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OF THE  
UNITED STATES OF AMERICA

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January 17, 2021

Senate Standing Committees on Economics  
PO Box 6100  
Parliament House  
Canberra ACT 2600

RE: Submission on News Media Bargaining Code

The U.S. Chamber of Commerce writes to express our continued concern with the Australia Competition and Consumer Commission's (ACCC) proposed News Media and Digital Platforms Bargaining Code (Code of Conduct). We originally wrote to the ACCC on this issue on August 27, 2020. A copy of that letter is attached for your reference.

We appreciate that Australia has engaged stakeholders since then, and the government has made some efforts to modify the code. Nevertheless, and unfortunately, our fundamental concern with the proposed Code of Conduct remains unchanged. It does not establish objective criteria for determining who is subject to the code; rather, it explicitly targets and discriminates against U.S. companies. Further, the arbitration process established under the code fails to strike the balance appropriate to any arbitration process, and the requirements to reveal changes in algorithms are not justifiable. As a result, the proposal violates the non-discrimination obligations to which Australia has undertaken in the Australia-United States Free Trade Agreement and the World Trade Organization's General Agreement on Trade in Services.

We therefore respectfully repeat our request that Australia revisit the Code and revise it in a manner consistent with Australia's international obligations, and we stand ready to work with you in that effort.

Sincerely,

