



Broadcasting Services (Regional Commercial Radio – Local Presence) 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 – Local Presence) Licence Condition 2014*.

2 Commencement

This Instrument commences on 1 October 2014.

3 Revocation

The *Broadcasting Services (Regional Commercial Radio – Local Presence) Licence Condition 2012* (F2012L01987) is revoked.

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 report on the existing level of local presence in the statement given to the ACMA pursuant to paragraph 61CF(1)(b) of the Act.

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 <http://www.frli.gov.au>.