



May 18, 2026

Mr. Jason McDonald  
First Assistant Secretary  
Competition Policy Unit  
The Treasury  
Langton Crescent  
PARKES ACT 2600  
Australia

*Delivered electronically to: nbiconsultation@treasury.gov.au*

**Re: News Media Bargaining (Administration) Bill 2026 Exposure Draft**

Dear Mr. McDonald:

The National Foreign Trade Council (the "NFTC") appreciates the opportunity to submit comments to the consultation on the exposure draft of the *News Bargaining (Administration) Bill 2026* ("the draft bill") for Australia.

As further explained below, despite amendments since NFTC provided comments last fall, the draft bill still contains many troubling elements of the initial proposal and raises fundamental concerns with the structure of the measure. Furthermore, it lacks consistency with Australian law and Australia's international trade commitments.

Placing the onus for the commercial viability of Australian journalism on a handful of foreign companies due to evolving media consumption patterns is a flawed premise. Given the United States' longstanding opposition to DSTs and current focus on eliminating digital trade barriers, action to advance this draft bill risks becoming a significant and avoidable irritant in the bilateral trade relationship at a time when cooperation on digital trade and technology policy should be deepening. The NFTC urges the Australian Government to abandon this approach and pursue alternate pathways to address local news media and journalistic funding shortfalls that do not target American digital service providers.

**About NFTC**

The [National Foreign Trade Council \(NFTC\)](https://www.nftc.org) is the premier business association advancing trade, tax, national security, and supply chain policies that support access to the global marketplace. Founded in 1914, NFTC promotes an open, rules-based global economy on behalf of a diverse membership of U.S.-based businesses, who account for over \$6 trillion in revenue and employ nearly six million people in the United States.

## I. General Comments

The draft bill imposes a 2.25 percent tax on the Australian revenue of the parent entities of certain “significant” social media and news platforms unless they enter into and maintain agreements to directly subsidize Australian news businesses. Only certain social media platforms with five million or more Australian users or search services with 10 million or more Australian users whose parent entities have more than A\$250M (approximately US\$165M) in Australian revenue calculated using the third-most-recent year are subject to the tax. The tax will be charged for financial years ending on or after June 30, 2026, on an effectively retroactive basis. Direct contributions to subsidize Australian news organizations offset the amount of tax owed.

**The News Bargaining Charge is Broader than a Digital Services Tax:** The charge imposed by the draft bill operates as a discriminatory digital services tax (DST) that is designed to primarily target US companies. For companies that hit the service and revenue thresholds, payment of 2.25 percent of the group’s Australian revenue is mandatory. Effectively operating as a DST, the tax applies to all of a group’s Australian revenue, including “transactions relating to active Australian users.” This may include revenue generated from overseas advertisers seeking to display ads to Australian users, long an element of DST proposals.

In fact, Australia has designed an exceptionally broad revenue base to determine the amount of punitive tax payable by the companies, by requiring them to apply the 2.25 percent charge on “consolidated revenue attributable to Australia”. Such a proposed mechanism is clearly intended to be extensive in covering revenues from all sources, including those that have no connection to news publishing like cloud services and hardware sales. This broad scope not only lacks a nexus to the government’s stated objectives, it also expands significantly beyond the scope of DSTs enacted by some governments that discriminate against US companies and resulted in the US initiating action under Section 301 of the Trade Act of 1974. This clearly demonstrates the highly unprincipled and coercive nature of the tax. Further, the scope means the tax obligation will fall predominantly on large U.S. companies; notably, no Australian companies meet the criteria.

Under the draft bill, expenditures eligible for the offset must be “directly or indirectly” for:

- (i) the production of covered news content; or
- (ii) the making available of covered news content on a significant social media or search service provided, or to be provided, by a member of the service group.

Where companies are willing to engage in commercial agreements that promote Australian news, those arrangements must be commercially driven and based on mutual benefit.

**The Draft Bill Creates a Negative Incentive for Platforms to Grow and Innovate:** The proposed bill creates a disincentive for future digital platform investment and growth in Australia. Platforms that innovate and scale their services would be rewarded with a 2.25 percent tax on their Australian revenue. This creates a disincentive to invest, expand, or launch new products in Australia, particularly for social media and search platforms that do not host news content and would nevertheless be saddled with a levy without deriving any corresponding commercial benefit.

## **The Draft Bill is Inconsistent with Australia’s Domestic Law and Trade Obligations:**

Australian law requires regulatory burdens to bear a rational relationship to the conduct being regulated. Applying a tax based on the size of a digital platform, irrespective of whether a platform makes a market-driven decision to carry news content breaks that nexus, rendering the measure arbitrary. The tax, therefore, penalizes companies that lawfully make a commercial decision not to participate in news distribution.

The proposal also appears inconsistent with Australia’s international trade commitments, including obligations under the Australia–United States Free Trade Agreement. Legal analysis suggests the draft bill will result in potential inconsistencies with prohibitions against discrimination against U.S. services and service suppliers under its national treatment and most-favored-nation rules; discrimination against digital products; and performance requirements, including a requirement to “achieve a given level or percentage of domestic content.

## **II. Conclusion**

The proposal contains numerous flaws and ignores the existence of extensive, good-faith commercial arrangements already in place between digital platforms and news organizations and the extensive distribution benefits social media and search platforms provide to Australian news, consumers and the wider economy. Australia’s insistence in moving ahead with this proposal is deeply troubling.

Finally, the draft bill is only one element in a broader trend of a deteriorating tax environment in Australia. By targeting foreign companies to sustain domestic Australian industries and penalizing scale, growth, and innovation, the tax sends a negative signal to global investors considering Australia as a destination for digital infrastructure and technology investment. At a time when Australia faces productivity challenges and seeks to attract capital to support digital transformation, this policy introduces unnecessary risk and sets a troubling global precedent.

Australia should abandon this proposal and pursue alternative approaches that address the structural challenges facing journalism without imposing punitive taxes on a narrow set of companies or distorting commercial markets. A principled, transparent, and trade-consistent policy framework will be more successful in supporting both a vibrant news ecosystem and a competitive digital economy.

Sincerely,

A handwritten signature in black ink that reads "Tiffany Smith". The signature is written in a cursive, flowing style.

Tiffany Smith  
Vice President, Global Trade Policy