



Australian Government



Australian
Communications
and Media Authority

Form ACMA B54

Effective from 6 March 2006

Application for a Nominated Broadcaster Declaration

EXPLANATORY NOTES

Electronic copy

Please complete an electronic copy of this form and return on disk (Microsoft Word) or by email to the Australian Communications and Media Authority (ACMA). An electronic copy of this form is available on the [ACMA website](#).

Who may apply

A company formed in Australia or in an external Territory (section 121FB(1)(a) of the *Broadcasting Services Act 1992* (the Act)). Note that for the purposes of Part 8B of the Act, '... **company** means a body corporate' (see section 121FAA of the Act).

Application fee

No application fee is required.

Application processing

The timetable for processing nominated broadcaster declaration applications is as follows.

- Nominated broadcaster declaration application received by ACMA.
- Appropriate checks made.
- Advise unsuccessful applicant within 30 days of date of receipt of application.
- For applications that pass the checks, advise applicant of the ACMA decision to make a nominated broadcaster declaration.
- The nominated broadcaster has 60 days from the date of issue of the nominated broadcaster declaration to apply for an international broadcasting licence/s on behalf of a content provider/s.

Conditions

Conditions on nominated broadcaster declarations are set out in section 121FF of the Act and are attached at Schedule 1.

Confidentiality

ACMA will not disclose the information provided in this form unless required to do so by law.

Supplying false or misleading information

Please note that giving false or misleading information is a serious offence. Providing documents that are false and misleading is also a serious offence.

Applications will not be processed unless the certification is signed by an authorised person.

Applicant details

1. Name of applicant company

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2. Registered address, telephone and fax numbers

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3. Copy of certificate of incorporation in Australia. Please attach to application form.

4. Name and contact details of contact person

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5. E-mail address of the applicant company (may be the e-mail address of the contact person)

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Service delivery and reception

6. Type of broadcasting service proposed to be provided (ie radio or television, free or subscription)

7. Proposed date of commencement of proposed service

8. Please specify content provider/s. (If already arranged, please provide service licence number of IBL/s, date/s of issue, company name/s and contact details of the contact person/s).

9. Details of the proposed technical means of service delivery

10. Proposed location/s of transmitter/s or satellite (if applicable)

11. Proposed location/s of transmitter/s or satellite (if applicable)

12. Provide evidence that, if the declaration was made, you would be in a position to comply with all the obligations imposed by the Conditions on Nominated Broadcaster Declarations (see Schedule 1)

Note: ACMA must be satisfied that an applicant for an NBD will comply with the conditions before it will make a declaration (section 121FLC(1)(d) of the Act).

SCHEDULE 1**NOMINATED BROADCASTER DECLARATION CONDITIONS****121FLB Applications for nominated broadcaster declarations**

If a person (the *transmitter provider*):

- (a) is the licensee of a transmitter licence for a transmitter that is used, or intended for use, for transmitting an international broadcasting service; or
- (b) proposes to apply for a transmitter licence for a transmitter that is intended for use for transmitting an international broadcasting service;

the transmission provider may apply to the ACMA for a nominated broadcaster declaration in relation to the provision of the international broadcasting service by a particular person (the *content provider*).

121FLE Conditions of nominated broadcaster declarations

(1) Each nominated broadcaster declaration is subject to the following conditions:

- (a) the holder of the declaration must cause a record of programs broadcast on the international broadcasting service concerned to be made in a form approved in writing by the ACMA;
- (b) the holder of the declaration must retain in the holders custody a record so made for a period of 90 days after the broadcast;
- (c) the holder of the declaration must, without charge, make available to the ACMA, on request, any specified record made by the holder under paragraph (a) that has been retained by the holder (whether or not the holder is, at the time of the request, under an obligation to retain the record).

(2) Subsection (1) does not apply to a nominated broadcaster declaration unless the holder of the declaration is the licensee of a transmitter licence that authorises the operation of a transmitter for transmitting the international broadcasting service concerned.

121FLG Revocation of nominated broadcaster declaration

(1) The ACMA must, by writing, revoke a nominated broadcaster declaration relating to the provision of an international broadcasting service by a person (the content provider) if the ACMA is satisfied that:

- (a) the holder of the declaration is neither transmitting, nor proposing to transmit, the international broadcasting service on behalf of the content provider; or
- (b) the holder of the declaration is involved, or proposes to become involved, in the selection or provision of programs to be transmitted on the international broadcasting service; or
- (c) the holder of the declaration is not a company that is formed in Australia or in an external Territory.

(2) The ACMA must, by writing, revoke a nominated broadcaster declaration relating to the provision of an international broadcasting service by a person (the content provider) if the ACMA is satisfied that:

- (a) at the time the declaration was made, there was no international broadcasting licence that authorised the provision of the international broadcasting service by the content provider; and

(b) either:

- (i) no application was made under subsection 121FA(1A) for such a licence within 60 days after the making of the declaration; or
- (ii) an application for such a licence was made under subsection 121FA(1A) within 60 days after the making of the declaration, but the application was refused.

(3) The ACMA must, by writing, revoke a nominated broadcaster declaration relating to the provision of an international broadcasting service by a person (the content provider) if:

- (a) the holder of the declaration; or
- (b) the content provider;

gives the ACMA a written notice stating that the holder of the declaration, or the content provider, does not consent to the continued operation of the declaration.

(4) The ACMA must give a copy of the revocation to:

- (a) the person who held the declaration; and
- (b) the content provider.

(5) A revocation under subsection (1), (2) or (3) takes effect on the date specified in the revocation.

(6) The ACMA must not revoke a nominated broadcaster declaration under subsection (1) or (2) unless the ACMA has first:

(a) given the holder of the declaration a written notice:

- (i) setting out a proposal to revoke the declaration; and
- (ii) inviting the holder of the declaration to make a submission to the ACMA on the proposal; and

(b) given the content provider a written notice:

- (i) setting out a proposal to revoke the declaration; and
- (ii) inviting the content provider to make a submission to the ACMA on the proposal; and

(c) considered any submission that was received under paragraph (a) or (b) within the time limit specified in the notice concerned.

(7) A time limit specified in a notice under subsection (6) must run for at least 7 days.

(8) A person must not enter into a contract or arrangement under which the person or another person is:

- (a) prevented from giving a notice under subsection (3); or
- (b) subject to any restriction in relation to the giving of a notice under subsection (3).

(9) A contract or arrangement entered into in contravention of subsection (8) is void.

Time taken to complete forms

Complete this only if you are a small business with fewer than 20 employees.

Please provide an estimate of the time taken to complete this form

Include:

- the time actually spent reading the instructions, working on the question and obtaining the information
- the time spent by all employees in collecting and providing this information

hrs

mins

Return this page with the attached completed form to the address on the cover of the form.

ACMA use only

A copy of this form has been sent to Secretariat

Yes