

Broadcasting Services (Regional Commercial Radio — Material of Local Significance) Licence Condition 2024

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

Dated: 19 September 2024

Creina Chapman
[signed]
Member

Autumn Field
[signed]
~~Member~~/General Manager

Australian Communications and Media Authority

# PART 1 PRELIMINARY

1 Name of Instrument

This instrument is the *Broadcasting Services (Regional Commercial Radio – Material of Local Significance) Licence Condition 2024*.

## 2 Commencement

This instrument commences at the start of the day after the day it is registered on the Federal Register of Legislation.

Note: The Federal Register of Legislation may be accessed free of charge at www.legislation.gov.au.

## 3 Authority

 This instrument is made under subsection 43(1) of the Act.

## 4 Repeal of the *Broadcasting Services (Regional Commercial Radio– Material of Local Significance) Licence Condition 2014*

The *Broadcasting Services (Regional Commercial Radio– Material of Local Significance) Licence Condition 2014* (F2014L01263) is repealed.

## 5 Purpose and Application

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

1. the purpose of this instrument is, pursuant to subsection 43C(1) of the Act, to impose conditions on a regional commercial radio broadcasting licence; and
2. 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:

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

# PART 2 TERMS USED IN THIS INSTRUMENT

## 6 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 8.

***relevant business day*** means, in respect of a licensee, a business day other than a business day that falls within a local content exemption period for the licensee.

*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 [see Division 5C of Part 5], daytime hours, emergency service agency, licence, licence area, local content exemption period (see section 8AE), regional commercial radio broadcasting licence, regional racing service radio licence [see section 8AF], remote area service radio licence, trigger event [see Division 5C of Part 5].

## 7 References to other instruments

 In this instrument, unless the contrary intention appears:

(a) a reference to any other legislative instrument is a reference to that other legislative instrument as in force from time to time; and

(b) 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.

## 8 Meaning of *material of local significance*

(1) Material that is broadcast by a licensee is ***material of local significance*** if:

1. it complies with subsection (2) or (3); and
2. subsection (4) does not apply.

## General rule

(2) Material is material of local significance if it:

1. is hosted in; or
2. is produced in; or
3. 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.

## 9 Definitions relating to material of local significance

## Meaning of *produced in the licence area*

(1) Material is ***produced in the licence area*** if:

1. one or more individuals in the licence area direct the creative and administrative aspects of the production of the material; and
2. two or more of the following activities occur in the licence area:
3. compilation;
4. developing and implementing programming concepts;
5. editing;
6. researching;
7. scripting;
8. technical operation;
9. 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:

1. an economic issue as it affects the licence area;
2. a government or political issue as it affects the licence area;
3. a social issue as it affects the licence area;
4. an education issue as it affects the licence area;
5. a health issue as it affects the licence area;
6. an employment issue as it affects the licence area;
7. an event in the licence area, including an event that has not yet occurred;
8. a person or organisation associated with the licence area;
9. the views of a person or organisation associated with the licence area;
10. weather conditions in the licence area;
11. a cultural interest, or an issue relating to culture, as it affects the licence area;
12. the natural or built environment in the licence area;
13. a body, operating in the licence area, that deals with community, welfare, religious, educational or other community service;
14. 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

## 10 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:

1. material of local significance is advertising or sponsorship matter; and
2. 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 2017.*

# PART 4 RECORD KEEPING

## 11 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:

1. 30 days from the date on which the material was broadcast;
2. 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
3. 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 in writing 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 9 of the *Broadcasting Services (Regional Commercial Radio – Material of Local Significance) Licence Condition 2014*, the licensee must keep that record for the period specified in that section as if that instrument had not been revoked.

## 12 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:

1. which programs or parts of programs are material of local significance;
2. whether the material was produced in, hosted in, or relates to the licence area; and
3. 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 2024’ or ‘week commencing 8 July 2024’.

(4) The licensee must make its current local content statement available to the public by either:

1. publishing local content statements on its website; or
2. providing copies of local content statements to any person, on request.

(5) If the ACMA asks the licensee in writing 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:

1. 18 months starting on the day after the broadcast; and
2. 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 10 of the *Broadcasting Services (Regional Commercial Radio –Material of Local Significance) Licence Condition 2014*, the licensee must comply with that section as if that instrument had not been revoked.