

Consultation on New Spectrum Legislation

Response of the Indigenous Remote Communications Association

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Indigenous Remote Communications Association
2/70 Elder Street, Alice Springs NT 0870
PO Box 2731. Alice Springs NT 0871
Ph 08 8952 6465
F 08 8992 9669
E manager@irca.net.au
W www.irca.net.au

1 About the Indigenous Remote Communications Association

The Indigenous Remote Communications Association (IRCA) is the peak body for Indigenous media and communications. It was founded in 2001 as the peak body for remote Indigenous media and communications. In late 2016 it transitioned to the national peak body for Aboriginal and Torres Strait Islander broadcasting, media and communications.

Up to 105 Remote Indigenous Broadcasting Services (RIBS), 33 additional licensed retransmission sites across Australia, 8 Remote Indigenous Media Organisations (RIMOs) and 28 urban and regional Aboriginal and Torres Strait Islander radio services are eligible for representation by IRCA.

2 About the Aboriginal and Torres Strait Islander broadcasting and media sector

Aboriginal and Torres Strait Islander broadcasters are not-for-profit community organisations providing a primary and essential service to their communities. They reach nearly 50% of the Australian Aboriginal and Torres Strait Islander population, but are prevented from providing a primary radio service to all Aboriginal and Torres Strait Islander peoples due to a lack of funding.

Aboriginal and Torres Strait Islander broadcasters and media producers also connect non-Indigenous communities with Aboriginal and Torres Strait Islander people and culture, developing greater understanding and building stronger relationships.

The sector:

- Comprises:
 - Radio services able to reach around 320,000 Aboriginal and Torres Strait Islander persons, including around 100,000 very hard to reach people in remote Indigenous communities, or approximately 47% of the Australian Aboriginal and Torres Strait Islander population.

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- A regional satellite TV service reaching 240,000 remote households and a free to air national TV service.
 - Over 230 radio broadcast sites across Australia.
 - Is a multimillion dollar industry with over 35 Aboriginal and Torres Strait Islander community owned and managed not for profit media organisations.
 - Holds the capacity to be a preferred supplier for all government messaging to our communities.
 - Is the most relevant and appropriate service with the highest listenership, community engagement and local ownership of all media services.
 - Is delivered in the first language of many remote peoples.
 - In remote communities, is the most reliable and ubiquitous radio and media services.

3 Disclaimer

This submission is made by the Indigenous Remote Communications Association (IRCA) in its own right. It is expected that some radio services. RIBS and RIMOs will make individual submissions in which case the IRCA Submission should not be taken to displace those submissions.

4 Submission

Introductory remarks

The Indigenous Remote Communications Association (IRCA) welcomes the opportunity to respond to the Consultation Paper on New Spectrum Legislation. The Consultation Paper has high relevance to the Aboriginal and Torres Strait Islander broadcasting sector and we appreciate the overall intent to streamline Ministerial and regulatory processes. Our specific responses to the the proposals are presented below.

We understand that the current Consultation outcomes will be reviewed, with a final Consultation due by the end of the year and we look forward to providing further feedback at that time.

4.1 Consultation Question 1: Do you consider this change in approach to spectrum planning will have any practical implications?

IRCA is in support of the streamlining of spectrum designations and high level planning decisions from the Minister to the Australian Communications and Media Authority (ACMA), and does not foresee any practical issues.

4.2 Consultation Question 2: What matters should be considered for inclusion in the broadcasting Ministerial policy statement?

Aboriginal and Torres Strait Islander broadcasting needs to be considered as a category in its own right rather than subsumed within community broadcasting. Aboriginal and Torres Strait Islander broadcasters provide a first level of service to remote Aboriginal and Torres Strait Islander audiences, particularly for those who speak an Aboriginal or Torres Strait islander language as their first language. Aboriginal and Torres Strait Islander media has been recognised as an essential service in numerous reports (ATSIC, 1999¹; Productivity

¹ <https://www.irca.net.au/sites/default/files/public/documents/DigitalDreaming.pdf>

Commission, 2000²; Stevens, 2010³) but this has yet to be enshrined in policy.

The Stevens Review⁴ (2010:Rec.4) recommended a discrete class of broadcast licenses for Indigenous broadcasting and greater acknowledgement of its role as a professional component of the broader broadcasting and media sector. The Broadcasting Services Act 1992 included the object:

“to ensure the maintenance, and where possible, the development of diversity, including public, community and Indigenous broadcasting, in the Australian broadcasting service in the transition to digital broadcasting.”

Despite being recognised as a discrete broadcasting class, Aboriginal and Torres Strait Islander broadcasting has been grouped within the community broadcasting sector, limiting the resourcing available, access to broadcast licenses, and the ability to develop as a professional sector. Unlike community broadcasting, Aboriginal and Torres Strait Islander broadcasters provide a primary service to their communities, especially in remote areas where there are few, if any, mainstream services. It is not an alternative or supplementary service to its audiences, and its staff are mostly paid, not volunteers (as they are in the community broadcasting sector).

Aboriginal and Torres Strait Islander broadcasting is vitally important to Aboriginal and Torres Strait Islander audiences. Data from the 2016 Remote Indigenous Communications and Media Survey indicates the sector’s importance and special position:

- 80% of community members aged 18 and over are weekly listeners; 91% are monthly listeners
- 77% of people listen for the positive Aboriginal and Torres Strait Islander stories
- 67% listen to hear about their own people and community
- 56% listen for the Aboriginal and Torres Strait Islander focus in programs and news
- 56% listen to hear people broadcasters present in language

² <http://www.pc.gov.au/inquiries/completed/broadcasting/submissions/sub177/sub177.pdf>

³ http://www.irca.net.au/sites/default/files/public/documents/PDF/Government_Docs/broadcasting-review.pdf

⁴ http://www.irca.net.au/sites/default/files/public/documents/PDF/Government_Docs/broadcasting-review.pdf

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- 51% listen due to the employment opportunities provided by Aboriginal and Torres Strait Islander broadcasting for local people
 - 51% listen for the pride that arises from Aboriginal and Torres Strait Islander broadcasting services

According to the UN Declaration on the Rights of Indigenous Peoples (2007), Aboriginal and Torres Strait Islander people have a right to reliable, professional media services in their relevant language, providing relevant news, information, viewpoints and content. The 'Tuning into Community Broadcasting' report (CITA, 2007⁵) described the Aboriginal and Torres Strait Islander radio station as the primary source of news and information, providing an 'essential service' to the communities they serve. "In times of natural disasters they are most likely the only local information provider" (CITA 2007:83). However, most remote Aboriginal and Torres Strait Islander communities and homelands do not receive an Aboriginal and Torres Strait Islander radio service and many sites have no radio broadcast services at all, creating a significant public safety issue.

The closure of the ABC short wave radio service, the loss of funding for maintaining national broadcaster self-help retransmission services, as well as the lack of AM radio services in remote areas and the limited range of FM services is creating large gaps in radio terrestrial provision of any kind in remote areas. The 2016 Remote Indigenous Communications and Media Survey identified that the satellite delivered radio and TV household VAST service was only available to 64% of remote Indigenous community households and, being constrained to dwellings, is not able to be treated as a substitute for terrestrial broadcast.

The current categorisation of Aboriginal and Torres Strait Islander broadcasting as community broadcasting has a number of practical implications. Its categorisation as community broadcasting, and the generally limited spectrum availability for community broadcasting in Licence Area Plans means that:

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http://www.aph.gov.au/binaries/house/committee/cita/community_broadcasting/secondreport/finalreport.pdf

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- Aboriginal and Torres Strait Islander may be “in competition” for spectrum with other community broadcasting categories, especially in areas where there is high demand for spectrum across the range of community, commercial, national and narrowcast broadcasters. There are currently large Aboriginal and Torres Strait Islander communities in towns and cities such as Dubbo, Nowra, the Gold Coast, Wagga Wagga, Adelaide, Canberra and Hobart without access to a specific Aboriginal and Torres Strait Islander radio service.
 - In some areas where all LAP planned spectrum has been used, the only possibility for gaining a broadcast licence is through TCBL licensing arrangements, creating an issue for the certainty of continued broadcasting, and consequent impacts on funding opportunities and other fundraising options.

In addition, the subsuming of Aboriginal and Torres Strait Islander broadcasting within Community Broadcasting means that codes of practice for the sector are managed within the more general Community Radio Broadcasting Codes of Practice. The current codes of practice do not reflect the specific culture and language approaches that underpin Aboriginal and Torres Strait Islander broadcasting. The Code, in relation to “Indigenous programming and coverage of Indigenous Issues” (Code 4⁶), is written generically for the community broadcasting sector and is consequently unable to deal with the specificity of the cultural protocols that are required within the Aboriginal and Torres Strait Islander broadcasting sector. This points to the issue of assuming Aboriginal and Torres Strait Islander broadcasting is synonymous with community broadcasting.

IRCA proposes that:

- Aboriginal and Torres Strait Islander broadcasting be the subject of specific Ministerial policy statements to the effect of requiring that Aboriginal and Torres Strait Islander broadcasting be identified as a category separate to community broadcasting and that spectrum be specifically provided for Aboriginal and Torres Strait Islander spectrum within Licence Area Plans.

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<http://www.acma.gov.au/~media/Community%20Broadcasting%20and%20Safeguards/Regulation/pdf/Community%20Radio%20Broadcasting%20Codes%20of%20Practice.PDF>

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- The Minister direct the allocation of spectrum for non-commercial and non-national broadcasting within Licence Area Plans:
 - To be increased to ensure that spectrum is specifically available for Aboriginal and Torres Strait Islander broadcasting in Remote Indigenous Communities, all regional towns with sizeable Aboriginal and Torres Strait Islander populations and in all capital cities.
 - That spectrum already allocated for Aboriginal and Torres Strait Islander broadcasters be maintained and specifically identified as Aboriginal and Torres Strait Islander broadcasting.
 - That where Aboriginal and Torres Strait Islander TCBL broadcasting is in place that the ACMA be directed to move to transferring the licensing to Aboriginal and Torres Strait Islander CBL status so as to include in the relevant LAPs.
 - That the ACMA be directed to work with the Aboriginal and Torres Strait Islander broadcasting sector in the development of a Code of Practice specific to Aboriginal and Torres Strait Islander broadcasting⁷.

4.3 Consultation Proposal 2: In planning spectrum for use by national, commercial and community broadcasters and high powered open narrowcasters, the ACMA will have regard to the objects and the planning criteria similar to the current section 23 of the Broadcasting Services Act.

IRCA draws attention to the points made in 4.2 above regarding the need for specific identification of specific spectrum allocations for Aboriginal and Torres Strait Islander broadcasting.

⁷ IRCA is already working with the CBAA in its review of the Community Radio Broadcasting Code of Practice on strengthening the Indigenous Programming Code in its application to non-Aboriginal and Torres Strait Islander broadcasters.

4.4 Consultation Question 3: Will consolidating the existing radio LAPS and TLAPS into a general LAP category have any negative implications for licensees?

IRCA does not have a view one way or another as to whether TV LAPS and radio LAPS are combined and simply proposes that efficiency for broadcaster use be the guiding principle.

4.5 Consultation Question 4: Are there any other existing rights that broadcasters have in relation to their licences which need to be addressed in the proposed framework?

IRCA draws attention to the matter of TCBLs as noted in para 4.2 above and encourages the ACMA to consider review of LAPs in its annual works program so as to provide the mechanism for migrating Aboriginal and Torres Strait Islander TCBLs to CBLs.

IRCA also notes that there are 33 self-help retransmission sites for expanded delivery of remote Aboriginal and Torres Strait Islander radio services. These are maintained by Remote Indigenous Media Organisations without funding for the purposes of ensuring that small non-RIBS communities have a terrestrial radio service.

Similarly, ABC services are delivered via self-help retransmission facilities to a decreasing number of remote Aboriginal communities. This is due to both a lack of funding and local management of licenses arising from the implementation of “super shires”.

IRCA urges consideration of the funding mechanisms for self-help radio sites. IRCA also urges consideration by the ACMA of re-implementing the “managing organisation” arrangements whereby remote licensees can choose to delegate the renewal of licences to a Remote Indigenous Media Organisation.

IRCA also encourages the ACMA to identify more “user-friendly” nomenclature for licenses.

4.6 Consultation question 6: Will any of the changes to digital radio create unintended consequences or operational impediments?

IRCA sees this as a simplification process of benefit to the sector.

4.7 Consultation proposal 9: Incorporate greater flexibility into the new framework to allow for trading and sharing of spectrum.

IRCA sees this proposal as potentially providing more innovative use of spectrum in the future that may be beneficial at community level, with the caveat that any provisions for such arrangements be only authorised by the relevant licensee.

Thank you again for the opportunity to respond to the Consultation and we look forward to reviewing the Consultation documents in the next phase. Please also note that IRCA is providing a separate submission on the Spectrum Pricing consultation.

Daniel Featherstone
General Manager
Indigenous Remote Communications Association