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**Submission re**

**RADIOCOMMUNICATIONS**

**MODERNISATION ACT 2020**

ANRA welcomes the opportunity to submit its views in regard to the Radiocommunications Modernisation Act 2020. Our comments reflect a consensus of our membership. However individual members may make their own submissions.

ANRA, the Australian Narrowcast Radio Association, is the peak industry body representing Low Power Open Narrowcast (LPON) Radio services and High Power Open Narrowcast (HPON) Radio services located across all States and Territories of Australia. Our membership includes the major Narrowcast radio program providers such as the TAB agencies and organisations, foreign language groups, fringe music services, tourist services and religious services, as well as many other independently owned and operated services.

In previous submissions ANRA has supported the RADIOCOMMUNICATIONS

MODERNISATION ACT reforms and would now like to make the following comments ...

**COMMENTS effecting LPON licences – Drop Through Determination.**

In meetings and correspondence, the ACMA and the then Department of Communications have often stated they have no interest in denying access to spectrum for LPON licences, yet of concern in the ACMA Modernisation Act it states that there is no intention of extending the drop through by more than 5 years at a time, even though it has the ability to extend for up to 20 years.

**LPON Apparatus Licence Term**

It is our understanding that there are two levels in regard to LPON licences...one is the Apparatus licence itself and, under the new Act which will come into force on 17 June 2021...

1. *Apparatus licences (including LPONs) can be issued and renewed for up to 20 years.*
   * ANRA requests that this provision, for LPON Apparatus licences, be revised to “can be issued and renewed for at least up to 10 years”*.*
2. *As LPON licences can only be issued in broadcasting service bands (which includes the LPON “sub-band”) if a “drop through” determination (proper name Section 34 (1)(f) Determination) has been made by the ACMA.* 
   * ANRA would like to discuss the automatic extension of the drop-through determinations every 5 years with the first being 10 years so that there is never ZERO years of access to spectrum at the end of each determination.
   * The ACMA still has the ability to include renewal statements on each licence.

**Reasons for a 10 Year Term**

For the same reasons that were submitted by ANRA in July 2016 in regard to the last determination which resulted in the drop through being extended for **7 years** until 2025, ie...

* Additional business certainty around LPON operations and the impact on staffing (job security) and leasing arrangements (towers, offices and satellites). Having a level of understanding of what is likely to happen beyond an existing drop-through period would provide immeasurable clarity for operators.
* Any potential future demand of the spectrum would potentially be identified earlier than is currently the case if the ANRA proposal were to be adopted and acted upon. Whilst noting that there has been **no demand for the “sub-band” spectrum nearly** **30 years**, a more regular and timed discussion may provide the ACMA with an understanding of potential future demand.
* The current frequency of the ACMA review process is no doubt resource-consuming particularly given its regularity. The ANRA proposal reduces this frequency whilst at the same time maintaining an opportunity to consider issues of future demand, etc.

Of the 2300+ LPON licences throughout Australia there is bound to be one or more operators at any given time, looking to sign a five-year lease on a tower or premises. Right now, however, the drop through is extended to 2025...ie, **there are only four years left.**

**LATE ADDITION**

In the event of spectrum access discussions, five years would be the minimum reasonable time frame for the industry to work out how to transition to another business model. ANRA suggests that the current spectrum access has allowed a mature Narrowcasting Industry to develop, and the government would therefore have an obligation to support the industry, and those who operate within it, through any forced change.

ANRA would like to remind the ACMA that, in the tenure case we put forward in 2017/18 , which Giles Tanner described to a Senate estimates committee as being 'very compelling' (see below). It would seem we still face the same problem every 5 years.

**Extract from Senate estimates committee regarding Environment & Communications Legislation 23 May 2018**

*Senator O'NEILL: In the draft five-year spectrum outlook, ACMA acknowledges the concerns of the narrowcasting industry about certainty of access to spectrum for LPON services. It states that the ACMA will endeavour to make its decision about extension of the determination of the LPON sub-band during 2018 and that that's well before the expiry of the current determination in 2020. Currently, LPON licences can't be extended beyond 31 December 2020. Is that correct?*

*Ms O'Loughlin: I will defer to Mr Tanner.*

*Mr Tanner: Yes. Given the type of licences these are, you require two instruments. You require an apparatus licence, which they hold. We also need to make a decision under section 34 of the Broadcasting Services Act, which is named a drop-through decision, that actually makes the spectrum available for open narrowcasting in the first place. We tend to make those in five-year increments for the part of the radio spectrum that is used for LPONs. As you say, there has been an issue that we cut that too fine for the sector last time. They put a very persuasive case to us that it was very difficult to run their businesses with the lack of certainty. So, yes, we are intending in the course of this year to consider the issue of the next extension of the drop-through.*

**ANRA LPON DROP THROUGH SUMMARY**

* As it currently stands the Drop Through term is 5 to 0 years.
* ANRA requests that this changes to 10 to 5 years.
* Narrowcasters require a determination by the end of June which extends to at least 2031.
* The Determination can thereafter be renewed every 5 years.
* This would always provide the sector with a minimum of 5 years of certainty...and also provides the ACMA with ample time to apply a public interest test in considering whether to renew a narrowcast licence.
* **ANRA’s preferred option is that the ACMA recognise the 30 years of uncontested access to the spectrum, and grant LPONs the same access as HPONs, Community and Commercial licences...ie, ongoing access**.

**HPON APPARATUS LICENCES**

ANRA’s view is that HPONs have ongoing access to spectrum.

It is our understanding that the Modernisation Act does not materially alter the licensing and allocation arrangements that apply to broadcast transmitter licensees which are a category of HPON apparatus licences.

Discussions with ANRA must take place before any changes to HPON licensing and allocation arrangements.

**SPECIFIC LICENSING ACCREDITATION**

Under the current system it can take 6+ months to have an LPON variation processed through the ACMA. While using the services of an Accredited Person (AP) is certainly quicker, a number of members have raised concerns about the large costs incurred, particularly when there are a number of movements involved.

ANRA would like to assume this role as part of its services to Members. An appropriate ANRA representative could be authorised by the ACMA in line with the proposed Accredited Persons Scheme–Consultation 08/2021–“Specific Licensing Accreditation” to process such applications.

ACMA’s proposal is intended to diversify the options for accreditation available for potential applicants and will allow APs to provide a service targeted to a specific industry sector. In ANRA’s case, basic LPON variations only.

ANRA thanks the ACMA for the opportunity to submit the above comments in regard to the Radiocommunications Modernisation Act 2020 and looks forward to a continuing and positive dialogue.

Phil Edwards Angelo Nacson

President Secretary

**Australian Narrowcast Radio Assn Australian Narrowcast Radio Assn**

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