

# Application for opinion on category of broadcasting service



## Instructions for completion

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

### Confidentiality

Please note that your application and any other information you provide will be treated as confidential until and unless the ACMA has published its opinion in the Government Notices Gazette, as required by section 210 of the *Broadcasting Services Act 1992* (the BSA), or unless authorised or otherwise required by law. Where the application relates to a proposed service, the ACMA must not publish its opinion until and unless the service has commenced. Where it relates to an existing service, publication will follow the ACMA's decision. Following publication of its opinion, the ACMA will allow public access to the material.

### Application fee

Under section 21(7) of the BSA, the ACMA may charge a fee for the provision of an opinion. The ACMA has determined that a fee of \$15,150.00 is payable at the time of lodgement of the application for a prior opinion. Cheques should be made payable to the Australian Communications and Media Authority.

### Access to spectrum

The provision of an opinion by the ACMA does not automatically ensure access to a frequency or frequencies on the broadcasting services bands. If you intend using spectrum under the broadcasting services bands, you should first contact the ACMA's Spectrum Planning and Engineering Branch on (02) 9334 7700 to assess spectrum availability before lodging an application for a transmitter licence.

### Where to send this form

Your completed application (one signed copy only) should be sent to:

Content Investigations Section  
Australian Communications and Media Authority  
PO Box Q500 Queen Victoria Building  
Sydney NSW 1230

or by email to [broadcasting@acma.gov.au](mailto:broadcasting@acma.gov.au)

## Explanatory notes

### Please read the explanatory notes before completing the application form.

Section 21 of the BSA requires the ACMA to give, on request, its opinion as to which of the categories of broadcasting services listed in section 11 of the BSA a nominated (or proposed) service falls into.

### Who may apply for a section 21 opinion?

An applicant for an opinion about a particular broadcasting service must be the person who is providing, or who proposes to provide, the service. The application for an opinion must be made on the attached Form ACMA B4.

### About this form

The form should be used for applying for an opinion in relation to either an existing or a proposed service. References in the form to 'service' should be read as applying to a proposed service wherever appropriate.

In giving an opinion under section 21, the ACMA is obliged to have regard to the matters set out in section 22 of the BSA. A copy of that section is attached for your information. Where the meaning or significance of a question in this form is not clear to you, please check the attachment in the first instance.

Please include in your application all information you consider relevant to an opinion on the category of your service.

When applying for such an opinion, you are asked (at question 27) to state your own opinion about which category will apply to the service. It is important that you give a single and unequivocal answer to this question, because the BSA provides that the ACMA will be bound by your opinion if it does not respond within the statutory 45-day period. Please ensure that you nominate one (and only one) of the six categories shown as your answer to question 27. However, if you nominate an international broadcasting service, note that under section 11A of the BSA, 'An international broadcasting service may also fall into another category of broadcasting service'. This means that a holder of an international broadcasting licence may also be the holder of a licence in one of the other categories of service.

**Please note:** Giving false or misleading information is a serious offence. Providing documents that are false or misleading is also a serious offence.

## Broadcasting Services Act 1992 - Extract

### Matters to be considered by the ACMA

22 In making determinations or clarifications under section 19 in relation to broadcasting services, and in giving opinions under section 21 in relation to broadcasting services, the ACMA is to have regard to:

- (a) the geographic coverage of those services; and
- (b) the number of persons who receive or are able to receive those services; and
- (c) the accessibility of those services, including:
  - (i) whether those services are encrypted; and
  - (ii) whether their availability is otherwise restricted, whether because of the high cost of the equipment required to receive those services, the controlled supply of that equipment or otherwise; and
  - (iii) whether their comprehensibility is otherwise restricted; and
- (d) the duration and frequency of the provision of those services, including whether those services are provided for a set period only; and
- (e) the nature of the audience to which those services are targeted; and
- (f) the nature of the programs being provided by those services, including:
  - (i) the level of interest in the subject matter of those programs; and
  - (ii) whether those programs are directed at a specialised audience; and
  - (iii) the social and cultural impact of those programs; and
- (g) such other matters as the ACMA thinks fit.

### **Collection, use and disclosure of personal information**

The *Privacy Act 1988* (Cth) (the Privacy Act) imposes obligations on the ACMA in relation to the collection, security, quality, access, use and disclosure of personal information. These obligations are detailed in the [Australian Privacy Principles](#).

The ACMA may only collect personal information if it is reasonably necessary for, or directly related to, one or more of the ACMA's functions or activities.

The purpose of the collection of information on this form, including personal information, is to make a decision on applications for an opinion on a category of service. This information is required under section 21 of the BSA.

The ACMA will not use the personal information for any other purpose, nor will we disclose it, other than as noted above, unless we have the individual's consent or we are otherwise permitted to do so under the Privacy Act.

If the personal information is not provided it may not be a valid application and you may be contacted and asked to submit a new form.

Further information on the Privacy Act and the ACMA's Privacy Policy is available [www.acma.gov.au/privacypolicy](http://www.acma.gov.au/privacypolicy). The Privacy Policy contains details about how you may access personal information about you that is held by the ACMA, and seek the correction of such information. It also explains how you may complain about a breach of the [Privacy Act](#) and how we will deal with such a complaint.

Should you have any questions in this regard please contact the ACMA's privacy contact officer on 1800 226 667 or by email at [privacy@acma.gov.au](mailto:privacy@acma.gov.au).



8. Will the service be provided free of charge to its users?

YES       NO

If not, explain the nature of the charge intended for reception of the service.


9. What is the intended geographic coverage of the service?


10. Indicate the size of the potential listening or viewing audience as a percentage of the total service area population. Explain the basis for this estimate.


11. Give a brief description of the service.


12. Will the service operate continuously (i.e. for 168 hours in a week) and permanently?

YES       NO

If not, give details of the duration and frequency of the service, whether confined to certain hours of the day or week, or limited to a set period.


13. If the service is not operating on a continuous basis, are there any proposals to utilise the remaining time?

YES       NO

If yes, how will the remaining time be utilised and by whom?


14. Are the programs of the service intended to appeal to the general public?

YES       NO

If not, state the intended target audience of the service; state your assessment of the likely level of interest among the general public in the programs; and the reasons (if any) why the general public will not be interested in receiving them.


15. Provide the following details for a typical broadcasting period (e.g. one week):

(a) a schedule of programs


(b) a breakdown of the main programming elements (e.g. information, music, advertising) expressed as percentages of the total schedule;


(c) the nature and frequency of all other elements (e.g. announcements, promotions) of the service.


16. Do you have any form of research or can you cite comparable examples of other services in support of your choice of target audience and which demonstrate the likely level of appeal in the service?

YES       NO

If yes, provide details.


17. What will be the source(s) of the programs? Give details of the program suppliers if known.


18(a). Will the service provider represent a community interest (companies that apply for a community broadcasting licence must represent a community interest)?

YES       NO

(b) Will the service be operated for profit?

YES       NO

(c) Will the service be operated as part of a profit-making enterprise?

YES       NO

(d) Will the service carry paid advertisements?

YES       NO

**IF YOU HAVE LISTED MUSIC AS PART OF YOUR ANSWER TO QUESTION 15, ANSWER QUESTIONS 19 AND 20.**

19. Indicate the range of music to be broadcast and provide a sample playlist and demonstration tape.


Sample playlist and demonstration tape provided

YES       NO

20. Where the service is a predominantly music-based format, indicate:

(a) the likely range in length of music tracks to be played;


(b) the on-air role of any announcers;


(c) the manner in which music tracks will be identified, including the frequency of identification;


(d) the nature and frequency of all other spoken elements of the service;


(e) how you intend to schedule any advertisements.


**IF YOU CONSIDER THE SERVICE TO BE A SUBSCRIPTION TELEVISION NARROWCASTING SERVICE, ANSWER QUESTIONS 21 TO 25.**

21. What arrangements are proposed to be made to market the services to the intended target audience?


22. Will the service be provided to subscribers on a stand-alone basis or along with other services? Give details.


23. If the service is provided along with other services, what is the nature of the other services or proposed services?


24. What are the subscriber costs for the service? Please indicate if this is for a single service or a package of services of which the service is a part.


25. If the service is marketed as part of a package, does the subscriber have a choice in which services are received? Give details.


**Category of service**

26. Answer yes or no to the following questions about any limits imposed on reception of the service. If any answer is yes, give relevant details (or refer to information given in answer to any of the questions above).

Will reception of the service be limited:

(a) by being targeted to special interest groups?

YES       NO


(b) by being intended only for limited locations?

YES       NO


(c) by being provided during a limited period or to cover a special event?

YES       NO


(d) because it will provide programs of limited appeal?

YES       NO


(e) for some other reason?

YES       NO


27. Under section 21 of the BSA you are required to state your own opinion as to the category of broadcasting services which the service you have described in this application falls into.

In your opinion, is the category of broadcasting services that is applicable to the service you have described in this application:

- a commercial broadcasting service?
- a community broadcasting service?
- a subscription broadcasting service?
- a subscription narrowcasting service?
- an open narrowcasting service?
- a subscription narrowcasting service?
- an international broadcasting service?

28. If you wish to present any further information or argument in support of your opinion, please set it out here.


**Part B: Certification of application**

The fee determined by the ACMA for the giving of an opinion on category of broadcasting service accompanies this application.

The application is made with the authority of the board of


being the company providing or intending to provide (as the case requires) the service for which the opinion is requested.

Company director

SIGNATURE	DATE
PRINT NAME AND TITLE	

Company Secretary or Chief Executive Officer

SIGNATURE	DATE
PRINT NAME AND TITLE	

Dated this  day of  20