



SUBMISSION BY COMMERCIAL RADIO & AUDIO

AUTOMATIC SUNSETTING OF LEGISLATIVE INSTRUMENTS: PROPOSAL TO REMAKE 2 REGIONAL COMMERCIAL RADIO LICENCE CONDITIONS

ACMA CONSULTATION PAPER

CRA thanks the ACMA for the opportunity to make this submission and for its focus on achieving a sustainable regulatory framework for local commercial radio, available free to all Australians.

Our stations are proudly local and value their role as providers of unique local content in regional Australian communities. In many cases, they are the only remaining local voice. However, some aspects of the regulatory regime cause practical difficulties, which affect the sustainability of regional radio stations.

It is important that a holistic approach is taken to media reform, and regulation that impacts on sustainability is addressed promptly in recognition of the challenges facing the Australian media sector. This is consistent with the Government's approach in the NewsMAP initiative.

We urge the ACMA to do what it can to ease the burden on radio, particularly where industry's requests do not erode the underlying policy intent behind the localism framework.

With this in mind, we urge the ACMA to expand the localism provision to make it more user friendly for commercial radio stations in regional and remote areas of Australia (Recommendation 1).

CRA recognises that amendment of the BSA is outside the scope of this consultation but considers that the removal of the Local Presence Licence Condition, and the amendments to the minimum service standards (Recommendations 2 to 4) should be considered as a matter of urgency as part of Government's policy development process.

SUMMARY

(i) *Broadcasting Services (Regional Commercial Radio – Material of Local Significance) Licence Condition 2024 (Local Content Licence Condition)*

Recommendation 1: The Local Content Licence Condition should be amended so that the meaning of “relates to” is expanded beyond the licence area to *‘the licence area and the Australian State(s) that the licence area is within and adjoins’*.

- CRA welcomes the ACMA’s clarification that ‘relates to the licence area’ is currently intended to be interpreted broadly to include matters occurring outside a licence area.¹
- Nevertheless, CRA’s proposal is substantively different to the ACMA’s proposal. CRA’s proposal creates a nexus between the local content and a larger area, incorporating the relevant Australian State(s). Under the ACMA’s proposal, the underlying nexus is between the local content and the smaller local licence area, which is much harder to satisfy.

(ii) *Broadcasting Services (Regional Commercial Radio – Local Presence) Licence Condition 2024 (Local Presence Licence Condition)*

Recommendation 2: Section 43B of the *Broadcasting Services Act 1992 (BSA)* should be amended to remove the requirement for the Local Presence Licence Condition in its entirety.

- CRA agrees with the ACMA’s view that changes to the drafting of the Local Presence Licence Condition ‘would likely increase, rather than decrease, complexity’.² Any amendments to the Local Presence Licence Condition could inadvertently worsen the regulatory burden, even if intended to achieve the reverse. Accordingly, the only practical solution is to entirely remove the Local Presence Licence Condition.
- CRA recognises that amendment of the BSA is outside the scope of this consultation but considers that the removal of the Local Presence Licence Condition should be considered as a matter of urgency as part of Government’s policy development process.
- Removal of the Local Presence Licence Condition will help the commercial radio industry to remain sustainable in a challenging environment for free, local, Australian media.

Recommendation 3: sections 61CA and 61CE of the BSA should be amended to remove the requirement to “benchmark” news bulletins following a trigger event. The statutory minimum of 1 news bulletin should instead apply.

Recommendation 4: The weekly 62.5 minute local news obligation should be reduced for licensees in LAPs of less than 30,000. This is consistent with the local content exemptions set out in the *Broadcasting (Hours of Local Content) Declaration No. 1 of 2017*.

¹ Page 4, Consultation Paper.

² Page 4, Consultation Paper.

(iii) Drafting applicable to both Licence Conditions

Recommendation 5: For clarity, CRA suggests a drafting change to expressly refer to the definition of *regional commercial radio broadcasting licence* in section 6 of the BSA. This would remove any ambiguity as to whether Western Sydney RA1 is considered metropolitan or regional. CRA suggests the following amendment:

Relevant regional commercial radio broadcasting licence means a regional commercial radio broadcasting licence other than a remote area service radio licence, a regional racing service radio licence (as defined in section 6 of the Act) or a licence allocated under subsection 40(1) of the Act.

A. About CRA

CRA is the industry body representing the interests of commercial radio broadcasters throughout Australia. CRA has 260 member stations and represents the entire Australian commercial radio industry. 220 of CRA's member stations are based in regional and rural areas.

Commercial radio, whether AM, FM or DAB, plays an essential role in ensuring that Australian communities have access to local news, Australian music, emergency information, community information and entertainment. No other platform offers such a range of live, local and Australian voices in such a diverse range of Australian communities.

Commercial radio dominates commercial listening in Australia, noting:

- 87.2% of Australians aged 10 to 24 tune in to commercial radio weekly, for an average of 11 hours and 26 minutes per week;
- breakfast radio attracts nearly 8.7 million listeners; and
- overall, in 2023, 12.25 million Australians aged 10+ listened to commercial radio across the five major metro markets.³

The Deloitte Access Economics 2023 Connecting Communities Report⁴ highlights the important economic and social contribution that commercial radio broadcasters make to Australia, through the provision of radio and audio services. Commercial radio broadcasters deliver trusted, local content to Australians all over the country.

As highlighted in the 2023 Connecting Communities Report, every year, commercial radio broadcasters:

- contribute \$1 billion to GDP;
- provide a \$320 million boost to regional Australia;

³ CRA data available here: <https://www.commercialradio.com.au/Industry-Resources/Media-Releases/2023/Commercial-radio-listening-ends-2023-at-an-all-time>

⁴ Available here: <https://www.commercialradio.com.au/RA/media/General/Documents/CRA-Deloitte-Connecting-Communities-2023-Report.pdf?ext=.pdf>

- produce 1.1 million hours of local content, across broadcast, streaming and podcasts;
- play 160,000 hours of Australian music, or 2.7 million Australian songs – providing an unrivalled platform for the promotion of Australian musicians;
- broadcast 42,000 hours of news and 2,200 hours of emergency service content; and
- provide 251,000 hours of locally significant content in regional communities.

Commercial radio broadcasters support 6,600 full time jobs – 38% of those roles are in regional Australia.

As set out on the 2023 Connecting Communities Report:

74% of Australians believe commercial radio and audio build a sense of community.

59% of Australians believe radio is a trusted source of news and current affairs.

B. Local Content Licence Condition

Recommendation 1: the Local Content Licence Condition should be amended so that the meaning of “relates to” is expanded beyond the licence area to ‘the licence area and the Australian State(s) that the licence area is within and adjoins.

CRA welcomes the ACMA’s clarification that ‘relates to the licence area’ is currently intended to be interpreted broadly to include matters occurring outside a licence area.⁵ Nevertheless, the underlying nexus remains between the local content and the smaller local licence area. This can be hard to satisfy, particularly in isolated regional areas.

CRA’s proposal is substantively different to the ACMA’s proposal. CRA’s proposal creates a nexus between the local content and a larger area, including the Australian State(s) that the licence area is within and adjoins. This enables licensees to use content that relates to that larger area, without proving a further nexus to the local licence area.

CRA urges the ACMA to adopt CRA’s recommendation because:

- (i) Communities of interest are often not restricted to licence areas. For example, events in Townsville are highly relevant to residents in Mount Isa, as Townsville is the nearest large town. This is despite the significant geographical distance between the two population centres.
- (ii) It has become increasingly difficult to satisfy the ‘relates to’ provision by reference only to a single licence area, as economic, social and political issues increasingly transcend beyond licence area boundaries. State (and Federal) government policies and laws have a significant impact on local communities.
- (iii) The difficulties in finding staff in regional areas make it all the more important that the Local Content Licence Condition contains a practical definition of local content.
- (iv) The inadvertent consequence of an unworkable definition could be to reduce local content, as stations are forced to use the hosted or produced limbs of the definition.

⁵ Page 4, Consultation Paper.

- (v) The current definition does not reflect consumer needs. The radio industry values local content greatly, but it does seem illogical not to be able to include matters of interest about the town or city where many of the residents go shopping, work, or attend school, simply because it is outside a licence area boundary.

C. Local Presence Licence Condition

Recommendation 2: section 43B of the BSA should be amended to remove the requirement for the Local Presence Licence Condition in its entirety.

Currently, the licensee's use of studios and production facilities must be maintained for a period of 24 months following a trigger event.

CRA would like section 43B of the *Broadcasting Services Act 1992* to be amended to remove the requirement for the Local Presence Licence Condition. This is because the Local Presence Licence Condition:

- (i) **Damages the sustainability of stations.** The media landscape has changed since the licence condition was introduced almost 20 years ago. Regional stations are now struggling for survival. To prevent regional radio becoming depleted in the same way as regional print, stations must be allowed to take measures to increase their sustainability. The obligation to maintain the use of studios and production facilities prevents licensees from making economic efficiencies. It operates as a disincentive to implement upgrades and efficiencies in production.
- (ii) **Acts as a barrier to creating better local products.** For example, a licensee might want to change a duo to a solo presenter who can provide a better local show. This restricts format changes and puts regional radio at a disadvantage particularly where the competition is not experiencing the same limitations.
- (iii) **Prevents innovation and quality of local content.** The Local Presence Licence Condition prevents stations from making changes to local management, technical and sales structures. This means stations cannot leverage network resources to innovate and improve the efficiency and quality of local content, to benefit local communities.
- (iv) **Duplicates other regulatory obligations.** The high administrative burden and impact on sustainability and innovation is not balanced by a corresponding policy benefit. The policy objectives of maintaining local content and staff are already achieved by:
 - a. The obligation to produce 3 hours/30 minutes of material of local significance under the local content licence condition. This can be satisfied by content that relates to or is produced or hosted in the licence area.
 - b. Licensees affected by a trigger event must broadcast at least 62.5 minutes per week of local news bulletins.
- (v) **Does not reflect the contemporary reality of regional broadcasting.** Stations find it difficult to recruit staff in regional areas and are keen to retain existing staff in the vast majority of cases.

- (vi) **Is not consistent with broader media reform policy.** Production efficiency measures are being considered as part of the NewsMAP evidence gathering program. The proposed amendment would be a positive first step.

Examples of burden on industry

1. **Negative impact on people, culture and staff retention.** The staffing levels requirement has a substantial negative impact on people, culture and staff retention. This is clearly contrary to the underlying policy rationale of the Local Presence Licence Condition:
 - One network has reported that its regional employees felt insecure for 2 years and were scared that when the trigger conditions ended, they would lose their jobs. No matter how many times the network demonstrated commitment to local jobs and told them it was not going to happen, the staffing levels requirement caused people a huge amount of unwarranted anxiety.
 - The staffing level requirement worsens the staff retention issues experienced by regional stations. Stations frequently struggle to recruit in regional and rural communities, particularly when specialised skills are required. The insecurity generated by the 2 year staffing level requirement is another factor that encourages employees to look for alternative employment, particularly as the 2 year deadline approaches.
2. **Reduced internal mobility and career progression.** The staffing levels requirement reduces career progression by hampering internal mobility. For example, a person may start at a smaller station and be promoted to a larger station as they become more experienced. This is an important means of developing skills and retaining staff in the radio industry. The local presence requirement makes it difficult to transfer staff from one station to another, as headcount is calculated on a station by station basis.
3. **Administrative complexity.** A further concern is the complexity and workload in managing and reporting headcount for a 2 year period after an acquisition across multiple licences and which detracts from efforts to successfully integrate two networks into a larger structure. For example, in order to track headcount spend for its new licences, one member had to:
 - build a new section within its payroll system that could hold license allocation data against employees
 - allocate each regional employee against a licence(s), many of which worked across 2 or more licenses. This required hours of consultation with leaders in the business at a time of significant change.
 - rely on inherited payroll data from the past owning company, which was too voluminous to thoroughly check for inaccuracies before submitting, due to time constraints.
 - run a fortnightly and monthly payroll. In order to track the headcount spend category, the network needed to compare 3 payrolls a month against 24 months of data. This required 72 reports feeding into the average spend tracking summary
 - recruit a full time staff member to set up a “system and data expert” headcount to implement.

- implement ongoing data management processes to facilitate internal mobility of staff by updating licence allocations when staff are promoted / move locations.

Recommendation 3: sections 61CA and 61CE of the BSA should be amended to remove the requirement to “benchmark” news bulletins following a trigger event. The statutory minimum of 1 news bulletin should instead apply.

Currently, the BSA obliges trigger event affected licensees to broadcast in perpetuity “minimum service standards” which cover local news, weather and emergency announcements.

Particularly problematic is the way the BSA locks in minimum numbers of daily news bulletins following a trigger event. The BSA obliges licensees to broadcast the greater of:

- 1 eligible local news bulletin per business day; or
- the average number of eligible local news bulletins broadcast under the licence in the preceding year (the “benchmark” year).⁶

This should be changed for a number of reasons:

- (i) it binds the purchaser to maintain forever the most recent programming choices made by the previous operator of the station. This unreasonably limits programming choices and prevents networking efficiencies by radio groups.
- (ii) It fixes formats in a way that is unsustainable and inconsistent between competing stations. For example:
 - One network has reported that one station in a regional centre is required to broadcast 17 news bulletins per day, while others do 7.
 - Another network owns several stations that are locked in to broadcasting 15 local news bulletins per day.
- (iii) Inadvertently, it may reduce the number of local news bulletins, as stations considering ownership changes may not wish to lock purchasers into an unsustainably high number of bulletins. This has the potential to reduce the value of the licence.
- (iv) The focus on traditional news bulletins fails to take account of the need to program news content in a contemporary way. Audiences no longer tune into a traditional hourly bulletin but often prefer news integrated into other programming content. The “benchmark” news requirement prevents stations from serving up content in the form expected by contemporary audiences. This will erode the appeal and sustainability of radio. It also leaves audiences more exposed to misinformation communicated by social media.

Recommendation 4: The weekly 62.5 minute local news obligation⁷ should be reduced for licensees in LAPs of less than 30,000.

Reduced local news obligations for “small licences” similar to those set out in the *Broadcasting (Hours of Local Content) Declaration No. 1 of 2017* should be permitted in relation to broadcasting material of local significance.

In relation to the local content obligation, licences with an LAP of less than 30,000 must broadcast 30 minutes of local significance instead of 3 hours. There are currently 8 stations subject to these

⁶ Section 61CA, BSA.

⁷ Section 61CE, BSA.

reduced requirements. We suggest that the 62.5 minutes weekly minimum of local news could be reduced in a similar fashion for small licences.

D. Drafting amendment applicable to both licence conditions

Recommendation 5: For clarity, CRA suggests a drafting change to expressly refer to the definition of *regional commercial radio broadcasting licence* in section 6 of the BSA. This would remove any ambiguity as to whether Western Sydney RA1 is considered metropolitan or regional. CRA suggests the following amendment:

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Thank you very much for considering this submission. CRA would be happy to discuss it further with you.

Commercial Radio & Audio

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