

25 February 2019

## CRA submission to Digital Platforms Inquiry

Peak industry body Commercial Radio Australia has proposed a range of measures to protect broadcasters' content and limit the ability of the global tech giants to use their market power to unfairly erode the business model of commercial radio stations.

In a submission in response to the preliminary report of the Australian Competition & Consumer Commission's Digital Platforms Inquiry, CRA called for stronger protections to limit third parties from benefiting from Australian radio content, including live radio streams and podcasts, without the permission of the content owners.

"CRA submits that large digital platforms should be independently monitored – with the Commission setting terms and conditions of access – to ensure that they do not use their market power to favour their own businesses or to divert consumers from the websites of content creators, thus appropriating revenue and reducing competition in the supply of media content," the submission said.

Chief executive officer Joan Warner said CRA supports the introduction of a Mandatory Standard to enable the timely take-down of copyright-infringing content and further recommended the standard should include hyperlinks to radio station "listen live" websites.

"Commercial radio stations are increasingly directing their resources towards the removal of their intellectual property from third party aggregator sites and mobile apps. Typically, such sites provide 'listen live' links to station broadcasts or enable consumers to access stations' podcasts. This diverts traffic – and ultimately advertising revenue - away from the stations' own websites," Ms Warner said.

"We urge the Commission to address this issue in the proposed Mandatory Standard, by requiring digital platforms to remove hyper-links to copyright protected content at the request of the rights holder," Ms Warner said.

CRA also recommended that the ACCC's proposed separate review to develop an overarching regulatory framework for all platforms should include a focus on how local content obligations and Australian music requirements are spread across various platforms.

Digital platforms currently have no local content obligations, while commercial radio is subject to numerous requirements under the Commercial Radio Code of Practice and the Broadcasting Services Act.

CRA again urged regulators to take immediate action on "glaring" regulatory inequalities such as the election advertising blackout rule, which bans radio from broadcasting political advertising from the Wednesday before polling day.

The submission strongly rejected Facebook and Google's claims that their ads are verifiable and said there was currently no regulatory means of holding such platforms to account regarding their claims of audience size. CRA said a reliable digital audience measurement methodology should be imposed on digital platforms as a condition of access, and the collection of data be conducted by an independent third party.

A summary of CRA's recommendations follows.

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## **Summary of Recommendations**

### ***Recommendation 1 – Verification of Advertising***

CRA submits that a reliable digital audience measurement methodology should be imposed upon digital platforms by the Commission (as a condition of access) and must:

- require that the collection and analysis of the data is conducted by an independent third party;
- be accompanied by a clear, consistent and transparent explanation of the methodology used; and
- be consistent across all suppliers of digital advert performance measurement services to enable fair and consistent comparison.

### ***Recommendation 2 – Regulatory Imbalance***

CRA strongly urges the Commission to take immediate action to address the most glaring inequalities present in the current regulatory structure, particularly the election blackout legislation, which bans political advertising by radio broadcasters from the Wednesday before polling day.

CRA broadly supports the Commission's proposal to conduct a comprehensive review to design a framework capable of consistently regulating the conduct of entities that perform comparable functions. CRA urges the Commission to include a focus on local content and Australian music regulations as part of its separate review.

### ***Recommendation 3 – Protection of Content against Aggregators***

We urge the Commission to address this issue in the proposed Mandatory Standard, by requiring digital platforms to remove hyperlinks to copyright protected content upon the request of the right holder.

Many digital platform aggregators are smaller players and the Mandatory Standard must therefore cover digital platforms of all sizes. Its application should not be limited to the larger platforms.

This issue is particularly important to the commercial radio industry and CRA would be pleased to provide the Commission with further detail if required.

### ***Recommendation 4 – Automated Journalism***

The commercial radio industry recognises that automated journalism initiatives may have potential value for consumers and media organisations.

However, there must be regulatory oversight – with the Commission setting terms and conditions of access for large digital platforms (including audience measurement verification, local content obligations and fair compensation for right holders) – to ensure that development by monopoly companies does not occur at the expense of other industries, consumer choice and diversity of content.

### ***Recommendation 5 – Investment in quality content***

Support for news and local content production by the commercial radio industry may be achieved through the:

- extension of the *Regional and Small Publishers' Jobs and Innovation Package* beyond its current 3 year term, with extensions specifically to support regional commercial radio;
- introduction of tax subsidies for commercial radio broadcasters who provide news content, to assist in the production of such content.

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