

Department of Infrastructure, Transport, Regional Development, Communications and the Arts' consultation paper *News Media Assistance Program* (December 2023)

Commercial Radio & Audio Submission

Commercial Radio and Audio (**CRA**) is the industry body representing the interests of the entire commercial radio and audio industry throughout Australia. CRA has 260 member stations, of which 220 are in regional and remote areas.

Commercial radio provides a dynamic, contemporary style of news and information, capable of engaging Australians who are not necessarily consumers of more traditional news content, particularly in regional and remote areas. Regulation must support the unique and valuable nature of commercial radio news and information in the contemporary communications environment.

In 2022, Australian commercial radio stations broadcast:

- 1.1 million hours of Australian content
- 42,000 hours of Australian news
- 2,200 hours of emergency service content
- 251,000 hours of locally significant content in regional communities

In 2022:

- 58% Australians listened to commercial radio to get access to emergency broadcasts
- 74% Australians thought commercial radio builds a sense of community¹

CRA urges the Government to ensure that any NewsMAP framework – including regulatory reform, evidence gathering and financial support – reflects the nature of commercial radio news content, so that radio news is properly supported into the future, and live, local Australian voices and stories continue to be heard in communities across Australia.

A. CRA SUPPORTS GOVERNMENT'S HOLISTIC APPROACH TO ADDRESSING CHALLENGES IN THE MEDIA SECTOR

CRA appreciates Government's understanding of the challenges facing Australian media and supports Government's efforts to develop a holistic framework to sustain Australian news and journalism. CRA notes that:

'Government recognises the multiple pressures facing many news producers'

and supports the Government's view that:

*'a holistic approach is needed to respond to the interlinked social, economic and technological drivers shaping news and journalism in Australia.'*²

¹ Deloitte Access Economics – Connecting Communities: the economic and social contribution of commercial radio and audio in Australia (2023).

CRA agrees that the challenges facing the Australian radio industry should be considered holistically by Government. The entire eco-system, including regulatory burden, decreasing advertising revenue, copyright fees, and BigTech market dominance must be considered as part of the NewsMAP evidence gathering process.

The commercial radio industry urges Government to ensure that the broader regulatory framework supports the commercial radio industry as much as possible. This will minimise the amount of Government financial assistance that is required to ensure a sustainable commercial radio industry in Australia.

B. SUMMARY OF KEY POLICY PRINCIPLES

CRA recommends that the following key policy principles are included in the NewsMAP framework:

- Sustainable regulatory frameworks should be maintained for the commercial radio sector. This will create industry certainty and stability and will assist in reducing the amount of direct financial support required from Government. Regulation and government assistance should focus on ensuring commercial radio (and other news providers) are sustainable.
- The definition of public interest journalism should be broad enough to capture news and information relevant to all kinds of communities across Australia, beyond Canberra and the major cities. It should include news and information that may have a hyper-local focus, particularly for smaller communities in regional and remote parts of Australia.
- There must be an acknowledgement that news may be provided in varying forms, including interviews, shortform, flexible and interactive content. News is no longer consumed only within scheduled bulletins. Any proposed policy framework must measure and support contemporary means of news delivery and consumption.
- News provided across platforms – online and on-demand – is frequently integrated into broadcast news content and should be included in any radio broadcast news measurement framework or compliance regime.
- Measures to support public interest journalism must be relevant to the business models and practical operation of commercial radio stations across Australia. For example, turnover thresholds must relate to individual licensees and not to group turnover. Stations operate individually and are subject to individual local news obligations under the *Broadcasting Services Act 1992*. Support measures must be available to individual stations.
- The NewsMAP framework recognises ‘access’ as one of its four proposed objectives. A key principle should be that free-to-air radio broadcasting remains free and universally accessible. This principle should be supported through a ‘prominence’

² Page 4, Consultation Paper.

regime applicable to smart speakers and cars.³ This will ensure that Australians are able to reach valuable news content.

- 'Quality' is a subjective concept and may be problematic as a yardstick. If the NewsMAP framework continues to recognise 'quality' as one of its four proposed objectives, any assessment of quality must be undertaken with reference to the existing obligations under the Commercial Radio Code of Practice, the platform on which news content is broadcast, the demands of the relevant audience and the challenges faced by the platform. For example, localism obligations placed on radio must recognise the difficulties in obtaining and training local staff in many regional areas. Additionally, the audience of an FM radio breakfast program would have a different expectation of what makes news 'quality' compared to that of an AM radio program, in terms of content, delivery and brevity.
- Government should consider a package of support for the commercial radio industry, including sustainable regulation, funding, tax-based incentives, resilience and infrastructure support, and increased investment by Government in radio advertising.

C. ISSUES RAISED IN THE CONSULTATION PAPER

1. Definition of 'public interest journalism'

The definition of 'public interest journalism' must be sufficiently broad to capture news content provided by the commercial radio and audio industry across remote, regional and metropolitan Australia.

The definition should extend beyond traditional investigative reporting of issues of public significance to encompass local news content and information. This will ensure that any government intervention to support public interest journalism maximises the provision and engagement of news relevant to all Australian communities, particularly those in regional and remote areas.

In an era of declining regional media, the local commercial radio station is often the only source of hyper-local news, content and emergency service information in regional and remote communities. This news may not always be traditional political or investigative journalism, but it is vital for local communities – contributing to local understanding, connections, social inclusion and regional resilience.

The existence of this type of highly localised content is fundamental to any policy directed at supporting public interest journalism.

In addition, at many regional commercial radio stations 'news' is also delivered in non-traditional formats – e.g. talk, music and sport – which means it is frequently not captured for the purposes of measuring the volume of news content for regulatory compliance.

³ See CRA's submissions to the Senate Committee Inquiry into the Communications Legislation Amendment (Prominence and Anti-siphoning) Bill 2023.

Any news media assistance framework must also reflect consumers' current consumption patterns and should therefore recognise the following types of commercial radio news content that ultimately delivers public interest journalism to the audience:

- (i) All legislated news and local content obligations applicable to commercial radio broadcasters under the *Broadcasting Services Act 1992* and the Commercial Radio Code of Practice;
- (ii) scheduled news bulletins;
- (iii) repeated news items. News is often developed throughout the day, and the exclusion of content simply because it is repeated does not reflect contemporary news production or consumer listening patterns;
- (iv) ad hoc news items in non-news-based programs (such as FM breakfast radio) – news is frequently consumed as an adjunct to other content, but it does not mean it is less important. It is a key source of news for listeners;
- (v) news related to emergencies – regional commercial radio's unique role in providing emergency focused news is widely acknowledged as extremely valuable;
- (vi) current affairs/ talk back programs – significant proportions of Australians access news through current affairs programming. Talk back is a format that many Australians use as a key source of news and effectively engages Australians in public debate by encouraging them to contribute to open-line discussions; and
- (vii) news in related audio content – podcasts, online news content, streams and catch-up must be included in addition to the broadcast content, as these are all key platforms on which commercial radio broadcasters deliver their news. These platform distinctions are increasingly artificial, with news content frequently integrated between a broadcasters' various platforms.

If a broader definition of 'public interest journalism' is used, it would enable journalists to shift away from primarily satisfying compliance targets for broadcast within a news bulletin format and allow them to spend more time on news-gathering and investigative journalism. This is line with audience demands, is likely to increase engagement and should enable more in-depth analysis of news issues.

2. Access

CRA strongly supports Government's acknowledgement that access is a key objective, which must underlie any policy framework.

Ensuring easy access for all Australians to public interest journalism is essential for an informed and politically aware society. Ensuring that Australians can access news content, easily and free of charge, is a threshold issue. There will be no benefit to the community if Australians are not able to access news content.

Commercial radio plays an essential role in ensuring that Australian communities have access to local and national news, emergency information and community information. No

other platform offers such a range of live, local and Australian voices in such a diverse range of Australian communities. Commercial radio is particularly important in regional and remote Australia where the local commercial radio station is often the only source of local news and content.

Commercial radio is also critical in emergency situations – when Australians face natural disasters, radio is often the last communication channel still working and is essential for providing emergency information.

CRA has made submissions to the Senate Committee Inquiry into the *Communications Legislation Amendment (Prominence and Anti-siphoning) Bill 2023*. CRA has requested a prominence regime for radio.

The proposed radio prominence regime would:

- initially apply only to smart speakers, with consultation to occur with the manufacturers of smart speakers (as part of the development of regulations) before the regime commences;
- only apply to other devices, such as connected car entertainment systems, at a later point following a separate consultation process and a determination by the Minister; and
- be limited in its application to broadcast radio services and the simulcasts of those services over the internet.

CRA urges the Government to amend the *Communications Legislation Amendment (Prominence and Anti-siphoning) Bill 2023* as a matter of urgency to safeguard free and easy access to Australian radio stations on smart speakers. Alongside this, CRA asks for a consultation into radio on car entertainment systems to commence within a short timeframe.

3. Quality

While the commercial radio industry supports the objective of ensuring fair and accurate coverage of matters of public interest, any reference to ‘quality’ should be approached carefully given that “quality” is an inherently subjective measure. If it is used, it should reflect the obligations under the Commercial Radio Code of Practice, and be used in a way that is appropriate for the platform and the audience.

Any policy framework aimed at increasing news quality must also address the practical challenges in meeting any defined objectives.

(i) *Definition of quality*

The quality of news content should be assessed by reference to the particular platform and may include consideration of:

- Compliance with the Commercial Radio Code of Practice

- Accessibility
- Localism
- Accuracy
- Engagement
- Adherence to accountable journalistic standards

These elements are common to all news content, but the focus on each will vary between platforms. For example, radio news, might be particularly strong in *localism, engagement and accessibility*. Other news formats might be stronger in other areas.

(ii) How to assess ‘quality’

Quality might be assessed by reference to:

- Audience
- Regulation
- Complaints mechanisms

Audience. CRA urges Government not to underestimate the ability of audiences to judge quality. Ultimately, an audience knows what it wants and should be able to determine the type of content that it requires. Any policy framework should not force on audiences a definition of quality that may be unfamiliar or unwelcome.

Under section 14(1)(c) of the *Broadcasting Services Act 1992 (BSA)*, each commercial radio broadcaster is obliged to fund itself and must therefore be appealing to the audience and advertisers – the content it produces must reflect the content that the audience wants.

The audience is also the industry’s integrity marker – listeners will tell a station when they are not happy with content. Trust comes from the audience knowing who is delivering the content. The local radio station is their local voice in the community. This trust is particularly important given the increasing volume of online news sources, misinformation and content created by unidentifiable generative AI.

Regulation. Audience assessment of quality may be supplemented by regulation. CRA would strongly resist the application of further regulatory requirements, as a means of ensuring ‘quality’. Currently, content broadcast by commercial radio stations is governed by a co-regulatory regime, under the BSA:

- Provisions relating to accuracy, fairness and impartiality are already contained in the Commercial Radio Code of Practice.
- The commercial radio industry is also subject to onerous disclosure obligations under the Codes as well as the *Broadcasting Services (Commercial Radio Current Affairs*

Disclosure) Standard 2022. Commercial radio is the only medium required to comply with such prescriptive disclosure regulations.

Complaints mechanisms. Commercial radio operators are all licensed, and subject to a comprehensive complaints framework under the BSA. The ACMA has extensive enforcement powers, which ultimately can result in removal of an operator's licence. No further complaints mechanisms or sanctions are needed to ensure quality within the commercial radio industry.

(iii) Acknowledgement of challenges faced by the commercial radio industry

Any policy framework aimed at supporting public interest journalism must recognise and address the challenges faced by particular sectors in creating local news. This is particularly important in relation to local radio stations, which invariably work with tight budgets, limited resources and staff shortages.

Key challenges faced by local radio stations include:

- **Limited resources** – newsrooms, financial budgets, staff, transport, production facilities.
- **Difficulties in obtaining and retaining staff** – it is difficult for stations to obtain staff in many regional areas, where there is a shortage of skilled workers:
 - Journalists often launch their career at regional radio stations but attracting and retaining high calibre talent is challenging.
 - There are disparities between journalist awards and the cost of living and career progression pathways within journalism are limited.
 - There are no Government grants available to assist journalists in re-locating to regional areas.
- **Pressure on critical training opportunities and pathways** – there are few opportunities to obtain practical journalism training, particularly in regional areas. Over recent years, many universities across Australia have discontinued traditional journalism courses, for example, the closure of some journalism degrees at Charles Sturt University. This has led to a decline in the number of qualified journalists entering regional areas. Junior staff often move on and the radio station starts the time-consuming training process once again.

4. Financial support

CRA submits that a combination of support, including direct funding, tax-based incentives, and a commitment by the Government to invest in radio advertising, is required to ensure access to public interest news on commercial radio stations.

A package of support is needed by the commercial radio industry to:

- maintain and improve local content levels, which is particularly important given the increasing volume of online news sources and generative AI in journalism;

- support for news production through the sort of producer offsets or rebates that support video production;
- support the journalism profession;
- enable radio to innovate its news delivery, including through digital-first opportunities;
- support resilience and critical infrastructure; and
- target support to regional and remote communities so that all Australians have free and easy access to news and local content.

Direct funding

Funding for the commercial radio industry has historically been very limited, particularly when compared with other media sectors.

The Public Interest News Gathering Program (PING) was effective but is an isolated example of a program that provided support for commercial radio stations.

Typically, commercial radio stations have encountered significant barriers to accessing public interest journalism funds, such as:

- *Regional and Local Newspaper Publishers Program.* This was open only to print media. Radio stations were not permitted to apply.
- *Regional and Small Publishers Cadetships Program.* A small number of commercial radio stations benefited from this funding. However, many did not apply, due to the complexities of the eligibility criteria. Particularly problematic was the restriction of the fund to news media organisations whose **primary purpose** was the production of public interest journalism. The mixed format – talk, music, sport and news – of most regional commercial radio stations means that any test based on ‘primary purpose’ of public interest or news, is likely to exclude them. Many were excluded on the basis that the turnover threshold was measured by reference to the corporate group, rather than the individual radio station seeking funding.
- *Small Publisher Jobs and Innovation Package.* Commercial radio licensees were not permitted to apply for funding under the Innovation Package. This seems extraordinary when, in many regional areas, local radio stations are the only remaining source of local news.

CRA urges Government to open access to funds for commercial radio stations. This could be done by ensuring that:

- turnover thresholds are measured by reference to individual stations rather than related company turnover;
- eligibility tests take account of the supply of local content to local communities. Almost all regional commercial radio stations are obliged to provide 3 hours of hyper-local content per day under the BSA;

- a broad definition of ‘public interest’ is adopted to reflect the important information offered by commercial radio stations to local communities; and
- ‘primary purpose’ tests are not a threshold for accessing funds. The diverse nature of radio program content – which maximises engagement – means that these tests are very hard to meet.

Critical Infrastructure funding

Long term infrastructure funding should be implemented to support sustainability. Terrestrial transmission costs to cover Australia are fixed and escalating while revenues are challenged. This puts pressure on other activities like local news production.

The Commonwealth provides extensive funding of telecommunications blackspots for private operators like Telstra, and in the past has provided funding for the cost of printing regional newspapers, both of which are means of distributing communications similar to radio transmission costs

Tax-based incentives

The commercial radio industry would embrace any tax-based incentives and offsets for commercial radio broadcasters – which would ultimately improve the ability of networks to fund the production of local news and journalism.

Government advertising

The commercial radio industry would also welcome a commitment from Federal Government to increase its spend on radio advertising. There is precedent for this practical form of assistance – in September 2023 the NSW Government committed to providing \$3 million in advertising to regional print publishers.

Government advertising provides commercial radio broadcasters with a consistent revenue stream that supports sustainability and the stability needed to attract staff.

In addition to traditional ‘airtime spend’ models, Government could explore collaborative funding opportunities with regional media providers to showcase Government’s backing of public interest journalism.

5. Regulatory reform

CRA submits there are avenues for introducing greater flexibility into the current local content regulation under the BSA, which are briefly outlined below. CRA would be pleased to provide more detail as required.

- (i) **Broader definition of ‘localism’.** ‘Localism’ should be addressed holistically and not simply by reference to broadcast licence areas. The spread of population across very large areas in Australia means that ‘local’ cannot be measured simply by reference to geographic proximity. For example, many Mount Isa residents consider Townsville news as local, despite being hundreds of kilometres apart and in separate licence areas, as it is the nearest large town.

- (ii) **Move away from strict daily bulletin requirements.** Journalists face substantial workloads, driven in part by mandated requirements to reach daily benchmark bulletin numbers (s61CA, BSA). This impedes the ability of journalists to focus on investigative journalism and digital-first opportunities.
- (iii) **Allow online content to count towards local news requirements.** Given the change in consumption habits and significant shift by audiences to on-demand content, CRA urges the Government to consider allowing stations to include content communicated to audiences through online and on-demand formats as part satisfaction of local content and news compliance targets.
- (iv) **Allow repeated news bulletins to count towards compliance targets.** News stories reach different listeners at different times on different platforms. It is important to understand the value of radio/audio's ability to provide fresh perspectives on a story, by repeating and adding to it. Even if the content remains the same, the frequency and repetition of news stories caters for a diversity of audience behaviours and should be counted towards compliance targets.
- (v) **Introducing further regulatory flexibility should help the creation of quality public interest journalism.** If compliance conditions were broadened to count the material published online, within podcasts and on social channels and greater flexibility introduced with respect to repeated news stories and news delivered in non-traditional news formats (e.g. talkback), journalists would find more space within their workflow for investigative journalism.

6. Ensure that measures aimed at maintaining a sustainable radio industry are retained in the broader regulatory framework

Existing measures aimed at ensuring the sustainability of the commercial radio industry must be maintained.

Sections 152(8)-(11) of the *Copyright Act 1968* must be maintained as a long term measure to assist in achieving sustainability and stability for the Australian commercial radio industry.

These provisions provide a cap on the amount that the record labels can charge for the broadcast of sound recordings on radio (**1% cap**).

The 1% cap was introduced to balance the Australian music quotas that had been in place since 1942. When the sound recording right was introduced in 1968, the existing Australian music quotas provided the record labels with a guaranteed income stream from the Australia radio industry. The Australian music quotas increased dramatically (from 5% to 20%) in the years immediately following the introduction of the 1% cap.

Legislators were aware of the financial impact of high copyright fees on radio stations and imposed the 1% cap as a means of ensuring the industry's sustainability. The second reading speech of Nigel Bowen explained that the cap was imposed 'to *allay fears expressed by both the commercial broadcasting stations and the [ABC] that the*

payment of royalties for the broadcasting of records could impose a substantial financial burden on them'.

There is also contemporaneous evidence that political support for the cap was due to a concern that the payments to PPCA would mean that stations '*would have to terminate their programmes, removing the services and entertainment to large numbers of persons in the country areas*'.⁴

The 1% cap is needed now more than ever, as a long term measure to safeguard the sustainability and stability of the Australian radio industry.

CRA urges the Government to ensure that any NewsMAP framework – including regulatory frameworks, news measurement and access to funds – reflects the nature of commercial radio formats, so that radio news and local content is properly supported into the future. In particular, regulatory frameworks must support the commercial radio industry as much as possible, providing certainty and stability. This will minimise the amount of direct Government assistance that is required to ensure a sustainable commercial radio industry in Australia.

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⁴ (Professor Adrian Sterling *The Copyright Act 1968: Its passing and achievements – Copyright Future Reform Freedom: Marking the 40th Anniversary of Australia's Copyright Act 1968* Sydney: Sydney University Press 2011).