


**7 April 2025**

**TO: THE COMPETITION COMMISSION OF SOUTH AFRICA**
Chairpersons of the Inquiry, Media and Digital Platforms Market Inquiry
C/o Ms Noluthando Jokazi
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**JOINT SUBMISSION BY THE SOUTH AFRICAN NATIONAL EDITORS' FORUM, THE PRESS COUNCIL OF SOUTH AFRICA, THE ASSOCIATION OF INDEPENDENT PUBLISHERS, MEDIA MONITORING AFRICA, THE FORUM OF COMMUNITY JOURNALISTS, SOS SUPPORT PUBLIC BROADCASTING COALITION, THE GIBS MEDIA LEADERSHIP THINK TANK, THE CAMPAIGN FOR FREE EXPRESSION, THE CAMPAIGN ON DIGITAL ETHICS, AND TWO INDEPENDENT EXPERTS ON THE PROVISIONAL REPORT OF THE MEDIA AND DIGITAL PLATFORMS MARKET INQUIRY**

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This submission was prepared with the assistance of ALT Advisory.

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| **Reference to the Constitution** | The Inquiry should explicitly refer to the affected rights within each Findings section to promote the spirit and purport of the Bill of Rights and its primacy in the matters concerning this Inquiry. |
| **Children's rights** | The Inquiry should recommend that interventions be developed which shift the onus from children to adult users and the platforms to efficiently recognise and deal with content that should be blocked. |
| **Contributions from social media platforms to the Media Industry Fund** | The submitting parties take the view that the requisite justifications for compensation from the social media platforms exist and, as a result, the Inquiry should similarly provide an estimated band for the payment of compensation by the social media platforms to the Media Industry Fund. While appreciating that calculating this figure may pose challenges, this should not result in the social media platforms not being held accountable for the harm caused both past and present. |
| **Establishment and necessary protections for the Media Industry Fund** | The Inquiry should be more specific in its recommendations on the establishment and operation of the Media Industry Fund to guide further policy developments and ensure that the Fund appropriately responds to the industry needs set out in the Provisional Report.<br><br>Both SANEF and AIP are open to discussions with the Inquiry on their respective funds to discuss their modalities, governance structures, and approach. SANEF is amenable to further discussions with the Inquiry as part of the ongoing stakeholder consultations to ensure that the JS Fund, a broad-based national media sustainability fund, is fit for purpose. |
| **Historic reparations** | The Inquiry should initiate independent research to quantify the economic harm caused by platforms' anti-competitive behaviour, ensuring that any historic compensation is grounded in a rigorous assessment of actual losses:<br><br>• This research should calculate the revenue lost by commercial media while also assessing the disproportionate impact on smaller and community media, which often lacked the resources to adapt to platform-driven market distortions<br>• It should also establish a fair basis for reparations that reflect both the direct financial losses suffered by media organisations and the broader democratic harms resulting from newsroom closures and declining journalistic capacity in the country.<br>• From a methodological standpoint, historic compensation should be calculated for, at least, the past fourteen years, which is the timeframe already covered by this Inquiry to calculate the loss of revenue by news media. |

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| **The need and options for adjustments to platforms' technology** | Should the necessary technological adjustments not occur, a levy should be preferred over a tax to ensure that funds are not diverted for general public spending but are instead ring-fenced or allocated specifically for spending by the Media Industry Fund. Such a levy may be collected by a sector-specific regulator or other designated government department with dedicated legislation or policy frameworks to dictate how the collected funds must be used that include appropriate oversight and accountability mechanisms. |
| | The Inquiry must grapple with the tensions inherent in Google's meritocratic search ranking system to identify solutions that incentivise original, local journalism without penalising those who operate under resource constraints. |
| | The Inquiry should consider whether enabling legislation may be needed for the establishment of the Media Industry Fund, and, even if not, it should recommend that the Minister of Trade, Industry, and Competition consider developing governing regulation in the case of a levy being imposed. |
| | Data-sharing, without compromising personal information and privacy, is critical to balancing the competitive environment, to unlocking new public value, and to promoting accountability and transparency. Notably, these principles relating to data sharing have been recognised in a resolution[1] by the African Commission on Human and People's Rights in November 2024 which expressed concern at data exploitation practices by the tech platforms and recognised that equitable access to data is essential for nurturing a just, informed, and inclusive society in the digital era.<br><br>However, there is a need for cognisance of the inherent problems in the surveillance capitalism model and the unauthorised scraping of media content for the commercial purposes of AI initiatives, which replace the unique selling proposition (USP) of news enterprises that carry the costs of generating such valuable content. |
| **Platform liability** | Amendments to ECTA are unwarranted and alternative interventions should be explored that protect freedom of expression and access to information online. This may involve a legislative framework that requires the platforms to develop appropriate risk mitigation policies, including on content moderation and mis- or disinformation shared by anonymous accounts, and the establishment of independent oversight mechanisms to ensure their compliance with procedural requirements and standards. This may potentially be linked to the finalisation of the Audio and Audiovisual Content Services White Paper and Bill, which could potentially provide a framework in which risk mitigation requirements can be legislated. |
| | In the event that platforms fail to sufficiently mitigate their own risks in terms of online content, the Inquiry may consider levying fees on the platforms to enable appropriate content moderation, including in local languages, to be undertaken by private or independent entities, funded by these fees. |

[1] ACHPR, 'Resolution on promoting and harnessing data access as a tool for advancing human rights and sustainable development in the digital age - ACHPR/Res.620 (LXXXI) 2045,' (2045) (accessible here).

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| | Acknowledging that the Inquiry has recommended that the social media platforms partner with the media on fact-checking to prevent misinformation and provide a compensation mechanism, the submitting parties are of the view that more specific recommendations in this regard are more likely to result in successful implementation that aligns with the spirit of the recommendation. |
| | The Inquiry should specify a quantum, or at least a range in either actual terms or as a percentage of revenue, for the annual financial contributions to be made by the platforms to the Press Council and the BCCSA to avoid an outcome in which minimal compliance results. |
| **Addressing Google's criticism of the Provisional Report** | Google should be urged to engage in "collaboration" as this Inquiry continues its work — both with publishers and broader members of the media industry and ecosystem, and it should do so in good faith. The submitting parties remain available and open to these discussions. |
| **Generative AI** | In the development of ongoing AI-related policy and regulation processes, including South Africa's Artificial Intelligence (AI) Planning Discussion Document[2] and the South Africa National Artificial Intelligence Policy Framework,[3] the Inquiry should recommend that the news media must be recognised as a vulnerable industry and actively involved in policy reform. |
| **Government and business** | There is general support of the Inquiry's recommendations that government and business should contribute to the news media as a public good and that the media can and should negotiate directly in this regard. However, the Inquiry could assist this process by being more specific in its recommendations, including by:<br><br>• Recommending that the South African government immediately implement its previous commitment to allocate 30% of its advertising spend to community media;[4] and give proper attention to community media as a unique and effective environment for advertising placement that reaches underserved audiences; and<br>• Including a firmer recommendation that businesses provide *unrestricted* financial support to the Media Industry Fund as part of their obligations to support the production of a public good service from which they, as consumers of credible information about government, business, and society, benefit.<br>• Engaging further with alternative recommendations made by other parties relating to taxation and rebates. |
| | The Inquiry should explicitly recommend that Internet Service Providers (ISPs), Mobile Network Operators (MNOs), and ICASA initiate negotiations with the platforms to consider ways of enabling subsidised and free access to credible South African news media through zero-rating certain content such as SABC News, supporting |

[2] DCDT, "South Africa's Artificial Intelligence (AI) Planning: Adoption of AI By Government" *AI National Government Summit Discussion Document* (October 2023) (Accessible here.)
[3] DCDT, "South Africa National Artificial Intelligence Policy Framework: Towards the Development of South Africa's National Artificial Intelligence Policy" (August 2024) (Accessible here.)
[4] Provisional Report, para 326.1.

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| | bundles including news content, and expanding the news options available on current data-free offerings. |
| **Implementation** | The Inquiry should also consider mechanisms for reporting on the recommended negotiations between news media organisations and the platforms to ensure that meaningful deals are reached and that the platforms effectively "come to the table." These deals, if any, should ideally be made public, and, at the very least, they must be disclosed to the Commission in order to enable it to monitor and regulate effectively |
| **Making provision for non-compliance** | This Inquiry needs to anticipate that negotiations may not take place (or they may fail), and that the platforms may not comply with its other recommendations. In this event, the submitting parties are of the view that the Final Report should be prepared to anticipate such an eventuality, including the potential need for this inquiry to exercise its power to initiate a complaint for investigation against any of the platforms or refer a complaint directly to the Competition Tribunal. |
| **Request for further engagements** | The submitting parties request the opportunity to engage with the Inquiry on these submissions and its Provisional Report at a further public or *in camera* hearing. |

## INTRODUCTION

1. The South African National Editors' Forum (SANEF), the Press Council of South Africa (Press Council), the Association of Independent Publishers (AIP), Media Monitoring Africa (MMA), the Forum of Community Journalists (FCJ), SOS Support Public Broadcasting Coalition (SOS), the GIBS Media Leadership Think Tank (GIBS), the Campaign for Free Expression (CFE), the Campaign on Digital Ethics (CODE), and two independent experts, Vincent Maher and Guy Berger, (collectively "the submitting parties") welcome the opportunity to make submissions on the Provisional Report of the Competition Commission's Media and Digital Platforms Market Inquiry (MDPMI).[5]

2. As a point of departure, the submitting parties commend the Inquiry for its Provisional Report, which provides a strong foundation for enhancing the sustainability of the media ecosystem in South Africa.

3. This submission is structured as follows:

   3.1. First, a brief overview of each of the submitting parties is provided.

   3.2. Second, responses to several key thematic areas detailed in the Provisional Report, foregrounded in considerations of how the vital democratic function of an independent media can be sustained, are set out.

   3.3. Third, specific and textual submissions on the Provisional Report are detailed.

## OVERVIEW OF SUBMITTING PARTIES

### South African National Editors' Forum

4. SANEF is a non-profit organisation whose members are editors, senior journalists, and journalism trainers from across South Africa. SANEF is committed to championing South Africa's hard-won freedom of expression and promoting quality, ethics, and diversity in the South African media.[6]

### The Press Council of South Africa

5. The Press Council is an independent co-regulatory mechanism set up by the print and online media in South Africa to instil ethical journalistic conduct and media accountability, and provide impartial, expeditious, and cost-effective adjudication to settle disputes between newspapers, magazines, and online publications, on the one hand, and members of the public, on the other, over the editorial content of publications.[7] The Press Council currently has 404 subscriber members.

[5] These submissions were prepared following a series of workshops held by the submitting parties on 14 March and 2 April 2025.
[6] For more information about SANEF, please visit: https://sanef.org.za/.
[7] For more information, please visit: https://www.presscouncil.org.za/.

**The Association of Independent Publishers**

6. AIP is a national organisation working to advance the interests of the local grassroots independent print and online media sector in South Africa. AIP represents 161 small, locally-owned media outlets from across the country, including newspapers, magazines, newsletters, and online publications, with a total monthly readership of just over 8 million.[8]

**Media Monitoring Africa**

7. MMA is a not-for-profit organisation, based in South Africa, that advocates for access to information, freedom of expression, and the responsible free flow of information to the public.[9]

**The Forum of Community Journalists**

8. FCJ is an independent, non-profit, non-racial, and voluntary organisation striving to promote and express the interests of all journalists employed on a permanent or freelance basis at regional community newspapers and online community publications in South Africa, representing hundreds of journalists from among the estimated 500 community newspapers across the country.[10]

**SOS Support Public Broadcasting Coalition**

9. SOS is a civil society coalition committed to, and campaigning for, broadcasting services that advance the public interest. While the SABC is its primary focus — as the key site of and the institution established to drive public interest broadcasting — SOS also engages in the advancement of community broadcast media in South Africa.[11]

**GIBS Media Leadership Think Tank**

10. The Gordon Institute of Business Science, Media Leadership Think Tank aims to be an independent, thought leadership and advocacy platform for stakeholders in the African news media and audiovisual content industries; to generate innovative research and policy solutions for government, industry, and civil society in support of democracy; and to primarily focus research and policy initiatives on media sustainability, mis- and disinformation, internet freedom, and competition in the digital economy. GIBS is the University of Pretoria's business school.[12]

[8] For more information about AIP, please visit: https://aip.org.za/.
[9] For more information, please visit: https://mediamonitoringafrica.org/.
[10] For more information about the FCJ, please visit https://www.fcjonline.co.za/.
[11] For more information, please visit: https://soscoalition.org.za.
[12] For more information, please visit: https://www.gibs.co.za/about-us/centres/pages/media-leadership-think-tank.aspx.

**The Campaign for Free Expression**

11. CFE is a non-profit organisation dedicated to protecting and expanding the right to free expression for all and enabling everyone to exercise this right in full, whether it be by speaking out, by protesting, by revealing information, by blowing the whistle on wrongdoing, by arguing, debating, writing, painting, composing, or just by shouting out an opinion.[13]

**The Campaign on Digital Ethics**

12. CODE is a South African non-profit, civil society organisation dedicated to advocating for a digital world where technology supports and enhances human rights, equity, and democratic engagement. CODE works to ensure that digital platforms operate transparently, uphold privacy, and are free of harmful biases; that regulations protect individuals from digital harms; and that every person, regardless of background, has the skills and access to use digital technologies safely and effectively.[14]

**GENERAL AND THEMATIC SUBMISSIONS ON THE PROVISIONAL REPORT**

13. The submitting parties commend the Inquiry on a comprehensive and considered Provisional Report that recognises the current imbalances in the news market and makes thorough, rights-based recommendations aimed at enabling equity. To a large extent, the submitting parties are supportive of the provisional findings and recommendations.

14. In the submission that follows, reflections aimed at bolstering these recommendations and ensuring the effectiveness of their implementation are outlined according to the notable thematic areas highlighted in the Provisional Report. Thereafter, specific and textual submissions are proposed in a table.

**Statutory timeframes**

15. From an administrative standpoint, **section 43B(4)(a)** of the Competition Act 89 of 1998 ("Act") provides that an inquiry in terms of the Act should not exceed 18 months from the date on which the terms of reference are published. As the final terms of reference for this Inquiry were published by the Commission on 15 September 2023, the Inquiry is now at risk of exceeding this statutory timeframe.

16. In terms of **section 43B(4)(b)** of the Act, the Inquiry may apply to the Minister "to extend *for a reasonable period*, the completion of a market inquiry beyond the period referred to in paragraph (a)".[15] Failing this, the Inquiry may be subjected to review in terms of the applicable legislation.

[13] For more information about CFE, please visit: https://freeexpression.org.za/.
[14] For more information, please visit: https://www.code-sa.org/about.
[15] Competition Act at section 43B(4)(b).

17. To the extent that it has not done so already, **the Inquiry should urgently apply to the Minister for this extension to ensure that the continued operation of the Inquiry is legally permissible, and notify stakeholders accordingly.**

**The constitutional basis for the report**

*General reflections*

18. **Section 1(2)** of the Act provides that the Competition Act must be interpreted in a manner that is consistent with the Constitution. While the Provisional Report situates the news media within the context of **section 16** of the Constitution, the rest of the Report does not adequately apply (or directly reference) the Constitution in furtherance of constitutional and competition law objectives. Notably, the reference to **section 16** in paragraph 14 of the Report is textually inaccurate, and the submitting parties recommend that the Inquiry quote directly from the Constitution in order to avoid any confusion as to the full ambit of this right.

19. More broadly, and while the Provisional Report acknowledges on multiple occasions that "constitutional rights"[16] are adversely affected through the distorting of competition amongst news media which has led to the under-representation of vernacular and community media, it does not outline the specific rights affected. These rights include, among others, the right to dignity, equality, language and culture, privacy, and access to information.[17] **It is recommended that the Inquiry explicitly refer to the affected rights within each Findings section to promote the spirit and purport of the Bill of Rights and its primacy in the matters concerning this Inquiry**.

*The rights of the child*

20. The only exception to the above is Chapter 4, which specifically mentions the rights of the child (at paragraph 212) in relation to misinformation online. The *UNESCO Guidelines for the Governance of Digital Platforms* concisely set out why the rights of children should be paramount in questions of digital governance:

> "Children have a special status given their unique stage of development, limited or lack of political voice, and the fact that negative experiences in childhood. Thus, while the protection of freedom of expression and access to information applies for all individuals, governments and digital platforms should also recognise their specific responsibilities toward children within the governance systems."[18] (Own emphasis.)

21. However, merely providing access to digital literacy training does not adequately protect children's rights, as this approach places the responsibility on children to identify and safeguard themselves against harmful content. To this end, the Inquiry recommends that YouTube, Meta, X, and TikTok make an annual financial contribution to national programmes for digital literacy of children in addition to providing easier tools to report

[16] Provisional Report at paras 7, 72, 120, 124, 144, 188, 211, 220, 226, 229, 254, 266, 320, and 333.
[17] See SANEF & others' submission on the further statement of issues (22 January 2024) at para 38.
[18] UNESCO, 'Guidelines for the Governance of Digital Platforms,' (2023) (accessible here), 16-17.

and block content. In the view of the submitting parties, this places the onus on children to report and block content from which they should be protected in the first place. The submitting parties, therefore, suggest that **the Inquiry should recommend that interventions be developed which shift the onus from children to adult users and the platforms to efficiently recognise and deal with content that should be blocked.**

**Compensation by social media platforms**

22. The submitting parties note that the Inquiry has, among others, recommended that Google "fully compensate the SA news publishers for the value deficit of [R300-R500m]" to be paid into a Media Industry Fund in order to compensate for the value inequity in the market which is to the detriment of the news media. It is unclear, however, why only Google, of the search platforms within the scope of the Inquiry, is required to pay this compensation, to the exclusion of Microsoft and other providers of search platforms. It is also notable that a similar recommendation has not been made for Meta, X, YouTube, and the other large social media platforms, with the focus of the social media recommendations instead being on technological change on the platforms.

23. While the Inquiry acknowledges that "the recent tactics of the social media platforms have been to starve the news media of referral traffic,"[19] and it elaborates in the findings in Chapter 4 on the distortion of competition in the market by these platforms, **the submitting parties take the view that the requisite justifications for compensation from the social media platforms exist and, as a result, the Inquiry should similarly provide an estimated band for the payment of compensation by the social media platforms to the Media Industry Fund. While appreciating that calculating this figure may pose challenges, this should not result in the social media platforms not being held accountable for the harm caused both past and present.**

**Historic reparations**

24. The Inquiry acknowledges the historic harm caused by both search and social platforms to the news media. For example, the Provisional Report notes "the historic erosion of revenues by Google that has left the media in a weak financial and operational position,"[20] that YouTube has excluded many publishers from the YPP programme for years,[21] and that Meta and X have deliberately deprecated news content since at least 2021, with severe consequences for revenue generation.[22] However, the report does not make a recommendation relating to reparations for this historic harm. Instead, the remedies are focused on the "need to compensate the news publishers directly for a period to rebuild, innovate and strengthen the news industry, including its capability to generate revenues in a digital environment."[23]

[19] Provisional Report at para 231.
[20] *Id* at para 145.
[21] *Id* at para 227.2.3.
[22] *Id* at para 181.
[23] *Id* at para 145.

25. In paragraphs 151 and 234, the Inquiry states that it is of view that historic compensation is not necessary, provided that the recommended remedies are implemented to rebuild the industry and provide for long-term future sustainability. However, the submitting parties are of the view that payments to remedy existing inequities in the market and support future rebuilding do not erase the financial and structural damage already inflicted on the industry through years of anti-competitive behaviour. Even assuming that future payments can address and remedy the harm that will be caused in future, such an approach does not adequately address the historical harm for, at least, five reasons:

25.1. The platforms' actions — specifically Meta and Google — have led to the closure of newsrooms, the loss of thousands of journalism jobs, and the decline of independent investigative and local reporting. These harms are not reversible through future payments alone — once a newsroom is shuttered, once investigative capacity is lost, and once trust in journalism is eroded, those losses are not restored by improving the revenue model going forward.

25.2. Equity demands that past harms be compensated, not just future sustainability ensured. Platforms benefited financially from the anti-competitive extraction of advertising revenue, audience data, and engagement-driven algorithmic control. Allowing them to move forward without redressing past harms would amount to permitting an unjust wealth transfer from the news industry to the platforms without accountability.

25.3. Historic compensation should not only be seen as a bargaining tool for future compliance from the platforms, but as a necessary corrective measure. Regardless of the extent of their future compliance, they have already extracted value from journalism without fair compensation for at least a decade. The existence of future sustainability does not retroactively undo the lost revenue, lost jobs, and lost capacity that have structurally weakened the industry. Simply, historic reparations must be recognised as a core component of accountability for past anti-competitive harm, separate from and in addition to future-oriented market corrections.

25.4. While the Provisional Report recommends that Google contribute to the Media Industry Fund, there is no comparable recommendation for Meta or the other social media platforms to provide any funding to provide either current, future, or past compensation for the additional value extracted from media.

25.5. The media industry has already suffered severe financial and structural harm, meaning that any forward-looking measures without historic compensation would be built on a foundation that remains fundamentally weakened. By providing reparations, platforms would help restore a more neutral starting position — one in which media organisations are not merely trying to survive past damages but are instead positioned to engage with future sustainability measures on a more equitable footing.

26. As such, the parties submit that **the Inquiry should initiate independent research to quantify the economic harm caused by platforms' anti-competitive behaviour, ensuring that any historic compensation is grounded in a rigorous assessment of actual losses:**

    26.1. **This research should calculate the revenue lost by commercial media while also assessing the disproportionate impact on smaller and community media, which often lacked the resources to adapt to platform-driven market distortions.**

    26.2. **It should also establish a fair basis for reparations that reflect both the direct financial losses suffered by media organisations and the broader democratic harms resulting from newsroom closures and declining journalistic capacity in the country.**

    26.3. **From a methodological standpoint, historic compensation should be calculated for, at least, the past fourteen years, which is the timeframe already covered by this Inquiry to calculate the loss of revenue by news media.**[24]

27. Beyond the equity-based argument for historic reparations, there is also a public good argument for ongoing support from the platforms for the news media. This is premised on the following:

    27.1. Public interest journalism is a public good, as correctly set out in section 2.1.3. and paragraph 332 of the Provisional Report, in that it is non-excludable (for the most part, once published, people can access it regardless of payment) and non-rivalrous (one person's consumption does not reduce its availability to others).[25] These characteristics create a classic free-rider problem in which journalism is widely consumed but inadequately funded, leading to market failure — particularly in the underproduction of high-quality investigative and public interest journalism by the private (and non-profit) sectors. It is not only business and government that must step in to recoup the positive externalities of journalism as a public good.

    27.2. While this market failure is inherent in the economics of public goods, it has been significantly exacerbated by the platforms' anti-competitive behaviour, which has diverted advertising revenue, mediated access to audiences, and eroded independent news media's ability to sustain itself. Given that platforms have extracted economic value from journalism — by using it to drive engagement and advertising revenue — without contributing to its production, they have not only caused harm but have also failed to make the contributions expected for a public good.

[24] *Id* at para 327.
[25] Stanford Encyclopaedia of Philosophy, 'Public Goods,' (2021) (accessible here).

27.3. Thus, reparations should be made not only to address the harm caused by past anti-competitive behaviour, but also to correct the platforms' failure to historically support journalism as a public good. Given their continued dominance in the information ecosystem, they have an ongoing obligation to support the production of high-quality journalism — not only as part of remedying past market distortions but also as a structural contribution to maintaining a democratic and informed society.

**Establishment and necessary protections for the Media Industry Fund**

28. The submitting parties are generally satisfied with the Inquiry's recommendation for the establishment of a Media Industry Fund and appreciate the Inquiry's distinction between the different types of funding and types of potential grantees that the Fund must be designed to service. The parties, however, take the view that **the Inquiry should be more specific in its recommendations on the establishment and operation of the Media Industry Fund to guide further policy developments and ensure that the Fund appropriately responds to the industry needs set out in the Provisional Report.**

29. As the Inquiry is aware:

29.1. AIP has negotiated the establishment of the Digital News Transformation Fund ("DNT Fund") with Google. The DNT Fund is a national fund to provide targeted, project-based funding for the sustainability and digital transformation of small and independent news publishers in South Africa. Throughout this process, AIP has developed extensive expertise in the governance and operation of a media industry fund and identified modalities that meet the expectations and requirements of all parties. The DNT Fund is presently expected to operate for three years.

29.2. SANEF is also in the process of establishing an independent media industry fund, the Journalism Sustainability Fund ("JS Fund"), that will have the capabilities to effectively administer financial support and capacity-building services to the sector. In this regard, SANEF is engaged in convening diverse stakeholders within the sector to guide the development of the JS Fund and ensure it meets the needs of a majority of the industry, while learning from international best practices. The JS Fund is expected to operate for the short-, medium-, and long-term.

30. Both these funds have been designed to operate in the service of *public interest journalism* as a sector and as a public good, as opposed to benefitting specific publishers or falling under state control, which is contrary to current best practices on journalism sustainability funds. Collectively, they constitute considered independent national journalism country funds, with the sole aim of promoting the broader media ecosystem and the sustainability of journalism. Both SANEF and AIP are open to discussions with the Inquiry on the two funds to discuss their modalities, governance structures, and approach. SANEF is amenable to further discussions with the Inquiry as part of the ongoing stakeholder consultations to ensure that the JS Fund is fit for purpose.

31. With regard to the need for further guiding detail on the establishment of the Media Industry Fund, the submitting parties reiterate the importance of independent management and adjudication, including the need for independence from any state interference. This is vital to avoid any actual or perceived political interference in the Fund and to protect from indirect attacks on freedom of the press or undue influence. The following bears reference:

31.1. It is worth noting the long-standing and intractable challenges that have plagued the Media Development and Diversity Agency ("MDDA"), while also acknowledging the need for general governmental support for the Media Industry Fund to be established. The parties are firmly in agreement that the MDDA does not provide a suitable vehicle for the Media Industry Fund due its longstanding history of poor functioning and allegations of corruption.[26]

31.2. In addition to independent decision-making, research on international best practices highlights the importance of ensuring that such funds operate transparently[27] — publishing details of the criteria for the allocation of grants, successful grantees, annual activity reports, etc. For example, research by the Council of Europe found that "the private platforms' support [to media funds] has been limited in the amount, and often not transparent in the allocation criteria, and criticised for supporting projects that are instrumental to strengthening the dominance of the platforms in providing digital services, so complementing, and not innovating, the existent online ecosystem."[28]

31.3. In terms of useful resources which are instructive for determining the structure and operations of the Media Industry Fund, the Inquiry may consider: The Organisation for Economic Development and Cooperation (OECD) Development Cooperation Principles for Relevant and Effective Support to Media and the Information Environment (2024), which set out best practices to guide relevant and effective support to media and the information environment; and The Big Tech and Journalism – Principles for Fair Compensation, which provide a guide for the design, implementation, and evaluation of public policy mechanisms involving negotiations between digital platforms and news publishers on developing fair economic terms.

31.4. The Global Forum for Media Development's position paper on National Funds for Journalism (2023) is also instructive.[29] It reviews national funds for journalism around the world and sets out best practices.

[26] See, for example, here and here.
[27] Council of Europe Committee of experts on increasing resilience of media (MSI-RES), 'Good practices for sustainable news media financing', (2023) (accessible here) at 26.
[28] *Id* at 27.
[29] Accessible here.

31.5. Together with other international research, some key principles relating to the operation of media industry funds emerge:

31.5.1. The need for streamlined administrative processes and the simplification of grant requirements;[30]

31.5.2. The importance of local ownership over and decision-making for a fund,[31] as well as the participation of media experts;[32]

31.5.3. Emphasising transparency in all parts of its operations, including that all funding decisions should be based on clear, objective, and publicly available criteria, grant application processes should be open with decisions made by an independent panel, and fund distributions must be publicly reported and evaluated.

31.5.4. Diversified funding sources, where possible, are important to enable the sustainability of a fund. In this regard, a fund can serve as an effective way to channel funds from various sources, including from the platforms but also from the government, business, philanthropy, and others.

31.5.5. Critically, protections against editorial interferences must be built into the functioning of a fund. Support should focus on structural interventions, capacity-building, and investigative journalism, among others, rather than direct content funding.

**The need and options for adjustments to platforms' technology**

32. The submitting parties commend the Inquiry for its focus on addressing the systemic issues causing an imbalance in the market and developing remedies that are proactive and forward-looking. In this regard, the submitting parties are broadly in support of the Inquiry's headline finding that the option of a permanent digital tariff or levy is a possible but likely insufficient remedy, and that, instead, the technology itself needs to change to enable higher referral traffic for the news media.

33. These types of findings and recommendations, while novel in South Africa, are not the first of their kind. As detailed further below, the European Commission has issued findings against platforms in terms of European Union ("EU") antitrust rules which involve the alteration or change of technology and algorithm processing within the last decade. These findings are noteworthy for both the obligations placed on platforms to change or alter their technology as well as the manner in which the European Commission has enforced its findings under EU law. These set precedent for accountability in areas of technology adaptation and usability and include:

[30] IMS, 'Where is the money? New recommendations to tackle the economic crisis facing public interest media,' (2024) (accessible here).
[31] *Id*.
[32] IFPIM, 'Enabling media markets to work for democracy: an international fund for public interest media: Summary,' (2021) (accessible here), 6.

33.1. In April 2017, for example, the European Commission found that Google had abused its market dominance by giving its own comparison-shopping service an illegal advantage and ordered Google to alter its algorithms and "apply the same processes and methods to position and display rival comparison-shopping services in Google's search results pages as it gives to its own comparison shopping service."[33] To ensure compliance, the European Commission stated that:

> "It is Google's sole responsibility to ensure compliance, and it is for Google to explain how it intends to do so. Regardless of which option Google chooses, the Commission will monitor Google's compliance closely and Google is under an obligation to keep the Commission informed of its actions (initially within 60 days of the Decision, followed by periodic reports)."

(While it appears there has been some partial compliance with the ruling, which has since been upheld by the European Court of Justice in 2024,[34] critics have argued that it has been insufficient,[35] and subsequent investigations have been undertaken to further determine continued breaches.[36])

33.2. The European Commission similarly held in July 2024, in preliminary findings, that Apple may have breached EU antitrust rules by refusing to grant rivals access to a standard technology used for contactless payments with iPhones in stores.[37] In response to the preliminary findings, Apple tendered commitments to remedy its alleged infringements by changing its technology to accommodate other players in this field. These commitments were accepted by the European Commission and made legally binding under the EU antitrust rules and will—

> "remain in force for ten years and apply throughout the European Economic Area. Their implementation will be monitored by a monitoring trustee appointed by Apple who will report to the Commission for the same time period."[38]

34. In addition to the specific technological adjustments needed, there is also a need to challenge Google's "meritocratic" search framework in which content that is original, authoritative, and useful to users is prioritised while repetitive, duplicated, or low-quality content is demoted. Although this framing aligns with the logic of user-centric design, it creates systemic disadvantages for smaller and resource-constrained publishers — particularly those that rely heavily on wire copy to populate their news sites. Notably:

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[33] European Commission "Antitrust: Commission fines Google €2.42 billion for abusing dominance as search engine by giving illegal advantage to own comparison-shopping service" *European Commission* (27 June 2017) (Accessible here).
[34] EuroNews, 'Google loses €2.4bn EU antitrust case for favouring its own shopping service,' (2024) (accessible here).
[35] The Register, 'EU companies claim Google still abusing its Shopping power,' (2022) (accessible here).
[36] Clifford Chance, 'EU Court Of Justice Judgment in the Google Shopping Case upholds €2.4 Billion Fine against Google,' (2024) (accessible here).
[37] European Commission "Commission accepts commitments by Apple opening access to 'tap and go' technology on iPhones" (11 July 2024) (Accessible here.)
[38] *Id*.

34.1. Many local and independent publishers, lacking the resources to generate original reporting at scale, rely on syndicated or agency content to maintain a steady publishing cadence. This practice may serve audience needs in terms of basic information delivery, but it directly undermines a site's performance in Google's algorithmic rankings. In a merit-based system that favours originality and depth, duplicative content is deprioritised — regardless of the publisher's editorial intent or local relevance.

34.2. The result is a self-reinforcing cycle in which publishers depend on wire copy to maintain output, their pages are demoted in search output, traffic declines, and publishers are increasingly unable to make the necessary investments in original journalism.

34.3. This cycle disproportionately affects smaller publications that are already marginalised in programmatic advertising markets and lack institutional support. In contrast, larger publishers — even when using similar wire services — often benefit from higher domain authority, allowing them to outrank smaller players for identical content.

34.4. If Google's search system continues to reward scale and originality without accommodating the structural realities of the local media ecosystem, its meritocratic stance will only deepen inequality in publisher visibility. The submitting parties, therefore, take the view that **the Inquiry must grapple with this tension and seek to incentivise original, local journalism without penalising those who operate under resource constraints.**

34.5. In addition, this challenge will likewise apply to GenAI systems which prioritise uniqueness, depth, and relevance. Small publications will be disadvantaged in both attribution and traffic flow in GenAI systems, even when using the same wire copy content.

35. On the question of a digital tariff or levy, should the necessary technological adjustments not occur, **a levy should be preferred over a tax to ensure that funds are not diverted for general public spending but are instead ring-fenced or allocated specifically for spending by the Media Industry Fund**. **Such a levy may be collected by a sector-specific regulator or other designated government department with dedicated legislation or policy frameworks to dictate how the collected funds must be used that include appropriate oversight and accountability mechanisms.**

36. It is further submitted that **the Inquiry should consider whether enabling legislation may be needed for the establishment of the Media Industry Fund, and, even if not, it should recommend that the Minister of Trade, Industry, and Competition consider developing governing regulation in the case of a levy being imposed, given the extended timeframes for such a process.**

37. The possibility remains that the search and social media platforms will react to the implication of a digital advertising tariff or levy by removing news media entirely from platforms. It is unclear how the tariff or levy would avoid this unintended consequence, but the submitting parties reiterate their stance that the platforms should not be allowed to exert such an unequivocally uncompetitive and detrimental exercise of power in response to government regulation in jurisdictions in which their behaviour has tangible consequences, and clear economic effects.

38. Lastly, **data-sharing, without compromising personal information and privacy, is critical to balancing the competitive environment, to unlocking new public value, and to promoting accountability and transparency. Notably, these principles relating to data sharing have been recognised in a resolution[39] by the African Commission on Human and People's Rights in November 2024 which expressed concern at data exploitation practices by the tech platforms and recognised that equitable access to data is essential for nurturing a just, informed, and inclusive society in the digital era. However, there is a need for cognisance of the inherent problems in the surveillance capitalism model and the unauthorised scraping of media content for the commercial purposes of AI initiatives, which replace the unique selling proposition (USP) of news enterprises that carry the costs of generating such valuable content.**

39. **The Inquiry should consider safeguards to avoid simply extending this model from platforms to the news media.** This risk can be partially ameliorated by ensuring that the structural changes discussed above (and in the Provisional Report) take place in addition to other remedies.

**Platform liability**

40. With reference to the Inquiry's recommendation in paragraph 233.6 that the Electronic Communications and Transactions Act ("ECTA") be amended to introduce liability for online platforms "where they allow harmful content and amplify misleading content through their algorithms, or where misinformation reaches a certain threshold of users through follower accounts" and "to introduce a provision requiring platforms to adopt a policy of proactively removing harmful content, and not providing an algorithmic boost to misinformation, including a prohibition on promoted posts or ads that contain misinformation", the submitting parties suggest that such amendments to ECTA should be strongly discouraged.

41. The submitting parties acknowledge and appreciate the creativity and intended nuance of the Inquiry's approach, which focuses only on liability for amplification or promotion of harmful content. We also acknowledge the great importance of addressing information integrity online as set out in our earlier submissions. For reference, we draw the Inquiry's attention to recent concerns expressed by the African Union Commission on Human and Peoples' Rights about certain platforms cutting back on investments in fact-checking.[40]

[39] ACHPR, 'Resolution on promoting and harnessing data access as a tool for advancing human rights and sustainable development in the digital age - ACHPR/Res.620 (LXXXI) 2045,' (2045) (accessible here).
[40] ACHPR, 'Resolution on developing Guidelines to assist States monitor technology companies in respect of their duty to maintain information integrity through independent fact checking - ACHPR/Res.630 (LXXXII) 2025,' (2025) (accessible here).

However, the primary concern of the submitting parties relates to striking the appropriate balance between creating an enabling environment for free speech and protecting against the spread of mis- and disinformation and other harmful content online. Platforms already undertake significant content moderation activities, although these have recently been significantly curtailed, at least for the two major social media platforms.[41]

42. It is important to clarify the distinction between illegal content (such as hate speech, incitement, and harassment) and mis- or disinformation. The former is already primarily legislated in South Africa. However, legislating platform accountability for the spread of mis- and disinformation — which is not already legislated as illegal content or speech — is strongly discouraged. Instead, a more holistic solution to this type of content that is based on a deliberate and collaborative approach should be preferred. The submitting parties are therefore against state interference and legislative amendments which seek to regulate speech online (other than illegal content), *including its amplification*, as the impact on the rights to freedom of expression and access to information will be detrimental.

43. Australia's attempt at regulating mis- and disinformation is a clear indicator of the issues that arise with such legislative regulation.[42] In September 2024, the Australian government introduced a bill into Parliament which sought to empower the Australian Communications and Media Authority (ACMA) to regulate content on media platforms. The committee tasked with considering the bill received 105 submissions and 30,000 comments, an indication of the public importance of such matters. The bill ultimately failed as it failed to strike the correct balance between "enhancing the transparency and accountability of digital platforms, while not infringing on individuals' freedom of expression."

44. It is clear that there is a need to incentivise platforms to adopt more aggressive risk-mitigation policies, including in their content moderation, without encouraging over-regulation of speech that is not illegal through government involvement in the regulation of social media platforms or through creating an adverse incentive structure for platforms. Placing the primary responsibility for identifying misinformation on platforms, as the proposed amendments to ECTA would do, creates the risk that they will not be objective, transparent, or accountable in doing so. Platforms often lack the contextual or language capacities to make informed decisions about what constitutes misinformation and have proven ineffective at enabling public accountability for their content moderation decisions in the past. For example, a report by the Legal Resources Centre in 2023 assessed social media platforms' content moderation policies in relation to disinformation, hate speech, and incitement to violence and demonstrated the severe failures in the context of the Global South.[43]

[41] Meta, 'More Speech and Fewer Mistakes,' (2025) (accessible here) and European Commission, 'Commission requests information from X on decreasing content moderation resources under the Digital Services Act,' (2024) (accessible here).
[42] Davis and Molitorisz "Promoting rights and accountability in the regulation of misinformation" (2025) *Australian Journal of Human Rights* 1 (Accessible here).
[43] Legal Resources Centre, 'A Critical Analysis of Content Moderation Policies and the Impact of Spreading Violence, Hatred & Disinformation in the Global South,' (2023) (accessible here).

45. The proposed prohibition on the amplification or promotion of misinformation encounters the same problem by placing the onus for determining the acceptability of speech on unaccountable private actors. A more sustainable and appropriate solution that incorporates protection for freedom of expression involves requiring platforms to adjust their algorithms and business models such that they do not promote and reward sensationalistic content nor content that can compromise electoral integrity, undermine public health or people's rights to be protected against discrimination, hate, and fraud.

46. As such, **the submitting parties are of the view that amendments to ECTA are unwarranted and that alternative interventions should be explored that protect freedom of expression and access to information online. This may involve a legislative framework that requires the platforms to develop appropriate risk mitigation policies, including on content moderation and mis- or disinformation shared by anonymous accounts, and the establishment of independent oversight mechanisms to ensure their compliance with procedural requirements and standards. This may potentially be linked to the finalisation of the Audio and Audiovisual Content Services White Paper and Bill, which could potentially provide a framework in which risk mitigation requirements can be legislated.**

47. The international freedom of expression community has extensively deliberated on how to find the appropriate balance between platform-led content moderation and creating an enabling environment for free speech. Any framework for risk mitigation recommended by the Inquiry should comply with the Santa Clara Principles on Content Moderation and be informed by the EU Code of Practice on Disinformation and the UNESCO Guidelines for the Governance of Digital Platforms. This involves addressing the following key issues:

    47.1. *No blanket censorship:* Mis- or disinformation should generally be down-ranked, labelled, or countered rather than removed, unless it incites harm or violates clear community standards.

    47.2. *Transparent content moderation policies:* Policies should include clear, public explanations of how platforms define and address mis- and disinformation, including of their content moderation policies and enforcement mechanisms, regular transparency reports that disclose how much content is removed, demoted or specifically promoted, what fact-checking processes are used, and any appeals or oversight mechanisms in place, as well as providing access to data for researchers and independent regulators to conduct independent evaluations.[44]

    47.3. *Context-based moderation:* Platforms must invest in the necessary resources to be able to conduct appropriate content moderation in all South African languages and with contextual understanding.

    47.4. *User notifications and appeals*: When content is flagged or removed, users should be notified and given the right to appeal moderation decisions.

[44] Brookings, 'Transparency is essential for effective social media regulation,' (2022) (accessible here).

47.5. *Independent oversight:* Independent audits of content moderation decisions that can help ensure fairness and avoid overreach.

47.6. *Alignment with international human rights standards:* Content moderation policies must be anchored in international human rights standards while acknowledging contextual nuances.

48. In addition, international best practice recommends independent, multi-stakeholder initiatives for managing online content.[45] This includes a central role for independent entities that operate according to transparent and accountable standards — for example, members of the International Fact-Checking Network — to identify and flag misinformation to the platforms, who are then responsible for taking it down. This kind of collaboration should be radically enhanced by, for example, giving accredited factcheckers back-end access to review political ads and other high-impact content before it is published, substantially increasing funding to accredited factcheckers to scale up their work, including support for research initiatives into using AI and other new technologies to scale up their activities, which must also include significant increases in data-sharing to enable this research to be conducted effectively. The existence of the Real411, an independent collaborative initiative that plays a similar role in assessing content against objective and transparent criteria, is notable.

49. This Inquiry may also find utility in the European experience of regulating mis- and disinformation through the recently finalised Digital Services Act ("DSA").

49.1. Similar to the current position in South Africa, the DSA does not hold platforms liable for content hosted on their platforms provided they are either unaware that the content is illegal or infringing platform standards or do not fail to promptly remove or block access to such content on becoming aware of it.

49.2. However, the DSA significantly bolsters the regulatory regime by requiring platforms to put in place measures to counter illegal content, such as mechanisms for users to flag such content and for platforms to cooperate with "trusted flaggers," and to make substantial public transparency reports on their content moderation activities.[46]

49.3. This includes mandating transparency to affected users (notably, also requiring publication to a centralised database of all statements of reasons for content moderation decisions) and submitting publicly available reports on their content removal and moderation activities on an annual basis (with certain specified information) to a central regulator with the authority to issue fines. In South Africa, the role of such a regulator could be undertaken by the Information Regulator, provided sufficient funding and capacity are provided for this purpose.

[45] UNESCO Guidelines for the Governance of Digital Platforms. See, for example, pages 24-28.
[46] European Commission, 'The impact of the Digital Services Act on digital platforms,' (2025) (accessible here).

49.4. Specifically with regard to mis- and disinformation, the DSA relies on a requirement to have clear and transparent content moderation policies, independent audits to assess platforms' handling of such content, cooperation with fact-checkers, algorithmic transparency, and fines for non-compliance with the rules.

50. **In the event that platforms fail to sufficiently mitigate their own risks in terms of online content, the Inquiry may consider levying appropriate fees on the platforms to enable appropriate content moderation to be undertaken by private or independent entities, funded by these fees**:

50.1. In this vein, alternative recommendations may include funding factchecking desks within newsrooms and mandating increased financial support to the Oversight Board to enable them to radically scale up their operations and the number of posts that can be reviewed and dealt with in a transparent and accountable manner, at least for Meta products. A key benefit of the Oversight Board is also that it has some authority and influence (although insufficient) to make recommendations back to Meta about its community standards and content moderation systems to contribute to improving the process going forward. However, it is notable that the Oversight Board has faced criticism in the past not only for its severely limited scale and lack of diverse regional expertise, but also for failing to stand up to decisions by Meta that are harmful to freedom of expression online – such as dismantling its factchecking programme, weakening hate speech protections, and retreating to crowd-sourced content moderation.[47] In addition to the need to significantly enhance the performance of the Oversight Board, independent mechanisms must also be established for the other social media platforms other than those owned by Meta.

50.2. **Acknowledging that the Inquiry has recommended that the social media platforms partner with the media on fact-checking to prevent misinformation and provide a compensation mechanism, the submitting parties are of the view that more specific recommendations in this regard are likely to result in successful implementation that aligns with the spirit of the recommendation**.

51. Finally, it is submitted that **the Inquiry should specify a quantum, or at least a range in other actual terms or as a percentage of revenue, for the annual financial contributions to be made by the platforms to the BCCSA and the Press Council to avoid an outcome in which minimal compliance results**.

[47] Global Coalition for Tech Justice, 'An Open letter from the Global Coalition for Tech Justice to members of Meta's Oversight Board,' (2025) (accessible here).

**Addressing Google's criticism of the Provisional Report**

52. The submitting parties have noted the press release by Google dated 31 March 2025,[48] responding to the findings and recommendations of the Provisional Report. While Google has emphasised the need for "collaboration between platforms and publishers," the parties note that Google has, at the date of this submission, not yet made contact with any of the submitting parties to initiate such collaboration nor to begin negotiations, following the publication of the Provisional Report. (This excludes ongoing engagements between Google and AIP on establishing the DNT Fund.)

53. While the submitting parties acknowledge the recent contributions that Google has made to the field of journalism in South Africa, as well as the fact that both news publishers and online platforms have worked hard to adjust to the rapidly changing news consumption habits of users in the digital age, the parties maintain that superficial contributions, such as the Google News Initiative and training programmes, do not remedy historical and present anti-competitive behaviour in the areas of search, social, AdTech, and generative AI, which this Inquiry is mandated to address.

54. Google states that "forcing Google to give algorithmic preference to local news will limit diversity of sources and perspectives, imposing on people what to read and watch." Indeed, Google already gives algorithmic preference to certain types of news and content. As the Inquiry found in paragraph 177 of the Provisional Report, this includes preferencing international news publishers over local publishers. South Africa is not alone:

    54.1. In Turkey, for example, independent publishers have recently presented evidence that Google is prioritising news from conglomerate and state media over independent media.[49]

    54.2. As a result of the recent passing of the UK Online Safety Act, Google has also been forced to adjust its algorithm to prioritise credible information and deprioritise that which is harmful to children.[50]

55. The Inquiry's recommendations in this regard are by no means unprecedented nor unworkable — they merely redirect preferencing that is already occurring to more socially-constructive forms of content. Resultantly, **Google should be urged to engage in "collaboration" as this Inquiry continues its work — both with publishers and broader members of the media industry and ecosystem, and it should do so in good faith. The submitting parties remain available and open to these discussions.**

**Generative AI**

56. It is clear that the societal effects of generative AI technology are only just beginning to emerge, and that there is thus a need for further investigation and regulation of this new

[48] Accessible here.
[49] Bianet, 'Turkey's independent media protest Google over 'algorithmic censorship'' (2025) (accessible here).
[50] Accessible here.

technology, beyond its effects on the sustainability of the news media. It is the position of the submitting parties that **in the development of ongoing AI-related policy and regulation processes, including South Africa's Artificial Intelligence (AI) Planning Discussion Document[51] and the South Africa National Artificial Intelligence Policy Framework,[52] the Inquiry should recommend that the news media must be recognised as a vulnerable industry and actively involved in policy reform**.

57. Given the increasing reliance of AI models on news content for training and the growing influence of AI-generated content on public discourse, it is imperative that news media organisations participate in shaping AI-related policies that will affect the sustainability of this crucial public good. Policymakers must establish formal mechanisms for engagement that allow media stakeholders to participate in discussions on AI governance, particularly in areas such as content attribution, fair compensation, algorithmic transparency, and misinformation safeguards. Without meaningful media representation, AI policies risk being shaped solely by technology companies, potentially exacerbating market imbalances and undermining the viability of independent journalism.

58. In this regard, this Inquiry should consider the UNESCO report on *AI and the Future of Journalism*,[53] which provides guidance on several relevant topics such as:

    58.1. The need to protect language and cultural diversity as LLMs may risk accelerating the process by which English has become the dominant language.

    58.2. The importance of greater transparency from the companies developing and maintaining these models with regard to data collection and web scraping practices.

    58.3. The urgent need to improve attribution mechanisms and enable users to identify and connect with journalists, media sources, and publishers.

    58.4. The urgent need for generative AI companies to develop mechanisms to highlight and promote high-quality certified media content.

**The news media and government/business**

59. The submitting parties are generally in support of the Inquiry's recommendations that government and business should contribute to the news media as a public good and that the media can and should negotiate directly in this regard. However, **the Inquiry could assist this process by being more specific in its recommendations, including by:**

    59.1. **Recommending that the South African government immediately implement its previous commitment to allocate 30% of its advertising spend to**

[51] DCDT, "South Africa's Artificial Intelligence (AI) Planning: Adoption of AI By Government" *AI National Government Summit Discussion Document* (October 2023) (Accessible here.)
[52] DCDT, "South Africa National Artificial Intelligence Policy Framework: Towards the Development of South Africa's National Artificial Intelligence Policy" (August 2024) (Accessible here.)
[53] Accessible here.

**community media[54] and give proper attention to community media as a unique and effective environment for advertising placement that reaches audiences who are underserved by other media environments; and**

59.2. **Including a firmer recommendation that businesses provide unrestricted financial support to the Media Industry Fund as part of their obligations to support the production of a public good service from which they, as consumers of credible information about government, business, and society, benefit. In this regard, the economic argument for the benefits of a strong, independent, and well-functioning media eco-system — that the news media benefits businesses by ensuring an informed consumer base, market transparency, and economic stability, and fosters accountability, combats misinformation, and supports democracy therefore creating a predictable and well-regulated environment in which businesses can operate and grow — may bolster this recommendation.**

60. In addition, the parties emphasise that the role of government and business in supporting the news media industry should not be too narrowly circumscribed, and recommend that the Inquiry engage further with submissions made by other publishers relating to alternative mechanisms through which government and business can and should be supporting independent news media, such as through tax-deductible donations, zero-rating VAT for reader revenue, and advertising rebates, as set out in paragraph 329.

61. It is further submitted that **this Inquiry should explicitly recommend that ISPs, Mobile Network Operators (MNOs), and ICASA initiate negotiations with the platforms to consider making credible news content — that which subscribes to the Press Code for the PCCSA — more freely available.**

61.1. This could include, for example, zero-rating SABC News content on SABC+ and the online platforms, adding a greater variety of local sources to programmes such as Facebook Free Basics, or offering discounted data bundles to access these sites.

61.2. It could also include initiatives to enable discounted or free access to news to sections of the population that currently either can't afford or are systematically unable to access credible local news content.

61.3. The value of such bundles or zero-rating should be at least equivalent to that offered through Facebook Free Basics and other existing social media bundles to ensure that access to quality information is at least equally incentivised as access to social media.

61.4. All platforms should be required to contribute to the zero-rating of credible media content. The eligibility criteria for such initiatives should align with those specified elsewhere in the Provisional Report for access to funding from the Media Industry Fund, namely news media and broadcasters that predominantly service the South

[54] Provisional Report at para 326.1.

African market, report on current issues or events of public significance for South Africans at a local, provincial, or national level, and adhere to the regulatory oversight by the Press Council or the BCCSA.

61.5. Importantly, the determination of which news outlets to include in such initiatives must be done independently and according to a set of defined criteria as set out above and should not be within the sole discretion of the platforms. For reference, this Inquiry should consider research conducted by the advocacy hub, Global Voices, which showed the questionable decisions made by Facebook in providing data-free news content through the Free Basics programme in six Global South countries.[55]

62. In addition, **the Inquiry should explicitly recommend that any levy implemented on the technology platforms, as discussed above, be allocated specifically to the media industry fund and not form part of the country's general public tax revenue**.

**Implementation of the recommendations**

63. The submitting parties commend the Inquiry for considering the practicality and effectiveness of the implementation of its mechanisms, including considering measures to be taken in the event of non-compliance from the platforms. In addition to the recommendations made relating to the institution of a tax or levy in the event of failure to implement technological changes to the platforms, the submitting parties suggest that **the Inquiry should also consider mechanisms for reporting on the recommended negotiations between news media organisations and the platforms to ensure that meaningful deals are reached and that the platforms effectively "come to the table." These deals, if any, should ideally be public, and, at the very least, they must be disclosed to the Commission in order to enable it to monitor and regulate effectively.**

64. Further, in its current form, the Provisional Report does not adequately make provision for new actors who will inevitably come to occupy the platform and search space in the future. To this end, it is suggested that provisions be inserted into each recommendation section to ensure that new actors can also be held to the same standards as set out by the Inquiry in the Final Report. For simplicity, South Africa could adopt and rely on the designation system used by the European Commission under the DSA, which defines Very Large Online Platforms (VLOPs) and Very Large Online Search Engines (VLOSEs) as those with more than 45 million users per month in the EU.[56] This allows the Commission to make use of an existing, evolving, and updated list to ensure accountability for platforms and search engines with large user numbers and high levels of influence.

65. Alternatively, a similar definition could be adapted that works for the South African context, together with an ongoing mechanism for regularly reviewing and designating platforms going forward. It should be noted that a country-specific mechanism should take into

[55] Global Voices, 'Can Facebook Connect the Next Billion?,' (2017) (accessible here).
[56] European Commission "Supervision of the designated very large online platforms and search engines under DSA" *European Commission* (06 February 2025) (accessible here).

account that internet penetration is lower in South Africa than in the EU, and relative percentages of the population that use the platforms may need to be lower in this case.

*Making provision for non-compliance*

66. **As a result of the recent press release from Google,[57] this Inquiry needs to anticipate that negotiations may not take place (or they may fail), and that the platforms may not comply with its other recommendations. In this event, the submitting parties are of the view that this Inquiry, in its Final Report, should anticipate such an eventuality, including the potential need for this inquiry to exercise its power to initiate a complaint for investigation against any of the platforms or refer a complaint directly to the Competition Tribunal**.

67. In order to do so, the submitting parties of the view that:

    67.1. Additional evidence needs to be gathered using the extensive summons powers of the Inquiry, including in relation to AI and other instances in which the Inquiry notes in the Provisional Report that it has been unable to access sufficient information. These include:

        67.1.1. X.

    67.2. Following this process, and in addition to establishing dominance against Google in relation to search, markets need to be established and clearly defined in relation to social media, AI, and AdTech, to the extent possible.

**SPECIFIC AND TEXTUAL SUBMISSIONS ON THE PROVISIONAL REPORT**

68. Finally, the submitting parties suggest specifical textual amendments to the findings and recommendations in the Provisional Report as set out below:

| Paragraph | Specific / textual submission |
|---|---|
| **14** | The reference to Section 16 is textually inaccurate. The Inquiry should instead directly quote the Constitutional text to avoid any confusion as to the full ambit of the right to freedom of expression. |
| **150.1, 150.8, 150.9, 150.10, and 151** | These recommendations should be nuanced to refer to all search platforms currently in operation and to cater for prospective changes in the market through the entry of new players in future. |
| **233** | These remedies cover YouTube, Meta, X and TikTok. The Inquiry should insert a provision for new social media platforms or other platforms that may engage in similar conduct which impinges the Inquiry's recommendations. |
| **269.2** | Provision should be made for other platforms, perhaps those designated by the European Commissions as VLOPs - see here. |
| **269.5** | New and emergent AI companies, such as DeepSeek, should be referred to and included. |

[57] See above n 49.

**REQUEST FOR FURTHER ENGAGEMENTS**

69. The submitting parties remain available to provide further written and oral submissions, as may be needed, and request the opportunity to engage with the Inquiry on these submissions and the Provisional Report at a further public or *in camera* hearing.

**CONCLUDING REMARKS**

70. The submitting parties look forward to further engagements with the MDPMI, and remain available to assist the Inquiry as may be needed.

**SANEF, the Press Council, AIP, MMA, FCJ, SOS, GIBS, CFE, CODE, Vincent Maher, and Guy Berger**
**Johannesburg, 7 April 2025**

ENDS.

**ANNEXURES**

In terms of available short-, medium, and long-term measures to promote media sustainability, SANEF attaches an **extract of the Draft Report on Print & Digital Media Transformation and Revitatlistion prepared by the Ministerial Steering Committee appointed to draft a print and media transformation, diversity and revitalisation charter**. This draft is attached with the permission of a member of the Ministerial Steering Committee, and SANEF is broadly supportive of the various recommendations contained therein.