

Broadcasting Services (Regional Commercial Radio - Local Presence) Licence Condition 2014

made under subsection 43(1) of the

Broadcasting Services Act 1992

Compilation No. 1

| Compilation date: | 12 March 2022 |
|----------------------------|---------------|
| Includes amendments up to: | F2022L00297 |

Prepared by the Australian Communications and Media Authority, Melbourne

About this compilation

This compilation

This is a compilation of the *Broadcasting Services (Regional Commercial Radio – Local Presence) Licence Condition 2014* that shows the text of the law as amended and in force on 12 March 2022 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Federal Register of Legislation (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Federal Register of Legislation for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Federal Register of Legislation for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

PART 1 PRELIMINARY

1 Name of Instrument

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

4 **Purpose and Application**

- (1) For subsection 43(1) of the Act:
 - (a) the purpose of this Instrument is, pursuant to subsection 43B(1A) of the Act, to impose additional conditions on a relevant 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.

broadcast hours means the actual hours broadcast in the licence area in relation to the licence.

former licensee means a person who holds a relevant regional commercial radio broadcasting licence immediately prior to a trigger event occurring for that licence.

licensee means a person who holds a relevant regional commercial radio broadcasting licence after a trigger event has occurred for that licence.

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
- (iii) Queensland; or
- (iv)Western Australia; or
- (v) South Australia; or
- (b) the licence area known as Western Suburbs Sydney RA1.

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

relevant period means the period beginning on the date a trigger event for the licence occurs and ending 24 months later.

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

staff includes individuals engaged as independent contractors.

staffing levels means any one of the following:

- (a) the number of full time equivalent staff employed; or
- (b) the number of total staff hours worked; or
- (c) the expenditure on staff.

studios and other production facilities means any on-air studios or production booths that are used to compile commercial radio programs, but does not include equipment used for such purposes.

Note The following terms used in this Instrument are defined in the Act and have the same meaning as in that Act: the ACMA, commercial radio broadcasting licence, 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 Definition of existing level of local presence

- (1) In this Instrument, *existing level of local presence* means:
 - (a) the staffing levels determined by subsection (2); and
 - (b) the use of the studios and other production facilities determined by subsection (3).
- (2) For paragraph (1)(a), staffing levels are determined by calculating the average monthly staffing levels in the licence area of the former licensee in relation to the licence over the three month period ending on the Saturday before the day on which the trigger event occurred.
- (3) For paragraph (1)(b), the use of studios and other production facilities is determined by calculating the number of average monthly broadcast hours produced by the former licensee using studios and other production facilities in the licence area. The number of average monthly broadcast hours produced is to be calculated over the three month period ending on the Saturday before the day on which the trigger event occurred.

PART 3 LICENCE CONDITIONS

7 Licensee must maintain existing level of local presence after trigger event

A licensee must maintain at least the existing level of local presence in the licence area in relation to the licence throughout the relevant period.

8 Reporting to the ACMA

Reporting after a trigger event

(1) A licensee must, within 3 months after the day on which a trigger event for the licence occurs, give the ACMA a report in writing on the existing level of local presence in relation to the licence.

Reporting at end of relevant period

(2) A licensee must, within 3 months after the end of a relevant period, give the ACMA a report about the licensee's compliance with section 7 during that relevant period.

PART 4 MEASURING COMPLIANCE

9 Measuring compliance with section 7

- (1) For staffing levels, the existing level of local presence is maintained if, at the conclusion of each relevant period, there has been no material reduction in the average monthly staffing levels in the licence area in relation to the licence for that relevant period or part thereof, compared with the staffing levels determined by subsection 6(2) in respect of one of (a), (b) or (c) of the definition of *staffing levels* in section 5.
- *Note* For the avoidance of doubt, the comparison made for the purposes of this subsection must compare only one of (a), (b), or (c) of the definition of *staffing levels* in section 5 with the corresponding measure determined by subsection 6(2). For example, the number of average monthly staff hours worked over the relevant period must be compared with the number of average monthly staff hours worked in the licence area of the former licensee in relation to the licence over the three month period ending on the Saturday before the day on which the trigger event occurred.
- (2) For studios and other production facilities, the existing level of local presence is maintained if at the conclusion of each relevant period there has been no material reduction in the number of average monthly broadcast hours produced during that relevant period or part thereof, using studios and other production facilities in the licence area, when compared with the number of average monthly broadcast hours produced using studios and other production facilities determined by subsection 6(3).
- *Note 1* For subsection (2), the studios and other production facilities used do not necessarily have to be the studios and production facilities of the former licensee but they must be located in the licence area. Licensees should note that if they share studios or other production facilities with other persons holding a regional commercial radio broadcasting licence, this fact may be relevant in determining whether a person is in a position to control 2 or more licences [see clause 2(5)(a) of Schedule 1 to the Act].
- *Note 2* In determining what constitutes a "material reduction" in each circumstance, the ACMA will have regard to relevant standards published by the Australian Accounting Standards Board and any other considerations it regards as relevant.

Note

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

Endnotes

Endnote 1 – About the endnotes

The endnotes provide information about this compilation and the compiled law.

Endnote 2 (Abbreviation key) sets out abbreviations that may be used in the endnotes.

Endnote 3 (Legislation history) provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

Endnote 4 (Amendment history) provides information about the amendments at the provision (generally section or equivalent) level and includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

It also includes information about any misdescribed amendment (that is, an amendment that does not accurately describe the amendment to be made). If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation "(md)" added to the details of the amendment included in the amendment history. If a misdescribed amendment cannot be given effect as intended, the abbreviation "(md not incorp)" is added to the details of the amendment history.

Endnote 2—Abbreviation key

(md not incorp) = misdescribed amendment ad = added or inserted cannot be given effect am = amendedamdt = amendment mod = modified/modification c = clause(s)No. = Number(s) Ch = Chapter(s)par = paragraph(s)/subparagraph(s)/sub-subparagraph(s) def = definition(s)Dict = Dictionary Pt = Part(s)disallowed = disallowed by Parliament r = regulation(s)/rule(s)Div = Division(s)rep = repealed exp = expires/expired or ceases/ceased to have effect rs = repealed and substituted F = Federal Register of Legislation s = section(s)/subsection(s)Sch = Schedule(s)gaz = gazetteLA = Legislation Act 2003 Sdiv = Subdivision(s)LIA = Legislative Instruments Act 2003 underlining = whole or part not commenced or to be commenced (md) = misdescribed amendment can be given effect

Endnote 3—Legislation history

| Name | Registration | Commencement | Application, saving and transitiona provisions |
|--|--|----------------------|---|
| Broadcasting Services (Regional Commercial Radio – Local Presence) Licence Condition 2014 | 23 September 2014 (see F2014L01264) | 1 October 2014 (s.2) | |
| Broadcasting Services (Regional Commercial Radio – Local Presence) Licence Condition Variation 2022 (No.1) | 11 March 2022 (see F2022L00297) | 12 March 2022 | |

Endnote 4—Amendment history

| Provision affected | How affected |
|--------------------|-----------------|
| s.2 | rep. LA s.48D |
| s.3 | rep. LA s.48C |
| s.8(1) | am. F2022L00297 |