



Submission on *News Bargaining Incentive* – draft legislation

May 2026

Executive Summary

Meta welcomes the opportunity to provide this submission on the package of draft bills that were released as part of the *News Bargaining Incentive – draft legislation (NBI)*.

By way of background, Meta has a significant presence in Australia and is deeply invested in the Australian digital economy. Each month, tens of millions of Australians regularly use Facebook and Instagram and our services support millions of Australian small businesses in reaching customers, building communities, and growing their operations — a contribution documented in [recent research](#) by Deloitte Access Economics, which found that AI-enabled digital platform tools create significant growth opportunities for small and medium enterprises across the Asia-Pacific region, including Australia. Beyond our core social media platforms, Meta continues to invest in emerging technologies in this market: Meta Quest virtual reality headsets have been available in Australia since 2020, with the Meta Quest 3 launching in October 2023; and Ray-Ban Meta smart glasses became available to Australian consumers from 2025. Meta AI, our generative artificial intelligence assistant, reached one billion monthly active users globally in Q1 2025, with most Australian users accessing it through our family of apps including Facebook and Instagram.

Meta respectfully submits that the NBI, in its current form, represents a significant departure from sound policy design and established international norms. Our concerns are substantial and are set out in detail in this submission. To provide a brief overview, our concerns are that the NBI operates as a tax on innovation rather than a targeted response to any identified market failure. The charge is broader than a digital service tax (DST) and raises serious concerns under established international tax and trade principles. The NBI taxes gross revenue rather than profit, adopts an exceptionally broad revenue base that is wider than existing discriminatory DSTs and lacks direct nexus to news publishing, and applies in a discriminatory manner to approximately three foreign firms. These features give rise to potential violations of Australia's obligations under the Australia-United States Free Trade Agreement.

Moreover, the NBI framework effectively doubles down on the News Media Bargaining Code (“the Code”), a framework that has already demonstrated its own limitations. The very fact that a platform can remove news content from its services, as Facebook and Instagram did following the passage of Canada’s Online News Act, without material impact on user engagement, is itself evidence that news has negligible commercial value to our platforms and illustrates the flawed premise of the Code and now the proposed NBI, which presume that social media platforms benefit from news content that is posted on their platforms. News content represents a very small part of what people see in their Facebook feed, while video content — including Reels, which generates 140 billion daily views across Meta's platforms — represents over 60

per cent of time spent on both Facebook and Instagram. Yet under the proposed framework, a designated platform would face concurrent Code arbitration obligations and NBI charges, leading to considerable uncertainty.

The underlying policy rationale — that designated platforms function as essential “gateways” as part of some hypothetical “news referral market” — is based on a market inquiry conducted by the ACCC in 2019 that was flawed then, and is now obsolete. The news distribution and discovery landscape has transformed fundamentally. TikTok now has 1.59 billion users globally. YouTube Shorts generates 200 billion daily views. ChatGPT has 800 million weekly active users. Generative artificial intelligence and AI-powered search have created entirely new pathways for consumers to access news. It is notable that the NBI's own exclusion of large language model-based services from the definition of “search” implicitly acknowledges this competitive shift, while the underlying policy rationale refuses to account for it.

Finally, the premise that platforms extract value from publishers without commensurate return is contradicted by available evidence. A [2023 study](#) by NERA Economic Consulting found that publishers derive “considerable economic benefits” from their presence on platforms, which explains why they voluntarily share their content on Facebook and Instagram. Publishers retain 100 per cent of the advertising revenue generated from referral traffic that platforms deliver to their websites. A statutory subsidy model risks insulating incumbent publishers from the competitive pressure to innovate at precisely the moment when such adaptation is most critical to the long-term sustainability of quality journalism.

Meta remains committed to constructive engagement on these issues but strongly encourages the Australian Government to rethink its flawed approach to promoting a diverse and sustainable news ecosystem.

Detailed comments

Below we detail our significant concerns with the proposed NBI framework. Specifically, it operates as an anti-innovation tax that penalises investment in emerging technologies; it is inconsistent with established Australian tax principles and international trade commitments; it constitutes a digital services tax; and finally, it is out of step with fundamental technology shifts, including the emergence of generative AI and changing user behaviours – all of which have materially altered the landscape in ways that undermine the core assumptions of both the News Media Bargaining Code and the proposed NBI.

NBI is an Anti-Innovation Tax

The NBI is a tax on the innovation and investment that digital platforms such as Meta bring to Australia that is not grounded in the economic reality of how news is shared

by publishers on social media services. The sharing of news content on social media services benefits publishers. The NBI reinforces and doubles down on the Code, taxing all revenues of a platform on an expansive concept of “consolidated revenue attributable to Australia”, with no cap on the amount to be paid into government accounts, all the while making Australian news publishers reliant on a government payment scheme for funding. This does not incentivize Australian news publishers to innovate for the changing technological and ignores commercial reality of how consumers engage with news and information in the modern era.

Firstly, the underlying premise – that digital platforms must pay publishers for the content that the publishers themselves choose to share on Meta’s services inverts the economics of news content on social media services. The fact remains that news content is shared on social media services such as Facebook and Instagram because publishers derive value from doing so. This was confirmed by an [analysis by NERA](#) that found that publishers reap “considerable economic benefits” from their use of Facebook. The study concluded: *“The evidence presented here indicates publishers reap considerable economic benefits from their use of Facebook, including by exposing their content links to Facebook users and driving traffic to their websites. This results in more subscribers and higher advertising revenues for publishers.”* The market-based economic relationships between publishers and Meta “reasonably reflect the value of the bargain to each party” and there is “no basis for government interventions designed to tip the scales in favor of publishers.” The experience in Canada is instructive – after Meta ended the availability of news on Facebook following the passage of Canada’s *Online News Act*, a [Reuters report](#) found that Facebook usage was unchanged.

In 2024, the [Joint Select Committee on Social Media and Australian Society](#) characterised the News Media Bargaining Code as “broken” on the basis that a digital platform could avoid its obligations by removing news content from its services. However, this finding — rather than identifying a design flaw requiring correction — provides compelling evidence that the fundamental premise of the Code is unsound. If a platform can remove news content without discernible adverse impact to either user engagement or revenue, this demonstrates that news has negligible value on social media services and is highly substitutable with other content. The very characteristic that renders the Code “broken” simultaneously undermines the economic rationale for imposing any payment obligation on platforms in respect of such content.

Rather than reconsidering this framework in light of the evidence, the NBI doubles down on the flawed approach of the Code. The draft legislation explicitly provides that arbitrated payments under the Code may be claimed toward the offset, indicating that the Australian Government intends both mechanisms to operate concurrently. Under this framework, a digital platform could face designation under the Code — triggering mandatory mediation and arbitration with potentially hundreds of individual

publishers — while simultaneously being subject to the NBI charge. This exposes a digital platform effectively to concurrent financial liability under the Code and the NBI on content that has demonstrably negligible value to platform services and for which, as the NERA economic analysis establishes, the economic benefit already flows overwhelmingly to publishers through referral traffic. This outcome is difficult to justify on any principled regulatory basis.

The second reason the News Bargaining Incentive operates as a tax on innovation is that the charge is levied on all “consolidated revenue attributable to Australia”. This scope extends well beyond revenue associated with social media services on which news content can be distributed by news publishers -- it captures the growing revenues from hardware and wearables innovations that Meta is bringing to market, products that have no connection whatsoever to news content. Meta Quest virtual reality headsets have been available in Australia since October 2020, with the Meta Quest 3 launching in Australia in October 2023. Ray-Ban Meta smart glasses became available in Australia from 2025. For as little policy justification as there is to require social media platforms like Facebook to fund news publishers, there is even less of a rational policy nexus between the sale of virtual reality hardware or wearable technology and the funding of news publishers. The NBI's revenue base therefore represents a significant structural overreach, effectively taxing investment in new product categories to cross-subsidise an unrelated sector regardless of whether the underlying platform in question carries news content at all.

In this way, the NBI operates to penalise specific companies for bringing new products and technologies to Australia, whilst giving competitor services a free pass. For example, any revenue generated by Meta with respect to AI service offerings will be captured, but companies such as OpenAI can offer comparable services, without having to pay the NBI tax. This market distortion by the Australian Government leads to less competition and worse outcomes for consumers.

Third, the expansive revenue base means the charge will generate revenue significantly exceeding the Government's publicly stated target of A\$200 million to A\$250 million per year. Moreover, as Australians continue to adopt and derive genuine value from innovative technology, the charge will escalate automatically alongside commercial success. The practical effect is to impose a levy on growth and investment in the Australian market — penalising innovation rather than addressing any identified market failure.

Finally, it is difficult to see how a competitive and sustainable Australian news ecosystem can thrive when publishers become dependent on a statutory payment mechanism. The technology sector is evolving rapidly — artificial intelligence, wearables, and new distribution platforms are fundamentally reshaping how consumers access and discover news. A subsidy model risks insulating publishers from

the competitive pressure to innovate, entrenching dependency at the very moment when adaptation is most critical. This would ultimately disserve Australian news consumers, who benefit most from a sector that is incentivised to compete and evolve.

NBI is Broader than a Digital Services Tax and Contrary to Established Tax Principles and Trade Agreements

The NBI requires that money is paid by digital platforms to Australian publishers, regardless of whether there is any value exchange or benefit to platforms. The key challenges with a tax policy in the shape of the NBI is that it is premised on a false “value exchange” between digital platform and publishers. However, the fact that under the proposed NBI a perceived transfer of value from platform to publisher (either via deals or in payment of the charge tax) continues regardless of whether news is available, undermines the credibility of the “value exchange” position.

Notably, the NBI charge is applied on gross revenues rather than profits. It is also specifically not deductible for tax purposes in Australia, and does not fall within the scope of double taxation agreements. Therefore, it is in fact a unilateral tax measure which is discriminatory based on both business model and nationality, and is inconsistent with current internationally agreed tax principles/standards. The NBI is also retroactive in application, would result in double taxation, and ultimately, does not lead to long term stability in international trade and taxation.

Critically, for the few foreign companies that fall in scope of the regime, they will have to pay a 2.25% charge on their “consolidated revenues attributable to Australia”, a term that appears to be intentionally defined broadly to capture the widest possible revenue base for which the 2.25% charge applies. Not only does the revenue base lack direct nexus to news publishing, it also expands significantly beyond the scope of existing Digital Service Taxes (DSTs) enacted by some governments which resulted in the United States initiating actions under Section 301 of its Trade Act.

Furthermore, there is little doubt that the NBI would accord less favorable treatment to U.S. companies than it would accord to Australian and third-country suppliers of the covered services. As such, the measure appears to violate National Treatment, Most Favored Nation, and other obligations of the Australia-United States Free Trade Agreement.

The compliance burden associated with this novel charge base warrants serious consideration. “Consolidated Revenue Attributed to Australia” is not a concept that aligns with existing corporate tax reporting frameworks. In-scope companies would be required to estimate, calculate, and maintain an entirely new revenue base. This would necessitate significant additional engineering and operational resources, representing an ongoing administrative burden that firms falling just below the designated

thresholds would not face. By imposing these costs arbitrarily on a narrow subset of foreign firms in a highly dynamic and competitive market, the proposed regime preferences certain digital platforms over others — a distortion that undermines both competitive neutrality and the stated policy rationale.

Technology shifts eviscerate underlying logic of the Code & NBI

The policy foundation underpinning the NBI remains the ACCC's Digital Platforms Inquiry Final Report, published in July 2019. That report's central premise — that Google and Meta operate as unavoidable “gateways” to news for Australian consumers — was flawed at the time of publication and is demonstrably outdated today. The competitive landscape for digital attention, news distribution, and information discovery has transformed so fundamentally in the intervening seven years that continuing to rely on this evidentiary base represents a significant failure in reasoned policy making.

The rise of generative AI represents an even more profound structural shift in the competitive landscape. Google AI Overviews, Perplexity's answer engine, and ChatGPT's integrated search functionality have fundamentally altered the relationship between search queries and source content — making the concept of platforms as “gateways to news” even more analytically tenuous than it was in 2019.

It is notable that the NBI draft legislation itself implicitly acknowledges this competitive shift. The Bill explicitly excludes services that “solely or primarily use large language models” from the definition of ‘search service.’ This carve-out recognises that AI-powered information services represent a distinct and competing category — yet the policy rationale for the NBI continues to rest on assumptions about market structure that predate these services entirely. In so doing, the draft legislation creates an uneven playing field in a dynamic and rapidly evolving and competitive space, distorting incentives to innovate, and ultimately leading to less competition and worse outcomes for consumers.

Conclusion

The NBI fails to account for the changing digital and competitive landscape, the reality of how Meta’s services work – specifically that most people now come to our platforms for creator-driven video content – and that news publishers voluntarily choose to post content on our platforms – for free – because they perceive value in doing so. It is not the role of digital platforms to pay to rescue public-interest journalism. The Government should instead pursue other policy solutions to identify alternate means to support their goal, such as public grant funding or tax breaks for publishers.