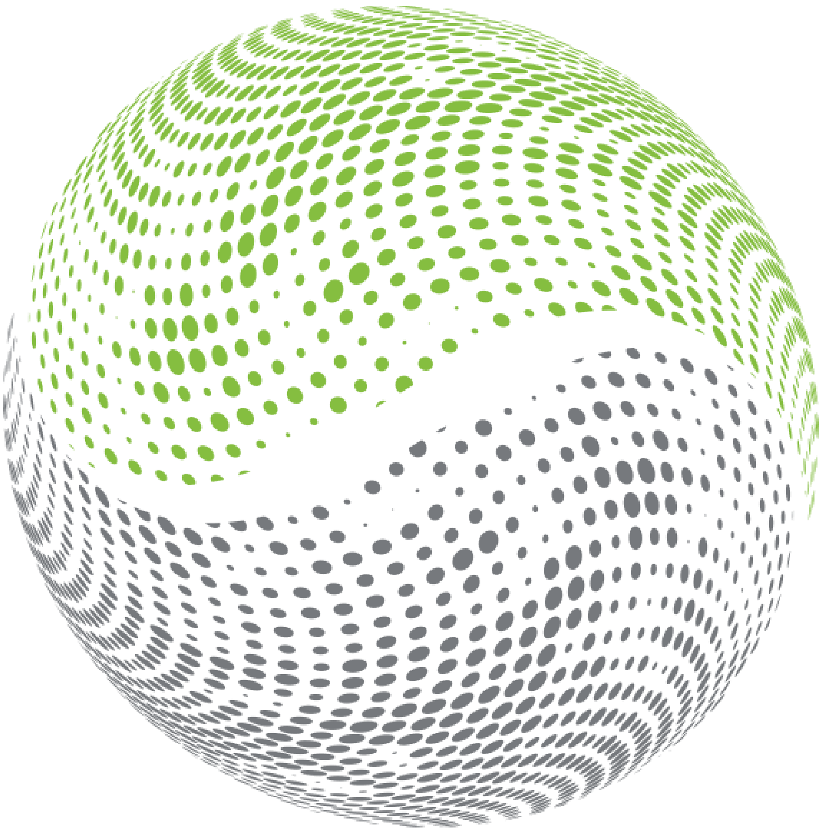

Tax Insights

News Bargaining Incentive proposed to ensure sustainability of news media

Snapshot

On 12 December 2024, the Australian government announced the introduction of a "News Bargaining Incentive" ("the incentive") to incentivize commercial deals between digital platforms and news businesses. Consultation on the incentive will begin in early 2025, with legislation to follow after the election, which is due in the first half of 2025.

The announcement states that "It is expected that few services will fall within scope of the incentive. [The Government] anticipate[s] Meta, Google and TikTok would fall within scope of the incentive." The intention of the measure is not to raise revenue but rather to encourage commercial deals under the News Media and Digital Platforms Mandatory Bargaining Code of 2021.

The proposal is to commence for income years starting on or after 1 January 2025. At this stage, very little detail is known. Deloitte Australia's understanding of the proposal is set out below.

Scope

The measure will apply to entities that broadly own or operate "digital platforms" that:

- Are large, meaning that the relevant entity, together with its related bodies corporate, has gross annual revenue of over AUD 250 million, exclusive of GST, "attributable to Australian markets";
- Operate a social media and/or search service. "It is expected definitions of these terms will be narrow and targeted to ensure the incentive does not inadvertently capture specific services [that] do not support the incentive's objective of incentivising commercial deals envisioned under the code. For example, it is not expected to capture dating services such as Bumble and direct messaging services such as Signal"; and
- Operate a social media and/or search service that is "significant," irrespective of whether the platform carries news content.

Charge and offset mechanism

In scope entities will be subject to a "charge" and a potential offset. The material released so far avoids describing the measure as a "tax." It would appear that whilst the charge and offset machinery will be administered by the Australian Taxation Office, the liability will be imposed under legislation separate to the income tax legislation.

The charge will be in addition to corporate income tax and will be nondeductible for corporate income tax purposes.

- The calculation of the charge will be based on total gross revenues "attributable to Australian markets." The government states that "The consultation process will ensure the rate is set at the appropriate level."
- Entities subject to the incentive will be able to reduce their liability, in part or in full, by claiming a nonrefundable offset for "eligible expenditure" supporting journalism, such as expenditure under commercial deals to remunerate news organizations, and other contributions to the news sector. Eligible expenditure will offset liability for the charge at a greater than one-for-one rate (that is, eligible expenditure of AUD 100 will reduce the liability for the charge by more than AUD 100).

Under Australian tax law, an "offset" is not an allowable deduction, but is an amount that can be credited or offset against a tax liability. It appears that these tax concepts will be imported into the incentive charge machinery. Deloitte Australia understands that all in scope entities will at first instance be liable for the charge, and then will be able to reduce the liability for the charge by incurring "eligible expenditure" supporting journalism.

The proposal details released so far are very limited. No formal consultation process has yet been announced, and potentially affected entities will need to monitor developments closely over 2025.

16 December 2024

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