

Remaking the broadcasting services clarification notice

Consultation paper

AUGUST 2025

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Background

Under Part 4 of Chapter 3 of the *Legislation Act 2003*, unless an exemption applies, most legislative instruments ‘sunset’ (that is, they are automatically repealed) on 1 April or 1 October whichever first occurs 10 years after they are registered on the Federal Register of Legislation. This is an automatic process applying to most legislative instruments, regardless of their content.

The following instrument is due to sunset on the following date:

Name of instrument	Sunset date
Broadcasting Services Clarification Notice 2016	1 April 2026

The ACMA has formed the preliminary view that this instrument is operating effectively and efficiently and continues to form a necessary and useful part of the legislative framework. Accordingly, the ACMA proposes to remake it in a new instrument prior to the sunset date referred to above without any significant changes, so that its ongoing effect is preserved.

The ACMA proposes to remake the instrument with only the minor, necessary changes that are referred to below in this paper and to retitle the instrument as the:

- Broadcasting Services (Criteria for Radio Narrowcasting Services) Clarification Notice 2026.

A draft of the new instrument can be found in the key documents section of this consultation.

What the Broadcasting Services Clarification Notice does

Broadcasting Services Clarification Notice 2016

Under the *Broadcasting Services Act 1992* (the Act), narrowcasting services are identified as such, in part, by reference to any determinations or clarifications made under section 19 of the Act.¹ Under section 19, the ACMA may determine additional criteria or clarify existing criteria in relation to the categories of service defined in sections 14–18A of the Act. In 2001 and 2002, the then Australian Broadcasting Authority (ABA) clarified the criteria for AM and FM radio open narrowcasting services by making the Broadcasting Services Clarification Notice 2001 and the Broadcasting Services Clarification Notice 2002. In 2016, the ACMA re-made those determinations in the current Broadcasting Services Clarification Notice 2016 (the Clarification Notice) which consolidated the previous two notices. The Clarification Notice is available on the [Federal Register of Legislation](#).

The Clarification Notice clarifies that particular kinds of broadcasting services are open narrowcasting services, including:

- services that are provided for specified limited periods
- services that are provided to cover a special event for a limited period only
- services that provide pre-recorded, regularly-repeated audio content
- certain information services
- purely religious services
- non-English language services
- racing services
- ancillary services (provided by way of an ancillary communication service)
- services targeted to persons less than 10 years old.

The Clarification Notice also has the effect that:

- a broadcasting service is not an open narrowcasting service simply by virtue of its being a low-power service
- a broadcasting service targeted to persons of a particular age or range of ages (including audiences described in terms such as ‘baby boomers’ or ‘generation X’) is not an open narrowcasting service because it is only being targeted to those persons (unless the broadcasting service is targeted to persons less than 10 years of age)
- a group may be a special interest group for the purposes of subparagraph 18(1)(a)(i) of the Act whether or not the group is organised on a formal basis.

¹ Paragraphs 17(1)(c) and 18(1)(b) of the Act.

Proposed changes to the legislative instrument

Draft Broadcasting Services (Criteria for Radio Narrowcasting Services) Clarification Notice 2026

The following minor and machinery changes are proposed in the draft Broadcasting Services (Criteria for Radio Narrowcasting Services) Clarification Notice 2026:

- changed drafting to reflect modern drafting conventions for legislative instruments.
- defining 'service' in the notice to be a radio broadcasting service provided using an AM or FM signal within the broadcasting services bands, and which is not made available only on payment of subscription fees (whether periodical or otherwise). The inclusion of this definition does not alter the effect of the Clarification Notice and is only intended to assist with easier interpretation.
- updating references to the Australian Standard Geographical Classification (ASGC) 2001 which was replaced by the Australian Statistical Geography Standard (ASGS) Edition 3 in July 2021.

Invitation to comment

Making a submission

Comments are sought from the public regarding the ACMA's proposal to remake the legislative instrument referred to above, without any significant changes, on the basis that it is operating effectively and efficiently.

- [Online submissions](#) can be made by uploading a document. Submissions in PDF, Microsoft Word or Rich Text Format are preferred.
- Submissions by post can be sent to:
The Executive Manager
Content Safeguards Branch
Australian Communications and Media Authority
PO Box 78
Belconnen ACT 2616

The closing date for submissions is **COB, Monday, 6 October 2025**.

Consultation enquiries can be emailed to broadcasting@acma.gov.au.

Publication of submissions

The ACMA publishes submissions on our website, including personal information (such as names and contact details), except for information that you have claimed (and we have accepted) is confidential.

Confidential information will not be published or otherwise released unless required or authorised by law.

Privacy

View information about our policy on the [publication of submissions](#), including collection of personal information during consultation and how we handle that information.

Information on the *Privacy Act 1988*, how to access or correct personal information, how to make a privacy complaint and how we will deal with the complaint, is available in our [privacy policy](#).