



Australian
Press Council



Submission on the

**Exposure Draft Bill – Treasury Laws
Amendment (News Media and Digital
Platforms Mandatory Bargaining Code) Bill
2020**

August 2020

Address: Level 6, 53 Berry Street, North Sydney 2060 **Phone:** (02) 9261 1930 or 1800 025 712 **Fax:** (02) 9267 6826

Email: info@presscouncil.org.au **Web:** <http://www.presscouncil.org.au>

Introduction

The Australian Press Council appreciates the opportunity to provide comment on the Exposure Draft. The Council appreciates the work undertaken to date by the ACCC on the impact of the digital platforms on news media businesses in Australia and, in particular, the bargaining power imbalances between Australian news media businesses and digital platforms.

This submission comments on the Exposure Draft's consideration of the issue of the professional standards test, an area directly relevant to the functions and operations of the Australian Press Council.

Background

The Australian Press Council was established in 1976 and is responsible for promoting high standards of media practice, community access to information of public interest, and freedom of expression through the media. The Council is the principal body with responsibility for responding to complaints about Australian newspapers, magazines and associated digital outlets.

The Council's Standards of Practice are contained in its Statement of General Principles, Statement of Privacy Principles and Specific Standards. It also develops Advisory Guidelines which are not binding on its member publications. These documents are all publicly available on the Council's website. The standards are applied by the Council when considering complaints and are used as the basis for statements by Council representatives about good media practice, whether addressing practitioners within the industry, journalism students or the broader community. The Council has also undertaken research and has convened conferences and seminars on aspects of media standards.

The Exposure Draft

The Council supports the proposal (52E) that for a news business to be registered under the legislation it must meet a professional standards test. The Council also acknowledges and supports the proposal (52K(1)(a)(i) and (ii)) that a news source that is subject to the rules of the Australian Press Council, the Independent Media Council or the relevant broadcasting code is deemed to meet this test.

However, the Council has concerns about the proposal (s52(1)(a)(iii)) that news businesses who operate under alternative arrangements are deemed to meet the professional standards test. This is particularly the case as the proposed provision applies no minimum standards or criteria to guide an assessment of whether a set of rules are "substantially equivalent".

The Press Council believes that high standards of media practice and transparent complaints processes require that complaints handling be under the auspices of a body entirely independent of a news business.

It is not clear that high standards of practice will always result in cases where rules are only applied via an internal process, or via a body whose complaints handling process is not entirely independent and where standards and principles by which decisions are made are not developed through robust processes and publicly available.

As the proposed legislation has significant financial implications for both the digital platforms and the news media businesses the Press Council believes that any professional standards test must be applied via reference to an independent third-party process.

On this basis Council recommends that s52(1)(a)(iii) of the Exposure Draft be deleted.

Should the Government want the flexibility to include other independent industry bodies or codes which might arise in the future then Council suggests that the Minister should be empowered to make a declaration that an industry body or code is deemed to satisfy the requirements of s52(1)(a) but that such a declaration can only be made if the body or code meets minimum standards around independence of its complaints handling process, and transparency of its standards, principles and operations.

Conclusion

Thank you for the opportunity to make this submission.

Please let us know if we can be of further assistance.



John Pender

Executive Director