalist publishes an account of a local council meeting in a newspaper that circulates to residents in three suburbs.
- A journalist writes an analysis article for publication in a specialist journal dealing with foreign policy. The journal is only available to those who pay the cost of a subscription. Anyone can subscribe.
- A television reporter compiles a report on a public meeting, which is broadcast to subscribers to a pay television service. Anyone can buy subscriptions to the service.
- A journalist compiles material and makes it accessible only to those who donate to a crowdfunding service. Anyone can donate.

2. Engaging Australians in public debate and in informing democratic decision making; content which relates to community and local events

For expenditure to be eligible, journalistic activities must be aimed at producing content that is core news content. Not all journalism will meet this test.

Eligible expenditure must be on core news activities, which are **recording, investigating or explaining** issues of public significance to Australians; issues relevant to engaging Australians in public debate and in informing democratic decision making; or content which relates to community and local events

Reporting on governments and politics will likely be included. Issues of wider public debate or significance to a community might include the activities of public institutions, such as police and the courts; the state of certain industries; the public activities of prominent citizens and the impact of policies or social circumstances on individuals.

Journalism concerning arts and public events, the operation of schools and hospitals, sporting teams and clubs, the regulation and operations of business, the impact of social inequality and public health issues would also likely qualify.

Journalistic activity that has the sole or dominant purpose of entertainment, or that is primarily aimed at informing private lifestyle activities and consumer decisions, or that concerns people's private lives without any public interest component, will not normally qualify for the PIJ Tax Rebate. It is possible for journalism to entertain while also being informative on an issue of public concern – but entertainment must not be its predominant purpose.

(See below, *Excluded activities* for more information on this point.)

Recording

Recording is journalistic activity that is designed to relay facts to an audience. It can include either “raw” or minimally-processed recording of a public event – such as broadcasting either live or recorded accounts of a media conference – or a compiled report of an event or sequence of events, in which the journalistic activity consists of summarising events or proposals, and reporting the views and responses of a range of relevant people.

It also includes reporting of facts by journalists going into the field to bear witness, conducting interviews with relevant individuals and organisational representatives and using methods of cross-checking and verification.

Investigating

Investigations can include a range of journalistic activities, including interviews, attendance at events, observations and accessing and receiving information with the intention of revealing facts and issues that were not previously known to the public.

Explaining

This is journalistic function that focusses on explaining issues of public interest. It can include analysis and reporting that places facts in context.

The purpose of explanation is to help citizens to understand public issues and developments, including by providing context and information. This kind of content can include analysing facts and making connections between them which might not be immediately apparent to the audience.

Examples of explaining

- An experienced political reporter describes a development as ‘surprising’, based on years of observing parliamentary process.
- A health reporter expresses scepticism at the claimed results of a clinical trial, or doubt about government moves to address a pandemic

Understanding the difference between **opinion** and **explanation** is important, since expenditure related to the publication of opinion is not eligible for the PIJ Tax Rebate.

An item would typically be categorised as explanation, rather than opinion, if:

- The presenter/reporter/author possesses special knowledge, skill, training, or experience, or longstanding professional engagement with the same or similar subject matter.
- It is clearly based around accepted facts and evidence that are already in the public realm.
- It is clearly intended to assist with understanding an issue rather than debating it, or prosecuting one particular side of a case.
- The presenter/reporter/author has actively sought and included an appropriate range of relevant content, not just that which might support one particular conclusion. Analysis can, however, include observations justified by the weight of evidence.
- The language is more descriptive than judgemental, and the tone is explanatory and reasoned. It should indicate awareness of complexity, rather than instructing with an air of certainty.

Examples of eligible journalism activities

A reporter and camera operator attend a media conference addressed by politicians and representatives of emergency services regarding response to a bushfire crisis. Live footage of the media conference is streamed online. Segments of the footage are later compiled into a number of reports that are used in news bulletins through the day and shared through the organisation's social media channels. Some of these reports are augmented by further reporting of other events, and analysis by journalists and others.

This example includes **recording** and **explanation**, and is for the **sole or predominant purpose** of **informing Australians**.

A journalist working for a local newspaper becomes aware of allegations that police have assaulted citizens in the course of making an arrest. The journalist interviews the citizens concerned and witnesses to the incident. She makes Freedom of Information requests for documents held by the police force and, in accord with the code of ethics for her organisation, offers the police force the right of reply to the allegations. She publishes the report in a print edition of the newspaper, and also tweets the story online. As events develop, she publishes pieces that recap the earlier reports, and place the various responses to the allegations in context.

This example includes **investigation**, **recording** and **explanation** for the **sole or dominant purpose** of **informing Australians** on an **issue of public significance**.

A journalist working for a metropolitan commercial television station becomes aware of allegations that there is a crime wave involving members of ethnic gangs. He contacts the police force, and accesses crime statistics. He also conducts interviews with victims of crime, and others making the allegations. He concludes that there is no ethnically based crime wave, and does not publish or broadcast a report.

This example meets the test because it involves **investigation** and **recording**, conducted with the **sole or dominant purpose** of **informing Australians** on an **issue of public significance**. The fact that the story did not “check out” and result in a publication does not make the journalistic activities involved ineligible.

A journalist is working for an online news service that is aimed at a youth audience. He accesses publicly available information about the federal budget and compiles a “listicle” – a list format news article – that summarises the impact of the budget on young people. The journalist uses entertaining and irreverent language and includes jokes and gifs. The journalist does not conduct interviews, but relies on publicly available information, including other news reports, the budget papers and government media releases.

This example includes recording and explanation. Although the journalist presents the information in an entertaining fashion, this does not disqualify it, because the **sole or predominant purpose** is to **inform Australians** on an **issue of public significance**.

A journalist spends some days reporting on a bushfire crisis. She reports continuously on social media as well as compiling news reports that are broadcast on radio and television. She is also interviewed by other journalists working for her news organisation. Her reports include video and audio footage, pieces where she speaks “to camera” and summarises events, and interviews with emergency services workers and local citizens. She also conducts some interviews aimed at finding out whether a lack of hazard reduction burns are part of the cause of the bushfires.

This example includes recording and investigation with the **sole or predominant purpose** of **informing Australians** on **matters of public significance**.

A journalist on a local newspaper attends a primary school swimming carnival and reports on the event on social media and in the next edition of the local newspaper. She takes photographs, observes the event and interviews parents and children.

This example includes recording, with the **sole or predominant purpose** of **informing Australians** on a **community and local event**.

Examples of ineligible activities

A journalist publishes a review of local coffee shops, reporting on the menu items available and the approach of the baristas to making “the perfect cup”.

This example includes the journalistic functions of **recording** and **explanation**, but it does not meet the test because it concerns private consumer decisions, and not matters of public significance.

A photojournalist is assigned to follow a celebrity who is visiting Australia. He submits a range of photographs of the celebrity in both private moments and public events. He sells the photographs to magazines, newspapers and a stock image agency. Months later, separate journalistic activities by others raise allegations that the celebrity’s visit was sponsored by a political party. The photojournalist’s pictures are re-used to accompany news reports regarding this.

The photojournalist’s activities are not eligible for the exemption, because they were not conducted with the **sole or predominant purpose** of informing and explaining issues of public significance, even though the photos were later used to accompany reports that did have that purpose.

A television comedy show includes skits and remarks on recent political events.

While the show may include information and explanation, its dominant purpose is entertainment, so it doesn’t qualify.

3. Original Journalistic Work

Eligible expenditure must be on journalistic activities that produce, or are aimed at producing, original core news content. These activities can include one or more of the following:

- Interviews with people and organisational representatives relevant to the subject matter of the written or audiovisual content
- Accessing, analysing, curating and/or assessing publicly available information
- Attending public events in order to observe and report (including virtual or online public events)
- Seeking and receiving relevant information from relevant individuals and organisations.

Organisations may claim expenditure incurred on:

- Content generated by employees of the organisation
- Content commissioned or submitted by freelancers or other organisations (providing the freelance journalist or providing organisation has not already claimed the rebate through their own organisation)

Content that is not the product of original journalistic work by the organisation, and therefore is NOT eligible for the exemption, would include:

- User generated content – such as sporting results and match reports submitted by a sporting team, or Twitter and Facebook posts compiled into a news report,
- Material provided under arrangements with wire services, such as Australian Associated Press (though a wire service may be able to claim the PIJ Tax Rebate on its own behalf).
- Content republished from an organisation that makes its content available for free, for example under a creative commons licence.
- Content republished from another organisation, without additional journalistic activity – for example, a media release published verbatim.

In some cases, an organisation might publish material that is a mix of content provided by others and the products of the organisation's original journalistic activity. In that case, ONLY expenditure on the organisation's own journalistic activity is eligible for the exemption.

Examples that meet the test

A journalist accesses data on the progress of a pandemic from the Department of Health, and compiles graphs and tables that present the information in a different format, that is more accessible to the general public.

This activity is eligible because of the original work involved in the curation and presentation of the material.

A news organisation publishes a “live blog” report of a mass shooting incident. The blog includes tweets by public figures and citizens, pictures taken by citizens and uploaded to social media, comments and context by the reporter compiling the blog, hotlinks to other news reports and summaries of news reports in other media outlets. The reporter takes steps to verify allegations circulating on social media before publishing them. The reporter compiling the live blog is involved in accessing, analysing, curating and/or assessing publicly available information and in seeking and receiving relevant information from relevant individuals and organisations, as well as in republishing information generated by others.

This journalists' activities will be partly subject to the PIJ exemption.

Examples that do not meet the test

A local paper publishes a match report written by a member of the local netball team. The paper proofreads the report, writes a headline and chooses a picture – also provided by the team – to illustrate it.

A local newspaper republishes a media release from the local government, without any additional journalistic work.

These activities are NOT eligible, because the organisation did not conduct any of its own eligible journalistic activities.

A news outlet republishes an article written by an academic for an outlet financed by universities, that makes its content available for re-use under a creative commons licence. The outlet writes its own headline and selects an image for illustration.

This is not eligible for the exemption because the outlet did not conduct its own eligible journalistic activities.

A news outlet publishes a court report written by a journalist employed by a news wire service.

The journalistic activity may be a claimable PIJ expense for the wire service, but not for the organisations that republish the content.

4. Recognised Professional Standards

In order to be eligible for the PIJ Tax Rebate the organisation claiming the rebate must be accountable to comply with recognised journalistic or media professional standards or codes of practice. These standards or codes must be published, and include a transparent complaints process. This is also a requirement for registration as a Core News Organisation.

For many organisations, this condition will be satisfied through membership of an existing standards setting body with a complaints process. Other organisations may have their own equivalent standards.

The standards must, at a minimum, include a commitment to the truth and fairness, a commitment to correct errors, and a mechanism under which members of the public can make complaints and action taken as a result is made known.

Freelance journalists operating their own companies can comply with this condition through the principal's membership of an appropriate standard setting body.

Relevant standard setting bodies include:

- The Australian Press Council
- The Media Entertainment and Arts Alliance
- The Independent Media Council

Examples of equivalent standards include:

- News Corporation Australia Editorial Professional Conduct Policy
- Australian Broadcasting Corporation Editorial Policies
- The Guardian Editorial Code
- The Conversation Editorial Charter

Supporting Core News activities

Supporting core news activities are activities directly related to Core news activities. The activity is supporting core news activity for the purposes of the PIJ Tax Rebate only if it is undertaken for the dominant purpose of supporting core news activities.

Once you have established that you have conducted, or will be conducting, activities that satisfy the definition of Core news activities, you can then identify any activities that satisfy the definition of supporting PIJ activities.

There are two key aspects to consider when assessing whether your activities are supporting core news activities:

1. All supporting core news activities must be directly related to a core news activity. If an activity has more than one purpose, and is only partly related to a core news activity, then only that part of the activity related to the Core news activity is eligible for the PIJ Tax Rebate.
2. When self-assessing and keeping records you need to identify which Core news activities the supporting PIJ activity is related to and how it supports them.

Examples of Supporting Core News Activities

- A specialist uses software to assist a journalist in compiling a piece of data journalism, such as graphs and graphics depicting the progress of a pandemic
- A producer edits and compiles material gathered by journalists into news reports suitable for a variety of publishing and broadcasting platforms.
- A sub-editor proofreads, fact checks, edits and designs the layout for a core news item.
- The organisation contracts with lawyers either before publishing core news content or after its publication, to either advise on the legal risks involved or to defend the content against action.
- The organisation pays for buying and maintaining equipment, such as computers, cameras, recorders and printing presses, directly related to its Core News Activities.

Supporting Core News activities may be conducted before, during or after a Core News activity is conducted. The key is that they must be directly related to the conduct of a Core News activity.

Activities that are NOT core news activities – such as the excluded activities described below – cannot give rise to eligible expenditure on supporting activities.

Excluded activities and entities

Excluded core news activities

There are certain activities which cannot be core news activities. We refer to these activities as excluded activities. Core news is deserving of public support due to its nature as a 'public good' and activities that do not meet this standard are excluded from the rebate. This section of the guide is aimed at helping you assess whether any of your activities are excluded activities for the purposes of registering core news activities and supporting activities with the PIJ Tax Rebate.

Material that is not the product of original journalistic work.

This would include activities related to the publishing of content that is not the product of original journalistic work. It would include content provided by members of the community that is published without further journalistic activities. Examples might include match reports by the coach of a local team, or a media release issued by a politician or advocacy organisation.

Advertising and advertising features

This includes both conventional advertisements, but also advertising features, sometimes described as "advertorials" or "sponsored content" which would not be published by the organisation but for a payment from an unrelated organisation wishing to draw attention to its products or services. Activities related to the publication of this content are not eligible even if they are conducted by staff members who are also employed to do core public interest journalism activities.

Opinion

Publication of opinion is excluded because it is based on the particular views and perspectives of the identified person or group expressing it, rather on journalistic work. This applies even when the person expressing the opinion is a journalist or media worker.

Telling the difference between explanation and opinion is be important. An item would typically be categorised as explanation (and therefore eligible), rather than opinion if:

- The presenter/reporter/author possesses special knowledge, skill, training, or experience, or longstanding professional engagement with the same or similar subject matter.
- It is clearly based around accepted facts and evidence that are already in the public realm.
- It is clearly intended to assist with understanding an issue rather than debating it, or prosecuting one particular side of a case.
- The presenter/reporter/author has actively sought and included an appropriate

range of relevant content, not just that which might support one particular conclusion. Analysis can, however, include observations justified by the weight of evidence.

- The language is more descriptive than judgemental, and the tone is explanatory and reasoned. It should indicate awareness of complexity, rather than instructing with an air of certainty.

An item would typically be categorised as opinion, and therefore not eligible, if:

- The presenter/reporter/author is clearly pushing for a certain outcome or view of events, rather than presenting or considering a range of views
- The bulk of the item includes expressions of a view, rather than a retailing of facts and evidence
- The primary purpose of the item is to lobby or persuade to a point of view, rather than inform or aid public understanding
- The item includes only one point of view, rather than a range of relevant viewpoints.

Material that is produced in order to lobby and advocate, or as part of the public relations of an entity

This includes content produced by organisations that are not conventional media organisations – including NGOs, political parties, businesses and special interest groups – that have the dominant purpose of advocacy, publicity and public relations.

Examples might include:

- A human rights organisation employs people with journalistic experience to travel to areas of human rights abuses. The content is published on the organisation's website, with a view to publicising the issue and lobbying for action by governments and individuals.
- A think tank publishes research on its website with the aim of advocating for certain policies to be adopted.
- A residents' group publishes material on a community Facebook page, presenting facts and arguments against a local property development.
- A bank publishes material on its website on business and investment, with the aim of promoting its own goods and services and presenting them in a favourable light.

Material that is only available to a selected group, such as members of an organisation

Examples of ineligible content in this category would include:

- A newsletter that circulates only to members of an industry association
- A group of specialist academics establish a closed social media channel on which they analyse and report on issues of interest in their speciality. People must apply for

- entry to the channel, and acceptance is not automatic
- A political party compiles reports and analysis for distribution only to members of the party.

Material that does not concern matters of public significance

Media organisations may well publish material that has the dominant purpose of entertainment, lifestyle enhancement or to inform purely personal consumer choices. Expenditure on activities involved in compiling this content are not eligible for the PIJ Tax Rebate.

Examples of content in this category would include:

- Reporting on the private lives of celebrities and other public figures, where there is no connection to issues of public interest
- Shopping guides
- Reviews of goods and services

Evaluation of the Public Interest Journalism Tax Rebate

It is usual — and in some cases a legislative requirement — for governments to regularly review specific programs. It would be expected that a tax rebate scheme for core news activities would be regularly reviewed to ensure that it is meeting its key objectives, as well as to learn lessons from implementation and make any necessary adjustments to the operation of the scheme.

An initial review after 3 years of operation, and then reviews at 5 year intervals following that, would be appropriate.

Typical approach to reviews

Program reviews generally follow the logic of considering the:

- **Appropriateness of the policy.** This examines whether the underlying reason for the rebate remains in place. In particular, is there still evidence for the public good nature of PIJ, and evidence that without some form of government intervention the public good would be reduced?
- **Effectiveness of the policy.** This examines how effective the program is in achieving its objectives. For the rebate, this would involve gathering evidence about the uptake of the rebate (how many organisations have registered as PIJ organisations and how many have made claims). This also includes considering the extent to which the rebate has led to an increase in PIJ (compared with what would otherwise have been the case) and to an increase in public good spillovers from PIJ.
- **Efficiency of the policy.** In essence, this considers the relationship between the costs and benefits of the program. An efficient program has high benefits relative to costs. Efficiency can also be considered in cost-effectiveness terms; what are the costs of administering the scheme compared with the budget (or tax expenditure) costs?

Efficiency and effectiveness are similar to the cost-benefit notions that are included within a Regulatory Impact Assessment process. Efficiency incorporates effectiveness within it, and both are essentially benefit-cost concepts.

Evaluations often proceed along a continuum of approaches ranging from straightforward collection of administrative and uptake data all the way through to a full benefit cost analysis of the policy. Ideally, a policy can only be fully judged through detailed benefit cost analysis where the incremental benefits from the policy can be compared with its incremental costs, although it is important to recognise that a full BCA is very information intense.

Data collection

Achieving these evaluation objectives involves the collection of a number of sets of data including:

- administrative data relating to the administrative cost of running the program;
- uptake data, including the number of firms registering for the programme and the number of claims that are made against it;
- data on tax foregone: that is the value of the tax deductions claimed;
- compliance costs from the perspective of participants;
- changes in participant behaviour, most importantly including the increase in the 'supply' of PIJ, journalism supply data; and
- data on consumer valuation of the change in PIJ.

The recent ACCC Digital Platforms report provides a good template for the collection and presentation of industry and journalism data.

There are three main sources for this information:

- Interviews and data collection from the scheme administrations (particularly the ATO and ACMA or the relevant regulatory authority).
- Surveys of participants designed to collect cost and production data
- Surveys of media consumers designed to assess valuation of the increment to PIJ. This aspect of the data collection is particularly important as it is the main means to generate estimates of the benefits of increases in PIJ. It is likely that this analysis will need to be fairly fine grained in order to understand preferences for different types of PIJ.

Review analysis

The analysis undertaken for the review is likely to depend on the precise terms of reference, however an initial review of the tax rebates would be expected to thoroughly examine all aspects of the scheme.

The review would include both qualitative and quantitative outcomes.

Depending on the outcomes, it could be expected that the review would make recommendations about:

- Streamlining administration and compliance
- Modifying (or otherwise) the definitions of the activities associated with PIJ
- Thresholds for accessing the rebate
- A range of other aspects regarding the operation of the scheme.

The **Public Interest Journalism Initiative** Ltd is a non-partisan, philanthropically funded, not-for-profit body established as a limited-life initiative (3-5 years) to conduct research, develop policy and promote public discussion to ensure a sustainable ecosystem of independent, pluralistic, public interest journalism in Australia. PIJI was established in 2019 after consultations with publishers, editors, philanthropists, business leaders, policy-makers and researchers, and is governed by a board of highly-credentialed voluntary directors across the disciplines of media, law, public policy, research, philanthropy and business. PIJI supports informed debate with credible research, and works independently and collaboratively to develop rigorous public policy options.

PIJI operates as a Major Research Project of the newDemocracy Foundation.

newDEMOCRACY
