

Guide to the 2022 commercial radio disclosure standard

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Contents

About this guide	1
Key terms	2
Overview of the standard	3
Commercial agreements	4
Presenter agreements	4
Licensee agreements	5
Broadcast of certain material	6
Exclusions	6
What is 'direct promotion of an issue that is directly favourable to the sponsor'?	6
On-air disclosure announcements – commercial agreements	8
On-air disclosure statements –production costs	9
Register of commercial agreements	10
Information that must be included on the register	10
Rebroadcast register requirements	10
Exclusions	10
Part-time presenters	11
Who is a part-time presenter?	11
What obligations apply to part-time presenters?	11
What obligations do not apply to part-time presenters?	12
Obtaining details about commercial agreements from presenters	13
What details must be obtained from a presenter?	13
How quickly must presenters provide details to licensees after they enter into a commercial agreement?	13

Contents (Continued)

Record keeping and providing information to the ACMA	14
Record keeping	14
Providing information to the ACMA	14
FAQs	15
Appendix A: Sample format for register of commercial agreements	17

About this guide

In 2022, the Australian Communications and Media Authority (ACMA) determined the [Broadcasting Services \(Commercial Radio Current Affairs Disclosure\) Standard 2022](#) (the standard).

The standard replaced the Broadcasting Services (Commercial Radio Current Affairs Disclosure) Standard 2012.

As compliance with the standard is a condition of commercial radio broadcasting licences, it is important that licensees understand their obligations.

The ACMA has published this guide for the commercial radio industry to help members understand their obligations under the standard.

Key terms

<i>consideration</i>	Any money, service, benefit or other valuable consideration that is directly or indirectly paid, promised, charged or accepted for material that is broadcast, or is to be broadcast, but does not include a product or service provided free to a person solely for the purpose of having the product or service reviewed.
<i>current affairs program</i>	A program a substantial purpose of which is to provide interviews, analysis, commentary or discussion, including open-line discussion with listeners, about current social, economic or political issues.
<i>on-air disclosure announcement</i>	A statement broadcast by a presenter that a commercial agreement exists.
<i>on-air disclosure statement</i>	A statement made on-air about the payment or contribution by a sponsor to productions costs.
<i>licensee</i>	A holder of a commercial radio broadcasting licence.
<i>licensee agreement</i>	See 'Commercial agreements' section.
<i>prescribed material</i>	Material that: <ul style="list-style-type: none"> > promotes the name, products or services of a sponsor; or > includes an interview with an agent, employee or officer of a sponsor in relation to a matter that concerns the sponsor, its products, services or interests; or > is requested by a sponsor, or which is based on, similar to, material provided by a sponsor; or > directly promotes an issue which is directly favourable to a sponsor.
<i>presenter</i>	A person who: <ul style="list-style-type: none"> > is an on-air presenter of a current affairs program broadcast by a licensee; and > is not a commentator or guest invited to appear on the program, even if the person appears on the program regularly.
<i>presenter agreement</i>	See 'Commercial agreements' section.
<i>sponsor</i>	A person who: <ul style="list-style-type: none"> > directly benefits from the things provided by a licensee, a presenter or associate of a presenter under a commercial agreement; and > is not a licensee or a presenter.

Overview of the standard

The standard applies to all commercial radio broadcasting licensees that broadcast current affairs programs. It aims to encourage licensees to be responsive to the need for a fair and accurate coverage of matters of public interest by requiring the disclosure of commercial agreements and other arrangements that have the potential to affect the content of current affairs programs.

Under the standard, 2 elements must be satisfied before an on-air disclosure announcement is required:

1. a commercial agreement exists
2. during a current affairs program, the licensee broadcasts prescribed material about the sponsor under that commercial agreement.

When these 2 elements are satisfied, the licensee must broadcast an on-air disclosure announcement about the existence of the commercial agreement. This announcement must be made at the time of, and as part of, the broadcast of the prescribed material.

The licensee must also publish specified information about current commercial agreements on a publicly available online register maintained by the licensee.

Additionally, an on-air disclosure statement must be broadcast about contributions made by sponsors or advertisers to the production costs of a current affairs program. Disclosure statements about those contributions must be made at least hourly throughout the relevant current affairs program.

Licensees must also keep copies of commercial agreements and respond to the ACMA's requests for information about commercial agreements.



Licensees that broadcast current affairs programs must comply with the standard as a condition of their commercial radio broadcasting licence.

Commercial agreements

Relevant section of the standard: Section 6

Subsections 6(1) and 6(2) of the standard define 2 types of commercial agreements. For convenience, in this guide, these 2 types are referred to as presenter agreements and licensee agreements.

Presenter agreements

A presenter agreement is an agreement, arrangement or understanding between a sponsor (or their agent) and a current affairs presenter (or their associate) that provides for the presenter, in exchange for consideration, to:

- > promote the sponsor
- > promote the sponsor's products, services or interests
- > refrain from making a negative comment about the sponsor
- > provide services for publicity, promotion or public relations for the sponsor
- > provide other things or other services for the sponsor in exchange for consideration of \$25,000 or more a year, unless the agreement only provides for the presenter to:
 1. write for books, magazines and newspapers
 2. perform or appear in a film, TV program or theatrical production
 3. provide voice-over services for an advertisement
 4. provide non-commercial services where the sponsor is a registered entity.



Examples

Example 1: A current affairs presenter has an agreement with Company X to promote the company's new product range. When the presenter promotes the product range during the current affairs program, the licensee **must disclose** the agreement between the presenter and Company X to listeners (both on-air and in an online register).

Example 2: A current affairs presenter has an agreement with XYZ Film Productions to appear in an upcoming film. Irrespective of whether the presenter is to be paid more or less than \$25,000 for the film appearance, the licensee **is not** required to disclose the agreement between the licensee and XYZ Film Productions because the agreement is solely for the presenter to appear in that film.

Example 3: A current affairs presenter has an agreement with GHI Conference Centre to be a keynote speaker at a conference. The presenter is paid \$30,000 for the conference appearance. The presenter promotes the conference at GHI Conference Centre during the current affairs program. The licensee **must disclose** the agreement between the presenter and GHI Conference Centre to listeners (both on-air and in an online register). This is because the presenter is paid more than \$25,000 a year and the agreement is not solely to write for blogs, books, magazines and newspapers, etc, perform or appear in a film, TV program or theatrical production or provide voice-over services for an advertisement.

Example 4: A current affairs presenter has an agreement with a church organisation to perform the duties of an ordained minister. The church is an entity that is registered

under the *Australian Charities and Not-for-profits Commission Act 2012*. The licensee **is not** required to disclose the agreement between the presenter and the church to listeners (either on-air or in an online register). This is because the presenter is providing non-commercial services for an entity that is a registered entity, which means an entity that is registered under the *Australian Charities and Not-for-profits Commission Act 2012*.



A presenter agreement is an agreement or understanding between a current affairs presenter and a sponsor to do certain things for the sponsor.

Licensee agreements

A licensee agreement is an agreement, arrangement or understanding between a sponsor (or their agent) and a licensee (or a related body corporate) if **all** of the following apply:

- (a) it provides for the licensee, in exchange for consideration, to:
 - > promote the sponsor
 - > promote the sponsor's products, services or interests
 - > refrain from making a negative comment about the sponsor
- (b) a presenter of the licensee does one of the things above
- (c) the presenter (or their associate) has a prescribed financial interest in the licensee.

The prescribed financial interests are:

- > having a beneficial or legal interest in shares in a licensee or a related body corporate (for example, through personal legal ownership, or an interest as beneficiary of a trust that owns the shares)
- > being entitled to a dividend from a licensee or a related body corporate (whether directly or through a trust or other arrangement)
- > having a contractual entitlement to a share in a licensee's profits.



Example

Example 5: A current affairs presenter owns shares in the licensee company. The licensee has an agreement with Company A to promote it and its products. The presenter promotes Company A during the current affairs program. Although the presenter is not a party to the agreement, the licensee must disclose the agreement between the licensee and Company A to listeners of the current affairs program (both by making an on-air disclosure announcement and in an online register).



A licensee agreement is an agreement or understanding between a licensee and a sponsor to do certain things, when those things are done by a current affairs presenter who has a prescribed financial interest in the licensee.

Broadcast of certain material

Relevant section of the standard: Subsection 10(1)

A disclosure announcement must be broadcast if a licensee agreement or presenter agreement exists and the licensee broadcasts material in a current affairs program that:

- > promotes the name, products or services of the sponsor
- > includes an interview with someone from the sponsor about a matter that concerns the sponsor, its products, services or interests
- > a sponsor requests
- > is based on or similar to material that was provided by the sponsor
- > directly promotes an issue that is directly favourable to the sponsor.

Remember: the material must be broadcast in the presenter's current affairs program for the disclosure obligation to apply.

Exclusions

A disclosure announcement is not required to be broadcast if the material is:

- > a news broadcast or bulletin
- > an advertisement that is clearly identifiable to a reasonable listener as an advertisement.

What is 'direct promotion of an issue that is directly favourable to the sponsor'?

In June 2012, the Federal Court provided some guidance on the interpretation of 'material that directly promotes an issue that is directly favourable to the sponsor'.¹

The Federal Court indicated that this provision is likely to only apply where there is a **high degree** of specificity about both the promotion of an issue and its favourable effects for a particular sponsor. The provision is unlikely to apply in situations where a current affairs presenter:

- > directly promotes an issue that benefits or favours a particular sponsor only because the sponsor is in a class or group of people that might benefit
- > indirectly or remotely promotes an issue that directly benefits an identified sponsor.

This effectively requires that the sponsor be specifically identified either by name or by necessary implication.

¹ See *Harbour Radio Pty Ltd & Anor v ACMA* [2012] FCA 614 at paragraphs 112–115. This case related to the Broadcasting Services (Commercial Radio Current Affairs Disclosure) Standard 2012. However, the variations between the 2012 standard and the current standard are minor and do not affect the definition of 'material that directly promotes an issue that is directly favourable to the sponsor'.



Example

Example 6: There is a licensee agreement between the licensee and Mammoth Supermarkets. A current affairs presenter (who has a prescribed financial interest in the licensee) expresses a view that the cost of groceries is remaining steady and affordable despite a recent cyclone but does not mention any specific entities or companies.

In this example:

- > there is direct promotion of an issue (the price of groceries)
- > promoting that issue might be favourable to Mammoth Supermarkets, but also to other supermarkets, farming companies and small businesses that sell groceries.

In the ACMA's view, this **would not** require a disclosure announcement under the standard because the promotion is not 'directly favourable' to Mammoth Supermarkets. Multiple sponsors and other entities may receive some indirect benefit from the promotion of the issues by the presenter, but no specific entities were identified or were capable of being identified (by a reasonable listener).

However, if the current affairs presenter promotes the same issue but specifically mentions a sponsor in a favourable way, then the promotion **would** require disclosure.



Example

Example 7: There is a licensee agreement between a licensee and Mammoth Supermarkets. A current affairs presenter (who has a prescribed financial interest in the licensee) says that 'despite the cyclone devastation, Mammoth Supermarkets is still looking after customers by keeping grocery costs down' or 'we should support local farmers by shopping at Mammoth Supermarkets who in turn supports Australian farmers'.

In the ACMA's view, this **would** require a disclosure announcement under the standard because the presenter has directly promoted the issue of affordable grocery prices in a way that is 'directly favourable' to the sponsor, Mammoth Supermarkets.



A high degree of specificity is required to fall within the words 'directly promotes an issue directly favourable to a sponsor'.

On-air disclosure announcements – commercial agreements

Relevant section of the standard: Subsection 10(2)

On-air disclosure announcements must be made by presenters *at the time of* and *as part of* the broadcast of material during a current affairs program that promotes or favours sponsors, or their products or services.

The standard **does not** require the use of specific words when an on-air disclosure announcement is made about a commercial agreement. However, the disclosure announcement must make it clear to a reasonable listener that the existence of a commercial agreement with the sponsor is being disclosed.

The ACMA will generally accept presenter announcements of the following kind to satisfy this requirement:

- > [Name of sponsor] is a sponsor of mine/the licensee/the station.
- > I/the licensee have/has a commercial agreement with [name of sponsor].
- > I/the licensee have/has an agreement to promote [name of sponsor, or its product or service].
- > [Name of sponsor] is a sponsor of my company, [name of company].
- > [Name of sponsor] has a commercial agreement with my company, [name of company].
- > [Name of sponsor] is a sponsor of a company of which I am a director, [name of company].
- > [Name of sponsor] has a commercial agreement with a company of which I am a director, [name of company].



An on-air disclosure announcement does not need to be in a specific form or use specific words, but it must make clear to listeners that the existence of a commercial agreement with a particular sponsor is being disclosed.

On-air disclosure statements – production costs

Relevant section of the standard: Section 11

If a licensee receives contributions or payments from sponsors or advertisers for the production costs of a current affairs program, the licensee must ensure that, at least hourly during that program, on-air disclosure statements are made disclosing such payments.

This is a separate requirement to the on-air disclosure requirements for commercial agreements.



Example

Example 8: A licensee receives a payment from XYZ Productions towards the production costs of a current affairs program. XYZ Productions also has another commercial agreement with the presenter of the current affairs program.

In this example, the licensee **is required** to broadcast:

- > at least an hourly on-air disclosure statement that XYZ Productions has made payment towards the program's production costs
- > a disclosure announcement by a presenter about the presenter's commercial agreement when required by section 10 of the standard.



A sponsor's or advertiser's contributions to production costs must always be disclosed on-air, at least hourly during the current affairs program.

Register of commercial agreements

Relevant section of the standard: Sections 12 and 13

All licensees who broadcast current affairs programs must keep a register of commercial agreements. This register must be publicly available on the licensee's website, and accessible via a link on the licensee's homepage.

The register must contain certain information (see below) but there are no specific format requirements for the register. To assist licensees, the ACMA has developed a suggested format for licensees to use (see Appendix A).

Licensee's must keep their online register up-to-date but are not required to notify the ACMA when they make changes to their register.

Information that must be included on the register

For **each** commercial agreement, the register must set out:

- > the parties to the agreement
- > a brief description of the obligations imposed on the licensee, presenter or associate of the presenter by the agreement
- > the name of each person or organisation that provides consideration under the agreement
- > if a presenter or their associate is a party to the agreement – the name of the presenter's current affairs program
- > for a licensee agreement – the name of the presenter with a prescribed financial interest who does something to promote or favour the sponsor, and the name of the presenter's current affairs program/s.

Rebroadcast register requirements

If a licensee rebroadcasts a current affairs program that was produced or commissioned by another licensee, then the licensee's register must include:

- > the name of the relevant current affairs program
- > the name of the other licensee that commissioned or produced the program
- > details of the website where the register of the other licensee can be accessed.

Exclusions

A licensee does not need to include information on its register about the commercial agreements of a part-time presenter (for more information see the 'Part-time presenters' section below).



Up-to-date details of commercial agreements and rebroadcasts must be kept by licensees in an online register.

Part-time presenters

Relevant section of the standard: Subsection 13(3)

The obligations to publish details of commercial agreements on a licensee's online register do not apply to commercial agreements about a part-time presenter. This exception is intended to lessen the burden on licensees who need short-term replacements when regular presenters are on leave.

Who is a part-time presenter?

Under the standard, a part-time presenter is a presenter of a current affairs program who is on-air for less than an average of 3 hours per week over any 4-week period.

The ACMA assesses each claim that a presenter is a part-time presenter on a case-by-case basis.



Example

Example 9: A fill-in presenter does 5 one-hour shifts for one week in February while a regular presenter is away due to illness.

The ACMA would divide the total number of hours the presenter had worked by 4 (weeks). In this example, the presenter was on-air for an average of less than 3 hours per week over a 4-week period. On this basis, the presenter **would be a part-time presenter** and the relevant licensee would not be required to comply with the online register requirements for that presenter.



Example

Example 10: A fill-in presenter does 5 3-hour shifts for one week in February while a regular presenter is away due to illness.

The ACMA would divide the total number of hours the presenter had worked by 4 (weeks). In this example, the presenter was on-air for an average of more than 3 hours per week over a 4-week period. On this basis, the presenter **would not be a part-time presenter**. The relevant licensee would be required to comply with the online register requirements for that presenter.

What obligations apply to part-time presenters?

The on-air disclosure obligations still apply to commercial agreements that relate to part-time presenters. A licensee must require a part-time presenter to provide the licensee with information about the part-time presenter's commercial agreements, as provided by section 14.

What obligations do not apply to part-time presenters?

The online register obligations do not apply to a commercial agreement that relates to a part-time presenter.



A part-time presenter is a presenter of a current affairs program who is on-air for less than an average of 3 hours per week over any 4-week period.

Obtaining details about commercial agreements from presenters

Relevant section of the standard: Sections 14 and 17

Licensees must require their current affairs presenters to provide them with specified details of their commercial agreements.

Under the standard, licensees must not engage, or continue to engage, the services of a presenter unless it is a condition of that engagement that the presenters comply with the requirement to provide the licensee with details about the presenter's commercial agreements.

What details must be obtained from a presenter?

The details that licensees must request of their presenters are:

- > copies of written commercial agreements
- > for commercial agreements that are not in writing:
 - > the date of the agreement
 - > the parties to the agreement
 - > the obligations imposed by the agreement
 - > the name of each person providing consideration under the agreement
 - > the amount or value of consideration provided under the agreement.

How quickly must presenters provide details to licensees after they enter into a commercial agreement?

Presenters must provide licensees with the details of a commercial agreement within **7 days** of entering into the agreement.



A licensee must require its current affairs presenters to provide details about the presenters' commercial agreements

Record keeping and providing information to the ACMA

Relevant section of the standard: Section 16

Record keeping

Licensees must keep specified information about each commercial agreement for 12 months after the agreement has expired.

This information includes:

- > copies of licensee agreements, and of presenter agreements provided to the licensee by presenters
- > details of commercial agreements that are not in writing, including:
 - > the date of the agreement
 - > the parties to the agreement
 - > the obligations imposed by the agreement
 - > the name of each person providing consideration under the agreement
 - > the amount or value of consideration provided under the agreement.

Providing information to the ACMA

Licensees do not have to notify the ACMA when a new commercial agreement comes into effect, or when changes are made to existing commercial agreements. However, these changes must be recorded on the licensee's online register.

The licensee must provide information to the ACMA when requested in writing. The ACMA may request certain information about commercial agreements including the information kept on a licensee's register or copies of commercial agreements.



Licensees must keep certain information about each commercial agreement and must provide information to the ACMA upon request.

FAQs

Do commercial agreements have to be in writing?

No. A commercial agreement may exist whether it is in writing or not.

At what point does an on-air disclosure announcement need to be made about a commercial agreement?

An on-air disclosure announcement must be made by the presenter at the time of and as part of the broadcast of the material that promotes the name, products or services of the sponsor.

At what point does an on-air disclosure statement need to be made about payment of production costs?

An on-air disclosure statement must be made at least hourly throughout the current affairs program.

How does a presenter know if an on-air disclosure would be identifiable to a reasonable listener?

An on-air disclosure must be clearly identifiable to a reasonable listener and must be broadcast on-air during the current affairs program. However, the standard does not prescribe specific content or wording that must be used by a presenter or licensee in making an on-air disclosure.

A range of factors would be assessed to determine whether an on-air disclosure is identifiable to a reasonable listener. These include content, style, tone, scripting and the placement of the on-air disclosure.

Are there any times when a presenter does not need to make an on-air disclosure about a commercial agreement?

Yes. A current affairs presenter does not need to make an on-air disclosure announcement if:

- > the presenter refers to a sponsor or its products as part of a news broadcast or bulletin
- > the material about the sponsor or the sponsor's products or interests is part of an advertisement that is clearly identifiable to a reasonable listener as an advertisement.

Are there any other obligations on current affairs presenters?

Yes. Presenters have an obligation to assist licensees to comply with their legislative obligations relating to the broadcast of current affairs programs. This may include providing licensees with copies or details of the presenter's commercial agreements.

Does a licensee need to tell the ACMA when changes are made to its register?

No. There is no requirement for a licensee to inform the ACMA about changes that are made to the licensee's register. However, the ACMA may request that a licensee provide certain information about the contents of its register.

What is a part-time presenter?

For the purposes of the standard, a part-time presenter is a presenter of a current affairs program who is on-air for less than an average of 3 hours a week over any 4-week period.

Does the standard apply to celebrities and guest presenters?

The standard does not apply to commentators or guests who are invited to *appear* on a current affairs program, even if they are invited regularly. However, certain provisions of the standard do apply to celebrities or other guests who *present* current affairs programs, even if this is on a casual or one-off basis.

When should a licensee submit compliance information to the ACMA?

The only time a licensee needs to submit information to the ACMA about compliance with the standard is when it receives a written request from the ACMA to provide specified information by a given date.

Appendix A: Sample format for register of commercial agreements

REGISTER OF COMMERCIAL AGREEMENTS UNDER THE BROADCASTING SERVICES (COMMERCIAL RADIO CURRENT AFFAIRS DISCLOSURE) STANDARD 2022

PART A: Details of commercial agreements

Name of current affairs program	Name of relevant current affairs presenter	Parties to the commercial agreement	Name of each person providing consideration under the commercial agreement	Brief description of obligations imposed on the licensee, presenter or associate of presenter under the commercial agreement
<i>The Current Affairs Morning Program</i>	Ms Jane Presenter	Licensee; Ms Jane Presenter; Business Corporation Pty Ltd; BusinessTwo Pty Ltd	Business Corporation Pty Ltd; BusinessTwo Pty Ltd	Ms Jane Presenter will promote the interests of Business Corporation Pty Ltd during <i>The Current Affairs Morning Program</i>

PART B: Details of current affairs programs that are broadcast by **[INSERT LICENSEE'S CALLSIGN]** but are produced or commissioned by other licensees

Current affairs program	Licensee that produced or commissioned the program	Website of licensee who produced or commissioned the program where the register of commercial agreements can be accessed
<i>The Current Affairs Morning Program</i>	Licensee XYZ	www.stationwebsite.com.au