



Broadcasting Services (Regional Commercial Radio — Material of Local Significance) Licence Condition 2014

Broadcasting Services Act 1992

The AUSTRALIAN COMMUNICATIONS AND MEDIA AUTHORITY makes this condition under subsection 43(1) of the *Broadcasting Services Act 1992*.

Dated 11th September

2014

Chris Chapman
[signed]
Member

Richard Bean
[signed]
Member/~~General Manager~~

PART 1 PRELIMINARY

1 Name of Instrument

This Instrument is the *Broadcasting Services (Regional Commercial Radio – Material of Local Significance) Licence Condition 2014*.

2 Commencement

This Instrument commences on 1 October 2014.

3 Revocation

The *Broadcasting Services (Regional Commercial Radio– Material of Local Significance) Licence Condition 2012* (F2012L01985) is revoked.

4 Purpose and Application

(1) For subsection 43(1) of the Act:

- (a) the purpose of this Instrument is to impose conditions on a regional commercial radio broadcasting licence; and
- (b) those conditions create obligations on the person who holds the licence.

(2) This Instrument does not apply to a regional commercial radio broadcasting licence that is:

- (a) a remote area service radio licence;
- (b) a regional racing service radio licence; or
- (c) a licence allocated under subsection 40(1) of the Act.

PART 2 TERMS USED IN THIS INSTRUMENT

5 Definitions

In this Instrument:

Act means the *Broadcasting Services Act 1992*.

licensee means a person who holds a regional commercial radio broadcasting licence other than a remote area service radio licence, a regional racing service radio licence or a licence allocated under subsection 40(1) of the Act.

material of local significance has the meaning given by section 6.

metropolitan licence area means:

- (a) a licence area in which is situated the General Post Office of the capital city of:
 - (i) New South Wales; or
 - (ii) Victoria; or

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- (iii) Queensland; or
 - (iv) Western Australia; or
 - (v) South Australia; or

(b) the licence area known as Western Suburbs Sydney RA1.

regional commercial radio broadcasting licence means a commercial radio broadcasting licence that has a regional licence area.

regional licence area means a licence area that is not a metropolitan licence area.

relevant business day means, in respect of a licensee, a business day other than a business day on which the licensee is not required to broadcast material because of subsection 43C(1A) of the Act.

Note The following terms used in this Instrument are defined in the Act and have the same meaning as in that Act: the **ACMA, applicable number, community service announcement, daytime hours, emergency service agency, licence, licence area, regional racing service radio licence [see section 8AF], remote area service radio licence, trigger event [see Division 5C of Part 5]**.

6 Meaning of material of local significance

- (1) Material that is broadcast by a licensee is **material of local significance** if:
- (a) it complies with subsection (2) or (3); and
 - (b) subsection (4) does not apply.

General rule

- (2) Material is material of local significance if it:
- (a) is hosted in; or
 - (b) is produced in; or
 - (c) relates to;

the licence area of the regional commercial radio broadcasting licence.

Local news and information

- (3) Material is also material of local significance if it is broadcast by a licensee in compliance with obligations under Subdivision B of Division 5C of Part 5 of the Act.

Note The obligations under Subdivision B of Division 5C of Part 5 of the Act apply after a trigger event has occurred for a regional commercial radio broadcasting licence.

Announcements about material

- (4) An announcement (including a station promotion) that material of local significance will be broadcast at a later time is not itself material of local significance.

7 Definitions relating to material of local significance

Meaning of *produced in the licence area*

- (1) Material is *produced in the licence area* if:
- (a) one or more individuals in the licence area direct the creative and administrative aspects of the production of the material; and
 - (b) two or more of the following activities occur in the licence area:
 - (i) compilation;
 - (ii) developing and implementing programming concepts;
 - (iii) editing;
 - (iv) researching;
 - (v) scripting;
 - (vi) technical operation;
 - (vii) any other activity relating to the creative and administrative aspects of the production of the material.

Meaning of *hosted in the licence area*

- (2) Material is *hosted in the licence area* if each announcer of the material, including an announcer of a particular item of music that forms part of the material, is in the licence area when the material is broadcast.

Meaning of *relates to the licence area*

- (3) Material *relates to the licence area* if it relates to any of the following matters:
- (a) an economic issue as it affects the licence area;
 - (b) a government or political issue as it affects the licence area;
 - (c) a social issue as it affects the licence area;
 - (d) an education issue as it affects the licence area;
 - (e) a health issue as it affects the licence area;
 - (f) an employment issue as it affects the licence area;
 - (g) an event in the licence area, including an event that has not yet occurred;
 - (h) a person or organisation associated with the licence area;
 - (i) the views of a person or organisation associated with the licence area;
 - (j) weather conditions in the licence area;
 - (k) a cultural interest, or an issue relating to culture, as it affects the licence area;
 - (l) the natural or built environment in the licence area;

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- (m) a body, operating in the licence area, that deals with community, welfare, religious, educational or other community service;
 - (n) an emergency warning broadcast at the request of an emergency service agency.
- (4) Material of any kind that is not described in subsection (3) *relates to the licence area* if a direct and substantial relationship between the material and the licence area exists.

PART 3 LICENCE CONDITIONS

8 Licensee must broadcast material of local significance

- (1) During daytime hours on a relevant business day, a licensee must broadcast the applicable number of hours of material of local significance.
- (2) For subsection (1), if:
 - (a) material of local significance is advertising or sponsorship matter; and
 - (b) the licensee has received, or is entitled to receive, a payment or other consideration for broadcasting that material;

the advertising or sponsorship matter must comprise not more than 25% of the applicable number of hours on a relevant business day.

Note: For the applicable number of hours see section 4 of the *Broadcasting (Hours of Local Content) Declaration No. 1 of 2007*.

PART 4 RECORD KEEPING

9 Records

- (1) For each relevant business day after the commencement of this Instrument, a licensee must make a record, in audio form, of the applicable number of hours of material of local significance that it has broadcast in its licence area during daytime hours on that relevant business day.

Note A licensee may keep a record for this subsection by making an audio recording of a whole day of material, of material broadcast during daytime hours (ie 5.00 am to 8.00pm) or of material that is the duration of the applicable hours only.

- (2) The licensee must keep a record made for subsection (1) for the longest of the following periods:
 - (a) 30 days from the date on which the material was broadcast;
 - (b) if a complaint has been made in relation to material contained in the broadcast – 60 days from the date on which the material was broadcast; or
 - (c) a longer period specified by the ACMA, in writing.

Note This subsection does not affect any other requirement of the licensee to retain records in relation to material that it broadcasts (see, for example, Part 2 of Schedule 2 to the Act).

- (3) If the ACMA asks the licensee for access to a record kept under this section, the licensee must comply with the request as soon as practicable.

Transitional provision

- (4) If, before the commencement of this Instrument, a licensee was required to make a record under section 10 of the *Broadcasting Services (Regional Commercial Radio – Material of Local Significance) Licence Condition 2012*, the licensee must keep that record for the period specified in that section as if that Instrument had not been revoked.

10 Material of local significance—local content statements

- (1) For each relevant business day after the commencement of this Instrument, a licensee must compile a **local content statement** in relation to the material of local significance that is to be broadcast in its licence area during daytime hours on that relevant business day.
- (2) A **local content statement** must record the material of local significance to be broadcast on a relevant business day by setting out the regular program schedule for each day of the week.
- (3) A local content statement made under subsection (2), must state:
 - (a) which programs or parts of programs are material of local significance;
 - (b) whether the material was produced in, hosted in, or relates to the licence area; and
 - (c) the date or time period covered by the statement.

Note For paragraph (3)(c), the time period covered by a local content statement might be indicated by a reference such as ‘July to September 2014’ or ‘week commencing 9 July 2014’.

- (4) The licensee must make its current local content statement available to the public by either:
 - (a) publishing local content statements on its website; or
 - (b) providing copies of local content statements to any person, on request.
- (5) If the ACMA asks the licensee for access to a local content statement kept under this section, the licensee must comply with the request as soon as practicable.
- (6) The licensee must keep a copy of a local content statement for the greater of:
 - (a) 18 months starting on the day after the broadcast; and
 - (b) another period specified by the ACMA, in writing.

Note This subsection does not affect any other requirement of the licensee to retain records in relation to material that it broadcasts (see, for example, Part 2 of Schedule 2 to the Act).

Transitional provision

- (7) If, before the commencement of this Instrument, a licensee was required to make, keep and publish a local content statement under section 11 of the *Broadcasting Services (Regional Commercial Radio – Material of Local Significance) Licence Condition 2012*, the licensee must comply with that section as if that Instrument had not been revoked.

Note

- 1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.frli.gov.au>.