

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Finance

Financial Framework (Supplementary Powers) Act 1997

Financial Framework (Supplementary Powers) Amendment (Infrastructure, Transport, Regional Development, Communications and the Arts Measures No. 1) Regulations 2025

The *Financial Framework (Supplementary Powers) Act 1997* (the FFSP Act) confers on the Commonwealth, in certain circumstances, powers to make arrangements under which money can be spent; or to make grants of financial assistance; and to form, or otherwise be involved in, companies. The arrangements, grants, programs and companies (or classes of arrangements or grants in relation to which the powers are conferred) are specified in the *Financial Framework (Supplementary Powers) Regulations 1997* (the Principal Regulations). The powers in the FFSP Act to make, vary or administer arrangements or grants may be exercised on behalf of the Commonwealth by Ministers and the accountable authorities of non-corporate Commonwealth entities, as defined under section 12 of the *Public Governance, Performance and Accountability Act 2013*.

The Principal Regulations are exempt from sunseting under section 12 of the *Legislation (Exemptions and Other Matters) Regulation 2015* (item 28A). If the Principal Regulations were subject to the sunseting regime under the *Legislation Act 2003*, this would generate uncertainty about the continuing operation of existing contracts and funding agreements between the Commonwealth and third parties (particularly those extending beyond 10 years), as well as the Commonwealth's legislative authority to continue making, varying or administering arrangements, grants and programs.

Additionally, the Principal Regulations authorise a number of activities that form part of intergovernmental schemes. It would not be appropriate for the Commonwealth to unilaterally sunset an instrument that provides authority for Commonwealth funding for activities that are underpinned by an intergovernmental arrangement. To ensure that the Principal Regulations continue to reflect government priorities and remain up to date, the Principal Regulations are subject to periodic review to identify and repeal items that are redundant or no longer required.

Section 32B of the FFSP Act authorises the Commonwealth to make, vary and administer arrangements and grants specified in the Principal Regulations. Section 32B also authorises the Commonwealth to make, vary and administer arrangements for the purposes of programs specified in the Principal Regulations. Section 32D of the FFSP Act confers powers of delegation on Ministers and the accountable authorities of non-corporate Commonwealth entities, including subsection 32B(1) of the FFSP Act. Schedule 1AA and Schedule 1AB to the Principal Regulations specify the arrangements, grants and programs.

Section 65 of the FFSP Act provides that the Governor-General may make regulations prescribing matters required or permitted by the FFSP Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the FFSP Act.

The *Financial Framework (Supplementary Powers) Amendment (Infrastructure, Transport, Regional Development, Communications and the Arts Measures No. 1) Regulations 2025* (the Regulations) amend Schedule 1AB to the Principal Regulations to establish legislative authority for government spending on the Community Broadcasting Program (the program). The program is administered by the Department of Infrastructure, Transport, Regional Development, Communications and the Arts.

The program commenced in 1984 and has committed funding of \$70.8 million over the forward estimates for the community broadcasting sector to support a range of activities, including station operations and transmission costs. This is so they can:

- contribute to a vibrant and diverse Australian media landscape by helping to ensure a plurality of voices and perspectives that may not be adequately represented in other media;
- create hyperlocal, local and regional content that reflects the interests and needs of communities;
- deliver projects that contribute to the sector's resilience and innovation; and
- develop media skills, such as broadcasting, journalism and technical skills.

The beneficiaries of the program are around 450 eligible community broadcasters, and community broadcasting sector peak bodies and related bodies (such as training organisations).

Additional funding of \$15.0 million over three years from 2025-26 was provided to the program in the 2024-25 Mid-Year Economic and Fiscal Outlook.

Details of the Regulations are set out at [Attachment A](#). A Statement of Compatibility with Human Rights is at [Attachment B](#).

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

The Regulations commence on the day after registration on the Federal Register of Legislation.

Consultation

In accordance with section 17 of the *Legislation Act 2003*, consultation has taken place with the Department of Infrastructure, Transport, Regional Development, Communications and the Arts.

A regulatory impact analysis is not required as the Regulations only apply to non-corporate Commonwealth entities and do not adversely affect the private sector.

Details of the *Financial Framework (Supplementary Powers) Amendment (Infrastructure, Transport, Regional Development, Communications and the Arts Measures No. 1) Regulations 2025*

Section 1 – Name

This section provides that the title of the Regulations is the *Financial Framework (Supplementary Powers) Amendment (Infrastructure, Transport, Regional Development, Communications and the Arts Measures No. 1) Regulations 2025*.

Section 2 – Commencement

This section provides that the Regulations commence on the day after registration on the Federal Register of Legislation.

Section 3 – Authority

This section provides that the Regulations are made under the *Financial Framework (Supplementary Powers) Act 1997*.

Section 4 – Schedules

This section provides that the *Financial Framework (Supplementary Powers) Regulations 1997* (the Principal Regulations) are amended as set out in the Schedule to the Regulations.

Schedule 1 – Amendments

Financial Framework (Supplementary Powers) Regulations 1997

The item in Schedule 1 amends Schedule 1AB to the Principal Regulations to provide legislative authority for government spending on an activity administered by the Department of Infrastructure, Transport, Regional Development, Communications and the Arts (the department).

Item 1 – In the appropriate position in Part 4 of Schedule 1AB (table)

This item adds one new table item to Part 4 of Schedule 1AB.

Table item 708 – Community Broadcasting Program

New **table item 708** establishes legislative authority for government spending on the Community Broadcasting Program (the program) to support the sustainability of certain broadcasting services (within the meaning of the *Broadcasting Services Act 1992*).

Community broadcasting began in Australia in 1974 when the FM broadcasting became available for use. To support this emerging sector, the Australian Government allocated funds, including specific provisions for Aboriginal programming and grants to stations broadcasting ethnic programs. Recognising the need for an independent funding body, the Community Broadcasting Foundation (CBF) was established in 1984. The CBF has received government funding since its establishment and plays a crucial role in supporting the sustainability of community broadcasting organisations across Australia.

The program commenced in 1984 and has committed funding of \$70.8 million over the forward estimates for the community broadcasting sector to support a range of activities, including station operations and transmission costs. This is so they can:

- contribute to a vibrant and diverse Australian media landscape by helping to ensure a plurality of voices and perspectives that may not be adequately represented in other media;
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- deliver projects that contribute to the sector's resilience and innovation; and
- develop media skills, such as broadcasting, journalism and technical skills.

The program is administered by the CBF, an independent, not-for-profit body. The CBF supports the development, creativity and sustainability of community broadcasting by distributing funding to the sector. The CBF is the only independent, community-led body with experience in administering funding to the community broadcasting sector; and has a proven record of effectively delivering the program since its inception.

On 16 December 2024, the Government announced an investment package totalling \$180.5 million to deliver on its commitment to support local news and community broadcasting. The package includes launching the News Media Assistance Program and additional funding of \$15.0 million for the program to support the community broadcasting sector. The media release can be found at <https://minister.infrastructure.gov.au/rowland/media-release/charting-course-diverse-and-sustainable-news-sector>.

The program funding components include:

- providing development, operations, content and sector investment grants to the community broadcasting sector through competitive merit-based processes; and
- an administration levy to the CBF to cover the costs of administering the program.

The community broadcasters eligible to receive funding include around 450 licensed community radio and television stations, including Channel 31 Melbourne, Channel 44 Adelaide and Indigenous Community Television. The peak bodies for community broadcasting and related bodies eligible for funding include the Community Broadcasting Association of Australia, the National Ethnic-Multicultural Broadcasting Council and the Community Media Training Organisation.

Funding amount and arrangements, merits review and consultation

Additional funding of \$15.0 million for the program was included in the 2024-25 Mid-Year Economic and Fiscal Outlook under the measures 'Strengthening Community Broadcasting' and 'News Media Assistance Program' for a period of three years commencing in 2025-26.

Details are set out in the *Mid-Year Economic and Fiscal Outlook 2024-25, Appendix A: Policy Decisions taken since the 2024-25 Budget* at page 287.

Funding for this item will come from Program 5.1: Digital Technologies and Communications Services, which is part of Outcome 5. Details will be included in the 2024-25 Portfolio Additional Estimates Statements for the Infrastructure, Transport, Regional Development, Communications and the Arts portfolio.

The department will provide funding to the CBF through closed, non-competitive granting arrangements. The grant opportunity guidelines and grant agreement are due for renewal by 1 July 2025, as the current granting period will end on 30 June 2025. A new grant agreement will be executed between the department and the grantee.

The grant will be administered in accordance with the *Public Governance, Performance and Accountability Act 2013* (the PGPA Act), the *Public Governance, Performance and Accountability Rule 2014*, and the *Commonwealth Grants Rules and Principles 2024* (the CGRPs).

The department will amend the grant opportunity guidelines for the program to be consistent with the nine key principles within the CGRPs for administrative purposes, and to reflect the additional \$15.0 million funding over a three-year period. The grant opportunity guidelines will also specify eligibility criteria for applicants to apply for a grant under the program.

Funding decisions will be made objectively, and in accordance with the assessment process set out in the guidelines and applicable legislative requirements under the PGPA Act and the *Financial Framework (Supplementary Powers) Act 1997*.

The Minister for Communications will appoint a Senior Executive Service officer within the department, with relevant grant and financial management skills or experience, as the program delegate to award the grant opportunity. The program delegate will be responsible for the approval of the grant and funding to be awarded. An assessment panel within the department will provide a recommendation following assessment of the application against the assessment criteria and in accordance with the grant guidelines.

The grant opportunity guidelines will be based on the Australian Government Grant Opportunity Guidelines template and include outcomes, objectives, eligibility and merit criteria, details of the assessment process, contracting arrangement and a timeline. The grant opportunity guidelines will be available on GrantConnect (www.grants.gov.au).

The CBF is the current third-party service provider responsible for administering the program by redistributing grants to community media organisations, and is required to provide an independently audited financial statement, which will verify that they have spent the grant in accordance with the grant agreement.

Independent merits review of decisions made in connection with the grant would not be considered appropriate because these decisions relate to the provision of a non-competitive grant to a certain service provider, over other service providers. In addition, any funding that has already been allocated would be affected if the original decision was overturned. The Administrative Review Council has recognised that it is justifiable to exclude merits review in relation to decisions of this nature (see paragraphs 4.16 to 4.19 of the guide, *What decisions should be subject to merit review?*).

The CBF was identified as the appropriate recipient for the grant as it is currently the only provider to meet eligibility criteria and has a proven record in administering the program. The department expects that the CBF will continue to be an appropriate organisation to pursue a closed, non-competitive grant after a due diligence process. This process will involve the verification of claims in the CBF's proposal submission, consideration of the CBF's suitability and development of an assessment methodology. This process will be used to verify that the CBF has proven capacity to deliver the grant at the scale required.

The review and audit process undertaken by the Australian National Audit Office also provides a mechanism to review Australian government spending decisions and report any concerns to the Parliament. These requirements and mechanisms help to ensure the proper use of Commonwealth resources and appropriate transparency around decisions relating to making, varying or administering arrangements to spend relevant money.

Further, the right to review under section 75(v) of the Constitution and review under section 39B of the *Judiciary Act 1903* may be available. Persons affected by spending decisions would also have recourse to the Commonwealth Ombudsman where appropriate.

The department regularly consults the CBF throughout the delivery of the program through monthly and ad hoc meetings to discuss operational matters, as well as attending quarterly CBF Board meetings to discuss governance matters. The department also regularly consults with community broadcasting sector bodies, including the Community Broadcasting Association of Australia as they represent around 90 per cent of community broadcasters and organisations that receive grants through the program.

In the 2022-23 Budget, the Australian Government committed to working with the sector to identify a sustainable funding base for the future. The Government announced the sustainability review in October 2022, and the department has undertaken it in 2 phases.

Phase 1 in 2023, the Social Research Centre conducted an independent evaluation of the program. The CBF, sector bodies, and community broadcasters were consulted in this process. The evaluation found that while the program is mostly effective, has a range of positive impacts and funding has been vital for continuation of operation, it has not promoted sustainability through reducing reliance on grant funding and building station resilience. The final evaluation report is available at www.infrastructure.gov.au/departments/media/publications/evaluation-community-broadcasting-program-final-report-june-2024. In response, the CBF sophisticated its granting processes and systems and developed frameworks to support longer-term sustainability and resilience of the sector.

Phase 2 in 2024, the department conducted a public consultation on the program. The CBF, sector bodies and community broadcasters participated in this process through submissions, workshops and meetings. The public consultation identified opportunities to further improve the program. However, the department's findings are under consideration by the Australian Government, with the report expected to be released in early 2025. The department will work with the CBF to implement improvements to the program after the report is published.

Constitutional Considerations

Noting that it is not a comprehensive statement of relevant constitutional considerations, the objective of the item references the communications power (section 51(v)) of the Constitution.

Communications power

Section 51(v) of the Constitution empowers the Parliament to make laws with respect to 'postal, telegraphic, telephonic and other like services'.

Funding will be used to fund operations, content and sector investment grants to the community broadcasting sector through competitive merit-based processes.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

Financial Framework (Supplementary Powers) Amendment (Infrastructure, Transport, Regional Development, Communications and the Arts Measures No. 1) Regulations 2025

This disallowable legislative instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the legislative instrument

Section 32B of the *Financial Framework (Supplementary Powers) Act 1997* (the FFSP Act) authorises the Commonwealth to make, vary and administer arrangements and grants specified in the *Financial Framework (Supplementary Powers) Regulations 1997* (the Principal Regulations) and to make, vary and administer arrangements and grants for the purposes of programs specified in the Regulations. Schedule 1AA and Schedule 1AB to the Principal Regulations specify the arrangements, grants and programs. The powers in the FFSP Act to make, vary or administer arrangements or grants may be exercised on behalf of the Commonwealth by Ministers and the accountable authorities of non-corporate Commonwealth entities, as defined under section 12 of the *Public Governance, Performance and Accountability Act 2013*.

The *Financial Framework (Supplementary Powers) Amendment (Infrastructure, Transport, Regional Development, Communications and the Arts Measures No. 1) Regulations 2025* (the Regulations) amend Schedule 1AB to the Principal Regulations to establish legislative authority for government spending on the Community Broadcasting Program (the program). The program is administered by the Department of Infrastructure, Transport, Regional Development, Communications and the Arts.

The program provides funding to the community broadcasting sector to support a range of activities, including station operations and transmission costs. This is so they can:

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- deliver projects that contribute to the sector's resilience and innovation; and
- develop media skills, such as broadcasting, journalism and technical skills.

The beneficiaries of the program are around 450 eligible community broadcasters, and community broadcasting sector peak bodies and related bodies (such as training organisations).

Funding of \$15.0 million over three years from 2025-26 was provided to the program in the 2024-25 Mid-Year Economic and Fiscal Outlook. This will take the total available funding in this period to \$85.8 million.

Human right implications

This disallowable legislative instrument engages the following rights:

- the right to freedom of expression – Article 19 of the *International Covenant on Civil and Political Rights* (ICCPR), read with Article 2; and
- the right to work – Article 6 of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR), read with Article 2.

Right to freedom of opinion and expression

Article 2(1) of the ICCPR requires that each State Party to the Covenant undertakes to respect and to ensure the rights recognised in the Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

There is no Commonwealth legislation enshrining a general right to freedom of expression. Article 19 of the ICCPR states that:

- Everyone shall have the right to hold opinions without interference.
- Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

This disallowable legislative instrument upholds the rights outlined in Article 19 by supporting approximately 450 community broadcasters or organisations to deliver community radio and television services to audiences across Australia. This disallowable legislative instrument advances the program objectives of social inclusion and media diversity, and supports the public interest, as it provides Australians with:

- the opportunity to participate in the provision of community broadcasting services; and
- information including news and journalism, entertainment and participation in cultural life through the distribution of content that is relevant to its communities.

This disallowable legislative instrument promotes social and public welfare outcomes, including the ability of Australians to create, access and share information and ideas as an alternative or addition to the information and ideas delivered by mainstream or commercial media.

Right to work

Article 2 of the ICESCR requires that each State Party to the Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognised in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.

Article 6 of the ICESCR recognises the 'right to work', and that in part, this includes technical and vocational guidance and programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedom to the individual.

This disallowable legislative instrument will promote the 'right to work' by supporting the program's objectives to provide opportunities for media training and skills development, as participants will strengthen and broaden their skills sets and capabilities and expand their employment opportunities in the community broadcasting sector and more broadly in the labour market. This disallowable instrument promotes social, economic and public welfare outcomes, through equal opportunity access to media training within the community broadcasting sector.

Conclusion

This disallowable legislative instrument is compatible with human rights because it promotes the protection of human rights.

Senator the Hon Katy Gallagher
Minister for Finance