



A reminder to LPON licensees about licence conditions

The Australian Communications Authority and the ABA are concerned about widespread misunderstandings about low power open narrowcasting (LPON) services and unrealistic expectations that they are on a par with mainstream broadcasters and higher power narrowcasters.

For the information of all licensees, we reproduce the text of a letter sent to all LPON licensees by the ACA on the matter.

The ACA and ABA have been concerned for some time about a misunderstanding by licensees, potential licensees, the narrowcasting and broadcasting industries and the public about the nature and limitations of LPON services.

LPON services provide low-powered FM niche radio services, including racing and tourist information services, ethnic broadcasting, niche musical services and religious programming. There are currently about 1800 LPON licences on issue.

Anecdotal evidence from licensees indicates that they mistakenly believe LPON services are entitled to interference protection from fully planned broadcasting services bands services. This may be based on a misunderstanding of the licence conditions and could lead to LPON services operating in contravention to the licensed power and field strength limitations.

The original technical parameters for LPON services, developed in 1992, were intended to provide limited coverage information services. They were not designed to provide medium coverage FM radio services with attractive narrowcasting programming to significant population centres.

The reported high pricing of LPON services on the secondary market, particularly in metropolitan areas, may indicate they are being ascribed a status beyond that intended by the licence conditions. Given this high price, licensees may be trying to maximise coverage, audience and advertising revenue, along the lines of planned broadcasting or high-powered narrowcasting services. This may lead to licensees engaging in widespread contravention of the field strength conditions of their licences.

LPON licences are made available on a 'buyer beware' basis and licensees have no guaranteed tenure of radiofrequency spectrum. The ABA may resume LPON spectrum at any time to meet the need for planning or variation of new or existing mainstream broadcasting services. Affected LPON services would not be compensated for resumed spectrum and there is no obligation for replacement spectrum to be provided.

On 22 December 2000, the Minister for Communications, Information Technology and the Arts directed the ACA to impose a 'use it or lose it' condition on all LPON services that operate in the sub-band (87.5–88.0 MHz). Under this condition, LPON licensees must commence operation within six months of licence allocation, continue to provide a service with reasonable regularity and maintain records of the commencement, hours of operation and provision of service under the licence. Unless the ACA accepts that there are valid reasons for not fulfilling these conditions, it may cancel or not renew an LPON transmitter licence.

The main purpose for imposing the 'use it or lose it' condition is to prevent persons from obtaining LPON licences and then not operating them—known as 'hoarding'. LPON frequencies are scarce in many areas of Australia and the ABA and the ACA are keen for the licences to be operational for the benefit of the community.

In cases where persistent non-compliance with licence conditions occurs, the ACA may take regulatory action under the *Radiocommunications Act 1992*. This may lead to financial penalties, suspension or cancellation of the licence, or prosecution.

The ACA will be writing to remind licensees and the peak narrowcasting body, the Australian Subscription Television and Radio Association (ASTRA), about the nature of LPON services and of possible regulatory action if licence conditions are contravened.

With better understanding by licensees of the operating conditions of their services, together with a standardised compliance approach by the ACA in dealing with non-compliant LPON licensees, the ACA expects that this industry will improve its compliance with the conditions of operation applicable to LPON apparatus licences.

The information paper on low power open narrowcasting services has recently been updated and is on the ACA web site at www.aca.gov.au. Information is also available on the Australian Broadcasting Authority web site (www.aba.gov.au).

