



## New **local presence licence condition** for regional commercial radio

ACMA has imposed an additional licence condition on regional commercial radio broadcasters. The condition requires licensees to keep ongoing records of their levels of local presence on an ongoing basis and to maintain existing levels of local presence in their licence areas in certain circumstances.

The licence condition requires a licensee affected by a 'trigger event' to maintain the 'existing level of local presence', which is defined in terms of the staffing levels and studio and other production facilities that existed in the three-month period before the trigger event. The condition also provides some flexibility for broadcasters in the way that they comply with the local presence requirement.

The proposed condition is part of the new obligations on regional commercial radio licensees introduced by the *Broadcasting Services Amendment (Media Ownership) Act 2006*. The aims of the new obligations include ensuring regional and rural communities throughout Australia receive programs about matters of local significance and that a local presence is maintained.

ACMA has considered representations made by regional commercial radio

broadcasters on a proposed licence condition released in February 2007. Significant changes from the proposed condition include a provision for review and the reduction of the retention period for records from seven to three years.

A copy of the licence condition has been sent to all regional commercial radio licensees and ACMA is publishing it on its website and in the *Commonwealth Gazette*. The commencement date of the licence condition is 1 April 2007 for the record-keeping requirements for all regional commercial radio broadcasters. The remaining requirements for trigger event-affected regional commercial radio broadcasters came into effect on the proclamation date announced by the Minister for Communications, Information Technology and the Arts.

A trigger event is a transfer of licence, formation of a new registrable media group where a regional commercial radio broadcasting licence is in the group or a change of controller of a registrable media group, where a regional commercial radio broadcasting licence is in the group.

From the proclamation date, licensees affected by a trigger event must comply with:

- a licence condition requiring them to maintain an existing level of local presence
- minimum service standards for local news and information specified in the Act. For example, affected licensees will need to broadcast at least 12.5 minutes of local news for a minimum of five days a week.

Regional commercial radio licensees were given written notice of ACMA's intention to impose a new local presence licence condition and the opportunity to comment on a proposed condition. Ten submissions were received, including from Commercial Radio Australia. Substantive issues raised by submissions included the definition of 'studios and other production facilities', staff levels, record keeping and reporting, and provision for review.

The local presence licence condition is contained in the *Broadcasting Services (Additional Regional Commercial Radio Licence Condition – Local Presence) Notice 22 March 2007*. The major features of the condition are:

- the existing level of local presence is defined by reference to staffing levels and production facilities
- a compliance regime comprising initial

and annual reports for trigger event-affected licensees

- record-keeping obligations for all regional commercial radio licensees (from 1 April 2007 licensees must keep records of their existing level of local presence on an ongoing basis and retain these records for a period of six months or, if a trigger event occurs, three years).
- reporting obligations for licensees affected by a trigger event
- provision for review.

From 1 January 2008, a local content licence condition will require all regional commercial radio licensees to broadcast the applicable number of hours of material of local significance. ACMA will consult on a proposed local content licence condition over the next few months. ACMA is continuing work on this and other elements of the government's media reform package.

More information is on the ACMA website at [www.acma.gov.au](http://www.acma.gov.au) (go to For licensees & industry: Licensing & regulation > Media ownership & control > About media reform).

## ACCC and ACMA intend to share **media merger** information

The Australian Competition and Consumer Commission (ACCC) and ACMA announced recently that they will facilitate the flow of information between the two regulators during media merger investigations. Information sharing will help ensure each agency's investigations are fully effective. In particular, the ACCC and ACMA will ask parties involved in a media merger who provide confidential information to agree to that information being provided to the other agency.

The ACCC and ACMA may be

considering the same media mergers at the same time. While they will conduct separate investigations, there is some overlap in the tests and processes they will apply. Access to all available information will help ensure that decisions by the two regulators are consistent to the extent that the tests and processes overlap and reduce the risk that different information is provided to the two agencies.

The information-sharing arrangements will also help to avoid adding unnecessary

complication to transactions. Tests and processes in prior approvals of transactions, particularly the use of enforceable undertakings, will be of most use to transacting parties if they are coordinated as closely as possible.

The ACCC will consider whether a media merger substantially lessens competition in a market in contravention of section 50 of the *Trade Practices Act 1974*.

ACMA will consider whether a media merger contravenes any of the

prohibitions in the *Broadcasting Services Act 1992*, as amended in October 2006. These include a prohibition on mergers that result in an unacceptable media diversity situation—less than five independent media operations or groups in metropolitan areas, and less than four in regional areas. In addition, a person will not be permitted to control more than two out of three types of media operations—free-to-air television, radio or associated newspapers—in any radio licence area.