

What'll happen when Facebook stops paying for news? Here's what happened when radio stopped paying for music

By [Peter Martin](#)

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Why are musicians so keen to get played on the radio? It can't be because of the money. In Australia they are paid at rates so low they come close to making streaming services look generous. By law, no radio station can be made to pay more than 1% of the station's gross revenue for all of the music it plays, even if it is an all-music station. By the time the labels have had their cut, the artists get a lot less.



Source: unsplash.com

The legislation now before the senate would remove the ceiling, allowing radio stations and the representatives of musical artists to negotiate freely, with a final decision made by a tribunal in cases where they can't reach an agreement.

It's a bit like the legislation set up to arbitrate disputes between platforms such as Facebook and news organisations about the amount to pay for news.

The parallels tell us an awful lot about where the power lies in disputes between platforms and providers. Here's a hint: it doesn't lie with providers, whether they provide music or news, or, for that matter, fruit to Coles and Woolworths.

Radio pays little for music, and always has

Here's what happened with radio.

Legislation dating back to 1968 has given Australian radio stations a blanket right to play whatever music they want so long as they negotiate a payment rate with the relevant collecting society.



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If the station and collecting society can't agree on the rate, the decision is made by an independent tribunal, but, for commercial stations, the tribunal is limited to awarding no more than 1% of the station's gross revenue, and for ABC stations, a mere half of one cent per Australian resident per year.

The attorney-general introduced the ceilings to "allay the fears" of radio stations and initially promised a review after five years, a provision he later dropped from the final draft of the legislation. A half a century of inflation has rendered the ABC's ceiling of half a cent per person worth a fraction of what it was.

The ABC pays half a cent per person

The ceilings only apply to radio stations and only to the recordings. Television stations (including ABC stations) pay much more per track.

And composers, who are paid separately with no legislated limit, get much more.

This means the composers of "You're the Voice" get paid quite well, but the performer, John Farnham, does not.



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The record industry has tried time and time again to remove the ceiling.

In 2010, it even went to the High Court, arguing along the lines of the case depicted in the movie *The Castle* that the constitution prevented the Commonwealth from acquiring property other than "on just terms".

The High Court said "no", no property had been acquired.

Now, independent senator David Pocock is trying again.

'Fair pay for radio play'

Pocock's Fair Pay for Radio Play bill would remove the ceilings, allowing the radio industry and the record industry to negotiate "a fair rate" subject to adjudication by the Copyright Tribunal.

The radio industry says, if that happens, it will play less Australian music. It would also ask to be freed from the legislated requirement to play Australian music.

The recording industry talks as if the radio industry is bluffing.

Annabelle Herd, head of the Phonographic Performance Company of Australia, told the Senate hearing: "Even if the radio networks stopped playing all Australian music, they would still have to pay to play UK music, Canadian music and music from pretty much every other country in the world."

It's a point she might not want to push too far.



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In 1970, that's exactly what happened. In response to what it felt was an over-large demand from the Phonographic Performance Company, the commercial radio industry said no, and refused to play any of its music.

Instead, it played records from independent Australian labels who didn't charge and got their records pressed in Singapore, and American music, lots of it.

While the industry couldn't play music from the UK, Canada and a bunch of other countries that were signatories to the relevant copyright treaty, it could play music from the United States, which didn't charge and hadn't signed the treaty.

When radio called the labels' bluff

A disc jockey quoted at the time said he didn't think the average listener would notice, and there's nothing on record to suggest the average listener did.

The Beatles album *Let it Be* was released on 8 May. The record ban, as it was called, came into force on 16 May. "The Long and Winding Road" cracked the top five just about everywhere it was released, apart from Australia.



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Five months later, the record companies caved. The only thing the radio industry offered was a guaranteed number of advertisements per week. Which had been the radio industry's point all along. The record companies needed radio play for exposure. Without it, people were unlikely to buy their discs.

It's possible to stretch parallels too far, but when Facebook temporarily stopped linking to pieces from Australian news sites in 2021, traffic to those sites slid 13%.

The common theme is that – as unfair as it seems – platforms have an awful lot of power over providers. If Coles and Woolworths say no, fruit growers won't be able to distribute their product; if radio stations say no, artists won't be as widely disseminated; and if Facebook and its ilk say no, news sites will get fewer clicks.

Facebook has been paying millions of dollars to Australian news sites since the news media bargaining code began in 2021. In February it said when the agreements expire, it will pay no more.

The code allows the government to force Facebook to pay, but only if it continues to link to news, and it has given every indication it won't.

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