

News media bargaining code

Eligibility guidelines

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Introduction

The code

The [News Media and Digital Platforms Mandatory Bargaining Code](#)¹ (the code) is a mandatory code to help support the sustainability of the Australian news media sector by addressing bargaining power imbalances between digital platforms and Australian news businesses.

The code establishes 4 key sets of requirements to guide dealings between news media businesses and designated digital platform corporations. These are:

- bargaining rules, which require designated digital platform corporations and registered news business corporations to bargain in good faith
- compulsory arbitration and mediation rules, which apply where bargaining parties are unable to negotiate an agreement about remuneration for news content
- general requirements, which govern how platforms deal with the news content on their services
- non-differentiation requirements, which prevent a digital platform service from differentiating between registered news businesses or between registered (and those eligible to be registered) and unregistered news businesses in relation to crawling, indexing, distributing or making available covered news content because of matters that arise in relation to their participation or non-participation in the code.

Access the final [code and accompanying explanatory memoranda](#). More information on the code can be found on the [ACCC website](#).

Who is eligible to apply?

Applications are open to corporations that operate or control a news business. To be registered under the code, applicants have to meet a series of eligibility tests.

The ACMA's role

To participate in the code, a news business corporation must apply to the ACMA for registration. The ACMA assesses the applicant's eligibility against the criteria set out in Division 3 of the code and registers entities that meet the eligibility tests.

The ACMA maintains a register of eligible news businesses on its [website](#).

¹ Refer to Part IVBA of the [Competition and Consumer Act 2010](#).

Purpose of these guidelines

The guidelines provide guidance for corporations intending to apply to the ACMA to be registered under the code. They provide information about:

- the application process, including what information the ACMA requires to conduct its assessment
- the assessment process and how the ACMA administers the eligibility tests
- making changes after registration
- obligations on registered news business corporations relevant to the registration process.

Definitions for key terms are provided in the code. Code definitions for terms of particular relevance to these guidelines are included in the Glossary in this document.

If these guidelines are inconsistent with the provisions of the code or any other applicable Act or legislative instrument, the relevant Act or instrument will prevail.

These guidelines are advisory only and do not constitute or replace legal advice on obligations under the relevant legislation.

Enquiries

For enquiries about the application or registration process, please contact the ACMA on bargainingcode@acma.gov.au or 1300 850 115.

Completing the application

Unless otherwise directed by the ACMA, applicants must use the ACMA's [online application portal](#).

The application form must be completed and submitted by an authorised representative of the applicant corporation.

As a security measure, the authorised representative will need to use [myID](#) to access the application portal. myID allows individuals to access government online services on behalf of a business.

To use myID, the authorised representative must first link their personal myID with an Australian Business Number (ABN) through the Australian Government's [Relationship Authorisation Manager](#) (RAM).

The authorised representative will then need to register their myID with the ACMA. Please visit the [ACMA webpage](#) for more information.

Documentation requirements

Applicants must provide relevant documentation to support their application. This includes documentation to demonstrate that they meet each of the eligibility tests.

The amount and type of documentation needed to demonstrate eligibility against each of the tests may vary between news sources. For example, an international news source may require more extensive documentation to establish its eligibility under the Australian audiences test than an Australian news source.

Additional documentation can be loaded into the form using the 'upload documents' box. Docx, .pdf, and .xlsx formats are accepted.

Information on documentation required to demonstrate eligibility against each of the eligibility tests is provided in this section. Information about how the ACMA will assess applications against the eligibility tests is provided in the [Application assessment](#) section below.

Filling in the application form

Information about how to fill in the application form can be found in the 'Important information' page at the start of the form.

The form contains the following mandatory sections:

- news business information
- news business eligibility
- news sources
- connection requirement
- declaration.

News business information

Applicants will be asked to provide information on:

- the applicant corporation
- the authorised representative for the applicant corporation
- the name of their news business
- the designated point of contact for the news business.

If multiple news businesses are nominated, a separate application must be submitted for each news business.

Applicant corporation

Applications are open to corporations that operate or control a news business.

The meaning of corporation is as defined in section 4 of the [Competition and Consumer Act 2010](#).

The ABN will be prepopulated in the application form using the authorised representative's myID details. The name of the applicant corporation will need to be entered.

Authorised representative for ACMA registration

Applications must be completed and submitted by an authorised representative of the applicant corporation. This person is responsible for ensuring the accuracy of all details provided to the ACMA and will act as the primary point of contact for the application process.

The applicant name and email address will be pre-populated using the authorised representative's myID details. A position title and contact number will need to be provided for the authorised representative.

The ACMA will correspond only with the authorised representative. If contact details change, the applicant must notify the ACMA via the online application portal.

News business name

Applicants must provide a name for the news business they are seeking to register. Under the code, a news business comprises one or more news sources grouped together for the purposes of registration and bargaining. The news business name will be used to identify the news business and will be published on the register of eligible news businesses on the ACMA website. It does not have to be the same as the corporation name or the trading name of the news business.

Nominated point of contact for bargaining

News business corporations must nominate a point of contact to facilitate open communication with other relevant parties no later than the day on which they are registered.

This point of contact does not need to be the same as the authorised representative who submits the application. The nominated point of contact and their contact details will be listed on the register of eligible news businesses on the ACMA website. The nominated point of contact can be changed by submitting a request via email to bargainingcode@acma.gov.au.

News sources information

Applicants must nominate all the news sources they want to register for the purposes of the code.

Applicants are not required to nominate all of the news sources they control or operate. They may nominate a selection of the news sources they control or operate, in any combination they choose.

However, all bargaining, mediation and arbitration facilitated by the code will apply only to the covered news content of registered news sources and will not apply to other content produced or published by the registered news business corporation. The code's general requirements, including minimum standards, will also only apply to the covered news content of those news sources.

Applicants must create a new page in the application for each news source.

For each news source, applicants will be asked to provide information on:

- the name and type of the news source
- the professional standards test
- the editorial independence test
- the content test
- the Australian audiences test.

Name and type of news source

In the application, applicants must provide the name of each news source they are seeking to register. The news source name will be used in conjunction with the nominated URL to identify the news source. News source names may be the same or different from the news business name, and two news sources may share a name if they are otherwise distinguishable (for example, where they are different news source types).

Applicants must also specify the type of news source. The type of news source can be selected from a drop-down menu and is taken from the definition of news source in the code. The type of news source selected may inform the ACMA's assessment of the news source and should be carefully considered for accuracy.

A news source as defined in the code means any of the following, if it produces and publishes news content online:

- a) a newspaper masthead
- b) a magazine
- c) a television program or channel
- d) a radio program or channel
- e) a website or part of a website
- f) a program of audio or video content designed to be distributed over the internet.

For some applicants, there may be a variety of ways that they are able to define their nominated news sources, as illustrated by example 1.

Example 1

Country Town News operates a weekly newspaper that primarily publishes core news. It also operates a website that publishes articles from its newspaper as well as some online-only news content. Country Town News could choose to nominate its newspaper and its website as separate sources in the news business, it could nominate only its newspaper, or it could nominate only its website.

In considering which sources to nominate, applicants should consider each news source and their news content against the eligibility tests. Example 2 provides a case study.

Example 2

Commercial Broadcast Network (CBN) is a major Australian commercial free-to-air television network. CBN airs a wide variety of programs, including several dedicated news and current affairs programs. CBN also broadcasts a series of lighter 'infotainment' programs, such as its daily mid-morning show. This mid-morning show largely provides on segments on cooking, fashion, lifestyle, fashion and beauty.

CBN offers a live stream of its television broadcast online. It also runs a popular CBN news website consisting of both original news articles and video clips from across its news programs and its morning show. It shares links to these articles and clips on several social media platforms.

CBN applies to register a news business under the code and lists its CBN news website and its designated news and current affairs TV programs as its news sources. CBN decides not to include its daily mid-morning TV show, as it cannot demonstrate that its primary purpose is creating core news content.

A news source can only be registered to one news business and one news business corporation. Please see the *Changes to registration* section about nominating a news source that is already registered to another news business corporation. Information about registered news sources can be found on the [register of eligible news businesses](#) on the ACMA website.

Each news source nominated as part of a news business is individually subject to the content test, Australian audience test, editorial independence and professional standards test, outlined below.

There is no requirement in the code that a news source publish its online content on an independent website. News sources that are only published on the website of a third party (such as a digital platform) *can* be considered eligible for registration, provided they meet all other eligibility requirements.

News business eligibility

Revenue test

Applicants must provide information on their revenue to demonstrate that they meet the revenue test.

To be eligible to be registered as a news business corporation under the code, the annual revenue of the applicant corporation (or related body corporate) as set out in the corporation's (or the related body corporate's) annual accounts, must have exceeded A\$150,000 in the most recent year for which there are such accounts, or in 3 of the 5 most recent years for which there are such accounts. This revenue does not need to have been generated by the news business.

To demonstrate they meet this requirement, applicants are required to provide annual accounts prepared in accordance with generally accepted accounting principles.

The format of these records depends on the applicant's obligations under the *Corporations Act 2001*.

Applicants that *are required* to prepare audited financial statements for ASIC under the *Corporations Act 2001* must provide:

- a copy of these statements from the relevant financial year.

Applicants that *are not required* to prepare audited financial statements for ASIC under the *Corporations Act 2001* must provide both of the following:

- annual accounts prepared in accordance with generally accepted accounting principles (such as an annual report, profit–loss statements, or business activity statements), AND
- a statutory declaration from a chief financial officer, a registered certified practising accountant, chartered accountant, or registered public accountant indicating that the applicant's reported revenue is true and accurate and prepared in accordance with generally accepted accounting principles. Corporations using a registered certified practising accountant, a chartered accountant or a registered public accountant for their return should provide evidence of registration.

Where a news business has been acquired during a year relevant to this test, and the revenue from this business is necessary for the applicant to pass the A\$150,000 revenue test, the applicant must provide accounts of the acquired business in addition to their own. These accounts must be audited or certified as appropriate.

Professional standards test

Applicants need to demonstrate that each news source they nominate has professional editorial standards, including a mechanism for complaints. They must also demonstrate that each news source has editorial independence from the subjects of its news coverage.

Applicants must indicate if they are subject to any of the professional standards in the drop-down menu. These standards are:

- the [Australian Press Council Standards of Practice](#)
- the [Independent Media Council Code of Conduct](#)
- the [Commercial Television Industry Code of Practice](#)
- the [Commercial Radio Code of Practice](#)

- the [Subscription Broadcast Television Codes of Practice](#)
- the [SBS Code of Practice](#)
- the [ABC Code of Practice](#)
- internal standards (including other industry codes of practice) that are considered analogous to any of the professional standards listed above.

ACMA-regulated industry codes of practice, including the Community Radio Broadcasting Codes of Practice and Community Television Codes of Practice, are considered analogous to the professional standards listed above.

If a news source is subject to a professional standard that is not listed in the drop-down menu, choose 'internal standards' in the form to provide further details.

Applicants who choose internal standards must provide a link to their published internal editorial standards and a link to where users can make a complaint about a breach of editorial standards.

Editorial independence

As part of the professional standards test, applicants must declare if a news source is owned or controlled by an entity that is a political party, union, or a political lobby or advocacy group, or controlled by a party that has a commercial interest in the coverage being produced.

Where a news source is partly owned or controlled by such an entity, applicants should answer 'yes' to this question.

If the answer to this question is yes, applicants must provide evidence with their application that the relevant news source has editorial independence from the subjects of its news coverage. This evidence may, where relevant, include reference to the professional standards to which the news source is subject.

The applicant may also provide any other evidence the applicant considers important to demonstrate their editorial independence from the subjects of its news coverage. This may include, for example, a corporate structure chart showing the relationships between various ownership or controlling interests.

Content test

Applicants need to demonstrate that the primary purpose of each nominated news source is to create core news content.

Applicants must provide a link (URL) to where the news source primarily publishes or distributes its core news content online. Applicants can, if they wish, provide additional links to where the news source publishes or distributes its core news content online. These could include websites, social media pages, and news aggregation platforms.

Applicants may also supply any other information they consider relevant to establishing eligibility under the content test. These materials may vary by the type of news source. Examples of additional documentation could include broadcasting or publication schedules, or an explanation of an alternative means of accessing online content where a link may not be appropriate. Additional evidence is likely to be necessary only in cases where eligibility may be difficult to establish from links to online content alone.

When assessing applications, the ACMA will consider the content available at the news source provided, along with any accompanying information. Applicants should therefore consider the accuracy of the URL provided in relation to the news source. In some instances, a more specific news URL (e.g. www.example.com.au/news) may be appropriate.

The ACMA's assessment only relates to core news content. The code allows registered news businesses to bargain on covered news content that includes core news content.

Covered news content is intended to capture content including sports news, such as interviews with coaches and players, entertainment industry news, coverage of reality television and certain talk-back radio discussions. However, covered news content is not intended to include:

- broadcasts of sports games or publication of sports results or scores
- entertainment content such as drama or reality TV programming. Examples 3 and 4 provide guidance on the differences between core and covered news content.

Example 3

Tom's News Network (TNN) is a news business that produces several news websites. The websites focus on national and regional political news reporting (considered core news content in the code), but also feature some sports reporting and entertainment news.

TNN nominates all its news websites as news sources in its application. Each source is considered to have the primary purpose of producing core news content, as the majority of reporting is on political news at the national and regional level.

Example 4

Michael's Serious Soccer Source is a news business that produces a popular soccer website. The website streams soccer matches for a fee, provides score updates, sells merchandise and publishes news articles on popular players and teams. While the website does provide some news, the primary purpose of the website is not to provide core news content. The news articles on players are also unlikely to meet the core news definition.

Australian audiences test

Applicants need to demonstrate that each news source operates predominantly in Australia for the dominant purpose of serving Australian audiences.

The links to online content provided for the content test will also be used to assess the application against the Australian audience test.

Applicants may wish to provide additional documentation to support their application. Additional evidence is likely to be necessary only in cases where eligibility may be difficult to establish from links to online content alone, and may vary by news source. For example, an international news source may require more extensive documentation to establish its eligibility than an Australian news source.

Additional evidence could include:

- where the editorial operations are located, including overseas operations where applicable

- the employment of individuals in Australia, including journalists in the creation of news content
- the use of Australian domain names, provision of independently-verified Australian audience numbers, or the use of geo-blocking
- any other evidence that the business considers will demonstrate that it operates predominantly in Australia for the dominant purpose of serving Australian audiences.

Connection requirement

An applicant corporation must demonstrate that it operates or controls the nominated news business, either by itself or together with other corporations. For the purposes of the code, the connection requirement is intended to ensure that the applicant corporation is the appropriate entity to engage in bargaining on behalf of the nominated news business.

Applicants must provide a statutory declaration from the company secretary or equivalent certifying that the applicant corporation operates or controls each of the news sources making up the proposed news business. The statutory declaration must, at a minimum, provide the name of the news business operated or controlled by the applicant corporation and the name of each news source. Where a news source is jointly operated or controlled, the statutory declaration must specify each of the corporations that operate or control the source. Applicants must also ensure that the role of the person making the declaration is clearly indicated.

Applicants may upload other evidence they consider useful to demonstrate they own or control each of the news sources. Where a news source is jointly operated or controlled, this could include evidence of any agreement between the parties about which corporation will include the news source in its application, or a chart showing the organisation's corporate structure.

Declaration

Applicants should carefully review these guidelines and check their application form before submitting their application. Applicants should ensure that all relevant sections have been completed and that the information provided is true and correct.

Applicants must declare that the information in the application and accompanying documentation or otherwise provided to the ACMA is true and correct.

Giving false or misleading information may exclude an application from further consideration. It may also result in the revocation of a news business corporation's registration under the code (See the *Revocation of registration* section for details).

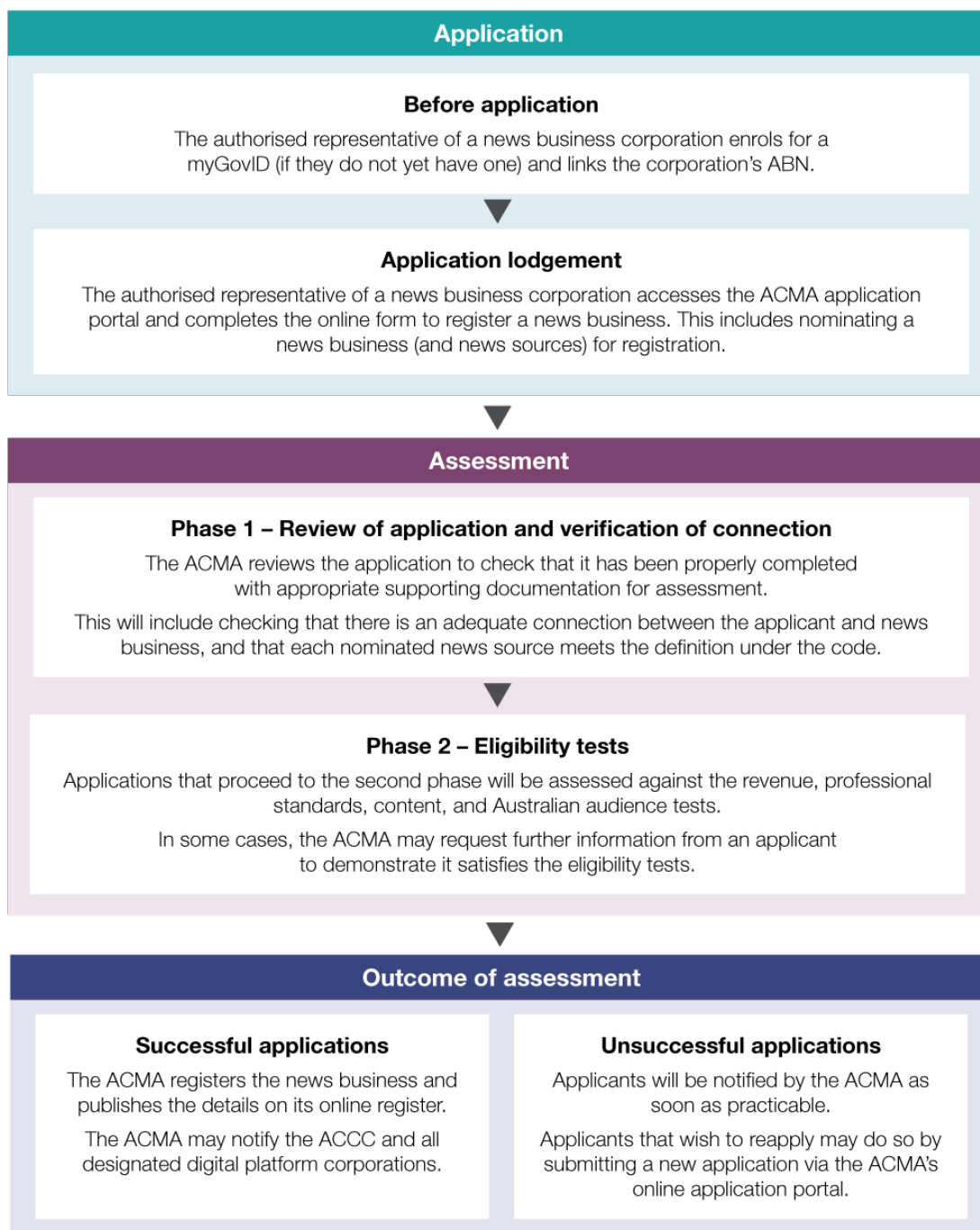
Applicants should keep a copy of their application and documents submitted in support. A copy of the application form will also be emailed to the authorised representative on completion.

Application assessment

When it receives an application, the ACMA will assess the applicant's eligibility to participate in the code.

The ACMA's assessment is made against the eligibility tests set out in Division 3 of the [code](#). Figure 1 gives an overview of the process.

Figure 1: Assessment process



Assessment phase 1 – Review of application and verification of connection

In the first phase of the eligibility assessment, the ACMA will assess whether the documentation provided by the applicant contains sufficient information to enable the application to be assessed. It will also assess:

- whether there is an adequate connection between the applicant and the news business they are seeking to register under the code
- whether each nominated news source is a news source as defined in the code.

Requirement for connection between the news business and applicant corporation

An applicant corporation must demonstrate that it operates or controls the nominated news business, either by itself or together with other corporations. For the purposes of the code, the connection requirement is intended to ensure that the applicant corporation is the appropriate entity to engage in bargaining on behalf of the nominated news business.²

In assessing this requirement, the ACMA will consider whether the applicant operates or controls, singly or jointly, each news source nominated as part of the news business.

The ACMA can only register a news source as part of one news business. Where joint ownership arrangements exist, the ACMA may seek additional assurance that there is an agreement to register a news source. Without this evidence, the ACMA may reject an application.

News source as defined in the code

The ACMA will review each news source to confirm it meets the definition in the code. In phase 1, the ACMA will confirm that the news source:

- produces and publishes news content online
- is one of the types as defined by the code.

The ACMA will use the links provided under the content test section of the application form to confirm that each news source meets the code definition.

Assessment phase 2 – Eligibility tests

Applications that proceed to the second phase of the eligibility assessment will be assessed against the revenue, professional standards, content and Australian audience tests.

The ACMA will make its assessment on the basis of the information provided by the applicant in their application, and any other relevant material. The ACMA may request further information from applicants or other parties at its discretion.

If the ACMA considers that a news source may be eligible, but the applicant has supplied insufficient evidence to establish its eligibility, the ACMA may request further information from the applicant.

² It is not intended to invoke the concept of control under the *Broadcasting Services Act 1992*.
Australian Communications and Media Authority

Revenue test

An applicant corporation must demonstrate that it generated annual revenue above A\$150,000 as set out in the corporation's annual accounts, either for the most recent year for which there are such accounts, or for at least 3 of the 5 most recent years for which there are such accounts.

The revenue test applies to the revenue of the applicant corporation or of a related body corporate of the applicant corporation. A related body corporate is defined in the *Corporations Act 2001* as:

- a holding company of which the applicant corporation is a subsidiary
- a subsidiary of the applicant corporation
- a subsidiary of a holding company of which the applicant is also a subsidiary.

Revenue from any source can count towards the test. An applicant corporation does not need to show that the revenue was generated by, or relates to, the operations of its news sources.

If an applicant corporation, or a related body corporate, acquired another business during a year relevant to this test, and the annual revenue of that business can be ascertained from its accounts, the applicant can include the annual revenue from that business in its annual revenue for that year. The acquired business does not need to be a news business for its revenue to count towards the test.

Applicants who do not meet the revenue threshold for the previous year, and do not have at least 3 years of accounts in the last 5 years (including acquired businesses) that meet the revenue threshold, will not meet this requirement. In effect, this means that an applicant corporation that does not meet the revenue threshold for the previous year must have been operating for at least 4 years.

Professional standards test

An applicant satisfies the professional standards test if each of its nominated news sources is subject to professional editorial standards and has editorial independence from the subjects of its news coverage.

Element 1 – Editorial standards

The ACMA will review the evidence of external professional standards provided by the applicant. If there is doubt that news source is covered by a professional standard, the ACMA may contact the body responsible for administering the standards to confirm that a news source is covered.

The ACMA considers ACMA-regulated industry codes of practice, including the Community Radio Broadcasting Codes of Practice and Community Television Codes of Practice, to be analogous to the professional standards specified in the code.

A separate assessment will be undertaken if a news source is subject to internal editorial standards. The ACMA needs to be confident that these standards are analogous to the rules listed in the code. Each of the rules specified in the code are characterised by having core commitments to accuracy and impartiality, and mechanisms for enabling consumers of covered news content to make complaints about whether the content complies with the relevant standard.

To be considered analogous, internal editorial standards should include, at a minimum:

- a mechanism for accepting, adjudicating and notifying complainants of the outcome of complaints about news content
- standards relating to the accuracy and impartiality of news content.

Where necessary to demonstrate that they meet the test, the ACMA may also request evidence of how Australians are informed of the process for making a complaint and how complaints have been handled in the past.

Overseas applicants do not need to establish standalone internal editorial standards for the Australian market, provided their existing standards and mechanisms are applicable and accessible to Australian users.

Element 2 – Editorial independence

Applicants must demonstrate that each news source included in the nominated news business has editorial independence from the subjects of its news coverage. A news source will have editorial independence from the subjects of its news coverage if it is:

- not owned or controlled by a political or advocacy organisation (such as a political party, lobby group or a union)
- not owned or controlled by a party that has a commercial interest in the coverage being produced.

Applicants who do not meet the above criteria will need to provide evidence that the news source has editorial independence from its ownership or controlling interests.

The editorial independence requirement is not intended to exclude a news source that occasionally includes reporting about itself or a related business, or about an issue affecting itself or a related business.

An advocacy body that mainly publishes news about its own sector, or a publication that is owned or controlled by operators in the industry it covers, will not meet the professional standards test. This is not intended to exclude news sources that occasionally engage in advocacy relevant to their commercial interests.

In assessing this element, the ACMA will consider any public campaigns run by a news source and its relationship to the organisation or corporation that controls the news source. It will also consider the professional standards to which the news source is subject.

Information provided about corporate structure may be used in the ACMA's assessment of the professional standards test. The ACMA may also consider content published by each news source to assess whether any political or advocacy campaigns run by an applicant may have undue influence on the primary news content delivered by each news source.

Content test

Overview

Applicants must demonstrate that the primary purpose of each nominated news source is to create core news content.

The test applies to each news source individually rather than the news business as a whole.

Primary purpose

In applying this test, the ACMA will consider the following:

- the amount of core news content created by the news source
- the frequency with which the news source creates core news content
- the degree of prominence given to core news content created by the news source, compared with the degree of prominence given to other content created by the news source
- any other relevant matter.

Other relevant matters that the ACMA may consider include, but are not restricted to:

- the typical presentation of news content in comparable news sources
- how the news source is promoted
- the source's publication and distribution of news content online.

The relative level of core news content a news source publishes or presents may fluctuate over the course of a year, taking into account holiday periods and peak news periods such as election cycles. Variations of this nature will not cause a news business to fail the content test.

For example, a publication that publishes primarily core news but occasionally publishes entertainment content would satisfy the content test unless, over a reasonable period of time, its core news becomes secondary to its entertainment content.

Core news content

Core news content means content that reports, investigates or explains:

- issues or events that are relevant in engaging Australians in public debate and in informing democratic decision making; or
- current issues or events of public significance at a local, regional or national level.

Core news content can relate directly to matters of public policy and government decision-making at any level of government. However, it can also include other matters of public significance, such as reporting on law and order, health, education, science, industrial relations and business.

It also includes coverage of current issues or events where these are of public significance at a local, regional or national level. This includes reporting on community issues or events that are of particular importance or significance to the community. Matters that are principally private or of special interest are not considered to be core news.

Opinion or editorial content will qualify as core news only where it reports, investigates or explains issues that are relevant in engaging Australians in public debate and in informing democratic decision-making; or where it reports, investigates or explains current issues or events of public significance at a local, regional or national level.

There is no requirement that content be produced by a journalist. For example, news content produced by a team for broadcast television and radio could meet the definition of core news content.

A news source must create core news content. A news source can be considered to create content even if it obtains the content from external parties or shares content

between related news sources. This includes commissioned content, syndicated content and content developed by freelancers.

Australian audience test

Overview

Applicants must demonstrate that each of their nominated news sources operates predominantly in Australia for the dominant purpose of serving Australian audiences.

A news source that forms part of a foreign news business may satisfy the Australian audience test if it operates predominantly in Australia for the dominant purpose of serving Australian audiences. However, a news source that only occasionally produces Australian news content will not satisfy the test.

In assessing a news source against this test, the ACMA may consider a range of matters, including:

- where the editorial operations of the news source are located
- whether the news source employs individuals in Australia, including journalists, in the creation of news content
- whether the news source covers Australian news
- any other relevant matter.

Outcome of assessment and registration

Notification of assessment outcome

The ACMA will advise applicants in writing of the result of their application as soon as practicable after finalising the assessment of their application. Applicants should ensure contact details are correct. If contact details need to be updated after the application has been submitted, this can be done via the online application portal or by contacting the ACMA on bargainingcode@acma.gov.au.

Where the ACMA's assessment results in an adverse outcome for the applicant, the ACMA will give the applicant a preliminary decision and provide the opportunity to respond. The ACMA will consider any submissions provided by the applicant in making its final decision.

If a news source is found to be ineligible

A nominated news source that fails any of the eligibility tests will not be registered.

If the ACMA determines that an application includes both eligible and ineligible news sources, it will contact the applicant to confirm whether they would like to proceed with the registration of the news business without the ineligible news source(s), or whether they would prefer to resubmit or withdraw the application.

If the application is not successful

If the application is not successful, the ACMA will notify the applicant as soon as practicable.

Applicants may reapply by submitting a new application via the ACMA's online application portal. Unsuccessful applicants may contact the ACMA on bargainingcode@acma.gov.au to discuss why their application was unsuccessful.

Unsuccessful applicants may make changes to and resubmit their application; for example, by nominating a different set of news sources to make up their news business.

Registration

If the application is successful, the ACMA will register the news business, including all news sources that satisfy each of the eligibility tests, and will publish the following details on the online register of eligible news businesses:

- the registered news business corporation
- the registered news business the ACMA endorses as controlled by that news business corporation
- the news sources that comprise the registered news business
- an endorsement of the registered news business corporation as the registered news business corporation for the news business
- contact details of the point of contact for the registered news business corporation.

The ACMA may notify designated digital platform corporations and the ACCC when the register is updated.

Obligations on registered news business corporations

The obligations on registered businesses are that they must:

- provide a point of contact
- notify the ACMA of loss of qualification for registration.

Registered news businesses are subject to specific obligations under the code. Failure to comply with these obligations may result in sanctions, including removal from the register of eligible news businesses or a civil penalty.

The ACMA's information-gathering and enforcement powers set out in parts 13 and 14B of the *Broadcasting Services Act 1992* apply to the administration of its functions under the code, in accordance with Division 10 of [the code](#).

Point of contact

A news business corporation must nominate a point of contact for the news business in its application.

A registered news business corporation must acknowledge every communication to their registered point of contact that:

- is from a responsible digital platform corporation
- concerns covered news content made available by a designated digital platform service of that digital platform corporation.

The ACMA is required to publish the point of contact for the registered news business corporation on its website.

A registered news business corporation should update the ACMA on changes to the contact person or contact details as soon as practicable. To update the ACMA, the corporation must submit the online form via the online application portal or email the ACMA at bargainingcode@acma.gov.au.

Notification of loss of qualification for registration

A registered news business corporation must notify the ACMA in writing as soon as practicable in the following circumstances:

- if it no longer satisfies the revenue test
- if it no longer satisfies the connection requirement for a registered news business for which it is the endorsed news business corporation
- if a news business, or any one of its constituent news sources, for which it is the registered news business corporation, no longer satisfies the content, Australian audience or professional standards tests.

Note that the requirement to satisfy the content, Australian audience and professional standards tests applies to all news sources that comprise the news business.

Only those changes that result in a change to the primary or dominant purpose need to be reported to the ACMA. Short-term changes or fluctuations do not need to be reported.

For example, a news source that develops an international audience in addition to its domestic audience will continue to satisfy the Australian audience test unless its news content comes to focus on issues relevant predominantly to its international audience. If the news source moved most of its operations overseas, however, it would no longer satisfy the Australian audience test.

Similarly, a publication that contains primarily core news but occasionally publishes entertainment content would satisfy the content test unless, over a reasonable period of time, its core news becomes secondary to its entertainment content.

The ACMA advises that where there is doubt, registered news businesses should report a change to the ACMA.

Failure to notify the ACMA is subject to a maximum civil penalty of 600 penalty units, which is currently equal to \$133,200.

To notify the ACMA of the loss of qualification for registration, the registered news business corporation must submit the online form via the online application portal or email the ACMA at bargainingcode@acma.gov.au.

The ACMA will assess information provided by the corporation on the details that may impact its eligibility or the eligibility of its registered news businesses. The corporation will be advised of the ACMA's preliminary findings and be provided the opportunity to comment.

If the ACMA decides to revoke the registration of a news business or news business corporation or the endorsement of a news business corporation for a news business, it will advise the corporation and provide its reasoning.

The ACMA will update the register on its website and provide information regarding the revocation. It may also advise designated digital platform corporations and the ACCC of updates to the register.

Changes to registration

Registered news business corporations can, in certain circumstances, apply to the ACMA for a change to their registration.

Registered news business corporations should contact bargainingcode@acma.gov.au with queries about registration changes.

Adding news sources to a registered news business

Registered news business corporations can apply to the ACMA to add a news source to a registered news business for which it has been endorsed.

To register an additional news source as part of an existing news business, a registered news business corporation must apply to add a news source through the online application portal. The applicant must also list every news source that will comprise the news business following the addition of the news source.

The ACMA will assess the additional news source against the content test, professional standards test, and Australian audience test, as well as the connection requirement. If the ACMA is satisfied of the eligibility of the news source, it will add the news source to the registered news business and endorse the applicant corporation as the registered news business corporation for the news business in its new form with the added news source.

If the news source fails any of the eligibility requirements, it will not be added to the registered news business.

Adding a news source will not affect any existing agreements with digital platforms under the code. It will also not trigger a right to engage in bargaining for that news source until the next round of bargaining. However, the added news source will be subject to minimum standards under the code.

A registered news business corporation can also apply to the ACMA to register another news business. In this case, the standard application process and assessment process would apply.

Where the news source is already registered to a registered news business

If the news source is already registered to another news business, the applicant should indicate on the application form that they wish to transfer the news source. The news source will not be transferred unless and until the news business corporation that is endorsed as the registered corporation for that news business applies for the news source to be removed from its registered news business (See *Removing a news source*). This includes cases where the registered news business corporation is the same for both news businesses.

The ACMA may, at its discretion, take the news source to already have satisfied the content, Australian audience and professional standards tests. It may also request the applicant to provide evidence to demonstrate that the news source continues to satisfy the eligibility criteria.

Removing a news source from a registered news business

A registered news business corporation may apply through the online application portal to have a news source removed from a registered news business for which it is the endorsed news business corporation.

The application must specify the news source to be removed and list every news source that will make up the news business following the removal of that news source.

If the application is accepted, the ACMA will endorse the news business corporation as the registered new business corporation for the news business in its new form, without the removed news source.

The ACMA will update the register of eligible news businesses to reflect the change and may notify designated digital platform corporations and the ACCC of updates to the register.

Revocation of registration

The ACMA may, in certain circumstances, revoke the registration of a news business or the registration or endorsement of a news business corporation.

Revocation of registration of news business

The ACMA may revoke the registration of a news business in the following circumstances:

- if one or more of the news sources that form part of the registered news business form part of another registered news business
- if the news business does not meet the content test, the Australian audience test or the professional standards test
- if there is no registered news business corporation that is endorsed as the registered news business corporation for the news business.

Revocation of the registration of a news business on the basis of the content or Australian audience tests is intended to respond to ongoing changes to the content of a news source rather than short-term changes or fluctuations.

If the ACMA considers there are grounds to revoke the registration of a news business, the ACMA will advise the registered news business corporation for that news business of its intention to examine its continued eligibility. The ACMA may seek additional information from the corporation to assist its considerations.

The corporation will be advised of the ACMA's preliminary findings and be provided the opportunity to comment.

If the ACMA then decides to revoke the registration of a news business, it will advise the corporation and provide its reasoning.

The ACMA will update the register on its website and provide information regarding the revocation. It may also advise designated digital platform corporations and the ACCC of updates to the register.

Revocation of registration of news business corporation

The ACMA may revoke the registration of a news business corporation in the following circumstances:

- if the registered news business corporation does not meet the revenue test
- if the corporation is not endorsed as the registered news business corporation for at least one registered news business.

If the ACMA considers there are grounds that registration of a news business corporation should be revoked, the ACMA will advise the registered news business corporation of its intention to examine its continued eligibility. The ACMA may seek additional information from the corporation to assist its considerations.

The corporation will be advised of the ACMA preliminary findings and be provided the opportunity to comment.

If the ACMA then decides to revoke the registration of a news business corporation, it will advise the corporation and provide its reasoning.

The ACMA will update the register on its website and provide information regarding the revocation. It may also advise designated digital platform corporations and the ACCC of its decision.

Revocation of endorsement of corporation for news business

The ACMA may revoke the endorsement of a news business corporation for a given news business if it considers that the registered news business corporation no longer meets the connection requirement for the registered news business.

This may include cases where a registered news business is transferred to another registered news business corporation, or where the news business corporation is no longer solvent/operational. In these cases, the corporation seeking endorsement for the news business must apply for registration of the news business via the online application portal and provide evidence to satisfy the connection requirement. If ownership of the news business has changed, this would include evidence of purchase of the news business.

If the ACMA considers there are grounds that endorsement of a news business corporation should be revoked, the ACMA will advise the registered news business corporation of its intention to examine its endorsement. The ACMA may seek additional information from the corporation to assist its considerations.

The corporation will be advised of the ACMA's preliminary findings and provided the opportunity to comment.

If the ACMA then decides to revoke the endorsement, it will advise the corporation and provide its reasoning.

The ACMA will update the register on its website and provide information regarding the revocation. It may also advise designated digital platform corporations and the ACCC of its decision.

Revocation of registration for providing false or misleading information or documents

The ACMA may revoke the registration of a news business or a news business corporation, or the endorsement of a news business corporation for a news business, if it considers that the corporation, in making the application, gave the ACMA information or documents that were false or misleading. This includes the omission of relevant information or documentation.

If the ACMA considers there are grounds that registration or endorsement of a news business corporation or news business should be revoked, the ACMA will advise the registered news business corporation of its intention to examine its registration. The ACMA may seek additional information from the corporation to assist its considerations.

The corporation will be advised of the ACMA's preliminary findings and be provided the opportunity to comment.

If the ACMA decides to revoke the registration or endorsement of a news business corporation for a news business, it will advise the corporation and provide its reasoning.

The ACMA will update the register on its website and provide information regarding the revocation. It may also advise designated digital platform corporations and the ACCC of its decision.

Important information

Provision of information

Applicants must declare that the information in their application and accompanying documentation or otherwise provided to the ACMA is true and correct. Giving false or misleading information is a serious offence under sections 137.1 and 137.2 of the schedule to the [Criminal Code Act 1995](#). This includes information that is misleading due to omission. The penalty for that offence is imprisonment for 12 months.

Privacy

The [Privacy Act 1988](#) (Privacy Act) imposes obligations on the ACMA in relation to the collection, security, quality, access, use and disclosure of personal information. These obligations are detailed in the [Australian Privacy Principles](#), which are found in Schedule 1 to the Privacy Act.

Find out more about the [Privacy Act](#) and the [ACMA's privacy policy](#).

The ACMA will only use personal information for the purpose for which it has been provided. Any personal information collected in relation to the code will be used for the administration of the ACMA's functions under the code.

The ACMA will not use personal information for any other purpose, nor will the ACMA disclose it, unless permitted to do so under the Privacy Act.

Part 7A of the [Australian Communications and Media Authority Act 2005](#) empowers the ACMA to share authorised disclosure information (defined in section 3 of that Act) in certain circumstances (see section 59D).

The definition of authorised disclosure information encompasses personal information given in confidence to the ACMA in connection with the performance of any of its functions or the exercise of any of its powers. The ACMA may make a disclosure on request or of its own volition. The decision to disclose will be made in light of the facts.

For more information, see the ACMA's [Regulatory Guide No. 3 – Information sharing under Part 7A of the ACMA Act 2005](#).

Confidentiality

Confidential information will not be published or otherwise released unless required or authorised by law.

Review of ACMA decisions

ACMA decisions relating to an application or to the registration of a news business are not subject to internal or merits review.

Applicants may have recourse to other review mechanisms, such as those set out in the [Administrative Decisions \(Judicial Review\) Act 1977](#) or appeal rights available under the common law.

Feedback and complaints

Complaints may be made by contacting the ACMA's Customer Service Centre on 1300 850 115 or info@acma.gov.au, or by completing the ACMA's [online complaints and feedback form](#). The ACMA undertakes to keep all complainants informed of the progress of their complaints.

If the complainant does not agree with the way the ACMA has handled their complaint, they may complain to the [Commonwealth Ombudsman](#). The Ombudsman will not usually look into a complaint unless the matter has first been raised directly with the ACMA.

The Commonwealth Ombudsman can be contacted on:

Phone (toll free): 1300 362 072

Email: ombudsman@ombudsman.gov.au

Website: ombudsman.gov.au.

Glossary

Many of the terms in this glossary are defined in the code and further clarified in the Explanatory Memorandum. Nothing in this glossary supplants the definitions in the code.

Core news content

Core news content means content that reports, investigates or explains either:

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

Covered news content

Covered news content means content that is any of the following:

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

Designated digital platform corporation

A digital platform corporation designated by the Treasurer under section 52E of the code.

Designated digital platform service

A digital platform service provided by a digital platform corporation and designated by the Treasurer under section 52E of the code.

Endorsement

Endorsement is the link between a registered news business and a registered news business corporation on the register of eligible news businesses. Endorsement enables the transfer of news businesses between registered news business corporations without necessarily affecting the registration of the news business or news business corporations.

News business

A news business means either:

- a) a news source
- b) a combination of news sources.

News source

A news source is defined in the code as any of the following, if it produces and publishes news content online:

- a) a newspaper masthead
- b) a magazine
- c) a television program or channel
- d) a radio program or channel
- e) a website or part of a website
- f) a program of audio or video content designed to be distributed over the internet.

Registered news business

A registered news business is a news business that has been registered by the ACMA for the purposes of the code. Each registered news business is linked to a registered news business corporation via the ACMA's endorsement.

Registered news business corporation

A registered news business corporation is a corporation that has been registered by the ACMA for the purposes of the code.

Register of eligible news businesses

The register of eligible news businesses on the ACMA website that shows:

- the list of registered news business corporations
- the registered news businesses that have been endorsed by the ACMA for each registered news business corporation
- the point of contact for each registered news business corporation.