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

as amended

made under paragraph 107 (1) (f) of the

*Radiocommunications Act 1992*

This compilation was prepared on 19 April 2005
taking into account amendments up to *Radiocommunications Licence Conditions (Broadcasting Licence) Amendment Determination 2003 (No. 1)*

Prepared by the Office of Legislative Drafting and Publishing,
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Radiocommunications Licence Conditions (Broadcasting Licence) Determination No. 1 of 1998

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Part 1 Preliminary

1.1 Name of determination [see Note 1]
This determination may be cited as the Radiocommunications Licence Conditions (Broadcasting Licence) Determination No. 1 of 1998.

1.2 Commencement [see Note 1]
This determination commences on gazettel.

1.3 Scope
(1) This determination sets out conditions to which a broadcasting licence is subject in the following manner:
   (a) every broadcasting licence is subject to the conditions in Part 2;
   (b) every broadcasting licence (broadcast service) is also subject to the conditions in Part 3;
   (c) every broadcasting licence (narrowcasting service) is also subject to the conditions in Part 4;
   (d) every broadcasting licence (narrowband area service) is also subject to the conditions in Part 5.

(2) However, if a condition in this determination is inconsistent with a condition specified in the licence, the condition specified in the licence applies.

1.4 Interpretation
(1) In this determination, unless the contrary intention appears:
   AM band means the frequencies 526.5 kHz to 1606.5 kHz in the part of the MF band allocated for AM sound broadcasting services.
   broadcasting licence (broadcast service) means a broadcasting licence that authorises the holder to operate a broadcast service station.
   broadcasting licence (narrowcasting service) means a broadcasting licence that authorises the holder to operate a narrowcasting service station.
   broadcasting licence (narrowband area service) means a broadcasting licence that authorises the holder to operate a narrowband area service station.
   broadcasting service has the meaning it has in the Broadcasting Services Act 1992.
   broadcast service station means a station that is operated for providing national broadcasting services.
Broadcasting services bands licence has the meaning it has in the Broadcasting Services Act 1992.

broadcasting station means:
(a) a broadcast service station; or
(b) a narrowcasting service station; or
(c) a narrowband area service station.

commercial broadcasting service has the meaning it has in section 14 of the Broadcasting Services Act 1992.

community broadcasting service has the meaning it has in section 15 of the Broadcasting Services Act 1992.

coverage area, for a station, means the coverage area mentioned in the licence for the station.

FM band means the frequencies 87.5 MHz to 108 MHz in the part of the VHF band allocated for FM sound broadcasting services.

licence means any of the following licences, issued under the Act:
(a) a broadcasting licence (broadcast service); or
(b) a broadcasting licence (narrowband area service); or
(c) a broadcasting licence (narrowcasting service).

licence area has the meaning it has in the Broadcasting Services Act 1992.

licence area plan means the licence area plan prepared by the ABA under section 26 of the Broadcasting Services Act 1992.

licensee means:
(a) the holder of a licence; or
(b) a person authorised by the holder of a licence to operate a station under the licence.

low power open narrowcasting service means an open narrowcasting service operated by a narrowcasting service station using a transmitter power not exceeding the power specified in section 4.8.

national broadcasting service has the meaning it has in section 13 of the Broadcasting Services Act 1992.

non-residential area means an area, other than a residential area.

open narrowcasting services has the meaning it has in section 18 of the Broadcasting Services Act 1992.

residential area has the meaning it has in the Technical Planning Guidelines.


TV bands means the frequency bands mentioned in Table 5 in the Technical Planning Guidelines.

Note 1 The definition of broadcasting licence in the Radiocommunications (Definition) Determination No. 2 of 1993 is relevant to an apparatus licence issued under section 100 or 106 of the Act.
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Note 2 The definition of broadcast service station is different from the definition of broadcast service station in the Radiocommunications (Definitions) Determination No. 2 of 1993.

Note 3 For the definitions of other expressions used in this Determination, see the Radiocommunications Act 1992, the Radiocommunications (Definitions) Determination No. 2 of 1993 and the Radiocommunications Regulations.

(2) For this determination, a frequency band described using 2 frequencies starts immediately above the lower frequency and ends at the higher frequency.
Part 2 Conditions for every broadcasting licence

2.1 Conditions
For paragraph 107 (1) (f) of the Act, every broadcasting licence is subject to the conditions in this Part relating to the operation of any broadcasting station under the licence by the licensee.

2.2 Licensee to advertise before commencing service
Not later than 7 days before commencing to transmit a broadcasting service from a broadcasting station, the licensee must publish a notice in a newspaper, published and circulating in the licence area, that includes the following information:
(a) a statement about the licensee’s intention to transmit a broadcasting service from the station in that area;
(b) the date and time of the commencement of transmissions;
(c) the frequency the station will use;
(d) a statement that members of the public should contact the licensee if the transmission causes interference to services provided by other stations;
(e) the address and telephone number of the licensee.

2.3 Harmful interference
(1) If the licensee operates a broadcasting station by transmitting on a frequency in the broadcasting services band, the licensee must not operate the station if its operation causes harmful interference to a broadcasting service provided by another station:
(a) if the service is a commercial broadcasting service or community broadcasting service — within the licence area of the broadcasting services licence for the station; or
(b) if the service is a national broadcasting service — within the coverage area mentioned in the licence for the station; or
(c) if the service is an open narrowcasting service (other than a low power open narrowcasting service) — within the coverage area mentioned in the licence for that station.

(2) If the licensee operates a broadcasting station by transmitting on a frequency outside the broadcasting services band, the licensee must not operate the station if its operation causes harmful interference to a service already provided by another station.
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2.4 Emission standard — AM sound broadcasting service

If the licensee operates a broadcasting station on a frequency in the AM band to transmit an AM sound broadcasting service, the station must comply with the requirements in ‘Emission Standard for the Australian Amplitude Modulation Sound Broadcasting Service’ in Appendix 1 to the Technical Planning Guidelines.

2.5 Emission standard — FM sound broadcasting service

If the licensee operates a broadcasting station on a frequency in the FM band to transmit a FM sound broadcasting service, the station must comply with the requirements in ‘Emission Standard for the Australian Frequency Modulation Sound Broadcasting Service’ in Appendix 2 to the Technical Planning Guidelines.

2.6 Emission standard — terrestrial television broadcasting service

If the licensee operates a broadcasting station on a frequency in the TV bands to transmit a terrestrial television broadcasting service, the station must comply with the requirements in ‘Emission Standard for the Australian Terrestrial Television Service’ in Appendix 3 to the Technical Planning Guidelines.

2.7 Issue or renewal of licence at certain times

(1) This section applies if the ABA decides, under subsection 34 (1) of the Broadcasting Services Act 1992, to make available part of the broadcasting services bands spectrum for allocation:

(a) for a purpose mentioned in paragraph 34 (1) (e), (ea), (f) or (g) of that Act; and

(b) for a specified period.

(2) If the licensee is issued with a licence, or the licensee’s licence is renewed, because of the ABA’s decision, the licence is issued or renewed only for the period specified in the licence.

(3) For subsection (2), the period specified in the licence must not be longer than the specified period mentioned in paragraph (1) (b).
Part 3 Conditions for broadcasting licence (broadcast service)

3.1 Conditions

(1) For paragraph 107 (1) (f) of the Act, every broadcasting licence (broadcast service) is subject to the conditions in this Part relating to the operation of any broadcast service station under the licence by the licensee.

(2) The conditions in this Part are additional to the conditions in Part 2.

3.2 National broadcasting services

The licensee must only operate the broadcast service station to provide national broadcasting services.
Part 4 Conditions for broadcasting licence (narrowcasting service)

4.1 Conditions

(1) For paragraph 107 (1) (f) of the Act, every broadcasting licence (narrowcasting service) is subject to the conditions in this Part relating to the operation of any narrowcasting service station under the licence by the licensee.

(2) The conditions in this Part are additional to the conditions in Part 2.

4.2 Temporary community TV broadcasting services

If the licensee operates a narrowcasting service station for the purpose of transmitting a temporary community television broadcasting service, the licensee must only operate the station to provide an open narrowcasting service that:

(a) is provided for community and educational purposes; and
(b) is not operated for profit or as part of a profit-making enterprise.

4.3 Operating requirements — open narrowcasting services

If the licensee operates a narrowcasting service station to provide an open narrowcasting service, the licensee:

(a) must only operate the station to provide an open narrowcasting service; and

(b) must commence the service on the later of:
(i) 6 months after the licence is issued; or
(ii) the time specified by the ABA in a written notice to the licensee; and

(c) must comply with the start up procedure in Part 1 of the Technical Planning Guidelines as if a reference in the Part to:
(i) ‘a section 102 broadcasting service’ were a reference to ‘an open narrowcasting service provided under the licence’; and
(ii) ‘the licence area of the licence’ were a reference to ‘the coverage area of the licence’.

4.4 Operating requirements — open narrowcasting services in the AM band

(1) This section applies if the licensee operates a narrowcasting service station on a frequency in the AM band to transmit an AM sound broadcasting service to provide an open narrowcasting service.

(2) The licensee must:
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(a) operate the station:
   (i) if a licence area plan has been prepared for open narrowcasting services in the AM band — in a manner that complies with the cymomotive force limits mentioned in the technical specifications included in the plan; and
   (ii) in a manner that limits interference caused by the propagation of sky waves to broadcasting services provided by other stations operating on a frequency in the AM band; and
(b) comply with clauses 21 to 26 (inclusive) in Part 3 of the Technical Planning Guidelines, as if a reference in the clauses to:
   (i) ‘the service’ were a reference to ‘the open narrowcasting service provided under the licence’; and
   (ii) ‘the licence area’ or ‘the licence area of the related licence’ were a reference to ‘the coverage area’; and
   (iii) ‘the nominal location’ were a reference to the Australian Map Grid coordinates mentioned in the advisory notes in the licence.

4.5 Operating requirements — open narrowcasting services in the FM band

(1) This section applies if the licensee operates a narrowcasting service station on a frequency in the FM band to transmit a FM sound broadcasting service to provide an open narrowcasting service.

(2) The licensee must comply with clauses 34, 36, 37, 38, 39, 40, 41, 42, 44, 45, 46, 47 and 52 in Part 4 of the Technical Planning Guidelines, as if a reference in the clauses to:
   (a) ‘the service’ were a reference to ‘the open narrowcasting service provided under the licence’; and
   (b) ‘the licence area’ or ‘the licence area of the related licence’ were a reference to ‘the coverage area’; and
   (c) ‘the nominal location’ were a reference to the Australian Map Grid coordinates mentioned in the advisory notes in the licence.

4.6 Operating requirements — open narrowcasting services in the TV bands

(1) This section applies if the licensee operates a narrowcasting service station on a frequency in the TV bands to transmit a terrestrial television broadcasting service to provide an open narrowcasting service.

(2) However, this section does not apply to an open narrowcasting service that is a temporary community television broadcasting service if the licensee is providing a temporary community television broadcasting service.

(3) The licensee must comply with clauses 56 to 67 in Part 5 of the Technical Planning Guidelines, as if a reference in the clauses to:
   (a) ‘the service’ were a reference to ‘the open narrowcasting service provided under the licence’; and
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(b) ‘the licence’ or ‘the licence area of the related licence’ were a reference to ‘the coverage area’; and

(c) ‘the nominal location’ were a reference to the Australian Map Grid coordinates mentioned in the advisory notes in the licence.

4.7 Application to low power open narrowcasting services

Sections 4.3, 4.4, 4.5 and 4.6 do not apply to a narrowcasting service station operated by a licensee to provide a low power open narrowcasting service.

4.8 Low power open narrowcasting services

If the licensee operates a narrowcasting service station to provide a low power open narrowcasting service, the licensee:

(a) must only operate the station to provide a low power open narrowcasting service; and

(b) if the station is operated in a residential area — must operate the station using a maximum transmitter power not exceeding 1 watt; and

(c) if the station is operated in a non-residential area — must operate the station using a maximum transmitter power not exceeding 10 watts.

4.9 Low power open narrowcasting services — field strength in a residential area

If the licensee operates a narrowcasting service station to provide a low power open narrowcasting service in a residential area, the field strength must not exceed 48dBµV/m when measured at 10 metres above ground level at a location more than 2 kilometres from the antenna.

4.10 Low power open narrowcasting services — field strength in a non-residential area

If the licensee operates a narrowcasting service station to provide a low power open narrowcasting service in a non-residential area, the field strength must not exceed 48dBµV/m when measured at 10 metres above ground level at a location more than 10 kilometres from the antenna.

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 relative mentioned in paragraph (b),
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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.
Part 5  Conditions for broadcasting licence (narrowband area service)

5.1  Conditions

(1) For paragraph 107 (1) (f) of the Act, every broadcasting licence (narrowband area service) is subject to the conditions in this Part relating to the operation of any narrowband area service station under the licence by the licensee.

(2) The conditions in this Part are additional to the conditions in Part 2.

Note  The Spectrum Plan provides for the issue of broadcasting licences in bands that are allocated to the fixed service or to the mobile service, and that are not allocated to the broadcasting service. It is a policy of the ACA that broadcasting licences issued in accordance with those provisions of the Spectrum Plan will be subject to conditions similar to those applied to stations in the same band that are in the fixed service or the mobile service.

5.2 Narrowband area services operating in the frequency band 1606.5 kHz to 1705 kHz

If the licensee operates a narrowband area service station on a frequency in the frequency band 1606.5 kHz to 1705 kHz, the licensee must not operate the station if its operation causes harmful interference to the reception of broadcasting transmissions in the AM band.

Note  Licensees of narrowband area service stations may be required to cease operating the station, or operate the station under revised conditions, if the ABA or ACA receives an objection to the station’s operation as a result of international notification of the station.

5.3 Narrowband area services operating in the frequency band 1606.5 kHz to 1705 kHz — commercial broadcasting service

(1) A licensee that operates a narrowband area service station on a frequency in the frequency band 1606.5 kHz to 1705 kHz must not operate the station to provide a commercial broadcasting service unless:

(a) the broadcasting licence (narrowband area service) to which the station relates was issued by the ACA before 6 November 2002; and

(b) the commercial broadcasting service is permitted by a commercial licence allocated before 6 November 2002; and

(c) the commercial broadcasting service commenced before 29 August 2004; and

(d) the location of the station is:

(i) within 10 kilometres of its location on 6 November 2002 (the old location); or

(ii) a location that is:

(A) more than 10 kilometres from the old location; and

Note  The Spectrum Plan provides for the issue of broadcasting licences in bands that are allocated to the fixed service or to the mobile service, and that are not allocated to the broadcasting service. It is a policy of the ACA that broadcasting licences issued in accordance with those provisions of the Spectrum Plan will be subject to conditions similar to those applied to stations in the same band that are in the fixed service or the mobile service.
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(B) specified in a licence issued by the ACA in accordance with subsection (2A).

(2) The licensee must provide evidence required by the ACA for the purposes of paragraph (1) (c).

(2A) For sub-subparagraph (1) (d) (ii) (B), the ACA may specify a location (the new location) if the ACA is satisfied that:

(a) transmissions from the new location would provide a service to substantially the same intended audience as the audience that was intended to be covered from the old location; and

(b) transmissions from the new location would not significantly interfere with any existing radiocommunications services.

(3) In this section:

commercial licence means a commercial radio broadcasting licence allocated by the ABA under section 40 of the Broadcasting Services Act 1992.

location, of a station, means the site latitude and longitude for the relevant broadcasting licence (narrowband area service) as recorded on the Register of Radiocommunications Licences.
Notes to the Radiocommunications Licence Conditions (Broadcasting Licence) Determination No. 1 of 1998

Table of Instruments

Notes to the Radiocommunications Licence Conditions (Broadcasting Licence) Determination No. 1 of 1998

Note 1

The Radiocommunications Licence Conditions (Broadcasting Licence) Determination No. 1 of 1998 (in force under paragraph 107 (1) (f) of the Radiocommunications Act 1992) as shown in this compilation is amended as indicated in the Tables below.

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