

Minderoo Webinar 1: **Publish or Perish or Be Revived through a Media Bargaining Code** [Link](#)

Webinar Summary

On December 12, 2022, the Hub joined with several of its partners for the first webinar of the Minderoo series. The webinar focused on how policymakers could encourage platforms to pay publishers for journalistic content. Our speakers were Danielle Coffey, News Media Alliance; Emma McDonald, Minderoo Foundation; Anya Schiffrin, Colombia University; and Jonathan McHale, Computer and Communications Industry Association.

With the arrival of tech platforms, the traditional news market was disrupted in several ways: (i) they took a significant portion of the advertising revenue and (ii) they provided access to news content - created and published by traditional media companies - to their audiences free of charge. Tech platforms became the conduit for many consumers of news, and media businesses did not have the clout or the market power to take them on.

After several years considering how to solve this problem, in 2021, Australia introduced the world's first legislation, the News Media Bargaining Code, to address bargaining power imbalances between tech platforms and news publishers to ensure news media businesses receive remuneration for the value their news content generates for the benefit of the digital platforms.

This webinar examined what participants could learn from the Australian experience and how the US might approach this problem with legislation. Webinar speakers were: Emma McDonald of Minderoo, who directs government relations at Minderoo; Danielle Coffey, Executive Director and General Counsel of the News Media Alliance; Jonathan McHale, Vice President Digital of the Computer and Communications Industry Association and Anya Schiffrin of the Columbia University School of International Affairs, where she directs the program in international communications.

Speakers examined how the media sector interacts with digital platforms and the impact of such platforms on media revenue, employment and the stakes for democracy. Emma traced the history of the code, noted it was originally a voluntary code, and that after it became apparent the negotiations between publishers and the digital platforms were stalling, the government made it a mandatory code. It was a success because it brought the parties to the negotiating table. Emma described how she coordinated the effort of small publishers in Australia. She also stressed that people think of it as a tax, but it is a competition policy issue. Danielle emphasized how unfair and unequal markets were for media companies once advertising and news moved online (as did Anya). She explained why Congress was considering several bills to support the news sector and she described platforms' concerns as senseless. The US legislation is called the [JCPA](#)— and Danielle and Anya noted they were doing what they could to get the legislation passed.

Jon explained that other nations such as the US, Canada, India, and New Zealand were considering similar strategies and that CCIA (and other organizations) see such approaches as forced bargaining and discriminatory. However, all speakers agreed that Congress is unlikely to vote on the legislation. He also noted that because nations have adopted different approaches (for example, Canada depends on findings of strategic advantage; the US on numerical thresholds) it would be difficult to administer. Finally he stressed that CCIA says we must have an open internet and a healthy journalistic sector, but said it was not clear or fair to force platforms to bargain as the problem of journalism and the platforms' success in advertising were not related.

The moderator asked what principles should govern intervention in the market to require bargaining, but the speakers could not find consensus. Danielle insisted that competition policy was the answer to the problems of journalism. The moderator asked if there was a way to design it so more participants see it as a win-win. Danielle noted that Australia and Europe tried to do just that and Google bullied the firms. She reiterated that governments have a responsibility to prod these companies to pay for the content they use. Jon conceded that governments can play a role here but argued that forcing two companies is inappropriate and not consistent with the rule of law. Emma noted that the focus on two companies is the beginning of the discussion—they are front of mind. She agreed governments should look more broadly at the platforms who should engage with news media. A member of the audience asked if there was a threat of trade retaliation. According to USTR's National Trade Estimate Report, USTR continues to monitor the issue and USTR may raise concerns. Emma noted that Australia has a trade agreement with the US and the US has raised no questions so far. End.