

Committee Secretary
Senate Legal and Constitutional Affairs Committee
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

10 November 2023

Dear Committee Secretary,

Re: Submission – Copyright Legislation Amendment (Fair Play for Radio Play) Bill 2023

We thank you for the opportunity to make submissions with respect into the Senate Legal and Constitutional Affairs Committee's ("**the Committee**") inquiry into the *Copyright Legislation Amendment (Fair Play for Radio Play) Bill 2023* ("**Amendment Bill**").

The Capital Radio Network ("**CRN**") is a privately owned and operated commercial radio broadcaster with commercial radio stations operating in the following licence areas:

1. **Canberra;**
 - i. Forever Classic 2CA
 - ii. Talking Canberra 2CC
 - iii. My Canberra DAB+
 - iv. Snow DAB+
 - v. KIX Country Canberra DAB+
2. **Goulburn** (New South Wales);
 - i. Forever Classic GNFM 107.7
 - ii. 93.5 Eagle FM
 - iii. KIX Country Goulburn 100.7
3. **Snowy Mountains** (New South Wales);
 - i. Forever Classic XLFM 96.1
 - ii. 97.7 Snow FM
4. **Warragul** (Victoria); and
 - i. Forever Classic 3GG
5. **Perth** (Western Australia).
 - i. Forever Classic 6iX
 - ii. My Perth DAB+
 - iii. KIX Country Perth DAB+

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In short, the Amendment Bill seeks to remove protections afforded to the Australian radio industry pursuant to sections 152(8) to (11) of the *Copyright Act 1968* (Cth), preventing broadcasters from the financial burden of paying greater than 1% of their gross earnings in relation to the broadcast of sound recordings on their radio stations (“1% **Cap**”).

CRN strongly opposes the passing of the Amendment bill for the following reasons:

Balance and Fairness:

The 1% cap ensures regulatory fairness and balance where a legislative obligation exists for broadcasters to play Australian music. Its inception was to protect the Australian radio industry from being charged excessive fees. This has been in place for many years and has worked well to sustain radio broadcast in the Australian context.

The 1% Cap works to prevent the record industry from the ability to charge large amounts in fees when broadcasters play their songs. We note that already, up to 90% of fees paid through PPCA regulations go to the record labels, which does not get passed onto the artists themselves. The radio industry works to support recording artists and radio is a key platform for promotion, begging the question, why punish the industry that works to ensure the success of recording artists?

The removal of the 1% Cap by way of the Amending Bill, provides an open-door policy on record labels to charge increased fees for Australian content that radio has no choice but to play. Without the 1% Cap, broadcasters across Australia would still be forced to ensure that their song lists comprised at least 25% Australian music, without regulation on the price.

Therefore, if Australian broadcasters are subject to legislative requirements to play Australian content, which attracts fees, then the record industry should be subject to requirements that prevent it from discretionary charging that could cripple Australian radio.

Importance of radio in regional communities:

At the forefront of local communication is local radio. Radio stations play an integral role in the broadcast of information, entertainment and news in their local communities.

Under section 43C of the *Broadcasting Services Act 1992* and the *Broadcasting Services (Regional Commercial Radio – Material of Local Significance) Licence Condition 2014* all regional commercial radio stations must broadcast specified levels of material of local significance.

Small commercial radio licensees must broadcast 30 minutes of material of local significance each day, and all other licensees must broadcast three hours each day. The content must be broadcast during day time hours (5am to 8pm) each business day. This means that the local content is broadcast during peak listening times, thereby reaching the maximum number of listeners.

Broadcast media is the most effective means by which emergency service organisations communicate with the public when critical events occur. Regional commercial radio plays a particularly important

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role, as 80% of Australians listen to commercial radio. The local commercial radio stations therefore play a critical role in the dissemination of information to the local community in times of emergency.

All commercial radio stations are bound by the *Commercial Radio Code of Practice*. Section 7 sets out commercial radio broadcasters' obligations in relation to the broadcast of emergency information. Specifically:

A licensee will, in consultation with appropriate emergency and essential service organizations, implement a set of internal procedures to enable the timely and accurate broadcast of warnings and information supplied by such organizations relating to an existing or threatened emergency.

Commercial radio broadcasters in Victoria, New South Wales, South Australia and Queensland have entered into a Memoranda of Understanding which complements Section 7 and also sets out useful processes governing the communication of information between the broadcasters and the emergency service organisations.

In relation to the above, CRN stations broadcast emergency fire warnings every 15 minutes during catastrophic fire conditions. They also regularly broadcast road closures and conditions during winter months due to heavy snowfalls. The Amending Bill could prevent our ability to maintain key services such as this.

Unlike most news providers, the CRN is committed to providing local news content in all of its broadcast areas. While most newsrooms were shrinking their resources, CRN under a cadetship program, assisted by the Federal Government recently hired three regionally based cadet journalists to ensure the provision of local news services. As part of the attainment of Government support, the CRN committed to contributing over 30% of the cost to hire, train and deploy cadets in regional licence areas. Another example where higher, uncapped fees paid to record labels inhibit our ability to function, hire staff, and operate as a business within regional communities.

Further to this, our radio stations are engrained in their local areas. We are often called upon to support local charities and community events. The imposition of uncapped and frankly unregulated fees resultant to the Amending Bill in removing the 1% Cap puts our ability to support and deliver for local communities in doubt.

Cost to Business:

Employment overheads are by far the greatest cost to any business or broadcaster. We need to ensure we pay staff in accordance with Australian standards, which at times of need includes overtime payments to allow us to facilitate local and emergency broadcast content. Further, we continue to operate expensive broadcast equipment to be able to meet our local content requirements and provide valuable and often lifesaving information to the communities in which we operate. Of course, these costs are compounded by on going cost of living issues, which also impact business such as our own.

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The Amendment Bill has the ability to send our operational capacity financially backward in forcing higher fees to be paid in light of legislative requirements to maintain certain levels of content. Our stations will be faced with a decision to comply with legislated content requirements and in doing so compromise profitability in order to pay for them, at the cost of staffing levels and operational security and longevity.

Conclusion:

In conclusion, the Amendment bill has far wider implications on broadcasters, particularly independently owned broadcasters than is being considered on the surface by the Amendment Bill. The Amendment bill has the effect of lining the pockets of record labels who fail to pass on royalties to artists to the exception of the industry that provides exposure to recording artists on a daily basis.

The Amendment Bill could work to cripple the Australian radio industry in ways that have not been considered by its contributors and supporters, meaning the demise of commercial radio and the silencing of regional broadcasters such as the Capital Radio Network.


Regards,

for and on behalf of the Capital Radio Network.

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