

Remote Indigenous Broadcasting Services: Licensing Arrangements for Radio Providers

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Submissions to the ACMA

The Australian Communications and Media Authority (**ACMA**) is the Australian government regulator for broadcasting, radiocommunications, telecommunications and the internet.

This Discussion Paper sets out proposed arrangements to simplify licensing procedures for Remote Indigenous Broadcasting Service (**RIBS**) radio providers.

The ACMA invites submissions from industry and the public on the matters set out below. These submissions will assist the ACMA to consider the proposed changes and to ensure that the regulation of this sector is effective, efficient and addresses community expectations.

The closing date for comment is 5.00 pm EST on Friday 20 November 2009.

Submissions received after this date may not be taken into consideration in finalising the proposed arrangements.

Persons wishing to make submissions are encouraged to email them to:

ribs@acma.gov.au

Written submissions marked 'RIBS Radio Proposal' should be posted to:

Manager
Operational Policy for Allocations and Licensing
Australian Communications and Media Authority
P.O. Box Q500
Queen Victoria Building
NSW 1230

Publication of submissions

In general, the ACMA publishes all submissions it receives. However, the ACMA will not publish submissions that it considers contain defamatory or irrelevant material.

The ACMA prefers to receive submissions which are not claimed to be confidential. However, the ACMA accepts that a submitter may sometimes wish to provide information in confidence. In these circumstances, submitters are asked to identify the material over which confidentiality is claimed and provide a written explanation for confidentiality claims.

The ACMA will consider each claim for confidentiality on a case-by-case basis. If the ACMA accepts a confidentiality claim, it will not publish the confidential information unless required to do so by law.

When can the ACMA be required by law to release information?

The ACMA may be required to release submissions by law under the *Freedom of Information Act 1982* (Cth) or for other reasons, including for the purpose of parliamentary processes or where otherwise required by law (for example a court subpoena). While the ACMA seeks to consult and, where required by law, will consult with submitters of confidential information before that information is provided to another body or agency, the ACMA cannot guarantee that confidential information will not be released through these or other legal means.

Sharing of information

Under the *Australian Communications and Media Authority Act 2005*, the ACMA may disclose certain information to the Minister, the Department including authorised officials, Royal Commissions, the Telecommunications Industry Ombudsman, certain Commonwealth authorities such as the Australian Competition and Consumer

Commission and Australian Securities and Investment Commission and the authority of a foreign country responsible for regulating matters relating to communications or media.

If information is accepted by the ACMA as confidential, the ACMA will seek to consult with the submitter of the information where the ACMA intends to share that information.

New RIBS Radio Licensing Proposal – Key points

What the ACMA is proposing

The ACMA is proposing a new licensing option for **RIBS** radio stations.

RIBS would no longer need to be licensed under the more onerous rules applying to *community broadcasting*, but would be able to operate under the *open narrowcasting* class licence category.

What will be different

Community broadcasters need a broadcasting service licence (temporary or long-term) and an accompanying apparatus licence. Significant administrative requirements surround the licensing of these services.

Operating under an open narrowcasting class licence would mean that RIBS would only need to apply for a five-year apparatus licence. Minimal cost and administration applies to such licenses.

Why the ACMA is proposing this change to the licensing arrangements

The ACMA is aware of the workload that the current community licensing arrangements impose on RIBS. The new system would greatly reduce the workload for RIBS in applying for, and renewing, their licences.

Who the proposal affects

Only radio services in very remote regions, run on a not-for-profit basis and provided for community purposes, would be able to take advantage of the new arrangements.

Existing RIBS with *long-term community broadcasting licences (CBLs)* would be able to move to the new arrangements, or continue to operate under a CBL. The more involved allocation and renewal processes would continue to apply to those on CBLs.

Existing RIBS currently operating under a *temporary community broadcasting licence (TCBL)* would either move to the new, five-year licensing regime after the expiry of that TCBL, or continue to apply annually for a TCBL.

New RIBS licensees would be required to operate under the new scheme.

Why RIBS would benefit from changing to the proposed arrangements

RIBS radio providers operating under the open narrowcasting class licence category would no longer be required to fill out the lengthy renewal forms. While apparatus licences must be renewed every five years, this involves minimal paperwork.

What you would do if you chose to take advantage of the new arrangements

Before your current licence expires, you would apply to the ACMA for a Remote Open Narrowcasting Service apparatus licence instead. There would be no need to renew your CBL or TCBL.

How your DEWHA funding might be affected

The Department of Environment, Water, Heritage and the Arts (**DEWHA**) has given in-principle agreement that funding already allocated to a RIBS radio provider would remain available to that provider if the organisation chose to start operating as an open narrowcaster.

DEWHA would adjust its guidelines to ensure that RIBS radio providers operating under the open narrowcasting class licence category could apply for funding.

The applicable charges and taxes would be the same as those currently applying to RIBS providers licensed as TCBLs and CBLs.

Organisations that would represent your interests

The Indigenous Remote Communications Association (**IRCA**) and the Australian Indigenous Communications Association (**AICA**) would continue to represent the interests of RIBS radio providers.

Proposed arrangements for the licensing of remote Indigenous broadcasting radio services

Introduction

This Discussion Paper proposes a licensing process for more efficient administration of RIBS radio providers—community radio broadcasting services in remote areas of Australia with an Indigenous community interest—by the ACMA.

In general, broadcasters of RIBS radio services currently operate under either a TCBL or a long-term CBL, filling in renewal forms either annually (in the case of TCBLs) or every five years (in the case of CBLs). Given that RIBS radio licence holders are typically representatives of often small and isolated communities in locations where spectrum is not scarce, the current regulatory framework may be overly complex, with costs exceeding benefits to RIBS radio service providers.

As a result, the ACMA proposes changes to the current licensing process to reduce the administrative burden on RIBS radio licensees, by implementing simplified licensing arrangements under an open narrowcasting class licence (for which no service licence application or renewal would be necessary). RIBS radio providers would still be required to apply for and obtain an apparatus licence from the ACMA once every five years.

Although operating as an open narrowcaster would not be mandatory, RIBS radio service providers would be encouraged to take advantage of the opportunity to reduce the time they spend on licence renewals.

It should be noted that while the ACMA is aware that a number of RIBS community television services exist, this paper does not address their administrative status. Issues concerning the rollout of digital television mean that it is not practical to reconsider the licensing of RIBS television at this stage.

History and industry overview

The origins of RIBS

RIBS radio services have been recognised for many years.

The predecessor to RIBS was the Broadcasting for Remote Aboriginal Communities Scheme (**BRACS**), which was established in 1984 under the *Broadcasting Act 1942*. This followed publication in a report by the Department of Aboriginal Affairs recommending that basic satellite receiving and re-transmission equipment be installed into 80 Aboriginal and Torres Strait Island communities. The launch of the AUSSAT satellite in 1985 provided the technical means of achieving the re-transmission of mainstream television and radio to these communities, and the BRACS scheme allowed for licences to be allocated for the delivery of these services.

The BRACS scheme allowed remote communities to re-transmit material (such as commercial broadcast material) as well as to broadcast local content. The rationale behind the scheme was that Indigenous communities in remote areas be given access to and control over both radio and television services within their own communities.

Once a community was recognised by the then Aboriginal and Torres Strait Islander Commission¹ as a BRACS community, they were given a standard kit of broadcasting

¹ Since 2006, Indigenous affairs have been the responsibility of the Department of Families, Housing, Community Services and Indigenous Affairs.

equipment, making it possible for them to intercept satellite radio and television signals and re-transmit them. One of the main features of the scheme was that BRACS communities were allowed to interrupt certain re-transmitted signals and insert programs more relevant to their own cultural, linguistic, educational and other needs, and to edit out material seen as offensive or inappropriate.

With the introduction of the *Broadcasting Services Act 1992 (BSA)*, transitional arrangements provided that licences allocated under BRACS be recognised as long-term community broadcasting services under the BSA.

As at 16 September 2009, there were 78 ex-BRACS long-term CBLs, serving 78 remote Indigenous communities. Other RIBS have been granted TCBLs, which are re-issued every 12 months.

Many RIBS providers currently supply two types of services: re-transmissions of one or more radio services (such as ABC or SBS radio services), and a 'community' service providing local content. While the re-transmission services operate under an open narrowcasting class licence, the 'community' services operate under either a community broadcasting licence or a temporary community broadcasting licence.

The main source of funding for RIBS is the Indigenous Broadcasting Program (IBP), administered by DEWHA. The IBP was previously in the same portfolio as the Community Broadcasting Section of the Department of Communications, Information Technology and the Arts. However, as part of government changes in 2007, IBP moved into DEWHA. DEWHA consults regularly with the Department of Broadband, Communications and the Digital Economy (DBCDE) and the ACMA.

Some terms defined

ACMA	Australian Communications and Media Authority
AICA	Australian Indigenous Communications Association
ANRA	Australian Narrowcast Radio Association
BRACS	Broadcasting for Remote Aboriginal Communities Scheme
BSA	<i>Broadcasting Services Act 1992</i>
CBAA	Community Broadcasting Association of Australia
CBF	Community Broadcasting Foundation
CBL	Community broadcasting licence
DEWHA	Department of the Environment, Water, Heritage and the Arts
DBCDE	Department of Broadband, Communications and the Digital Economy
IBP	Indigenous Broadcasting Program
IRCA	Indigenous Remote Communications Association
LAP	Licence Area Plan
RA	<i>Radiocommunications Act 1992</i>
RIBS	Remote Indigenous Broadcasting Services
TCBL	Temporary community broadcasting licence

Industry and licensee snapshot

Indigenous community broadcasting provides entertainment and helps disseminate health, education and other information to Indigenous communities. These broadcasting services also help to promote language maintenance and cultural

development and provide employment and training opportunities, including in remote communities.

RIBS radio licences are currently provided under either a long-term CBL or a TCBL.

As at 16 September 2009, ACMA records show the following numbers of RIBS radio licences:

- > 78 CBLs, accounting for approximately 22 per cent of all 350 CBLs.
- > 42 TCBLs, accounting for approximately 45 per cent of all 92 TCBLs. Many of the TCBLs are new, following recent changes in the allocation of Government funding.

Community broadcasters are represented by the Community Broadcasting Association of Australia (**CBAA**) at the industry level. AICA and IRCA are the peak bodies for RIBS radio providers. Both AICA and IRCA are funded by the IBP, administered by DEWHA.

Current restrictions on content and operation

As community broadcasters, RIBS radio providers licensed as CBLs or TCBLs are required to comply with the licence conditions set out in the BSA, including that the service must be provided for community purposes and must not be operated for profit. The BSA also prohibits the broadcast of advertisements and imposes a time limit on the amount of sponsorship announcements broadcast on community services.

RIBS community broadcasters are also subject to obligations set out in the *Community Radio Broadcasting Codes of Practice*. These codes contain specific requirements regarding a number of issues, including: corporate governance; ensuring diversity and community participation; Indigenous programming and coverage of Indigenous issues; music programming content; and sponsorship limitations. For example, music programming must include at least 25 per cent of Australian music (except for ethnic and classical music stations, which must broadcast at least 10 per cent of Australian music), as a percentage of all music played over a calendar month. It is noted, however, that the BSA contains provision for RIBS to develop and have their own codes of practice.

Guidelines currently provide that for RIBS to receive funding under the IBP they must hold either a CBL or a TCBL and must produce at least two hours of local programming per day, Monday to Friday.

In addition to the bulk of the funding that is provided through the IBP, the Community Broadcasting Foundation (**CBF**) provides some funding to Indigenous broadcasters. This funding comes from DBCDE. The CBF imposes a set of requirements for CBF funding of RIBS radio licensees. Included are requirements that the programming must:

- > be presented by an Indigenous person or group;
- > present a local Indigenous perspective; and
- > present social, cultural and political issues relevant to the needs of the Indigenous community interest.

Such programming must also include:

- > a high level of Indigenous content (recommended minimum level of 80 per cent of the total program);
- > a high level of Australian Aboriginal and Torres Strait Islander music (recommended minimum level of 75 per cent of all music); and
- > an acceptable level of local spoken word content (recommended minimum level of 25 per cent of total programming).

The amount of funding provided is based on an hourly rate, with RIBS stations able to apply for up to two hours of Indigenous programming.

Only a small proportion of CBF funding is allocated to RIBS.

The current licensing system for RIBS radio

Overview

The combined effect of the current broadcasting regulatory framework and DEWHA funding requirements is that RIBS radio licensees must hold both an individual broadcasting service licence issued under the BSA and an individual apparatus licence issued under the *Radiocommunications Act 1992 (RA)*.

In general, RIBS radio hold either a CBL or a TCBL issued under the BSA. For a service to continue under a TCBL, the licence must currently be re-issued every 12 months, and under a CBL must be renewed every five years. Additional details regarding the allocation and renewal of CBLs and TCBLs are set out below.

RIBS services holding a long-term CBL are entitled to an apparatus licence under section 102 of the RA for as long as their broadcasting licence stays current. TCBLs must apply annually for an apparatus licence under section 100 of the RA, which allows them to operate transmitter equipment. The apparatus licence lasts only as long as the underlying service licence—and in no circumstances longer than five years. If a RIBS radio licensee uses multiple transmitters, in general it applies for and renews a separate apparatus licence for each transmitter.

In practice, RIBS radio stations operating under a community broadcasting licence must renew two licences either every year (if the licensee holds a TCBL) or every five years (if a CBL has been allocated).

While it is possible for RIBS radio stations to operate under the open narrowcasting class licence, which does not require either a broadcasting service licence application or renewal, few currently use this option. In addition to DEWHA's requirement that a RIBS station must hold a community broadcasting licence to be eligible for funding, the licence taxes associated with the appropriate form of apparatus licence (the High Power Open Narrowcasting apparatus licence type) are considerably higher than those levied on services licensed as community broadcasters.

Long-term community broadcasting licences

Long-term CBLs are allocated by the ACMA through a merit-based process, taking into account the matters set out at section 84 of the BSA, including:

- > the existing and perceived future needs of the community in the licence area;
- > the nature and diversity of the interests of the community;
- > the nature and diversity of other broadcasting services in the licence area;
- > the capacity of the applicant to provide the proposed service; and
- > control of the licence.

The ACMA offers community broadcasting licences for allocation when they are made available in a Licence Area Plan (**LAP**), which determines the number and characteristics of the broadcasting services available in particular areas of Australia. The ACMA is not obliged to allocate a long-term CBL to an applicant even though the ACMA has advertised for and received applications.

If the ACMA allocates a CBL, it must also issue an apparatus licence under section 102 of the RA to enable the licensee to broadcast the service.

Long-term CBLs remain in force for five years, and the ACMA reminds licensees to lodge their application for renewal one year before their licence is due to expire. In assessing renewal applications, the ACMA has regard to the same matters set out at section 84 of the BSA that it did when allocating the licence.

Streamlined procedures are in place for the allocation and renewal of community broadcasting licences for remote Indigenous communities. The ACMA does not

require a RIBS applicant to provide evidence to demonstrate that it would meet Indigenous community needs to a significant degree. Because of their remoteness, and the lack of other broadcasting services available in those areas, these services are different in nature from other community services. In most cases, a RIBS applicant is the relevant local government authority or remote Indigenous media organisation and their capacity to provide a broadcasting service is accepted at face value.

However, in the ACMA's experience the community broadcasting licence renewal process is time-consuming and onerous for RIBS licensees, and can take many hours to complete. Some RIBS licensees hire a consultant to assist them with the process and liaise with ACMA staff on completion and submission of the relevant forms.

Temporary community broadcasting licences

The ACMA may allocate TCBLs if spectrum has not been planned in a LAP or if a community broadcasting service has been planned but has yet to be allocated.

Before considering whether to issue a TCBL, the ACMA considers whether to make spectrum available under section 34 of the BSA, taking account of the planning criteria set out in section 23 of the BSA and the future demand for that spectrum. RIBS are in areas in which spectrum is not congested; accordingly, the ACMA generally issues a TCBL if an applicant submits an application with an identified frequency.

The ACMA can accept TCBL applications at any time from applicants who represent a community interest and are an Australian company. Apart from these requirements, the ACMA is not required to assess TCBL applications against statutory merit criteria, as it does for long-term CBLs. In issuing a TCBL, the ACMA issues an apparatus licence at the same time.

In the ACMA's experience, the TCBL process is time-consuming and onerous for RIBS licensees. For the service to continue, the licensee must apply for a new licence every 12 months. As for CBLs, some TCBL RIBS licensees hire a consultant to assist them with the process and liaise with ACMA staff on completion and submission of the relevant forms.

Proposed approach to licensing

Given that RIBS radio licensees are typically representatives of often small and isolated communities in locations where spectrum is not scarce, the ACMA considers that the regulatory framework for service providers operating under community broadcasting licences is overly complex, with costs (including costs to the ACMA) exceeding benefits.

The ACMA accordingly proposes a licensing scheme for RIBS radio providers that is less onerous than the current requirements for complying with the community broadcasting obligations.

The result of the proposed approach would be that RIBS radio licensees would:

- > Broadcast under an open narrowcasting class licence under section 18 of the BSA, which does not require broadcasting licence applications or renewals;
- > Apply once every five years for an appropriately priced apparatus licence for each of its transmitters;
- > Comply with the class licence conditions and with their own codes of practice or the open narrowcasting radio codes of practice; and
- > Comply with the apparatus licence conditions for RIBS radio services specified on the licence.

Existing RIBS with long-term CBLs would be able to move to the new arrangements, or continue to operate under a CBL. The more involved allocation and renewal processes would continue to apply to those on CBLs. Existing RIBS currently operating under a TCBL would either move to the new, five-year licensing regime after

the expiry of that TCBL, or continue to apply annually for a TCBL. New RIBS licensees would be required to operate under the new scheme.

A non-Indigenous, not-for-profit organisation that proposed to provide a narrowcasting service in a remote location would also be eligible to apply for one of these licences. However, the ACMA is not aware of any non-Indigenous aspirant broadcasters with an interest in providing such a service and it is not expected that there would be much demand from the non-Indigenous sector.

Open narrowcasting class licence

Under the proposed licensing approach, RIBS radio providers would not hold community broadcasting licences, but would operate as open narrowcasting services under a class licence, under section 18 of the BSA. Services provided under the open narrowcasting class licence are 'limited in reception', which includes services limited by being directed at special interest groups (such as Indigenous communities) or because they are made available in limited locations (such as small remote settlements).

If they were to operate broadcasting services under a class licence, RIBS radio providers would no longer need to apply for or renew a broadcasting service licence. RIBS radio providers operating as open narrowcasting services would only need to apply for an apparatus licence once every five years.

The simplified licensing arrangements would mean that for the most part, RIBS radio providers would only need to obtain an apparatus licence from the ACMA, with minimal paperwork.

In connection with this scheme, the ACMA would allocate spectrum for the use of each RIBS open narrowcasting licensee (as provided under section 34 of the BSA). The spectrum would be allocated for the duration of the accompanying apparatus licence, which would be valid for the maximum five years. Given that spectrum is not scarce in the areas in which RIBS radio operate, there is little risk that spectrum would not be available.

Conditions on apparatus licence

The apparatus licence issued in connection with RIBS open narrowcasting services would be subject to special conditions. The conditions would require that these radio services are operated for community purposes, are not operated for profit (or as part of a profit making entity), and serve 'remote' regions. An appropriate definition of 'remote' would be those areas identified as 'very remote' by the Australian Bureau of Statistics in its 2006 census. These conditions would be printed on the individual apparatus licences issued to providers. (A similar arrangement already exists for community television trial services, where a special condition on the apparatus licence requires it to be used only to provide an open narrowcasting television service for community and educational non-profit purposes.)

Standard conditions under the BSA and industry codes of practice

The standard conditions in Part 7 of Schedule 2 to the BSA would apply. The much less proscriptive *Open Narrowcasting Radio Codes of Practice* would apply in place of the *Community Radio Broadcasting Codes of Practice*.² The advertising restrictions that apply to CBLs and TCBLs would not apply to narrowcasting services; however, a condition of the apparatus licence would be to operate the service on a not-for-profit basis. Further, the requirement to provide the service for community purposes should prevent excessive advertising.

² The Open Narrowcasting Radio Codes of Practice do not have various requirements that are contained in the *Community Radio Broadcasting Codes of Practice*, such as those relating to: corporate governance; ensuring diversity and community participation; Indigenous programming and coverage of indigenous issues; music programming content; and sponsorship limitations.

Indigenous and local content obligations

Although RIBS radio operating under the open narrowcasting class licence would no longer be bound by community broadcasting licence conditions and community sector Codes of Practice, it is likely that a condition of eligibility for DEWHA funding would be for them to continue to provide at least two hours of local programming each day from Monday to Friday

It should be noted that RIBS radio services operating under the open narrowcasting class licence would not be represented at an industry level by the CBAA. Open narrowcast radio service providers are represented at the industry level by the Australian Narrowcast Radio Association (**ANRA**). However, AICA and IRCA would continue to represent the interests of RIBS radio operating under the open narrowcasting class licence.

Charges and taxes

Should RIBS radio providers choose to operate as open narrowcasting services, they would need an open narrowcasting apparatus licence to do so.

The ACMA intends to create a new sub-category of apparatus licence for Remote Open Narrowcasting Services, to which the current levels of charges and taxes for CBLs would apply (**Table A**).

The creation of the RIBS open narrowcasting apparatus licence would require the ACMA to amend certain legislative and other instruments. These instruments are set out at **Appendix A** below.

Table A: Fees and taxes for apparatus licences

Fee/tax	Community broadcasting licence (current approach)	Proposed Remote Open Narrowcasting Service apparatus licence
Administrative charges	Issue charge: \$164/hour (minimum charge of \$82)	Issue charge: \$164/hour (minimum charge of \$82)
	Renewal/instalment charge: \$3.00	Renewal/instalment charge: \$3.00
Licence tax	\$33.36/annum	\$33.36/annum

Transition to digital radio

Digital radio commenced in five metropolitan markets on 1 July 2009. Unlike digital television, there is currently no legislative provision for switch-off of analog radio. A government review to be conducted by DBCDE by January 2011 will consider how digital radio might be delivered in regional and remote areas.

Funding implications

The Indigenous Broadcasting Program

The IBP provides funding support for Indigenous community radio services in remote, regional and urban Australia. The overall objective is to help Indigenous broadcasters become stronger and build a more sustainable Indigenous broadcasting sector.³

The IBP holds a funding round every year, with \$14.588 million available in 2009/10. The IBP is a competitive funding program and not all funding requests are able to be

³ The website for the IBP is: <http://www.arts.gov.au/indigenous/broadcasting>.

met. Funding is allocated according to needs and available funds. Since 1987, the number of Indigenous radio broadcasters has doubled, while IBP funding has not increased at a similar rate. Most of the newer Indigenous radio stations are larger, more complex and more costly to run because they serve urban and major regional markets. As a result, the IBP is over-subscribed.

Under the Indigenous Radio Replacement Program (**IRRR**) the Government has provided \$3.3 million to replace ageing radio studio and transmission infrastructure in 79 RIBS services. The CBF has been contracted to manage this process on behalf of DEWHA. Distribution of all new equipment under the IRRR has been completed and installation is well advanced with 52 RIBS now being fully operational. Negotiations to extend the IRRR program and expand the number of services receiving equipment upgrades were successful as substantial savings were achieved through the bulk purchase of equipment. This has enabled the program to continue until December 2010 and a second funding phase to take place. The closing date for IRRR Phase Two Funding round was Friday 18 September 2009.

The Community Broadcasting Foundation Ltd (CBF)

The CBF provides funding for the development of community broadcasting across Australia. Funding for such activities is provided by DBCDE. A small proportion of CBF annual funding is allocated to Indigenous broadcasting.

At the time of writing this paper, funding was available specifically for Indigenous broadcasting groups producing weekly programs on a non-Indigenous licensed community radio station that is either:

- incorporated; or
- unincorporated, but has reached an agreement with a local incorporated Indigenous organisation or non-Indigenous licensed community radio station to receive and report on grant funds on the broadcasting group's behalf.

CBF funding is currently limited to community broadcasting services as defined in the BSA. Applications from organisations that do not operate as community broadcasting services are currently not eligible for CBF funding. Therefore narrowcast services are presently not eligible for funding under this structure.

The ACMA has discussed the proposal set out in this paper with DEWHA and raised the concept with DBCDE, including changes to DEWHA's funding guidelines that would allow funding to be provided to RIBS who operate under an open narrowcasting class licence (under the BSA) and hold the new type of Remote Open Narrowcasting Service appropriate apparatus licence (under the RA). The ACMA will consider any other issues for funding that are raised in submission on this Discussion Paper and will discuss the proposal with other relevant funding agencies.

Invitation to comment

This Discussion Paper seeks views on the proposed licensing scheme for RIBS radio under the open narrowcasting class licence.

The ACMA is particularly interested in comments on the issues raised below, from both RIBS radio providers and other entities or persons.

The ACMA invites industry and public views on the issues raised in this Discussion Paper and in particular on the questions posed in the shaded boxes below.

Discussion of the proposed licensing arrangements

Identification as ‘community’ broadcasters

The proposed approach offers RIBS radio providers the option of operating as an open narrowcasting service under the BSA or as a community broadcaster under the BSA. Although the special status of RIBS services would continue to be recognised, the ACMA acknowledges that some may wish to continue to be licensed as community broadcasting services.

Question 1: The ACMA invites RIBS radio providers, in particular, to comment on the advantages or disadvantages of operating as open narrowcasting services rather than as community broadcasting licensees.

Conditions on new apparatus licensing scheme

As outlined above, the apparatus licence would contain certain conditions, printed on the licence, limiting its use to operators of radio services that are:

- > serving ‘remote’ regions (as defined as ‘very remote’ in the Australian Bureau of Statistics Census 2006);
- > operated for community purposes;
- > not operated for profit (or as part of a profit-making entity).

Licensees would also be required to comply with the *Open Narrowcasting Radio Codes of Practice*.

Question 2: Are the proposed special conditions on an apparatus licence practicable and also adequate to safeguard the needs of remote Indigenous communities? If not, what other matters should be included?

Expected adoption of open narrowcasting licensing option

The ACMA recognises that many RIBS radio providers have limited resources, both in terms of staff and funding.

The ACMA invites RIBS radio operators, in particular, to indicate whether they would choose to operate as open narrowcasters, assuming that a new open narrowcasting apparatus licence is created and the charges and taxes levied are at similar levels to those currently applying to community broadcasters.

Question 3: If you are a RIBS radio provider and the proposed licensing arrangements proceed, would you take up the option to operate as an open narrowcasting service?

What are the costs or savings that would accrue for a RIBS radio provider licensed as a community broadcasting service compared to an open narrowcasting service?

If you are a RIBS radio provider, do you currently receive DEWHA funding?

What, if any, other funding do you receive, eg from State or Territory Governments?

Peak body representation

RIBS radio providers, however licensed, are, and would continue to be, represented by AICA and IRCA. As community broadcasters, they are also represented by the CBAA. If under the proposed changes, they choose to operate as open narrowcasting services, they will be represented ANRA instead of by the CBAA.

Question 4: If a RIBS radio provider, what concerns, if any, would you have if ANRA represents part of the RIBS radio sector, rather than the CBAA?

Would you choose to operate as an open narrowcasting service assuming RIBS radio providers continue to be represented by AICA and IRCA, but not CBAA?

Appendix A: Legislative and other instruments that would be amended under these proposals

It is anticipated that the proposal will require the introduction of new instruments and changes to certain instruments, including the following:

- > a new Broadcasting Services Clarification Notice under section 19 of the *Broadcasting Services Act 1992* (BSA) to clarify that a radio broadcasting service that is available to a 'remote' area and is operated for community purposes and is not operated for profit (or as part of a profit-making entity) is an open narrowcasting service under section 18 of the BSA;
- > new determinations under section 34 of the BSA to make parts of the radiofrequency spectrum available for allocation to providers of these open narrowcasting services;
- > a new licence condition determination under s.107(1)(f) of the *Radiocommunications Act 1992* to apply additional conditions to these particular apparatus licences, i.e. that they must serve a 'remote' area, are operated for community purposes, and are not operated for profit (or as part of a profit-making entity);
- > an amendment to the *Radiocommunications (Transmitter Licence Tax) Determination 2003 (No. 2)* to specify a particular type of apparatus licence to be made available for these kinds of open narrowcasting services; and
- > an amendment to the *Radiocommunications (Transmitter and Receiver Licences) Determination* to provide for a lesser amount of tax to be paid in relation to this particular type of apparatus licence or to persons operating this particular type of service.