



Extending Spectrum Availability for LPON Services July 2022

ANRA, the Australian Narrowcast Radio Association, is the peak industry body representing Low Power Open Narrowcast (LPON) Radio services and High Power Open Narrowcast (HPON) Radio services located across all States and Territories of Australia.

Our membership includes the major Narrowcast radio program providers such as the TAB agencies and organisations, foreign language groups, fringe music services, tourist services and religious services, as well as many other independently owned and operated services.

ANRA welcomes the opportunity to submit its views in regarding “extending spectrum availability for LPON services”.

Our comments reflect a consensus of our membership. However individual members may make their own submissions.

Summary of ANRA comments on the four main questions ACMA is seeking input on:

1. Response to: *Are there any alternative broadcasting and non-broadcasting uses of the sub-band spectrum (87.5–88.0 MHz) that we should be aware of?*
 - ANRA's view is that making the sub-band available for LPON services is the best use for this spectrum.
 - ANRA contends that there are many obstacles that would need to be addressed to have the sub-band available for other uses.
 - For almost 30 years, Ministers, their Departments and Regulatory Bodies (ABA/ACA/ACMA) have allocated the sub-band spectrum for LPON services, and have continually stated (verbally and in writing) that they have no desire to **not** have this spectrum available for narrowcasting.

2. Response to: *Should we make a new Section 34 Determination for LPON services later this year to extend the availability of spectrum for LPON services beyond 31 December 2025?*
 - It is ANRA's opinion that the determination must be made this year. As we have seen with previous determinations there have been unforeseen delays, resulting in extension periods, duplication of work for both ACMA & ANRA and, above all, undue stress, and uncertainty for operators. Note: By the end of 2022 there will only be 3 years until the end of the 2025 determination.

3. Response to: *What would be an appropriate duration for the determination?*
 - The previous determination in 2018 was for 7 years. ANRA believes we are now at a stage where the ACMA should support a reasonable increase similar to the 2001 determination of 12 years which would reduce unnecessary duplication of work for ACMA, ANRA and operators.
 - It is ANRA's view that the next determination should be for 10-15 years; while still maintaining the 5-year maximum renewal period for an apparatus licence.
 - At a more fundamental level though, ANRA believes that ongoing determinations are unnecessary as there are other regulations which empower regulators to retrieve licences and have them returned if a situation arises that warrants such action.

4. Response to: *How often should we conduct periodic reviews on spectrum availability for LPON services?*
 - If or when the requirement to continually make determinations is removed, reviews every 5-10 years could be carried out if any alternative broadcasting or non-broadcasting use for the sub-band spectrum were to be identified.
 - If the duration for the determination was 10-15 years, then a determination could be held every 5 years with a much simplified call for comments.
 - ANRA believes a determination period of less than 10 years would be a waste of time and resources.

ANRA Reply to ACMA Questions 1 to 4:

1. ALTERNATIVE USE?
2. SHOULD THE DETERMINATION BE MADE THIS YEAR?
3. DURATION?
4. HOW OFTEN TO REVIEW?

QUESTION 1: Are there any alternative broadcasting and non-broadcasting uses of the sub-band spectrum (87.5–88.0 MHz) that we should be aware of?

LPON IS THE BEST USE

Before we even consider any alternative use of the sub-band 87.5MHz to 88.0MHz, ANRA would like to present reasons why having the sub-band available for Narrowcasting is **the best use** for this spectrum.

- Narrowcasting delivers diversity of broadcast content...including services catering to sport & racing, foreign languages, fringe music, tourism, religious, indigenous, special events and more.
- Narrowcasting also provides a cost-effective opportunity for small business operators, local operators and non-for-profit groups to access spectrum.
- Narrowcasting provides value for money for regulators and public expenditure, delivering diverse content to broadcasting without the need for government grants.
- Narrowcasting provides opportunities for legitimate Australian operators a local identity, which separates them from other digital platforms...and with the added security of stringent codes of practice.
- An alternative sector for emergency announcements in cases of Fire and floods.
- Any potential future demand of the spectrum would potentially be identified earlier than is currently the case if the ANRA proposal were to be adopted and acted upon. Whilst noting that there has been no demand for the “sub-band” spectrum nearly 30 years, a more regular and timed discussion may provide the ACMA with an understanding of potential future demand.
- Given that for nearly 30 years Ministers, their departments, along with regulatory bodies ABA/ACA/ACMA, have allocated the sub-band spectrum for LPON services, and have always stated verbally and in writing that they had no desire to not have this spectrum available for narrowcasting.
- LPON ticks all the boxes for public benefit of the use of spectrum; especially in regard to diversity of content.

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QUESTION 1 *Continued* – OBSTACLES:

There are many obstacles that would need to be investigated before any other use of the sub-band could be considered. Below are a few concerns that operators, their technicians and ANRA have broadly identified:

- The removal of current 88.1MHz to 88.3MHz Exclusion Zones. According to the current ACMA list of broadcast services, there are 17 FM radio broadcasting transmitters using 88.1MHz to 88.3MHz. These licences range from 4 watts to 80,000 watts. In some cases, alternative frequencies would have to be sorted, re-engineered and promoted. (*See Attachment 1*).
- From the most recent Spectrum Plan diagram within the 80MHz band ANRA understands that there are still various federal, police, ambulance and taxi frequencies allocated...as an alternative to the current UHF and Digital systems. ANRA also understands that 80MHz bands are being abandoned by police and emergency services for cheaper, more reliable, repeater-based digital systems.
- There is abandoned spectrum below the 80MHz sub-band...so there is no reason to even consider allocating this spectrum for alternative use.
- ANRA has been informed by various radio technicians that the sub-band is not ideal for data services as tropospheric ducting happens regularly over warmer months.
- There are an estimated tens of thousands of in-car transmitters that broadcast from 87.5MHz to 108MHz representing substantial potential interference.
- ANRA has been informed that there may still be some land mobile networks in regional areas that operate VHF on 70MHz to 87.5MHz. Again, any use other than low powered open narrowcasting could cause potential interference.

QUESTION 1 *Continued* – DEMAND for Sub-Band:

- ANRA is not aware of any alternative broadcasting or non-broadcasting service/ etc that has made any submission for use of the sub-band over the past 30 years.
- The business reality is that any potential demand for the 87.5MHz to 88.0MHz spectrum would more than likely be identified well before any public interest test is announced.
- Most FM radios in cars receive 87.5MHz to 108MHz...therefore it would be a waste of spectrum for any use other than radio broadcasting.

QUESTION 2 – MAKE DETERMINATION THIS YEAR?

Response to: *Should we make a new Section 34 determination for LPON services later this year to extend the availability of spectrum for LPON services beyond 31 December 2025?*

- It is ANRA’s view that the determination must be made this year. By the end of 2022 there will only be 3 years until the end of the 2025 determination.
- As experienced in the previous three determinations, there have been unexpected delays causing short, impromptu extension periods, resulting in unnecessary duplication of work for both ACMA and ANRA and, above all, undue stress and uncertainty on LPON operators.
 - ✦ For example, a 1-year extension was made on 22 Nov 2013 determined 31 Dec 2014 to Dec 2015. (*See Attachment 5*).
- ANRA would like to highlight where, in the tenure case put forward in 2017/18, Giles Tanner described to a Senate Estimates Committee (*See Attachment 2*). Extract:
 - ✦ *As you say, there has been an issue that we cut that too fine for the sector last time. They put a very persuasive case to us that it was very difficult to run their businesses with the lack of certainty. So, yes, we are intending in the course of this year to consider the issue of the next extension of the drop-through.*
- ANRA presented the same “**very persuasive case**” in over 5 different submissions for extending spectrum availability for LPON services...all of which resulted in the approval of the Drop Through being extended. Extract:
 - ✦ *For business certainty around LPON operations and the impact on staffing (job security) and leasing arrangements (eg, towers, offices, and satellites). To provide valuable clarity and confidence for operators.*
- There are 2400+ LPON licences throughout Australia which means that there is bound to be one or more operators at any given time looking to sign a five-year lease on a tower or premises. We need clarification now, as to the availability of spectrum for LPON services beyond 31 December 2025...not at the “eleventh hour” of the determination.
- ANRA suggests that 30+ years of spectrum access has allowed a mature and valuable Narrowcasting Industry to develop. We believe the government would therefore have an obligation to support the industry and those who operate within it...especially as the sector is in recovery mode following the disruptions caused by the Covid-19 pandemic.
- LPON operators should be given the opportunity and support to continue to develop their services. We have seen that Governments (of both persuasions), DITRDC, ACMA and individual Ministers have all recognised the value and importance of Narrowcasting services. Selected extracts below:
 - ✦ *In previous meetings with DOCA, Chris Fogarty, the then Assistant Director, noted that the Department “Values Narrowcasting and sees it having a long term future”.*

- ✦ *ACMA has acknowledged that “Open Narrowcasting Radio Services are now a well-established part of the broadcasting sector”.*
- ✦ *Former Chairman of the ACMA, Chris Chapman, spoke publicly of the need to build communication with ANRA and the importance of making provision in the spectrum for Narrowcasting. “Narrowcasting is a significant stakeholder in the Broadcast Industry, and it is important, as management of the spectrum is improved and streamlined, that provision for Narrowcast radio is preserved”.*
- ✦ *More recently in meetings and correspondence, the ACMA, DITRDC and the then Department of Communications have repeatedly stated they have no interest in denying access to spectrum to the Narrowcast sector.*

QUESTION 3 – DURATION?

Response to: What would be an appropriate duration for the determination?

ONGOING:

ANRA’s preferred option is that the ACMA recognise the 30+ years of uncontested LPON access to the spectrum and grant LPONs **ongoing access**.

Public demand should be the driving force behind any decision to determine whether to switch off 2400+ LPON licences. The market will decide whether the FM band is still embraced. Whilst there are a majority of cars driving around with FM receivers, Narrowcasting is the best use for this part the spectrum.

The reality is that the listeners and the supporters should be, and will be, the ones making the decision when any type of broadcast on FM is no longer relevant.

THIS DETERMINATION – ANRA REQUESTS A MINIMUM 10 YEARS

From a search of ANRA’s archives, the duration of previous determinations has ranged from 12 months to 12 years. (*See Attachments 3-5*). Therefore, we believe ANRA’s request for a 10-15 year period is not unreasonable.

As stated in the recent Modernisation Act 2020, the ACMA has the ability to extend access for up to 20 years.

Also, as with the determination made by Jonquil Olivia Ritter on the 24 March 2001: The period for the use of radio frequency spectrum within the range of 87.5MHz to 88.0MHz Australia wide was extended until 31 December 2013 – a period of 12 years. (*See Attachment 3*).

ANRA's request for a minimum 10-year period is only 3 years longer than the most recent determination made on 10 September 2018 by current member Nerida O'Loughlin with access extended until 31 December 2025 – 7 years. (*See Attachment 4*).

Any determination period shorter than 10 years is a waste of time, resources and, as we have seen with the most recent determination with time again running down, is the cause of uncertainty in the narrowcast sector (now only 3 years to 2025).

ANRA believes the suggested 10-15 year period gives important support to narrowcasting, especially at a time when other government departments are actively supporting the development of Australian businesses.

ANRA is aware that the ACMA has access to a variety of other controls and conditions if any situation arises where it is required to reclaim/revoke an LPON licence/s.

QUESTION 4 - FUTURE REVIEWS?

Response to: How often should we conduct periodic reviews on spectrum availability for LPON services?

ANRA would request different review periods depending upon the approved duration.

ONGOING ACCESS:

- If ongoing access is approved then there would be no need for periodical reviews. Public discussions could take place if or when there was a request for use of the Sub Band spectrum.
- If the duration for the determination of 10-15 years is approved, then a standardised review could be held every 5 years with pre-determined dates published on the ACMA website (as with Auction dates); providing there is never less than 5 years of access available at any time.

Example: If the duration for the determination is 10-15 years, and if approval is completed by December 2022, then the next pre-selected date for a review could be July 2029, with a determination made by December 2029...so there is never less than 5 years access to spectrum.

Thereafter, even if future Drop Through terms were only 5 years, deadlines could be December 2034, December 2039, etc...always allowing for a minimum of 5 years of spectrum availability at the completion of any new determination.

This process would allow for a much better system for all involved, including any aspirant spectrum users, and would allow ample time to apply a public interest test.

Apparatus Renewal Period

A standardized date works in well with the current LPON licencing protocols under the recent Modernisation Act which was supported by ANRA.

ANRA understands that there will be no change to the current condition that apparatus licences are issued and renewed for a maximum of 5 years.

CONCLUSION

ANRA's preferred option is that the ACMA recognise the 30+ years of uncontested access to spectrum and grant LPONs ONGOING ACCESS.

ANRA understands the above may require some time for amendments to be made to the Act so, for now, we are requesting that the Drop Through be extended by 10-15 years, with a simplified assessment process being undertaken every 5 years to determine Drop Through availability. This would deliver a more efficient and cost-effective system while still allowing for consideration of possible future demand issues.

The current review process is resource-consuming for the ACMA, the Authority, ANRA and Narrowcast Operators.

The ANRA proposal reduces the frequency and the amount of pre-review discussions with ACMA whilst, at the same time, maintaining the opportunity to consider issues of future demand, etc.

ANRA thanks the ACMA for the opportunity to submit the above comments in regard to **Extending Spectrum Availability for LPON Services** and looks forward to a continuing and positive dialogue.

Angelo Nacson
Secretary
On behalf of the ANRA Executive and Members.
Australian Narrowcast Radio Association
17.07.2022

ATTACHMENT 1

FM Radio Broadcasting Services below 88.4 MHz

Table 1 lists the locations and protection radii for FM radio broadcasting transmitters using 88.1 MHz and 88.3 MHz.

Important Note:

- within the radii for 88.1 MHz transmitters, no LPON services are to be assigned;
- within the radii for 88.3 MHz transmitters, no 87.8 MHz or 88.0 MHz LPON services are to be assigned; and
- within the radii for 88.3 MHz transmitters, LPON services to operate on or below 87.6 MHz may be assigned.

Table 1 - FM Broadcasting Services on 88.1 MHz and 88.3 MHz

Frequency (MHz)	FM Radio Callsign	Site Coordinates (AMG66)			Area Covered	Effective Radiated Power	Protection Radius (kilometres)
		Zone	Easting	Northing			
88.1 MHz	2ABCFM	55	601300	5991800	Khancoban, NSW	36 watts	30
	2ABCFM	55	616600	6060000	Talbingo, NSW	4 watts	10
	2BS	55	726726	6251735	Burruga, NSW	2000 watts	35
	2RDJ	56	324600	6249200	Burwood, NSW	100 watts	50
	2RVR/T ¹	55	314920	6185673	Hay, NSW	6000 watts	100
	3ABCFM	55	497499	5936495	Bright, VIC	50 watts	30
	3MFM	55	392200	5739300	Leongatha, VIC	2000 watts	80
	4HJ/T ¹	55	555200	7490300	Blair Athol, QLD	200 watts	50
	8ABC	52	720776	8480826	Tipperary Station via Daly River, NT	2 watts	10
	8ABCRN	53	234400	8599900	South Alligator, NT	2 watts	50
88.3 MHz	2ABCFM	55	582311	6146329	South West Slopes, NSW	80,000 watts	100
	2UUS	56	284623	6219812	Camden, NSW	100 watts	25
	3SCB	55	327260	5799540	Southern South Melbourne, VIC	200 watts	30
	4ABCRR	56	360282	7310324	Miriam Vale, QLD	100 watts	30
	3ABCRN	54	616375	6031400	Hopetoun, VIC	500 watts	30
	6MER	50	618547	6403429	Kondinin, WA	25 watts	30
	6FMS	50	682335	7442632	West Angelas Mine Dep B, WA	65 watts	30

¹ Translator

ATTACHMENT 2 (Giles Tanner)

ANRA would like to highlight that, in the tenure case forward in 2017/18, Giles Tanner, ACMA, reported to a Senate Estimates Committee that ANRA submitted a 'very compelling' case for the extension of determination periods (*see below*).

It would seem we still face the same problem every 5 years.

Extract from Senate Estimates Committee regarding Environment & Communications Legislation 23 May 2018

Senator O'NEILL: In the draft five-year spectrum outlook, ACMA acknowledges the concerns of the narrowcasting industry about certainty of access to spectrum for LPON services. It states that the ACMA will endeavour to make its decision about extension of the determination of the LPON sub-band during 2018 and that that's well before the expiry of the current determination in 2020. Currently, LPON licences can't be extended beyond 31 December 2020. Is that correct?

Ms O'Loughlin: I will defer to Mr Tanner.

Mr Tanner: Yes. Given the type of licences these are, you require two instruments. You require an apparatus licence, which they hold. We also need to make a decision under section 34 of the Broadcasting Services Act, which is named a drop-through decision, that actually makes the spectrum available for open narrowcasting in the first place. We tend to make those in five-year increments for the part of the radio spectrum that is used for LPONs. As you say, there has been an issue that we cut that too fine for the sector last time. They put a very persuasive case to us that it was very difficult to run their businesses with the lack of certainty. So, yes, we are intending in the course of this year to consider the issue of the next extension of the drop-through.

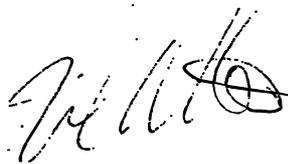
ATTACHMENT 3 (Jonquil Olivia Ritter-12 years)



**Australian
Broadcasting
Authority**

**BROADCASTING SERVICES ACT 1992
DETERMINATION OF RADIOFREQUENCY SPECTRUM**

Pursuant to section 34 of the *Broadcasting Services Act 1992*, I, Jonquil Olivia Ritter, delegate of the Australian Broadcasting Authority, determine that the period for the use of radiofrequency spectrum within the range of 87.5 -88.0 MHz Australia wide, except in areas where there is television service operating on channel 3 or an FM radio service operating on a frequency below 88.4 MHz, (Drop Through Number 1151170) be extended until 131 December 2013.



Jonquil Olivia Ritter
Director
Planting and Licensing Branch

Dated: 24/3/01

ATTACHMENT 4 (Nerida O’Loughlin-7 years)



COMMONWEALTH OF AUSTRALIA

AUSTRALIAN COMMUNICATIONS AND MEDIA AUTHORITY

Broadcasting Services Act 1992

**DETERMINATION OF RADIOFREQUENCY SPECTRUM (LOW
POWER OPEN NARROWCASTING SERVICES) 2018**

THE AUSTRALIAN COMMUNICATIONS AND MEDIA AUTHORITY, under paragraphs 34(1)(d) and 34(1)(f) of the *Broadcasting Services Act 1992 (Act)*, hereby:

- (a) REVOKES the determinations specified in Schedule One to this determination, made under paragraphs 34(1)(d) and 34(1)(f) of the Act;
- (b) DETERMINES the parts of the radiofrequency spectrum within the range 87.5 – 88.0 MHz to be available for allocation to providers of open narrowcasting services for the period commencing the date this determination is made and ending on 31 December 2025; and
- (c) DETERMINES the parts of the radiofrequency spectrum specified in Schedule Two to this determination be made available for allocation, in the corresponding geographic locations specified in Schedule Two, to providers of open narrowcasting services for the period commencing the date this determination is made and ending on 31 December 2025.

Dated 10 September 2018

Nerida O’Loughlin
[signed]
Member

Jennifer McNeill
[signed]
Member/General Manager

ATTACHMENT 5 (Megan Wynn-12 months)



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and Media Authority**

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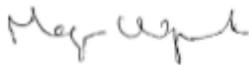
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ACTS INTERPRETATION ACT 1901

**DETERMINATION UNDER SECTION 33(3) of the ACTS
INTERPRETATION ACT 1901 and SECTION 34(1)(f) of the
BROADCASTING SERVICES ACT 1992**

Pursuant to section 33(3) of the *Acts Interpretation Act 1901* and section 34(1)(f) of the *Broadcasting Services Act 1992*, I, Megan Rachel Ann Wynn, delegate of the Australian Communications and Media Authority, vary the determination (Drop Through 1151170) which makes available for allocation parts of the radiofrequency spectrum within the range 87.5 – 88.0 MHz for low power open narrowcasting services by extending the expiry date from 31 December 2014 to 31 December 2015.



Megan Wynn
Assistant Manager,
Radiocommunications Licensing & Allocations Section
Operations & Services Branch

Dated: 22 November 2013