

# Price-based allocation of low-power open narrowcasting (LPON) transmitter licences

## Applicant information package

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# Note to applicants

This Applicant Information Package contains important information about the allocation of low-power open narrowcasting (LPON) transmitter licences. LPON transmitter licences allow for the provision of niche radio broadcasting services, such as tourist and racing information or ethnic and religious programming. They operate at very low power outputs (typically one watt in residential areas and 10 watts in non-residential areas) and their range is much more limited than other broadcasting services.

You should read and understand this package before taking part in an allocation process. In addition, we encourage you to take whatever steps you consider necessary to ensure that you have access to appropriate technical, legal or other specialist advice concerning your application, the allocation process, and the operation of radiocommunications equipment and services.

The package contains:

- > an overview of what is being allocated and a guide to the allocation process, including instructions for participating
- > all the legal instruments under which the allocation will take place
- > application documents, which must be completed and forwarded by the closing date of the application window.

The Australian Communications and Media Authority (the ACMA) regularly conducts allocation rounds, when applications for potential transmitter licences for LPON services will be accepted. The dates of the application window can be found on the [ACMA LPON webpage](#).

## **To be eligible to participate in an allocation round you must submit all of the following documents during the specified application window:**

- > a completed LPON Application Checklist
- > a completed application form
- > a completed Deed of Acknowledgment
- > the entry fee of \$394
- > If you are a company or incorporated association you must also submit a completed Nomination of Agent form to nominate a representative to act on your behalf throughout the allocation round.

All applications sent by email must go to: [info@acma.gov.au](mailto:info@acma.gov.au).

Or, if an applicant chooses to send the application by post, they must be sent to:

Australian Communications and Media Authority  
LPON Allocations  
Customer Service Centre  
PO Box 78  
Belconnen ACT 2616

All payments must be in Australian dollars. Applicants must submit the completed Registration Form, Deed of Acknowledgement, the Nomination of Agent form (if required) and pay the Entry Fee inside the two-week application window of a designated Allocation Round. Applicants must include "LPON" with their ACMA Client ID (for example: LPON12345678) as reference to their payment. Please contact the

Customer Service Centre at [info@acma.gov.au](mailto:info@acma.gov.au) for the EFT payment details and creating new Client ID for new licensees.

Questions about the allocation process may be directed to the Customer Service Centre on 1300 850 115 or by email to [info@acma.gov.au](mailto:info@acma.gov.au).

**Applicants should note that the FM radio protection zones continue to apply and consequently there are restrictions that apply to the allocation of LPON frequencies in certain areas.** You can refer to the LPON [Planning Model](#) for more information. A spatial representation of the FM radio protection zones is available as a [Google Earth](#) placemark (KMZ, 1 MB).

# Important notice

The [Australian Communications Authority \(LPON Transmitter Licence Allocation\) Direction No.3 of 2000](#) requires that the allocation or issue of transmitter licences for LPON services by the ACMA, must be done by price-based allocation systems determined in accordance with section 106 of the [Radiocommunications Act 1992](#) (the Radiocommunications Act).

The ACMA has made the [Radiocommunications \(Allocation of Transmitter Licences – Low Power Open Narrowcasting\) Determination 2025](#) (the LPON Determination) under subsection 106(1) of the Radiocommunications Act to establish the price-based allocation process for the allocation of transmitter licences for LPON services.

Persons wishing to apply for a transmitter licence for an LPON service are required to familiarise themselves with all the provisions of the Radiocommunications Act, not just those pertaining to licensing, and should be aware that any activities associated with radiocommunications may also be regulated by the [Competition and Consumers Act 2010](#), the [Broadcasting Services Act 1992](#) (BSA) and the [Telecommunications Act 1997](#). Depending on the activity undertaken under a radiocommunications licence, other Commonwealth, state and territory laws may also apply.

This package provides advice on how the ACMA proposes to allocate transmitter licences for LPON services 'LPON licences', the steps you must take in order to participate in the allocation, the auction process (if required) and what happens if you are allocated a licence.

Prospective applicants are encouraged to have the appropriate technical and legal understanding to participate in the allocation process or to seek independent, specialist advice on any matters of concern.

# 1. Low Power Open Narrowcasting Services (LPONs)

## In this chapter ...

- > What is a low power open narrowcasting service?
- > Licensing of LPONs:
  - > limitations on LPON licences
  - > limited output power
  - > limited coverage area
  - > limited reception of LPONs
  - > limited frequencies available for LPONs
  - > limited protection from interference.
- > No security of tenure.
- > Service to commence within six months of issue of LPON licence.
- > Duration of licences.
- > Renewal of licences.
- > Program content.
- > Applying for an LPON transmitter licence.

### Important note

The information contained in this paper is provided as a guide for applicants and should not be relied on as the only source of information. For detailed information about the various legislative requirements, applicants should consult the [Broadcasting Services Act 1992](#), the [Radiocommunications Act 1992](#), the [Radiocommunications \(Allocation of Transmitter Licences - Low Power Open Narrowcasting Licences\) Determination 2025](#), and the [Radiocommunications Licence Conditions \(Broadcasting Licence\) Determination 2025](#) before applying for a licence.

## What is a low-power open narrowcasting service?

Low power open narrowcasting (LPON) services typically carry racing and tourist radio services, language broadcasting, information services, niche music services and religious programming. They operate on very low power outputs, and their range is correspondingly limited. This may mean that, in some instances, an LPON service may only be able to be received in a portion of its potential coverage area. This reality is reflected in the cost of LPON licences.

LPONs are subject to regulatory regimes administered under the *Broadcasting Services Act 1992* (the BSA) and the Radiocommunications Act. The program content of LPONs is regulated under the BSA and the technical conditions under which LPONs may operate are regulated under the Radiocommunications Act.

### Licensing of LPONs

Open narrowcasting services are defined in the BSA as a broadcasting service where the reception is limited:

- By being targeted to special interest groups; or

- Being intended only for limited locations;
- Being provided during a limited period or to cover a special event; or
- Because they provide programs of limited appeal.

It is not necessary to obtain a broadcasting service licence before providing an open narrowcasting service as LPON services are authorised under the [Broadcasting Services \(Class Licences\) Determination 2017](#). However, prospective LPON licensees must obtain a radiocommunications transmitter licence through an allocation process conducted by the ACMA.

It is important that prospective applicants are aware of the following limitations applying to LPONs.

### **Limited output power**

Sections 18 and 19 of the [Radiocommunications Licence Conditions \(Broadcasting Licence\) Determination 2025](#) (the Broadcasting LCD) set out the maximum effective radiated power (ERP) and field strength requirements for residential (section 18) and non-residential LPON services (section 19).

For residential LPON services, the maximum ERP is 1 watt, and the field strength from the station must not exceed 48 decibels above one microvolt per metre (dBµV/m) at the two kilometre radius from the station's antenna.

For non-residential LPON services, the maximum ERP is 10 watts, and the field strength from the station must not exceed 48dBµV/m at the 10 kilometres radius from the station's antenna.

The 48dBµV/m field strength limit forms the basis for the coverage areas applied to LPONs.

If an LPON station is operating at its maximum ERP but the measured field strength exceeds the applicable limits for the station, then the station must reduce its transmit power and ERP to ensure compliance with the field strength requirements. Failure to do so may result in a breach of a licence condition.

### **Limited coverage area**

The coverage area of LPONs is limited to the provisions under Part 3 of the Broadcasting LCD.

The Broadcasting LCD defines a residential area as an area within 20 kilometres of the boundary of an Urban Centre or Locality. Urban Centres and Localities are defined by the Australian Bureau of Statistics (ABS). A complete list of such areas can be found on the [ABS website](#).

An LPON transmitter located in, or within 20 kilometres of, an Urban Centre or Locality is restricted to operating up to a maximum of one watt transmitter power, within a 2 kilometre coverage area. Transmitters located at least 20 kilometres from the boundary of an Urban Centre or Locality (that is, non-residential areas) may operate up to a maximum of 10 watt transmitter power, with a 10 kilometre coverage area.

Regardless of whether the LPON service is being operated in a residential or non-residential area:

- > The licensee can use any type of antenna or polarisation provided that the maximum ERP is not exceeded in any direction; and
- > That the antenna can be set to the preferred height of the licensee as long as the LPON service complies with the relevant transmit power and field strength limits (see sections 18 and 19 of the Broadcasting LCD).

### **Limited reception of LPONs**

Consistent with the definition of an open narrowcasting service in the BSA - the reception of an LPON is to be limited in some way. For example, reception may be limited because the program content is:

- > targeted to special interest groups—for example, people choosing to follow a particular religion
- > intended for reception in limited locations—for example, arenas or business premises
- > provided during a limited period to cover a special event—for example, a community fair
- > of limited appeal—for example, a language program other than English.

#### **Important note**

*Before lodging an application to participate in an LPON allocation, you may wish to seek an opinion from the ACMA under section 21 of the BSA about whether the program content of your proposed LPON is categorised as narrowcasting. The ACMA charges a fee for this service.*

### **Limited frequencies available for LPONs**

Allocation of LPON transmitter licences is subject to the availability of a limited range of frequencies. LPONs operate within the FM radio broadcasting band using the channels centred on the frequencies 87.6, 87.8 and 88.0 MHz, where these are not currently being used for other broadcasting services. These frequencies are within the radiofrequency spectrum are made available for allocation for LPON services

#### **Important note**

*Prospective applicants should note the order of frequency assignment set out in the [Planning Model](#). The order of frequency assignment is: 88.0 MHz and 87.6 MHz, in either order, followed by 87.8 MHz; co-channel and other frequency availability restrictions permitting.*

*Where all LPON frequencies are available at a given location, the ACMA will be guided by the applicant's preferred frequency, unless the preferred frequency is 87.8 MHz, in which case 88 MHz will be assigned. In line with the order of frequency assignment, 87.8 MHz will not be assigned where other frequencies are available.*

There are restrictions on the availability of all, or some, of the frequencies in certain areas of Australia because of the potential for interference to the reception of broadcasting services being transmitted from certain transmitter sites. The specific sites in question, the associated protection radii and the frequencies that can be assigned for LPONs within these protection zones are provided in the Planning Model. The ACMA will not be able to assign frequencies to LPONs within these zones, except where specifically stated in Table 2 of the Planning Model.

In addition, to facilitate the consolidation of LPONs operating between 88.1 and 108 MHz (the in-band) into the standard 87.5–88.0 MHz band (sub-band), certain sub-band LPON frequencies and transmitter sites are to be protected as per the LPON Planning Model. These frequencies and transmitter sites are in Table 1 of the Planning Model.

#### **Important note**

*Before you lodge an application, you should carefully check the location of your nominated transmitter site in relation to the broadcasting services identified in the Planning Model to ensure compliance with the relevant protection radii.*

### **Limited protection from interference**

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LPON services do not have a guarantee against interference from a mainstream broadcasting service, wherever located. On the other hand, within its licence area a mainstream broadcasting service is guaranteed against interference from LPON services.

The LPON Planning Model is designed, as far as possible, to provide interference-free reception between LPON services, but not between LPON services and mainstream broadcasting services.

### ***No security of tenure***

LPON licensees do not have guaranteed tenure of the radiofrequency spectrum. If spectrum is required by the ACMA for any reason; for example, to plan new mainstream broadcasting services or to vary the conditions of existing mainstream broadcasting services, affected LPON spectrum may have to be resumed, and there is no obligation to find replacement spectrum.

The ACMA has made the 87.5–88.0 MHz sub-band available for licensing of LPON services under section 34 of the BSA. Licences for LPON services cannot be issued for a date that extends beyond the date to which the spectrum has been made available by the ACMA. The ACMA has made the sub-band available until 31 December 2035.

## **Service to commence within six months of issue of LPON licence**

Under Part 3 of the Broadcasting LCD, an LPON licensee must commence a service within six months of being issued a transmitter licence and provide the service with reasonable regularity. The ACMA may extend the 6 month period if it is satisfied there is a valid reason for delay. Failure to comply with this licence condition may result in the ACMA suspending or cancelling the licence, which may impact future licensing decisions.

## **Renewal of licences**

Under Part 3.3, Division 7 of the Radiocommunications Act, a licensee of an apparatus licence may apply for the licence to be renewed beginning 6 months before the licence is due to expire and ending 60 days after the licence expires.

If the licence expires before an application for renewal is made, the station cannot be used under an expired licence. The ACMA will consider renewal applications under section 130 of the Radiocommunications Act, taking all relevant considerations into account. At this stage, the ACMA does not intend to reallocate the licences by way of a price-based process.

## **Program content**

Prospective licensees who propose to provide a broadcasting service may obtain an opinion about which category of broadcasting services the proposed program format fits into. This will ensure compliance with the relevant regulatory conditions. You can contact the ACMA on 1300 850 115 for more information about category of service opinions. A fee is payable on application.

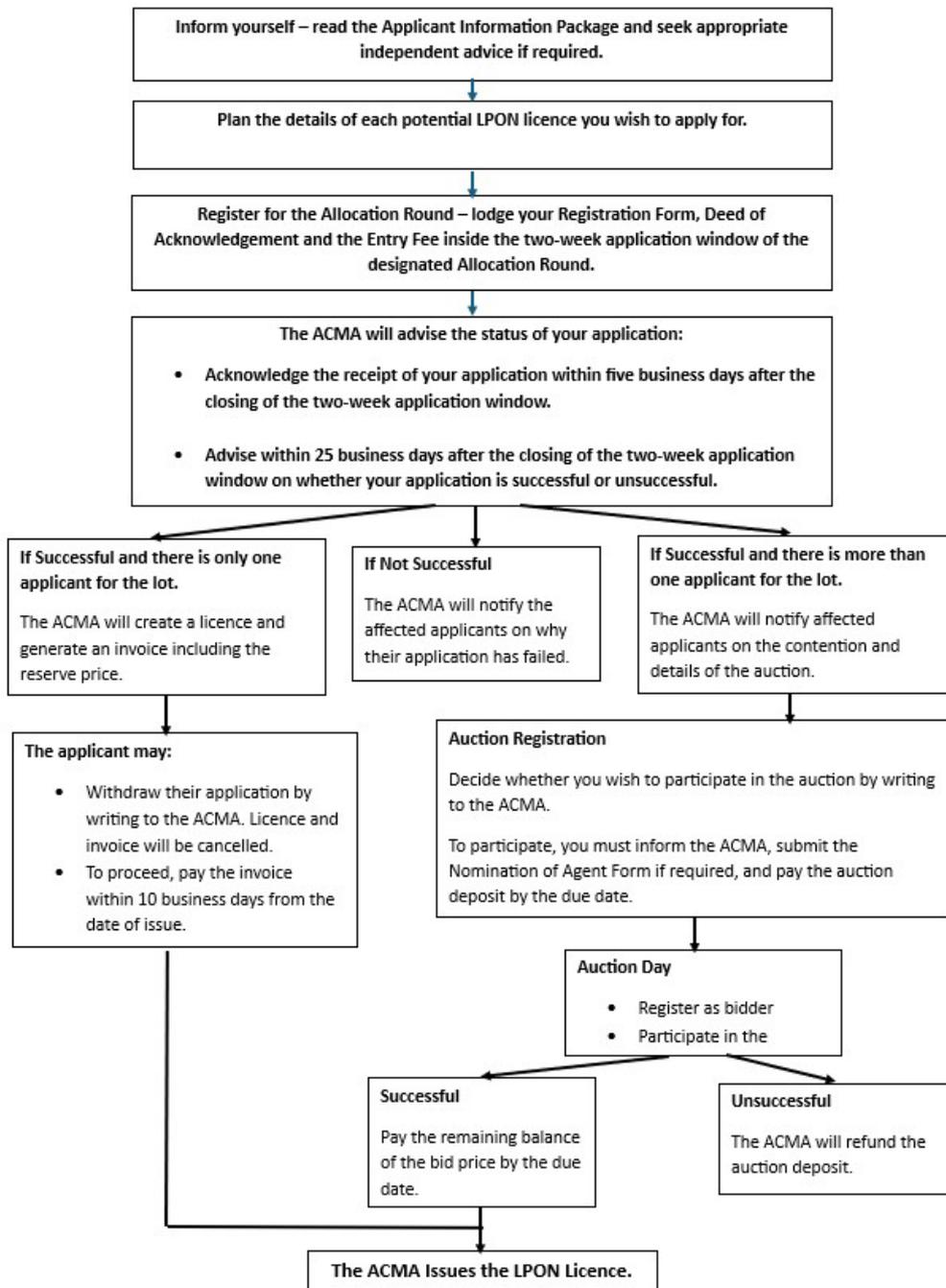
## **Applying for an LPON transmitter licence**

It is not possible for the ACMA to identify all available frequencies for potential LPON transmitter licences prior to the commencement of the allocation process. Therefore, prior to the allocation of a potential LPON transmitter licence, aspirant LPON licensees need to:

- > nominate a preferred transmitter site
- > identify an available frequency
- > ensure that the Planning Model for LPONs can be complied with from that site for that frequency.

During the relevant allocation process, the ACMA will assess each nominated transmitter site and frequency against the Planning Model. Where an applicant's nominated site and frequency are consistent with the Planning Model, and is the only applicant within the allocated lot, the ACMA will generally proceed to allocate the LPON transmitter licence for that site.

## 2. How to participate in an allocation



## In this chapter ...

- > How to participate in an allocation.
- > A step-by-step guide to lodging an application for an LPON transmitter licence.
- > How to identify an LPON transmitter site and frequency.

## Introduction

To participate in this allocation, follow these steps carefully:

1. Inform yourself—read and understand all of the information in this package.
2. Work out the details of each potential LPON licence you are interested in acquiring.
3. Register an application—lodge the required documents and pay the entry fee as required by the invoice.
4. Wait for advice from the ACMA regarding the status of your application.

## Step 1—inform yourself

Before participating in this price-based allocation system, please make sure that you have read and understood all of the material in this package.

It is important that you understand the opportunities and responsibilities that apparatus licensing entails. You are strongly urged to seek your own legal and engineering advice to help you do this.

### Important note

*The information contained in this section is provided as a guide for applicants, and should not be relied on as the only source of information. For detailed information about the various legislative requirements applicants should consult the [Broadcasting Services Act 1992](#), the [Radiocommunications Act 1992](#), the [Radiocommunications Licence Conditions \(Broadcasting Licence\) Determination 2025](#) and the [Radiocommunications \(Allocation of Transmitter Licences – Low Power Open Narrowcasting Licences\) Determination 2025](#) (the LPON Determination) before applying for a licence.*

It is important to understand that the allocation of LPON licences may take place with or without an auction. An auction will only take place if there is competing demand for a transmitter site and frequency in a particular area. If it is possible to satisfy the needs of all applicants, the ACMA will allocate the licence without proceeding to an auction.

## Step 2—identify a potential LPON transmitter site and frequency

We recommend that you seek expert engineering advice before making an application. You should also have regard to the technical considerations outlined in this information package and in the Planning Model before making an application.

### Identifying a transmitter site and frequency

Before lodging an application you need to:

1. IDENTIFY a nominal transmitter site.
2. INVESTIGATE whether there is capacity to establish an LPON transmitter at that site by:
  1. CHECKING for evidence of spectrum availability by investigating whether there are existing LPON licensees using the same or an adjacent frequency.

2. CHECKING whether your proposed LPON transmitter site will comply with the minimum separation distances for LPONs.
3. CHECKING the technical considerations and the Planning Model for LPON services.

### **Nominal transmitter site**

Nominal transmitter sites should be identified using Australian Map Grid coordinates to an accuracy of 10 metres or using a map from which the ACMA can accurately calculate these coordinates.

Applicants proposing new services should also have regard to the technical considerations outlined in Chapter 1 of this package and the LPON Planning Model.

### **Spectrum availability**

Having identified your nominated transmitter site, you should check whether any of the three possible frequencies may be operated from that site.

We provide information about licensed LPON services in a number of ways. You can obtain this information by:

- > Reviewing licences on the online [Register of Radiocommunications Licences](#) (RRL).
- > asking an ACMA Officer for an adjacent services list (ASL) to be produced for the proposed site. Item 7.2.5 of the *Radiocommunications (Charges) Determination 2022* explains that the supply of an adjacent services listing by the ACMA is charged at the hourly rate.

We recommend either using the RRL or requesting for an ASL, because it will be difficult to ascertain which frequencies and areas may be available. Tuning into specific LPON frequencies using an FM radio at any location will not take into account any services that are licensed but not yet operational.

## **Step 3—lodge an application**

If, after you have considered your needs, you decide that you want to lodge an application to participate in an allocation of LPON licences, you MUST lodge your complete application with the ACMA before the closing time on the closing date to be registered in that allocation round. Applications received after that time will be rejected, and applicants will be advised to apply in the next available allocation round.

### **Important note**

*You must lodge a separate Applicant Registration Form and Deed of Acknowledgment, for each transmitter site and frequency you wish to nominate. If you are a company or incorporated association you will also need to submit a Nomination of Agent form to nominate a representative to act on your behalf throughout the allocation round.*

### **To register as an applicant**

From the opening of the allocation window to the closing time on the closing date, the ACMA will accept applications for LPON transmitter licences. To apply, you MUST complete and lodge each of the following registration documents for each transmitter site and frequency you wish to nominate:

- > an Application to Participate in the Allocation of Licences authorising the operation of low-power open narrowcasting services in the 87.6 MHz, 87.8 MHz and 88.0 MHz FM frequencies (the application form)
- > the Deed of Acknowledgment, which commits you to your actions during the allocation process.

- > A Nomination of Agent Form if the applicant is a company or an incorporated association, to appoint a representative to act on your behalf throughout the allocation round.
- > Pay an Entry Fee of \$394 for each LPON application

Where the applicant is a company, the application form and a Nomination of Agent Form must be executed in accordance with section 127 of the *Corporations Act 2001*.

The \$394 entry fee for each application must be paid inside the two-week application window of the designated Allocation Round, with "LPON" and their ACMA Client ID included as reference of payment.

We can only accept registration documents that are complete and legible. To assist legibility, all forms should be completed in block letters or be typed.

**The ACMA will register an applicant only if the necessary application documents are completed and legible, with the \$394 Entry Fee paid, received by the closing time on the closing date of the relevant allocation window. When paying the \$394 Entry Fee, applicants must include "LPON" with their ACMA Client ID (for example: LPON12345678) as reference to their payment. Please contact the Customer Service Centre at [info@acma.gov.au](mailto:info@acma.gov.au) for the EFT payment details and creating new Client ID for new licensees.**

### Entry fee

To register for an allocation, you MUST pay an entry fee of A\$394 (Item D of the application form) for each application. The entry fee is an administrative charge intended to recover the direct cost to ACMA of assessing whether an application is consistent with the Planning Model. **This fee is non-refundable**, even if the ACMA finds that an application is **not** consistent with the Planning Model.

### Important note

All LPON registration documents MUST be emailed to [info@acma.gov.au](mailto:info@acma.gov.au) within the two-week application window of the designated Allocation Round, accompanied with the \$394 Entry Fee payment per application, and include "LPON" with the Applicant's ACMA Client ID (for example: LPON12345678) as reference to their payment. Please contact the Customer Service Centre at [info@acma.gov.au](mailto:info@acma.gov.au) for the EFT payment details and creating new Client ID for new licensees.

### Deed of acknowledgment

To be registered for an allocation you MUST complete a Deed of Acknowledgment. This deed acknowledges, among other things, that you wish to submit bids for or be offered the opportunity to acquire a licence for the reserve price in the event that a lot is not allocated at an auction. This deed also acknowledges that you will honour all bids that are made by you, or on your behalf, during the auction, if one should take place. A copy of the Deed of Acknowledgment is included in the registration documents at the end this Applicant Information Package.

### Nomination of Agent form

If you are a company or an incorporated association you MUST complete the Nomination of Agent form to nominate a representative to act on your behalf throughout the allocation round. Only one form is required, unless you want to nominate more than one representative to act on your behalf.

Individuals do not have to submit this form, unless you have been told by the ACMA that there is going to be an auction for a specified lot, and you wish to nominate a representative to act on your behalf at that auction.

### **Registration of applicants**

Applicant registration is finalised when the applicant has completed all of the registration requirements and we enter the names of the applicants in the register of applicants. We must refuse an application for registration if all required forms and the entry fee are not provided in accordance with the LPON Determination.

### **Step 4—wait for advice regarding your application**

As soon as practicable after the close of applications or within 5 business days, we will write to each applicant confirming receipt of the registration documents and the entry fee. We will then assess whether the transmitter site and frequency nominated in the registration documents complies with the Planning Model.

Consistent with the LPON Determination the ACMA must within 20 business days after the closing date, consider each proposed LPON service transmitter site and frequency nominated by the applicant, as if it were the only application.

# 3. The allocation process

## In this chapter ...

- > Registration of applications.
- > Assessment of applications and allocation of lot numbers.
- > Allocation where there is only one applicant for a lot.
- > Allocation where there is more than one applicant for a lot:
  - > contact the affected applicants about the contention
  - > starting time, date and place of the auction
  - > payment of auction deposit
  - > completing and submitting the Nomination of Agent Form
  - > lodgement of an additional Nomination of Agent Form.
- > Registering to bid in the auction:
  - > notify the bidders to register for the auction prior to the auction.
- > Bidding in the auction:
  - > the auction process
  - > identifying the highest bidder
  - > close of the auction
  - > payment of the balance of the bid price.
- > Issue of the licence.

### Important note

*The following information is intended to provide a general overview of the allocation system that is contained in the LPON Determination and should be used as a guide, only.*

## Registration of applications

Once the application window has closed, we will register each applicant who has lodged completed registration forms, a Deed of Acknowledgment and paid the entry fee. We will write to applicants within five business days of the closing date to tell them that they have been registered and to confirm the registration details.

## Assessment of applications and assignment of lot numbers

Once applications have been registered, we will investigate each proposed transmitter site and nominated frequency and decide whether these are consistent with the Planning Model. If we conclude that a nominated transmitter site and frequency are consistent with the Planning Model, we will assign a lot number in relation to the coverage area of the proposed site. If an application does not meet the LPON Planning Model we will write to the applicant advising of our decision.

Where there is more than one application for a coverage area and the applications are not consistent with the Planning Model as to minimum separation distances (sub-section 17(2) of the LPON Determination), we may contact the applicants to offer alternative available frequencies. If the contention cannot be resolved, we will assign a single lot number to both applications.

## Allocation if there is only one applicant

Where there is only one registered applicant for a lot<sup>1</sup>, the ACMA will write to that applicant advising that he or she is the successful applicant and offer him or her the opportunity to acquire the lot for the reserve price for that lot. This will take place within 25 business days after the closing of the two-week application window. The applicant will then have a further 10 business days from the date of the ACMA's letter to either pay the reserve price in accordance with subsection 31(2) of the LPON Determination, or advise the ACMA in writing that he or she wishes to withdraw the application.

The reserve prices have been set at

- > \$2,000 for High Density Geographic Locations
- > \$1,000 for Medium Density Geographic Locations
- > \$250 for Low Density Geographic Locations.

The geographic locations of spectrum density areas are as defined in the most recent edition of the ACMA Radiocommunications Apparatus Licence Fees and Charges publication. A copy of the licence fee schedule publication is available on the [ACMA website](#).

### **Important note**

*If the applicant does not pay the reserve price within 10 days of the date of the ACMA's letter, or advise the ACMA that the application has been withdrawn, the application will cease to have effect.*

## Allocation where there is more than one applicant

Where there is more than one applicant for a lot, and alternative frequencies cannot be offered, we will hold an auction to allocate that lot. Within 25 business days after the closing date for applications, we will write to each applicant for that lot advising:

- > that there is more than one applicant for the particular lot
- > that the ACMA will conduct an auction in relation to that particular lot
- > the starting time, date and place of the auction
- > the auction deposit payable for the particular lot
- > the date by which the auction deposit for the lot must be lodged.

The ACMA's letter will also include a Nomination of Agent form, which must be completed by an applicant if they wish to authorise a third party to bid on their behalf.

### **Starting time, date and place of the auction**

The ACMA will advise applicants of the starting time, date and place for the auction, including the time for bidder registration. The ACMA will also advise applicants in the event of any changes to these arrangements. Once a starting date for the auction has been set, the ACMA cannot change that starting date to an earlier date.

### **Payment of the auction deposit**

Each applicant intending to bid on a lot at auction must pay the auction deposit for that lot by the date and time specified by the ACMA. The auction deposit will be fully refundable if the applicant is not the successful bidder for that lot.

An applicant may only bid for lots they applied and registered for as part of the allocation process.

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<sup>1</sup> Lot numbers are only allocated if an application passes the LPON Planning Model.

## Completing and submitting the Nomination of Agent Form

The Nomination of Agent form permits an individual to act on the applicant's behalf at the auction. The Nomination of Agent form is also required to be completed by companies or incorporated associations, appointing a representative to act on its behalf.

If an applicant is intending to authorise a person to act on its behalf at auction they must submit a completed Nomination of Agent Form for each individual authorised to bid on their behalf.

If the applicant intends to represent themselves, they do not need to complete a Nomination of Agent form, unless the applicant is a company or an incorporated association.

Applicants should note that a Nomination of Agent form authorises an individual to represent an applicant generally during the process. This will include bidding on the applicant's behalf and tendering money.

### Important note

*Applicants will be bound by any action of their representatives taken under the Nomination of Agent form. It is the responsibility of applicants to make their representative(s) aware of their duties and obligations.*

There is no limit to the number of representatives an applicant may authorise to act on its behalf; however, applicants must complete a separate Nomination of Agent form for each individual they appoint.

The applicant named on the Nomination of Agent form must be the same as on the Registration Form. In the case of a company applicant, the Nomination of Agent form must be executed in accordance with section 127 of the *Corporations Act 2001*.

We can only accept Nomination of Agent forms that are both complete and legible. To assist legibility, Nomination of Agent forms should be completed in block letters or be typed.

If the applicant is a company or incorporated association the Nomination of Agent form must be submitted before the closing time and date of the specified allocation window.

If required to nominate a representative for an auction, the Nomination of Agent forms must be received by the ACMA by the date notified in the letter sent to the applicant. In some circumstances, additional forms may be submitted after this date (see following section).

## Lodgement of an additional Nomination of Agent form

Registered applicants are able to lodge an additional Nomination of Agent form in accordance with section 15 of the LPON Determination. The applicant must submit the additional Nomination of Agent form no later than two business days before the starting time of the auction.

## Registering to bid in the auction

Within 15 business days before the auction the ACMA will confirm with each registered applicant:

- > the applicant's payment of the auction deposit for each lot;
- > each person (if any) in respect of whom a Nomination of Agent form has been lodged by that applicant;

- > each lot that the applicant is eligible to bid for;
- > information about how to make a bid including by alternative methods if the bidder is unable to make a bid using the auction system or at the auction centre.

A registered applicant, including an authorised agent of the registered applicant, who wishes to bid at the auction in person must register as a bidder.

Only registered bidders may bid at an auction and registered bidders can only bid on a lot:

- > if that lot has been nominated by the registered applicant in the registration documents
- > for which an auction deposit has been paid
- > for which the ACMA has been given a Nomination of Agent Form for that registered bidder by the registered applicant (if applicable) (subsection 26(2) of the LPON Determination).

**Important note**

*Bidders cannot bid on any other lots than those specified above.*

Bidder registration will take place on the day before the auction. Arrangements for bidder registration will be notified to all applicants.

**Important note**

*Bidders should not leave their registration until the last moment. Once closed, bidder registration cannot be re-opened.*

To register, individuals for whom a Nomination of Agent form has been lodged must present to the ACMA prior to the commencement of the auction and must produce evidence of their identities in the form of either:

- > photographic identification—being either an Australian driver’s licence or passport
- > two forms of other identification (such as a birth certificate or credit card), one of which must include a signature.

Electronic copies of the forms of identification will be retained by the ACMA for its records.

**Important note**

*Applicant representatives who do not show the ACMA identification by the required date and time before the auction will not be able to bid in the auction.*

*Persons who have not registered as applicants, and who have not given the ACMA Nomination of Agent Forms for their representatives, can neither register as a bidder, nor have their representatives registered as bidders.*

## Bidding in the auction

### The auction process

The ACMA will manage the allocation process according to the LPON Determination. The ACMA will appoint an auctioneer to conduct the auction. The auctioneer will invite bids for each lot and identify the registered bidder who makes the highest bid for each lot. In the event of a dispute, the auctioneer will be the sole arbiter and the auctioneer’s decision will be final.

### Identifying the highest bidder

The auctioneer will identify the highest bidder for the relevant lot. Any bid below the reserve price will not be accepted. If the highest bidder is an applicant, he or she becomes the successful applicant. If that person is an applicant representative, he or she represents the successful applicant.

### Close of the auction

Immediately on being identified by the auctioneer, the successful applicant must contact ACMA staff and prove that he or she is registered to bid as, or on behalf of, the nominated applicant. This will signal the close of the auction for the lot.

### Paying the balance of the bid price and applying for the licence

The ACMA will provide each successful applicant for each lot with formal notification of the balance of the bid price payable on that lot, by email. A successful applicant will then have 10 working days after the date of that notice to pay the balance of the bid price in accordance with section 40 of the LPON Determination.

### Default by a successful applicant

If the successful applicant fails to pay the full amount of the bid price for a lot by the specified date, then the successful applicant will cease to be entitled to be allocated the transmitter licence for that lot and the auction deposit will be forfeited to the ACMA. The applicant will be taken to have defaulted (Paragraph 35(1)(c) of the LPON Determination) and will be liable to pay 10 per cent of the bid price for that particular lot. This amount will become a debt to the ACMA and the ACMA will be able to recover it from the successful applicant in a court of competent jurisdiction. Failure to pay a debt to the ACMA may impact future licensing decisions.

Where an applicant defaults on a lot, all other applications for that lot will be carried forward to the next allocation, with their consent. In other words, those applicants will not need to reapply to participate in an allocation process for that lot.

### Issue of the licence

As soon as practicable after the payment of the balance of the bid price or, in the case of uncontested lots payment of the reserve price for a lot, the ACMA will issue a transmitter licence for that lot.

#### Important note

*After the allocation the ACMA will make the following information public with regard to the allocated licence:*

- > name and ACMA client number of licensee
- > the lot assigned to the licensee, including the site address, coordinates, RADCOM site number, spectrum access number and assigned frequency
- > amount paid by the applicant for the allocation of the licence
- > the applicant's contact name and address.

### Licence fees and charges

Prior to the issue of a new licence, licensees are required to pay an annual tax for each year for which the licence has been issued. Licensees have the option of paying this amount in a single up-front payment or in annual instalments. This tax is set out in the [Apparatus Licence Fee Schedule](#). Upon payment of each instalment, licensees will also be required to pay an administrative charge.

Upon renewal of the licence, licensees will be required to pay a renewal fee and an annual tax for each year for which the licence has been renewed.

## 4. Other important information about licences authorising the operation of LPON services

### In this chapter ...

- > Ministerial Direction to impose a 'use it or lose it' condition on LPON transmitter licences.
- > Complaints about hoarding.
- > Lodging a complaint.
- > Other licensing requirements administered by the ACMA under the *Radiocommunications Act 1992*:
  - > licence conditions determinations
  - > special conditions
  - > advisory notes.
- > Transmitter site relocation.
- > Site variation criteria.
- > Change of frequency.
- > Licensing requirements administered by the ACMA under *the Broadcasting Services Act 1992*:
  - > licence conditions
  - > codes of practice.
- > Goods and Services Tax.

#### **Important note**

*The information contained in this section is provided as a guide for applicants and should not be relied on as the only source of information. For detailed information about the various legislative requirements, applicants should consult the Broadcasting Services Act 1992, the Radiocommunications Act 1992, the Radiocommunications (Allocation of Transmitter Licences – Low Power Open Narrowcasting Licences) Determination 2025 (the LPON Determination), and the Radiocommunications Licence Conditions (Broadcasting Licence) Determination 2025 (Broadcasting LCD) before applying for a licence.*

### **Ministerial Direction to impose a 'use it or lose it' condition on LPON transmitter licences**

On 22 December 2000, the Minister for Communications, Information Technology and the Arts, Senator the Hon. Richard Alston, issued the *Australian Communications Authority (LPON Transmitter Licences) Direction No. 2 of 2000 (Direction No. 2)*.

This Direction instructs the ACMA to impose 'use it or lose it' conditions on all licences for LPON services that operate in the 87.5–88.0 MHz FM sub-band. A copy of the Direction can be found [here](#) and on the [ACMA website](#):

Under this Direction, LPON licensees are required to:

- > commence to provide a service using a radiocommunications transmitter authorised under the licence within six months of the imposition of the condition, unless the licensee has reasonable grounds for not doing so
- > continue to provide a service throughout the term of the licence with reasonable regularity
- > maintain records of the commencement, hours of operation and provision of a service under the licence.

These conditions will apply to licences for LPON services operating in the 87.5–88.0 MHz FM sub-band that either:

- > were issued before 1 March 2001
- > are issued on, or after, 1 March 2001.

Direction No. 2 allows for the ACMA to extend the six-month start-up period, if there is a valid reason for the delay. It also specifies those things that would not be considered valid reasons for a delay. These could include, for example:

- > that the licence has been obtained within the six-month period as a result of a transfer to a relative or associate
- > financial reasons
- > that the licence is subject to an arrangement contingent on the disposal of another licence held by the licensee.

The *Radiocommunications Licence Conditions (Broadcasting Licence) Determination 2025* (the Broadcasting LCD) gives effect to these conditions.

**Important note**

*Breaching the 'use it or lose it' condition may result in the cancellation of an apparatus licence by the ACMA or a refusal to renew an apparatus licence. Cancellation of an apparatus licence by the ACMA may impact future licensing decisions.*

## Complaints about hoarding

The main reason to impose a 'use-it or lose it condition' on LPON licensees is to prevent persons from obtaining apparatus licences for LPON services, and then not operating them. This is known as 'hoarding'.

The ACMA will generally only investigate whether an LPON service is operating in response to a formal complaint by a member of the public using the form entitled [LPON provision of service complaint form](#) (R014). However, if the ACMA, in the normal conduct of its duties, discovers that a licence for an LPON service is not being used to provide a service, it may initiate an investigation. In considering whether a licensee has failed to continue to provide a service, the ACMA must have regard to:

- > the period for which a service has not been provided in relation to the period in which it could have been provided
- > whether any circumstances existed which gave rise to a failure to continue to provide a service that were beyond the reasonable control of the licensee
- > the number of other apparatus licences for LPONs held by the licensee and the level of services provided under those licences
- > such other matters that the ACMA considers relevant.

## Lodging a complaint

The completed R014 form, accompanied by a statutory declaration ([C05 Form](#)) as to the truth of the contents of the form and any statements made in it, should be sent to the ACMA. The responsibility for providing evidence that a service is not being provided rests with the complainant. Complainants will be required to answer specific questions such as:

- > Is there a transmitter established at the site?
- > Is there evidence of power supply connection or power use at the site?
- > Has the complainant monitored the frequency over a period of time for evidence of a service?
- > Does the complainant have additional evidence, such as complaints from other members of the public that corroborate the complainant's findings?

Licensees have six months from the issue of the licence to establish their service. Evidence that an LPON service has not been provided is only relevant if it is collected after the expiry of the six months applicable to the particular licence. It is therefore recommended that complaints are not lodged prior to the expiry of the six months allowed to establish the service.

On receipt of a complaint, or as a result of its own investigations, the ACMA will contact the licensee. If no LPON service is being provided and there is no valid reason for that, the ACMA may cancel or refuse to renew the apparatus licence authorising the operation of the LPON service. The cancellation of a licence by the ACMA may impact future licensing decisions.

## Other licensing requirements administered by ACMA under the Radiocommunications Act

The operation of all radiocommunications equipment authorised under a licence issued by the ACMA is subject to:

- > conditions specified in the Act, including an obligation to comply with the Act
- > a condition that any radiocommunications device operated under the licence must comply with all the standards applicable to it
- > conditions specified in any determinations made by the ACMA under section 110A of the Radiocommunications Act
- > conditions specified in the licence
- > any further conditions imposed by the ACMA under section 111 of the Radiocommunications Act.

Generally, conditions are applied to licences to enable users to communicate effectively, with an acceptable level of interference. All conditions relating to a licence must be complied with.

### Licence conditions determinations

The ACMA may determine, by written instrument, conditions relating to apparatus licences. These conditions are known as Licence Conditions Determinations (LCDs). The *Radiocommunications Licence Conditions (Transmitter Licence) Determination 2025* contains conditions of licences that are common to all apparatus transmitter licences.

The conditions applicable to all broadcasting licences (including those for LPON services) are contained in the *Radiocommunications Licence Conditions (Broadcasting Licence) Determination 2025*. The LCD includes conditions relating to the types of use,

provision of a service, interference provisions and associated technical restrictions such as modulation, power and bandwidth.

**Important note:**

*An advisory note is automatically attached to licences where an LCD is in force. The note will advise of the applicable LCD.*

The licence conditions imposed through the relevant LCD may change from time to time. Licensees should ensure that they have informed themselves of the current conditions imposed by the ACMA.

**Special conditions**

Any other conditions of operation that apply to individual licences but are not included in the LCD will be printed on the licence under the heading ‘Special Conditions’.

**Advisory notes**

Advisory notes providing information that may be of interest to a licensee will be printed on the licence under the heading ‘Advisory Notes’.

**Changing technical operating parameters**

Licensees must apply to the ACMA in writing if they wish to change the technical operating parameters of their LPON services. These applications are assessed against the same engineering criteria used to assess new applications.

**Transmitter site relocation**

Following consultations with the Department of Communications, it has been agreed that the criteria set out below should be applied when assessing applications to vary a licence.

**Site variation criteria**

An existing LPON licensee may apply for a change of transmitter site up to a maximum of:

- > 10 km in residential areas (one watt transmitters) from the original transmitter site
- > 30 km in non-residential areas (10 watt transmitters) from the original transmitter site.

The minimum distance separation from co-frequency and adjacent frequency LPONs would be required to be met in accordance with the distance separation criteria in the Planning Model.

Existing LPON licensees seeking to vary their site (or make changes to other technical conditions of their licence) should complete and submit two forms:

- > [R057 Application for low power open narrowcasting variation](#)
- > [R077 Additional station information](#).

Please use these forms for changes to **existing licences only**. They are not required for new LPON licences. If you require any assistance in filling out these forms, contact the Customer Service Centre in the ACMA’s Canberra Office on 1300 850 115.

**Change of frequency**

Applications from existing LPON licensees for a change of frequency within the 87.5–88.0 MHz sub-band may be allowed where the change of frequency fits within the planning parameters contained in the Planning Model.

The ACMA will adhere strictly to the order of frequency assignment as set out in the Planning Model. Any applications for a change of frequency to 87.8 MHz will be carefully examined to ensure that such a change would not render any of the other LPON frequencies (87.6 and 88.0 MHz) from being used in an area.

## Licensing requirements administered by ACMA under the BSA

All providers of broadcasting services are also required to comply with the provisions of the BSA, administered by the ACMA. Conditions relating to program standards, codes of practice and advertisements are regulated by the ACMA.

### Licence conditions

Schedule 2, Part 2 of the BSA sets out the conditions applicable to all providers of broadcasting services. Schedule 2, Part 7, Clause 11 of the BSA sets out the conditions applicable to broadcasting services provided under class licences.

### Codes of practice

The BSA requires the various broadcasting industry sectors to develop codes of practice covering regulation of program content and complaints-handling procedures, and to comply with any applicable program standards.

Under section 123 of the *Broadcasting Services Act 1992*, industry groups develop codes of practice in consultation with the ACMA. Once implemented, the ACMA monitors these codes and deals with unresolved complaints made under them. The Australian Narrowcast Radio Association (ANRA) is the industry body representing those operating open narrowcasting radio services. The code of practice for open narrowcasting services is available on the ACMA website under the [Register of broadcasting codes & schemes index](#). Copies of the Code are also available by contacting the ACMA Customer Service Centre on 1300 850 115.

The ACMA has released a package of measures designed to give guidance to providers of open narrowcasting radio services. The measures are designed to help service providers to better understand the conditions under which they provide their services and to clarify the differences between narrowcasting and commercial broadcasting services.

The package of measures comprises:

- > an information booklet—[Narrowcasting for radio: guidelines and information about open and subscription narrowcasting radio services](#)
- > a clarification notice ([the Broadcasting Services Clarification Notice 2016](#)) that clarifies aspects of the statutory criteria for open narrowcasting services

the inclusion of [additional conditions](#) in licences under which open narrowcasting radio services are provided. The additional conditions will require narrowcasters to notify the ACMA of the reasons their service is a narrowcasting service. This information will then be published on the ACMA's website. The additional conditions will be included in the class licence for open narrowcasting radio services under the *Broadcasting Services (Additional Conditions-Open Narrowcasting Radio Services) Notice 2002*.

## Goods and Services Tax (GST)

All payments for apparatus licences by price-based allocation are **exempt** from the application of the GST, including the application fee and the bid price.

The issue, renewal and instalment charges are also exempt from the application of the GST.