



## **Radiocommunications Licence Conditions (Broadcasting Licence) Determination 2025**

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The Australian Communications and Media Authority makes the following determination under subsection 110A(2) of the *Radiocommunications Act 1992*.

Dated: 20 March 2025

Nerida O'Loughlin  
[signed]  
Member

Michael Brealey  
[signed]  
General Manager

Australian Communications and Media Authority

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# Part 1 Preliminary

## 1 Name

This is the *Radiocommunications Licence Conditions (Broadcasting Licence) Determination 2025*.

## 2 Commencement

This instrument commences on 31 March 2025.

Note: The Federal Register of Legislation is available, free of charge, at [www.legislation.gov.au](http://www.legislation.gov.au).

## 3 Authority

This instrument is made under subsection 110A(2) of the Act.

## 4 Repeal of instruments

- (1) The *Radiocommunications Licence Conditions (Broadcasting Licence) Determination 2015* (F2015L01489) is repealed.
- (2) The *Radiocommunications Licence Conditions (Temporary Community Broadcasting Licence) Determination 2015* (F2015L00286) is repealed.

## 5 Interpretation

- (1) In this instrument, unless the contrary intention appears:

***AM radio band*** means the part of the spectrum from 526.5 kHz to 1606.5 kHz.

***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.

***broadcasting licence (narrowband area service)*** means a broadcasting licence that authorises the operation of a narrowband area service station.

***broadcasting licence (narrowcasting service)*** means a broadcasting licence that authorises the operation of a narrowcasting service station.

**broadcasting licence (national broadcast service)** means a broadcasting licence that authorises the operation of a national broadcast service station.

**broadcasting licence (re-transmission service)** means a broadcasting licence that authorises the operation of a re-transmission service station.

**broadcasting licence (temporary community broadcasting service)** means a broadcasting licence issued under section 101A of the Act.

**broadcasting service** has the meaning given by the *Broadcasting Services Act 1992*.

**commercial broadcasting licensee** means a holder of a commercial radio broadcasting licence or a commercial television broadcasting licence allocated under the *Broadcasting Services Act 1992*.

**community broadcasting licence** has the meaning given by the *Broadcasting Services Act 1992*.

**FM radio band** means the part of the spectrum from 87.5 MHz to 108 MHz.

**licence** means:

- (a) a broadcasting licence (narrowband area service); or
- (b) a broadcasting licence (narrowcasting service); or
- (c) a broadcasting licence (national broadcast service); or
- (d) a broadcasting licence (re-transmission service); or
- (e) a broadcasting licence (temporary community broadcasting service);

as the context requires.

**licence area** has the meaning given by the *Broadcasting Services Act 1992*.

**licence area plan** has the meaning given by the *Broadcasting Services Act 1992*.

**locality** means an area designated as such by the Australian Bureau of Statistics in Statistical Geography: Volume 3 – Australian Standard Geographical Classification (ASGC) Urban Centres/Localities, 2001 (cat. No. 2909.0).

Note 1: The document Statistical Geography: Volume 3 – Australian Standard Geographic Classification (ASGC) Urban Centres/Localities, 2001 (cat. No. 2909.0) is available, free of charge, from the Australian Bureau of Statistics' website at [www.abs.gov.au](http://www.abs.gov.au).

Note 2: A **locality** corresponds to a population cluster of between 200 and 999 people.

**low power open narrowcasting service** means an open narrowcasting service provided using a transmitter licence that authorises the operation of a radiocommunications transmitter at a maximum effective radiated power that is not greater than:

- (a) if the transmitter is operated in a residential area – 1 watt; or
- (b) in any other case – 10 watts.

**national broadcast service station** means a radiocommunications transmitter that is operated for providing a national broadcasting service.

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

**open narrowcasting service** has the meaning given by the *Broadcasting Services Act 1992*.

**planned minimum field strength**, for a radiocommunications transmitter, means:

- (a) if the planned minimum field strength for the transmitter is specified in the licence area plan prepared under section 26 of the *Broadcasting Services Act 1992* that relates to the transmitter – that strength; or
- (b) otherwise:
  - (i) for a radiocommunications transmitter authorised to be operated in the AM radio band, or the part of spectrum from 1606.5 kHz to 1705 kHz – 54 dBµV/m (0.5 mV/m);
  - (ii) for a radiocommunications transmitter authorised to be operated in the FM radio band – 54 dBµV/m;
  - (iii) for a radiocommunications transmitter authorised to be operated on a very high frequency – 44 dBµV/m;
  - (iv) for a radiocommunications transmitter authorised to be operated on an ultra high frequency that is less than 610 MHz – 50 dBµV/m;
  - (v) for a radiocommunications transmitter authorised to be operated on an ultra high frequency that is equal to or greater than 610 MHz – 54 dBµV/m.

**related body corporate** has the meaning given by the *Corporations Act 2001*.

**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).

**residential area** means the area bounded by a line 20 kilometres outside of a locality or urban centre.

**re-transmission service** means a service that does no more than:

- (a) re-transmit programs that are transmitted by a national broadcasting service; or
- (b) re-transmit programs that are transmitted by a commercial broadcasting licensee or a community broadcasting licensee:
  - (i) within the licence area of that licence; or
  - (ii) outside the licence area of that licence in accordance with permission in writing given by the ACMA under subparagraph 212(b)(ii) of the *Broadcasting Services Act 1992*.

**re-transmission service station** means a radiocommunications transmitter that is operated for providing a re-transmission service.

**service area**, for a radiocommunications transmitter, means:

- (a) if the licence that authorises operation of the transmitter specifies a coverage area for the transmitter – that coverage area; or
- (b) otherwise – the area in which the median field strength of the transmitter is equal to, or greater than, the planned minimum field strength for the transmitter.

**spouse**, in relation to a person, includes a de facto partner of the person, within the meaning given by section 2D of the *Acts Interpretation Act 1901*.

**Technical Planning Guidelines** means guidelines developed under section 33 of the *Broadcasting Services Act 1992*.

Note: Guidelines developed under section 33 of the *Broadcasting Services Act 1992* are available, free of charge, from the Federal Register of Legislation at [www.legislation.gov.au](http://www.legislation.gov.au).

**temporary community broadcasting licence** has the meaning given by the *Broadcasting Services Act 1992*.

**TV bands** means the following parts of the spectrum:

- (a) 174 MHz to 230 MHz;
- (b) 520 MHz to 694 MHz.

**urban centre** means an area designated as such by the Australian Bureau of Statistics in Statistical Geography: Volume 3 – Australian Standard Geographical Classification (ASGC) Urban Centres/Localities, 2001 (cat. No. 2909.0).

Note 1: The document Statistical Geography: Volume 3 – Australian Standard Geographic Classification (ASGC) Urban Centres/Localities, 2001 (cat. No. 2909.0) is available, free of charge, from the Australian Bureau of Statistics' website at [www.abs.gov.au](http://www.abs.gov.au).

Note 2: An **urban centre** corresponds to a population cluster of 1,000 or more people.

Note 3: A number of other expressions used in this instrument are defined in the Act, including the following:

- (a) ACMA;
- (b) apparatus licence;
- (c) broadcasting services bands licence;
- (d) class licence;
- (e) commercial broadcasting service;
- (f) community broadcasting service;
- (g) frequency band;
- (h) national broadcasting service;
- (i) spectrum licence;
- (j) spectrum plan.

Note 4: In this instrument, **licence** has a different meaning to that given by the Act.

Note 5: Other expressions used in this instrument may be defined in a determination made under subsection 64(1) of the *Australian Communications and Media Authority Act 2005*, that applies to this instrument, including:

- (a) Act;
- (b) broadcasting licence;
- (c) broadcasting services bands;
- (d) harmful interference;
- (e) narrowband area service station;
- (f) narrowcasting service station;
- (g) station;
- (h) ultra high frequency;
- (i) very high frequency.

- (2) In this instrument, unless the contrary intention appears, a reference to a station is taken to be a reference to each radiocommunications transmitter that forms part of the station.

Note: A station is an installation or thing that is, or includes, one or more radiocommunications transmitters, one or more radiocommunications receivers, or both one or more radiocommunications transmitters and one or more radiocommunications receivers. This instrument imposes licence conditions on broadcasting licences, which are a type of transmitter licence, so this instrument is primarily concerned with transmitter licences and the radiocommunications transmitters whose operation is authorised by those licences. However, the operation of some conditions in relation to some broadcasting licences may depend on particular radiocommunications receivers.

- (3) In this instrument, unless the contrary intention appears, a reference to a part of the spectrum or frequency band includes all frequencies that are greater than but not including the lower frequency, up to and including the higher frequency.

Note: This means the lower number in the reference to the part of the spectrum or frequency band is not included in the part or band.

- (4) Unless the contrary intention appears, no condition in Parts 2 to 6 (inclusive) limits any other condition in those Parts.

## 6 References to other instruments

In this instrument, unless the contrary intention appears:

- (a) a reference to any other legislative instrument is a reference to that other legislative instrument as in force from time to time; and
- (b) a reference to any other kind of instrument or writing is a reference to that other instrument or writing as in force, or existing, from time to time.

Note 1: For references to Commonwealth Acts, see section 10 of the *Acts Interpretation Act 1901*; and see also subsection 13(1) of the *Legislation Act 2003* for the application of the *Acts Interpretation Act 1901* to legislative instruments.

Note 2: All Commonwealth Acts and legislative instruments are registered on the Federal Register of Legislation.

Note 3: See section 314A of the Act.

## **Part 2 Conditions – broadcasting licence (national broadcast service)**

### **7 Application of Part 2**

- (1) Subject to subsection (2), every broadcasting licence (national broadcast service) is subject to the conditions in this Part.
- (2) If:
  - (a) a condition is specified in a broadcasting licence (national broadcast service) under paragraph 107(1)(g) of the Act, or imposed on the licence under paragraph 111(1)(a) of the Act; and
  - (b) that condition is inconsistent with a condition specified in this Part;then, to the extent of any inconsistency, the condition mentioned in paragraph (a) prevails.

### **8 Condition – person to advertise before commencing service**

- (1) Subject to subsection (3), a person must not operate a national broadcast service station except where subsection (2) has been satisfied.
- (2) This subsection is satisfied if, not later than 7 days before a person first operates the national broadcast service station, that person has made the following statements and information available to the public:
  - (a) a statement about the person's intention to operate the station to provide a national broadcasting service within the service area for the station;
  - (b) the date and time of the commencement of transmission;
  - (c) the frequency the station will operate on;
  - (d) a statement that members of the public should contact the person if the transmission causes interference to other broadcasting services or radiocommunications;
  - (e) the address and telephone number of the person.

Example: The person may make these statements and this information available to the public by publishing the statements and information on its website.

- (3) The condition in subsection (1) does not apply to a person who operates a national broadcast service station if:
  - (a) at any time before the commencement of this instrument, a person operated the station to provide a national broadcasting service; and
  - (b) before that person first operated the station, that person had made statements and information available to the public that are the same as, or substantially similar to, the statements and information in subsection (2).

### **9 Condition – operation of national broadcast service station**

A person must only operate a national broadcast service station:

- (a) to provide a national broadcasting service; or
- (b) for engineering test transmissions.

## **10 Conditions – harmful interference**

### *Operation in broadcasting services bands*

- (1) A person must not operate a national broadcast service station on a frequency in the broadcasting services bands if operation of the station causes harmful interference to a broadcasting service within:
  - (a) if the service is a commercial broadcasting service or community broadcasting service – the licence area of the broadcasting services bands licence that authorises provision of the service; or
  - (b) if the service is a national broadcasting service – the service area for the national broadcast service station used to provide the service; or
  - (c) if the service is an open narrowcasting service (other than a low power open narrowcasting service) – the service area for the radiocommunications transmitter that is used to provide the service.

### *Operation outside broadcasting services bands*

- (2) A person must not operate a national broadcast service station on a frequency outside the broadcasting services bands if operation of the station causes harmful interference to radiocommunications of a radiocommunications transmitter:
  - (a) operation of which was first authorised by a spectrum licence, apparatus licence or class licence issued before the person first operated the station; and
  - (b) first operated before the person first operated the station.

## **11 Condition – emission requirements**

A person must not operate a national broadcast service station otherwise than in accordance with guidelines 21 and 22 of the Technical Planning Guidelines.



## **Part 3 Conditions – broadcasting licence (narrowcasting service)**

### **12 Application of Part 3**

- (1) Subject to subsections (2) and (3), every broadcasting licence (narrowcasting service) is subject to the conditions in this Part.
- (2) If:
  - (a) a condition is specified in a broadcasting licence (narrowcasting service) under paragraph 107(1)(g) of the Act, or imposed on the licence under paragraph 111(1)(a) of the Act; and
  - (b) that condition is inconsistent with a condition specified in this Part;then, to the extent of any inconsistency, the condition mentioned in paragraph (a) prevails.
- (3) Sections 14, 15, 16, and 17 do not apply to a broadcasting licence (narrowcasting service) that authorises the operation of a radiocommunications transmitter to provide a low power open narrowcasting service.

### **13 Condition – person to advertise before commencing service**

- (1) Subject to subsection (3), a person must not operate a narrowcasting service station except where subsection (2) has been satisfied.
- (2) This subsection is satisfied if, not later than 7 days before a person first operates the narrowcasting service station, that person has made the following statements and information available to the public:
  - (a) a statement about the person's intention to operate the station to provide an open narrowcasting service within the service area for the station;
  - (b) the date and time of the commencement of transmission;
  - (c) the frequency the station will operate on;
  - (d) a statement that members of the public should contact the person if the transmission causes interference to other broadcasting services or radiocommunications;
  - (e) the address and telephone number of the person.

Example: The person may make these statements and this information available to the public by publishing the statements and information on its website or on an industry website.
- (3) The condition in subsection (1) does not apply to a person who operates a narrowcasting service station if:
  - (a) at any time before the commencement of this instrument, a person operated the station to provide an open narrowcasting service; and
  - (b) before that person first operated the station, that person had made statements and information available to the public that are the same as, or substantially similar to, the statements and information in subsection (2).

### **14 Conditions – operating requirements for narrowcasting service station**

#### *Provision of open narrowcasting service*

- (1) A person must not operate a narrowcasting service station otherwise than to provide an open narrowcasting service.

*Open narrowcasting service must be commenced*

- (2) Subject to subsection (3), if the licence is issued otherwise than upon renewal under section 130 of the Act, the licensee must commence the provision of an open narrowcasting service using a narrowcasting service station within the 6-month period beginning on the day the licence was issued, unless the licensee has a reasonable excuse for not doing so.
- (3) The ACMA may extend the 6-month period referred to in subsection (2) if, in the ACMA's opinion, there is a valid reason for a delay by a person in complying with that subsection.
- (4) For the purposes of subsection (3), **valid reason for a delay** does not include:
  - (a) that the licence was obtained within the 6-month period within which to comply with the condition, pursuant to a transfer from a relative or associate of the licensee; or
  - (b) financial reasons; or
  - (c) that the licence is subject to an arrangement contingent on the disposal of another licence held by the licensee.

*Use of 'start up procedures'*

- (5) Subject to subsection (8), a person must not operate a narrowcasting service station except where subsection (6) is satisfied.
- (6) This subsection is satisfied if, before a person first operated the narrowcasting service station, the person complied with the start up procedures in Part 2 of the Technical Planning Guidelines.
- (7) For the purposes of a person complying with subsection (6), in Part 2 of the Technical Planning Guidelines, **licensee** is taken to mean a person authorised to operate a narrowcasting service station under a broadcasting licence (narrowcasting service).
- (8) The condition in subsection (5) does not apply to a person who operates a narrowcasting service station if:
  - (a) at any time before the commencement of this instrument, a person operated the station to provide an open narrowcasting service; and
  - (b) before that person first operated the station, that person had complied with procedures identified as start up procedures in the Technical Planning Guidelines, as in force at the time the person first operated the station.

**15 Conditions – additional operating requirements for narrowcasting service station in the AM radio band**

- (1) A person must not operate a narrowcasting service station on a frequency in the AM radio band otherwise than in compliance with subsections (2) and (3).
- (2) The person must only operate the narrowcasting service station:
  - (a) if a licence area plan has planned the open narrowcasting service provided, or that would be provided, using the station – in a manner that complies with the cymomotive force limits mentioned in the technical specifications for the service included in the plan; and
  - (b) in a manner that limits interference caused by the propagation of sky waves to broadcasting services provided using other radiocommunications transmitters operating on a frequency in the AM radio band.

- (3) The person must not operate the narrowcasting service station otherwise than in accordance with guidelines 11, 12 and 13 of the Technical Planning Guidelines.
- (4) For the purposes of a person complying with subsection (3), in the Technical Planning Guidelines:

***licence area***, in relation to a narrowcasting service station, is taken to mean the service area for the station.

***licensee*** is taken to mean a person authorised to operate a narrowcasting service station under a broadcasting licence (narrowcasting service).

- (5) For the purposes of a person complying with subsection (3), a reference in the Technical Planning Guidelines to a matter specified in a licence area plan is taken to be a reference to the equivalent matter (if any) specified in:
  - (a) a condition; or
  - (b) an advisory note;of the broadcasting licence (narrowcasting service) that authorises the operation of the narrowcasting service station.

#### **16 Condition – additional operating requirements for narrowcasting service station in the FM radio band**

- (1) A person must not operate a narrowcasting service station on a frequency in the FM radio band otherwise than in accordance with guidelines 11, 12 and 13 of the Technical Planning Guidelines.
- (2) For the purposes of a person complying with subsection (1), in the Technical Planning Guidelines:

***licence area***, in relation to a narrowcasting service station, is taken to mean the service area for the station.

***licensee*** is taken to mean a person authorised to operate a narrowcasting service station under a broadcasting licence (narrowcasting service).

- (3) For the purposes of a person complying with subsection (1), a reference in the Technical Planning Guidelines to a matter specified in a licence area plan is taken to be a reference to the equivalent matter (if any) specified in:
  - (a) a condition; or
  - (b) an advisory note;of the broadcasting licence (narrowcasting service) that authorises the operation of the narrowcasting service station.

#### **17 Condition – additional operating requirements for narrowcasting service station in the TV bands**

- (1) A person must not operate a narrowcasting service station on a frequency in the TV bands otherwise than in accordance with guidelines 11, 12 and 13 of the Technical Planning Guidelines.
- (2) For the purposes of a person complying with subsection (1), in the Technical Planning Guidelines:

***licence area***, in relation to a narrowcasting service station, is taken to mean the service area for the transmitter.

*licensee* is taken to mean a person authorised to operate a narrowcasting service station under a broadcasting licence (narrowcasting service).

- (3) For the purposes of a person complying with subsection (1), a reference in the Technical Planning Guidelines to a matter specified in a licence area plan is taken to be a reference to the equivalent matter (if any) specified in:
  - (a) a condition; or
  - (b) an advisory note;of the broadcasting licence (narrowcasting service) that authorises the operation of the narrowcasting service station.

### **18 Condition – additional operating requirements for narrowcasting service station used to provide low power open narrowcasting service in a residential area**

- (1) A person must not operate a narrowcasting service station in a residential area to provide a low power open narrowcasting service otherwise than in accordance with subsection (2).
- (2) The person must not operate the station:
  - (a) with a maximum effective radiated power greater than 1 watt; and
  - (b) such that the station's field strength is greater than 48 dBµV/m when measured at 10 metres above ground level at any location more than 2 kilometres from the station's antenna.

### **19 Condition – additional operating requirements for narrowcasting service station used to provide low power open narrowcasting service in a non-residential area**

- (1) A person must not operate a narrowcasting service station in a non-residential area to provide a low power open narrowcasting service otherwise than in accordance with subsection (2).
- (2) The person must not operate the station:
  - (a) with a maximum effective radiated power greater than 10 watts; and
  - (b) such that the station's field strength is greater than 48 dBµV/m when measured at 10 metres above ground level at any location more than 10 kilometres from the station's antenna.

### **20 Conditions – additional operating requirements for narrowcasting service station used to provide low power open narrowcasting service between 87.5 MHz and 88.0 MHz**

#### *Application*

- (1) This section only applies to a broadcasting licence (narrowcasting service) that authorises the operation of a narrowcasting service station to provide a low power open narrowcasting service on a frequency between 87.5 MHz to 88.0 MHz (inclusive).

#### *Open narrowcasting service must be commenced*

- (2) Subject to subsection (3), if the licence is issued otherwise than upon renewal under section 130 of the Act, the licensee must commence the provision of a low power open narrowcasting service using the narrowcasting service station within the 6-month period beginning on the day the licence was issued, unless the licensee has a reasonable excuse for not doing so.

Note: See clauses 6 and 9 of the *Australian Communications Authority (LPON Transmitter Licences) Direction No. 2 of 2000*, which is available, free of charge, from the Federal Register of Legislation at [www.legislation.gov.au](http://www.legislation.gov.au).

- (3) The ACMA may extend the 6-month period referred to in subsection (2) if, in the ACMA's opinion, there is a valid reason for a delay by a person in complying with that subsection.

Note: See subclause 8(1) of the *Australian Communications Authority (LPON Transmitter Licences) Direction No. 2 of 2000*, which is available, free of charge, from the Federal Register of Legislation at [www.legislation.gov.au](http://www.legislation.gov.au).

- (4) For the purposes of subsection (3), **valid reason for a delay** does not include:
- (a) that the licence was obtained within the 6-month period within which to comply with the condition, pursuant to a transfer from a relative or associate of the licensee; or
  - (b) financial reasons; or
  - (c) that the licence is subject to an arrangement contingent on the disposal of another licence held by the licensee.

Note: See subclause 8(2) of the *Australian Communications Authority (LPON Transmitter Licences) Direction No. 2 of 2000*, which is available, free of charge, from the Federal Register of Legislation at [www.legislation.gov.au](http://www.legislation.gov.au). Subclause 8(3) provides that this list of matters that are not valid reasons for a delay "is not exhaustive and there may be other reasons that do not constitute valid reasons for a delay".

#### *Open narrowcasting service must be continued*

- (5) Subject to subsection (2), the licensee must continue to provide the low power open narrowcasting service with reasonable regularity for the duration of the licence.

Note: See clauses 6 and 9 of the *Australian Communications Authority (LPON Transmitter Licences) Direction No. 2 of 2000*, which is available, free of charge, from the Federal Register of Legislation at [www.legislation.gov.au](http://www.legislation.gov.au).

#### *Recording-keeping*

- (6) The licensee must maintain records of the commencement, hours of operation and provision of the low power open narrowcasting service.

Note 1: See clauses 6 and 9 of the *Australian Communications Authority (LPON Transmitter Licences) Direction No. 2 of 2000*, which is available, free of charge, from the Federal Register of Legislation at [www.legislation.gov.au](http://www.legislation.gov.au).

Note 2: The *Australian Communications Authority (LPON Transmitter Licences) Direction No. 2 of 2000* (the **Direction**) was given under subsection 12 (1) of the *Australian Communications Authority Act 1997*. The Direction is continued in force under item 8 of Schedule 4 to the *Australian Communications and Media Authority (Consequential and Transitional Provisions) Act 2005*. The Direction makes provision for how the ACMA exercises its powers and performs its functions in relation to imposing conditions on certain licences.

## **21 Conditions – harmful interference**

#### *Operation in broadcasting services bands*

- (1) A person must not operate a narrowcasting service station on a frequency in the broadcasting services bands if operation of the station causes harmful interference to a broadcasting service within:
- (a) if the service is a commercial broadcasting service or community broadcasting service – the licence area of the broadcasting services bands licence that authorises provision of the service; or
  - (b) if the service is a national broadcasting service – the service area for the national broadcast service station used to provide the service; or

- (c) if the service is an open narrowcasting service (other than a low power open narrowcasting service) – the service area for the radiocommunications transmitter used to provide the service.

*Operation outside broadcasting services bands*

- (2) A person must not operate a narrowcasting service station on a frequency outside the broadcasting services bands if operation of the station causes harmful interference to radiocommunications of a radiocommunications transmitter:
  - (a) operation of which was first authorised by a spectrum licence, apparatus licence or class licence issued before the person first operated the station; and
  - (b) that was first operated before the person first operated the station.

**22 Condition – emission requirements**

A person must not operate a narrowcasting service station otherwise than in accordance with guidelines 21 and 22 in the Technical Planning Guidelines.

## **Part 4 Conditions – broadcasting licence (narrowband area service)**

### **23 Application of Part 4**

- (1) Subject to subsection (2), every broadcasting licence (narrowband area service), is subject to the conditions in this Part.
- (2) If:
  - (a) a condition is specified in a broadcasting licence (narrowband area service) under paragraph 107(1)(g) of the Act, or imposed on the licence under paragraph 111(1)(a) of the Act; and
  - (b) that condition is inconsistent with a condition specified in this Part;

then, to the extent of any inconsistency, the condition mentioned in paragraph (a) prevails.

**Note:** The spectrum plan provides for the issue of broadcasting licences in bands that are allocated for fixed services or for mobile services, and that are not allocated for broadcasting services. It is a policy of the ACMA that broadcasting licences issued in accordance with those provisions of the spectrum plan will be subject to conditions similar to those applied to other licences in the same band that are allocated to a fixed service or a mobile service.

### **24 Condition – person to advertise before commencing service**

- (1) Subject to subsection (3), a person must not operate a narrowband area service station except where subsection (2) has been satisfied.
- (2) This subsection is satisfied if, not later than 7 days before a person first operates the narrowband area service station, that person has made the following statements and information available to the public:
  - (a) a statement about the person's intention to operate the station to provide a broadcasting service within the licence area that relates to the broadcasting service, or the service area for the station, as appropriate;
  - (b) the date and time of the commencement of transmission;
  - (c) the frequency the station will operate on;
  - (d) a statement that members of the public should contact the person if the transmission causes interference to other broadcasting services or radiocommunications; and
  - (e) the address and telephone number of the person.

**Example:** The person may make these statements and this information available to the public by publishing the statements and information on its website or on an industry website.

- (3) The condition in subsection (1) does not apply to a person who operates a narrowband area service station if:
  - (a) at any time before the commencement of this instrument, a person operated the station under a broadcasting licence (narrowband area service); and
  - (b) before that person first operated the station, that person had made statements and information available to the public that are the same as, or substantially similar to, the statements and information in subsection (2).

## 25 Condition – using narrowband area service station to provide commercial broadcasting service in the frequency band 1606.5 kHz to 1705 kHz

*Licence not to be used to provide a commercial broadcasting service except in specific case*

- (1) Except where section 26 applies to a broadcasting licence (narrowband area service), a person must not operate a narrowband area service station in the frequency band 1606.5 kHz to 1705 kHz to provide a commercial broadcasting service unless all of the following apply:
  - (a) the broadcasting licence (narrowband area service) (the **relevant transmitter licence**) that authorises the operation of the station was issued:
    - (i) under section 100 of the Act before 6 November 2002; or
    - (ii) under section 130 of the Act on or after 6 November 2002 by way of renewal of a licence referred to in subparagraph (i);
  - (b) a commercial broadcasting service is provided, under a commercial licence allocated before 6 November 2002;
  - (c) a commercial broadcasting service was first provided under that commercial licence before 29 August 2004;
  - (d) the location of the station is either:
    - (i) within 10 kilometres of its location on 6 November 2002 (the **old location**); or
    - (ii) at a location determined by the ACMA in accordance with subsection (2).

Note: For the origin of this condition, see the *Australian Communications Authority (MF NAS Transmitter Licences) Direction No. 1 of 2003*, which is available, free of charge, from the Federal Register of Legislation at [www.legislation.gov.au](http://www.legislation.gov.au).

*ACMA may determine new location*

- (2) For the purposes of subparagraph (1)(d)(ii), the ACMA may determine a location (the **new location**) for a narrowband area service station if the ACMA 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 previous location of the station; and
  - (b) transmissions from the new location would not significantly interfere with any existing radiocommunications.

Note 1: If the ACMA determines a location in accordance with subsection (2), a person may still not be able to operate a radiocommunications transmitter under the relevant broadcasting licence unless the ACMA also varies any condition about the location of the transmitter in the relevant broadcasting licence under section 111 of the Act.

Note 2: See subsection 110A(5) of the Act.

*Definitions*

- (3) In this section:

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

**location**, of a station, means the geographic coordinates for the station specified in a condition of the relevant transmitter licence.

*Transitional*

- (4) Subject to subsection (5), if:
  - (a) immediately before the commencement of this instrument, a person operated a narrowband area service station to provide a commercial broadcasting service; and



(b) the operation of that station complied with the condition in section 5.3 of the *Radiocommunications Licence Conditions (Broadcasting Licence) Determination 2015*, as in force immediately before the commencement of this instrument;  
the operation of the station is taken to comply with the condition in subsection (1).

- (5) Subsection (4) ceases to apply in relation to a narrowband area service station upon the first occurrence of any of the following:
- (a) the person ceases to operate the station;
  - (b) the person ceases to provide the commercial broadcasting service;
  - (c) the person changes the location of the station.

Note 1: The occurrence of an event specified in subsection (5) does not necessarily mean the person, or another person, will contravene the condition in subsection (1) at the time the event occurs.

Note 2: For paragraph (a), the person might cease to operate the station because the relevant broadcasting licence (narrowband area service) was transferred, surrendered, not renewed or cancelled, or for another reason.

Note 3: For paragraph (b), the person might cease to provide the commercial broadcasting service because the relevant commercial licence was transferred, surrendered, not renewed or cancelled, or for another reason.

#### *Merits review*

- (6) If the ACMA decides, or refuses to decide, to determine a new location for a narrowband area service station under subsection (2), the holder of the broadcasting licence (narrowband area service) that authorises the operation of that narrowband area service station, may apply to the Administrative Review Tribunal for review of the decision.

## **26 Condition – using narrowband area service station to provide commercial broadcasting service in the frequency band 1606.5 kHz to 1705 kHz where original licence expired**

### *Application*

- (1) This section applies to a broadcasting licence (narrowband area service) (the ***new licence***) held by a person if all of the following circumstances exist:
- (a) the person operated a narrowband area service station in the frequency band 1606.5 kHz to 1705 kHz to provide a commercial broadcasting service in accordance with:
    - (i) section 25; or
    - (ii) a former section;
  - (b) the broadcasting licence (narrowband area service) to which section 25 or the former section applied (the ***former licence***) expired;
  - (c) the person did not apply for the renewal of the former licence;
  - (d) after the former licence expired, the new licence was issued to the person by the ACMA:
    - (i) under section 100 of the Act; or
    - (ii) under section 130 of the Act by way of renewal of a licence referred to in subparagraph (i).

### *Licence not to be used to provide a commercial broadcasting service except in specific case*

- (2) The person must not operate a narrowband area service station under the new licence to provide a commercial broadcasting service unless:
- (a) the new licence specifies, in a condition, a frequency in the frequency band 1606.5 kHz to 1705 kHz that the transmitter must only be operated on;
  - (b) provision of the commercial broadcasting service is authorised by a commercial licence that was allocated before 6 November 2002;

- (c) the location of the station is either:
  - (i) within 10 kilometres of the location of the station operated under the former licence on 6 November 2002 (the **old location**); or
  - (ii) at a location determined by the ACMA in accordance with subsection (3).
- (d) the person notified the ACMA of the person's intention to provide a commercial broadcasting service in writing at least 14 days before first operating the station to provide the service (whether or not that operation first occurred, and that notice, was first given, before the commencement of this instrument).

Note 1: If the ACMA determines a location in accordance with subsection (3), a person may still not be able to operate a radiocommunications transmitter under the relevant broadcasting licence unless the ACMA also varies any condition about the location of the transmitter in the relevant broadcasting licence under section 111 of the Act.

Note 2: For the origin of this condition see the *Australian Communications and Media Authority (MF NAS Transmitter Licences) Direction No. 1 of 2009*, which is available, free of charge, from the Federal Register of Legislation at [www.legislation.gov.au](http://www.legislation.gov.au).

#### *ACMA may determine new location*

- (3) For the purposes of subparagraph (2)(c)(ii), the ACMA may determine a location (the **new location**) for a narrowband area service station if the ACMA 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.

Note 1: If the ACMA determines a location in accordance with subsection (3), a person may still not be able to operate a radiocommunications transmitter under the relevant broadcasting licence unless the ACMA also varies any condition about the location of the transmitter in the relevant broadcasting licence under section 111 of the Act.

Note 2: See subsection 110A(5) of the Act.

#### *Definitions*

- (4) In this section:

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

**former section** means each of:

- (a) section 5.3 of the *Radiocommunications Licence Conditions (Broadcasting Licence) Determination 2015*;
- (b) section 5.3 of the *Radiocommunications Licence Conditions (Broadcasting Licence) Determination No. 1 of 1998*.

**location**, of a station, means the geographic coordinates for the station specified in a condition of the relevant broadcasting licence (narrowband area service).

#### *Transitional*

- (5) Subject to subsection (6), if:
  - (a) immediately before the commencement of this instrument, a person operated a narrowband area service station to provide a commercial broadcasting service; and
  - (b) the operation of that station complied with the condition in section 5.4 of the *Radiocommunications Licence Conditions (Broadcasting Licence) Determination 2015*, as in force immediately before the commencement of this instrument;the operation of the station is taken to comply with the condition in subsection (2).

- (6) Subsection (5) ceases to apply in relation to a narrowband area service station upon the first occurrence of any of the following:
- (a) the person ceases to operate the station;
  - (b) the person ceases to provide the commercial broadcasting service;
  - (c) the person changes the location of the station.

Note 1: The occurrence of an event specified in subsection (6) does not necessarily mean the person, or another person, will contravene the condition in subsection (2) at the time the event occurs.

Note 2: For paragraph (a), the person might cease to operate the station because the relevant broadcasting licence (narrowband area service) was transferred, surrendered, not renewed or cancelled, or for another reason.

Note 3: For paragraph (b), the person might cease to provide the commercial broadcasting service because the relevant commercial licence was transferred, surrendered, not renewed or cancelled, or for another reason.

#### *Merits review*

- (7) If the ACMA decides, or refuses to decide, to determine a new location for a narrowband area service station under subsection (3), the holder of the broadcasting licence (narrowband area service) that authorises the operation of that narrowband area service station, may apply to the Administrative Review Tribunal for review of the decision.

## **27 Conditions – harmful interference**

### *Operation in broadcasting services bands*

- (1) A person must not operate a narrowband area service station on a frequency in the broadcasting services bands if operation of the station causes harmful interference to a broadcasting service within:
- (a) if the service is a commercial broadcasting service or community broadcasting service – the licence area of the broadcasting services bands licence that authorises provision of the service; or
  - (b) if the service is a national broadcasting service – the service area for the national broadcast service station used to provide the service; or
  - (c) if the service is an open narrowcasting service (other than a low power open narrowcasting service) – the service area for the radiocommunications transmitter used to provide the service.

### *Operation outside broadcasting services bands*

- (2) A person must not operate a narrowband area service station on a frequency outside the broadcasting services bands, if operation of the station causes harmful interference to radiocommunications of a radiocommunications transmitter:
- (a) operation of which was first authorised by a spectrum licence, apparatus licence or class licence issued before the person first operated the station; and
  - (b) that was first operated before the person first operated the station.

### *Transmission outside broadcasting services bands – interference to broadcasting services in AM radio band*

- (3) A person must not operate a narrowband area service station in the frequency band 1606.5 kHz to 1705 kHz if operation of the station causes harmful interference to the reception of broadcasting services provided in the AM radio band.

## **Part 5 Condition – broadcasting licence (temporary community broadcasting service)**

### **28 Application of Part 5**

- (1) Subject to subsection (2), every broadcasting licence (temporary community broadcasting service), is subject to the condition in this Part.
- (2) If:
  - (a) a condition is specified in a broadcasting licence (temporary community broadcasting service) under paragraph 108A(1)(f) of the Act, or imposed on the licence under paragraph 111(1)(a) of the Act; and
  - (b) that condition is inconsistent with the condition specified in this Part;then, to the extent of any inconsistency, the condition mentioned in paragraph (a) prevails.

### **29 Condition – harmful interference**

A person must not operate a radiocommunications transmitter if operation of the transmitter causes harmful interference to a broadcasting service within:

- (a) if the service is a commercial broadcasting service or another community broadcasting service – the licence area of the broadcasting services bands licence that authorises provision of the service; or
- (b) if the service is a national broadcasting service – the service area for the national broadcast service station used to provide the service; or
- (c) if the service is an open narrowcasting service (other than a low power open narrowcasting service) – the service area for the radiocommunications transmitter used to provide the service.

## **Part 6 Conditions – broadcasting licence (re-transmission service)**

### **30 Application of Part 6**

- (1) Subject to subsection (2), every broadcasting licence (re-transmission service), is subject to the conditions in this Part.

Note: Section 212 of the *Broadcasting Services Act 1992* makes special provision for the re-transmission of certain programs. The regulatory regime established by the *Broadcasting Services Act 1992* does not apply to a service that does no more than re-transmit programs that are transmitted by a national broadcasting service, or by a commercial or community broadcasting service in certain circumstances. However, a person is required to be authorised under a transmitter licence issued under section 100 of the Act to operate a radiocommunications transmitter for the re-transmission of such programs using the radiofrequency spectrum.

- (2) If:
- (a) a condition is specified in a broadcasting licence (re-transmission service) under paragraph 107(1)(g) of the Act, or imposed on the licence under paragraph 111(1)(a) of the Act; and
  - (b) that condition is inconsistent with a condition specified in this Part;
- then, to the extent of any inconsistency, the condition mentioned in paragraph (a) prevails.

### **31 Condition – person to advertise before commencing service**

- (1) Subject to subsection (3), a person must not operate a re-transmission service station except where subsection (2) has been satisfied.
- (2) This subsection is satisfied if, not later than 7 days before a person first operates the re-transmission service station, that person has made the following statements and information available to the public:
- (a) a statement about the person's intention to operate the station to provide a re-transmission service within the service area for the station;
  - (b) the date and time of the commencement of re-transmission;
  - (c) the frequency the station will operate on;
  - (d) a statement that members of the public should contact the person if the re-transmission causes interference to broadcasting services or other radiocommunications; and
  - (e) the address and telephone number of the person.

Example: The person may make these statements and this information available to the public by publishing the statements and information on its website or on an industry website.

- (3) The condition in subsection (1) does not apply to a person who operates a re-transmission service station if:
- (a) at any time before the commencement of this instrument, a person operated the station; and
  - (b) the person used the station to provide a service of the kind specified in subsection 212(1) of the *Broadcasting Services Act 1992*; and
  - (c) before the person first operated the station, that person had made statements and information available to the public that are the same as, or substantially similar to, the statements and information in subsection (2).

### **32 Condition – using re-transmission service station to re-transmit programs**

The person must only operate the re-transmission service station to provide a service of the kind described in subsection 212(1) of the *Broadcasting Services Act 1992*.

### **33 Condition – harmful interference**

- (1) A person must not operate a re-transmission service station on a frequency in the broadcasting services bands if operation of the station causes harmful interference to a broadcasting service within:
  - (a) if the service is a commercial broadcasting service or community broadcasting service – the licence area of the broadcasting services bands licence that authorises provision of the service; or
  - (b) if the service is a national broadcasting service – the service area for the national broadcast service station used to provide the service; or
  - (c) if the service is an open narrowcasting service (other than a low power open narrowcasting service) – the service area for the radiocommunications transmitter that is used to provide the service.
- (2) A person must not operate a re-transmission service station on a frequency outside the broadcasting services bands if operation of the station causes harmful interference to radiocommunications of another radiocommunications transmitter:
  - (a) operation of which was first authorised by a spectrum licence, apparatus licence or class licence issued before the person first operated the station; and
  - (b) first operated before the person first operated the station.

### **34 Condition – emission requirements**

A person must not operate a re-transmission service station otherwise than in accordance with guidelines 21 and 22 of the Technical Planning Guidelines.