

The Manager, Broadcasting Carriage Policy Section
Australian Communications and Media Authority
PO Box 78, BELCONNEN ACT 2616



Submitted via email to BCP@acma.gov.au

14 January 2025

Dear Sir/Madam

AMTA thanks the ACMA for the opportunity to comment on the draft 2025 versions of the Licence Conditions Determinations (LCDs) which are sunseting this year: namely the *Radiocommunications Licence Conditions (Apparatus Licence) Determination 2015* (Apparatus LCD 2015) and the *Radiocommunications Licence Conditions (Broadcasting Licence) Determination 2015* (Broadcasting LCD 2015).

We support the ACMA's proposal to remake these instruments. However, we have some comments and questions in relation to specific parts of the consultation paper and the draft instruments.

Broadening of scope

We have no concerns regarding the incorporation of Temporary Community Broadcasting Licences (TCBL) and re-transmission licences into the re-made Broadcasting LCD 2025, nor to the application of the [Apparatus] Transmitter LCD conditions to broadcasting licences. However, in section 5 "Application", we propose that the types of transmitter licence, to which the [Apparatus] Transmitter LCD 2025 will apply, be explicitly listed. If this means transmitter licences issued under sections 100, 101A and 102, then it should be listed so it clearly signals to the reader that TCBL and broadcasting licences are also covered.

Renaming of the Apparatus LCD

We do not support the renaming of the Apparatus LCD 2015 to the *Radiocommunications Licence Conditions (Transmitter Licence) Determination 2025*, i.e. replacing the term "Apparatus Licence" with "Transmitter Licence". We believe it's much clearer for the name of the instrument to continue to refer to "Apparatus Licence", since it only deals with types of apparatus licences defined in section 97(2) of the *Radiocommunications Act 1992* ("the Act"), in turn under "Division 1—Kinds of apparatus licences". The term "Transmitter Licence" may cause ambiguity in terms of whether or not it also applies to spectrum-licensed or class-licensed transmitters. If the ACMA is concerned about ambiguity in regard to the LCD's application to apparatus-licensed receivers (or Receiver Licences), then it could be renamed to the "Apparatus Transmitter" LCD¹. As such, we propose that the instrument be remade as the *Radiocommunications Licence Conditions (Apparatus Transmitter Licence) Determination 2025*, and we refer to it as the "Apparatus Transmitter LCD 2025" in this response.

Clarity of the consultation paper

We also feel that the ACMA's Consultation Paper *Proposal to remake the apparatus and broadcasting licence conditions determinations* ("the consultation paper") did not provide sufficient identification of and explanation for the changes (beyond those that were simply wording/language changes). We believe that the consultation paper would have benefited from the addition of references to the relevant section of the Apparatus Transmitter LCD 2025 being discussed, for example, the third and fourth dot points under "Minor changes" on pg 6.

¹ We note the consultation paper (p.2) says: "One of the proposed changes is that it will apply to all transmitter licences – not only those issued under section 100 of the Act. This includes transmitter licences for broadcasting services issued under section 102 of the Act, and for temporary community broadcasting services issued under 101A of the Act." Of course, broadcast and temporary community broadcast licences are a form of apparatus licence (they are not class or spectrum licences), and so the term "Apparatus Transmitter" will capture broadcast and temporary community broadcast licences, along with all other apparatus licences (e.g., AWLs, PMTS, PTP, PMP, FSS, etc) issued under s.100 of the Act.

Condition limiting electromagnetic exposure (EME)

Under section 5 of the draft Apparatus Transmitter LCD 2025, the ACMA proposes to add a Note 1 which states “By this instrument, the ACMA has determined that each transmitter licence is taken to include licence conditions that ensure that electromagnetic radiation emitted by a radiocommunications transmitter operated by a person under a transmitter licence does not exceed safe levels for general public exposure”. It is unclear whether the Apparatus Transmitter LCD 2025 itself is intended to serve as this licence condition, or whether the ACMA intends to retrospectively add licence conditions to all apparatus (transmitter) licences.

We understand that the proposed Note 1 is intended to replicate the existing Note in Section 6(1) of the Apparatus LCD 2015, which uses the wording “This Determination sets out licence conditions...”. We believe the current wording is clearer than the expression “By this instrument, the ACMA has determined that each transmitter licence is taken to include licence conditions...”.

Requirement to re-assess transmitters

We have some questions regarding the requirement to re-assess transmitters where there are changes to the transmitter.

The consultation paper (on pg 4) states that the Apparatus LCD 2015 requires licensees to re-assess and update compliance documentation when there is any change to the transmitter. On pg 6, the ACMA re-affirms this view, and suggests that the remade Apparatus Transmitter LCD 2025 will require the licensee to “at each change event, assess the transmitter for compliance with the [ARPANSA] Standard. This assessment will need to take place at each change event”.

We note that the Apparatus LCD 2015 and the Apparatus Transmitter LCD 2025 explicitly address changes to the transmitter and an associated requirement to re-assess and update compliance documentation in the following cases:

1. the transmitter is a low-risk transmitter, and the changes make the transmitter become a high-risk transmitter (section 11 of LCD 2015 and section 13 of LCD 2025); and
2. the compliance documentation for the transmitter was obtained prior to 1 March 2003 (section 13 of LCD 2015 and section 15 of LCD 2025).

There is also a requirement in section 15(3) of the Apparatus LCD 2015 requiring the licensee to amend the declaration of conformity, for any changes to “the information included in it”, and in section 17(3) of the draft Apparatus Transmitter LCD 2025 a requirement for the licensee to make a new declaration of conformity for any changes to “a matter included in a declaration”.

If the ACMA’s intention is to make it clear that re-assessment must be made for any change—as expressed in the consultation paper—then this could be presented more clearly in the Apparatus Transmitter LCD 2025. For example, this could be clarified in either a Note, or a new subsection, within the proposed Section 10 and Section 12, and/or in a Note accompanying Subsection 17(3).

Frequency ranges

As submitted in response to the ACMA’s consultation on the update to the *Radiocommunications (Interpretation) Determination 2015* (“the Interpretation Determination”), we wonder whether the ACMA’s definition of frequency ranges as “including the higher, but not the lower, number” is of any technical relevance in practice.

Yours sincerely,



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