EXPLANATORY STATEMENT

ISSUED BY THE AUSTRALIAN COMMUNICATIONS AND MEDIA AUTHORITY

VARIATION TO LICENCE AREA PLAN – BRISBANE RADIO – NO.1 OF 2012

BROADCASTING SERVICES ACT 1992

In accordance with the Australian Communications and Media Authority Act 2005, the Australian Communications and Media Authority (ACMA) exercises powers and functions under the Broadcasting Services Act 1992 (BSA) previously exercised by the Australian Broadcasting Authority (ABA).

The ACMA has made a variation to the licence area plan (LAP) for Brisbane radio. The variation was made under subsection 26(2) of the BSA and is referred to in this explanatory statement as “the instrument”.

The LAP and variations to the LAP

The ACMA prepares LAPs under subsection 26(1) of the BSA. LAPs determine the number and characteristics, including technical specifications, of broadcasting services that are to be available in particular areas of Australia with the use of the broadcasting services bands.

The ACMA may, by legislative instrument, vary LAPs under subsection 26(2) of the BSA.

The ABA made the Licence Area Plan for Brisbane Radio (“the Brisbane LAP”) on 21 December 2000 and varied it on 4 November 2004.

Intended impact and effect

The instrument varies the characteristics, including technical specifications, of radio broadcasting services in the Brisbane area by varying the technical specifications of the existing commercial broadcasting service 4KQ at Brisbane to reflect a change to its transmitter site, the adoption of day/night switching¹ (maximum day-time CMF² of 1395 volts (V) and maximum night-time CMF of 990 V) and a change to the directionality of its radiation pattern.

The instrument also deletes some material, included for reference only, that does not form part of the LAP and which may create confusion, and makes some minor amendments to revise the drafting of the Brisbane LAP. It also updates each of the licence area definitions so that they are defined in terms of the Australian Bureau of Statistics (ABS) 2006 census data.

The intended impact and effect of this variation is to clarify the characteristics, including technical specifications, of radio broadcasting services in the Brisbane area. The ACMA does not intend the variation to alter any existing rights and obligations, except as set out above.

¹ Day/Night switching is designed to improve the reception and coverage of existing AM broadcasting services by permitting an increase in the maximum transmission power during daylight hours while broadcasting at a lower maximum power during the nite.

² Cymomotive force (CMF) is a term used in AM radio to define the strength of the field radiated from a transmission facility. The CMF is expressed in volts. It corresponds numerically to the field strength in m/V/m at a distance of 1 km from a transmission tower. It is closely analogous to the term effective radiated power (ERP) used in FM radio and television planning.
Regulatory Impact Analysis

The ACMA’s Best Practice Coordinator has considered the matter and referred it to the Office of Best Practice Regulation (OBPR). The OBPR formed the opinion that the proposed regulation is likely to have no or low impact on business or the economy; and neither a regulation impact statement nor a business cost calculator report is necessary in relation to the regulatory proposal.

The OBPR has issued an exemption reference number: 2011/13119.

Consultation

Before making a decision to vary the Brisbane LAP, the ACMA undertook the following consultation:

1. On 18 January 2012, the ACMA published the following papers on its web site:
   a. a draft variation to Licence Area Plan for Brisbane Radio – No.1 of 2012;
   b. an explanatory paper outlining the changes proposed in the draft variation and inviting public comment by 17 February 2012; and
   c. a media release announcing the draft variation.
2. On 18 January 2012, the ACMA wrote to the licensees providing radio broadcasting services in the Brisbane RA1, Logan RA1, Redcliffe RA1, Wynnum RA1, Caboolture RA1 and Beaudesert RA1 and in adjacent radio licence areas to advise them of the release of the draft variation and to invite their comments by 17 February 2012.
3. On the 18 January 2012 the ACMA placed an advertisement in the “Brisbane Courier Mail” announcing the draft variation. The advertisement provided details of how and where to obtain copies of the draft variation and invited public comment by 17 February 2012.

Submissions

The ACMA received two submissions on the draft variation to the Licence Area Plan for Brisbane Radio – No 1 of 2012

Description of the provisions of the instrument

Clause (1)

Clause (1) identifies the power under which the ACMA makes the instrument, subsection 26(2) of the BSA.

Clause (2)

Clause (2) names the instrument the Variation to the Licence Area Plan for Brisbane Radio – No 1 of 2012.

Clause (3)

Clause (3) provides the instrument commences the day after it is registered on the Federal Register of Legislative Instruments.

Sub-clause (4)(a)

Clause (4)(a) renames the instrument from “Licence Area Plan – Brisbane Radio – December 2000” to “Licence Area Plan – Brisbane Radio”.

Sub-clause (4)(b)

Clause (4)(b) amends the heading on the title page of the Brisbane LAP so that it reads “Licence Area – Brisbane Radio”. 
Sub-clause (4)(c)(i)
Sub-clause (4)(c)(i) amends the heading on page two of the Brisbane LAP so that it reads “Licence Area Plan – Brisbane Radio”.

Sub-clause (4)(c)(ii)
Sub-clause (4)(c)(ii) removes the heading “Determination” from page two of the Brisbane LAP.

Sub-clause (4)(c)(iii)
Sub-clause (4)(c)(iii) numbers the seven paragraphs consecutively as clauses (1), (2), (3), (4), (5), (6) and (7).

Sub-clause (4)(c)(iv)
Sub-clause (4)(c)(iv) omits clauses (2),(3), (4), (5), (6) and (7) and substitutes new clauses (2), (3), (4), (5), (6) and (7) and inserts a new clause (8) into the instrument. The new Clause (1) highlights that this plan for radio broadcasting services in the Brisbane area of Queensland is made under section 26(1) of the Broadcasting Services Act 1992. The new Clause (2) reflects the removal of Attachments 1.17 and 1.22 from the Brisbane LAP, the addition of the words “radio broadcasting services” after the words “seven community: which ensures these broadcasting services are described in a manner similar to all other broadcasting services in the Brisbane LAP, and the substitution of the word ‘determination’ with the word ‘plan’ in the clause. The new Clauses (3), (4) (5), (6) and (7) reflect the substitution of the word ‘determination’ with the word ‘plan’ throughout the clauses. The new clause (8) will ensure that a reference to a schedule or an attachment includes a reference to a schedule or attachment as amended from time to time.

Sub-clauses (4)(d)(i), (4)(d)(ii) and (4)(d)(iii),
Sub-clauses (4)(d)(i), (4)(d)(ii) and (4)(d)(iii) remove from the Brisbane LAP all the text, immediately before Schedule One under the heading “SCHEDULES” and the sub-headings “Status Column” and “Frequency Column” (including the headings and sub-headings themselves). This material was originally included for reference only and is no longer considered relevant or necessary.

Sub-clause (4)(e)
Sub-clause (4)(e) replaces Schedules One, Two, Three, Four, Five and Six of the Brisbane LAP. These schedules set out the details of the national, commercial and community and open narrowcasting radio broadcasting services that are to be available on particular frequencies in the Brisbane RA1, Logan RA1, Redcliffe RA1, Wynnum RA1, Caboolture RA1 and Beaudesert RA1 licence areas.

In particular, the Schedules provide the technical specification numbers for each transmitter to be used by the services in the licence areas, and specify the attachments which contain the technical specification for each of those transmitters.

The changes from the previous Schedules are the removal from the headings of Schedules One, Two, Three, Four, Five and Six the words “- December 2000” and the removal of the ‘Status’ column. This material was originally included for reference only and is no longer considered relevant or necessary.
Sub-clause (4)(f)

Sub-clause (4)(g) omits all text appearing immediately under the heading “DISCLAIMER” in the Brisbane LAP (including the heading itself). This material was originally included for reference only and is not longer considered relevant or necessary.

Sub-clause (4)(g)

Sub-clause (4)(g) omits Attachments 1.1, 1.2, 1.3, 1.4, 1.5, 1.6, 1.7, 1.8, 1.9, 1.10, 1.11, 1.12, 1.13, 1.14, 1.15, 1.16, 1.18, 1.19, 1.20, 1.21, 1.22, 1.23, 1.24, 1.25, 1.26, 2.1, 2.2, 3.1, 3.2, 4.1, 4.2, 5.1, 5.2, 6.1, 6.2 from the Brisbane LAP and insert Attachments 1.1, 1.2, 1.3, 1.4, 1.5, 1.6, 1.7, 1.8, 1.9, 1.10, 1.11, 1.12, 1.13, 1.14, 1.15, 1.16, 1.18, 1.19, 1.20, 1.21, 1.23, 1.24, 1.25, 1.26, 2.1, 2.2, 3.1, 3.2, 4.1, 4.2, 5.1, 5.2, 6.1, 6.2.

The new Attachments 1.1, 2.1, 3.1, 4.1, 5.1 and 6.1 contains the definitions of the Brisbane RA1, Logan RA1, Redcliffe RA1, Wynnum RA1, Caboolture RA1 and Beaudesert RA1 licence areas updated to 2006 census data.

The new Attachments 1.2, 1.3, 1.4, 1.5, 1.6, 1.7, 1.8, 1.10, 1.11, 1.14, 1.15, 1.16, 1.21, 1.22, 2.2 and 3.2 have been varied so that their headings read “LICENCE AREA PLAN : Brisbane Radio” and the site tolerance fields refer to Broadcasting Services (Technical Planning) Guidelines 2007.

The new Attachments 1.9, 1.26 and 4.2 have been varied so that their headings read “LICENCE AREA PLAN : Brisbane Radio”, the site tolerance fields refer to Broadcasting Services (Technical Planning) Guidelines 2007 and the nominal location changed to better reflect the location of the transmitter.

Attachment 1.17 has been removed. This Attachment was replaced by Attachment 1.18 one year after the determination of the Brisbane LAP. Its continued inclusion is seen as redundant.

Attachment 1.22 has been removed. This Attachment was replaced by Attachment 1.23 one year after the determination of the Brisbane LAP. Its continued inclusion is seen as redundant.

The special condition on Attachment 1.18 has been removed. This special condition described the date when Attachment 1.18 would replace 1.17. This date has now passed and the continued inclusion of the special condition is seen as redundant.

The special condition on Attachment 1.23 has been amended. The section of the special conditions on this service that described the date when Attachment 1.23 would replace 1.22 is seen as redundant as the date has now passed.

The new Attachment 6.2 has been varied so that its heading reads “LICENCE AREA PLAN : Brisbane Radio”, the site tolerance field refers to Broadcasting Services (Technical Planning) Guidelines 2007 and the Australian map grid reference changed to better reflect the location of the transmitter.
Statement of Compatibility with Human Rights

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

Variation to Licence Area Plan – Brisbane Radio – No.1 of 2012

This 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

The legislative instrument varies the characteristics, including technical specifications, of the commercial radio broadcasting service 4KQ at Brisbane to change the site of its transmitter site, increase its cymomotive force to 1395 volts during daytime hours and 990 volts during night-time hours and change the direction of its radiation pattern.

The legislative instrument also updates the description of the existing commercial and community radio licence areas in the Brisbane LAP so that they are defined in terms used in the 2006 census and are consistent with the ACMA’s most recent determination of population of the licence areas under section 30 of the Broadcasting Services Act 1992.

The legislative instrument also makes minor amendments to delete information included for reference only that does not form part of the Brisbane LAP and which may create confusion.

The intended impact and effect of the legislative instrument is to clarify the characteristics, including technical specifications, of radio broadcasting services in the Brisbane area. The ACMA does not intend the variation to alter any existing rights and obligations, except as set out above.

Human rights implications

The legislative instrument does not engage any of the applicable rights or freedoms.

Conclusion

The legislative instrument is compatible with human rights as it does not raise any human rights issues.

Australian Communications and Media Authority