

# Application to transfer a licence for a community broadcasting service to serve a remote Indigenous community



## Instructions for completion

- Please print clearly. Illegible, unclear or incomplete application forms may delay processing.

### When to use this form

This form is to be used by a local government entity seeking approval for the transfer to another local government entity of a community broadcasting licence to serve a remote Indigenous community.

### Please read these notes before completing this application

Schedule 2 of the *Broadcasting Service Act 1992* sets out the standard conditions applicable to community radio licences. A copy of the relevant conditions is attached for your information.

Complete all sections of this application form.

### Provision of information to ACMA

Giving false or misleading information is a serious offence. Providing documents that are false and misleading is also a serious offence.

### Where to send this form

Send the completed form to:  
 Manager  
 Community Allocations and Renewals Section  
 Australian Communications and Media Authority  
 PO Box Q500  
 Queen Victoria Building NSW 1230

### Further information

If you have any questions about completing the transfer application, contact the Community Allocations and Renewals Section on telephone (02) 9334 7700 or 1800 226 667.

## OFFICE USE ONLY

Date \_\_\_\_\_

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Has a copy of the form been sent to the Secretariat?

YES  NO

## Part A: Licence

### Please identify the community broadcasting licence you are applying to transfer

1. Call sign/service licence (SL) number

2. Licence area served

3. Purpose of licence/community interest served by the licensee

### Transferee

4. Name and ACN of transferee organisation

5. Postal address  
  
  
 POSTCODE

5a. Contact details

TELEPHONE
MOBILE
EMAIL

### Contact person for this application

6. Name and title of contact person

SURNAME
GIVEN NAME
TITLE

6a Contact details for contact person

TELEPHONE
MOBILE
EMAIL

### Transfer of assets used to transmit the service

7. Will the transferee perform the functions of local government currently performed by the licensee for this service?

- YES  NO

If yes, provide the date from which the transferee will perform these functions

DATE

8. Will the assets of the licensee, other than the licence, be transferred to the transferee, including the assets used to transmit the broadcasting service?

- YES  NO

If yes, provide details of legislation or copy of instrument under which the assets will be transferred


9. Does the transferee have the financial, technical and management capacity to provide the service?

YES       NO

10. Are there other broadcasting services available in the area?

YES       NO

11. Does the transferee control any other radio or television broadcasting licences?

YES       NO

If yes, provide licence numbers


**Part B: Certification of application for transfer**

This application is made on:

DAY	MONTH	YEAR
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By (licensee name):

SURNAME
GIVEN NAME
TITLE

To transfer the community broadcasting licence in the licence area plan:

LICENCE AREA PLAN
SERVICE LICENCE NUMBER

To:

SURNAME
GIVEN NAME
TITLE

With the authority of the committee or board of the LICENSEE company:

SIGNATURE	DATE
PRINT NAME	
POSITION IN ORGANISATION (IF APPLICABLE)	

SIGNATURE	DATE
PRINT NAME	
POSITION IN ORGANISATION (IF APPLICABLE)	

And with the authority of the committee or board of the TRANSFEREE company:

SIGNATURE	DATE
PRINT NAME	
POSITION IN ORGANISATION (IF APPLICABLE)	

SIGNATURE	DATE
PRINT NAME	
POSITION IN ORGANISATION (IF APPLICABLE)	

## Attachment – Licence conditions for community broadcasting licences

Section 86 of the *Broadcasting Services Act 1992* refers to the conditions of community broadcasting licences as follows:

86. Each community broadcasting licence is subject to:
- (a) the conditions set out in Part 5 of Schedule 2; and
  - (b) such other conditions as are imposed under section 87.

### Standard conditions

#### Part 1 - Interpretation

##### 1 Definitions

In this Schedule:

**election** means an election to a Parliament or a local government authority of a State or Territory.

**election advertisement**, in relation to an election, means:

- a) an advertisement:
  - (i) that contains election matter that relates to that election; and
  - (ii) in respect of the broadcasting of which the relevant licensee has received or is to receive, directly or indirectly, any money or other consideration; or
- b) an announcement containing a statement to the effect that a program that is to be or has been broadcast is or was sponsored by a person or persons and indicating that the person is a candidate, or one or more of the persons is or are candidates, at the election; or
- c) an announcement containing a statement to the effect that a program that is to be or has been broadcast is or was sponsored by a particular political party where a candidate at the election belongs to that party.

**election matter**, in relation to an election, means matter of any of the following kinds:

- a) matter commenting on, or soliciting votes for, a candidate at the election;
- b) matter commenting on, or advocating support of, a political party to which a candidate at the election belongs;
- c) matter commenting on, stating or indicating any of the matters being submitted to the electors at the election or any part of the policy of a candidate at the election or of the political party to which a candidate at the election belongs;
- d) matter referring to a meeting held or to be held in connection with the election.

**election period** means:

- a) in relation to an election to the Legislative Council of Tasmania, or an ordinary election to the Legislative Assembly of the Australian Capital Territory—the period that starts 33 days before the polling day for the election and ends at the close of the poll on that day; and
- b) in relation to any other election to a Parliament—the period that starts on:
  - (i) the day on which the proposed polling day for the election is publicly announced; or
  - (ii) whichever happens first, and ends at the close of the poll on the polling day for the election; and
- c) in relation to an election to a local government authority—the period that starts 33 days before the polling day for the election and ends at the close of the poll on that day; and
- d) in relation to a referendum whose voting day is the same as the polling day for an election to the Parliament of the Commonwealth—the election period in relation to that election; and

- e) in relation to any other referendum—the period that starts 33 days before the voting day for the referendum and ends at the close of voting on that day.

**medicine** means a drug within the meaning of the Therapeutic Goods Regulations made under the *Therapeutic Goods Act 1989*, but does not include such a drug that, under paragraph 3(2)(b) of that Act, is not therapeutic goods for use in humans.

**person** includes a political party, a corporation and any other association (whether incorporated or unincorporated).

**political matter** means any political matter, including the policy launch of a political party.

**radiocommunications device** has the same meaning as in the *Radiocommunications Act 1992*.

**referendum** means the submission to the electors of a proposed law for the alteration of the Constitution, whether or not the proposal to make the submission has been announced.

**relevant period**, in relation to an election, means the period that commences at the end of the Wednesday before the polling day for the election and ends at the close of the poll on that polling day.

**required particulars**, in relation to a political matter that is broadcast, means:

- a) if the broadcasting was authorised by a political party:
  - (i) the name of the political party; and
  - (ii) the town, city or suburb in which the principal office of the political party is situated; and
  - (iii) the name of the natural person responsible for giving effect to the authorisation; and
- b) if the broadcasting of the political matter was authorised by a person other than a political party:
  - (i) the name of the person who authorised the broadcasting of the political matter; and
  - (ii) the town, city or suburb in which the person lives or, if the person is a corporation or association, in which the principal office of the person is situated; and
- c) the name of every speaker who, either in person or by means of a sound recording device, delivers an address or makes a statement that forms part of that matter.

**required period**, in relation to the keeping of a record in relation to political matter, means:

- a) subject to paragraph (b), the period of 6 weeks commencing on the day on which the matter was broadcast; or
- b) if the matter relates to an election or referendum and was broadcast during the election period in relation to the election or referendum—the period commencing on the day on which the matter was broadcast and ending:
  - (i) at the end of the period referred to in paragraph (a); or
  - (ii) if that period ends before the end of the election period in relation to the election or referendum—the day on which that election period ends;

or such longer period as ACMA, before the end of that period, directs by notice in writing to the broadcaster concerned.

**2 Interpretation—certain things do not amount to broadcasting of advertisements**

- (1) For the purposes of this Schedule (other than paragraphs 7(1)(a), 8(1)(a), 9(1)(a), 10(1)(a) and 11(1)(a)), a person is not taken to broadcast an advertisement if:
- a) the person broadcasts matter of an advertising character as an accidental or incidental accompaniment to the broadcasting of other matter; and
  - b) the person does not receive payment or other valuable consideration for broadcasting the advertising matter.
- (2) For the purposes of this Schedule (other than paragraph 9(1)(a)), the broadcasting by a community broadcasting licensee of:
- a) community information material or community promotional material; or

- b) a sponsorship announcement that acknowledges financial support by a person of the licensee or of a program broadcast on the service provided under the licence, whether or not the announcement:
  - (i) specifies the name and address of, and a description of the general nature of any business or undertaking carried on by the person; or
  - (ii) promotes activities, events, products, services or programs of the person; or
- (c) material that announces or promotes the service provided under the licence, including material (whether by way of the announcement or promotion of activities, events, products, services or otherwise) that is likely to induce public support, whether financially or otherwise, or to make use of, the services provided under the licence; is not taken to be the broadcasting of an advertisement.

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**Part 2 - Interpretation**

**3 Broadcasting of political or controversial material**

- (1) In this clause, broadcaster means:
- a) a commercial television broadcasting licensee; or
  - b) a commercial radio broadcasting licensee; or
  - c) a community broadcasting licensee; or
  - d) a subscription television broadcasting licensee; or
  - e) a person providing broadcasting services under a class licence.
- (2) If, during an election period, a broadcaster broadcasts election matter, the broadcaster must give reasonable opportunities for the broadcasting of election matter to all political parties contesting the election, being parties which were represented in either House of the Parliament for which the election is to be held at the time of its last meeting before the election period.
- (3) This clause does not require a broadcaster to broadcast any matter free of charge.

**3A Broadcasting of election advertisements**

- (1) In this clause, broadcaster means:
- a) a commercial television broadcasting licensee; or
  - b) a commercial radio broadcasting licensee; or
  - c) a community broadcasting licensee; or
  - d) a subscription television broadcasting licensee; or
  - e) a person providing broadcasting services under a class licence.
- (2) If:
- a) a broadcaster has a licence that has a licence area; and
  - b) an election to a Parliament is to be held; and
  - c) the licence area overlaps, contains or is contained in the area of Australia to which the election relates; the broadcaster must not broadcast under the licence an election advertisement in relation to the election during the relevant period.
- (3) If:
- (a) a broadcaster has a licence that does not have a licence area; and
  - (b) an election to a Parliament is to be held; and
  - (c) a broadcasting service under the licence is normally received in the area of Australia to which the election relates; the broadcaster must not broadcast an election advertisement in relation to the election during the relevant period as part of that service.

- (4) If:
  - a) a broadcaster provides a broadcasting service under a class licence; and
  - b) an election to a Parliament is to be held; and
  - c) the broadcasting service is normally received in the area of Australia to which the election relates; the broadcaster must not broadcast an election advertisement in relation to the election during the relevant period as part of the service.

**4 Identification of certain political matter**

- (1) In this clause, broadcaster means:
- a) a commercial television broadcasting licensee; or
  - b) a commercial radio broadcasting licensee; or
  - c) a community broadcasting licensee; or
  - d) a subscription television broadcasting licensee; or
  - e) a person providing broadcasting services under a class licence.
- (2) If a broadcaster broadcasts political matter at the request of another person, the broadcaster must, immediately afterwards, cause the required particulars in relation to the matter to be announced in a form approved in writing by the ACMA.
- (3) A broadcaster must, in relation to political matter broadcast at the request of another person, keep a record of the name, address and occupation of the person or, if the person is a company, the name and the address of the principal office of the person for the required period and must give to the ACMA any particulars of the record that the ACMA, by written notice, requires.
- (4) For the purposes of this clause, a person authorises the broadcasting of political matter only if the person is responsible for approval of the content of the political matter and the decision to present it for broadcasting.

**5 Records of matter broadcast**

- (1) In this clause, broadcaster means:
- a) a commercial television broadcasting licensee; or
  - b) a commercial radio broadcasting licensee; or
  - c) a community broadcasting licensee; or
  - d) a subscription television broadcasting licensee; or
  - e) a person providing broadcasting services under a class licence.
- (2) If a broadcaster broadcasts matter relating to a political subject or current affairs, being matter that is in the form of news, an address, a statement, a commentary or a

discussion, the broadcaster must cause a record of the matter to be made in a form approved in writing by the ACMA.

- (3) Subject to this clause, a broadcaster must retain in his or her custody a record so made for a period of:
  - a) 6 weeks from the date on which the matter was broadcast; or
  - b) if a complaint has been made about the matter—for 60 days from the date on which the matter was broadcast; or for such longer period as the ACMA, in special circumstances, directs in writing.
- (4) If a person considers that a record so made is admissible in evidence in proceedings instituted, or proposed to be instituted, in a court, being a record that is held under subclause (3), the person may give to the broadcaster a notice in writing informing the broadcaster that the record may be required for the purposes of the proceedings.
- (5) If such a notice is given to a broadcaster in respect of a record, the broadcaster must, subject to this clause, retain the record until the proceedings or the proposed proceedings to which the notice relates have been finally determined.
- (6) If the proceedings are not instituted within a period of 3 months after the notice is given to the broadcaster, subclause (5) ceases to apply to the record at the end of that period.
- (7) The obligation imposed by this clause on a broadcaster to retain a record does not apply at any time when the record is in the custody of a court in connection with proceedings instituted in the court.
- (8) If the ACMA is of the opinion that a matter of which a record has been made under this clause is of sufficient historic interest to justify its being permanently preserved, the ACMA may direct in writing a person who has custody of the record to deliver it for safe keeping to a person or authority specified by the ACMA, and the person to whom the direction is given must comply with the direction but is entitled to fair compensation.
- (9) A broadcaster must, without charge, make available to the ACMA, upon request, any specified record made by the broadcaster under subclause (2) that has been retained by the broadcaster (whether or not the broadcaster is, at the time of the request, under an obligation to retain the record).

#### **6 Advertisements relating to medicines**

- (1) In this clause, broadcaster means:
  - a) a commercial television broadcasting licensee; or
  - b) a commercial radio broadcasting licensee; or

- c) a subscription television broadcasting licensee; or
- d) a person providing broadcasting services under a class licence.
- (2) A broadcaster must not broadcast an advertisement relating to a medicine unless the text of the proposed advertisement has been approved:
  - a) by the Secretary to the Department of Community Services and Health under subclause (3); or
  - b) by the Minister on appeal to the Minister under this clause.
- (3) A person may apply, in writing, to the Secretary to the Department of Community Services and Health for approval of the text of a proposed advertisement relating to a medicine.
- (4) If an application is made, the Secretary to the Department of Community Services and Health may, in writing, approve or disapprove the text.
- (5) The Secretary to the Department of Community Services and Health must give the applicant written notice of the approval or disapproval.
- (6) If:
  - a) an application is made under subclause (2); and
  - b) the Secretary to the Department of Community Services and Health does not notify the applicant of the Secretary's approval or disapproval of the text within 60 days after the day on which the application was made; the Secretary is taken to have approved the text under subclause (3) at the end of that period.
- (7) The Secretary to the Department of Community Services and Health may, by signed instrument, delegate his or her power under this clause to approve the text of an advertisement to:
  - a) a medical officer of a State; or
  - b) the Proprietary Medicines Association of Australia or any other body:
    - (i) carrying out, or associated with, research into medicines; or
    - (ii) formed to represent the interests of manufacturers or distributors of medicines.
- (8) An applicant may appeal in writing to the Minister from a decision of the Secretary to the Department of Community Services and Health under this clause, and the Minister must decide the appeal.

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### **Part 5 – Community broadcasting licences**

#### **9 Conditions applicable to services provided under community broadcasting licences**

- (1) Each community broadcasting licence is subject to the following conditions:
  - a) the licensee will not, in contravention of the Tobacco Advertising Prohibition Act 1992, broadcast a tobacco advertisement within the meaning of that Act;
  - b) the licensee will not broadcast advertisements, and the licensee will not broadcast sponsorship announcements otherwise than as mentioned in subclause (3);
  - c) the licensee will comply with program standards applicable to the licence under Part 9 of this Act;
  - d) the licensee will, if the Minister, by notice in writing given to the licensee, so requires broadcast, without charge, such items of national interest as are specified in the notice;
  - e) the licensee will, if the Minister notifies the licensee in writing that an emergency has arisen which makes it important in the public interest that persons authorised by the Minister have control over matter broadcast using the licensee's broadcasting facilities, allow those persons access to and control over those facilities;
  - f) the licensee will not use the broadcasting service in the commission of an offence against another Act or a law of a State or Territory;
  - g) the licensee will not broadcast a program that has been refused classification, or has been classified as 'X', by the Office of Film and Literature Classification;
  - g(a) the licensee will not broadcast films that are classified as 'R' unless the films have been modified as mentioned in paragraph 123(3A)(b);
  - h) the licensee will commence the provision of broadcasting services within one year of being allocated the licence or within such longer period as is notified in writing by the ACMA;
  - (i) the licensee will comply with the requirements of clauses 3, 3A, 4, 5 and 6.
- (2) Each community broadcasting licence is also subject to the following conditions:
  - a) the licensee will remain a suitable licensee;

- b) the licensee will continue to represent the community interest that it represented at the time when the licence was allocated or was last renewed;
  - c) the licensee will encourage members of the community that it serves to participate in:
    - (i) the operations of the licensee in providing the service; and
    - (ii) the selection and provision of programs under the licence;
  - d) the licensee will provide the service for community purposes;
  - e) the licensee will not operate the service for profit or as part of a profit-making enterprise.
- (2A) Each community broadcasting licence is also subject to the condition that the licensee will not provide community broadcasting services under the licence outside the licence area of the licence unless:
- a) the provision of those services outside that licence area occurs accidentally; or
  - b) the provision of those services outside that licence area occurs as a necessary result of the provision of community broadcasting services within the licence area; or
  - c) both:
    - (i) the licensee satisfies the ACMA that the provision of those services outside that licence area occurs in exceptional circumstances; and
    - (ii) the ACMA has given permission in writing; or
  - d) all of the following subparagraphs apply:
    - (i) the first mentioned licensee satisfies the ACMA that there is a person (the eligible person) who is in a community broadcasting licence area (the second licence area) that is not the same as the first mentioned licence area and who is not receiving adequate reception of a community broadcasting service provided by a community broadcasting licensee for the second licence area;
      - (ii) the provision of the first mentioned services outside the first mentioned licence area occurs only to the extent necessary to provide adequate reception of the first mentioned services to the eligible person;
      - (iii) the ACMA has given permission in writing.
- (3) A community broadcasting licensee may broadcast sponsorship announcements. However, they must not run in total for more than:
- a) if the licensee is a community television licensee – 7 minutes in any hour of broadcasting; or
  - b) in any other case – 5 minutes in any hour of broadcasting.
- (4) A community television broadcasting licensee may broadcast sponsorship announcements only during periods before programs commence, after programs end or during natural program breaks.
- (5) In working out the length of time devoted to the broadcasting of sponsorship announcements, account is not to be taken of the broadcasting by a community broadcasting licensee of any of the following:
- a) material that publicises programs to be broadcast by the licensee;
  - b) material that promotes the licensee's products, services or activities for the broadcast of which the licensee does not receive any consideration in cash or in kind;
  - c) community information or community promotional material for the broadcast of which the licensee does not receive any consideration in cash or in kind;
  - d) sponsorship announcements consisting of moving text that is overlaid on a test pattern.
- (6) Paragraph (1)(b) applies to a community broadcasting service targeted, to a significant extent, to one or more remote indigenous communities as if the words 'for which the licensee receives any consideration in cash or in kind' were inserted after 'advertisements'.