

**Form ACMA B7**

Effective from August 2014

**Application for prior approval of temporary breaches**

**under section 67 of the *Broadcasting Services Act 1992* (the BSA)**

**LODGMENT INFORMATION**

**Important message on how to lodge this form**

To add information to the form, just click on the appropriate grey data box. Applications must be lodged via email to [control@acma.gov.au](mailto:control@acma.gov.au). The time of lodgement for applications will be electronically recorded. If you would prefer not to submit attachments to this form electronically, they may be delivered in hard copy to the Diversity, Localism and Accessibility Section, ACMA Sydney Office. As far as possible hard copy documents should be delivered to the ACMA by the next business day after the application is lodged.

If this form requires the attachment of a document which has already been provided to the ACMA as part of a Form ACMA B11, then an additional copy of that document *does not* have to be attached. However, if this is the case please identify the document you wish to refer the ACMA to and specify the date on which it was provided to the ACMA.

**Guidance Notes** on completing this form are available on the ACMA website. Please ensure you read those notes before completing the form.

If you have any difficulty submitting this application contact the Diversity, Localism and Accessibility section during business hours on 1800 226 667.

**WHEN COMPLETING THIS FORM**

***You must provide all the information requested in each part of the form***

Unless your form is completed correctly and copies of documents provided to the ACMA**,** it may not be a valid application. In those circumstances, you may be contacted and asked to submit a new form.

Please note that the paragraphs inserted as responses in the form will be automatically numbered (1.1, 1.2, 1.3 etc) for easy reference.

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| **Please note:**  Giving false or misleading information is a serious offence. |

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| **Collection, use and disclosure of personal information**  The *Privacy Act 1988* (Cth) (the Privacy Act) imposes obligations on the ACMA in relation to the collection, security, quality, access, use and disclosure of personal information. These obligations are detailed in the **Australian Privacy Principles**.  The ACMA may only collect personal information if it is reasonably necessary for, or directly related to, one or more of the ACMA’s functions or activities.  The purpose of the collection of information on this form, including personal information, is to make a decision on applications for prior approval of temporary breaches that may occur as a result of a transaction or agreement. This information is required under section 67 of the BSA.  The ACMA maintains public registers of all approvals given by the ACMA under section 67 of the BSA and extensions granted by the ACMA under section 68, as well as notices to remedy breaches given under section 70 and extensions granted under section 71. The ACMA makes public approvals under section 67 once the transaction or agreement has taken place or been entered into.  The registers are open for public inspection and a person is entitled to be given a copy of, or an extract from, any entry in the register. The ACMA may charge fees for these services.  The ACMA will not use the personal information for any other purpose, nor will we disclose it, other than as noted above, unless we have the individual’s consent or we are otherwise permitted to do so under the Privacy Act.  If the personal information is not provided it may not be a valid application and you may be contacted and asked to submit a new form, as noted above.  Further information on the Privacy Act and the ACMA’s Privacy Policy is available [www.acma.gov.au/privacypolicy](http://www.acma.gov.au/privacypolicy). The Privacy Policy contains details about how you may access personal information about you that is held by the ACMA, and seek the correction of such information. It also explains how you may complain about a breach of the [Privacy Act](http://www.comlaw.gov.au/Series/C2004A03712) and how we will deal with such a complaint.  Should you have any questions in this regard please contact the ACMA’s privacy contact officer on 1800 226 667 or by email at [privacy@acma.gov.au](mailto:privacy@acma.gov.au). |

**PART A**

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| **APPLICANTS** |

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| 1. In **Schedule 1** to this form, provide details of each applicant. |
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| 1. Please provide the following information for a contact person(s). |

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| --- | --- | --- | --- |
| **CONTACT PERSON(S) DETAILS** | | | |
| Name: | | Name: | |
| Title: | | Title: | |
| Telephone: | Fax: | Telephone: | Fax: |
| Email: | | Email: | |
| Mailing address: | | Mailing address: | |
| State: | Postcode: | State: | Postcode: |
| Persons represented: | | Persons represented: | |

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| **ENTITIES OR BUSINESSES IN RELATION TO WHICH THE APPLICANT IS IN A POSITION TO EXERCISE CONTROL** |

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| 1. In **Schedule 2** to this form, provide details of each entity or business in relation to which the applicant is in a position to exercise control within the meaning of the BSA and which is in a position to control a commercial radio broadcasting licence, a commercial television broadcasting licence or a newspaper. |

**PART B**

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| **THE TRANSACTION OR AGREEMENT** |

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| 1. Provide a detailed description of the transaction or agreement. Include two company structure diagrams indicating: (1) persons in a position to exercise control of the relevant media operations prior to the transaction or agreement, and (2) persons in a position to exercise control of the relevant media operations after the transaction or agreement. |

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| 1. Please list each licence area that will be affected by the transaction or agreement, and the effect on each licence area of the transaction or agreement. (If there is insufficient space, please unprotect the form and insert additional rows.) |

| Licence area(s) | Effect of the transaction or agreement |
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1. In the following table, by reference to each applicant, detail each licence area in which a breach will be caused by the transaction or agreement and describe the breach. (If there is insufficient space, please unprotect the form and insert additional rows.)

| Applicant | Licence area in which the  breach will occur | Section of BSA that will be breached and description of the breach |
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| **THE ACTION PROPOSED TO REMEDY THE BREACH** |

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| 1. Please describe the action proposed to be taken by each applicant to remedy each breach arising from the transaction or agreement. |



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| 1. Provide information and submissions in support of the proposed action as being adequate to remedy each breach. |



1. What period is sought for the applicants to take action in relation to the breaches?
2. Provide information and submissions in support of the proposed period of approval.

**IF THE TRANSACTION OR AGREEMENT INVOLVES THE ACQUISITION OF A BUSINESS, ENTITY OR CORPORATE GROUP, ANSWER 11 TO 13.**

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| **BUSINESSES OR ENTITIES TO BE ACQUIRED** |

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| 1. In **Schedule 3** to this form please provide detail of each business or entity the applicants propose to acquire (**Acquisition Businesses**). Include details of all entities and businesses in relation to which the Acquisition Businesses are in a position to exercise control and which are in a position to exercise control of a commercial radio broadcasting licence, a commercial television broadcasting licence or a newspaper. |



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| 1. If possible, please complete the following table to include details of a contact person(s) for the Acquisition Business. |

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| --- | --- | --- | --- |
| **CONTACT PERSON DETAILS** | | | |
| Name: | | Name: | |
| Title: | | Title: | |
| Telephone: | Fax: | Telephone: | Fax: |
| Email: | | Email: | |
| Mailing address: | | Mailing address: | |
| State: | Postcode: | State: | Postcode: |
| Persons represented: | | Persons represented: | |

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| **BUSINESS CARRIED ON BY THE ACQUISITION BUSINESSES** |

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| 1. In the following table, by reference to each licence area in which the Acquisition Businesses operate, describe the business carried on by the Acquisition Business, entity or corporate group, including where relevant details of any: 2. commercial television broadcasting licence and commercial radio broadcasting licence; 3. newspaper. |

| Licence area | Name of business or entity operating in licence area | Description of the business carried out |
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**IF THE ACTION PROPOSED TO REMEDY THE BREACH INVOLVES THE DIVESTITURE OF A BUSINESS OR ENTITY - ANSWER 14 TO 16.**

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| **THE BUSINESS / ENTITY PROPOSED TO BE DIVESTED** |

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| 1. If possible, provide the following information for each entity proposed to be divested: 2. The name and contact details of the entity or business. 3. The name, telephone number, email address, facsimile number and mailing address of a contact person for the entity or business who the ACMA can contact for further information or clarification. 4. Details of any related body corporate of the entity or business ("related body corporate" having the meaning given in section 50 of the *Corporations Act 2001* (Cth)). 5. A description of the business carried on by the entity or business, including where relevant details of:  * commercial television broadcasting licences and commercial radio broadcasting licences held by the entity or business or a related body corporate; and * newspaper operations of the entity or business or a related body corporate.  1. Details of the financial position of the entity or business. 2. Details of any contracts, relationships or arrangements which the entity or business has with any member, or members, of its current corporate group. 3. Details of any contracts, relationships or arrangements between third parties and the entity or business to be divested, which form part of a larger commercial arrangement involving other members of the corporate group of the entity or business. 4. Details of any other benefit not already specified which the entity or business receives by virtue of being a part of its current corporate group. 5. Details of any contracts, relationships or arrangements that the applicant or any related body corporate of the applicant has with the entity or business. 6. Details of any contracts, relationships or arrangements that the business or entity has with any licensee or publisher of a media operation, or any related body corporate of a licensee or publisher of a media operation, in the licence area. |



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| **PROTECTION OF THE BUSINESS / ENTITY PROPOSED TO BE DIVESTED** |

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| 1. If relevant, explain how you will ensure the business or entity will be able to be sold as a viable, going concern. |



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| **SALE OF THE BUSINESS / ENTITY PROPOSED TO BE DIVESTED** |

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| 1. Provide details of the proposed method of sale of the entity or business proposed to be divested. |



**IF THE ACTION PROPOSED TO REMEDY THE BREACH INVOLVES A DIRECTOR CEASING TO HOLD HIS OR HER POSITION AS DIRECTOR- ANSWER 17**

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| **DIRECTOR CEASING TO HOLD POSITION** |

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| 1. Provide details of the arrangements relating to the director ceasing to hold his or her position, include details of relevant planned shareholders’ meetings and draft resolutions, or details of the relevant agreements to resign. |



**IF THE ACTION PROPOSED TO REMEDY THE BREACH INVOLVES A PERSON CEASING TO BE IN A POSITON TO EXERCISE CONTROL OF A LICENCE, COMPANY OR NEWSPAPER - ANSWER 18 AND 19**

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| **PERSON CEASING TO BE IN A POSITION TO EXERCISE CONTROL** |

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| 1. Provide details of the arrangements under which the person will cease to be in a position to exercise control of a licence, newspaper or company including where relevant, details of any resignations or agreements to resign, contracts amended or contracts terminated. |



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| **ARRANGEMENTS CONCERNING THE PERSON FORMERLY IN A POSITION TO EXERCISE CONTROL** |

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| 1. Provide details of arrangements to ensure the person will not be in a position to exercise control by other means after he or she has left his or her former position. |



**IF OTHER ACTION IS PROPOSED TO REMEDY THE BREACH – ANSWER 20**

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| **OTHER ACTION TO REMEDY BREACH** |

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| 1. Provide: 2. If relevant, details of arrangements to hold separate the Acquisition Businesses pending the remedy and any related undertakings; 3. Other information relevant to the particular remedy as specified by the ACMA.   ***Please contact the ACMA to discuss the information to be provided in this section*** |



**THE REMAINING QUESTIONS APPLY TO ALL APPLICANTS**

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| **INFORMATION ON APPLICATIONS MADE TO THE AUSTRALIAN COMPETITION AND CONSUMER COMMISSION (ACCC)** |

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| 1. Provide details of any application made to the ACCC in relation to the proposed transaction (or agreement), including if known: 2. the name of the ACCC project manager handling the case; 3. the merger application number; 4. a copy of any informal merger clearance submissions, or applications for merger clearance, provided to the ACCC; and 5. any relevant correspondence with the ACCC. |



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| **OBJECTIVES OF THE TRANSACTION** |

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| 1. Set out the objectives of the transaction or agreement. Explain why it is necessary for the applicants to breach a provision of Division 2 or 3 of Part 5 of the BSA. |



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| 1. Explain how the breach is incidental to the objectives of the transaction or agreement. |



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| **THE ACMA’S DISCRETION** |

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| 1. Consideration of this application will be an exercise of the ACMA’s discretion. Please provide submissions as to why the ACMA should exercise its discretion in favour of this application, with express reference to the objects of the BSA, the regulatory policy as set out in section 4 of the BSA, the role of the ACMA as defined in section 5 of the BSA and any other relevant matters. |



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| **OTHER MATTERS** |

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| 1. State any other matters you wish the ACMA to consider in relation to this application. |



**PART C**

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| **CERTIFICATION BY APPLICANT** |
| I,       (insert name),  OR  I,       (insert name), an authorised officer of       (company),  hereby certify that the information provided in this application is true and correct.   |  | | --- | | SIGNATURE: | | ROLE: |   Dated this (day) of  (month)  (year) |

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| **CERTIFICATION ON BEHALF OF ALL APPLICANTS** |
| I,        (insert name)  hereby certify that I am authorised to:   * make this application on behalf of the applicants listed in Part A of this form and that the information provided in this application is true and correct; and * accept service of any section 67 notice on behalf of the applicants listed in Part A of this form.  |  | | --- | | SIGNATURE: | | ROLE: |   Dated this (day) of (month)  (year) |

The certifying person must provide the following details.

|  |  |
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| **Certifying person details** | |
| Name: | |
| Company: | |
| Mailing address: | |
| Tel: | Fax: |
| Email: | |

**PART D**

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| **CONSENT FOR INFORMATION IN THIS APPLICATION TO BE SHARED WITH THE AUSTRALIAN COMPETITION AND CONSUMER COMMISSION (ACCC)**  **APPLICANT** |
| I,       (insert name),  OR  I,       (insert name), an authorised officer of       (company),  consent to the ACMA disclosing this application, and any information within it or provided in connection with it, to the ACCC. I understand that this may involve the ACMA providing the ACCC with a complete copy of this application, any attachments to it, and any other material the ACMA receives relating to it.   |  | | --- | | SIGNATURE: | | ROLE: |   Dated this (day) of  (month)  (year) |

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| **CERTIFICATION ON BEHALF OF ALL APPLICANTS** |
| I,       (insert name)  hereby certify that I am authorised to give this consent on behalf of the applicants listed in Part A of this form, and that each of the applicants consents to the ACMA disclosing this application, and any information within it or provided in connection with it, to the ACCC. The applicants understand that this may involve the ACMA providing the ACCC with a complete copy of this application, any attachments to it, and any other material the ACMA receives relating to it.   |  | | --- | | SIGNATURE: | | ROLE: |   Dated this (day) of (month)  (year) |

The certifying person must provide the following details.

|  |  |
| --- | --- |
| **Certifying person details** | |
| Name: | |
| Company: | |
| Mailing address: | |
| Tel: | Fax: |
| Email: | |

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| **SCHEDULE 1: APPLICANTS** |

Provide the names, addresses and contact details of each applicant (natural persons and companies). For each natural person provide his or her full name (first, middle and last names) and date of birth.   
If there are insufficient rows, unprotect the form and insert additional rows.

| Name of applicant | ACN or date of birth | Registered office or home address of applicant | Telephone number | Fax number | Email |
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| **SCHEDULE 2: ENTITIES OR BUSINESSES IN RELATION TO WHICH THE APPLICANT IS IN A POSITION TO EXERCISE CONTROL** |

If there are insufficient rows, unprotect the form and insert additional rows.

| Name of applicant | ACN | Name of entity or business in relation to which the Applicant is in a position of control | ACN | Registered office | Telephone number | Fax number | Email |
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| **SCHEDULE 3: BUSINESSES OR ENTITIES TO BE ACQUIRED** |

If there are insufficient rows, unprotect the form and insert additional rows.

| Name of business or entity | ACN | Registered office | Telephone number | Fax number | Email |
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For more information about the Form ACMA B7 contact:

Diversity, Localism and Accessibility Section

Australian Communications and Media Authority

PO Box Q500

Queen Victoria Building NSW 1230

Tel: 1800 226 667

Fax: 02 9334 7799

Email enquiries: [control@acma.gov.au](mailto:Control@acma.gov.au)

Web: [www.acma.gov.au](http://www.acma.gov.au/)