

Submission to ACMA Consultation

*A new framework for measuring media
diversity in Australia*

from Croakey Health Media

24 March, 2023

We acknowledge and are grateful for the extension to the deadline
in order to enable this submission.

Contact details

Professor Megan Williams, Chair, Croakey Health Media

megan.williams@uts.edu.au

Dr Melissa Sweet, Editor-in-Chief, Croakey Health Media

melissa@croakey.org

Mr David Morgan, Chief Operating Officer, Croakey Health Media

accounts@croakey.org

Contents

1. Executive summary	3
2. Introduction	4
3. Specific feedback on the proposed framework for media diversity	7
4. About Croakey Health Media	8
5. Previous relevant submissions	10

1. Executive summary

Croakey Health Media welcomes the interest shown by the Australian Government and the Australian Communications and Media Authority in renewing policy efforts to develop and support a more diverse media landscape.

Determined and urgent efforts to support media diversity are needed in view of continuing contractions in news rooms and news coverage, as highlighted most recently by the announced closure of Pro Bono News.

Improving Australia's poor record on media diversity will help address some of our most pressing social, health and economic challenges such as racism, justice for First Nations peoples and combatting the COVID-19 pandemic.

A stronger and more sustainable not-for-profit public interest journalism sector would help to strengthen Australian democracy at a time when democracies globally face significant challenges and at a time of escalating crises, including climate disruption, where equitable access to reliable news and the accountability roles of public interest journalism will become ever-more important.

Media diversity needs to be understood through many lenses; the proposed framework is a useful start but needs further development.

Efforts to develop and support increased media diversity should privilege the needs of communities (geographic, interest-based) whose needs are not well served by current media dynamics.

Significant policy measures to date, such as the News Media and Digital Platforms Mandatory Bargaining Code, have undermined media diversity. It is disappointing that the **Treasury review of the News Media and Digital Platforms Mandatory Bargaining Code**, released on 2 December, 2022, showed so little concern for the impact of the code on media diversity.

We propose some immediate measures to strengthen media diversity, including the development of a clear, transparent and equitable pathway for establishment of not-for-profit public interest journalism organisations with Deductible Gift Recipient (DGR) status, and allocation of a proportion of governments' advertising budgets to independent media and not-for-profit public interest journalism organisations.

2. Introduction

We note the importance of considering media diversity within the wider policy context and the significant challenges that Australia faces in the near and distant futures. As the Intergovernmental Panel on Climate Change has made clear in its most recent report – the **Synthesis Report of the IPCC Sixth Assessment Report** – the world is facing an increasingly unstable and dangerous climate. Communities across Australia can expect to experience increases in the number and intensity of dangerous events, such as heatwaves, flooding and fires, with damage to vital infrastructure and services. It will become increasingly important in this context that Australia has a diverse media with the capacity to meet the news and information needs of diverse communities as well as to support social cohesion and community resilience. This is important in both the acute phases of crises as well as in the longer term periods of disaster preparation and recovery. We note the leadership shown by the Koori Mail newspaper in the floods response in Lismore, and also acknowledge the IPCC’s recognition of the importance of diverse knowledges, including Indigenous knowledges, in climate mitigation and adaptation. “Drawing on diverse knowledges and cultural values, meaningful participation and inclusive engagement processes – including Indigenous Knowledge, local knowledge, and scientific knowledge – facilitates climate resilient development, builds capacity and allows locally appropriate and socially acceptable solutions.” This IPCC finding highlights the importance of ensuring a broad conceptualisation of media diversity and its importance.

In this context, the importance of having sovereign media that is accountable to Australians becomes even more significant. We have seen how Big Tech companies were prepared to deny Australians access to vital news during a pandemic, as part of their corporate strategy to ward off regulation under the News Media and Digital Platforms Mandatory Bargaining Code (<https://www.croakey.org/facebook-action-creates-public-health-emergency-in-australia/>). This corporate behaviour has also been reported in other countries (<https://www.theguardian.com/world/2023/mar/02/google-blocking-news-canada-online-news-act-link-tax-facebook>). Efforts to support and develop media diversity in Australia must be integrated with efforts to develop more effective regulation of the digital platforms that have such a profound impact on news and information supply, including through the supply of misinformation, disinformation, hate speech and marketing of harmful industries and products, as well as through undermining the viability of media organisations through market dominance in advertising and the use of algorithms that can undermine users’ access to reliable journalism. It is disappointing that the Treasury review of the News Media and Digital Platforms Mandatory Bargaining

Code, released on 2 December, showed so little concern for the impact of the code on media diversity. While some stakeholders – including Croakey Health Media (https://www.croakey.org/wp-content/uploads/2022/06/3.4-CHM_submission_13May2022.pdf) – raised such concerns, Treasury was dismissive, saying the Code was “not designed to redistribute resources across the news sector or to guarantee that all news businesses receive funding. Other policy and funding tools are available to achieve these objectives”.

Our submission provides some specific feedback upon the proposed measurement framework. However, our major contribution is to advocate for a strong focus on not-for-profit journalism in efforts to develop and support media diversity. Compared with many other countries, the not-for-profit public interest journalism sector is under-developed in Australia (Birnbauer, 2019; Public Interest Journalism Initiative, 2021). The lack of diversity in the Australian media sector, including the concentration of corporate ownership, is globally acknowledged as a critical public interest and policy concern. Ongoing contractions in the Australian media industry, as documented by the Public Interest Journalism Initiative and other organisations, also provide an urgent reason to provide better support to those seeking to develop new models. We note that this submission is being prepared at a time when an important independent media organisation, Pro Bono News, has announced plans to close because of the challenging operating environment (<https://probonoaustralia.com.au/news/2023/03/losing-our-most-important-news-platform/>). The closure of this publication is a reminder that independent media serve diverse communities and that amidst the justified concern about the demise of local news outlets, there also needs to be attention to those media organisations that serve particular communities of interest and practice, and especially those whose work contributes to the public interest and the public good.

Our own experience at Croakey has been that Government policies and initiatives have often disadvantaged innovative models such as ours, because we do not fit a standard corporate model, and because Australian media policy has a long history of privileging the needs of large corporate stakeholders. For example, we raised such concerns in our submission to a Review by The Treasury of the News Media and Digital Platforms Mandatory Bargaining Code:

“As a small, under-resourced organisation, we have invested a great deal of our scarce resources in contributing to policy discussions around the Code, to meeting with other publishers and related negotiations around the code, and to making approaches to Meta and Google. We have had absolutely no reward from this considerable investment of our time and effort, which has had a big impact on our costs and diverted our attention and time away from our core business of producing and trying to sustain our public interest

journalism. We encourage this review to consider the unfair costs of this process on small publishers that are not supported by legal and HR teams and do not have the resources of large media organisations. We have been disproportionately penalised by this process and have reaped no financial rewards from it. Rather than helping to sustain our public interest journalism, it could be argued that this unproductive and time consuming process has undermined our capacity to remain sustainable.”

These concerns underscore the importance of developing a policy framework tailored to the needs and potential of the NFP sector. Anecdotally, we have heard from other small independent media organisations that they would have preferred to establish as a NFP model if there had been a straightforward pathway to do so.

Growing the not-for-profit sector has the potential to help address many other policy challenges, including the dissemination and impact of misinformation and disinformation. The sector’s role in contributing to more engaged and informed public and policy debate is especially important at a time of escalating climate disruption and related crises. The potential for NFP models to embed community representation and participation into governance and practice also can help to empower and engage communities at a time when democracy and accountability of power-holders is declining.

In our pre-budget submission, we argued that the Government has an opportunity to support innovation and growth in this sector by developing a comprehensive policy framework and funding an implementation strategy over the next five years. This has the potential to address multiple areas of concern across a number of portfolios, and would align with Government objectives through:

- Contributing to greater media diversity and innovation that better serves communities’ needs
- Developing more diverse economies
- Supporting a more informed public and policy debate
- Counteracting misinformation and disinformation
- Helping to address the dominant market power of digital platforms
- Supporting engaged, participatory communities.

3. Specific feedback on the proposed framework for media diversity

3.1. Source diversity

The proposed framework does not adequately distinguish between different organisational models, specifically between not-for-profit and for-profit models, and the governance of these models. This is particularly important given the potential for not-for-profit models to help supply public interest journalism to areas that are ‘news deserts’ or subject to media monopolies. Amid grim global projections for the sustainability of public interest journalism generally (Reuters Institute, 2023), increasing the diversity of business models is an important measure for helping to contribute to a more sustainable public interest journalism sector.

Diversity of representation in organisational governance is also critical; for example, whether the directors and executives are representative of the diversity of Australian communities and ensure representation of First Nations peoples.

3.2. Standpoint diversity

The discussion paper has ruled standpoint diversity out of scope, at least in the initial development of the framework. It defines standpoint diversity as “the extent to which all people are both a part of, and represented by, the media environment. This includes a diversity of culture, ethnicity, indigeneity, gender, sexual orientation and disability. The level of minority and female ownership of broadcast media outlets is, for example, a key measure of media diversity considered by the FCC in the US”.

Croakey Health Media strongly opposes the decision to exclude standpoint diversity from the framework. We argue that standpoint diversity is a vital consideration for media diversity, being important for public debate, democracy and the interests of groups whose standpoints are often not well reflected or represented in media coverage and governance structures. Further, we argue that ensuring standpoint diversity is important for media sustainability as media organisations that do not reflect the diversity of Australian communities will engender less trust, engagement and support.

We note the discussion paper’s suggestion that “there could be value in assembling a reference group of media outlets, digital platforms, peak bodies, journalists or other interested industry participants”, and offer the services of Croakey Health Media in this respect.

4. About Croakey Health Media

Croakey Health Media is widely recognised as an innovator and leader in the emerging not-for-profit public interest journalism sector in Australia (Public Interest Journalism Initiative, 2021). We are innovative in our organisational structure, blended funding model and development of the practice of social journalism (Sweet et al, 2017). We focus on health equity, and the social, cultural and environmental determinants of health, including climate change. We privilege the voices and expertise of Aboriginal and Torres Strait Islander people through our work, including through our governance. Our board is chaired by a leading Aboriginal health academic at UTS, Professor Megan Williams, who is Wiradjuri through paternal family.

Croakey Health Media Limited was registered on 24 August 2018 as a member-based company limited by guarantee, after evolving since 2007 as an independent journalism project. The ABN is 59 628 369 335 and the company is registered for GST. Due to the lack of a clear pathway for public interest journalism organisations to establish as not-for-profit entities, Croakey Health Media is registered with the Australian Charities and Not-for-profits Commission (ACNC) as a charity under the subtypes of Advancing Health and Advancing Public Debate. We have not been able to obtain Deductible Gift Recipient (DGR) status, reflecting the lack of a transparent, equitable pathway for NFP public interest journalism organisations to do this. We have made a number of unsuccessful applications for DGR status, and have this month lodged another application. Not having DGR status has been an obstacle to our capacity to raise funds and to our efforts to become more sustainable. Croakey Health Media's public interest journalism activities are supported by a blended funding model, including sponsorship, donations, subscriptions, the provision of professional services, advertising, and paid journalism activities, including the Croakey Conference News Service. Our funders and supporters include leading health organisations. We have firm policies on editorial independence and these are communicated to funders.

As an organisation, one of our five strategic priorities is to create a sustainable environment for public interest journalism, acknowledging the vision outlined in our strategic plan, that "a vigorous and sustainable public interest journalism sector contributes to the health and wellbeing of people, families, communities, policies, societies and the environment". We advocate for policy reform to support a sustainable public interest journalism sector, through making submissions, and through journal and book publications, research, and presentations to conferences. We are also proactive in engaging with other public interest journalism publishers and organisations to help build

momentum for better policy to support public interest journalism. Croakey Health Media is a member of the Local and Independent News Association (LINA), and our members belong to various professional organisations, including the Media, Entertainment and Arts Alliance. We work to increase public awareness of the challenges facing public interest journalism and its important role for the health of communities, policies and democracy. Journalistically, we cover public interest journalism as a critical determinant of health. See our archives on public interest journalism as a determinant of health (<https://www.croakey.org/category/media-and-health/public-interest-journalism/>).

5. Previous relevant submissions

Below, we summarise Croakey Health Media submissions since 2019, and hope they may be useful for informing this review. These summaries also highlight that we have been raising many of these policy suggestions for some time; we hope that the current Government's focus on media reform provides an opportunity for their serious consideration.

5.1. Pre-Budget submission 2023-24, to the Australian Treasury, January 2023

Available at: https://www.croakey.org/wp-content/uploads/2023/01/CHM_Pre-budgetSubmission_27Jan2023.pdf

Croakey Health Media requests that the Government commit appropriate resources to develop a policy framework specifically to support and grow the NFP public interest journalism sector, with a particular focus on meeting the needs of under-served communities and topics. The Government has announced plans for media reform, including for developing a more diverse sector. A NFP policy framework would align well with these plans. If there is not explicit attention to NFP policy as part of the Government's media reform agenda, there is a very real risk that the sector will be left out or disadvantaged further.

The framework could include:

- A clear, transparent, equitable pathway for appropriate entities to set up as a NFP public interest journalism organisation with DGR status, meeting criteria for editorial independence and ethical professional practice. It would be important to have a rigorous review process to ensure that applicants are not serving commercial, partisan or other sectional interests.
- Support for a peak body to represent and support growth and sustainability of this under-developed sector, including support for the many small outlets that now exist that might opt for NFP structure if it was more accessible and affordable. Initially, this could be done through an existing entity, such as the Local and Independent News Association (LINA).
- Government to identify a percentage of funds from Government advertising and other campaigns to be allocated to NFP public interest journalism organisations. It is suggested that the percentage of funds allocated commence at 0.5% and rise to 2% over the budget forward estimates.

- Initiatives to encourage philanthropists and other potential funders to consider supporting NFP public interest journalism models, and to encourage public awareness of the benefits of NFP models.
- The Government's planned framework on media diversity should include data on the NFP sector, with diversity of business models being considered as one of the measures of diversity.
- The NFP sector should be eligible for all support programs for journalism and media organisations, with a specific funding pool established for the NFP sector.

As the LINA pre-budget submission notes:

“While the Commonwealth has recognised the need to support news media in Australia, policy interventions implemented in recent years have regularly excluded digital publishers in favour of subsidising rising print costs and supporting established media outlets. Analysis of the Public Interest New Gathering (PING) program undertaken by Deakin University stated that: ‘ultimately the PING program did not properly recognise and support ‘greenshoots’ (new start-ups in the industry): The PING funding was available only for existing and established media outlets, such as [Australian Community Media], which closed down dozens of printing presses during COVID. And when independent start-ups sought to enter the marketplace they were being hamstrung by structures that limited access to both subsidies and government advertising revenue, which put them at an immediate disadvantage...an immediate improvement would be to reconsider the funding eligibility criteria. At the moment for PING funding, companies have to have a revenue of \$150,000’.”

- Specific funding should be made available for training younger journalists and also training and developing the wider NFP workforce, recognising that a sustainable, successful NFP sector relies on many skills in addition to journalism, including community engagement, events management, design, IT, marketing, organisational development, business development, governance including that provided by directors, digital skills, and innovation.
- The Government should work with relevant stakeholders and researchers to identify other incentives and benefits that could help to grow and sustain the NFP public interest journalism sector

5.2. Submission, House of Representatives Standing Committee on Communications and the Arts, Inquiry into Australia's regional newspapers, February 2022

Available at: https://www.croakey.org/wp-content/uploads/2022/02/CroakeyHealthMediaSubmission_4Feb2022.pdf

Future policy development should be based around the needs of communities rather than the interests of corporate media organisations and should draw upon the many useful policy recommendations from previous inquiries, including:

- An ongoing grants program for public interest journalism, including a specific focus on areas of market failure (whether geographic or other communities, or issues-based). As Croakey noted in our 2017 submission to a Senate inquiry into the future of journalism: “Funding mechanisms could include tax offsets for investors, direct government support, incentives for philanthropists and a levy on Google, Facebook or other companies that profit from the advertising revenue that used to fund mainstream media, but pay little tax.”
- A clear, transparent pathway for establishing as a not-for-profit public interest journalism organisation with DGR status. Governments and other stakeholders should support the growth and development of the non-profit sector through the development of a peak body representing the sector. This would also increase our capacity to contribute usefully to policy and to support other organisations seeking to meet community needs in the face of market failure (such as is outlined in the submissions to your inquiry from Alice Springs).
- Regulation of digital platforms should be approached holistically. At present it is very siloed. Efforts to regulate monopoly power, the dissemination of misinformation, disinformation and hate speech, the dissemination of unhealthy marketing and sales practices, breaches of privacy and other forms of exploitation should be approached in tandem with efforts to support and sustain a more vigorous, innovative and diverse public interest journalism sector.

5.3. Submission to Senate Environment and Communications References Committee Inquiry into the state of media diversity, independence and reliability in Australia, 2020

Available at: <https://www.croakey.org/wp-content/uploads/2021/02/Sub-24-1.pdf>

Small, independent and community news outlets face many barriers to operation, including lack of funding and structural support. The development of a healthy non-profit public interest journalism sector could help many communities have better access to the roles of public interest journalism. Policies could:

- Enable innovation in the development of new models to better meet the needs of discrete communities, whether these be geographical communities or communities of interest
- Provide a clear, affordable pathway for the set-up of non-partisan, non-profit journalism models, including access to DGR status.
- Support and fund the development of a voice for the sector through funding for an organisation to advocate for non-profit journalism and to help educate the community, philanthropists and other funders about the sector's role.

We suggest the following principles to underpin public investment in media organisations:

1. Investment should be driven by communities' needs with a focus on equity, meaning that those communities who are now most under-served should receive special attention. An equitable process ensures that support is commensurate with need.
2. Investment should support a diverse media landscape but this means more than supporting a variety of models of organisations and ownership. It also means ensuring there is diversity in representation, not only in editorial operations, but also in governance.
3. Institutional racism must be addressed, and an organisation's cultural safety should be considered as a criteria for funding.
4. Organisations should be non-partisan and have a clear commitment to transparency and journalistic ethics and principles.

5.4. Submission, ACCC consultation, Mandatory bargaining code from Croakey Health Media, 2020

Available at: https://www.croakey.org/wp-content/uploads/2020/07/ACCC_Consultation_submission_June5_2020.pdf

Public interest journalism is not simply another commercial product. It is an under-served public good in Australia, and some communities, geographic areas and topics are especially under-served. The COVID-19 pandemic has exacerbated the crisis in public interest journalism globally and also in Australia, revealing the failure of existing policy frameworks to ensure a sustainable future for this essential service. During the pandemic, news rooms around the world have suffered cuts and closures at the same time as demand for public interest journalism has increased dramatically.

The pandemic has highlighted both the importance and the fragility of some of the key roles of public interest journalism:

- scrutinising and holding governments and other powerful stakeholders to account;
- contributing to informed communities and helping to inoculate them against misinformation in all its forms;
- communicating individual actions that will impact on public health; • disseminating local information for local decision making; and
- providing a platform for diverse communities to ensure policies are responsive to their needs.

The mandatory code between media organisations and the digital platforms is a critical opportunity for addressing matters of profound and wide-reaching public importance. Explicit efforts are needed to ensure civil society is able to contribute to the code's development, implementation and review. This will require determined attention to issues of procedural justice and equity, as many civil society organisations may not have commensurate resources to contribute. These matters are too important to leave as negotiations between media organisations and the digital platforms. Public interest, rather than commercial imperatives, should be centred in the processes and the outcomes. We know from policy development in other areas, such as healthcare policy, that developing structures and mechanisms to enable community voices to contribute (through the establishment and funding of bodies such as Aboriginal Community Controlled Health Services and the Consumers Health Forum of Australia, for instance) provides a counter-balance to the power of vested interests in determining policy outcomes, and leads to more effective policies that represent better investment for

taxpayers and wider communities. Media policy development – which has often been driven by the commercial interests of established corporate media organisations, rather than the public interest – could learn from such efforts in health policy to develop structures and processes to support the contributions of community interests.

The negotiations and outcomes for the code should privilege public interest journalism, rather than generic news content. A broad understanding of public interest journalism should be adopted rather than a narrow definition limited to a specific form of public interest journalism, as sometimes happens, viz a viz investigative journalism. Public interest journalism (as defined in the Croakey Health Media strategic plan) “gives people the information they need to take part in the democratic process. It informs and contributes to policy and practice. It holds power to account, and amplifies the voices of those who are not well served by the current distribution of power”. It may have a local, national or global focus. Its roles are particularly important in the digital era, where misinformation has become a critical threat to the health of democracies, communities and people.

Public interest journalism has the ability to provide expert, in-depth analyses of issues at a time when mainstream media journalism is becoming less specialised, and less able to provide in-depth, rigorous coverage of science, medical, and health issues, as well as the wider determinants of health and wellbeing. Public interest journalism can provide a forum for the discussion of ideas and policies, and the dissemination of knowledge.

The non-profit public interest journalism sector is under-developed in Australia; structural development of this sector should be supported. This will also bring benefits for policy development and related processes.

The allocation of revenue under the code should incorporate wider considerations than simply the revenue of participating media organisations. Metrics are needed to consider wider public interest impacts, with special consideration given to under-served geographic areas, communities, and topics.

The playing field currently privileges large media organisations and disadvantages independent and smaller media organisations, which are not in a position to negotiate equitably within the media industry, or with Google and Facebook. The digital platforms should be required to set aside specific and separate resources for smaller media organisations in order to have these conversations. Governments or government agencies should ensure structural support is available to ensure equitable processes and outcomes.

5.5. Response to ACCC Digital Platforms Inquiry from Croakey Health Media, 2019

Available at: <https://www.croakey.org/wp-content/uploads/2020/08/Croakey-Health-Media-February-2019.pdf>

We are concerned that the ACCC's preliminary report has omitted any significant consideration of the potential for supporting the development of non-profit journalism models. Our experience with Croakey Health Media is that the current policy environment is not supportive of such models, despite their potential to contribute significantly to the public interest and to compensate for market failure in the provision of public interest journalism services. We encourage the inquiry to engage with the literature around non-profit journalism and how it is supported in other countries. See, for example, Dr Bill Birnbauer's recent book, *The rise of non-profit investigative journalism in the United States* (<https://www.routledge.com/The-Rise-of-NonProfit-Investigative-Journalism-in-the-United-States/Birnbauer/p/book/9781138484474>).

Clearly defined, low-cost pathways are needed to enable the development of innovative non-profit models for journalism in Australia, supported by measures such as enabling access to Deductible Gift Recipient status, and providing incentives for philanthropists, communities and others to support non-profit models of public interest journalism and to engage with the development of new models of public interest journalism.

Croakey Health Media welcomes the ACCC's interest in developing incentives to support public interest journalism but respectfully suggests that a more wide-ranging approach be taken. These suggested measures appear to centre traditional media businesses rather than supporting innovation in public interest journalism. Digital disruption has enabled journalism to disintermediate from traditional media companies. This is enabling innovation and the development of new models of journalism that potentially can be more responsive to the needs of communities. It would be helpful if the ACCC could explicitly consider incentives to enable innovation in public interest journalism to meet the needs of under-served communities and issues.

In conclusion, we would like to see policy reform that supports public interest journalism, especially that which is provided by social enterprises, community-based organisations, non-profit organisations, and start-ups. It is important that policy reform does not inadvertently discourage innovation or disadvantage or exclude small independent media.

5.6. Submission to Senate Select Committee inquiring into the future of public interest journalism, 2017

Available at: https://www.croakey.org/wp-content/uploads/2020/08/sub_25.pdf

We agree with the statement to this inquiry by independent journalist Michael West that: “There is as yet however no reliable business model to fund journalism and my personal experience is testament to this” (<https://www.michaelwest.com.au/opening-statement-to-senate-inquiry-into-journalism/>). We also agree with the Public Interest Journalism submission to this inquiry that the crisis in public interest journalism in Australia justifies a cohesive and vigorous public response, both in providing direct government support and also in taking measures to encourage private investment and philanthropic support. In particular, we support the recommendations for Deductible Gift Recipient (DGR) status for donations supporting public interest journalism, and for the establishment of a production fund to support independent public interest journalism. Funding mechanisms could include tax offsets for investors, direct government support, incentives for philanthropists and a levy on Google, Facebook or other companies that profit from the advertising revenue that used to fund mainstream media, but pay little tax.