



ACCC Mandatory news media bargaining code
Concepts paper
May 2020

ABOUT THE NRL

At its heart, Rugby League is a community-based sport played by hundreds of thousands of participants across Australia. In addition to game participants, there are tens of thousands of people who give their time volunteering to ensure boys and girls, and people of all abilities, can play the sport they love each weekend.

The NRL Telstra Premiership is the most competitive elite sporting competition in the country and the Holden State of Origin series between New South Wales and Queensland is Australian sport's greatest rivalry.

The National Rugby League runs the world's premier Rugby League competition comprising of 16 teams (15 from Australia and one from New Zealand). The NRL Telstra Premiership attracts over three million people to its matches each year with more than 100 million viewers on television.

The NRL's Community programs have enormous reach, impacting hundreds of thousands of people every year, spanning communities across Australia, New Zealand, Papua New Guinea, Fiji, Samoa and Tonga. Our Community programs align to three key pillars: Health, Learn and Respect.

We work widely across Indigenous and multicultural communities with our programs providing social impacts beyond the traditional sporting benefits. Our programs target mental health and wellbeing; encourage respect; address domestic violence; and work to promote social inclusion.

NRL.com Background

In 2018 NRL launched a sophisticated digital publishing operation, delivering rugby league-related news and enhanced reporting on games at all levels; the foundation for a tailored digital experience for consumers of rugby league content. Featuring news on the NRL Telstra Premiership, commentary on women's increasing involvement in the game as players and officials, coverage of second tier rugby league competitions in NSW and QLD, in-depth player features, match highlights, video reports, podcasts and statistics – the game is now covered from every angle like never before complementing the sports pages of mainstream publications. Editorial and social media strategies are aligned to produce and drive the comprehensive rugby league coverage from community rugby league right through to the work NRL does partnering with government to affect change in pacific nations such as Papua New Guinea, Samoa and Fiji.

NATIONAL RUGBY LEAGUE LIMITED

Rugby League Central, Driver Avenue
Moore Park NSW 2021

Locked Bag 5000
Paddington NSW 2012

T +61 2 9359 8500
F +61 2 9359 8555

NRL.COM
ABN 23 082 088 962



The scale of the NRL.com audience is significant and compares favourably with other news media services providing journalistic coverage of sport. Nielsen's recent report across major publishers in Australia between May 1 and 17 May 2020, (during sport lock-down), demonstrates significant engagement levels with sports news and journalism with NRL.com rating strongly in reach as follows:

News Service	Unique Audience
NRL Network	1, 600, 000
Fox Sports	1, 500, 000
Wide World of Sports	975,000
SMH Sport	497,000

Current NRL.com staff includes employees who have either worked as journalists or in production in media companies, with journalists employed under the Journalists Published Media Award 2010 ([link](#)).

Previously, staff members have worked in roles at the Sydney Morning Herald, Daily Telegraph, Sunday Telegraph, Sun-Herald, Courier Mail, The Australian, AAP, Ten Network, Channel Nine, Channel Seven, Foxsports and Sky Sports (England) holding senior editorial positions such as Sports Editor SMH, Chief of Staff in the sports department of the Daily Telegraph and Editor of Rugby League Week.

The NRL.com journalists and media professionals observe editorial standards in their work that align with the Media Entertainment and Arts Alliance (**MEAA**) Code of Ethics and the Australian Press Council's (**APC**) Statement of Principles.

NRL.com journalism has been recognised in recent years in several leading media awards:

- Chief Reporter Michael Chammas awarded the Sports Australia Media award for the best coverage of sport on a digital platform (2018);
- Columnist Mary Konstantopoulos was awarded the Sports Australia media award for best coverage of sport by an individual – digital (2019)
- Chief photographer, Grant Trouville became the first photographer in the history of the Walkley Awards to win the prize of Photograph of the Year with a sports photo – the image of Paul Gallen and Andrew Ettingshausen (2016)

NRL.com content is regularly referenced by other media organisations and recognised publishers such as AAP, Foxsports and the New Zealand Herald (the latter has entered into a licensing arrangement to publish NRL.com content in its print editions).

NATIONAL RUGBY LEAGUE LIMITED

Rugby League Central, Driver Avenue
Moore Park NSW 2021

Locked Bag 5000
Paddington NSW 2012

T +61 2 9359 8500
F +61 2 9359 8555

NRL.COM
ABN 23 082 088 962



Sport forms a large and consistent part of the daily-news cycle in the Australian Media landscape, with National Rugby League consistently reported on in publications and mastheads throughout the country. It is commonly front page or back page news across the daily papers throughout NSW, QLD & Victoria. While mainstream publications focus mostly on the men's and women's State of Origin and NRL Premiership reporting, NRL.com is able to take advantage of its position as a publisher of a single subject matter to create content highlighting the many aspects of the game mainstream press are unable to serve. That means, we can tell stories that will otherwise go unheard.

In the three days leading up to the season launch on May 28, 2020, media monitoring service Stream identified 20,172 items about the NRL in print, broadcast and online media.

Sydney's leading newspapers The Daily Telegraph and the Sydney Morning Herald have more journalists covering rugby league than any other industry, including state and federal politics and all other sports. The Daily Telegraph has 9 dedicated rugby league writers and the Sydney Morning Herald has 7 dedicated rugby league writers.

NRL Responses to ACCC Mandatory New Media Bargaining Code:

Google and Facebook benefit from a significant imbalance in bargaining power in their commercial negotiations. Google and Facebook's ranking and display algorithms are designed to provide consumers with content that is most relevant to them. These algorithms are the intellectual property of the companies that own them.

Digital platforms are increasingly presenting content as being their own when in fact they are the property of content owners. In the case of the NRL, this may include (but is not limited to) presenting draws, game scores and highlights packages – game scores as live and updated by the website.

The lack of algorithm transparency means these companies are profiting from the use of NRL intellectual property, without appropriate remuneration or even acknowledgment which results in attrition of commercial returns available for NRL and closes off opportunities for monetisation of our own content.

Further, when news is consumed in this way, the consumer relationship forms between the third-party distributor of content (the digital platform), rather than the content creator (the producer of the content such as NRL.com). On a digital platform, this means the content creator such as NRL misses opportunities to engage directly with their consumers and therefore the chance to develop a digital relationship with the consumer is lost. The third-party content server becomes the beneficiary of the consumer relationship which has been lost to the content creator and leverages additional value from that relationship by using content that it has not paid to create.

NATIONAL RUGBY LEAGUE LIMITED

Rugby League Central, Driver Avenue
Moore Park NSW 2021

Locked Bag 5000
Paddington NSW 2012

T +61 2 9359 8500
F +61 2 9359 8555

NRL.COM
ABN 23 082 088 962



NRL has a view on most of the questions raised in the Concepts Paper. However, because those views will be similar to other, traditional publishers, NRL has focused its efforts on questions relating to the definition of news and which organizations will be subject to the bargaining framework (as NRL understands that it is not an organisation that the ACCC would typically regard as being a news organization for the purposes of the bargaining framework but, for the reasons outlined in our response, NRL strongly considers it should be classified as such).

NRL position on categorisation of 'news' content

NRL is of the view that any determination or categorisation of 'news' should be realized by applying accepted professional journalistic principles and/or a definition-based approach.

NRL proposes content determination as part of a multi-faceted approach -
'news' is a piece of work created within the construct of editorial standards by accredited journalistic and media professionals that seeks to inform and entertain.

Australia has a wide-ranging audience with a variety of information needs across a varied demographic base which makes the process of defining 'news' a complex and inexact science. In academic literature, McNair (2005, p.28) identified three core functions of news media:

1. A supplier of information required for individuals and groups to monitor their social environments;
2. A resource for, support to and often participant in public life and political debate; and
3. A medium of education, enlightenment and entertainment.

NRL largely agrees with the definition of 'public interest journalism' presented in the DPI Final Report as being

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

Sport is an intrinsic component in the DNA of Australia. It is the view of NRL that journalism which records, investigates and explains Rugby League in the context of the broader Australian landscape is of public significance and engages people at all levels of society.

Where any definition is constructed to capture the meaning of news, it must ensure threshold levels of skill and professionalism in the craft of journalism are at its foundation. By extension, any definition of news must require it be produced by professional journalists and media professionals, ensuring editorial standards of a quality comparable

NATIONAL RUGBY LEAGUE LIMITED

Rugby League Central, Driver Avenue
Moore Park NSW 2021

Locked Bag 5000
Paddington NSW 2012

T +61 2 9359 8500
F +61 2 9359 8555

NRL.COM
ABN 23 082 088 962



with industry wide accepted standards. This may be narrowed to mean journalists and media professionals who are members of relevant standards setting bodies such as the Australian Press Council (APC) or the Media, Entertainment and Arts Alliance (MEAA) however additional measures should be considered for the purposes of demonstrating professional journalism within an organisation as follows:

- Journalists employed under the Journalists Published Media Award 2010
- Adherence to the APC Statement of Principles within the editorial framework
- Adherence to the MEAA Code of Ethics for journalism
- Syndication of editorial content to other reputable news publishers
- Absence of commercial consideration in the creation of content for publication
- Original, fair and objective content based in fact.

Critically, any definition of 'news' should be agnostic of medium – at NRL.com qualified journalists and media professionals convey news to digital audiences via print / written editorial, photo, image, video, podcast and even, sketch cartoon.

NRL position on Platform inclusions

NRL accepts the current list of Digital Platforms proposed within the Concepts Paper, however given the constant evolution of the technology and the news media sector, recommends an additional set of criteria is included to support the continued relevance of the proposed list into the future, and to avoid continual review and allow for new inclusions where required.

Suggested additional criteria could include;

- Any future product or initiative undertaken by either Google or Facebook which allows an audience to search for or consume information
- Any new product, service or company that meets the criteria used by the ACCC in its Digital Platform Inquiry, to describe Digital Platforms, being;
 - ***'Search engines:*** Software systems designed to search for information on the World Wide Web, generally returning curated, ranked set links to content websites. Search engines operate in an automated fashion using sophisticated algorithms to collect information (commonly known as 'crawling') and to provide search results. Examples include Google Search, Bing, Yahoo!
 - ***'Social Media platforms:*** online services that allow users to participate in social networking, communicate with other users, and share and consume content generated by other users (including professional publishers). Social media platforms generally display content for consumption as linear 'feeds', curated by algorithms or displayed chronologically. Examples include Facebook, Instagram and Snapchat.

NATIONAL RUGBY LEAGUE LIMITED

Rugby League Central, Driver Avenue
Moore Park NSW 2021

Locked Bag 5000
Paddington NSW 2012

T +61 2 9359 8500
F +61 2 9359 8555

NRL.COM
ABN 23 082 088 962



Platforms may also offer additional functions including instant messaging services.'

- **'Digital content aggregation platforms:** online intermediaries that collect information from disparate sources and present them to consumers as a collated, curated product. Those specialising in journalism – 'news aggregators' – are the most relevant example for the purposes of this Inquiry. Users may be able to customise, filter or search their aggregation results. Examples include Google News, Apple News, and Flipboard.'
- Any new product or initiative that is undertaken by any other tech company of a similar scale to Facebook or Google, but not covered in the above point (i.e. Amazon), but that meets thresholds in their existing market dominance (i.e. Product distribution, market share, or scale of customer base) that would lower their barriers to entry of the News Media sector.

Apple News is an example of a service that should be added immediately

- Apple have been able to leverage existing product penetration in Australia (35% share of Mobile Phones – YouGov, May 2020), to grow its Apple News service as a content aggregator of other News services.
- This was noted within the ACCC's 'Digital Platforms Inquiry', and its key findings within the section 'Digital platforms and media - commercial relationships and monetisation'. Specifically, it was noted; 'Some media businesses have had difficulties monetising content on Apple News and in combining their business models with the use of Apple's App store'.
- Further exacerbated by the launch of the additional revenue generating service Apple News Plus, a subscription service launched in the Australian market in October 2019, which builds on the base of users already established via Apple News.
- The new Apple subscription news service is already raising comparisons to Facebook's & Google's treatment of News Services in other markets (see here; <https://techcrunch.com/2019/03/26/no-need-to-subscribe/>).
- The crux of the issue is that publishers and content owners are faced with little choice – while they may be attracted to partner with Apple News+ to capitalise on the appeal of being featured to a new, wide audience (delivered via Apple), in the process of doing so they lose their direct relationship with consumers and their ability to control other revenue generating opportunities, while only receiving a portion of the new subscription fee paid by Apple to the original content owners

NATIONAL RUGBY LEAGUE LIMITED

Rugby League Central, Driver Avenue
Moore Park NSW 2021

Locked Bag 5000
Paddington NSW 2012

T +61 2 9359 8500
F +61 2 9359 8555

NRL.COM
ABN 23 082 088 962



Additional considerations

Fair ROI in our coverage and content will help grow Rugby League for future generations of fans to play and to watch

- The NRL is a not-for-profit Sporting organisation that invests in content to generate quality, objective, and compelling coverage of our sport helping to grow interest in the game. The commercial return from our news and content contributes to our ongoing investment in growing our fan footprint and grass-roots and community programs, which in-turn encourages more Australians to participate in Sport.

Why doesn't the NRL simply negotiate directly with Google & Facebook?

- Given the negotiation challenges faced by businesses of the scale of News Corp and Nine/Fairfax, it is less likely that a much smaller media organisation of our scale will be able to negotiate a fair-deal with entities controlling this market. Additionally, our focus as a not-for-profit sporting code is broad and does not lend itself to a sophisticated ability to negotiate commercial terms with partners such as Google / Facebook. Our mandate as a National Sporting Organisation is to focus our resources and returns to the development and sustainability of the sport – among all demographics and sectors of Australian society. Having said this, it is important to note that NRL does currently monetise some of its video content via YouTube (Google) and Facebook (via an advertising revenue share model).

NATIONAL RUGBY LEAGUE LIMITED

Rugby League Central, Driver Avenue
Moore Park NSW 2021

Locked Bag 5000
Paddington NSW 2012

T +61 2 9359 8500
F +61 2 9359 8555

NRL.COM
ABN 23 082 088 962