



Broadcasting Services Amendment (Regional Commercial Radio and Other Measures) Act 2020

No. 100, 2020

An Act to amend the *Broadcasting Services Act 1992*, and for other purposes

Note: An electronic version of this Act is available on the Federal Register of Legislation (<https://www.legislation.gov.au/>)

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Broadcasting Services Amendment (Regional Commercial Radio and Other Measures) Act 2020

No. 100, 2020

An Act to amend the *Broadcasting Services Act 1992*, and for other purposes

[Assented to 20 November 2020]

The Parliament of Australia enacts:

1 Short title

This Act is the *Broadcasting Services Amendment (Regional Commercial Radio and Other Measures) Act 2020*.

No. 100, 2020 *Broadcasting Services Amendment (Regional Commercial Radio and
Other Measures) Act 2020* 1

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day after this Act receives the Royal Assent.	21 November 2020
2. Schedule 1	The 28th day after this Act receives the Royal Assent.	18 December 2020
3. Schedule 2	The day after this Act receives the Royal Assent.	21 November 2020

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Regional commercial radio

Part 1—Amendments

Australian Communications and Media Authority Act 2005

1 Paragraph 53(2)(k)

After “other than”, insert “a notice under section 61CH of that Act or”.

Broadcasting Services Act 1992

2 Subsection 6(1)

Insert:

local content exemption period has the meaning given by section 8AE.

regional commercial radio broadcasting licence means a commercial radio broadcasting licence the licence area of which is neither:

- (a) a licence area in which is situated the General Post Office of the capital city of any of the following States:
 - (i) New South Wales;
 - (ii) Victoria;
 - (iii) Queensland;
 - (iv) Western Australia;
 - (v) South Australia; nor
- (b) the licence area known as Western Suburbs Sydney RA1.

3 Subsection 6(1) (definition of *remote area service radio licence*)

Omit “(within the meaning of Division 5C of Part 5)”.

4 After section 8AD

Insert:

**8AE Local content exemption period—regional commercial radio
broadcasting licensee**

- (1) For the purposes of this Act, a *local content exemption period*, for the licensee of a regional commercial radio broadcasting licence, is:
- (a) if:
 - (i) the ACMA, by legislative instrument, specifies a period in relation to one or more specified regional commercial radio broadcasting licensees; and
 - (ii) the period does not exceed 5 weeks; and
 - (iii) the licensees specified in the instrument consist of or include the licensee;that period; or
 - (b) if:
 - (i) paragraph (a) does not apply; and
 - (ii) the ACMA, by legislative instrument, specifies 2 periods in relation to one or more specified regional commercial radio broadcasting licensees; and
 - (iii) the periods, in aggregate, do not exceed 5 weeks; and
 - (iv) the licensees specified in the instrument consist of or include the licensee;each of those periods; or
 - (c) if:
 - (i) neither paragraph (a) nor (b) applies; and
 - (ii) the ACMA, by legislative instrument, specifies a period; and
 - (iii) the period does not exceed 5 weeks;that period; or
 - (d) if:
 - (i) none of paragraphs (a), (b) or (c) apply; and
 - (ii) the ACMA, by legislative instrument, specifies 2 periods; and
 - (iii) the periods, in aggregate, do not exceed 5 weeks;each of those periods; or
 - (e) if:
 - (i) none of paragraphs (a), (b), (c) or (d) apply; and
-

- (ii) the licensee, by written notice given to the ACMA, specifies a period; and
 - (iii) the period does not exceed 5 weeks; that period; or
 - (f) if:
 - (i) none of paragraphs (a), (b), (c), (d) or (e) apply; and
 - (ii) the licensee, by written notice given to the ACMA, specifies 2 periods; and
 - (iii) the periods, in aggregate, do not exceed 5 weeks; each of those periods; or
 - (g) if none of paragraphs (a), (b), (c), (d), (e) or (f) apply—the 5-week period beginning on the second Sunday in December each financial year.
- (2) A period specified under subsection (1) may be:
- (a) a period that occurs only once; or
 - (b) a recurring period.

Notice given to the ACMA—requirements

- (3) A notice under paragraph (1)(e) or (f) must be given to the ACMA at least 21 days before the earlier of:
- (a) the start of the next local content exemption period that, disregarding the notice, would be applicable to the licensee giving the notice; and
 - (b) whichever of the following times is applicable:
 - (i) in the case of a notice under paragraph (1)(e)—the start of the period specified in the notice;
 - (ii) in the case of a notice under paragraph (1)(f)—the start of the earlier of the periods specified in the notice.
- (4) A regional commercial radio broadcasting licensee may only give the ACMA one notice under subsection (1) each financial year.
- (5) A notice given to the ACMA under subsection (1) cannot be varied.
- (6) If:

- (a) a regional commercial radio broadcasting licensee gives the ACMA a notice under subsection (1) (the *earlier notice*) in a financial year; and
 - (b) the licensee gives the ACMA another notice under subsection (1) (the *later notice*) in a later financial year; and
 - (c) the later notice is expressed to replace the earlier notice; the earlier notice is taken to cease to be in force when the later notice is given.
- (7) If a notice given to the ACMA under subsection (1) (the *original notice*) by a regional commercial radio broadcasting licensee is in force, the licensee may, by written notice to the ACMA, revoke the original notice, so long as the notice of revocation is not given during a period specified in the original notice.
- (8) If a regional commercial radio broadcasting licensee gives the ACMA a notice under subsection (1), the licensee must publish the notice on its website.
- (9) If:
- (a) a regional commercial radio broadcasting licensee gives the ACMA a revocation notice under subsection (7); and
 - (b) the revocation results in paragraph (1)(g) applying to the licensee;
- the licensee must publish the revocation notice on its website.

5 Subsection 8AF(1)

Omit “(within the meaning of Division 5C of Part 5)”.

6 Subsection 43B(10) (definition of *regional commercial radio broadcasting licence*)

Repeal the definition.

7 Subsection 43C(1A)

Repeal the subsection, substitute:

- (1A) A licence condition imposed as a result of subsection (1) does not require a regional commercial radio broadcasting licensee to broadcast material on a business day included in a local content exemption period for the licensee.

8 Subsection 43C(8)

Repeal the following definitions:

- (a) definition of *metropolitan licence area*;
- (b) definition of *regional commercial radio broadcasting licence*;
- (c) definition of *regional licence area*.

9 Section 61CA

Repeal the following definitions:

- (a) definition of *approved local content plan*;
- (b) definition of *draft local content plan*.

10 Section 61CA (definition of eligible local news bulletins)

Repeal the definition, substitute:

eligible local news bulletins means local news bulletins that meet the following requirements:

- (a) the bulletins are broadcast during prime-time hours;
- (b) the bulletins adequately reflect matters of local significance;
- (c) none of the bulletins consists wholly of material that has previously been broadcast in the licence area concerned.

11 Section 61CA (definition of eligible local weather bulletins)

Repeal the definition, substitute:

eligible local weather bulletins means local weather bulletins broadcast during prime-time hours.

12 Section 61CA

Repeal the following definitions:

- (a) definition of *metropolitan licence area*;
- (b) definition of *news bulletin*;
- (c) definition of *regional commercial radio broadcasting licence*;
- (d) definition of *regional licence area*.

13 Section 61CA (definition of *weather bulletin*)

Omit “regularly scheduled”.

14 Sections 61CD and 61CE

Repeal the sections, substitute:

61CD Licensee must meet minimum service standards for local news and information

- (1) If a trigger event for a regional commercial radio broadcasting licence has occurred before the commencement of this section, then, after that commencement, the licensee must meet the standards mentioned in subsection (3).
- (2) If a trigger event for a regional commercial radio broadcasting licence occurs after the commencement of this section, then, after the occurrence of the trigger event, the licensee must meet the standards mentioned in subsection (3).
- (3) The standards are as follows:
 - (a) minimum business day service standards for local news;
 - (b) minimum weekly service standards for local news;
 - (c) minimum business day service standards for local weather;
 - (d) minimum weekly service standards for local community service announcements;
 - (e) minimum weekly service standards for emergency warnings;
 - (f) if a declaration is in force under subsection 61CE(10)—minimum business day service standards for designated local content programs.

Local content exemption period

- (4) A regional commercial radio broadcasting licensee is not required to meet any of the following standards:
 - (a) minimum business day service standards for local news;
 - (b) minimum business day service standards for local weather;
 - (c) if a declaration is in force under subsection 61CE(10)—minimum business day service standards for designated local content programs;

on a business day included in a local content exemption period for the licensee.

- (5) A regional commercial radio broadcasting licensee is not required to meet any of the following standards:
- (a) minimum weekly service standards for local news;
 - (b) minimum weekly service standards for local community service announcements;
 - (c) minimum weekly service standards for emergency warnings; during a week included in a local content exemption period for the licensee.

61CE Minimum service standards for local news and information

Local news

- (1) For the purposes of this Subdivision, a regional commercial radio broadcasting licensee meets the ***minimum business day service standards for local news*** on a particular business day if, on that day, the number of eligible local news bulletins broadcast by the licensee is at least:
- (a) the local news target number; or
 - (b) if the average business-day number of eligible local news bulletins broadcast under the licence during the benchmark year is a number greater than the local news target number—the greater number.
- (2) For the purposes of subsection (1), the ***local news target number*** is:
- (a) 1; or
 - (b) if the Minister, by legislative instrument, declares that a greater number is the local news target number—the greater number.
- (3) For the purposes of subsection (1), the ***average business-day number of eligible local news bulletins broadcast under the licence during the benchmark year*** is the number calculated using the formula:

$$\frac{\text{Number of eligible local news bulletins broadcast under the licence on business days during the benchmark year}}{\text{Number of business days in the benchmark year}}$$

- (4) For the purposes of this Subdivision, a regional commercial radio broadcasting licensee meets the ***minimum weekly service standards for local news*** during a particular week if, during that week, the total duration of eligible local news bulletins broadcast by the licensee is at least 62.5 minutes.

Local weather

- (5) For the purposes of this Subdivision, a regional commercial radio broadcasting licensee meets the ***minimum business day service standards for local weather*** on a particular business day if, on that day, the number of eligible local weather bulletins broadcast by the licensee is at least the local weather target number.
- (6) For the purposes of subsection (5), the ***local weather target number*** is:
- (a) 1; or
 - (b) if the Minister, by legislative instrument, declares that a greater number is the local weather target number—the greater number.

Local community service announcements

- (7) For the purposes of this Subdivision, a regional commercial radio broadcasting licensee meets the ***minimum weekly service standards for local community service announcements*** during a particular week if, during that week, the number of local community service announcements broadcast by the licensee is at least the community service target number.
- (8) For the purposes of subsection (7), the ***community service target number*** is:
- (a) 1; or
 - (b) if the Minister, by legislative instrument, declares that a greater number is the local community service target number—the greater number.

Emergency warnings

- (9) For the purposes of this Subdivision, a regional commercial radio broadcasting licensee meets the ***minimum weekly service standards for emergency warnings*** during a particular week if:
- (a) on one or more occasions during that week, one or more emergency service agencies asked the licensee to broadcast emergency warnings, and the licensee broadcast those warnings as and when asked to do so by those emergency service agencies; or
 - (b) there was no occasion during that week when an emergency service agency asked the licensee to broadcast an emergency warning.

Designated local content programs

- (10) For the purposes of this Subdivision, the Minister may, by legislative instrument, declare that a regional commercial radio broadcasting licence meets the ***minimum business day service standards for designated local content programs*** on a particular business day if, on that day, the licensee meets such requirements in relation to designated local content programs as are specified in the declaration.

15 Subdivision C of Division 5C of Part 5

Repeal the Subdivision, substitute:

Subdivision C—Local content statements

61CF Licensee must prepare and publish local content statements

Scope

- (1) This section applies if:
- (a) both:
 - (i) a trigger event for a regional commercial radio broadcasting licence has occurred before the commencement of this section; and
 - (ii) 90 days have passed since the commencement of this section; or

- (b) both:
 - (i) a trigger event for a regional commercial radio broadcasting licence occurs after the commencement of this section; and
 - (ii) 90 days have passed since the occurrence of the trigger event.

Requirements—local content statement

- (2) For each business day, the licensee of the regional commercial radio broadcasting licence must prepare a statement that:
 - (a) identifies the eligible local news bulletin or bulletins to be broadcast by the licensee on that business day; and
 - (b) identifies the eligible local weather bulletin or bulletins to be broadcast by the licensee on that business day; and
 - (c) contains such other information (if any) as is specified under subsection (4).
- (3) A statement prepared under subsection (2) is to be known as a ***local content statement***.
- (4) For the purposes of paragraph (2)(c), the ACMA may, by legislative instrument, specify information relating to either or both of the following:
 - (a) eligible local news bulletins;
 - (b) eligible local weather bulletins.
- (5) If the licensee of the regional commercial radio broadcasting licence has prepared a local content statement for a business day, the licensee must:
 - (a) make the statement available to the public by:
 - (i) publishing the statement on the licensee's website; or
 - (ii) providing copies of the statement to any person on request; and
 - (b) do so until the end of the 18-month period that began on the business day.
- (6) If the licensee of the regional commercial radio broadcasting licence chooses to comply with subsection (5) by providing copies of one or more local content statements to any person on request,

the licensee must publish on the licensee's website a notice that states that the licensee will provide copies of those statements to any person on request.

- (7) If the licensee of the regional commercial radio broadcasting licence has prepared a local content statement, the licensee must retain the statement for at least 18 months

Subdivision CA—Licensee to inform the ACMA how the licensee will comply with minimum service standards for emergency warnings

61CG Licensee to inform the ACMA how the licensee will comply with minimum service standards for emergency warnings

Scope

- (1) This section applies if:
- (a) both:
 - (i) a trigger event for a regional commercial radio broadcasting licence has occurred before the commencement of this section; and
 - (ii) 90 days have passed since the commencement of this section; or
 - (b) both:
 - (i) a trigger event for a regional commercial radio broadcasting licence occurs after the commencement of this section; and
 - (ii) 90 days have passed since the occurrence of the trigger event.

Requirements

- (2) The licensee of the regional commercial radio broadcasting licence must take all reasonable steps to ensure that the ACMA is informed, in writing, how the licensee will comply with subsection 61CE(9) (minimum weekly service standards for emergency warnings).

Subdivision CB—ACMA’s information-gathering powers

61CH ACMA’s information-gathering powers

Scope

- (1) This section applies to information that is relevant to the operation of Subdivision B.

Requirement

- (2) The ACMA may, by written notice given to a regional commercial radio broadcasting licensee, require the licensee to:
 - (a) give the ACMA any such information; and
 - (b) do so within the period, and in the manner, specified in the notice.

Compliance

- (3) A regional commercial radio broadcasting licensee must comply with a requirement under subsection (2) to the extent that the licensee is capable of doing so.

16 Section 61CT

Repeal the section.

Part 2—Application and transitional provisions

17 Application—local content requirements

- (1) The amendments of section 43C and Division 5C of Part 5 of the *Broadcasting Services Act 1992* made by this Schedule (other than the amendments made by items 9, 15 and 16 of this Schedule) apply in relation to material broadcast by a regional commercial radio broadcasting licensee during:
 - (a) the first week beginning after the commencement of this item; and
 - (b) each later week.
- (2) In this item:
week means a 7-day period that begins on a Sunday.

18 Transitional—local content exemption periods

- (1) If, immediately before the commencement of this item, an instrument made by the ACMA under subsections 43C(1A) and 61CD(2) of the *Broadcasting Services Act 1992* was in force, the instrument has effect, after that commencement, as if:
 - (a) the instrument had been made by the ACMA under paragraph 8AE(1)(a) of that Act (as amended by this Schedule); and
 - (b) the words “means a commercial radio broadcasting licence that has a regional licence area” were omitted from the definition of ***regional commercial radio broadcasting licence*** in section 3 of the instrument and the words “has the same meaning as in the Act” were substituted; and
 - (c) the note were omitted from section 3 of the instrument; and
 - (d) each reference in section 4 of the instrument to subsection 43C(1A) of the *Broadcasting Services Act 1992* were a reference to paragraph 8AE(1)(a) of that Act (as amended by this Schedule); and
 - (e) each reference in section 4 of the instrument to Monday were a reference to Sunday; and
 - (f) subsections 5(1) and (2) of the instrument were omitted; and

Schedule 1 Regional commercial radio

Part 2 Application and transitional provisions

- (g) each reference in section 5 of the instrument (other than subsections 5(1) and (2) of the instrument) to subsection 61CD(2) of the *Broadcasting Services Act 1992* were a reference to paragraph 8AE(1)(a) of that Act (as amended by this Schedule); and
 - (h) the reference in Schedule 1 to the instrument to subsections 4(1) and 5(1) of the instrument were a reference to subsection 4(1) of the instrument; and
 - (i) the reference in Schedule 2 to the instrument to subsections 4(2) and 5(2) of the instrument were a reference to subsection 4(2) of the instrument.
- (2) If:
- (a) immediately before the commencement of this item, an instrument made by the ACMA under subsections 43C(1A) and 61CD(2) of the *Broadcasting Services Act 1992* was in force; and
 - (b) a regional commercial radio broadcasting licence is listed in column 2 of the table in Schedule 3 to the instrument;
- then, for the purposes of the application of section 43C of that Act to the holder of the regional commercial radio broadcasting licence, disregard subsection 5(3) of the instrument.

Schedule 2—Australian content: transmission quota for regional/remote commercial television broadcasting licensees

Part 1—Amendments

Broadcasting Services Act 1992

1 At the end of subsection 121G(2)

Add:

Note: See also section 121H (which deals with compliance by regional/remote commercial television broadcasting licensees).

2 After section 121G

Insert:

121H Australian content: transmission quota for regional/remote commercial television broadcasting licensees

Deemed compliance

- (1) If:
- (a) apart from this section, a regional/remote commercial television broadcasting licensee did not comply with subsection 121G(2) for a calendar year; and
 - (b) the regional/remote commercial television broadcasting licensee gives the ACMA a written notice that:
 - (i) states that the regional/remote commercial television broadcasting licensee wants to rely on this section for the calendar year; and
 - (ii) specifies a particular metropolitan commercial television broadcasting licensee; and
 - (iii) is in a form approved in writing by the ACMA; and
 - (c) the notice is given within:
 - (i) 30 days after the end of the calendar year; or
 - (ii) such longer period as the ACMA allows; and

Schedule 2 Australian content: transmission quota for regional/remote commercial television broadcasting licensees

Part 1 Amendments

(d) the total number of hours of Australian programs that were transmitted by the regional/remote commercial television broadcasting licensee:

- (i) during targeted viewing hours in the calendar year; and
- (ii) on such of its secondary commercial television broadcasting services as were equivalent to secondary commercial television broadcasting services of the metropolitan commercial television broadcasting licensee (the *equivalent metropolitan secondary commercial television broadcasting services*);

was not less than the total number of hours of Australian programs transmitted by the metropolitan commercial television broadcasting licensee:

- (iii) during targeted viewing hours in the calendar year; and
- (iv) on the equivalent metropolitan secondary commercial television broadcasting services;

the regional/remote commercial television broadcasting licensee is taken to have complied with subsection 121G(2) for the calendar year.

Publication of copy of notice

- (2) If a notice is given under paragraph (1)(b), the ACMA must publish a copy of the notice on the ACMA's website.

Application of subsection 121G(3)

- (3) Subsection 121G(3) applies to paragraph (1)(d) in a corresponding way to the way in which it applies to subsection 121G(2).

Equivalent services

- (4) For the purposes of this section, if the program content of a secondary commercial television broadcasting service provided by a regional/remote commercial television broadcasting licensee is the same, or substantially the same, as the program content of a secondary commercial television broadcasting service provided by a metropolitan commercial broadcasting licensee, then those services are *equivalent* to each other.

Definitions

(5) In this section:

Australian program has the same meaning as in section 121G.

metropolitan commercial television broadcasting licensee means a commercial television broadcasting licensee whose licence area is a metropolitan licence area.

metropolitan licence area means a licence area in which is situated the General Post Office of the capital city of:

- (a) New South Wales; or
- (b) Victoria; or
- (c) Queensland; or
- (d) Western Australia; or
- (e) South Australia.

regional/remote commercial television broadcasting licensee means a commercial television broadcasting licensee whose licence area is a regional/remote licence area.

regional/remote licence area means any of the following licence areas:

- (a) Northern New South Wales TV1;
- (b) Southern New South Wales TV1;
- (c) Regional Victoria TV1;
- (d) Eastern Victoria TV1;
- (e) Western Victoria TV1;
- (f) Regional Queensland TV1;
- (g) Tasmania TV1;
- (h) Broken Hill TV1;
- (i) Darwin TV1;
- (j) Geraldton TV1;
- (k) Griffith and MIA TV1;
- (l) Kalgoorlie TV1;
- (m) Mildura/Sunraysia TV1;
- (n) Mount Gambier/South East TV1;
- (o) Mt Isa TV1;

Schedule 2 Australian content: transmission quota for regional/remote commercial television broadcasting licensees

Part 1 Amendments

- (p) Riverland TV1;
- (q) South West and Great Southern TV1;
- (r) Spencer Gulf TV1;
- (s) Remote and Regional WA TV1;
- (t) Remote Central and Eastern Australia TV1;
- (u) Western Zone TV1;
- (v) South Eastern Australia TV3;
- (w) Northern Australia TV3;
- (x) Western Australia TV3;
- (y) Remote and Central Eastern Australia TV2.

secondary commercial television broadcasting service, of a commercial television broadcasting licensee, means a commercial television broadcasting service provided by the licensee that is not the licensee's primary commercial television broadcasting service.

targeted viewing hours has the same meaning as in section 121G.

Part 2—Application and transitional provisions

3 Application—Australian content: transmission quota for regional/remote commercial television broadcasting licensees

Section 121H of the *Broadcasting Services Act 1992* (as amended by this Schedule) applies in relation to Australian programs transmitted during:

- (a) the 2019 calendar year; and
- (b) each later calendar year.

4 Transitional—notices for the 2019 calendar year

Subparagraph 121H(1)(c)(i) of the *Broadcasting Services Act 1992* (as amended by this Schedule) has effect, in relation to a notice for the 2019 calendar year, as if “after the end of the calendar year” were omitted and “after the commencement of this section” were substituted.

[*Minister’s second reading speech made in—
House of Representatives on 11 June 2020
Senate on 10 November 2020*]

(27/20)
