

COVID-19 ACCELERATES AUSTRALIA'S DIGITAL PLATFORM JOURNALISM CODE

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Legal Briefings - By **Amalia Stone and Anna Jaffe**

The government moves to help ailing news providers wring concessions from global tech giants

In a surprising acceleration of the Government's original timeframe for action, digital platforms and traditional news media will be required to comply with a mandatory code of conduct to be developed by the ACCC in relation to the way in which media content is used and how that use is compensated. Bringing forward the release date of the draft code of conduct may foreshadow further Government action — including in response to COVID-19 — in respect of digital platforms as well as the media sector more broadly.

- The Government's prompt direction to the ACCC is just one example of how the current circumstances could impact both the manner and timing of regulatory action affecting digital platforms, as well as the media sector more broadly. Many stakeholders will be carefully monitoring the timing and implementation of the agenda laid out by the Government in its response to the Digital Platforms Inquiry as a result.
- Specifically, the Government has brought forward to July the November timeframe originally given to develop a code of conduct to apply as between digital platforms and traditional news media businesses for use of content on platforms. [Minister Frydenberg stated](#) that this acceleration has been driven by a sharp decline in advertising revenue achievable by the media sector due to COVID-19.
- In July 2019, the [ACCC expressed strong concern](#) that the standard of journalism, in particular in relation to national and regional news, was in decline. Traditional media made submissions to the ACCC's Digital Platform Inquiry to the effect that they were unable to negotiate terms of use with digital platforms in relation to the monetisation of content, access to data in relation to use of their content, and the way in which content

was made available to consumers, and that this had impacted on the revenue achievable by news media businesses.

- Consequently, [the ACCC recommended](#) that it work with digital platforms and traditional news media to develop a voluntary code of conduct in relation to use of content. The Government in its response had asked that this start immediately, with a progress report to be delivered by May 2020, and the code to be finalised by November 2020.
- The ACCC has flagged that having regard to the negotiations to date, no voluntary agreement is likely to be reached. Consequently, the Government has determined that the code will now be developed by the ACCC and will be mandatory. The ACCC is to deliver a draft code by the end of July, which is a sharp acceleration on the original timetable, with the Government citing an increased downturn in advertising revenue in conjunction with the impact as one reason for the acceleration. This also reflects a swift pivot from an initial Government response that favoured a co-regulatory approach to the issues identified by the Digital Platforms Inquiry, to the development of a mandatory code.
- Linked with the current relaxation on some Australian content rules, it may be that the news media consumed by Australians, and how Australians consume it this time next year looks very different to the Australian news media consumed in COVID isolation.

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