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The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

As passed by both Houses

**Treasury Laws Amendment (News
Media and Digital Platforms Mandatory
Bargaining Code) Bill 2021**

No. , 2021

**A Bill for an Act to amend the *Competition and
Consumer Act 2010* in relation to digital platforms,
and for related purposes**

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Commencement information

Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day after this Act receives the Royal Assent.	
2. Schedule 1	The day after this Act receives the Royal Assent.	

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Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

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(2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

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3 Schedules

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Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

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1 **Schedule 1—Digital platforms and Australian**
2 **news businesses**

3 **Part 1—Main amendments**

4 *Competition and Consumer Act 2010*

5 **1 After Part IVB**

6 Insert:

7 **Part IVBA—News media and digital platforms**
8 **mandatory bargaining code**

9 **Division 1—Basic concepts**

10 **52A Definitions**

11 In this Part:

12 *ACMA* means the Australian Communications and Media
13 Authority.

14 *bargaining news business representative*, for a registered news
15 business, has the meaning given by section 52ZD.

16 *bargaining parties* has the meaning given by section 52ZG.

17 *core bargaining issues* has the meaning given by section 52ZG.

18 *core news content* means content that reports, investigates or
19 explains:

- 20 (a) issues or events that are relevant in engaging Australians in
21 public debate and in informing democratic decision-making;
22 or
23 (b) current issues or events of public significance for Australians
24 at a local, regional or national level.

25 *covered news content* means content that is any of the following:

- 26 (a) core news content;
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1 (b) content that reports, investigates or explains current issues or
2 events of interest to Australians.

3 **designated digital platform corporation** means a corporation that
4 is specified as a designated digital platform corporation in a
5 determination under section 52E.

6 **designated digital platform service**, of a designated digital
7 platform corporation, means a service that is specified as a
8 designated digital platform service of the corporation in a
9 determination under section 52E.

10 **news business** means:

- 11 (a) a news source; or
12 (b) a combination of news sources.

13 **news source** means any of the following, if it produces, and
14 publishes online, news content:

- 15 (a) a newspaper masthead;
16 (b) a magazine;
17 (c) a television program or channel;
18 (d) a radio program or channel;
19 (e) a website or part of a website;
20 (f) a program of audio or video content designed to be
21 distributed over the internet.

22 **registered news business** means a news business that is registered
23 under section 52G.

24 **registered news business corporation**:

- 25 (a) a **registered news business corporation** means a corporation
26 that is registered under section 52G; and
27 (b) a **registered news business corporation**, for a registered
28 news business, means the corporation that is endorsed under
29 section 52G as the registered news business corporation for
30 the registered news business.

31 **register of bargaining code arbitrators** means the register
32 established under section 52ZK.

33 **remuneration issue** has the meaning given by subsection 52ZL(1).

1 **represented registered news business** has the meaning given by
2 section 52ZG.

3 **responsible digital platform corporation** for a designated digital
4 platform service is:

- 5 (a) a corporation that:
- 6 (i) is a related body corporate of the service's designated
7 digital platform corporation; and
- 8 (ii) if the corporation is not incorporated in Australia—is
9 managed in Australia; and
- 10 (iii) either by itself or together with other corporations,
11 operates or controls the designated digital platform
12 service in supplying services that are used by
13 Australians; or
- 14 (b) if there is no corporation that satisfies the requirements of
15 paragraph (a)—the service's designated digital platform
16 corporation.

17 **52B Making content available**

- 18 (1) For the purposes of this Part, a service makes content available if:
- 19 (a) the content is reproduced on the service, or is otherwise
20 placed on the service; or
- 21 (b) a link to the content is provided on the service; or
- 22 (c) an extract of the content is provided on the service.
- 23 (2) Subsection (1) does not limit, for the purposes of this Part, the
24 ways in which a service makes content available.

25 **52C Interacting with content**

- 26 (1) For the purposes of this Part, a user of a service interacts with
27 content made available by the service if:
- 28 (a) the content is reproduced on the service, or is otherwise
29 placed on the service, and the user interacts with the content;
30 or
- 31 (b) a link to the content is provided on the service and the user
32 interacts with the link; or
- 33 (c) an extract of the content is provided on the service and the
34 user interacts with the extract.

- 1 (2) Subsection (1) does not limit, for the purposes of this Part, the
2 ways in which a user of a service interacts with content made
3 available by a service.

4 **52D Distributing content**

- 5 (1) For the purposes of this Part, the following are examples of ways
6 in which a service distributes content that is made available by the
7 service:
8 (a) ranking the content;
9 (b) curating the content;
10 (c) making the content more or less prominent;
11 (d) making a user more or less likely to interact with the content.
- 12 (2) Subsection (1) does not limit, for the purposes of this Part, the
13 ways in which a service distributes content that is made available
14 by the service.
- 15 (3) For the purposes of this Part, treat the following alterations as
16 alterations to the ways in which a service distributes content that is
17 made available by the service:
18 (a) an alteration to the ways in which the service distributes a
19 particular class of content;
20 Example 1: An alteration that increases the prevalence or prominence of
21 video content made available by the service by making such
22 video content play automatically.
23 Example 2: An alteration that increases or decreases the prevalence or
24 prominence of content made available by the service with which
25 users of the service have previously interacted.
26 Example 3: An alteration that increases the prevalence or prominence of
27 content made available by the service by making extracts from
28 the content available on the service automatically.
29 Example 4: An alteration that increases the ranking of content made
30 available by the service if a user's friends and family have
31 interacted with content.
32 (b) an alteration to the ways in which the service distributes
33 content of a particular content creator, or class of content
34 creators;
35 Example 1: An alteration that increases or decreases the prevalence or
36 prominence of content made available by the service if the
-

1 content is created by a news business that has facilities to make
2 content load rapidly.

3 Example 2: An alteration that decreases the prevalence or prominence of
4 content made available by the service if the content is created by
5 an automated account.

6 Example 3: An alteration that decreases the prevalence or prominence of
7 content made available by the service if the content is from a
8 particular website, where attempts have been made to manipulate
9 rankings of content from the website.

10 Example 4: An alteration that decreases the prevalence or prominence of
11 content made available by the service if the content is from an
12 account of a celebrity or other prominent individual.

13 (c) an alteration to the ways in which the service distributes a
14 particular class of content in relation to a particular class of
15 users of the service.

16 Example 1: An alteration that prevents inappropriate content being made
17 available by the service to children.

18 Example 2: An alteration that increases the prevalence or prominence of
19 particular content made available by the service to users of a
20 particular age.

21 Example 3: An alteration that decreases the prevalence or prominence of
22 particular content made available by the service to users who
23 have indicated they do not wish to see such content.

24 Example 4: An alteration that increases the prevalence or prominence of
25 content made available by the service to users who are affected
26 by a natural disaster, if the content is reliable information about
27 the disaster.

28 (4) Subsection (3) does not limit, for the purposes of this Part, the
29 kinds of alterations that are alterations to the ways in which a
30 service distributes content that is made available by the service.

31 **Division 2—Designated digital platform corporation and** 32 **designated digital platform services**

33 **52E Minister may make designation determination**

34 (1) The Minister may, by legislative instrument, make a determination
35 that:

36 (a) specifies one or more services covered by subsection (2) in
37 relation to a corporation as *designated digital platform*
38 *services* of the corporation; and

- 1 (b) specifies the corporation as a *designated digital platform*
2 *corporation*.
- 3 (2) This subsection covers a service in relation to a corporation if:
4 (a) the corporation, either by itself or together with one or more
5 related bodies corporate of the corporation, operates or
6 controls the service; or
7 (b) a related body corporate of the corporation, either by itself or
8 together with one or more other related bodies corporate of
9 the corporation, operates or controls the service.
- 10 (3) In making the determination, the Minister must consider:
11 (a) whether there is a significant bargaining power imbalance
12 between Australian news businesses and the group comprised
13 of the corporation and all of its related bodies corporate; and
14 (b) whether that group has made a significant contribution to the
15 sustainability of the Australian news industry through
16 agreements relating to news content of Australian news
17 businesses (including agreements to remunerate those
18 businesses for their news content).
- 19 (4) In making the determination, the Minister may consider any reports
20 or advice of the Commission.
- 21 (5) Before making the determination, the Minister must give the
22 corporation notice in writing that the Minister intends to make a
23 determination under subsection (1) specifying the corporation and
24 a particular service or particular services.
- 25 (6) The Minister must not make the determination before the end of
26 the period of 30 days starting on the day on which the notice under
27 subsection (5) is given.

28 **Division 3—Registered news businesses and registered**
29 **news business corporations**

30 **52F Application for registration of news business and news business**
31 **corporation**

- 32 (1) A corporation (the *applicant corporation*) may apply to the
33 ACMA, in relation to a news business, for:
-

- 1 (a) if the news business is not already a registered news
2 business—the registration of the news business; and
3 (b) if the applicant corporation is not already a registered news
4 business corporation—the registration of the applicant
5 corporation; and
6 (c) the endorsement of the applicant corporation as the registered
7 news business corporation for the news business.
- 8 (2) The application must:
9 (a) be in writing; and
10 (b) set out every news source that comprises the news business;
11 and
12 (c) set out details of the applicant corporation’s point of contact
13 for the purposes of section 52Z; and
14 (d) if regulations made for the purposes of this paragraph specify
15 requirements—meet those requirements.
- 16 (3) The news business set out in the application may be comprised of
17 some or all of the news sources that the applicant corporation,
18 either by itself or together with other corporations, operates or
19 controls.

20 **52G Registration of news business and news business corporation**

- 21 (1) If the ACMA considers that the requirement in subsection (2) is
22 met, the ACMA must:
23 (a) if the news business is not already a registered news
24 business—register the news business; and
25 (b) if the applicant corporation is not already a registered news
26 business corporation—register the applicant corporation; and
27 (c) endorse the applicant corporation as the registered news
28 business corporation for the news business.
- 29 (2) The requirement in this subsection is met if:
30 (a) the application is in accordance with subsection 52F(2); and
31 (b) if the news business is not already a registered news
32 business—none of the news sources set out in the application
33 in accordance with paragraph 52F(2)(b) form part of another
34 news business that is a registered news business; and

- 1 (c) if the news business is not already a registered news
2 business—all of the following requirements are met in
3 relation to the news business:
- 4 (i) the requirement in subsection 52N(1) (the content test);
5 (ii) the requirement in subsection 52O(1) (the Australian
6 audience test);
7 (iii) the requirement in subsection 52P(1) (the professional
8 standards test); and
- 9 (d) if the applicant corporation is not already a registered news
10 business corporation—the applicant corporation meets the
11 requirement in subsection 52M(1) (the revenue test); and
- 12 (e) the applicant corporation meets the requirement in
13 section 52L (connection between applicant corporation and
14 news business) in relation to the news business.
- 15 (3) The ACMA must publish details of each registration and
16 endorsement on the ACMA’s website (including details of the
17 applicant corporation’s point of contact for the purposes of
18 section 52Z).

19 **52H Revocation of registration or endorsement—general**

20 *Revocation of registration of news business*

- 21 (1) The ACMA may revoke the registration of a registered news
22 business if the ACMA considers that one or more of the news
23 sources that form part of the registered news business form part of
24 another registered news business.
- 25 (2) The ACMA may revoke the registration of a registered news
26 business if the ACMA considers that any of the following
27 requirements are *not* met in relation to the news business:
- 28 (a) the requirement in subsection 52N(1) (the content test);
29 (b) the requirement in subsection 52O(1) (the Australian
30 audience test);
31 (c) the requirement in subsection 52P(1) (the professional
32 standards test).
- 33 (3) The ACMA may revoke the registration of a registered news
34 business if there is no registered news business corporation that is

1 endorsed as the registered news business corporation for the news
2 business.

3 *Revocation of registration of corporation*

4 (4) The ACMA may revoke the registration of a registered news
5 business corporation if the ACMA considers that the corporation
6 does not meet the requirement in subsection 52M(1) (the revenue
7 test).

8 (5) The ACMA may revoke the registration of a registered news
9 business corporation if the corporation is not endorsed as the
10 registered news business corporation for at least one registered
11 news business.

12 *Revocation of registration of endorsement of corporation for news*
13 *business*

14 (6) The ACMA may revoke the endorsement of a registered news
15 business corporation as the registered news business corporation
16 for a registered news business if the ACMA considers that the
17 corporation does not meet the requirement in section 52L
18 (connection between corporation and news business) in relation to
19 the registered news business.

20 (7) To avoid doubt, the ACMA may revoke the endorsement of a
21 registered news business corporation as the registered news
22 business corporation for a registered news business at the same
23 time as it endorses another registered news business corporation as
24 the registered news business corporation for the registered news
25 business.

26 Example: A registered news business corporation (the *selling corporation*) sells
27 a registered news business to another corporation. The other
28 corporation applies under section 52G for registration as a registered
29 news business corporation and for endorsement as the registered news
30 business corporation for the registered news business. The ACMA
31 grants the application at the same time as revoking the endorsement of
32 the selling corporation as the registered news business corporation for
33 the registered news business.

1 **52I Revocation of registration or endorsement—false or misleading**
2 **information or documents**

- 3 (1) This section applies if, as a result of an application by a
4 corporation under section 52F, the ACMA:
5 (a) registered a news business; or
6 (b) registered a corporation; or
7 (c) endorsed a corporation as the registered news business
8 corporation for a news business.
- 9 (2) The ACMA may revoke the registration or endorsement if the
10 ACMA considers that the corporation, in making the application,
11 gave the ACMA information that was or documents that were false
12 or misleading in a material particular.
- 13 (3) To avoid doubt, for the purposes of this section, information or
14 documents may be false or misleading in a material particular
15 because of the omission of a matter or thing.

16 **52J Obligation on registered news business corporation to notify**
17 **ACMA of loss of qualification for registration**

- 18 (1) The registered news business corporation for a registered news
19 business must notify the ACMA, as soon as practicable, if any of
20 the following requirements are no longer met in relation to the
21 registered news business corporation or the registered news
22 business:
23 (a) the requirement in subsection 52N(1) (the content test);
24 (b) the requirement in subsection 52O(1) (the Australian
25 audience test);
26 (c) the requirement in subsection 52P(1) (the professional
27 standards test);
28 (d) the requirement in subsection 52M(1) (the revenue test);
29 (e) the requirement in section 52L (connection between
30 corporation and news business).
- 31 (2) The notification must be in writing.

1 **52K Adding or removing news source from registered news business**

- 2 (1) A registered news business corporation for a registered news
3 business may apply to the ACMA for:
4 (a) the addition of a news source to the news business; or
5 (b) the removal of a news source from the news business.
- 6 (2) The application must:
7 (a) be in writing; and
8 (b) set out every news source that comprises the news business;
9 and
10 (c) specify the news source to be added or removed; and
11 (d) if regulations made for the purposes of this paragraph specify
12 requirements—meet those requirements.
- 13 (3) The ACMA may add the news source to the news business if the
14 ACMA considers that:
15 (a) the application is in accordance with subsection (2); and
16 (b) the news source does not form part of another news business
17 that is a registered news business; and
18 (c) the corporation would continue to meet the requirement in
19 52L (connection between applicant corporation and news
20 business) in relation to the news business if the news source
21 were added to the news business; and
22 (d) the news business would continue to meet all of the
23 following requirements if the news source were added to the
24 news business:
25 (i) the requirement in subsection 52N(1) (the content test);
26 (ii) the requirement in subsection 52O(1) (the Australian
27 audience test);
28 (iii) the requirement in subsection 52P(1) (the professional
29 standards test).
- 30 (4) The ACMA may remove the news source from the registered news
31 business if the application is in accordance with subsection (2).
- 32 (5) The ACMA must publish details of the addition or removal on the
33 ACMA’s website.

1 **52L Requirements for connection between corporation and news**
2 **business**

3 For the purposes of this Division, the requirement is that the
4 corporation, either by itself or together with other corporations,
5 operates or controls the news business.

6 **52M Revenue test**

7 (1) For the purposes of this Division, the requirement is that the annual
8 revenue of the corporation (or of a related body corporate of the
9 corporation), as set out in the corporation's (or the related body
10 corporate's) annual accounts prepared in accordance with generally
11 accepted accounting principles, exceeds \$150,000:

- 12 (a) for the most recent year for which there are such accounts; or
13 (b) for at least 3 of the 5 most recent years for which there are
14 such accounts.

15 (2) Subsection (3) applies if:

- 16 (a) the corporation (or the related body corporate) acquired a
17 business; and
18 (b) the business' annual revenue for a year starting before the
19 acquisition is ascertainable from annual accounts prepared in
20 accordance with generally accepted accounting principles.

21 (3) For the purposes of subsection (1) treat the revenue of the
22 corporation (or of the related body corporate) for the year
23 mentioned in paragraph (2)(b) as including the business' annual
24 revenue for that year.

25 **52N Content test**

26 (1) The requirement in this subsection is met in relation to a news
27 business if the primary purpose of each news source covered by
28 subsection (2) is to create content that is core news content.

29 (2) This subsection covers a news source if it comprises, whether by
30 itself or together with other news sources, the news business.

- 1 (3) For the purposes of subsection (1), in determining whether the
2 primary purpose of a news source is to create content that is core
3 news content, take into account the following matters:
4 (a) the amount of core news content created by the news source;
5 (b) the frequency with which the news source creates core news
6 content;
7 (c) the degree of prominence given to core news content created
8 by the news source, compared with the degree of prominence
9 given to other content created by the news source;
10 (d) any other relevant matter.

11 **52O Australian audience test**

- 12 (1) The requirement in this subsection is met in relation to a news
13 business if every news source covered by subsection (2) operates
14 predominantly in Australia for the dominant purpose of serving
15 Australian audiences.
16 (2) This subsection covers a news source if it comprises, whether by
17 itself or together with other news sources, the news business.

18 **52P Professional standards test**

- 19 (1) The requirement in this subsection is met in relation to a news
20 business if:
21 (a) every news source covered by subsection (2):
22 (i) is subject to the rules of the Australian Press Council
23 Standards of Practice or the Independent Media Council
24 Code of Conduct; or
25 (ii) is subject to the rules of the Commercial Television
26 Industry Code of Practice, the Commercial Radio Code
27 of Practice or the Subscription Broadcast Television
28 Codes of Practice; or
29 (iii) is subject to the rules of a code of practice mentioned in
30 paragraph 8(1)(e) of the *Australian Broadcasting*
31 *Corporation Act 1983* or paragraph 10(1)(j) of the
32 *Special Broadcasting Service Act 1991*; or
33 (iv) is subject to internal editorial standards that are
34 analogous to the rules mentioned in subparagraph (i),

- 1 (ii) or (iii) to the extent that they relate to the provision
2 of quality journalism; or
3 (v) is subject to rules specified in the regulations that
4 replace those mentioned in subparagraph (i), (ii) or (iii);
5 or
6 (vi) is subject to other rules specified in the regulations; and
7 (b) every news source covered by subsection (2) has editorial
8 independence from the subjects of its news coverage.
- 9 (2) This subsection covers a news source if it comprises, whether by
10 itself or together with other news sources, the relevant news
11 business.

12 **Division 4—General requirements**

13 **Subdivision A—Preliminary**

14 **52Q Obligations in respect of digital platform services individually**

- 15 (1) The provisions of Subdivisions B and C create obligations in
16 respect of every designated digital platform service, in respect of
17 each registered news business.
- 18 (2) Those obligations are placed on the responsible digital platform
19 corporation for the designated digital platform service, in respect of
20 the registered news business corporation for the registered news
21 business.
- 22 (3) If there is more than one responsible digital platform corporation
23 for the designated digital platform service:
24 (a) those obligations are placed on each of those responsible
25 digital platform corporations separately; and
26 (b) treat references in Subdivision B and C to the responsible
27 digital platform corporation for the designated digital
28 platform service as being references to each responsible
29 digital platform corporation for the designated digital
30 platform service.

1 **Subdivision B—The minimum standards**

2 **52R Giving list and explanation of data provided to registered news**
3 **businesses**

- 4 (1) If the designated digital platform service makes available covered
5 news content of the registered news business, the responsible
6 digital platform corporation for the designated digital platform
7 service must ensure that:
- 8 (a) information covered by subsection (2) is given to the
9 registered news business corporation for the registered news
10 business; and
 - 11 (b) the information is given in terms that are readily
12 comprehensible; and
 - 13 (c) if there are other designated digital platform services of the
14 responsible digital platform corporation—the information is
15 given in terms that relate specifically to the designated digital
16 platform service (and not in terms that relate to that service
17 and those other designated digital platform services in
18 aggregate); and
 - 19 (d) the information is given to the registered news business
20 corporation no later than 28 days after the day on which the
21 registered news business was registered under section 52G;
22 and
 - 23 (e) if regulations made for the purposes of this paragraph specify
24 other requirements for that information—those requirements
25 are satisfied.
- 26 (2) This subsection covers information that comprises lists and
27 explanations of the types of data covered by subsection (3).
- 28 (3) This subsection covers data:
- 29 (a) that relates to interactions of users of the designated digital
30 platform service with covered news content made available
31 by the designated digital platform service; and
 - 32 (b) that the designated digital platform service provides to one or
33 more registered news businesses.
- 34 (4) The responsible digital platform corporation for the designated
35 digital platform service must ensure that:
-

- 1 (a) updated information covered by subsection (2) is given
2 annually to the registered news business corporation for the
3 registered news business; and
4 (b) the updated information is given in terms mentioned in
5 paragraphs (1)(b) and (c); and
6 (c) the updated information is given to the registered news
7 business corporation no later than 12 months after the later of
8 the following days:
9 (i) the day on which information was given to the
10 registered news business corporation in accordance with
11 subsection (1);
12 (ii) the most recent day on which updated information was
13 previously given to the registered news business
14 corporation in accordance with this subsection; and
15 (d) if regulations made for the purposes of this paragraph specify
16 other requirements for the updated information—those
17 requirements are satisfied.
- 18 (5) To avoid doubt, nothing in this section requires the responsible
19 digital platform corporation to give the data covered by
20 subsection (3) to the registered news business corporation.

21 **52S Change to algorithm to bring about identified alteration to**
22 **distribution of content with significant effect on referral**
23 **traffic**

- 24 (1) Subsection (2) applies if:
25 (a) a change is planned to be made to an algorithm of the
26 designated digital platform service; and
27 (b) the dominant purpose of the change is to bring about an
28 identified alteration to the ways in which the designated
29 digital platform service distributes content that is made
30 available by the service; and
31 (c) the change is likely to have a significant effect on the referral
32 traffic from the designated digital platform service to the
33 covered news content of registered news businesses
34 (considered as a whole) that the service makes available.
- 35 (2) The responsible digital platform corporation for the designated
36 digital platform service must ensure that:
-

- 1 (a) notice of the change is given to the registered news business
2 corporation for each registered news business; and
3 (b) the notice is given:
4 (i) unless subparagraph (ii) applies—at least 14 days before
5 the change is made; or
6 (ii) if the change relates to a matter of urgent public
7 interest—no later than 48 hours after the change is
8 made; and
9 (c) the notice describes the change, and the effect mentioned in
10 paragraph (1)(c), in terms that are readily comprehensible;
11 and
12 (d) if there are other designated digital platform services of the
13 responsible digital platform corporation—the notice is given
14 in terms that relate specifically to the designated digital
15 platform service (and not in terms that relate to that service
16 and those other designated digital platform services in
17 aggregate).
- 18 (3) However, subsection (2) does not apply if the change is made
19 within 14 days after the day on which the registered news business
20 corporation was registered under section 52G.

21 **52V Section 52S—dominant purpose**

- 22 For the purposes of paragraph 52S(1)(b), treat a change as *not*
23 having the dominant purpose mentioned in that paragraph if the
24 change is any of the following:
25 (a) a change to an algorithm made as part of routine maintenance
26 with the dominant purpose of ensuring the ongoing
27 effectiveness of the algorithm;
28 (b) a change to an algorithm with the dominant purpose of
29 ensuring that the algorithm operates more quickly or more
30 efficiently.

31 **52W Section 52S—significant effect**

- 32 (1) For the purposes of paragraph 52S(1)(c), in determining whether
33 the change is likely to have the significant effect mentioned in the
34 paragraph, take into account the following matters:

- 1 (a) whether, as a result of the change, there is likely to be a
2 significant variation to the amount of covered news content
3 made available by the designated digital platform service;
4 (b) whether, as a result of the change, there is likely to be a
5 significant variation to the proportion of content made
6 available by the designated digital platform service
7 represented by covered news content;
8 (c) any other relevant matter (subject to subsection (2)).
- 9 (2) For the purposes of paragraph 52S(1)(c), in determining whether
10 the change is likely to have the significant effect mentioned in the
11 paragraph, disregard the following matters:
- 12 (a) whether, as a result of the change, there is likely to be a
13 significant variation to the proportion of covered news
14 content of all registered news businesses made available by
15 the designated digital platform service represented by the
16 covered news content of a particular registered news
17 business;
18 (b) the relative turnover of registered news businesses whose
19 covered news content is made available by the designated
20 digital platform service;
21 (c) the relative volume of covered news content created by
22 registered news businesses whose covered news content is
23 made available by the designated digital platform service;
24 (d) the relative financial position of registered news businesses
25 whose covered news content is made available by the
26 designated digital platform service.

27 **Subdivision C—Recognition of original covered news content**

28 **52X Recognition of original covered news content**

- 29 The responsible digital platform corporation for the designated
30 digital platform service must ensure that:
- 31 (a) a proposal is developed for the designated digital platform
32 service to recognise original covered news content when it
33 makes available and distributes that content; and
34 (b) registered news business corporations are consulted in
35 developing that proposal before it is published; and

- 1 (c) the proposal is published no later than 6 months after the first
2 registration of a news business under section 52G.

3 **Subdivision D—Facilitating open communication**

4 **52Y Facilitating open communication—responsible digital platform**
5 **corporation for designated digital platform service**

6 The responsible digital platform corporation for a designated
7 digital platform service must:

- 8 (a) set up a point of contact in Australia for the purpose of this
9 section no later than 28 days after the Minister makes a
10 determination under section 52E specifying the designated
11 digital platform corporation; and
12 (b) if regulations made for the purposes of this paragraph specify
13 requirements for the point of contact—ensure that the point
14 of contact meets those requirements; and
15 (c) give details of that point of contact to every registered news
16 business corporation:
17 (i) unless subparagraph (ii) applies—no later than 10
18 business days after the responsible digital platform
19 corporation sets up the point of contact; or
20 (ii) if the registered news business corporation is registered
21 under section 52G after the responsible digital platform
22 corporation sets up the point of contact—no later than
23 10 business days after the registered news business
24 corporation is registered under section 52G; and
25 (d) acknowledge every communication to that point of contact
26 from a registered news business corporation for a registered
27 news business that relates to the registered news business’
28 covered news content made available by the designated
29 digital platform service; and
30 (e) if regulations made for the purposes of this paragraph specify
31 requirements for the acknowledgement—ensure that the
32 acknowledgement meets those requirements.

1 **52Z Facilitating open communication—registered news business**
2 **corporation for registered news business**

3 A registered news business corporation for a registered news
4 business must:

- 5 (a) set up a point of contact for the purpose of this section no
6 later than the day on which the registered news business
7 corporation is registered under section 52G; and
8 (b) if regulations made for the purposes of this paragraph specify
9 requirements for the point of contact—ensure that the point
10 of contact meets those requirements; and
11 (c) acknowledge every communication to that point of contact
12 from a responsible digital platform corporation for a
13 designated digital platform service that relates to the
14 registered news business' covered news content made
15 available by that designated digital platform service; and
16 (d) if regulations made for the purposes of this paragraph specify
17 requirements for the acknowledgement—ensure that the
18 acknowledgement meets those requirements.

19 **Subdivision E—Trade secrets and personal information**

20 **52ZA Trade secrets**

21 Nothing in this Division requires the giving of information the
22 disclosure of which would reveal a trade secret.

23 **52ZB Personal information**

24 Nothing in this Division requires or authorises the giving of
25 information that is personal information (within the meaning of the
26 *Privacy Act 1988*).

27 **Division 5—Non-differentiation**

28 **52ZC Digital service to be supplied without differentiating in**
29 **relation to registered news businesses**

- 30 (1) This section applies if a responsible digital platform corporation
31 for a designated digital platform service, either by itself or together
-

- 1 with other corporations, operates or controls a digital service
2 (whether or not the designated digital platform service).
- 3 (2) The responsible digital platform corporation must ensure that the
4 supply of the digital service does not, in relation to crawling,
5 indexing, making available and distributing news businesses'
6 covered news content:
- 7 (a) differentiate between registered news businesses, because of
8 any of the following matters:
- 9 (ia) a corporation being registered under section 52G, or
10 being endorsed under that section as the registered news
11 business corporation for a news business;
- 12 (i) a bargaining news business representative for a
13 registered news business making a notification under
14 52ZE(1), or not making such a notification;
- 15 (ii) a bargaining news business representative for a
16 registered news business giving a notice under 52ZL(2),
17 or not giving such a notice;
- 18 (iii) a registered news business being paid, or not being paid,
19 an amount of remuneration for the making available of
20 the registered news business' covered news content by a
21 designated digital platform service (whether or not the
22 remuneration is paid in accordance with a determination
23 of a panel under section 52ZX));
- 24 (iv) a registered news business being the subject of, or not
25 being the subject of, an agreement of a kind described in
26 section 52ZZK or 52ZZL;
- 27 (v) a registered news business being the subject of, or not
28 being the subject of, an agreement resulting from the
29 acceptance of an offer of a kind described in
30 section 52ZZM; or
- 31 (b) differentiate between registered news businesses and news
32 businesses that are not registered news businesses, because of
33 any of the following matters:
- 34 (i) a matter mentioned in subparagraph (a)(ia), (i), (ii), (iii),
35 (iv) or (v);
- 36 (ii) a news business covered by subsection (3) being paid,
37 or not being paid, an amount of remuneration for the

- 1 making available of the news business' covered news
2 content by a designated digital platform service;
- 3 (iii) a news business covered by subsection (3) being the
4 subject of, or not being the subject of, an agreement of a
5 kind described in section 52ZZK or 52ZZL;
- 6 (iv) a news business covered by subsection (3) being the
7 subject of, or not being the subject of, an agreement
8 resulting from the acceptance of an offer of a kind
9 described in section 52ZZM; or
- 10 (c) differentiate between news businesses that are not registered
11 news businesses, because of any of the following matters:
- 12 (i) a corporation being eligible to be registered under
13 section 52G, or being eligible to be endorsed under that
14 section as the registered news business corporation for a
15 news business;
- 16 (ii) a corporation applying under section 52F for
17 registration of itself, or of a news business, or for
18 endorsement of itself as the registered news business
19 corporation for a news business.
- 20 (3) This subsection covers a news business if:
- 21 (a) the news business is not a registered news businesses; and
22 (b) none of the news sources that comprise the business form
23 part of a registered news business.
- 24 (4) Subsection (2) does not apply in relation to differentiation if:
- 25 (a) there is an agreement between:
- 26 (i) the responsible digital platform corporation, or a related
27 body corporate of the responsible digital platform
28 corporation; and
- 29 (ii) a corporation that is registered (or is eligible to be
30 registered) under section 52G and, either by itself or
31 together with other corporations, operates or controls a
32 news business; and
- 33 (b) the agreement provides that a corporation mentioned in
34 subparagraph (a)(i) will ensure that remuneration is to be
35 paid to the news business for the making available of the
36 news business' covered news content by the digital service;
37 and
-

- 1 (c) the differentiation arises solely from the amount of that
2 remuneration.
- 3 (5) Subsection (2) does not apply in relation to differentiation if:
4 (a) there is an agreement between:
5 (i) the responsible digital platform corporation, or a related
6 body corporate of the responsible digital platform
7 corporation; and
8 (ii) a corporation that is registered (or is eligible to be
9 registered) under section 52G and, either by itself or
10 together with other corporations, operates or controls a
11 news business; and
12 (b) the agreement provides that:
13 (i) a corporation mentioned in subparagraph (a)(ii) will
14 ensure the provision of a specified type of covered news
15 content to be made available by the digital service; and
16 (ii) a corporation mentioned in subparagraph (a)(i) will
17 ensure that the content is ranked preferentially when the
18 digital service distributes the covered news content; and
19 (c) the differentiation arises solely from that preferential ranking.
- 20 (6) For the purposes of this section:
21 (a) treat the reference in the definition of *news source* in
22 section 52A to “it produces” as instead being a reference to
23 “it regularly produces”; and
24 (b) treat the reference in that definition to “news content” as
25 instead being a reference to “covered news content”.

26 **Division 6—Bargaining**

27 **Subdivision A—Preliminary**

28 **52ZD Bargaining news business representative for a registered news** 29 **business**

- 30 (1) The registered news business corporation for a registered news
31 business is the *bargaining news business representative* for the
32 registered news business.
- 33 (2) Subsection (3) applies if:
-

- 1 (a) a registered news business corporation for a registered news
2 business makes an agreement in writing with a person; and
3 (b) the agreement provides that the person should be the
4 bargaining news business representative for the registered
5 news business.
- 6 (3) Despite subsection (1), the person is the *bargaining news business*
7 *representative* for the registered news business.
- 8 (4) To avoid doubt, a person can be the bargaining news business
9 representative for 2 or more registered news businesses.

10 **52ZE Notification of bargaining**

- 11 (1) The bargaining news business representative for a registered news
12 business may notify a responsible digital platform corporation for a
13 designated digital platform service that it wishes to bargain over
14 one or more specified issues relating to the registered news
15 business' covered news content made available by the designated
16 digital platform service.
- 17 (2) If the bargaining news business representative is the bargaining
18 news business representative for 2 or more registered news
19 businesses, a notification made for the purposes of subsection (1)
20 may relate to some or all of those registered news businesses.
- 21 (3) If the responsible digital platform corporation is the responsible
22 digital platform corporation for 2 or more designated digital
23 platform services:
24 (a) a notification made for the purposes of subsection (1) may
25 relate to some or all of those designated digital platform
26 services; and
27 (b) where the notification relates to more than one designated
28 digital platform service—treat references in this Division and
29 in Division 7 to the designated digital platform service as
30 including references to each of the designated digital
31 platform services to which the notification relates.
- 32 (4) A notification made for the purposes of subsection (1) must set out
33 the following matters:
34 (a) the bargaining news business representative;

- 1 (b) each registered news business to which the notification
2 relates;
3 (c) the designated digital platform service;
4 (d) the responsible digital platform corporation for the
5 designated digital platform service;
6 (e) the specified issues mentioned in subsection (1);
7 (f) if regulations made for the purposes of this paragraph specify
8 other matters—those matters.
- 9 (5) A notification made for the purposes of subsection (1) cannot be
10 later varied to relate to a registered news business that was not set
11 out in the notification.

12 **Subdivision B—Bargaining obligations**

13 **52ZF Application of Subdivision**

14 This Subdivision applies if a notification is made for the purposes
15 of subsection 52ZE(1).

16 **52ZG Bargaining parties, core bargaining issues and represented** 17 **registered news businesses**

- 18 (1) The *bargaining parties* are as follows:
19 (a) the bargaining news business representative that made the
20 notification;
21 (b) the responsible digital platform corporation for the
22 designated digital platform service to which the notification
23 relates.
- 24 (2) The bargaining parties may agree, in writing, that they wish to
25 bargain over one or more extra specified issues relating to the
26 registered news business' covered news content made available by
27 any of the following:
28 (a) the designated digital platform service;
29 (b) specified services other than the designated digital platform
30 service.
- 31 (3) The *core bargaining issues* are:

- 1 (a) the specified issues in the notification (as mentioned in
2 paragraph 52ZE(4)(e)); and
3 (a) the specified issues in an agreement (if any) between the
4 bargaining parties as mentioned in subsection (2).
- 5 (4) Each registered news business to which the notification relates is a
6 *represented registered news business*.

7 **52ZH Obligation to negotiate in good faith**

8 Each bargaining party must negotiate in good faith over each core
9 bargaining issue.

10 **52ZI Obligation to notify Commission if agreement reached**

11 If the bargaining parties reach agreement over each core bargaining
12 issue, they must ensure that a written notification of the agreement
13 is given to the Commission as soon as practicable.

14 **Subdivision BA—Mediation**

15 **52ZIA Obligation to participate in mediation**

- 16 (1) This section applies if:
17 (a) the bargaining parties have not reached agreement over each
18 core bargaining issue within 3 months after the notification
19 was made for the purposes of subsection 52ZE(1); or
20 (b) the bargaining parties agree to refer the core bargaining
21 issues to mediation under this Subdivision.
- 22 (2) Each bargaining party must participate in a mediation about the
23 core bargaining issues.
- 24 (3) To avoid doubt, each bargaining party must comply with
25 section 52ZH (good faith negotiations) in respect of the mediation.
- 26 (4) The mediator is to be appointed by the ACMA.

1 **52ZIB Rules about conduct of mediation**

- 2 (1) The regulations may set out rules relating to the conduct of a
3 mediation under this Subdivision.
- 4 (2) A mediation under this Subdivision is to be conducted according to
5 those rules.
- 6 (3) Despite subsection 14(2) of the *Legislation Act 2003*, regulations
7 made for the purposes of subsection (1) may make provision in
8 relation to a matter by applying, adopting or incorporating, with or
9 without modification, any matter contained in an instrument or
10 other writing as in force or existing from time to time.
- 11 (4) Without limiting the scope of regulations that may be made for the
12 purposes of subsection (1), those regulations may:
- 13 (a) set out rules relating to the payment of the costs of the
14 mediator; and
- 15 (b) without limiting the scope of paragraph (a), specify who is to
16 pay those costs.

17 **52ZIC Termination of mediation**

- 18 (1) A mediation under this Subdivision terminates if:
- 19 (a) unless paragraph (b) applies—2 months have passed since
20 the start of the mediation; or
- 21 (b) if the bargaining parties agree to a 2-month extension of the
22 mediation—4 months have passed since the start of the
23 mediation; or
- 24 (c) the mediator decides to terminate the mediation in
25 accordance with subsections (3) and (4); or
- 26 (d) the bargaining parties agree to terminate the mediation.
- 27 (2) To avoid doubt, the bargaining parties can only agree to one
28 extension in accordance with paragraph (1)(b).
- 29 (3) The mediator may decide to terminate the mediation if, having
30 regard to the conduct of the bargaining parties in the mediation, the
31 mediator considers that there are no reasonable prospects of the
32 bargaining parties reaching agreement over each core bargaining
33 issue.

- 1 (4) The mediator may decide to terminate the mediation whether or not
2 a bargaining party has asked the mediator to do so.

3 **Subdivision C—Miscellaneous**

4 **52ZJ Bargaining over other issues**

- 5 To avoid doubt, nothing in this Division limits the bargaining
6 parties to negotiating only over the core bargaining issues.

7 **Division 7—Arbitration about remuneration issue**

8 **Subdivision A—Preliminary**

9 **52ZK Register of bargaining code arbitrators**

- 10 (1) The ACMA must establish and keep a register of bargaining code
11 arbitrators.
- 12 (2) Each such person listed on the register must be:
- 13 (a) a person experienced in legal matters, economic matters or
14 industry matters; or
- 15 (b) a person who the ACMA considers has appropriate
16 experience to be a member of an arbitral panel for the
17 purposes of this Part.
- 18 (3) In listing a person on the register, the ACMA must consider
19 requirements (if any) specified in regulations made for the
20 purposes of this subsection.

21 **Subdivision B—Starting arbitration**

22 **52ZL Notification of arbitration**

- 23 (1) This section applies if:
- 24 (a) a notification has been made for the purposes of
25 subsection 52ZE(1) to a responsible digital platform
26 corporation for a designated digital platform service; and
- 27 (b) one of the core bargaining issues (the *remuneration issue*)
28 concerns the remuneration to be paid to a registered news

- 1 business for the making available of the registered news
2 business' covered news content by the designated digital
3 platform service.
- 4 (2) The bargaining party that is the bargaining news business
5 representative may give a notice to the Commission that arbitration
6 about the remuneration issue should start, if:
- 7 (a) both of the following conditions are satisfied:
- 8 (i) mediation in respect of the core bargaining issues has
9 terminated in accordance with section 52ZIC;
- 10 (ii) the bargaining parties had not reached an agreement
11 about terms for resolving the remuneration issue before
12 the mediation terminated; or
- 13 (b) the bargaining parties have agreed to arbitration about terms
14 for resolving the remuneration issue no earlier than 10
15 business days after the notification referred to in
16 paragraph (1)(a) was made.
- 17 (3) The notice must:
- 18 (a) be in writing; and
- 19 (b) if regulations made for the purposes of this paragraph specify
20 requirements—meet those requirements.
- 21 (4) However, the bargaining party that is the bargaining news business
22 representative cannot give a notice under subsection (2) at a time
23 if, within the period of 24 months ending at that time, a notice has
24 been given under subsection (2) in respect of:
- 25 (a) the designated digital platform service mentioned in
26 paragraph (1)(a); and
- 27 (b) the registered news business mentioned in paragraph (1)(b).
- 28 (5) As soon as practicable after the Commission has been given a
29 notice under subsection (2), it must give the ACMA and each of
30 the bargaining parties a notice stating that:
- 31 (a) an arbitral panel is to be formed; and
- 32 (b) the members of the panel are to be appointed in accordance
33 with section 52ZM.

1 **52ZM Formation of arbitral panel**

- 2 (1) This section applies if a notice has been given under
3 subsection 52ZL(5).
- 4 (2) An arbitral panel is to be formed to arbitrate about the
5 remuneration issue.
- 6 (3) The membership of the panel is to be comprised of:
7 (a) the Chair; and
8 (b) unless the bargaining parties agree that the sole member of
9 the panel is the Chair—2 other members.
- 10 (4) The members of the panel are to be appointed by agreement
11 between the bargaining parties.
- 12 (5) The bargaining parties may agree to appoint persons who are, or
13 are not, listed on the register of bargaining code arbitrators.
- 14 (6) If the bargaining parties agree on the appointment of one or more
15 of the members, each of the bargaining parties must give the
16 Commission and the ACMA a notice that:
17 (a) specifies:
18 (i) the name (or names) of the person (or persons)
19 appointed; and
20 (ii) the date of the agreement; and
21 (b) if regulations made for the purposes of this paragraph specify
22 other information—that information.
- 23 (7) For the purposes of subsection (6), the notice must be given no
24 later than the end of:
25 (a) the period of 10 business days after the notice was given
26 under subsection 52ZL(5); or
27 (b) if regulations made for the purposes of this paragraph specify
28 a different period—that period.
- 29 (8) If the bargaining parties cannot agree on the appointment of one or
30 more of the members within that period, the ACMA must make
31 that appointment or those appointments.
- 32 (9) The ACMA may only make an appointment of a person who is
33 listed on the register of bargaining code arbitrators.
-

1 **52ZN Disclosure of conflicts of interest where ACMA appoints**
2 **member of panel**

- 3 (1) Before the ACMA appoints a person to be a member of the panel,
4 the ACMA must give the person a reasonable opportunity to
5 declare actual or potential conflicts of interest in accordance with
6 subsection (2).
- 7 (2) Before a person accepts appointment as a member of the panel, the
8 person must declare to the ACMA any actual or potential conflict
9 of interest in relation to the arbitration.
- 10 (3) If the ACMA has reason to consider that a person who has been
11 appointed as a member of the panel has any actual or potential
12 conflict of interest in relation to the arbitration (regardless whether
13 the person declared the conflict in accordance with subsection (2)):
14 (a) the ACMA may give a notice in writing to the person stating
15 that the person should no longer be a member of the panel;
16 and
17 (b) the person ceases to be a member of the panel when ACMA
18 gives the person the notice.
- 19 (4) If the ACMA gives a notice under paragraph (3)(a), the ACMA
20 must, as soon as practicable:
21 (a) give a copy of the notice to the bargaining parties; and
22 (b) make an appointment of another person as a member of the
23 panel.
- 24 (5) For the purposes of paragraph (4)(b), the ACMA may only make
25 an appointment of a person who is listed on the register of
26 bargaining code arbitrators.
- 27 (6) For the purposes of this section, a person has a conflict of interest
28 in relation to the arbitration if the person has any interest,
29 pecuniary or otherwise, that could conflict with the proper
30 performance of the person's functions in relation to the arbitration.

31 **52ZO Costs of arbitral panel**

- 32 (1) The bargaining parties must each pay half of the costs of each
33 member of the panel.

- 1 (2) Each member of the panel is to determine that member's costs,
2 worked out as daily costs.
- 3 (3) If regulations made for the purposes of this subsection specify rules
4 relating to those costs (including the amount of those costs), the
5 bargaining parties must comply with those rules.

6 **52ZP Chair to notify start of arbitration**

- 7 (1) The Chair must notify the bargaining parties that arbitration about
8 terms for resolving the remuneration issue will start on a specified
9 day that is no later than 5 business days (or, if the regulations
10 specify a different period, the end of that period) after the
11 appointment of the Chair.
- 12 (2) The notice must:
13 (a) be in writing; and
14 (b) if regulations made for the purposes of this paragraph specify
15 requirements—meet those requirements.

16 **52ZQ Bargaining parties' agreement about dealing with extra**
17 **services in arbitration**

- 18 (1) The bargaining parties may agree, in writing, that specified
19 services other than the designated digital platform service should
20 be dealt with in the arbitration.
- 21 (2) If the bargaining parties notify the Chair of the agreement before
22 the start of the arbitration, Subdivision C applies as if:
23 (a) the remuneration issue related to the designated digital
24 platform service and the specified services mentioned in
25 subsection (1); and
26 (b) references in that Subdivision to the designated digital
27 platform service included references to those specified
28 services.
- 29 (3) The notice must:
30 (a) be in writing; and
31 (b) if regulations made for the purposes of this paragraph specify
32 requirements—meet those requirements.

1 **Subdivision C—Final offer arbitration**

2 **52ZR Application**

3 This Subdivision applies if the Chair has given notice under
4 section 52ZP.

5 **52ZS Obligation to participate in arbitration in good faith**

6 Each bargaining party must participate in the arbitration in good
7 faith.

8 **52ZT Information request by bargaining party—general**

- 9 (1) Each bargaining party may give the other bargaining party a
10 request that the other bargaining party give it specified information
11 if:
- 12 (a) the information is covered by subsection (2); and
 - 13 (b) it is reasonable for the bargaining party to make the request
14 for the purposes of this Division; and
 - 15 (c) the request is made no later than 5 business days after the
16 start of arbitration; and
 - 17 (d) the bargaining party has not made a previous request under
18 this subsection in respect of the arbitration.
- 19 (2) This subsection covers information that is held by any of the
20 following:
- 21 (a) if the other bargaining party is the responsible digital
22 platform corporation:
 - 23 (i) the responsible digital platform corporation;
 - 24 (ii) a related body corporate of the responsible digital
25 platform corporation; or
 - 26 (b) if the other bargaining party is the bargaining news business
27 representative:
 - 28 (i) the registered news business corporation for the
29 represented registered news business;
 - 30 (ii) a related body corporate of the registered news business
31 corporation for the represented registered news
32 business.
-

- 1 (3) A request under subsection (1) must:
2 (a) be made in writing; and
3 (b) set out reasons why it is reasonable for the bargaining party
4 to make the request for the purposes of this Division; and
5 (c) if regulations made for the purposes of this paragraph specify
6 other requirements—comply with those requirements.
- 7 (4) The bargaining party must give a copy of the request to the panel
8 on the same day that it gives the request to the other bargaining
9 party.
- 10 (5) If a bargaining party makes a request under subsection (1), the
11 other bargaining party must ensure that:
12 (a) the request is complied with no later than 10 business days
13 after:
14 (i) unless subparagraph (ii) applies—the request was given
15 to the other bargaining party; or
16 (ii) if an application is made under subsection 52ZU(1)—
17 the panel makes a ruling under subsection 52ZU(3); and
18 (b) the information requested is given in terms that are readily
19 comprehensible; and
20 (c) if the other bargaining party is the responsible digital
21 platform corporation and there are other designated digital
22 platform services of the responsible digital platform
23 corporation—the information is given in terms that relate
24 specifically to the designated digital platform service (and
25 not in terms that relate to that service and those other
26 designated digital platform services in aggregate); and
27 (d) if regulations made for the purposes of this paragraph specify
28 other requirements for that information—those requirements
29 are satisfied.

30 **52ZU Information request by bargaining party—challenges by**
31 **other bargaining party**

- 32 (1) The other bargaining party may apply to the panel, in writing, for a
33 ruling that it is *not* reasonable for the bargaining party to make the
34 request for the purposes of this Division, in relation to all or a
35 specified part of the information requested.

- 1 (2) An application under subsection (1) can be made no later than 10
2 business days after the bargaining party gives the request to the
3 other bargaining party.
- 4 (3) If an application is made under subsection (1), the panel must make
5 a ruling in relation to it no later than 10 business days after it is
6 made.
- 7 (4) The ruling may relate to all or a specified part of the information
8 requested.
- 9 (5) In making the ruling, the panel must consider the matters
10 mentioned in subsection 52ZZ(1).
- 11 (6) Nothing in section 52ZT requires the giving of information to the
12 extent (if any) that the panel makes a ruling under subsection (3)
13 that it was *not* reasonable for the bargaining party to make the
14 request for the purposes of this Division, in relation to all or a
15 specified part of the information requested.

16 **52ZV Information request by bargaining party—miscellaneous**
17 **rules**

- 18 (1) Nothing in section 52ZT requires the giving of information the
19 disclosure of which would reveal a trade secret.
- 20 (2) Nothing in section 52ZT requires or authorises the giving of
21 information that is personal information (within the meaning of the
22 *Privacy Act 1988*).
- 23 (3) If a bargaining party gives information to the other bargaining
24 party in order to comply with subsection 52ZT(5), the other
25 bargaining party must ensure that the information is not used for a
26 purpose other than a purpose in relation to arbitration under this
27 Division.
- 28 (4) Subsection (5) applies if:
29 (a) there is a reference to a number of business days in a
30 provision in section 52ZT or 52ZU; and
31 (b) regulations made for the purposes of this paragraph specify a
32 different number of business days in respect of that
33 provision.

- 1 (5) Treat that reference in the provision as being to the number of
2 business days specified in the regulations as mentioned in
3 paragraph (4)(b).

4 **52ZW Agreed early termination of arbitration**

- 5 (1) This section applies if:
6 (a) the bargaining parties agree that the arbitration should
7 terminate; and
8 (b) the panel did not make a determination in accordance with
9 subsection 52ZX(1) before the agreement was made; and
10 (c) no information was given by a bargaining party in order to
11 comply with a request made under subsection 52ZT(1) before
12 the agreement was made.
- 13 (2) The parties must notify the Chair of the agreement as soon as
14 practicable after the day on which the agreement is made.
- 15 (3) The arbitration terminates in accordance with that agreement, but
16 no earlier than the day on which parties notify the Chair of the
17 agreement in accordance with subsection (2).
- 18 (4) However, if the parties fail to comply with subsection (2):
19 (a) subsection (3) does not apply; and
20 (b) the agreement does not affect the validity of the arbitration or
21 any aspect of the arbitration.

22 **52ZX Final offer arbitration**

- 23 (1) The panel is to make a determination under this subsection about
24 the terms for resolving the remuneration issue that:
25 (a) is in accordance with subsections (7), (8) and (9) (final offer
26 arbitration); and
27 (b) sets out a lump sum amount (the *remuneration amount*) for
28 remunerating the registered news business for the making
29 available of the registered news business' covered news
30 content by the designated digital platform service for 2 years;
31 and
32 (c) is consistent with rights under contracts that are in force
33 between:

- 1 (i) the responsible digital platform corporation or a related
2 body corporate of the responsible digital platform
3 corporation; and
4 (ii) the registered news business corporation for the
5 represented registered news business or a related body
6 corporate of that registered news business corporation.
- 7 (2) Each of the bargaining parties must:
8 (a) submit to the panel a final offer for what the remuneration
9 amount should be (expressed as a lump sum); and
10 (b) give a copy of the final offer to the Commission on the same
11 day that it submits the final offer to the panel.
- 12 (3) If a bargaining party gives a copy of the final offer to the
13 Commission, the Commission must give a copy of the final offer to
14 the other bargaining party as soon as practicable.
- 15 (4) A final offer:
16 (a) cannot be submitted later than the latest of the following:
17 (i) the end of the period of 10 business days after the day
18 on which the arbitration starts;
19 (ii) if a bargaining party makes a request under
20 subsection 52ZT(1) (information requests)—the end of
21 the period of 10 business days after the latest day on
22 which the other bargaining party may comply with the
23 request in accordance with subsection 52ZT(5);
24 (iii) if a bargaining party makes an application under
25 subsection 52ZU(1) (challenges to information
26 requests)—the end of the period of 10 business days
27 after the day on which the panel makes a ruling in
28 relation to the application under subsection 52ZU(3);
29 (iv) if regulations made for the purposes of this
30 subparagraph specify a different period—the end of that
31 period;
32 (v) if the panel considers that exceptional circumstances
33 justify a different period—the end of that period; and
34 (b) cannot be more than 30 pages in length.
- 35 (5) An offer that does not comply with subsection (4) is not a final
36 offer for the purposes of this Division.
-

- 1 (6) A final offer, once submitted, cannot be withdrawn or amended.
- 2 (7) The panel must accept one of the final offers unless the panel
3 considers that each final offer is not in the public interest because it
4 is highly likely to result in serious detriment to:
5 (a) the provision of covered news content in Australia; or
6 (b) Australian consumers.
- 7 (8) If the panel does not accept one of those final offers, it must
8 ascertain the remuneration amount by adjusting the most
9 reasonable of those offers in a manner that results in that offer
10 being in the public interest.
- 11 (9) If one bargaining party fails to submit to the panel a final offer for
12 what the remuneration amount should be, in accordance with
13 subsection (4), the panel must:
14 (a) accept the final offer submitted by the other bargaining party,
15 in accordance with subsection (7); or
16 (b) ascertain the remuneration amount by adjusting the final
17 offer submitted by the other party, in accordance with
18 subsection (8).

19 **52ZXA Final offer to be accompanied by information about**
20 **contracts**

- 21 (1) If a bargaining party submits to the panel a final offer in
22 accordance with subsection 52ZX(4), it must, on the same day that
23 it submits the final offer to the panel, give the panel information
24 that:
25 (a) is relevant to the arbitration; and
26 (b) relates to all contracts that are in force between:
27 (i) the responsible digital platform corporation or a related
28 body corporate of the responsible digital platform
29 corporation; and
30 (ii) the registered news business corporation for the
31 represented registered news business or a related body
32 corporate of that registered news business corporation.

1 (2) Nothing in subsection (1) requires the giving of information if
2 doing so would disclose information that is protected against
3 disclosure by a duty of confidence.

4 (3) To avoid doubt, subsection (2) does not prevent a bargaining party
5 from giving information under subsection (1) if the other
6 bargaining party agrees to the bargaining party doing so.

7 **52ZY Final offer arbitration—termination of arbitration if no final**
8 **offers**

9 If both bargaining parties fail to submit to the panel a final offer for
10 what the remuneration amount should be, the arbitration terminates
11 on the day after the last day on which such a final offer could have
12 been submitted in accordance with subsection 52ZX(4).

13 **52ZZ Matters to consider in arbitration, etc.**

14 (1) In making a determination under subsection 52ZX(1) (including in
15 complying with subsections 52ZX(7), (8) and (9)), the panel must
16 consider the following matters:

17 (a) the benefit (whether monetary or otherwise) of the registered
18 news business' covered news content to the designated
19 digital platform service;

20 (b) the benefit (whether monetary or otherwise) to the registered
21 news business of the designated digital platform service
22 making available the registered news business' covered news
23 content;

24 (c) the reasonable cost to the registered news business of
25 producing covered news content;

26 (ca) the reasonable cost to the designated digital platform service
27 of making available covered news content in Australia;

28 (d) whether a particular remuneration amount would place an
29 undue burden on the commercial interests of the designated
30 digital platform service.

31 (2) In considering the matters set out in subsection (1), the panel must
32 consider the bargaining power imbalance between Australian news
33 businesses and the designated digital platform corporation.

1 **52ZZA Other requirements for arbitration determination**

- 2 (1) The panel must make the determination no later than 35 business
3 days (or, if the regulations specify a different period, the end of
4 that period) after the latest of the following days:
- 5 (a) the last day on which a final offer may be submitted in
6 accordance with subsection 52ZX(4);
 - 7 (b) the last day on which a submission may be given by a
8 bargaining party in accordance with subsection 52ZZB(1);
 - 9 (c) the last day on which a submission may be given by the
10 Commission in accordance with subsection 52ZZC(1);
 - 11 (d) the last day on which a submission may be given by a
12 bargaining party in accordance with subsection 52ZZC(3).
- 13 (2) If the Chair is not the sole member of the panel:
- 14 (a) the panel must endeavour to make the determination by
15 unanimous decision of the members of the panel; and
 - 16 (b) where a unanimous decision is not possible, the panel must
17 make the determination by majority decision of the members
18 of the panel.
- 19 (3) The panel must, as soon as practicable, give written reasons for
20 making the determination to the bargaining parties and the
21 Commission.
- 22 (4) Those written reasons must contain the information (if any)
23 specified in regulations made for the purposes of this subsection.

24 **52ZZB Submissions of bargaining parties**

- 25 (1) Each bargaining party may give to the panel a submission about
26 the final offer of the other bargaining party, no later than 5
27 business days (or, if the regulations specify a different period, the
28 end of that period) after the panel has received both final offers (in
29 accordance with paragraph 52ZX(2)(a)).
- 30 (2) The submission can only deal with issues that are dealt with in any
31 material accompanying either of the final offers.
- 32 (3) The submission cannot be more than 20 pages in length.

- 1 (4) If a bargaining party gives the panel a submission under
2 subsection (1):
3 (a) the bargaining party must give a copy of the submission to
4 the Commission on the same day that it gives the submission
5 to the panel; and
6 (b) if the Commission is given a copy of the submission under
7 paragraph (a), the Commission must give a copy of the
8 submission to the other bargaining party as soon as
9 practicable.

10 **5ZZC Role of Commission**

- 11 (1) The Commission may give to the panel a submission in relation to
12 the arbitration, no later than 10 business days (or, if the regulations
13 specify a different period, the end of that period) after the
14 Commission has received both final offers (in accordance with
15 paragraph 5ZX(2)(b)).
- 16 (1A) The information contained in the submission must be:
17 (a) impartial factual information that relates to the relevant
18 market; and
19 (b) impartial information that relates to relevant economic
20 principles.
- 21 (2) If the Commission gives the panel a submission under
22 subsection (1), it must give the bargaining parties a copy of the
23 submission on the same day that it gives the submission to the
24 panel.
- 25 (3) Each bargaining party may give to the panel a submission about
26 the Commission's submission, no later than 5 business days after
27 the bargaining party has received the Commission's submission.
- 28 (4) The bargaining party's submission cannot be more than 20 pages in
29 length.
- 30 (5) If a bargaining party gives the panel a submission under
31 subsection (3):
32 (a) the bargaining party must give a copy of the submission to
33 the Commission on the same day that it gives the submission
34 to the panel; and
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- 1 (b) if the Commission is given a copy of the submission under
2 paragraph (a), the Commission must give a copy of the
3 submission to the other bargaining party as soon as
4 practicable.

5 **52ZZD Guidelines about conduct of arbitration**

- 6 (1) The Commission may, in writing, make guidelines relating to the
7 conduct of an arbitration under this Division.
- 8 (2) However, the Commission cannot include in the guidelines a
9 provision that relates to any of the following matters unless the
10 Minister has approved the provision, in writing:
- 11 (a) how a panel makes a ruling under subsection 52ZU(3)
12 (information requests);
- 13 (b) the content of final offers made by bargaining parties in
14 accordance with subsection 52ZX(2);
- 15 (c) the content of submissions given by bargaining parties in
16 accordance with subsection 52ZZB(1);
- 17 (d) how a panel makes a determination in accordance with
18 subsection 52ZX(1).
- 19 (3) A panel may take the guidelines into account in conducting an
20 arbitration under this Division.
- 21 (4) However:
- 22 (a) the panel need not take the guidelines into account in
23 conducting the arbitration; and
- 24 (b) a failure by the panel to take the guidelines into account in
25 conducting the arbitration does not affect the validity of the
26 arbitration or any aspect of the arbitration.
- 27 (5) The Commission must publish the guidelines on its website as soon
28 as practicable.
- 29 (6) General information made available by the Commission in
30 accordance with subsection 28(1) must not relate to the conduct of
31 an arbitration under this Division.
- 32 (7) Guidelines made under subsection (1) are not a legislative
33 instrument.
-

1 **Subdivision D—Effect of arbitral determination**

2 **52ZZE Bargaining parties must comply with the determination**

3 The bargaining parties must comply with a determination made by
4 the panel in accordance with subsection 52ZX(1).

5 **Division 8—Enforcement etc.**

6 **52ZZF Record generating and keeping**

7 (1) A responsible digital platform corporation for a designated digital
8 platform service must comply with requirements specified in
9 regulations made for the purposes of subsection (2).

10 (2) The regulations may specify requirements for the generation and
11 keeping of records relating to the operation of this Part.

12 (3) Division 5 of Part IVB applies in relation to subsection (1) in the
13 same way in which it applies in relation to an applicable industry
14 code (within the meaning of that Part).

15 (4) This section does not limit section 155 (which is about the general
16 information-gathering powers of the Commission).

17 **52ZZG Infringement notices—Division 4 of this Part**

18 (1) Subject to subsection (2), Division 2A of Part IVB applies in
19 relation to an alleged contravention of a provision of Division 4 of
20 this Part in the same way in which it applies in relation to an
21 alleged contravention of a civil penalty provision of an industry
22 code (within the meaning of that Part).

23 (2) For the purposes of applying Division 2A of Part IVB in
24 accordance with subsection (1), treat the reference in
25 paragraph 51ACF(a) to 50 penalty units as being a reference to 600
26 penalty units.

27 **52ZZH Joint and several liability for pecuniary liabilities**

28 (1) Subsection (2) applies if:

- 1 (a) a responsible digital platform corporation for a designated
2 digital platform service is liable to a pecuniary penalty in
3 accordance with section 76 because it contravened a
4 provision of this Part; and
5 (b) the responsible digital platform corporation is not the
6 service's designated digital platform corporation.
- 7 (2) The responsible digital platform corporation and the service's
8 designated digital platform corporation are jointly and severally
9 liable for the pecuniary penalty.

10 **Division 9—Agreements between digital platform**
11 **corporations and registered news business**
12 **corporations**

13 **5ZZI Simplified outline of this Division**

14 Responsible digital platform corporations may make standard
15 offers relating to remuneration for registered news business
16 corporations. If an offer is accepted by a registered news
17 business corporation, rules under this Part relating to
18 bargaining and arbitration do not apply to the parties to the
19 contract.

20 Responsible digital platform corporations (and related bodies
21 corporate) may also make agreements outside this Part to
22 disapply rules under this Part relating to bargaining,
23 arbitration and other matters.

24 Responsible digital platform corporations (and related bodies
25 corporate) may also make offers relating to such matters under
26 this Part.

27 **5ZZJ Standard offers—content**

- 28 (1) An offer by a responsible digital platform corporation for a
29 designated digital platform corporation complies with this
30 subsection if:

- 1 (a) the responsible digital platform corporation makes the offer
2 to each registered news business corporation covered by
3 subsection (2) (a **covered RNBC**); and
4 (b) the offer provides for the matters in subsection (3)
5 (acceptance procedure); and
6 (c) the offer provides that a binding agreement resulting from it
7 will have:
8 (i) the features mentioned in subsection (4) (formal
9 matters); and
10 (ii) the features mentioned in subsection (5) (remuneration).
- 11 (2) A registered news business corporation is covered by this
12 subsection unless:
13 (a) regulations made for the purposes of this paragraph specify a
14 kind or kinds of registered news business corporation; and
15 (b) the registered news business corporation is not of that kind or
16 one of those kinds.
- 17 (3) For the purposes of paragraph (1)(b), the matters are as follows:
18 (a) a covered RNBC may accept the offer before the end of the
19 offer period;
20 (b) subject to paragraphs (c) and (d), such an acceptance
21 becomes final, and a resulting agreement between the
22 responsible digital platform corporation and the covered
23 RNBC becomes binding, at the end of the offer period;
24 (c) the covered RNBC may revoke such an acceptance before the
25 end of the offer period;
26 (d) the responsible digital platform corporation may revoke the
27 offer before the end of the offer period.
- 28 (4) For the purposes of subparagraph (1)(c)(i), the features of the
29 agreement are as follows:
30 (a) the agreement provides that it covers specified corporations
31 (the **covered corporations**); and
32 (b) each covered corporation is:
33 (i) the responsible digital platform corporation; or
34 (ii) a related body corporate of the responsible digital
35 platform corporation; or
36 (iii) the registered news business corporation; or
-

- 1 (iv) a related body corporate of the registered news business
2 corporation; and
- 3 (c) the agreement specifies a 2 year period (the *covered period*)
4 during which it is in force; and
- 5 (d) the agreement specifies one or more designated digital
6 platform services or other services (the *covered services*) of
7 the designated digital platform corporation; and
- 8 (e) the agreement expressly provides that some or all provisions
9 mentioned in subsection 52ZZK(4) (the *specified provisions*)
10 are not to apply to the extent that they would impose an
11 obligation on one covered corporation in respect of another
12 covered corporation in relation to the covered services.
- 13 (5) For the purposes of subparagraph (1)(c)(ii), the features of the
14 agreement are as follows:
- 15 (a) the agreement specifies that the responsible digital platform
16 corporation will ensure the payment of remuneration to the
17 covered RNBC (or a related body corporate of the covered
18 RNBC) for the making available of the registered news
19 business' covered news content by one or more of the
20 covered services, in respect of the covered period; and
- 21 (b) if regulations made for the purposes of this paragraph specify
22 other features—those features.
- 23 (6) Regulations made for the purposes of paragraph (5)(b) may specify
24 features relating to the amount of the remuneration mentioned in
25 paragraph (5)(a) (including features that require the determination
26 of that remuneration to be based on specified factors).
- 27 (7) Subsection (6) does not limit the scope of regulations that may be
28 made for the purposes of paragraph (5)(b).
- 29 (8) The *offer period* is the period that:
- 30 (a) starts when the responsible digital platform corporation gives
31 a copy of the offer to a covered RNBC; and
- 32 (b) ends:
- 33 (i) unless subparagraph (ii) applies—60 days after the
34 period starts; or
- 35 (ii) if regulations made for the purposes of this
36 subparagraph specify a different day—on that day.
-

- 1 (9) To avoid doubt, this section does not prevent the making of other
2 kinds of offers or agreements.

3 **52ZZK Standard offers—consequences of agreement**

- 4 (1) Subsection (2) applies if:
5 (a) a responsible digital platform corporation for a designated
6 digital platform corporation makes an offer to make a
7 binding agreement; and
8 (b) the offer complies with subsection 52ZZJ(1); and
9 (c) the responsible digital platform corporation has given a copy
10 of the offer to all registered news business corporations
11 covered by subsection 52ZZJ(2); and
12 (d) a registered news business corporation for a registered news
13 business has accepted the offer, and the resulting agreement
14 has become binding on the responsible digital platform
15 corporation and the registered news business corporation;
16 and
17 (e) the parties to the agreement notify the Commission, in
18 writing, that the agreement has become binding.
- 19 (2) The specified provisions do not apply to the extent that
20 (disregarding this subsection) they impose an obligation on one
21 covered corporation in respect of another covered corporation in
22 relation to the covered services that are designated digital platform
23 services.
- 24 (3) However, subsection (2) does not apply if, before the agreement
25 became binding, a notification has been made for the purposes of
26 subsection 52ZE(1) to the responsible digital platform corporation,
27 in relation to the registered news business.
- 28 (4) The provisions are as follows:
29 (a) Division 6 (bargaining);
30 (b) Division 7 (arbitration about remuneration issue).

31 **52ZZL Contracting out of general requirements, bargaining and**
32 **arbitration**

- 33 (1) Subsection (2) applies if:
-

- 1 (a) a responsible digital platform corporation for a designated
2 digital platform corporation (or a related body corporate of
3 such a responsible digital platform corporation) makes a
4 binding agreement with another corporation (the *news*
5 *business corporation*); and
6 (b) the agreement provides that it covers specified corporations
7 (the *covered corporations*); and
8 (c) each covered corporation is:
9 (i) the responsible digital platform corporation; or
10 (ii) a related body corporate of the responsible digital
11 platform corporation; or
12 (iii) the news business corporation; or
13 (iv) a related body corporate of the news business
14 corporation; and
15 (d) the agreement specifies the period (the *covered period*)
16 during which it is in force; and
17 (e) the agreement specifies one or more designated digital
18 platform services or other services (the *covered services*) of
19 the designated digital platform corporation; and
20 (f) the agreement expressly provides that some or all provisions
21 mentioned in subsection (4) (the *specified provisions*) are not
22 to apply to the extent that they would impose an obligation
23 on one covered corporation in respect of another covered
24 corporation in relation to the covered services; and
25 (g) the parties to the agreement notify the Commission, in
26 writing, that the agreement has been made.
- 27 (2) The specified provisions do not apply to the extent that
28 (disregarding this subsection) they impose an obligation on one
29 covered corporation in respect of another covered corporation in
30 relation to the covered services that are designated digital platform
31 services.
- 32 (3) However, subsection (2) does not apply if:
33 (a) an arbitration under Division 7 started in relation to any of
34 the covered services in respect of the payment of
35 remuneration, for a period starting or ending in the covered
36 period, to the news business corporation (or a related body
37 corporate of the news business corporation); and
-

- 1 (b) before the agreement was made:
2 (i) the panel made a determination in accordance with
3 subsection 52ZX(1); or
4 (ii) a bargaining party gave information in order to comply
5 with a request made under subsection 52ZT(1).
- 6 (4) The provisions are as follows:
7 (a) Division 4 (general requirements);
8 (b) Division 6 (bargaining);
9 (c) Division 7 (arbitration about remuneration issue).

10 **52ZZM Offers relating to general requirements, bargaining and**
11 **arbitration not prohibited**

- 12 (1) To avoid doubt, nothing in this Part prevents a responsible digital
13 platform corporation for a designated digital platform corporation
14 (or a related body corporate of such a responsible digital platform
15 corporation) from making an offer, to corporations covered by
16 subsection (2) in general, to make an agreement of a kind described
17 in paragraphs 52ZZL(1)(a) to (f).
- 18 (2) This subsection covers a corporation that, either by itself or
19 together with other corporations, operates or controls a news
20 business.
- 21 (3) To avoid doubt:
22 (a) the offer may provide that it is not subject to further
23 negotiations; and
24 (b) this section does not prevent the making of other kinds of
25 offer.

1 **Division 10—Powers and functions of the ACMA in**
2 **relation to this Part**

3 **52ZZN Powers of the ACMA to obtain information etc.**

4 *Application of Broadcasting Services Act 1992*

- 5 (1) Subject to this Division, Parts 13 and 14B of the *Broadcasting*
6 *Services Act 1992*, and any other provisions of that Act to the
7 extent that they relate to either of those Parts, apply as if:
8 (a) a reference in Part 13 of the *Broadcasting Services Act 1992*
9 to the ACMA’s broadcasting, content and datacasting
10 functions included a reference to the powers and functions of
11 the ACMA under Part IVBA of this Act; and
12 (b) the references in paragraphs 168(2)(b) and 187(2)(b) of that
13 Act to the “due administration of this Act” included a
14 reference to the due administration of Part IVBA of this Act.

15 Note: Part 13 of the *Broadcasting Services Act 1992* deals with
16 information-gathering by the ACMA, and Part 14B of that Act deals
17 with civil penalties.

18 *Offences and civil penalty provisions*

- 19 (2) For the purposes of applying the *Broadcasting Services Act 1992* in
20 relation to this Part in accordance with subsection (1):
21 (a) omit the penalty in section 201 of that Act and instead treat
22 that section as if it were a civil penalty provision for the
23 purposes of that Act; and
24 (b) disregard subsections 202(1) and (2) of that Act; and
25 (c) disregard subsections 205F(4) and (5) of that Act; and
26 (d) treat the maximum penalty for a contravention of a civil
27 penalty provision of Part 13 or 14B of that Act (including a
28 contravention of a provision that is treated as a civil penalty
29 provision because of this section) as being 600 penalty units.

1 **52ZZO No Ministerial directions to the ACMA in relation to this**
2 **Part**

3 (1) Section 14 of the *Australian Communications and Media Authority*
4 *Act 2005* does not apply in relation to the performance of the
5 ACMA's functions, or the exercise of the ACMA's powers, under:

6 (a) this Part; or

7 (b) Part 13 of the *Broadcasting Services Act 1992*, as it applies in
8 relation to this Part because 52ZZN of this Act.

9 (2) Subsection (3) applies for the purposes of applying Part 13 (the
10 *applied Part*) of the *Broadcasting Services Act 1992* in relation to
11 this Part in accordance with section 52ZZN of this Act.

12 (3) Disregard any provision in the applied Part to extent that the
13 provision allows the Minister (within the meaning of the provision)
14 to give a direction to the ACMA that relates to the performance of
15 the ACMA's functions, or the exercise of the ACMA's powers,
16 under this Part.

17 **Division 11—Miscellaneous**

18 **52ZZP Exceptions to Part IV**

19 For the purposes of subsection 51(1), an arrangement between 2 or
20 more registered news business corporations is specified and
21 specifically authorised if it is an arrangement for the purposes of
22 negotiating, under or in relation to this Part, with a responsible
23 digital platform corporation in relation to covered news content.

24 **52ZZQ Concurrent operation of State and Territory laws**

25 It is the Parliament's intention that a law of a State or Territory
26 should be able to operate concurrently with this Part unless the law
27 is directly inconsistent with this Part.

28 **52ZZR Giving information and producing documents by electronic**
29 **means**

30 Paragraphs 9(1)(d) and (2)(d) and 11(1)(e) and (2)(e) of the
31 *Electronic Transactions Act 1999* do not apply to a requirement, or

1 permission, under this Part to give information in writing or
2 produce a document.

3 Note: Those paragraphs of the *Electronic Transactions Act 1999* deal with
4 the consent of the recipient of information or documents to the
5 information being given, or the documents being produced, by way of
6 electronic communication.

7 **5ZZS Review of operation of this Part**

- 8 (1) Within the period of 12 months after the commencement of this
9 Part, the Minister must cause a review of the operation of the Part
10 to be commenced.
- 11 (2) The review must be completed no later than 12 months after the
12 commencement of the review.
- 13 (3) A written report of the review must be given to the Minister and
14 the Communications Minister (within the meaning of the *National*
15 *Broadband Network Companies Act 2011*).
- 16 (4) The Minister must ensure that copies of the report are available for
17 public inspection as soon as practicable after the period of 28 days
18 beginning on the day the report is given to the Minister.

1 **Part 2—Other amendments**

2 ***Competition and Consumer Act 2010***

3 **2 After paragraph 2B(1)(a)**

4 Insert:
5 (aaa) Part IVBA;

6 **3 After paragraph 5(1)(a)**

7 Insert:
8 (aa) Part IVBA;

9 **4 Paragraph 5(1)(f)**

10 After “(a),”, insert “(aa),”.

11 **5 Paragraph 29(1A)(a)**

12 After “IV,”, insert “IVBA,”.

13 **6 Subsection 75B(1)**

14 Omit “or IVB”, substitute “, IVB or IVBA”.

15 **7 After subparagraph 76(1)(a)(i)**

16 Insert:
17 (iaa) a provision of Part IVBA specified in subsection (4A);

18 **8 Paragraph 76(1A)(b)**

19 After “or that relates to”, insert “section 52ZC, 52ZH, 52ZS or
20 52ZZE,”.

21 **9 After paragraph 76(1A)(b)**

22 Insert:
23 (baa) for each act or omission to which this section applies that
24 relates to a provision of Division 4 of Part IVBA—6000
25 penalty units;

1 (bab) for each act or omission to which this section applies that
2 relates to section 52J or 52ZI or subsection 52ZT(5),
3 52ZV(3) or 52ZZF(1)—600 penalty units;

4 **10 After subsection 76(4)**

5 Insert:

6 *Specified provisions of Part IVBA*

7 (4A) For the purposes of subparagraph 76(1)(a)(iaa), the following
8 provisions of Part IVBA are specified:

- 9 (a) section 52J;
10 (b) section 52ZI;
11 (c) a provision of Division 4 of Part IVBA;
12 (d) section 52ZC;
13 (e) section 52ZH;
14 (f) section 52ZS;
15 (g) subsection 52ZT(5);
16 (h) subsection 52ZV(3);
17 (i) section 52ZZE;
18 (j) subsection 52ZZF(1).

19 **11 After subparagraph 80(1)(a)(ii)**

20 Insert:

21 (iaa) a provision of Part IVBA;

22 **12 Paragraph 82(1)(a)**

23 Omit “or IVB”, substitute “, IVB or IVBA”.

24 **13 Subparagraph 83(1)(b)(i)**

25 Omit “or IVB”, substitute “, IVB or IVBA”.

26 **14 Paragraphs 84(1)(b) and (3)(b)**

27 After “Part IVB”, insert “or IVBA”.

1 **15 Subsection 86C(4) (paragraph (a) of the definition of**
2 ***contravening conduct*)**

3 Omit “or IVB”, substitute “, IVB or IVBA”.

4 **16 Subsection 87(1)**

5 Omit “or Division 2 of Part IVB”, substitute “, Division 2 of Part IVB,
6 or Part IVBA”.

7 **17 Paragraphs 87(1A)(a) and (b)**

8 After “Division 2 of Part IVB,”, insert “Part IVBA,”.

9 **18 Subsection 87(1C)**

10 After “Division 2 of Part IVB,”, insert “Part IVBA,”.

11 **19 After subparagraph 155(2)(b)(ia)**

12 Insert:

13 (ib) a designated digital platform matter (as defined by
14 subsection (9AB) of this section); or

15 **20 After subsection 155(9AA)**

16 Insert:

17 (9AB) A reference in this section to a *designated digital platform matter*
18 is a reference to the performance of a function, or the exercise of a
19 power, conferred on the Commission by or under:

20 (a) Part IVBA; or

21 (b) regulations made under this Act for the purposes of that Part.

22 **21 Subsection 155AAA(21) (paragraph (a) of the definition of**
23 ***core statutory provision*)**

24 After “Part IV,”, insert “IVBA,”.
25
26

(177/20)
