



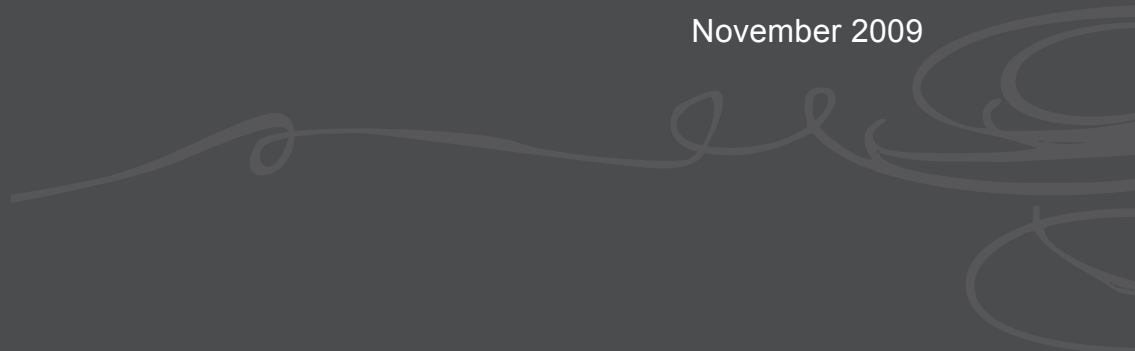
Australian Government

Department of the Environment,
Water, Heritage and the Arts



Summary report on the findings of the review of National Indigenous Television (NITV)

November 2009



The final report on the Review of National Indigenous Television was completed by Hugh Watson Consultancy Pty Ltd and submitted to the Department of the Environment, Water, Heritage and the Arts. The views expressed in this report do not have the endorsement of the Department of the Environment, Water, Heritage and the Arts.

© Commonwealth of Australia 2009

This work is copyright. You may download, display, print and reproduce this material in unaltered form only (retaining this notice) for your personal, non-commercial use or use within your organisation. Apart from any use as permitted under the Copyright Act 1968, all other rights are reserved. Requests and inquiries concerning reproduction and rights should be addressed to Commonwealth Copyright Administration, Attorney General's Department, Robert Garran Offices, National Circuit, Barton ACT 2600 or posted at www.ag.gov.au/cca.

Disclaimer

The contents of this document have been compiled using a range of source materials and is valid as at November 2009. The Australian Government is not liable for any loss or damage that may be occasioned directly or indirectly through the use of or reliance on the contents of the document.



CONTENTS

| | |
|--|----|
| 1 Background | 1 |
| 1.1 Terms of Reference | 2 |
| 1.2 Process for the Review | 2 |
| 2 Executive Summary | 4 |
| 3 Considerations for the future | 6 |
| 3.1 Scope: aspirations versus expectations | 6 |
| 3.2 Governance | 7 |
| 3.3 Broadcast content | 8 |
| 3.4 Stakeholder relations | 9 |
| 3.5 Audience reach | 10 |



BACKGROUND

When funding for an Indigenous television service was announced by the then Minister for Communications, Information Technology and the Arts, Senator Helen Coonan, in September 2005 she said that ‘The Australian Government’s response...will involve the development of an Indigenous television service at a cost of \$48.5 million over four years. This funding will develop Australia’s Indigenous television and production sector and draw on the skills and capabilities of Indigenous media organisations throughout Australia... This new funding will support the production and broadcasting of more diverse programming, such as Indigenous news, children’s and drama programs that reflect the breadth of our Indigenous communities. Indigenous culture will be represented in a positive light to Indigenous and non-Indigenous viewers.’¹

The Australian Government, through the Department of the Environment, Water, Heritage and the Arts, is providing \$48.5m over four years to 30 June 2010 to support the National Indigenous Television (NITV) service, Australia’s first national Indigenous television service. NITV enhances the culture and arts of Indigenous Australians and promotes and protects Australia’s Indigenous cultural heritage nationally and internationally. Through its transmission on various external platforms, NITV also promotes understanding

and respect for Indigenous Australians in the wider population, thereby contributing to reconciliation objectives, reducing Indigenous disadvantage, fostering social inclusion and assisting to close the gap between Indigenous and non-Indigenous Australians by using its content to improve outcomes for Indigenous people in health, education and employment.

NITV is funded to: strengthen Indigenous television and make a positive contribution to cultural maintenance; make a positive contribution to Indigenous notions of identity; and enable Indigenous culture to be represented in a more positive light to Indigenous and non-Indigenous people.

NITV began broadcasting via various external platforms on 13 July 2007 after a year of establishment. NITV is available as a distinct television channel in remote areas via the Imparja Television narrowcast service. It is currently available on the Foxtel, Austar and Optus cable pay television platforms and the Parliament House Television monitoring system. NITV has further expanded its audience base on the pay television platform via transmission on TransAct (Canberra) and on the Neighbourhood Cable Network (Ballarat, Geelong and Mildura). In addition, NITV successfully negotiated its free-to-

¹ Bell, W. *A Remote Possibility: The Battle for Imparja Television*. IAD Press, 2008 p. 328

air terrestrial transmission in the Sydney metropolitan market on digital channel 40 as part of the Broadcast Australia datacasting trial.

Following a Request for Quotation process the Department selected Hugh Watson Consulting Pty Ltd to undertake a terminating program review of NITV as current Australian Government funding lapses on 30 June 2010. The review was completed on 16 October 2009. The review looked at NITV as an organisation, its business practices and its governance arrangements and undertook stakeholder consultations with key organisations, NITV staff, management and the Board, and communities.

1.1 Terms of reference

The consultants were asked to review and report on NITV's:

- degree of compliance with terms and conditions of funding;
- audience reach;
- content acquisition inventory;
- operational capacity;
- financial management processes and financial viability (including financial position and solvency);
- administrative systems and governance structures;
- employment situation — retention of staff, availability and take-up of skills development opportunities and remuneration; and

- relationships with Indigenous broadcasters, remote producers, the sector stakeholders, sector peak bodies, national broadcasters, mainstream media, pay television providers and government departments and authorities.

1.2 Process for the review

The review was conducted between July 2009 and October 2009.

The consultants visited NITV on several occasions to interview senior management and the current and previous Board Chairs. As a result of those visits the consultants requested further information in the areas of governance, operations, finance and content. NITV responded to all requests.

Key stakeholders were identified by the Department and a letter was sent to them inviting written submissions to the review. The consultants conducted telephone interviews with the nominated stakeholders including:

- Imparja Television
- Goolari Media
- National Indigenous Radio Service
- Pilbara and Kimberley Aboriginal Media
- Ngaanyatjarra Media Aboriginal Corporation
- Pitjantjatjara Yankunytjatjara Media
- Association Aboriginal Corporation
- Pintupi Anmatyerre Walpiri Media Association
- Top End Aboriginal Bush Broadcasting Association, and
- the Queensland Remote Aboriginal Media Aboriginal Corporation





Written submissions were received from:

- the Australian Indigenous Communications Association;
- the Central Australian Aboriginal Media Association;
- Indigenous Community Television; and
- the Indigenous Remote Communications Association.

The consultant also met with other stakeholders identified as being valuable sources of information including the South Eastern Indigenous Media Association Inc (SEIMA), Gadigal, Carbon Media, Mailing Productions, Gavin Jones Communication and QPIX.

The future of NITV, post 30 June 2010, is currently being considered by the Australian Government.



EXECUTIVE SUMMARY

The review of NITV was conducted three years after NITV received initial funding and two years since it commenced broadcasting via various external platforms. In media terms NITV is still a relatively new organisation but, as a four year funded government program with funding provided until 30 June 2010, it must be reviewed prior to any decision regarding possible future funding.

In general, in the period under review, NITV has gone from a fledgling start-up to a successful medium size organisation operating a nationally-distributed Indigenous television service broadcasting an average of approximately 22 hours of programming per day (on air 24 hours per day including a 'slide show' of up to two hours in the 04:30am-06:30am time-band). This is a major achievement. However, with the limited resources at its disposal, NITV's filling of its schedule necessarily relies heavily on repeat programming (around 80 per cent of total air-time). Commissioning of new programs excludes some genres, such as drama, because of the relatively high cost per hour expenses to produce. NITV is extensively focused on securing low-cost programs. Relatively low-cost audience-generated programming, however, appears to be underutilised.

NITV has done well to purchase and commission a substantial volume of first run Australian programming including its daily



news service. Consistent with its acquisition and commissioning guidelines favouring Indigenous producers, this activity has had a major supporting effect on Indigenous producers and creative talent. Survey data indicate that a supportive Indigenous audience of around 200,000 watches NITV at least once a week.

The reach of NITV's signal is limited to terrestrial and satellite 'direct to the home coverage' of Imparja's Channel 31, households subscribing to pay TV services and Sydney households with access to the digital datacasting trial services. Within the digital conversion of television currently underway, at least as an interim measure, there would be scope for wider digital broadcasting of NITV's signal on unused digital spectrum capacity (including datacasting spectrum) of commercial or national broadcasters (ABC and SBS).

NITV has generally effective operational procedures and administration and the financial management and reporting meets most benchmarks.

Over the three years under review NITV has managed its costs within its available funding.

The operating budget for 2009-10 indicates a breakeven position so that the positive surplus will be maintained over the funding period.



The review found that NITV's financial management processes are still evolving. It was noted that whilst the Chief Financial Officer is a qualified accountant the financial governance of the organisation may be improved through the appointment of an independent board member with similar qualifications and financial expertise.

It is noted that the current three year funding arrangement expires at 30 June 2010. Clearly NITV's ability to continue beyond that date will depend on the continuance of government funding. However, if it maintains its current financial position in 2010, it will have a sound financial basis on which to move forward

Overall, the governance of NITV is reasonably well established and necessary policies and procedures are, for the most part, in place. Of the 36 aspects of good governance assessed in this review, NITV's arrangements were consistent with the principles in 13 cases, were partially developed to be consistent with the principles in a further 10 cases, did not meet the principles in nine cases and there were four aspects which were not really relevant to the NITV context.

There were, however, a few areas where NITV's governance arrangements only partially met the principles and which should be addressed promptly, because they have the potential to compromise the effective operation of NITV. These are in relation to:

- the principle of structuring the Board to add value, the constitutional requirement for Board members to be members of NITV, and whether that contributes to the majority

of directors being independent directors and the skills and competencies needed by the Board members as specified in the Constitution;

- the processes for the continuous disclosure of directors interests;
- the rights of the shareholders—clarification and acknowledgement of the government as the principal funder, with implications for the election/appointment of Board members;
- the role of members; and
- policies and practices around risk management.

One area most in need of clarification is the apparent incongruence in the aspirations of the current Board and management of NITV and the expectations of the Government and stakeholders (see 3.1 Scope: aspirations versus expectations).

The other major area that requires improvement at NITV is in the area of stakeholder relations (see 3.4 Stakeholder relations).

In sum, NITV has made a strong start as a medium size organisation operating a nationally-distributed Indigenous television service. If the Government decides to continue funding the program, the new funding agreement should reflect the improvements in governance, stakeholder relations, broadcast content, operations and financial management and reporting.

CONSIDERATIONS FOR THE FUTURE

This review of NITV has found that after four years of funding and two years of operation NITV has established itself in Australian television. It has generally effective operational procedures and administration and it has done well to purchase and commission up to 1,400 hours of first run Australian programming including its daily news service. Consistent with its acquisition and commissioning guidelines favouring Indigenous producers, this activity has had a major supporting effect on Indigenous producers and creative talent.

In the future there are opportunities for improvement for NITV in the areas of scope, governance, broadcast content, operational capacity and administrative systems, financial management and financial reporting, stakeholder relations and audience reach.

3.1 Scope: aspirations versus expectations



The area most in need of clarification is that of the *aspirations* of the current Board and management of NITV versus the *expectations* of the Government and stakeholders.

The Government funded NITV to be a content aggregator and stated that 'funding will support the production and broadcasting of more diverse programming, such as Indigenous news, children's and drama

programs that reflect the breadth of our Indigenous communities. Indigenous culture will be represented in a positive light to Indigenous and non-Indigenous viewers.'

The expectation of many of the stakeholders interviewed was also that NITV would be a content aggregator but as noted in this report the model of NITV, to replace ICTV pitted communities and people against each other. While NITV was granted exclusive use of the Imparja Channel 31 satellite channel, which had until then carried ICTV, NITV's organisational structure and schedule of programming has not provided a substitute for the essential, open access, predominantly Indigenous language/cultural service that ICTV had established.

The model assumed inclusion of existing community programs in NITV's broadcast content but the organisations had two different objectives. ICTV's primary focus was languages and cultural maintenance, but NITV's focus is for all Indigenous Australians. In addition NITV has made it clear that they don't consider that community broadcasters can deliver the required broadcast standards nor get clearance for the appropriate intellectual property rights. Yet this must be an area for ongoing discussions.



The NITV Board and management have aspirations for NITV to be a national broadcaster. Its approach to programming and the standards they set reflect a desire to be a high quality national broadcaster. Such an aim would require considerable additional Government funding.

The gap between the expectations of Government and Indigenous community media organisations and the aspirations of NITV is a cause of considerable disharmony. It must be resolved in the development of the next funding agreement.

3.2 Governance



1. The Constitution's framing of the skills and expertise of the individual Board members, and of the composition of the Board as a whole does not reflect good practice principles. It should be revised to better reflect the critical skills for any Board in financial management and financing, management and governance and in the core business of NITV, namely in Indigenous content and production, revitalisation of languages, and in Indigenous broadcasting and the regulatory environment in which NITV must operate. We suggest that it should be mandatory that, for each of these areas, there is at least one position of the Board reserved for a person with a high level of expertise in that area.
2. We suggest that it should not be obligatory for Board members to be members of NITV because this situation causes a likelihood of conflict of interest. We suggest that the selection for membership of the Board be subject only to the skills and expertise of the person proposed as a member.
3. We suggest that in view of the fact that the Government provides almost all of NITV's funds and backing and assuming the Government continues to fund NITV, the Minister could appoint at least half of the Board, with the skills as identified above. After the criteria have been agreed and nominations called, the Minister might take nominations from the members for Board Directors.
4. The members of NITV have knowledge, experience and contacts in the Indigenous broadcasting industry. They therefore can play a useful role in advising on programming and content. They could also be used as a means of testing audience preferences, through asking them to collect information, and perhaps enumerate audience surveys, in their respective social and community spheres. This would not be to ask them to take a representational role in the constituency but simply to plug into the several, different and wider communities in which they live.

5. Consideration could also be given to broadening membership, more in line with the collecting institutions (galleries) so that there were no “eligibility” requirements beyond interest in NITV and its purposes. A membership “donation” (tax deductible) could also be considered.
6. There must be efforts to strengthen stakeholders’ involvement. A Community Advisory Committee nominated by members and appointed by the Government might help reinvigorate relations with NITV. To strengthen the role of the advisory committee its chair could be made an ex-officio member of the NITV Board (possibly included in the government nominees). The committee could be a way of giving stakeholders a direct voice in the policy directions of NITV. If it were to meet several times annually with stipends provided by NITV, it could provide advice to the CEO and the Board and strengthen links with stakeholders.
7. While there is evidence that conflicts of interest are being declared, we consider that it remains a useful device to have disclosure of interests as a standing item on the agenda for every Board meeting, because it provides an opportunity for the CEO, or any member of the Board who believes another member may have a conflict of interest, to ask them to consider their position, without this being seen as a personal attack or a divisive matter in the Board.

3.3 Broadcast content

1. After two years of successful operation, the initial pressures on NITV have waned and NITV is better placed to devote greater attention to the development of a more comprehensive and better balanced schedule to guide its programming acquisitions and commissions. We suggest that it would be desirable to complement NITV’s programming strategy with the development of a comprehensive schedule that sets out desirable targets for programming and genre balance and use it to guide commissioning and acquisition of new programs.
2. It is suggested that NITV and the Department jointly develop a mutually agreed definition of what constitutes a comprehensive and balanced program schedule as a benchmark for future performance evaluation.
3. Our assessment is that there is scope for NITV to acquire and make greater use of local programming. NITV’s use of local community programming falls considerably short of expectations at the time of its establishment. In striving to establish itself, NITV was justly preoccupied with using its limited resources to quickly secure large amounts of transmission-quality programming. At its current level of development and in a situation where





the pre-existing pool of suitable available programming is beginning to dry up, a greater effort may be needed to develop a more flexible and innovative approach to securing new sources of low-cost programming. Community programming has a largely untapped potential waiting to be utilised.

4. We suggest that community program could become a fixed sub-quota within the annual production quota for first-run Australian programs that is set for NITV. Consideration could be given for a minimum sub-quota of around 10% of the first-run Australian output (approximately 2.5 hours per week on current output).
 5. NITV claims it is open to inputs from all areas and all communities and that local media producers are encouraged to make proposals. But, according to NITV, quality of local productions is often poor and what is offered is unsuitable for broadcasting. However, local media producers have a different perception. Several stakeholders with interest in local media productions claim they have often been discouraged to offer local products and allege that NITV are difficult to deal with. There were also claims that NITV programming has a predominantly urban-centric focus and gives little attention to remote communities. We are not in a position to evaluate the validity, or otherwise, of these claims. We simply highlight the differences in perception
- and suggest that some effort may be needed to bolster community relations and increase goodwill.
6. Consideration should also be given to a suggestion proffered by a stakeholder that NITV could encourage improvements in the quality of local productions by launching a regular competition with a small prize (say \$5,000) for the best production. Entries meeting minimum preset criteria would be shown in a given fringe timeslot each week thus giving NITV a source of low-cost programming. The winning entries would also provide examples to competitors of techniques and qualities for success and would encourage them to adopt them in their subsequent works. Other similar initiatives also merit serious consideration.
 7. We suggest that the guidelines, particularly in relation to commissioning, should include a statement that producers will be required to abide with NITV editorial policies and must disclose any actual or potential conflict of interest (financial, political or personal) they may have in producing the program.
 8. For commissioning editors and managers the guidelines are supplemented by flow charts identifying the steps in the major elements of the commissioning processes. Together with the guidelines, the flow charts are essentially the

skeleton of a commissioning manual which could be produced with little effort for the benefit, guidance and training of commissioning staff. Consistent with the suggested amendment of the guidelines, the flow charts also should contain a reference to checking for any actual or potential conflict of interest that producers may have in being commissioned. More importantly, the flow charts should explicitly remind commissioning editors of the need to ensure transparency and declare any actual or potential conflict of interest in their recommendations for commissions and acquisitions. Because the Indigenous production community is relatively small, it is very important for commissioning editors to avoid creating potential perceptions of favouritisms towards particular producers.



9. As things currently stand, NITV is bound by the provisions of the Open Narrowcasting Television Code of Practice and is expected to comply with the specified program classification time-bands in each and every local area its signal is licensed for transmission. Consequently, it either delays transmission of M classified material so as not to breach the code in local time zones or transmits at different times in each of the local time zones. Amendment of the Open Narrowcasting Television Code of Practice to include a 'sole licensee exemption' along the lines of the free-to-air television code of practice

does provide a glimmer of hope that compliance might be achievable without splitting the broadcast signal. However, because of the noted uncertainty as to how such an exemption would be likely to be interpreted, advice from a senior legal counsel would be desirable before embarking on a course of action to have the Open Narrowcasting Television Code of Practice amended.

3.4 Stakeholder relations

1. The model adopted by Government assumed inclusion of existing community programs in NITV's broadcast content but the organisations had two different objectives. The primary focus for ICTV and many of the Indigenous community media organisations was languages and cultural maintenance, but NITV's focus is for all Indigenous Australians. In addition NITV has made it clear that they don't consider that community broadcasters can deliver the required broadcast standards nor get clearance for the appropriate intellectual property rights.
2. NITV's relationship with most Indigenous media stakeholders is somewhat strained and in need of some concerted effort to rebuild bridges in the relationship and enhance goodwill. Among the remote Indigenous community media stakeholders a very small proportion could be regarded as having a close or strong relationships with NITV.



- 
- 
3. NITV has to address remote broadcaster's concerns regarding contractual processes and issues of intellectual property, broadcasting exclusivity and distribution. Appointment of a specific person in NITV to work with community organisations should be considered.
 4. NITV should work with the remote broadcasting sector to develop a clear process for dealing with culturally sensitive material.
 5. NITV should discuss with remote community bodies how the remote aggregation of content for NITV might best be achieved.
 6. NITV should develop a tender process for events that are repeated or for new productions and an open commissioning process that includes tendering for regular or annual projects, such as Survival Day, NAIDOC week, sports and cultural festivals.
 7. NITV should develop a panel or register of potential content producers.
 8. NITV should improve communication channels with the broadcasting sector by attending and contributing to key events on the Indigenous communication's calendar, e.g. AICA AGM, Remote Indigenous Media Festival. An annual conference to inform and promote NITV and community engagement might also be considered.
 9. With the advent of digital television, the question of a dedicated second channel specific for language and cultural maintenance should be explored. A second channel, similar to the Maori experience could feed content to the first channel. The second channel would provide funding for video production specific for language and cultural maintenance and would address many of the stakeholders' concerns without compromising NITV's broad charter.

3.5 Audience reach

1. Under current arrangements commercial and national free-to-air television broadcasters have been loaned a full 7Mhz digital channel for the duration of the digital conversion period. Although, the capacity of that channel is sufficient for multicasting several digital television services, the extent of such use is constrained by regulation. Consequently, each of the commercial operators and the two national broadcasters have unused capacity that could accommodate the multiplexing of additional services. Under a different policy and regulatory regime it would be possible for NITV to gain access to the unused capacity to broadcast its services in digital format at least as an interim measure until additional spectrum becomes available at the conclusion of digital television conversion period.

2. NITV believes the carriage arrangements for its channel are unwieldy, deficient in their reach and inequitable: about eight million Australians can receive NITV, but most Indigenous Australians can only receive “their” channel via subscription TV, which Indigenous Australians are least likely to be able to afford. NITV in its own strategic plan has suggested the Government could have as an objective that, from 2013 or whenever analogue TV is switched off, NITV is available free-to-air everywhere that digital free-to-air TV reaches. NITV sees this as crucial to ensuring that the TV service maximises benefits to its core constituency—Aboriginal and Torres Strait Islander people—while making an ongoing, tangible contribution to national reconciliation.
3. Were the Government prepared to make the necessary policy and regulatory changes, the carriage of NITV’s transmission on one of the existing digital multiplexes would then become a matter for commercial negotiation between NITV and one of the existing free-to-air television broadcasters.

