

Broadcasting Services (Anti-terrorism Requirements for Television Narrowcasting Services) Standard 2021

*Broadcasting Services Act 1992*

The AUSTRALIAN COMMUNICATIONS AND MEDIA AUTHORITY determines this standard under subsection 125(2) of the *Broadcasting Services Act 1992*.

Dated: 9 September 2021

Chris Jose
[signed]
Member

Linda Caruso
[signed]
~~Member~~/General Manager

Australian Communications and Media Authority

# Part 1 Preliminary

# 1 Name of instrument

 This instrument is the *Broadcasting Services (Anti-terrorism Requirements for Television Narrowcasting Services) Standard 2021.*

# 2 Commencement

This standard commences on the day after it is registered on the Federal Register of Legislation.

Note:          The Federal Register of Legislation may be accessed at [www.legislation.gov.au](http://www.legislation.gov.au/).

# 3 Authority

This standard is made under subsection 125(2) of the *Broadcasting Services Act 1992.*

# 4 Repeals

The *Broadcasting Services (Anti-terrorism Requirements for Subscription Television Narrowcasting Services) Standard 2011* (Registration No. F2011L00581) and the *Broadcasting Services (Anti-terrorism Requirements for Open Narrowcasting Television Services) Standard 2011* (Registration No. F2011L00579) are repealed.

# 5 Definitions and interpretation

In this standard:

**Act** means the *Broadcasting Services Act 1992*.

***Criminal Code*** means the *Criminal Code* set out in the Schedule to the *Criminal Code Act 1995.*

**funds** has the same meaning as in the *Criminal Code*.

**licensee** means a person who provides:

1. a subscription television narrowcasting service under a class licence determined under paragraph 117(c) of the Act; or
2. an open narrowcasting television service under a class licence determined under paragraph 117(e) of the Act.

**listed terrorist** means:

1. a listed terrorist organisation within the meaning of the *Criminal Code*; or
2. a proscribed person or entity listed in the *Gazette* by the Minister for Foreign Affairs pursuant to section 15 of the *Charter of the United Nations Act 1945*.

**recruit** includes induce, incite and encourage.

**terrorist act** hasthe meaning given by section 100.1 of the *Criminal Code* (no matter where the action occurs, the threat of action is made or the action, if carried out, would occur).

Note 1: The definition of **terrorist act** in that section covers actions or threats of actions.

Note 2: The following terms used in this Standard are defined in the Act and have the meaning given by the Act: **licence, program, open narrowcasting television service, subscription television narrowcasting service**.

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# 6 References to other instruments

In this standard, unless the contrary intention appears:

1. a reference to any other legislative instrument is a reference to that other legislative instrument as in force from time to time; and
2. a reference to any other kind of instrument is a reference to that other instrument as in force at the commencement of this instrument.

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.

**Part 2 Introduction**

**7 Object of standard**

The object of this standard is to prevent the broadcasting of programs that advocate the doing of a terrorist act or encourage people to join or finance listed terrorists.

**8** **Application**

This standard applies to licensees.

**Part 3 Anti-terrorism Requirements**

**9 Recruiting for a listed terrorist**

1. A licensee must not broadcast a program that would be reasonably understood as directly recruiting a person to join, or participate in the activities of, a listed terrorist.
2. A licensee is in breach of this section whether or not the licensee is aware that the program falls within subsection (1).

**10 Financing terrorism**

1. A licensee must not broadcast a program that would be reasonably understood as:
2. soliciting funds for a listed terrorist; or
3. assisting in the collection or provision of funds for a listed terrorist.
4. Without limiting the generality of subsection (1), a program falls within subsection (1) if it gives details of a bank account, an address to which funds can be sent, or some other means of making payment to, or for the benefit of, a listed terrorist.
5. A licensee is in breach of this section whether or not the licensee is aware that the program falls within subsection (1).

**11 Advocating the doing of a terrorist act**

1. A licensee must not broadcast a program that advocates the doing of a terrorist act.
2. A licensee is in breach of this section whether or not the licensee is aware that the program falls within subsection (1).
3. Subject to subsection (4), for the purposes of this section, a program advocates the doing of a terrorist act if:
4. it directly or indirectly counsels, promotes, encourages or urges the doing of a terrorist act; or
5. it directly or indirectly provides instruction on the doing of a terrorist act; or
6. it directly praises the doing of a terrorist act in circumstances where there is a substantial risk that such praise might have the effect of leading a person (regardless of his or her age or any mental impairment (within the meaning of section 7.3 of the *Criminal Code*) that the person might suffer) to engage in a terrorist act.
7. A program does not advocate the doing of a terrorist act if it depicts or describes a terrorist act, but the depiction or description could reasonably be considered to be done merely as part of public discussion or debate or as entertainment or satire.

**12 Programs of political opinion not affected**

For the avoidance of doubt, sections 9, 10 and 11 are not intended to prevent a licensee from broadcasting a program that merely gives information about, or promotes the beliefs or opinions of, a listed terrorist.

**13 Bona fide reports and comments not affected**

Sections 9, 10 and 11 do not prevent a licensee from broadcasting an excerpt from a program of the kind described in section 9, 10 or 11 if:

1. the excerpt is included in a news report, current affairs program, documentary or other program; and
2. the excerpt is included as part of a bona fide report or comment on a matter of public interest.