

A guide to some of the licensing matters the ABA's Allocation and Renewal section deals with, including apparatus licensing of radio narrowcasting services, the status of the licensing scheme for low power open narrowcasting (LPONC) services, reception issues for LPONC services and questions of tenure on broadcasting services bands spectrum for narrowcast services.

Licensing matters

The following is a summary of the ABA's approach to the licensing of transmitters for the provision of open narrowcasting services which use broadcasting services bands (BSB) spectrum. It is intended as a guide only. If more detailed information is required, please contact the ABA's Allocation and Renewal section. Included in this summary are details of transmitter licensing of narrowcasting services, the status of the current licensing scheme for low power open narrowcasting (LPONC) radio services, reception issues for LPONC services and questions of tenure on broadcasting services bands spectrum for open narrowcasting services.

What is a narrowcasting service?

A narrowcasting service is a type of broadcasting service which is limited in some significant respect. For example, by being targeted to special interest groups, by providing programs of limited appeal, by being provided during a limited period or to cover a special event or by being intended only for limited locations such as business premises or arenas.

All broadcasting services are regulated under the *Broadcasting Services Act 1992*. They are also subject to the provisions of the *Radiocommunications Act 1992* (the Radcoms Act) if they use radiofrequency spectrum or the *Tel-ecomunications Act 1991* if they use cable.

An open narrowcasting service may be provided by any person without need of an individual licence for the service allocated under the Broadcasting Services Act. However, a person providing a service will need a transmitter licence under the Radcoms Act. A person providing a service under a class

licence operates under a standing authority which allows any person to enter the market and provide a service, as long as the operator complies with relevant class licence conditions and can secure access to a means of delivery, for example, a radio transmitter licensed under the Radcoms Act.

Licensing of narrowcasting services

A person who wishes to operate a broadcasting service using BSB radiofrequency spectrum, e.g. AM or FM radio, must obtain a Radcoms Act transmitter licence. If a person is a permanent commercial or community broadcasting service licensee under the Broadcasting Services Act, the necessary transmitter licence under the Radcoms Act will be issued as a right.

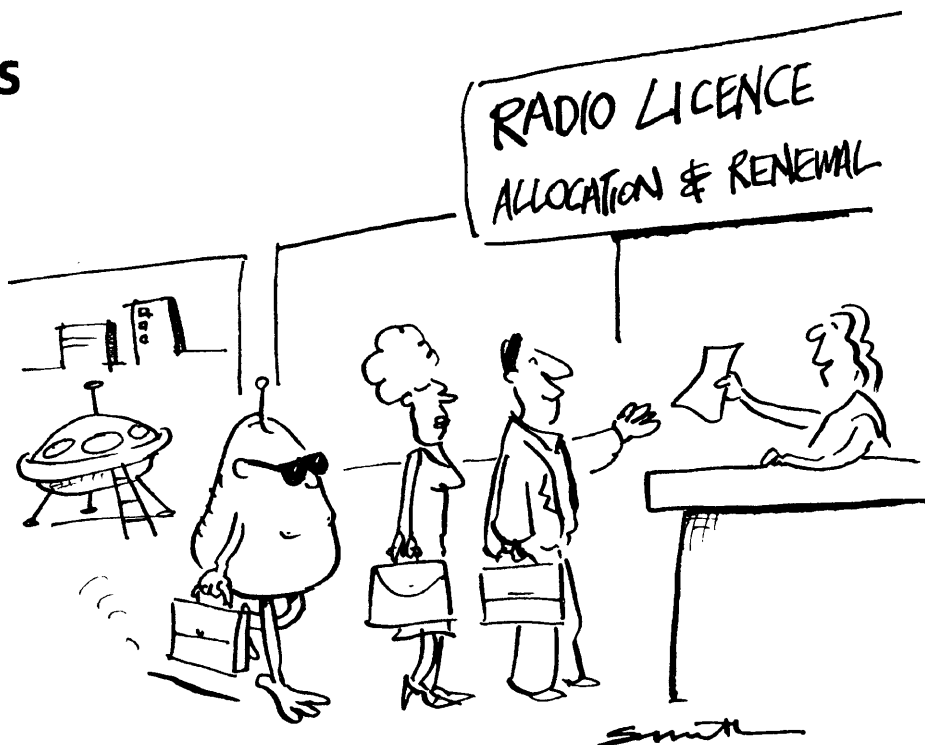
A person seeking access to BSB spectrum to provide an open narrowcasting service does not have a similar right and must seek to obtain a Radcoms trans-

mitter licence by application or under a price based allocation system.

As there is a considerable amount of interest in spectrum to provide open narrowcasting services, the ABA has decided that transmitter licences for such services using the broadcasting services bands should be offered to the market via a price-based allocation system.

The ABA is working closely with the Spectrum Management Agency (SMA) in developing such a system. It will be in the form of a determination by the SMA under s.106 of the Radcoms Act and will be accompanied by a comprehensive guide. In practical terms, the allocation system will closely resemble an open cry or English style auction.

For the sake of convenience and cost efficiency, the ABA will generally schedule allocation exercises (auctions) for a number of open narrowcasting service transmitter licences at the same time and place. In some cases this may occur along with the auction of commercial broadcasting service licences which might



also be available. This means that some licences will not necessarily be offered for allocation immediately they become available following licence area planning, as the ABA will prefer to allocate licences in batches. The ABA is catering as far as possible for open narrowcasting requirements during licence area planning, subject to the requirements of the other broadcasting sectors, i.e. for national, community and commercial broadcasting services.

Status and continuity of current low power open narrowcasting (LPONC) services

The ABA has released FM frequencies in the 87.6-88.0 MHz range for open narrowcasting purposes on a nationwide basis. The frequencies have been 'dropped through' under s. 34 of the Broadcasting Services Act for low power open narrowcasting information services until 31 December 1997. Later this year, the ABA will decide whether to continue this scheme in its present form and whether to extend the drop through period beyond December 1997. Extending the drop through period would mean that present Radcoms Act licence holders would be able to renew their transmitter licences by application to the SMA.

The ABA will also explore options which promote the use of these one watt services and discourage hoarding. The ABA will consult with affected licensees (as far as is practicable) and with relevant industry bodies before making any decision to change the current s.34 arrangements for LPONC services, for example in cases where licences have been issued but services are not being provided.

Reception difficulties of low power services

A number of LPONC operators and the industry association, the Federation of Australian Narrowcasting and Subscription Services (FANSS), have submitted to the ABA that the technical specifications on these services are too restrictive and have asked that the ABA allow the signal power and antennae height to be boosted to improve signal quality and reach.

The ABA decision to make the spectrum at 87.6-88.0 MHz available nationally is based on the fact that it is ideally suited for low powered services (one watt) and cannot be used for higher power services without causing interference to other services. These channels were planned and publicised with strict power and antennae height restrictions as a way to foster local area information services over a radius of about two kilometres, as a specialised type of broadcasting. They were never intended as a first step towards providing wide-coverage, high power services.

Rather than varying the licence conditions of existing low powered open narrowcasting services (licences for which were issued on a first-come, first-served basis for a very low fee), the ABA is addressing interest in higher power open narrowcasting services by making new channels available for allocation wherever demand is strong and spectrum is available. As far as possible the ABA is concentrating available planning resources on the preparation of its licence area plans (LAPs) in timetable order. The ABA believes this approach is consistent with published national planning priorities and is ultimately a more productive use of its resources in terms of benefits to the listening public. The planning priorities were determined in 1993 following wide public consultation.

Tenure of apparatus licences for open narrowcast services

Under the Broadcasting Services Act, commercial and community broadcasting services bands licensees enjoy a presumption of licence renewal and a statutory right of access to spectrum. The transmitter licences necessary to deliver these services are guaranteed by s.102 of the Radcoms Act. These licences are allocated on an individual basis.

By contrast, operators of open narrowcasting services which use broadcasting services bands spectrum do not have a presumption of renewal for the transmitter licence. These services rely upon the ABA making the necessary spectrum available for a specified limited period (the s.34 'drop through' period) and issuing a transmitter li-

cence either under s.100 of the Radcoms Act or according to a price based allocation system determined under s.106 of that Act. Whether issued under s.100 or s.106, these Radcoms licences only remain in force for the period specified by the ABA in its s.34 drop through decision. They cannot be renewed or reallocated unless the ABA makes a further drop-through decision.

The ABA will issue licences under s.100 to applicants in limited circumstances consistent with policy objectives that support public interest (usually non-profit) uses such as for special event transmissions, temporary transmissions by aspirant community broadcasters or the retransmission of services to remedy poor reception under community self help schemes. As noted above, for most other uses the ABA intends to allocate and re-allocate these licences under a price based allocation system to satisfy demand for open narrowcasting services such as racing, tourist information and other specialised broadcasting services which will usually be operated on a business footing. The ABA considers this to be the fairest and most efficient way to allocate these licences.

The ABA has proposed that the time period for long-term price-based allocation of transmitter licences for open narrowcasting services will be five years as this is consistent with current law. It is the period an ABA opinion on the category of a service remains in force and also represents the longest continuous duration possible (without renewal) for the issue of a transmitter licence under the Radcoms Act.

In proposing a five year period the ABA's intention was also to provide licensees with a period long enough to recoup investment costs, while retaining flexibility to put the spectrum to other uses in the future as and when the need might arise. For example, a LAP may require variation such that the spectrum must be resumed for another use or an open narrowcasting service might cease being provided under the licence. The ABA has been seeking comment on the licence period in its licence area planning process and will consider submissions seeking a different period or periods for long-term (post LAP) open narrowcasting opportunities.