

Legislative Instruments Act 2003

Section 26 - Explanatory Statement

Broadcasting Services (Commercial Radio Compliance Program) Standard Revocation 2012 made under the Broadcasting Services Act 1992

Issued by the Australian Communications and Media Authority

On **14 March 2012**, the Australian Communications and Media Authority (the **ACMA**) determined the *Broadcasting Services (Commercial Radio Compliance Program) Standard Revocation 2012 (the Revocation Instrument)*. The Revocation Instrument revokes the *Broadcasting Services (Commercial Radio Compliance Program) Standard 2000 (the 2000 Compliance Program Standard)*.

The 2000 Compliance Program Standard was made by the ACMA under section 125 of the *Broadcasting Services Act 1992 (the BSA)* which provides that the ACMA may determine program standards.

The ACMA may revoke a program standard made under section 125, provided the consultation provision in section 126 of the BSA has been followed.

Background

As part of the *Commercial Radio Inquiry 2000*, one of the ACMA's predecessor agencies, the Australian Broadcasting Authority (**the ABA**), formed the view that the commercial radio industry codes of practice were not operating to provide appropriate community safeguards. In response, the ABA determined three program standards, including the 2000 Compliance Program Standard, to deal with advertising, commercial influence and compliance programs across the commercial radio industry (**the commercial radio standards**).

The 2000 Compliance Program Standard was determined to require licensees to formulate, implement and maintain a compliance program to ensure that licensees and their staff were educated about, and trained in, their regulatory obligations under the BSA, the commercial radio standards and the commercial radio codes of practice.

In 2008, the ACMA announced a review of the commercial radio standards to consider the effectiveness, efficiency and appropriateness of the regulatory arrangements under the three standards. Research and industry submissions provided as part of the review indicated a high degree of awareness by licensees of their regulatory obligations. The review also indicated that the vast majority of commercial radio licensees surveyed by the ACMA has in place a culture that encourages compliance, and that licensees are likely to maintain compliance mechanisms independent of the requirements of the 2000 Compliance Program Standard. Accordingly, the ACMA decided it was appropriate to revoke the 2000 Compliance Standard.

Intended impact and effect of the Revocation Instrument

The Revocation Instrument revokes the 2000 Compliance Program Standard.

The revocation of the 2000 Compliance Program Standard means that commercial radio licensees will no longer be required to formulate, implement and maintain a compliance program to ensure their compliance with the requirements of the BSA, commercial radio standards and commercial radio codes of practice.

Consultation

On 25 November 2011, the ACMA released a draft of the Revocation Instrument, seeking stakeholder and public comment on the proposed changes to regulation. Consultation on the draft closed on 16 December 2011 (with the ACMA granting extensions to industry submitters).

The ACMA is satisfied that this consultation and notification meets the requirements of section 126 of the BSA and the requirements of section 17 of the *Legislative Instruments Act 2003*.

Regulatory Impact

A regulation impact statement (RIS) titled *Regulation Impact Statement – Review of the Commercial Radio Standards* was prepared by the ACMA for the review of the commercial radio standards and the associated reforms. The Office of Best Practice Regulation (the OBPR) reviewed the RIS and assessed it as adequate under the Australian Government best practice regulation requirements – OBPR reference number 12308.

As required under the *Human Rights (Parliamentary Scrutiny) Act 2011*, a human rights compatibility statement has been prepared and is attached.

NOTES ON INSTRUMENT

Section 1 – Name of instrument

Section 1 provides that the name of the Revocation Instrument is the *Broadcasting Services (Commercial Radio Compliance Program) Standard Revocation 2012*.

Section 2 – Commencement

This section states that the Revocation Instrument commences on 1 May 2012.

Section 3 – Revocation of the *Broadcasting Services (Commercial Radio Compliance Program) Standard 2000*

This section states that the *Broadcasting Services (Commercial Radio Compliance Program) Standard 2000* is revoked.

Statement of Compatibility with Human Rights

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

Broadcasting Services (Commercial Radio Compliance Program) Standard Revocation 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 *Broadcasting Services (Commercial Radio Compliance Program) Standard Revocation 2012* (the **Instrument**) revokes the *Broadcasting Services (Commercial Radio Compliance Program) Standard 2000*.

The revocation of the *Broadcasting Services (Commercial Radio Compliance Program) Standard 2000* means that commercial radio licensees will no longer be required to formulate, implement and maintain a compliance program to ensure the licensee's compliance with the requirements of the *Broadcasting Services Act 1992* (the **Act**), relevant program standards determined under Part 9 of the Act and registered industry codes of practice. The Instrument commences on 1 May 2012.

Human Rights Implications

The ACMA has considered whether this Instrument engages any applicable human rights or freedoms and has formed the view that it does not.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.