Radiocommunications Licence Conditions (Broadcasting Licence) Amendment Determination 2001 (No. 1)

The AUSTRALIAN COMMUNICATIONS AUTHORITY makes this Determination under paragraph 107 (1) (f) of the Radiocommunications Act 1992.

Dated 13 February 2001

AJ SHAW
Chair

R HORTON
Deputy Chair

1 Name of Determination
This Determination is the Radiocommunications Licence Conditions (Broadcasting Licence) Amendment Determination 2001 (No. 1).

2 Commencement
This Determination commences on 1 March 2001.
3 Amendment of Radiocommunications Licence Conditions (Broadcasting Licence) Determination No. 1 of 1998

Schedule 1 amends the Radiocommunications Licence Conditions (Broadcasting Licence) Determination No. 1 of 1998.

Schedule 1 Amendments

[section 3]

[1] Subsection 1.4 (1), before definition of AM band

insert


[2] After section 4.10

insert

4.11 Certain low power open narrowcasting services — other conditions

(1) An apparatus licence for a low power open narrowcasting service that authorises the operation of a transmitter at a carrier frequency within the range 87.5 to 88.0 MHz (inclusive) is subject to the following conditions:

(a) unless the licensee has a reasonable excuse for not doing so, the licensee must commence the service:

(i) if the licence was in effect before 1 March 2001 (whether or not the licence is renewed between 1 March 2001 and 31 August 2001 (inclusive)) — before 1 September 2001; or

(ii) if the licence is issued (other than upon renewal) on or after 1 March 2001 — within 6 months beginning on the day the licence is issued;

(b) the licensee must provide the service with reasonable regularity for the period specified in the licence;

(c) the licensee must maintain records of the commencement, hours of operation and provision of the service.

(2) For the purposes of paragraph (1) (a), the following is a non-exhaustive list of what shall not constitute valid reasons for delay in commencing the service:

(a) financial reasons;

(b) that the licence was obtained within the 6 month period within which to comply with the condition pursuant to a transfer to a relative or associate of the licensee.
(c) that the licence is subject to an arrangement contingent on the disposal of another licence held by the licensee.

(3) In this section:

associate means:

(a) in relation to a body corporate:
   (i) a director or secretary of the body corporate; or
   (ii) a related body corporate; or
   (iii) a director or secretary of a related body corporate; or
   (iv) a business partner of the body corporate; or
   (v) an individual who controls at least 15% of the voting power in, or holds at least 15% of the issued shares of, the body corporate; and

(b) in relation to an individual:
   (i) a business partner of the individual; or
   (ii) a body corporate in which the individual controls at least 15% of the voting power or of which the individual holds at least 15% of the issued shares; or
   (iii) a body corporate of which the individual is a director or secretary; or
   (iv) a body corporate that is a related body corporate of a body corporate of which the individual is a director or secretary.

related body corporate has the same meaning as in the Corporations Law.

relative, in relation to a person, means:

(a) the person’s spouse; or
(b) the person’s parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child; or
(c) the spouse of a relative mentioned in paragraph (b).

spouse, in relation to a person, includes an individual who, although not legally married to the person, lives with the person on a genuine domestic basis as that person’s spouse.

Note On 20 December 2000, the Minister issued Australian Communications Authority (LPON Transmitter Licences) Direction No. 2 of 2000 under subsection 12 (1) of the Australian Communications Authority Act 1997. The Direction makes provision for how the ACA administers section 4.11.