

**CONFIDENTIAL**

**August 28, 2020**

**DRAFT NEWS MEDIA AND DIGITAL PLATFORMS BARGAINING CODE**

**Submission from Solstice Media and Motion Publishing (Publisher of The New Daily)**

Thank you for the work the ACCC has undertaken on establishing this pioneering Draft Mandatory Code. We believe the Draft has addressed many complex issues required to create a bargaining environment between the platforms and Australian news publishers.

We would like to raise three points for consideration.

1. A short, voluntary window, prior to legislation, for the publishers and platforms to negotiate a direct deal. (Some media organisations already had significant deals in place with the platforms which have now been paused).
2. We believe that a dispute resolution mechanism should be included with the delegation to ACMA to determine which publishers are eligible under the legislation. As there could be grey eligibility areas, we believe a vehicle is needed, based on grounds, to challenge or review a decision.
3. Whilst supporting the Draft we are concerned that the governing legislation requires Google and Facebook to pay unquantified, uncapped amounts to news publishers, based on no formula, or guidelines to calculate those amounts.

In the interests of achieving an outcome that supports large, medium and small news publishers, we request the government and ACCC address this potential impasse by creating payment modelling guidelines based on editorial costs.

This model would relate directly to the purpose of the code – funding editorial content which subsequently is published on the platforms. Therefore, editorial costs are a relevant modelling measurement tool. This could be as simple as a model based on a percentage of a publisher's editorial costs, ensuring small-medium news publishers are not disadvantaged in relation to large publishers.

Such a model would give the platforms an ability to quantify the amount in advance and know that the funds were supporting the very product they use for their business.

Thank you again for bringing the important objective to action.

Yours sincerely,

Paul Hamra  
Managing Director