



# Broadcasting Legislation Amendment (2021 Measures No.1) Bill 2021



## Response to the Senate Environment and Communications Legislation Committee First Nations Media Australia



May 2021

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[First Nations Media Australia](#) (FNMA) is the peak body for the First Nations media and communications industry. Our purpose is empowering Australia’s First Nations people through our culturally connected media industry. Our head office is in Alice Springs, complemented by some team members working remotely from different corners of the country.

First Nations Media Australia supports and amplifies the First Nations media sector and its objectives. Our activities include resource and policy development, skills development, networking events and meetings, content-sharing, promotion, regular communications, annual awards, research activities and representation. As part of its industry leadership role, FNMA seeks to ensure First Nations communities have access to information required to make informed decisions. The crossover of infrastructure, digital literacy and access to information between telecommunications and media is significant.

Therefore, First Nations Media Australia advocates for the digital inclusion and connectivity needs of all Aboriginal and Torres Strait Islander people.

As at May 2021, FNMA’s membership includes 62 organisations and 167 individuals who work in or alongside the industry as broadcasters, freelance journalists, photographers, filmmakers and allies.

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This submission is made by First Nations Media Australia. Some members may make individual submissions in which case the First Nations Media Australia submission should not be taken to displace those submissions.

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### [The scope of the First Nations media sector includes:](#)

- **Television:** National free-to-air (NITV); satellite delivered narrowcast (ICTV) TV services; local narrowcast TV services (Goolarri TV at Broome, ICTV in Alice Springs and Broome and Larrakia TV at Darwin). The ICTV satellite TV service reaches 371,846 smartcards nation-wide as at April 2021, not including terrestrial services in Alice Springs and Broome.
- **Video & film production:** Production of culture and language-based content for broadcast & online distribution.
- **Print and Online:** A national newspaper (Koori Mail) alongside a strong web presence of journalistic sites such as IndigenousX, National Indigenous Times.
- First Nations media organisations have a strong **social media** following and publish content online daily.

- **Radio:** Over 230 radio broadcast sites coordinated by 35 licensed, community-owned, not-for-profit organisations. These radio services are able to reach around 320,000 First Nations people, including around 100,000 very hard to reach people in remote Indigenous communities, or approximately 48% of the First Nations population. Radio services are prevented from providing a primary radio service to all Aboriginal and Torres Strait Islander peoples due to a lack of funding and spectrum availability. Established stations broadcast live shows, plus interviews, radio documentaries, news, emergency information, community events, government and other messaging within community broadcasting guidelines through these platforms:
  - 157 stations broadcasting on FM
  - 4 stations broadcasting on AM
  - 13 broadcasting via VAST satellite, in addition to FM services.
  - 5 metropolitan services broadcasting via DAB+, in addition to FM services in Sydney, Melbourne, Perth, Brisbane and Darwin.
  - Almost all offer online streaming via a dedicated station website.
  - Many offer on-demand content either through the station's own website, or Soundcloud or podcast sites.
  - 26 stations can be streamed via the indigiTUBE website and app. Some stations also have their own application or use the TuneIn or iHeartRadio apps to reach audiences.
- These channels offer a wide range of programming, including news and current affairs reporting from a First Nations perspective, in over 25 Indigenous languages nationally, including the first language of many people in remote communities.

The sector reaches significant audience share with 91% of people in remote Indigenous communities being regular listeners to radio services and watching ICTV at least once per month.<sup>1</sup> In the remote context, First Nations media is the most reliable and ubiquitous radio and media service available to audiences.

First Nations broadcasters are not-for-profit community organisations providing a primary and essential service to their communities. First Nations media organisations are based in local communities and employ local people as broadcasters and media producers. They are local and trusted voices, attracting listeners who want to hear about their own communities, in their own language, sharing positive Indigenous stories.<sup>2</sup> Social Ventures Australia found that strengthening First Nations broadcasting strengthens community through communication, culture and employment. For this reason, First Nations broadcasting returns an average \$2.87 in social outcomes for every \$1 invested, with many organisations returning a rate much higher than this nearly 3:1 average ratio.<sup>3</sup> The communications sector provides enabling services to support opportunities and outcomes in service sectors, such as health and education, and promotes inclusiveness and participation.<sup>4</sup>

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<sup>1</sup> McNair yellowSquares, *Indigenous Communications and Media Survey*, 2016,

<sup>2</sup> *ibid.*

<sup>3</sup> Social Ventures Australia, *More Than Radio – a community asset: Social Return on Investment Analyses of Indigenous Broadcasting Services*, 2017

<sup>4</sup> Department of Communications and the Arts, *The Communications Sector: recent trends and developments*, Bureau of Communications Research, Commonwealth Government, Canberra, October 2016

A strong First Nations owned media industry enables Aboriginal and Torres Strait Islander people to **access to relevant news, information services and emergency warnings and to actively participate in the appropriate delivery of media and information services** for their communities.



## Approach

First Nations Media Australia (FNMA) welcomes the opportunity to make a submission to the Senate Standing Committees on Environment and Communications' public consultation on proposed amendments to the *Broadcasting Services Act 1992* (the BSA) via the *Broadcasting Legislation Amendment (2021 Measures No.1) Bill 2021* (the 2021 Measures Bill).

FNMA supports regulatory requirements for Australian content programming across all broadcast channels as an important means of creating meaningful employment opportunities for Aboriginal and Torres Strait Islander people. Therefore, in principle, FNMA does not support reductions to the annual expenditure requirements for Australian drama programming proposed in this Bill amendment.

However, FNMA does not seek to provide in-depth commentary on all amendments proposed by the way of the 2021 Measures Bill. This submission directs its focus to the Regional and Small Publishers Innovation Fund beyond 30 June 2021.



## The Regional and Small Publisher Innovation Fund

FNMA notes that the amendment proposed is an administrative one; it simply extends the timeframe for the ACMA to make grants under the Regional and Small Publishers Innovation Fund beyond 30 June 2021.

In response, FNMA would like to highlight some issues that submission go to heart of the Innovation Fund itself, consistent with prior submissions of FNMA about the Innovation Fund. With respect to the Innovation Fund, we note that reason for amendments being proposed in this regard are to

*... demonstrate the government's commitment to reform and streamline regulation across the broadcasting industry...*

and

*... ensure that the provisions for the broadcasting industry remain current.*

FNMA understands the Regional and Small Publishers Innovation Fund (the Innovation Fund) is a competitive grants program designed to support regional and small publishers to transition to and compete more successfully in the evolving media environment. In 2019-20 FNMA was the recipient of a grant from this fund to establish a news sharing platform for the First Nations media sector, specific to the online sharing of news content. While this project has great benefit to FNMA members, it does not meet the needs of First Nations media organisations directly, nor does is

provide opportunity for multiplatform publishers to access grant support for regional news production, or to build journalistic capacity within small media organisations.

We applaud the intent of the Innovation Fund. We remain concerned however, that the Innovation Fund has, since its inception focused on print media to the exclusion of community-controlled news outlets. Grant-making under this scheme has failed to recognise the valuable contribution that the community broadcasting sector with respect to regional and local news production.

FNMA remains concerned that there is no plausible explanation offered for the eligibility of grants made under this Innovation Fund being limited only to:

- (a) a publisher of a newspaper, magazine or other periodical; or*
- (b) a content service provider.*

In particular, we understand that at present, in order to be eligible for a grant under the Innovation Fund, a 'Regional Publisher' needs to distribute public interest journalism via a printed newspaper or website, and that support for television and radio services is only available to commercial license-holders.

FNMA notes that this policy position is at odds with the objects of the Broadcasting Services Act itself, with particular reference to subsection (g) of section 3, which relevantly provides:

*(1) The objects of this Act are:*

*... (g) to encourage providers of commercial and community broadcasting services to be responsive to the need for a fair and accurate coverage of matters of public interest and for an appropriate coverage of matters of local significance;*

FNMA also notes that this policy position is at odds with that taken with respect to the news media industry in the News Media and Digital Platforms Mandatory Bargaining Code (*Competition and Consumer Act 2010*), which does not discriminate between commercial and community news producers. There,

*news source means any of the following, if it produces, and publishes online, news content:*

- (a) a newspaper masthead;*
- (b) a magazine;*
- (c) a television program or channel;*
- (d) a radio program or channel;*
- (e) a website or part of a website;*
- (f) a program of audio or video content designed to be distributed over the internet.*

We also note that the policy position adopted through the Innovation Fund to focus on print media is at odds with the reason provided by the Minister for Communications, Urban Infrastructure Cities and the Arts for this proposed 2021 Measures Bill, which was:

*... to reduce regulatory burden, reform outdated regulations that are no longer fit for purpose and enable Australia's media industry to continue to provide services and content valued by audiences across the country.*

FNMA successfully argued for the inclusion of First Nations media in the guidelines for the Innovation Fund as the only accessible publishers of locally relevant news content in many remote communities. Radio news is particularly relevant in areas where print newspapers may not arrive via

post in a given region until they are out of date, and where digital connectivity remains a barrier to information.

This position was accepted by the ACMA and implemented in the Round 1 Innovation Fund grant guidelines. However, all later iterations of the grant opportunity have reverted to print-focused funding support, to the exclusion of valid publishers of regionally produced news via community-controlled radio and television channels.

FNMA recently submitted a response to the Government's Media Reform Green Paper, in which the Government described aims of sustaining the continued delivery of news and other Australian content across different platforms that Australians view. The availability of local news and information services is an important policy objective, reflected as a priority for FNMA through our sector's call for action to [strengthen news services](#). Similarly, the objective of making Australian stories available in all forms of media, including First Nations stories, is important not only to reflect our society as a whole, but also in the process of truth-telling.

First Nations Media Australia has identified opportunities for future employment expansion in community news and journalism. We share the Government's concerns at the reduction of localised news services in regional and remote Australia. The First Nations media sector has needed to fill the gap in news and weather services for many remote and regional communities, as the ABC has scaled back its local news and weather coverage for these less populous areas over the past five years. First Nations Media Australia seeks to increase the news and current affairs capacity of First Nations broadcasters both to address this geographic deficit at a national level and to increase the diversity of news reported.

Particularly in response to increasing frequent emergencies (fire, flood, cyclone, pandemic), the immediate distribution of locally relevant news has never been more vital. If the Government's intent is to support regional news is to increase journalistic capacity and career pathways for reporters in regional areas, to increase the diversity of news content available to the Australian public and/or to ensure that provisions for the broadcasting industry remain current, as per previously stated policy positions, the FNMA strongly encourages the revision of the Innovation Fund program to match these objectives.

Further, FNMA recommends that should the ACMA management of the Innovation Fund grant be extended, the Government insist on industry consultation on changes to grant guidelines and the distribution of relevant funding to ensure that the grant program can adequately meet its objectives. The ACMA has not been responsive to requests for information on grant guidelines, grant rounds or the intent of the funding envelope since the establishment of the funding program.

### [Innovation Fund - Outcomes and efficiency?](#)

Under the present eligibility criteria, [for the year 2019 to 2020](#), FNMA notes that the total amount recommended by the Advisory Committee to be paid out of the Innovation Fund was \$9,461,265.42. For this \$9m spend of public money, the net result was:

- The printing of some hardcopy newspapers,
- a set of new websites, subscription management systems and some website upgrades, (with several costing over \$94k, several over \$200k, and one as high as \$335k)

- the purchase of a set of content management systems,
- an advertising consultant,
- a marketing consultant, and
- a new vehicle to deliver print newspapers.

These grants were all awarded to private commercial enterprises whose purposes are for-profit. A central tenet of capitalism is that the market, and the demand within it, drives innovation, which drives supply that meets demand. It naturally leaves behind those enterprises who have failed to adapt to market need, acted inefficiently, or both. Despite this, the Innovation Fund diverts public funds to private enterprises.

If the Innovation Fund is indeed aiming to reflect and pursue innovation, it would not exclude whole parts of the broadcasting industry. It would not favour the commercial broadcasting sector. It would include First Nations broadcasting because it would streamline funding opportunities across the broadcasting industry, just as it seeks to streamline regulation across the broadcasting industry.

## Conclusions and proposed action

We utilise this forum to again propose that the eligibility criteria of the Innovation Fund be broadened to achieve those aims set out by the BSA which has championed the need for a modern broadcasting marketplace to adapt to technology, since enactment.

*We need new legislation capable of allowing the broadcasting industry to respond to both the complexities of the modern market-place and the opportunities created by technological developments. Continuing to inhibit the natural development of this industry through outdated and cumbersome regulation will disadvantage consumers and be detrimental to the longer term prospects for Australia.<sup>5</sup>*

FNMA recommends the Government encourage the ACMA to work with experienced funding distributors such as Indigenous Languages Australia or the Community Broadcasting Foundation to align the outcomes of the grant intention with the guidelines and administration of the grant program and that industry consultation be a requirement for guidelines associated with future grant rounds.

Further, FNMA recommends the Government focus expenditure of media sector support funding to public interest journalism in all forums, not only regional print journalism in order to adequately meet the objectives of current media policy. To this extent, we request that the ACMA be required to review the Innovation Fund should its management of the program be extended.



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<sup>5</sup> Commonwealth, Broadcasting Services Bill 1992, Second Reading, Senate, 4 June 1992, 3599 (Senator Collins, Minister for Transport and Communications).