



Response re

ACMA Priority Compliance Areas

**Maintaining Licensing Integrity:
LPON Licence Compliance**

ANRA welcomes the opportunity to respond to the recent ACMA Media Release **Priority Compliance Areas** and in particular **Maintaining Licensing Integrity : LPON Licence Compliance**. While our comments are put forward as a general summary of views sought from ANRA's diverse membership, we note that individual members may elect to make their own submissions which may emphasize or nuance certain matters slightly differently.

ANRA, the Australian Narrowcast Radio Association, is the peak industry body representing Low Power Open Narrowcast (LPON) Radio services and the 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 fringe music services, foreign language groups, racing radio, tourist services and religious services, as well as many other diverse, independently owned and operated services.

As always ANRA appreciates the opportunity to make this submission and is aware that ACMA has a good understanding of the ongoing development of the Narrowcast sector when making decisions that may impact its future growth.

Regards

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ANRA President

22 March 2024

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ANRA Executive Officer

22 March 2024

RESPONSE FROM ANRA

Below is an extract from the recent ACMA **Priority Compliance Areas** Media Release...

Extract : Maintaining licensing integrity: LPON licence compliance

Non-compliance by low power open narrowcasting (LPON) licensees with their licence conditions increases interference risks to other spectrum users, denies spectrum to others, degrades services, and undermines the efficient allocation and use of spectrum. We continue to audit LPON licensees and take action to address non-compliance with licensing conditions.

ANRA's view is that the inclusion of LPON Compliance in the list **Current priority compliance areas, 2023–28** implies a gross overstating of the number of Australians that would be impacted by this issue.

The other compliance issues listed...which focus on SMS scams, e-marketing unsubscribe rules, unregulated gambling, and Telco and 5G issues...all have the potential of affecting millions of Australians and in very serious ways.

While we have been advised that recent audits by the ACMA have been undertaken with a view to educating compliance amongst operators, it is difficult to believe that, over recent years, the ACMA has received such an unprecedented increase in the number of LPON compliance complaints to necessitate LPONs being included in such a list.

Also, in regard to the LPON Audits, whereas operators were required to respond to the ACMA within 15 days there are a great number of operators still awaiting a response from the ACMA 18 months out from the initial Audit. Therefore the opportunity for any educational benefit for some operators has yet to be realised. It does seem that current LPON audits have placed an onerous workload on the ACMA as well as unnecessary and unacceptable stress, uncertainty and management costs on operators.

ANRA believes there are more efficient and effective ways to handle any LPON complaints that may be received. Also, ANRA believes the situation does not warrant the resources and time that would be needed to carry out compliance monitoring for over 300 individual operators and 2,200+ LPON licences.

Narrowcasters are providing a diverse range of services that are valued by their communities...and generally without funding from grants or other avenues of support afforded to other sectors.

ANRA is supportive of the need for regulatory integrity, however we would point out that many operators are operating with skeleton staffing and minimal budgets. As such, the resources required to respond to the ongoing requests for information have, ironically, hampered some operators from establishing their services in a timely manner as required by these very same regulations.

In considering whether an ongoing focus on LPON compliance is warranted, we would urge the ACMA to give consideration to the public benefit being provided by LPON services, and to give due consideration to balancing these competing considerations of public interest.

In its Compliance Priorities 2024-25 Consultation paper, ACMA outlines various current priority compliance areas for 2023–24. **ANRA puts forward the following commentary in regard to...**

Maintaining Licensing Integrity: LPON licence compliance...in which ACMA states non-compliance...

- ***increases interference risks to other spectrum users***
 - We point out that the interference risk of a 1-watt LPON to Commercial Radio, Community Radio & TV stations that operate at hundreds to tens of thousands of watts is extremely low and unlikely.
 - More likely there would be interference risks to LPONs and other spectrum users occurring from non-compliant imported low powered transmitters...yet no action has been taken by the ACMA as the risk was "very low". See extract below from *Sunsetting Instruments - ACMA Response*:
"The number of interferences cases we have dealt with relating to non-compliant FM transmitters is very low – one or 2 per year at most."
 - ANRA would suggest that the number of complaints related to LPON compliance complaints would also be "very low".
- ***Denies spectrum to others***
 - We find this a difficult claim to understand given ACMA has an established complaints process through which spectrum usage issues can be resolved. Further, ANRA restates our view that Use-it-or-lose it (UIOLI) investigations should be complaints driven only. Also, that any complaint should be dealt with by the licence holder in the first place to minimise unnecessary impact on ACMA and operators. Then, if no solution is reached, a UIOLI complaint could be referred to ACMA so that there is no denial of spectrum to others.
- ***Degrades services.***
 - The expectation of LPON Services having to comply with the 48DBuVm condition has the very real potential to degrade these services to less than 1 watt.
- ***Undermines the efficient allocation and use of spectrum***
 - There are over 2,200 LPON licences allocated in cities, towns and remote/indigenous communities. ANRA believes we are now at a stage that the current buy-swap-sell-lease options between operators, is a very efficient way of allocating licences to legitimate Narrowcast operators and enables a more efficient use of spectrum.

- ***We continue to audit LPON licensees***

- ACMA initially indicated that its intention in undertaking an audit was to assess the current status of the sector so it could better educate operators about their obligations and work to address any issues it found. However communication from the first audit has been minimal and successive audits have left operators feeling like it has been a merely punitive process rather than an educational one.

- ***Take action to address non-compliance with licensing conditions.***

- See our response to the previous question.
- Additionally we would point out...In the latest FYSO 2023_2028 ACMA's response to ANRA's 48dBµV/m reworded submission states...

"We note that current LPON compliance audit activities have focused on the operating power of transmitters, not field strength measurements. In managing compliance matters, we have generally only considered the field strength compliance requirements in reports of interference." ...

Yet most of the compliance warnings that were issued quoted field strength measurements. Additionally, UIOLI notices were issued in areas with little or no population and, therefore, with little or no value to the general public, but of strategic value to the holder of nearby licences to provide interference protection, especially from licences located on elevated locations, hills or mountains.

Questions for Consideration

In describing what you think should be ACMA compliance priorities for 2024–25, please address some or all of the following questions:

- ***What have you identified as matters of significant public interest or concern?***
 - Scammers – Internet and Mobile calls that are blocked yet continue to call using another number.
 - Spam Messages – Internet and SMS
 - Enforcing e-marketing unsubscribe rules
 - Telco and 5G issues
 - Social Media Bullying

We would add that LPON compliance would not be of significant public interest or concern.

- ***What do you see as being potential and actual causes of harm to consumers?***
 - Internet grooming
 - Social Media bullying
 - Scams/Scammers
 - Unregulated gambling

- *What are the high-level risks of non-compliance that you have identified, including from technological developments?*
 - The importation of non-compliant transmission equipment.
 - Safeguards against algorithms used to target internet users with unwanted advertising
- *What are the emerging issues where we can encourage compliant behaviour, deter non-compliance or boost public confidence?*
 - Provision of a specific website so the public can easily and quickly pass on links or mobile numbers of spammers, scams, etc.
- *Are there any technological or market developments that you think are testing the effectiveness of the regulatory framework?*
 - Spams and Scams are increasing, and more work is needed to keep ahead of them.
- *In what specific areas can we clarify the scope and application of the law?*
 - Ensure greater public awareness by promoting a clearer understanding of responsibility for content published online, to foster a more level playing field between online platforms and traditional media.
 - If ongoing focus on the Narrowcast sector is warranted in the 2024/2025 compliance priorities, ANRA would suggest that greater clarity be provided regarding the distinction between Narrowcast and Community radio licences. One of the greatest areas of misunderstanding in the support requests that ANRA receives from aspirant broadcasters is from those seeking to establish a Community radio station using a Narrowcast radio licence.

We're also interested in your views on whether we should extend any of our 2023–24 compliance priority areas for a year or more – and if so, why?

- Many of the items on the 2023-24 priority list are still issues of public concern, however, in the absence of visibility into the progress ACMA has made on these issues, we do not feel we are in a position to offer suggestions. That said, we offer the following comments;
 - We strongly believe LPON compliance should not be on the 2024-25 list.
 - We would like to see ACMA focus on curtailing Pirate Radio operators – whose operations increase interference risks to other spectrum users.
 - We would like to see ACMA focus on regulating non-compliant imported radio/ broadcast equipment – which increase interference risks to other spectrum users especially low-powered services.

CONCLUSION

We note ACMA's stated approach to setting compliance priorities is to identify areas:

- that are of significant public interest or concern, including those that cause harm to consumers.
- where we have identified risks of non-compliance and where our work can encourage compliant behaviour or deter non-compliance.
- where we can clarify the application of the law or potentially increase consumer confidence.

With regard to LPON compliance, while it is ANRA's view that the inclusion of LPON Compliance in the list ***Current priority compliance areas, 2023–28*** implies a gross overstating of the number of Australians that would be impacted by this issue, we would agree that ACMA's actions have been effective in encouraging compliance amongst operators, especially in regard to record keeping.

Moving forward we believe ACMA should now focus its attention and resources towards other issues that are likely to impact Australians in much greater ways and that future LPON investigations/audits should be complaints-driven only.

Again, ANRA appreciates the opportunity to present its views on the recent ACMA Media Release Priority Compliance Areas and, in particular, Maintaining Licensing Integrity : LPON Licence Compliance.