



# Broadcasting (Ownership and Control) Act 1988

No. 56 of 1988

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# Broadcasting (Ownership and Control) Act 1988

No. 56 of 1988

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## An Act to amend the *Broadcasting Act 1942*, and for related purposes

[Assented to 15 June 1988]

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

### Short title etc.

1. (1) This Act may be cited as the *Broadcasting (Ownership and Control) Act 1988*.

(2) In this Act, "Principal Act" means the *Broadcasting Act 1942*<sup>1</sup>.

### Commencement

2. (1) Section 1, this section and sections 3, 4, 5, 8, 9 and 13, subsection 14 (1) and sections 15, 16, 17, 18 and 19 commence on the day on which this Act receives the Royal Assent.

(2) Subsections 6 (1) and 7 (1) and sections 10 and 11 shall be taken to have commenced on 29 October 1987.

(3) The remaining provisions of this Act commence on a day or days to be fixed by Proclamation.

**Repeal of Division heading**

3. The heading to Division 1 of Part IIIB is repealed.

4. After section 89D of the Principal Act the following headings and sections are inserted:

**“PART IIIBA—OWNERSHIP AND CONTROL**

***“Division 1—Preliminary***

**Interpretation**

“89E. (1) In this Part, unless the contrary intention appears:

‘Associated Newspaper Register’ means the register maintained under section 89S;

‘control’ includes control as a result of, or by means of, trusts, agreements, arrangements, understandings and practices, whether or not having legal or equitable force and whether or not based on legal or equitable rights and:

- (a) when used in relation to a commercial licence—has the meaning given by section 89H;
- (b) when used in relation to a newspaper—has the meaning given by section 89J; and
- (c) when used in relation to a company—has the meaning given by section 89K;

‘debentures’, in relation to a company, includes:

- (a) mortgages, and instruments charging, or giving rise to a charge on, assets of the company, to secure the payment of money by the company; and
- (b) debenture stock, bonds, notes and any other securities of the company, whether constituting a charge on the assets of the company or not;

‘financial interest’ means a shareholding interest or a loan interest;

‘interest’ means:

- (a) when used in relation to a commercial radio licence or a newspaper—a shareholding interest or a voting interest; and
- (b) when used in relation to a commercial television licence—a shareholding interest, a voting interest or a loan interest;

‘joint venture’ means an enterprise carried on by 2 or more persons in common otherwise than as partners;

‘joint venturer’, in relation to a joint venture, means a person who is a party to the joint venture;

‘loan interest’ has the meaning given by section 89G;

'maximum number of commercial radio licences in a State that a person may hold' has the meaning given by section 89U;

'most recently available official census count results', in relation to a notice, means the results, as published by the Australian Statistician, of the most recent census count of the Australian population:

- (a) that has been taken; and
- (b) whose results have been published by the Australian Statistician;

'newspaper' means a publication that:

- (a) is in the English language;
- (b) is published on at least 4 days in each week; and
- (c) is sold as a newspaper;

'newspaper associated with the service area of a commercial licence' has the meaning given by subsection (8);

'pair of licences' means a pair of licences consisting of:

- (a) a commercial radio licence and a commercial television licence; or
- (b) 2 commercial radio licences;

'prescribed interest' has the meaning given by section 89F;

'publisher', in relation to a newspaper, means:

- (a) if the newspaper is published by a company—the company;
- (b) if the newspaper is published by a partnership—a member of the partnership;
- (c) if the newspaper is published by a joint venture—a joint venturer; or
- (d) if the newspaper is published by a natural person—the person;

'shareholding interest' has the meaning given by section 89G;

'substantial market in common' has the meaning given by section 89T;

'voting interest' has the meaning given by section 89G.

"(2) For the purposes of this Part, where a person is appointed as a proxy of a member of a company to cast a vote instead of the member at a meeting of the company, the proxy shall not be taken, merely because of the appointment, to be in a position to exercise control of the vote.

"(3) For the purposes of this Part, a person who is beneficially entitled to, or is one of the persons beneficially entitled to, any shares shall be deemed (but not to the exclusion of any other person) to be in a position to exercise control of the voting rights in respect of those shares.

"(4) Express references in this Part to companies shall not be taken to indicate that references to persons do not include references to companies.

"(5) For the purposes of this Part, a licence granted by way of renewal of a licence shall be deemed to be a continuation of the first-mentioned licence.

“(6) A reference in this Part to shares in a company, or in a particular company, shall be read as a reference to shares in, or stock forming part of, the capital of the company, or of the particular company.

“(7) A reference in this Part to an amount paid on shares in a company shall be read as including a reference to an amount treated by the company as having been so paid.

“(8) For the purposes of this Part, a newspaper shall be taken to be associated with the service area of a commercial licence if and so long as the name of the newspaper is entered in the Associated Newspaper Register as a newspaper that is associated with the service area of the licence.

“(9) Where less than 50% of the circulation of a publication is by way of sale, the publication shall be taken not to be a newspaper for the purposes of this Part.

“(10) Where, having regard to the ownership, editorial control and style of 2 or more publications, it is reasonable to conclude that the publications should be treated as a single publication, the publications shall be taken to constitute a single publication for the purposes of the definition of ‘newspaper’ in subsection (1).

“(11) For the purposes of this Part, a person is in a position to exercise control of more than a specified percentage of the general meeting votes in a company if the person is in a position to exercise control of more than that percentage of the maximum number of votes that could be cast on a poll at, or arising out of, a general meeting of the company and this is so whether the person is in such a position as regards all questions that could be submitted to such a poll or as regards one or more only of such questions.

### **Prescribed interests**

“89F. (1) For the purposes of this Part, a person has a prescribed interest in a commercial radio licence if the person is:

- (a) the holder of the licence;
- (b) in a position to exercise control, either directly or indirectly, of the licence;
- (c) in a position to exercise control of more than 15% of the general meeting votes in the company holding the licence; or
- (d) the holder of shareholding interests in the company holding the licence exceeding in amount 15% of the total of the amounts paid on all shares in that company.

“(2) For the purposes of this Part, a person has a prescribed interest in a commercial television licence if the person is:

- (a) the holder of the licence;
- (b) in a position to exercise control, either directly or indirectly, of the licence;
- (c) in a position to exercise control of more than 5% of the general meeting votes in the company holding the licence;

- (d) the holder of financial interests in the company holding the licence exceeding in amount 5% of the total of the amounts of all the financial interests in that company that would exist if sections 89N and 89P had not been enacted; or
- (e) the holder of shareholding interests in the company holding the licence exceeding in amount 5% of the total of the amounts paid on all shares in that company.

“(3) For the purposes of this Part, a person has a prescribed interest in a newspaper if the person is:

- (a) where the newspaper is published by a company:
  - (i) in a position to exercise control of more than 15% of the general meeting votes in the company publishing the newspaper; or
  - (ii) the holder of shareholding interests in the company publishing the newspaper exceeding in amount 15% of the total of the amounts paid on all shares in that company;
- (b) in any case—the publisher of the newspaper; or
- (c) in any case—in a position to exercise control, either directly or indirectly, of the newspaper.

#### **Shareholding interests, voting interests and loan interests**

“89G. (1) For the purposes of this Part:

- (a) a person has a shareholding interest in a company if the person is beneficially entitled to, or is beneficially entitled to an interest in, any shares in the company (whether or not the whole or any part of the legal ownership of the shares is vested in the person); and
- (b) the amount of a shareholding interest is an amount equal to the value of the shares, or of the person's interest in the shares, as the case requires, on the basis that the value of the shares is equal to the amount paid on the shares.

“(2) For the purposes of this Part:

- (a) a person has a voting interest in a company if the person is in a position to exercise control of votes that could be cast on a poll at, or arising out of, a general meeting of the company as regards all questions that could be submitted to such a poll or as regards one or more only of such questions;
- (b) the voting interest shall be taken to be of a particular kind according to the question or questions to which it relates; and
- (c) the amount of the voting interest is the number of those votes.

“(3) For the purposes of this Part but subject to subsection (4):

- (a) a person has a loan interest in a company holding a commercial television licence if the person is, or would be, beneficially entitled to, or to a part of, money of any of the following descriptions payable or becoming payable by the company (whether the money

is presently payable or not, whether the liability of the company is unconditional or not and whether or not there is security for the payment of the money):

- (i) money, other than interest, payable under, or secured by, debentures of the company;
  - (ii) other money payable by the company, being money payable by way of repayment of money lent to, or deposited with, the company by any person; or
  - (iii) money payable under a negotiable instrument to the extent that the instrument is in respect of, or the liability to pay that money is in substitution for, a liability to pay money to which subparagraph (i) or (ii) relates; and
- (b) the amount of the loan interest is the amount of that money or of that part of that money, as the case requires.
- “(4) The money to which subsection (3) relates does not include:
- (a) money payable to a bank in respect of an overdraft; or
  - (b) money payable to a person as consideration in respect of the supply by that person of equipment for use in providing the service pursuant to a commercial television licence.

#### **Control of commercial licence**

“89H. (1) For the purposes of this Part, a person shall be deemed to be in a position to exercise control of a commercial licence if the person is:

- (a) the holder of the licence;
- (b) in a position to exercise control of the company that holds the licence; or
- (c) in a position to exercise control of:
  - (i) the operations of the licensee in providing the service pursuant to the licence; or
  - (ii) the selection or provision of the programs to be broadcast pursuant to the licence.

“(2) Paragraph (1) (c) does not apply to a person in relation to a licence:

- (a) in the case of an advertiser or other person sponsoring a program or programs under an agreement made in the ordinary course of business—by reason only of his or her rights in respect of that program or those programs or of the fact that he or she has, under a contract relating to his or her sponsorship of that program or those programs, rights that are reasonably necessary to ensure to him or her the full commercial benefit of that sponsorship; or
- (b) in the case of a person carrying on the business of supplying radio or television programs—by reason only of his or her rights under a contract for the supply by him or her of programs to be broadcast pursuant to the licence, being rights created in good faith in the

ordinary course of that business for the purpose only of protecting his or her commercial interests as a supplier of programs.

“(3) In this section:

- (a) a reference to the operations of a licensee in providing a service pursuant to a commercial television licence includes a reference to the operations of the licensee in providing a service pursuant to an MCS permit held by the licensee in respect of the licence; and
- (b) a reference to television programs to be broadcast pursuant to a commercial television licence includes a reference to programs to be broadcast pursuant to an MCS permit held by the licensee in respect of the licence.

#### **Control of newspaper**

“89J. For the purposes of this Part, a person shall be deemed to be in a position to exercise control of a newspaper if the person is:

- (a) where the publisher is a company—in a position to exercise control of the company;
- (b) in any case—the publisher of the newspaper; or
- (c) in any case—in a position to exercise control, either directly or indirectly, of:
  - (i) the operations of the publisher in publishing the newspaper; or
  - (ii) the selection or provision of the material to be published in the newspaper.

#### **Control of company**

“89K. (1) For the purposes of this Part (other than subsections 90G (2), (5) and (6) and 92D (2), (5) and (6)), a person who:

- (a) is in a position to exercise control of more than 15% of the general meeting votes in a company;
- (b) has shareholding interests in a company, being shareholding interests in respect of shares of a kind carrying voting rights on all questions at general meetings of the company, exceeding in amount 15% of the total of the amounts paid on all shares in the company of a kind carrying such voting rights; or
- (c) has shareholding interests in a company exceeding in amount 15% of the total of the amounts paid on all shares in the company;

shall be deemed (but not to the exclusion of any other person) to be in a position to exercise control of that company, of any votes, in respect of another company, of which that company is in a position to exercise control and of all acts and operations of that company.

“(2) For the purposes of this section, where a person is deemed, by any application or applications of this section, to be in a position to exercise control of a company that has a shareholding interest in another company,

that person shall be deemed (but not to the exclusion of any other person) to have that shareholding interest.

“(3) For the purposes of this section:

- (a) in ascertaining the votes, in respect of a company, of which a person is in a position to exercise control, there shall be included any votes in respect of that company of which that person is deemed, by any application or applications of this section, to be in a position to exercise control; and
- (b) in ascertaining the shareholding interests of a company in another company, there shall be included any shareholding interest that the first-mentioned company is deemed, by any application or applications of this section, to have in that other company.

**Companies limited by guarantee**

“89L. (1) In relation to a company limited by guarantee, this Part has effect as if every such company had a share capital and as if every member of such a company, and every person having a beneficial interest in any right or interest of a member of such a company in or in relation to a company, had a shareholding interest in the company of an amount bearing to the total of the amounts paid on all shares in the company the proportion ascertained in accordance with whichever of subsections (2) to (5) (inclusive) is applicable or, if more than one of those subsections is applicable, the greatest of the proportions ascertained in accordance with the subsections that are so applicable.

“(2) This subsection applies in relation to a member of any company limited by guarantee, and the proportion to be ascertained under this subsection in relation to a member is a proportion equal to the proportion of the property of the company distributable among members of the company to which the member would be entitled in the event of a voluntary winding-up of the company.

“(3) This subsection applies in relation to a member of a company limited by guarantee where, under the memorandum and articles of association of the company, any profits of the company are to be, or may be, paid or credited to a member or members otherwise than as dividends on shares, and the proportion to be ascertained under this subsection in relation to a member is the proportion that the share, or maximum share, of any such profits of the company to which the member is entitled, or could, having regard to the memorandum and articles of association of the company, become entitled, to have paid or credited to him or her as a member bears to the total of those profits.

“(4) This subsection applies in relation to a member of a company limited by guarantee that does not have a fixed capital divided into shares but the undertaking of which is, or purports to be, divided into shares or interests, and the proportion to be ascertained under this subsection in

relation to a member is the proportion of the undertaking of the company that is represented by the shares or interests of the member.

“(5) This subsection applies in relation to a person who has a beneficial interest in any right or interest of a member in or in relation to a company limited by guarantee, and the proportion to be ascertained in accordance with this subsection is the proportion that would be applicable under subsection (1) in relation to the person if the person was entitled as a member of the company, in lieu of the member concerned, to that right or interest, or so much of that proportion as corresponds with the extent of the person’s beneficial interest, as the case may require.

“(6) Nothing in this section limits any operation that this Part has, apart from this section, in relation to a company limited by guarantee.

“(7) In this section:

‘company limited by guarantee’ includes a company limited by both shares and guarantee.

#### **Shares held by trustees of superannuation funds**

“89M. For the purposes of this Part, a company shall be deemed (but not to the exclusion of any other person) to be beneficially entitled to, or to an interest in, shares in another company where the shares are, or the interest is, owned by the trustees of, or otherwise held directly or indirectly for the benefit of, a fund maintained wholly or partly for the purpose of providing pensions, retiring allowances or other personal benefits to or in respect of all or any employees or directors of the first-mentioned company.

#### **Tracing of shareholding interests through a series of companies**

“89N. (1) For the purposes of this Part (other than section 89K and subsections 90G (2), (5) and (6) and 92D (2), (5) and (6)), where a person has shareholding interests in a company that has shareholding interests in another company, that person shall be deemed to have shareholding interests in that other company (in addition to any other shareholding interests) of an amount that bears to the amount of the shareholding interests of the first-mentioned company in that other company the same proportion as the amount of the shareholding interests of that person in the first-mentioned company bears to the total of the amounts paid on all shares in the first-mentioned company.

“(2) In ascertaining for the purposes of the application of subsection (1) the extent and amount of the shareholding interests of a company in another company, there shall be taken into account any shareholding interest which that first-mentioned company is to be deemed to have in that other company by any other application or applications of this section.

#### **Indirect loan interests in licensee companies**

“89P. For the purposes of this Part, a person who is in a position to exercise control of a company that has a loan interest in a company holding a commercial television licence shall be deemed (but not to the exclusion of any other person) to have that loan interest.

**Registered lenders**

“89Q. (1) The Tribunal shall keep a register for the purposes of this section.

“(2) The Tribunal may, in its discretion, but subject to subsection (3), upon application by a person in accordance with the regulations, register the person for the purposes of this section.

“(3) The Tribunal shall not register a person for the purposes of this section unless it is satisfied that the person is not, and is not likely to be, whether alone or in association with any other person or persons, in a position to exercise, either directly or indirectly, a significant influence on any company holding a commercial television licence.

“(4) The Tribunal shall register a person by entering in the register:

(a) particulars of:

- (i) the name and address of the person;
- (ii) where the person is a body corporate—the names of the directors and secretary of the body corporate; and
- (iii) if the person has a loan interest in a company holding a commercial television licence—the name of the company and the amount of the loan interest;

(b) the date of the entry; and

(c) such other matters as the Tribunal thinks fit.

“(5) A registration under subsection (2) remains in force until the registration is cancelled by the Tribunal under this section.

“(6) Where:

- (a) a registered lender who is not the holder of a loan interest in a company holding a commercial television licence becomes the holder of such an interest;
- (b) there is an increase or decrease in the proportion that the amount of the loan interests held by a registered lender in a company holding a commercial television licence bears to the total of the amounts of all the loan interests in that company that would exist if section 89P had not been enacted;
- (c) the amount of the loan interests held by a registered lender in a company holding a commercial television licence increases or decreases;
- (d) a registered lender ceases to have a loan interest in a company holding a commercial television licence; or
- (e) a change occurs in the particulars referred to in subparagraph (4) (a) (i) or (ii) entered in the register;

the registered lender shall, not later than 21 days after the occurrence of the event concerned, or within 5 business days after the lender becomes aware of the occurrence of the event concerned, whichever is the later,

lodge with the Tribunal a notice in writing setting out particulars of that event.

“(7) A person who fails to comply with subsection (6) is guilty of a separate offence in respect of each day (including the day of a conviction under this subsection or any subsequent day) during which the failure continues.

“(8) The Tribunal shall enter in the register the information set out in a notice lodged under subsection (6) and may at any time correct any error in, or omission from, the register.

“(9) So long as a person is a registered lender, in ascertaining for the purposes of this Part (other than this section) the interest held by the person in a company holding a commercial television licence, there shall be disregarded any loan interest of the person in the company, including any loan interest that, but for this subsection, the person would be deemed to have in the company by the application of section 89P.

“(10) The Tribunal may at any time, in its discretion, upon application by the registered lender or of its own motion, by notice in writing served on the person concerned, cancel the registration of a registered lender.

“(11) The Tribunal shall maintain the register in the prescribed manner at such place or places as the Tribunal determines.

“(12) A person may inspect and make copies of, or take extracts from, the register.

“(13) In this section:

‘business day’, in relation to the lodgment of a notice by a person, means a day that is not:

- (a) a Saturday or a Sunday; or
- (b) a public holiday in the place where the principal office of the Tribunal is situated;

‘registered lender’ means a person who is registered under this section.

### **Approved investments**

“89R. (1) A person may apply to the Tribunal, in accordance with the regulations, for a certificate under this section authorising the person to hold interests in a company holding a commercial television licence.

“(2) On receipt of an application under this section relating to interests in a company, the Tribunal may, in its discretion, but subject to subsections (3) and (4), issue a written certificate to the applicant authorising the person to hold any or all of the following, as specified in the certificate, namely:

- (a) shareholding interests in the company amounting to a specified amount;
- (b) voting interests in the company amounting to a specified amount;
- (c) loan interests in the company amounting to a specified amount.

“(3) A certificate under this section shall not authorise a person to hold interests in a company holding a commercial television licence unless:

- (a) the licence is one of 2 or more commercial television licences having service areas that are coextensive or substantially coextensive; and
- (b) the Tribunal is satisfied that the person is not, and is not likely to be, whether alone or in association with any other person or persons, in a position to exercise, either directly or indirectly, a significant influence on that company.

“(4) A certificate under this section shall not authorise a person to hold interests in a company such that, if the person were the holder of those interests, or of those interests together with any interests for the time being authorised by another certificate or other certificates issued under this section to the person, the person would be:

- (a) in a position to exercise control of more than 10% of the general meeting votes in the company;
- (b) the holder of financial interests in the company exceeding in amount 10% of the total of the amounts of all the financial interests in the company that would exist if sections 89N and 89P had not been enacted; or
- (c) the holder of shareholding interests in the company exceeding in amount 10% of the total of the amounts paid on all shares of the company.

“(5) A certificate under this section may be made subject to the condition that it ceases to have effect on a specified date, being not less than 12 months after the date on which the certificate is issued.

“(6) If, at any time after a certificate has been issued authorising a person to hold interests in a company, the Tribunal becomes aware of circumstances by reason of which it would be prohibited by subsection (3) from issuing a certificate authorising the person to hold those interests, the Tribunal shall, by notice in writing, revoke the certificate if it would be prohibited by subsection (3) from issuing a certificate authorising the person to hold the interests to which the first-mentioned certificate relates.

“(7) The revocation of a certificate under subsection (6) takes effect at the expiration of the period of 6 months after the date of service of the notice of revocation or such further period as the Tribunal, on application, allows by notice in writing served on the holder of the certificate within that period of 6 months.

“(8) So long as a person:

- (a) holds interests in the company holding a commercial television licence as authorised by a certificate in effect under this section; and
- (b) does not hold any interest in the company otherwise than as so authorised;

then, for the purposes of this Part, the person shall not be taken, by reason only of the application of paragraph 89F (2) (c), (d) or (e), to have a prescribed interest in the licence.

“(9) The Tribunal shall make available for public inspection copies of all certificates issued under this section.

**Newspapers associated with commercial licence service areas**

“89S. (1) The Tribunal shall establish and maintain a register to be known as the Associated Newspaper Register.

“(2) Where the Tribunal is satisfied that not less than 50% of the circulation of a newspaper is within the service area of a commercial licence, the Tribunal shall enter the name of the newspaper in the Associated Newspaper Register as a newspaper that is associated with the service area of that licence.

“(3) Where:

- (a) the Tribunal makes an entry under subsection (2) in relation to a newspaper and a commercial licence;
- (b) on or after:
  - (i) if the licence is a commercial television licence—28 November 1986; or
  - (ii) if the licence is a commercial radio licence—29 October 1987;

and before the making of the entry, a change in the service area of the licence (other than a change consisting of an extension under section 94S or 94ZH) took place;

- (c) the Tribunal is satisfied that, at all times during the period since the change in the service area, the entry could (assuming that this section had been in force) have been made; and
- (d) the Tribunal would not make the entry, and the Tribunal is satisfied that the entry would not have been made at any time during the period since the change in the service area, if the change in the service area were disregarded;

the Tribunal shall, after the entry, make another entry stating that the commercial licence and the newspaper are affected by an eligible service area change.

“(4) Where:

- (a) the Tribunal has made an entry under subsection (3); and
- (b) at any time while the entry under subsection (2) is, or, but for subsection (8), would be, in force, the Tribunal is satisfied that the entry under subsection (2) could be made if the change in the service area were disregarded;

the Tribunal shall cancel the entry under subsection (3).

“(5) Where:

- (a) the Tribunal makes an entry under subsection (2) in relation to a newspaper and a commercial television licence that was granted pursuant to section 94ZC or 94ZG; and
- (b) the Tribunal is satisfied that, at all times since the grant of the commercial television licence, the entry could (assuming that this section had been in force) have been made;

the Tribunal shall, after the entry, make another entry stating that the commercial television licence and the newspaper are affected by consolidation.

“(6) Where:

- (a) in relation to a particular licence and newspaper, the Tribunal first makes an entry under subsection (2); and
- (b) the Tribunal is satisfied that, if this section had been in force during the period commencing on:
  - (i) if the licence is a commercial television licence—28 November 1986; or
  - (ii) if the licence is a commercial radio licence—29 October 1987;

and ending immediately before the day on which the entry is made, the entry could have been made during the whole of that period or a part of that period ending at the end of that period;

the Tribunal shall, after the entry and any entry under subsection (3) or (5), make another entry stating that the whole or the part of the period is a notional association period in relation to the licence and the newspaper.

“(7) Subject to subsection (8), an entry in the Associated Newspaper Register has effect from the day on which the entry is made.

“(8) Where:

- (a) a person holds interests or directorships immediately before the day on which an entry under subsection (2) is made in the Associated Newspaper Register; and
- (b) the holding of those interests or directorships by the person would, but for this subsection, result in a contravention by the person on that day of section 92JB by virtue of subsection 92JB (2) or (3) or a contravention of section 92JD by virtue of subsection 92JD (2) or (3);

the entry has effect in respect of the continued holding of those interests or directorships by the person only from the end of the period of 6 months commencing on the day on which the entry is made.

“(9) A person:

- (a) on payment of a prescribed fee (if any), may inspect the Associated Newspaper Register; and
- (b) on payment of a prescribed fee (if any), is entitled to be given a copy of, or an extract from, any entry in the Associated Newspaper Register.

“(10) The Tribunal shall review the Associated Newspaper Register on a quarterly basis and shall make any alterations to the Register that the Tribunal considers necessary as a result of any such review.

“(11) The Tribunal may supply copies of or extracts from the Associated Newspaper Register certified by the Chairman and a copy or extract so certified is admissible in evidence in all courts and proceedings without further proof or production of the original.

“(12) A reference in subsection (8) to a person holding an interest includes a reference to a person being in a position to exercise control of a commercial licence or being in a position to exercise control of a newspaper.

**Licences having a substantial market in common**

“89T. (1) For the purposes of this Part, a pair of licences has a substantial market in common if there is in force a declaration by the Minister under subsection (2) to that effect.

“(2) The Minister may, by notice published in the *Gazette*, declare that a pair of licences specified in the notice has a substantial market in common.

“(3) The Minister shall not declare under subsection (2) that a pair of licences has a substantial market in common unless:

- (a) the service areas of the licences overlap; and
- (b) the Minister is satisfied that more than 30% of the population of the service area of one of the licences is also within the service area of the other licence.

“(4) In exercising powers under subsection (2), the Minister shall:

- (a) have regard to the most recently available official census count results;
- (b) as soon as practicable after the commencement of this section, determine whether, in each case where the service areas of a pair of licences overlap, more than 30% of the population of the service area of one of the licences is also within the service area of the other licence; and
- (c) as soon as practicable after making a determination, publish an appropriate notice under subsection (2) to give effect to the determination.

“(5) Where:

- (a) the Minister makes a declaration under subsection (2) in relation to a commercial radio licence and a commercial television licence;
- (b) before the making of the declaration, an extension of the service area of the commercial television licence took place under section 94S or 94ZH;
- (c) the Minister is satisfied that, at all times during the period since the extension of the service area, the declaration could (assuming that this section had been in force) have been made; and

- (d) the Minister would not make the declaration, and the Minister is satisfied that the declaration would not have been made at any time during the period since the extension of the service area, if the extension of the service area were disregarded;

the Minister shall, in the notice referred to in subsection (2), also declare that the pair of licences specified in the notice is affected by aggregation.

“(6) Where:

- (a) the Minister has made a declaration under subsection (2) in relation to a commercial radio licence and a commercial television licence;
- (b) after the making of the declaration, an extension of the service area of the commercial television licence takes place under section 94S or 94ZH; and
- (c) the Minister is satisfied that, because of the extension, more of the population of the service area of one of the licences is also within the service area of the other licence;

the Minister shall, by notice published in the *Gazette*, declare that the pair of licences is affected by aggregation.

“(7) Where:

- (a) the Minister makes a declaration under subsection (2) in relation to a commercial radio licence and a commercial television licence that was granted pursuant to section 94ZC or 94ZG; and
- (b) the Minister is satisfied that, at all times since the grant of the commercial television licence, the declaration could (assuming that this section had been in force) have been made;

the Minister shall, in the notice referred to in subsection (2), also declare that the pair of licences specified in the notice is affected by consolidation.

“(8) Where:

- (a) in relation to a particular pair of licences, the Minister first declares under subsection (2) that the pair of licences has a substantial market in common; and
- (b) the Minister is satisfied that, if this section had been in force during the period commencing on 29 October 1987 and ending immediately before the day on which the declaration is made, the declaration could have been made during the whole of that period or a part of that period ending at the end of that period;

the Minister shall, in the notice referred to in subsection (2), also declare that the whole or the part of the period is a notional pairing period in relation to the licences.

“(9) Subject to subsection (10), a declaration under this section has effect from the day on which the declaration is published in the *Gazette*.

“(10) Where:

- (a) a person holds interests or directorships immediately before the day on which a declaration under subsection (2) is published in the *Gazette*; and
  - (b) the holding of those interests or directorships by the person would, but for this subsection, result in a contravention by the person on that day of section 90C by virtue of subsection 90C (2), a contravention of section 90F by virtue of subsection 90F (1AA), a contravention of section 92JB by virtue of subsection 92JB (1) or a contravention of section 92JD by virtue of subsection 92JD (1);
- the declaration has effect in respect of the continued holding of those interests or directorships by the person only from the end of the period of 6 months commencing on the day on which the declaration is published in the *Gazette*.

“(11) Where:

- (a) but for this subsection, subsection (10) would apply in relation to a person in relation to directorships;
  - (b) the person held the directorships immediately before the commencement of subsection 7 (2) of the *Broadcasting (Ownership and Control) Act 1988*; and
  - (c) the holding of those directorships by the person at that time resulted in a contravention of section 90F by virtue of subsection 90F (1AA) (as in force at that time);
- subsection (10) does not apply in relation to the person in relation to those directorships.

“(12) A reference in subsection (10) to a person holding an interest includes a reference to a person being in a position to exercise control of a licence.

“(13) In this section:

- ‘pair of licences’ has the meaning that that expression would have if, in the definition of that expression in subsection 89E (1):
- (a) the reference to a commercial radio licence included a reference to a proposed commercial radio licence; and
  - (b) the reference to a commercial television licence included a reference to a proposed commercial television licence;
- in respect of which a notice under section 82 has been published.

**Maximum number of commercial radio licences in a State that a person may hold**

“89U. (1) For the purposes of this Part, the maximum number of commercial radio licences in a State that a person may hold is the number specified in respect of the State under paragraph (2) (b).

“(2) The Minister may, by notice published in the *Gazette*:

- (a) determine a number for a State as the number of commercial radio licences in the State; and

- (b) specify a number as the maximum number of commercial radio licences in the State that a person may hold.

“(3) The number specified under paragraph (2) (b) for a State shall be the largest whole number that is not more than one half of the number determined under paragraph (2) (a) for the State.

“(4) For the purposes of determining the number of commercial radio licences in a State under paragraph (2) (a), 2 or more commercial radio licences in the State having the same service area shall be counted as one licence only.

“(5) The Minister shall publish a notice under subsection (2) in relation to each State as soon as practicable after the commencement of this section.

“(6) Subject to subsection (7), a notice under subsection (2) has effect from the day on which the notice is published in the *Gazette*.

“(7) Where:

- (a) a person holds interests or directorships immediately before the day on which a notice under subsection (2) is published in the *Gazette*; and
- (b) the holding of those interests or directorships by the person would, but for this subsection, result in a contravention by the person on that day of section 90C by virtue of subsection 90C (2A) or a contravention of section 90F by virtue of subsection 90F (1AB);

the declaration has effect in respect of the continued holding of those interests or directorships by the person only from the end of the period of 6 months commencing on the day on which the notice is published in the *Gazette*.

“(8) For the purposes of this section, 2 commercial radio licences shall be taken to have the same service area if and only if:

- (a) the licences have the same service area; or
- (b) the service area of one of the licences is wholly within the service area of the other licence and the Minister is satisfied that the service areas of the licences are substantially co-extensive.

“(9) A reference in subsection (7) to a person holding an interest includes a reference to a person being in a position to exercise control of a commercial radio licence.

“(10) For the purposes of this section, the Australian Capital Territory shall be deemed to form part of the State of New South Wales.

#### **Minister to keep notices current**

“89v. The Minister shall ensure that after:

- (a) the publication of a notice under section 82 in relation to a proposed commercial licence;
- (b) the grant of a commercial licence;

- (c) the revocation of a commercial licence;
- (d) a change to the service area of a commercial licence; or
- (e) the publication by the Australian Statistician of new census count results;

such steps (if any) as are necessary are taken, as soon as practicable, to make, vary or revoke notices under subsections 89T (2), 89U (2) or 90 (1B).

**Tribunal to act impartially etc.**

“89W. In the performance of its functions under this Part, the Tribunal shall act fairly and impartially and shall observe the rules of natural justice.

**Tribunal may seek information**

“89X. (1) Where the Tribunal has reason to believe that a person is capable of supplying information, or producing documents, considered by the Tribunal to be necessary to enable it to exercise any of its powers, or perform any of its functions or duties, under this Part, the Tribunal may, by notice in writing served on the person, require the person to supply any such information, or produce any such documents within a specified period (not being less than 21 days after the day of service of the notice) or within such further period as the Tribunal, on application, allows by notice in writing served on the person within that specified period.

“(2) A person who fails to comply with a requirement in a notice served on the person under subsection (1) is guilty of a separate offence in respect of each day (including a day of a conviction under this subsection or any subsequent day) during which the failure continues.

“(3) A person shall be taken not to comply with a requirement made under subsection (1) if, in purported compliance with the requirement, the person supplies information, or (except as provided in the requirement) produces a document, where the person knows that, or is recklessly indifferent to whether or not, the information or document:

- (a) is false or misleading in a material particular; or
- (b) is misleading in a material respect because of the omission of any matter or thing.

“(4) In this section:

‘document’ has the meaning given by subsection 125 (6).”.

**Interpretation**

**5. Section 90 of the Principal Act is amended:**

- (a) by omitting paragraph (1A) (b) and substituting the following paragraph:

“(b) if parts of the service area of a licence are located in different States—the licence shall be taken to be in the State in which the part with the largest population, as determined in accordance with subsection (1B), is located.”;

- (b) by inserting after subsection (1A) the following subsections:

“(1B) Where parts of the service area of a licence are located in different States, the Minister shall, by notice published in the *Gazette*, determine a number as the population of the part of the service area located in each of those States.

“(1C) In exercising powers under subsection (1B), the Minister shall have regard to the most recently available official census count results.

“(1D) Subject to subsection (1E), a notice under subsection (1B) has effect from the day on which the notice is published in the *Gazette*.

“(1E) Where:

- (a) a person holds interests or directorships immediately before the day on which a notice under subsection (1B) is published in the *Gazette*; and
- (b) the holding of those interests or directorships by the person would, but for this subsection, result in a contravention by the person on that day of section 90C by virtue of subsection 90C (2A) or a contravention of section 90F by virtue of subsection 90F (1AB);

the notice has effect in respect of the continued holding of those interests or directorships by the person only from the end of the period of 6 months commencing on the day on which the notice is published in the *Gazette*.

“(1F) A reference in subsection (1E) to a person holding an interest includes a reference to a person being in a position to exercise control of a licence.”.

### **Limitation of interests in commercial radio licences**

6. (1) Section 90C of the Principal Act is amended by omitting subsections (1) and (2) and substituting the following subsections:

“(1) A person contravenes this section if and so long as the person has a prescribed interest in each of 17 or more commercial radio licences.

“(2) A person contravenes this section if and so long as the person has a prescribed interest in each of 2 or more metropolitan commercial radio licences in the same State.”.

(2) Section 90C of the Principal Act is amended:

(a) by omitting subsection (2) and substituting the following subsections:

“(2) A person contravenes this section if and so long as the person has a prescribed interest in each of a pair of commercial radio licences that has a substantial market in common.

“(2A) A person contravenes this section if and so long as the person has a prescribed interest in each of a number of commercial

radio licences in a State exceeding the maximum number of commercial radio licences in the State that a person may hold.”;

(b) by adding at the end the following subsections:

“(6) Subsections (5B), (5C), (5D) and (5E) apply in relation to a contravention of this section by virtue of subsection (2) or (2A) as in force after the commencement of this subsection whether the transaction resulting in the contravention takes place before or after the commencement of this subsection.

“(7) Where:

- (a) a person contravenes this section by having prescribed interests in each of a pair of licences that has a substantial market in common;
- (b) the contravention resulted from a transaction in relation to which section 90J applies to the person;
- (c) the transaction took place during the relevant transition period; and
- (d) the holding of those interests did not, immediately after the transaction took place, result in a contravention by the person of this section by virtue of subsection (2) as in force at that time;

subsections (5B), (5C), (5D) and (5E) apply in relation to the transaction as if:

- (e) references in those subsections to the period of 6 months after the transaction takes place were references to the period of 6 months after the end of the relevant transition period; and
- (f) references in those subsections to an offence against subsection 90J (7E) or (7F) or 90JA (10) in relation to the transaction were references to such an offence committed after the end of the relevant transition period.

“(8) Where:

- (a) a person contravenes this section by virtue of subsection (2A);
- (b) the contravention resulted from a transaction in relation to which section 90J applies to the person; and
- (c) the transaction took place during the relevant transition period;

subsections (5B), (5C), (5D) and (5E) apply in relation to the transaction as if:

- (d) references in those subsections to the period of 6 months after the transaction takes place were references to the period of 6 months after the end of the relevant transition period; and

- (e) references in those subsections to an offence against subsection 90J (7E) or (7F) or 90JA (10) were references to such an offence committed after the end of the relevant transition period.

“(9) For the purposes of this section, the Australian Capital Territory shall be deemed to form part of the State of New South Wales.

“(10) In this section:

‘relevant transition period’ means the period commencing on 29 October 1987 and ending immediately before the commencement of this subsection.”.

### **Directors**

7. (1) Section 90F of the Principal Act is amended by omitting subsection (1) and substituting the following subsections:

“(1) A person contravenes this section if and so long as the person is a director of 2 or more companies that are, between them, in a position to exercise control of each of 17 or more commercial radio licences.

“(1AA) A person contravenes this section if and so long as the person is a director of 2 or more companies that are, between them, in a position to exercise control of each of 2 or more metropolitan commercial radio licences in the same State.”.

(2) Section 90F of the Principal Act is amended by omitting subsection (1AA) and substituting the following subsections:

“(1AA) A person contravenes this section if and so long as the person is a director of 2 or more companies that are, between them, in a position to exercise control of each of a pair of commercial radio licences that has a substantial market in common.

“(1AB) A person contravenes this section if and so long as the person is a director of 2 or more companies that are, between them, in a position to exercise control of each of a number of commercial radio licences in a State exceeding the maximum number of commercial radio licences in the State that a person is permitted to hold.”.

### **Minister may notify population figures**

8. Section 91AAD of the Principal Act is amended:

- (a) by inserting after subsection (6) the following subsection:

“(6A) Where, because of an extension of the service area of a licence under section 94S or 94ZH, the Minister specifies the service area population of the licence in a notice under subsection (1), the Minister shall include in the notice a statement that the licence is affected by aggregation.”;

- (b) by omitting subsection (8) and substituting the following subsections:

“(8) Subject to subsection (9), a notice under this section has effect on the day on which the notice is published in the *Gazette*.

“(9) Where:

- (a) a person holds interests or directorships immediately before the day on which a notice under this section is published in the *Gazette*; and
- (b) the holding of those interests or directorships by the person would, but for this subsection, result in a contravention by the person on that day of section 92 by virtue of paragraph 92 (1) (a) or a contravention of section 92C by virtue of subsection 92C (1);

the notice has effect in respect of the continued holding of those interests or directorships by the person only from the end of the period of 6 months commencing on the day on which the notice is published in the *Gazette*.

“(10) A reference in subsection (9) to a person holding an interest includes a reference to a person being in a position to exercise control of a licence.”.

#### **Limitation of interests in commercial television licences**

9. Section 92 of the Principal Act is amended by inserting after subsection (4A) the following subsection:

“(4AA) Where:

- (a) licences in the same approved market, or whose service areas are in Tasmania, are the subject of a specification by the Minister under paragraph 94B (d) to the effect that they are to be eligible for consolidation with one another in accordance with Division 6 of Part IIIC;
- (b) one or more of the licences is transferred to a person;
- (c) immediately before the transfer, the person did not contravene subsection (1A) or (1B) in relation to any of the licences referred to in paragraph (a) of this subsection; and
- (d) but for this subsection, subsection (4A) would apply in relation to the person as a result of the transfer;

subsection (4A) does not so apply during the period of 6 months after the transfer takes place or such further period as the Tribunal, on application, allows by notice in writing served on the person within that period of 6 months.”.

#### **Limitations on cross media interests that may be held by a person having prescribed interest in a commercial television licence**

10. Section 92FAB of the Principal Act is amended by inserting after subsection (1) the following subsection:

“(1A) Subparagraph (1) (b) (i) does not apply in relation to the holding, on or after 29 October 1987, of prescribed interests in commercial radio licences.”.

**Limitations on cross media directorships**

**11.** Section 92FAD of the Principal Act is amended by inserting after subsection (1) the following subsection:

“(1A) Subparagraph (1) (b) (i) does not apply in relation to the holding, on or after 29 October 1987, of directorships in companies that are in a position to exercise control of commercial radio licences.”.

**12.** After Division 3 of Part IIIA of the Principal Act the following Division is inserted:

***“Division 3A—Cross media rules***

**Limitations on cross media interests**

“92JB. (1) A person contravenes this section if and so long as:

- (a) the person has a prescribed interest in a commercial television licence;
- (b) the person has a prescribed interest in a commercial radio licence; and
- (c) the 2 licences have a substantial market in common.

“(2) A person contravenes this section if and so long as:

- (a) the person has a prescribed interest in a commercial television licence; and
- (b) the person has a prescribed interest in a newspaper that is associated with the service area of the commercial television licence.

“(3) A person contravenes this section if and so long as:

- (a) the person has a prescribed interest in a commercial radio licence; and
- (b) the person has a prescribed interest in a newspaper that is associated with the service area of the commercial radio licence.

“(4) For the purposes of subsection (1), a person shall be taken to have a prescribed interest in a commercial television licence if and only if the person would have a prescribed interest in the licence were the references in subsection 89F (2) to 5% references to 15%.

“(5) A person who contravenes this section otherwise than as a result of a transaction in relation to which section 90J or 92F or subsection (10) applies to the person is guilty of a separate offence in relation to each day (including the day of a conviction under this subsection or any subsequent day) during which the contravention continues.

“(6) Where a person contravenes this section as a result of a transaction in relation to which section 90J applies to the person, subsections 90C (5B), (5C), (5D) and (5E) apply in relation to the contravention as if references in those subsections to section 90C were references to this section.

“(7) Subsections 90C (5B), (5C), (5D) and (5E) apply in relation to a contravention of this section as a result of a transaction in relation to which

section 90J applies whether the transaction takes place before or after the commencement of this section.

“(8) Subsections 90C (5B), (5C), (5D) and (5E) apply, for the purposes of subsection (6) of this section, in relation to a transaction that took place during the relevant transition period as if:

- (a) references in those subsections to the period of 6 months after the transaction takes place were references to the period of 6 months after the end of the relevant transition period; and
- (b) references in those subsections to an offence against subsection 90J (7E) or (7F) or 90JA (10) in relation to the transaction were references to such an offence committed after the end of the relevant transition period.

“(9) Where a person contravenes this section as a result of a transaction in relation to which section 92F applies to the person, subsections 92 (4B), (4C), (4D) and (4E) apply in relation to the contravention as if references in those subsections to section 92 were references to this section.

“(10) Subsections 92 (4B), (4C), (4D) and (4E) apply in relation to a contravention of this section as a result of a transaction in relation to which section 92F applies whether the transaction resulting in the contravention takes place before or after the commencement of this section.

“(11) Subsections 92 (4B), (4C), (4D) and (4E) apply, for the purposes of subsection (9) of this section, in relation to a transaction that took place during the relevant transition period as if:

- (a) references in those subsections to the period of 6 months after the transaction takes place were references to the period of 6 months after the end of the relevant transition period; and
- (b) references in those subsections to an offence against subsection 92F (7E) or (7F) or 92FAA (10) were references to such an offence committed after the end of the relevant transition period.

“(12) This subsection applies to a person in relation to a transaction (whether or not the person is a party to the transaction) if:

- (a) the transaction is in respect of shares in a company that publishes a newspaper, or shares in a company that has an interest in a company that publishes a newspaper; and
- (b) the person is required by section 92JC to give the Tribunal notice of an acquisition by the person of a prescribed interest in the newspaper, being an acquisition arising from the transaction.

“(13) Where a person contravenes this section as a result of a transaction, being a transaction in relation to which subsection (12) applies to the person, the person is guilty of a separate offence in respect of each day (including the day of a conviction under this subsection or any subsequent day) during which the contravention continues:

- (a) if the person is guilty of an offence against subsection 92JC in relation to the transaction—after the day in respect of which the

offence, or the first such offence, is committed and until the day in respect of which the person ceases to be guilty of any further offence against that subsection; or

- (b) in any other case (including a case where the person is guilty of an offence against subsection 92JC (3)) in relation to the transaction but has subsequently ceased to be guilty of any further offence against that subsection—after the end of:
  - (i) if the transaction took place during the relevant transition period—the period of 6 months after the end of the relevant transition period; or
  - (ii) if the transaction takes place after the end of the relevant transition period—the period of 6 months after the transaction takes place;

or such further period as the Tribunal, on application, allows by notice in writing served on the person.

“(14) A person may apply to the Tribunal for an extension of the period referred to in subsection (13):

- (a) if the person is a party to the relevant transaction—before the end of that period; or
- (b) if the person is not a party to the relevant transaction—before the end of that period unless the Tribunal is satisfied that:
  - (i) the person’s failure to apply before the end of that period was due to circumstances beyond the person’s control or occurred through the person’s inadvertence; and
  - (ii) the person gave notice under section 92JC as soon as practicable after becoming aware of the contravention.

“(15) For the purposes of subsections (6), (9), (12) and (13), where a single transaction results in a person having a prescribed interest in 2 or more of the following:

- (a) a newspaper;
- (b) a commercial radio licence;
- (c) a commercial television licence;

the person shall be taken to have first acquired the prescribed interest (if any) in the newspaper, then the prescribed interest (if any) in the commercial radio licence and finally the prescribed interest (if any) in the commercial television licence.

“(16) In this section:

‘relevant transition period’, in relation to a contravention of this section, means:

- (a) in the case of a contravention by virtue of subsection (1)—the period commencing on 29 October 1987 and ending immediately before the commencement of this section;

- (b) in the case of a contravention by virtue of subsection (2)—the period commencing on 28 November 1986 and ending on 30 June 1987; and
- (c) in the case of a contravention by virtue of subsection (3)—the period commencing on 29 October 1987 and ending immediately before the commencement of this section.

**Person having prescribed interest in commercial licence to notify Tribunal of prescribed interest in associated newspaper**

“92JC. (1) A person who has a prescribed interest in a commercial licence shall give the Tribunal notice in writing of the acquisition by the person of a prescribed interest in a newspaper associated with the service area of the licence.

“(2) A notice under subsection (1) shall be given:

- (a) if the acquisition occurs during the relevant transition period—not more than 28 days after the end of the relevant transition period; or
- (b) if the acquisition occurs after the end of the relevant transition period—not more than 28 days after the acquisition occurs.

“(3) A person who fails to comply with subsection (1) is guilty of a separate offence in respect of each day (including the day of a conviction under this subsection or any subsequent day) during which the failure continues.

“(4) In this section:

‘relevant transition period’ means:

- (a) in relation to a notice under subsection (1) in relation to a commercial television licence—the period commencing on 28 November 1986 and ending on 30 June 1987; or
- (b) in relation to a notice under subsection (1) in relation to a commercial radio licence—the period commencing on 29 October 1987 and ending immediately before the commencement of this section.

**Limitations on cross media directorships**

“92JD. (1) A person contravenes this section if and so long as:

- (a) the person is a director of a company that is in a position to exercise control of a commercial television licence;
- (b) the person is also a director of another company that is in a position to exercise control of a commercial radio licence; and
- (c) the 2 licences have a substantial market in common.

“(2) A person contravenes this section if and so long as:

- (a) the person is a director of a company that is in a position to exercise control of a commercial television licence; and
- (b) the person is also:

- (i) a publisher of a newspaper that is associated with the service area of the commercial television licence; or
- (ii) a director of another company that is in a position to exercise control of a newspaper that is associated with the service area of the commercial television licence.

“(3) A person contravenes this section if and so long as:

- (a) the person is a director of a company that is in a position to exercise control of a commercial radio licence; and
- (b) the person is also:
  - (i) a publisher of a newspaper that is associated with the service area of the commercial radio licence; or
  - (ii) a director of another company that is in a position to exercise control of a newspaper that is associated with the service area of the commercial radio licence.

“(4) A person who contravenes this section is guilty of a separate offence in respect of each day (including a day of a conviction under this subsection or any subsequent day) during which the contravention continues.”.

13. Part IIIB of the Principal Act is amended by adding at the end the following Division:

***“Division 7—Grandfathering provisions***

***“Subdivision A—Preliminary***

**Interpretation**

“92ZA. (1) A reference in this Division to a person’s shareholding interest percentage in a company is a reference to the percentage of the total amounts paid on all shares in the company represented by the person’s shareholding interests in the company.

“(2) Section 89N applies in calculating a person’s shareholding interest percentage in a company for the purposes of this Division, but section 89K does not apply in calculating that percentage.

“(3) A reference in this Division to a subsidiary of a company has the same meaning as it would have in the *Companies Act 1981* if, in section 7 of that Act, references to corporations were references to companies.

“(4) Where, whether before or after the commencement of this section, a licence is or was granted to a person under section 99 or 99A of the *Broadcasting and Television Amendment Act 1985* in substitution for another licence or licences held by the person, the following provisions have effect for the purposes of the application of this Division at any time after the substitution:

- (a) the person shall be taken to have held the first-mentioned licence at all times when the person held the other licence or either of the other licences; and

- (b) where the first-mentioned licence is a commercial television licence—any number specified in a notice under section 91AAD as the population of the service area of the old system commercial television station licence for which the first-mentioned licence was substituted shall also be taken to have been specified in that notice in relation to the first-mentioned licence.

“(5) Where:

- (a) a person holds a directorship in a company; and
- (b) immediately after the termination of that directorship (including that directorship as affected by a previous application of this subsection) the person commences to hold another directorship in that company;

then, for the purposes of this Division, the second directorship shall be taken to be part of the first directorship.

“(6) For the purposes of this Division:

- (a) in determining whether a person who is the publisher of a newspaper at a particular time was the publisher of that newspaper at an earlier time, regard shall be had not only to the form and content of the newspaper at each time but also to:
  - (i) the size and area of the circulation of the newspaper at each time;
  - (ii) the means of production and distribution of the newspaper at each time;
  - (iii) the nature of the community served by the newspaper at each time; and
  - (iv) any other matters of relevance; and
- (b) the person shall not be taken to be the publisher of the newspaper at the earlier time unless the publication concerned was a newspaper at the earlier time.

“(7) For the purposes of this Division:

- (a) 2 commercial radio licences shall be taken to be paired under section 89T if the licences have a substantial market in common;
- (b) a commercial television licence and a commercial radio licence shall be taken to be paired under section 89T if the licences have a substantial market in common; and
- (c) a commercial television licence, or a commercial radio licence, and a newspaper shall be taken to be associated under section 89S if the newspaper is associated with the service area of the licence.

“(8) For the purposes of the application of sections 92ZD and 92ZE:

- (a) subsections 91AAD (8) and (9) shall be disregarded; and
- (b) where, after the grant of a licence, the first notice under section 91AAD in relation to the population of the service area of the licence is published, the notice shall, in so far as it relates to the

licence, be taken to have been published at the time of the grant of the licence.

“(9) For the purposes of paragraphs 92ZI (3) (a), (c) and (e) and 92ZJ (3) (a), subsection 89S (8) shall be disregarded.

“(10) For the purposes of paragraphs 92ZK (2) (c), (d) and (e) and 92ZL (2) (h), subsection 89T (10) shall be disregarded.

**“Subdivision B—Radio limits**

**New radio interest limits—introduced by *Broadcasting (Ownership and Control) Act 1988***

“92ZB. (1) A person shall not be taken to be in contravention of section 90C by virtue of subsection 90C (2) (as in force immediately after the commencement of subsection 6 (2) of the *Broadcasting (Ownership and Control) Act 1988*) by reason only of the pairing of 2 commercial radio licences under section 89T and one or more of the following:

- (a) the holding by the person of either of the licences, where, immediately before 29 October 1987:
  - (i) the person held that licence; and
  - (ii) the holding of that licence did not result in a contravention by the person of section 90C by virtue of paragraph 90C (1) (a) (as in force at that time);
- (b) the holding by the person of interests in the company holding either of the licences or the existence of other circumstances, where, immediately before 29 October 1987:
  - (i) the person held those interests in the company and the company held the licence, or the other circumstances existed; and
  - (ii) the holding of those interests or the existence of those circumstances did not result in a contravention by the person of section 90C by virtue of paragraph 90C (1) (a) (as in force at that time);
- (c) the holding by the person of interests in the company holding either of the licences, where:
  - (i) the interests resulted from the allotment or issue, on or after 29 October 1987, of shares in, or debentures of, a company to a person who, immediately before that day, held shares in, or debentures of, that company;
  - (ii) that person received the shares or debentures so allotted or issued in accordance with rights of a kind enjoyed by that person in common with other holders of shares or debentures of the same class as the shares or debentures that were so held; and
  - (iii) immediately before 29 October 1987, the first-mentioned company held the licence.

“(2) A person shall not be taken to be in contravention of section 90C by virtue of subsection 90C (2A) in relation to a number of commercial radio licences by reason only of one or more of the following:

- (a) the holding by the person of any of the licences, where:
  - (i) immediately before 29 October 1987, the person held that licence; and
  - (ii) either:
    - (A) the holding of that licence, immediately before 29 October 1987, did not result in a contravention by the person of section 90C by virtue of paragraph 90C (1) (c) (as in force at that time); or
    - (B) on or after 29 October 1987, action has been taken that, if it had been taken before that day, would have caused the holding of that licence not to result in such a contravention;
- (b) the holding by the person of interests in a company holding any of the licences or the existence of other circumstances, where:
  - (i) immediately before 29 October 1987, the person held those interests in the company and the company held the licence, or the other circumstances existed; and
  - (ii) either:
    - (A) the holding of those interests or the existence of those circumstances did not result in a contravention by the person of section 90C by virtue of paragraph 90C (1) (c) (as in force at that time); or
    - (B) on or after 29 October 1987, action has been taken that, if it had been taken before that day, would have caused the holding of those interests or the existence of those circumstances not to result in such a contravention;
- (c) the holding by the person of interests in a company holding any of the licences, where:
  - (i) the interests resulted from the allotment or issue, on or after 29 October 1987, of shares in, or debentures of, a company to a person who, immediately before that day, held shares in, or debentures of, that company;
  - (ii) that person received the shares or debentures so allotted or issued in accordance with rights of a kind enjoyed by that person in common with other holders of shares or debentures of the same class as the shares or debentures that were so held; and
  - (iii) immediately before 29 October 1987, the first-mentioned company held the licence.

“(3) A person shall not be taken to be in contravention of section 90C by virtue of subsection 90C (2) (as in force immediately after the

commencement of subsection 6 (2) of the *Broadcasting (Ownership and Control) Act 1988*) by reason only of the pairing of 2 commercial radio licences under section 89T and one or more of the following:

- (a) the holding by the person of either of the licences, where, immediately before the day on which the licences became paired under section 89T, the person held that licence;
- (b) the holding by the person of interests in the company holding either of the licences or the existence of other circumstances, where, immediately before the day on which the licences became paired under section 89T:
  - (i) the person held those interests in the company and the company held the licence; or
  - (ii) the other circumstances existed;
- (c) the holding by the person of interests in the company holding either of the licences, where:
  - (i) the interests resulted from the allotment or issue, on or after the day on which the licences became paired under section 89T, of shares in, or debentures of, a company to a person who, immediately before that day, held shares in, or debentures of, that company;
  - (ii) that person received the shares or debentures so allotted or issued in accordance with rights of a kind enjoyed by that person in common with other holders of shares or debentures of the same class as the shares or debentures that were so held; and
  - (iii) immediately before the day on which the licences became paired under section 89T, the first-mentioned company held the licence.

“(4) Where, in a notice under subsection 89T (2) in relation to 2 commercial radio licences, the Minister includes a declaration under subsection 89T (8) that a period is a notional pairing period in relation to the licences, subsection (3) of this section applies, in relation to the pairing of the licences under section 89T concerned, as if the references in that subsection to the day on which the licences became paired under section 89T were references to the first day of the notional pairing period.

“(5) Where:

- (a) paragraph (1) (b), (2) (b) or (3) (b) applies; and
- (b) the person referred to in that paragraph became the holder of an interest in the company holding any of the licences concerned on or after:
  - (i) where paragraph (1) (b) or (2) (b) applies—29 October 1987; or
  - (ii) where paragraph (3) (b) applies—the day on which the licences referred to in that paragraph became paired under

section 89T or, where subsection (4) applies, the first day of the notional pairing period referred to in that subsection; subsection (1), (2) or (3), as the case requires, does not apply in relation to the person in relation to:

- (c) in the case of subsection (1) or (3)—the pairing of the licences under section 89T concerned; or
- (d) in the case of subsection (2)—the number of licences concerned; if and so long as the person is the holder of the interest.

“(6) The operation of subsection (5) is not affected by the fact that on or after the day referred to in subparagraph (5) (b) (i) or (ii) and before the person became the holder of the interest, there has been a reduction in the amount of the interest held by the person in the company.

“(7) Where:

- (a) but for this subsection, subsection (5) would apply in relation to the person;
  - (b) immediately before the day referred to in subparagraph (5) (b) (i) or (ii) (which day is in this subsection called the ‘grandfathering day’), the person held a shareholding interest in the company (in this subsection called the ‘licensee company’) holding the commercial radio licence;
  - (c) the person held that interest because the person held a direct shareholding interest in a company (in this subsection called the ‘intervening company’) other than the licensee company;
  - (d) the intervening company became or becomes, on or after the grandfathering day, the holder of a further interest (whether a direct or indirect interest and whether a shareholding interest or another interest) in the licensee company; and
  - (e) the person became or becomes, because of the circumstances referred to in paragraph (d), the holder of a further interest (whether a shareholding interest or another interest) in the licensee company;
- subsection (5) does not apply in relation to the person by reason only of the holding by the person of the interest referred to in paragraph (e) of this subsection if and so long as:
- (f) the person’s shareholding interest percentage in the licensee company is not greater than:
    - (i) the percentage that was the person’s shareholding interest percentage in that company immediately before the grandfathering day; or
    - (ii) if, at any time on or after the grandfathering day, the person’s shareholding interest percentage in that company has fallen below the percentage referred to in subparagraph (i)—that lower percentage or the lowest such percentage; and

- (g) the person is not in a position to exercise greater control of the licensee company than the person was able to exercise immediately before the grandfathering day.

**New radio directorship limits—introduced by *Broadcasting (Ownership and Control) Act 1988***

“92ZC. (1) A person shall not be taken to be in contravention of section 90F by virtue of subsection 90F (1AA) (as in force immediately after the commencement of subsection 7 (2) of the *Broadcasting (Ownership and Control) Act 1988*) by reason of holding directorships in 2 or more companies that are, between them, in a position to exercise control of each of a pair of commercial radio licences that are paired under section 89T, where:

- (a) immediately before 29 October 1987, the person held the directorships and the companies were, between them, in a position to exercise control of each of the pair of licences; and
- (b) either:
  - (i) the holding of those directorships, immediately before 29 October 1987, did not result in a contravention of section 90F by virtue of paragraph 90F (1) (a) (as in force at that time); or
  - (ii) on or after 29 October 1987, action has been taken that, if it had been taken before that day, would have caused the holding of those directorships not to result in such a contravention.

“(2) A person shall not be taken to be in contravention of section 90F by virtue of subsection 90F (1AB) by reason of holding directorships in 2 or more companies that are, between them, in a position to exercise control of each of a number of commercial radio licences, where:

- (a) immediately before 29 October 1987, the person held the directorships and the companies were, between them, in a position to exercise control of each of the number of licences; and
- (b) either:
  - (i) the holding of those directorships, immediately before 29 October 1987, did not result in a contravention of section 90F by virtue of paragraph 90F (1) (c) (as in force at that time); or
  - (ii) on or after 29 October 1987, action has been taken that, if it had been taken before that day, would have caused the holding of those directorships not to result in such a contravention.

“(3) A person shall not be taken to be in contravention of section 90F by virtue of subsection 90F (1AA) (as in force immediately after the commencement of subsection 7 (2) of the *Broadcasting (Ownership and Control) Act 1988*) by reason of holding directorships in 2 or more companies

that are, between them, in a position to exercise control of each of a pair of commercial radio licences that are paired under section 89T, where:

- (a) the person held the directorships; and
- (b) the companies were, between them, in a position to exercise control of each of the pair of licences;

immediately before the day on which the licences became paired under section 89T.

“(4) Where, in a notice under subsection 89T (2) in relation to 2 commercial radio licences, the Minister includes a declaration under subsection 89T (8) that a period is a notional pairing period in relation to the licences, subsection (3) of this section applies, in relation to the pairing of the licences under section 89T concerned, as if the reference in that subsection to the day on which the licences became paired under section 89T were a reference to the first day of the notional pairing period.

“(5) Where, but for subsection 92ZB (1) or (3), a company would contravene section 90C by virtue of subsection 90C (2) (as in force immediately after the commencement of subsection 6 (2) of the *Broadcasting (Ownership and Control) Act 1988*), a person does not contravene section 90F by virtue of subsection 90F (1AA) (as in force immediately after the commencement of subsection 7 (2) of the *Broadcasting (Ownership and Control) Act 1988*) by reason only of holding a directorship in that company together with a directorship or directorships in a company that is a subsidiary, or companies that are subsidiaries, of the first company.

“(6) Where, but for subsection 92ZB (2), a company would contravene section 90C by virtue of subsection 90C (2A), a person does not contravene section 90F by virtue of subsection 90F (1AB) by reason only of holding a directorship in that company together with a directorship or directorships in a company that is a subsidiary, or companies that are subsidiaries, of the first company.

#### **“Subdivision C—Television limits**

#### **Section 92 60% interest limit—introduced by *Broadcasting (Ownership and Control) Act 1987***

“92ZD. (1) Where:

- (a) immediately before a notice is published under section 91AAD (other than the first such notice), a person holds a prescribed interest in a commercial television licence or in each of 2 or more commercial television licences;
- (b) disregarding this section (other than subsection (2)), the person does not at that time contravene section 92 by virtue of paragraph 92 (1) (a);
- (c) disregarding this section (other than subsection (2)), the person would contravene section 92 by virtue of paragraph 92 (1) (a) immediately after the notice is issued; and

(d) either:

- (i) the notice under section 91AAD does not, in relation to the licence or any of the licences, contain a statement that the licence is affected by aggregation; or
- (ii) except where the person holds only a prescribed interest in a single licence:
  - (A) the notice under section 91AAD contains a statement that one or more of the licences is affected by aggregation; and
  - (B) the person would not contravene as mentioned in paragraph (c) if, in respect of each licence in which the person has a prescribed interest (other than any in relation to which there is a statement in the notice that it is affected by aggregation), the service area population, within the meaning of section 91, were the same as it was immediately before the notice was issued;

then, if and so long as the person continues to hold the prescribed interest in the licence or licences, the person does not contravene section 92 by virtue of paragraph 92 (1) (a).

“(2) For the purposes of subsection (1), where:

- (a) at a particular time, a person has a prescribed interest in a commercial television licence because the person holds an interest in the company holding the licence;
- (b) the interest resulted from the allotment or issue of shares in, or debentures of, a company to a person who, at an earlier time, held shares in, or debentures of, that company;
- (c) that person received the shares or debentures so allotted or issued in accordance with rights of a kind enjoyed by that person in common with other holders of shares or debentures of the same class as the shares or debentures that were allotted; and
- (d) the company referred to in paragraph (a) held the licence at the earlier time;

the person shall be taken to have the prescribed interest in the licence at the earlier time.

“(3) Where, after the publication of the notice referred to in subsection (1):

- (a) if the prescribed interest in the licence or any of the licences referred to in that subsection is the holding of an interest (other than because of subsection (2)) in a company holding the licence—the person becomes the holder of any interest (in this subsection called the ‘disqualifying interest’) in the company; or
- (b) the person becomes the holder of a prescribed interest (in this subsection also called the ‘disqualifying interest’) in another licence (other than because of subsection (2));

subsection (1) does not apply in relation to the holding by the person of the prescribed interest in the licence or licences referred to in that subsection if and so long as the person is the holder of the disqualifying interest.

“(4) The operation of subsection (3) is not affected by the fact that, after the publication of the notice referred to in subsection (1) and before the person became the holder of the disqualifying interest referred to in paragraph (3) (a), there has been a reduction in the amount of the other interest referred to in that paragraph that was held by the person in the company.

“(5) Where:

- (a) at a particular time, subsection (1) applies, or but for subsection (3) would apply, in relation to the holding by a person of a prescribed interest in a licence or licences; and
- (b) at a later time, an extension of the service area of the licence or any of the licences takes place under section 94S or 94ZH;

subsection (1) ceases to apply, or does not again commence to apply, as the case requires, in relation to the holding by the person of the prescribed interest in the licence or licences.

“(6) Where:

- (a) immediately before a notice under section 91AAD is published, a person holds a shareholding interest in a company (in this subsection called the ‘licensee company’) holding a commercial television licence;
- (b) the person held that interest because the person held a direct shareholding interest in a company (in this subsection called the ‘intervening company’) other than the licensee company;
- (c) at any time after the publication of the notice, the intervening company becomes the holder of a further interest (whether a direct or indirect interest and whether a shareholding interest or another interest) in the licensee company; and
- (d) the person becomes, because of the circumstances referred to in paragraph (c), the holder of a further interest (whether a shareholding interest or another interest) in the licensee company;

subsection (3) does not apply in relation to the person by reason only of the holding by the person of the interest referred to in paragraph (d) of this subsection if and so long as:

- (e) the person’s shareholding interest percentage in the licensee company is not greater than:
  - (i) the percentage that was the person’s shareholding interest percentage in that company immediately before the publication of the notice; or
  - (ii) if, at any time after the publication of the notice, the person’s shareholding interest percentage in that company has fallen below the percentage referred to in subparagraph (i)—that lower percentage or the lowest such percentage; and

- (f) the person is not in a position to exercise greater control of the licensee company than the person was able to exercise immediately before the publication of the notice.

“(7) Where:

- (a) immediately before the publication of a notice under section 91AAD, a company (in this subsection called the ‘holding company’) is in a position to exercise significant control over another company (in this subsection called the ‘licensee company’) holding a commercial television licence; and
- (b) at any time after the publication of the notice, the holding company becomes the holder of a loan interest in the licensee company;

the following provisions have effect:

- (c) subject to paragraph (d), the loan interest shall be disregarded for the purposes of the application of subsection (3) in relation to the holding company;
- (d) paragraph (c) does not apply in relation to the holding company if:
  - (i) the holding company ceases to be in a position to exercise significant control of the licensee company; or
  - (ii) subsection (1) ceases to apply in relation to the holding company;
- (e) subject to paragraph (f), if immediately before the publication of the notice, a person, by reason of being in a position to exercise control of the holding company, held an interest in the licensee company, the loan interest shall be disregarded for the purposes of the application of subsection (3) in relation to the person;
- (f) paragraph (e) does not apply in relation to the person if:
  - (i) the holding company ceases to be in a position to exercise significant control of the licensee company;
  - (ii) the person ceases to be in a position to exercise control of the holding company; or
  - (iii) subsection (1) ceases to apply in relation to the holding company or in relation to the person.

“(8) For the purposes of subsection (7), a company shall be deemed to be in a position to exercise significant control of another company if, had the references in section 89K to 15% been references to 50%, the first company would, in accordance with that section, be deemed to have been in a position to exercise control of the second company.

“(9) Where:

- (a) a licence (in this subsection called the ‘consolidated licence’) is granted pursuant to section 94ZC or 94ZG as part of the consolidation of 2 or more other licences (in this subsection called the ‘former licences’);

- (b) immediately before the grant of the consolidated licence, a person would, but for the application of subsection (1), contravene section 92 by virtue of paragraph 92 (1) (a) because of holding a prescribed interest in each of the former licences, or in each of the former licences and another licence or licences; and
- (c) immediately after the grant of the consolidated licence, the person holds a prescribed interest in the consolidated licence;

then, after the grant of the consolidated licence, this section applies as if:

- (d) immediately before the publication of the notice referred to in the application of subsection (1) mentioned in paragraph (b) of this subsection, the person held the prescribed interest in the consolidated licence, instead of a prescribed interest in each of the former licences; and
- (e) the requirements of paragraphs (1) (b), (c) and (d) were satisfied in relation to the person in relation to the notice.

**Section 92C 60% directorship limit—introduced by *Broadcasting (Ownership and Control) Act 1987***

“92ZE. (1) Where:

- (a) immediately before a notice is published under section 91AAD (other than the first such notice), a person is a director of 2 or more companies that are, between them, in a position to exercise control of commercial television licences;
- (b) disregarding this section, the person does not at that time contravene section 92C by virtue of subsection 92C (1);
- (c) disregarding this section, the person would contravene subsection 92C (1) immediately after the notice is issued; and
- (d) either:
  - (i) the notice under section 91AAD does not, in relation to any of the licences, contain a statement that the licence is affected by aggregation; or
  - (ii) the notice under section 91AAD contains a statement that one or more of the licences is affected by aggregation and the person would not contravene as mentioned in paragraph (c) if, in respect of each licence referred to in paragraph (a) (other than any in relation to which there is a statement in the notice that it is affected by aggregation), the service area population, within the meaning of section 91, were the same as it was immediately before the notice was issued;

then, if and so long as the person continues to hold the directorships of the companies, and the companies continue to be in a position to exercise control of the licences, the person does not contravene section 92C by virtue of subsection 92C (1).

“(2) Where, after the publication of the notice:

- (a) one of the companies of which the person is a director becomes in a position to exercise control of another commercial television licence; or
- (b) the person becomes a director of another company that is or that becomes in a position to exercise control of another commercial television licence;

subsection (1) does not apply in relation to the person if and so long as:

- (c) where paragraph (a) applies—the company is in a position to exercise control of the licence; or
- (d) where paragraph (b) applies—the person is a director of the company while the company is in a position to exercise control of the licence.

“(3) Where:

- (a) a licence (in this subsection called the ‘consolidated licence’) is granted pursuant to section 94ZC or 94ZG as part of the consolidation of 2 or more other licences (in this subsection called the ‘former licences’);
- (b) immediately before the grant of the consolidated licence, a person would, but for the application of subsection (1), contravene section 92C by virtue of subsection 92C (1) because of being a director of 2 or more companies that are, between them, in a position to exercise control of a number of licences that include the former licences; and
- (c) immediately after the grant of the consolidated licence, the person is a director of a company that is in a position to exercise control of the consolidated licence;

then, after the grant of the consolidated licence, this section applies as if:

- (d) immediately before the publication of the notice referred to in the application of subsection (1) mentioned in paragraph (b) of this subsection, the person was a director of the company that is in a position to exercise control of the consolidated licence, instead of being a director of a company that is, or of 2 or more companies that are, between them, in a position to exercise control of the former licences; and
- (e) the requirements of paragraphs (1) (b), (c) and (d) were satisfied in relation to the person in relation to the notice.

**Section 92 MCS interest limit—introduced by *Broadcasting (Ownership and Control) Act 1987***

“92ZF. (1) A person shall not be taken to be in contravention of section 92 by virtue of subsection 92 (1AA) in relation to 2 commercial television licences by reason only of one or more of the following:

- (a) the holding by the person of either of the licences, where, immediately before 2 June 1987:
  - (i) the person held that licence; and

- (ii) the holding of that licence did not result in a contravention by the person of section 92 (as in force at that time);
- (b) the holding by the person of interests in the company holding either of the licences or the existence of other circumstances, where:
  - (i) immediately before 2 June 1987, the person held those interests in the company and the company held the licence, or the other circumstances existed; and
  - (ii) either:
    - (A) the holding of those interests or the existence of those circumstances did not result in a contravention by the person of section 92 (as in force at that time); or
    - (B) on or after 2 June 1987, action has been taken that, if it had been taken before that day, would have caused the holding of those interests or the existence of those circumstances not to result in such a contravention;
- (c) the holding by the person of interests in a company holding either of the licences, where:
  - (i) the interests resulted from the allotment or issue, on or after 2 June 1987, of shares in, or debentures of, a company to a person who, immediately before that day, held shares in, or debentures of, that company;
  - (ii) that person received the shares or debentures so allotted or issued in accordance with rights of a kind enjoyed by that person in common with other holders of shares or debentures of the same class as the shares or debentures that were so held; and
  - (iii) immediately before 2 June 1987, the first-mentioned company held the licence.

“(2) Subsection (1) does not apply in relation to a person if and so long as the person is the holder of any interest (other than an interest referred to in paragraph (1) (c)) in the company holding any of the licences concerned if the person became the holder of the interest on or after 2 June 1987.

“(3) The operation of subsection (2) is not affected by the fact that, on or after 2 June 1987 and before the person became the holder of the interest, there has been a reduction in the amount of the interest held by the person in the company.

“(4) Where:

- (a) immediately before 2 June 1987, a person (in this subsection called the ‘shareholder’) held a shareholding interest in a company (in this subsection called the ‘licensee company’) holding a commercial television licence;

- (b) the shareholder held that interest because the shareholder held a direct shareholding interest in a company (in this subsection called the 'intervening company') other than the licensee company;
  - (c) the intervening company became or becomes, on or after 2 June 1987, the holder of a further interest (whether a direct or indirect interest and whether a shareholding interest or another interest) in the licensee company; and
  - (d) the shareholder became or becomes, because of the circumstances referred to in paragraph (c), the holder of a further interest (whether a shareholding interest or another interest) in the licensee company;
- subsection (2) does not apply in relation to the shareholder by reason only of the holding by the shareholder of the interest referred to in paragraph (d) of this subsection if and so long as:
- (e) the shareholder's shareholding interest percentage in the licensee company is not greater than:
    - (i) the percentage that was the shareholder's shareholding interest percentage in the licensee company immediately before 2 June 1987; or
    - (ii) if, at any time on or after 2 June 1987, the shareholder's shareholding interest percentage in the licensee company has fallen below the percentage referred to in subparagraph (i)—that lower percentage or the lowest such percentage; and
  - (f) the shareholder is not in a position to exercise greater control of the licensee company than the shareholder was able to exercise immediately before 2 June 1987.

“(5) Where:

- (a) a licence (in this subsection called the 'consolidated licence') is granted, pursuant to section 94ZC or 94ZG, as part of the consolidation of 2 or more other licences (in this subsection called the 'former licences');
- (b) a person held a prescribed interest in one of the former licences immediately before 2 June 1987 and has continued to hold a prescribed interest in that licence from that time until immediately before the grant of the consolidated licence; and
- (c) immediately after the grant of the consolidated licence, the person holds a prescribed interest in the consolidated licence;

subsection (1) applies in relation to the circumstances giving rise to the prescribed interest referred to in paragraph (c) as if those circumstances had existed immediately before 2 June 1987.

“(6) Subsection (1) ceases to apply in relation to a person if at any time the person has a prescribed interest in 3 or more licences that are in an approved market or approved markets and in respect of which MCS permits are in force.

**Section 92C MCS directorship limit—introduced by *Broadcasting (Ownership and Control) Act 1987***

“92ZG. (1) A person shall not be taken to be in contravention of section 92C by virtue of subsection 92C (1AA) by reason of being:

- (a) a director of a company that is in a position to exercise control of a commercial television licence of the kind referred to in paragraph 92C (1AA) (a); and
- (b) a director of another company that is, or 2 or more other companies that, between them, are, in a position to exercise control of another commercial television licence;

where:

- (c) the person has continued to hold those directorships since immediately before 2 June 1987;
- (d) the company referred to in paragraph (a) has continued to be in a position to exercise control of the licence referred to in that paragraph since immediately before 2 June 1987; and
- (e) the company referred to in paragraph (b) has, or the companies referred to in that paragraph, between them, have, continued to be in a position to exercise control of the licence referred to in that paragraph since immediately before 2 June 1987.

“(2) Where:

- (a) a licence (in this subsection called the ‘consolidated licence’) is granted, pursuant to section 94ZC or 94ZG, as part of the consolidation of 2 or more other licences (in this subsection called the ‘former licences’);
- (b) where the consolidated licence is a licence of the kind referred to in paragraph 92C (1AA) (a):
  - (i) a person was a director of a company that was in a position to exercise control of one of the former licences immediately before 2 June 1987 and continued to hold that directorship from that time until immediately before the grant of the consolidated licence; and
  - (ii) immediately after the grant of the consolidated licence, the person is a director of a company that is in a position to exercise control of the consolidated licence; and
- (c) where the consolidated licence is not a licence of the kind referred to in paragraph 92C (1AA) (a):
  - (i) a person was a director of a company that was, or 2 or more companies that, between them, were, in a position to exercise control of one of the former licences immediately before 2 June 1987 and continued to hold that directorship or those directorships from that time until immediately before the grant of the consolidated licence; and
  - (ii) immediately after the grant of the consolidated licence, the person is a director of a company that is, or 2 or more

companies that, between them, are, in a position to exercise control of the consolidated licence;

subsection (1) applies as if:

- (d) where paragraph (b) applies—since immediately before 2 June 1987, the person has continued to hold the directorship referred to in subparagraph (b) (ii) and the company referred to in that subparagraph has continued to be in a position to exercise control of the consolidated licence; and
- (e) where paragraph (c) applies—since immediately before 2 June 1987, the person has continued to hold the directorship or directorships referred to in subparagraph (c) (ii) and the company referred to in that subparagraph has, or the companies referred to in that subparagraph, between them, have, continued to be in a position to exercise control of the consolidated licence.

“(3) Subsection (1) ceases to apply to a person if at any time the person is a director of 2 or more companies that, between them, are in a position to exercise control of 3 or more licences that are in an approved market or approved markets and in respect of which MCS permits are in force.

**Subsection 92 (1A) and (1B) interest limits—introduced by *Broadcasting Amendment Act 1987***

“92ZH. (1) A person shall not be taken to be in contravention of section 92 by virtue of subsection 92 (1A) or (1B) in relation to each of 2 or more commercial television licences by reason only of one or more of the following:

- (a) the holding by the person of any of the licences, where, immediately before 4 August 1987:
  - (i) the person held that licence; and
  - (ii) the holding of that licence did not result in a contravention by the person of section 92 (as in force at that time);
- (b) the holding by the person of interests in a company holding any of the licences or the existence of other circumstances, where:
  - (i) immediately before 4 August 1987, the person held those interests in the company and the company held the licence, or the other circumstances existed; and
  - (ii) either:
    - (A) the holding of those interests or the existence of those circumstances did not result in a contravention by the person of section 92 (as in force at that time); or
    - (B) on or after 4 August 1987, action has been taken that, if it had been taken before that day, would have caused the holding of those interests or the existence of those circumstances not to result in such a contravention;
- (c) the holding by the person of interests in a company holding any of the licences, where:

- (i) the interests resulted from the allotment or issue, on or after 4 August 1987, of shares in, or debentures of, a company to a person who, immediately before that day, held shares in, or debentures of, that company;
- (ii) that person received the shares or debentures so allotted or issued in accordance with rights of a kind enjoyed by that person in common with other holders of shares or debentures of the same class as the shares or debentures that were so held; and
- (iii) immediately before 4 August 1987, the first-mentioned company held the licence.

“(2) Subsection (1) does not apply in relation to a person if and so long as that person is the holder of any interest (other than an interest referred to in paragraph (1) (c)) in the company holding any of the licences concerned if the person became the holder of the interest on or after 4 August 1987.

“(3) The operation of subsection (2) is not affected by the fact that, on or after 4 August 1987 and before the person became the holder of the interest, there had been a reduction in the amount of the interest held by the person in the company.

#### ***“Subdivision D—Cross media limits***

##### **Television/newspaper cross media interest limit—introduced by *Broadcasting (Ownership and Control) Act 1987***

“92ZI. (1) A person shall not be taken to be in contravention of section 92JB by virtue of subsection 92JB (2) by reason only of the association of a commercial television licence and a newspaper under section 89S and 2 of the following:

- (a) the holding by the person of the commercial television licence, where the person held the licence immediately before 28 November 1986;
- (b) the person's continuing to be the publisher of the newspaper, where the person was the publisher of the newspaper immediately before 28 November 1986;
- (c) the holding by the person of interests in the company holding the commercial television licence, or the existence of other circumstances, where, immediately before 28 November 1986:
  - (i) the person held those interests in the company and the company held the licence; or
  - (ii) the other circumstances existed;
- (d) the holding by the person of interests in the company that is the publisher of the newspaper, or the existence of other circumstances, where, immediately before 28 November 1986:

- (i) the person held those interests in the company and the company was the publisher of the newspaper; or
  - (ii) the other circumstances existed;
- (e) the holding by the person of interests in the company holding the commercial television licence, where:
  - (i) the interests resulted from the allotment or issue, on or after 28 November 1986, of shares in, or debentures of, a company to a person who, immediately before that day, held shares in, or debentures of, that company;
  - (ii) that person received the shares or debentures so allotted or issued in accordance with rights of a kind enjoyed by that person in common with other holders of shares or debentures of the same class as the shares or debentures that were so held; and
  - (iii) immediately before 28 November 1986, the first-mentioned company held the licence;
- (f) the holding by the person of interests in the company that is the publisher of the newspaper, where:
  - (i) the interests resulted from the allotment or issue, on or after 28 November 1986, of shares in, or debentures of, a company to a person who, immediately before that day, held shares in, or debentures of, that company;
  - (ii) that person received the shares or debentures so allotted or issued in accordance with rights of a kind enjoyed by that person in common with other holders of shares or debentures of the same class as the shares or debentures that were so held; and
  - (iii) immediately before 28 November 1986, the first-mentioned company was the publisher of the newspaper.

“(2) Where there is in force an entry under subsection 89S (3) stating that a commercial television licence and a newspaper are affected by an eligible service area change, a person shall not be taken to be in contravention of section 92JB by virtue of subsection 92JB (2) by reason only of the association of the licence and the newspaper under section 89S and 2 of the following:

- (a) the holding by the person of the commercial television licence, where the person held the licence immediately before the day on which the licence and the newspaper became associated under section 89S;
- (b) the person’s continuing to be the publisher of the newspaper, where the person was the publisher of the newspaper immediately before the day on which the licence and the newspaper became associated under section 89S;
- (c) the holding by the person of interests in the company holding the commercial television licence, or the existence of other circumstances,

where, immediately before the day on which the licence and the newspaper became associated under section 89S:

- (i) the person held those interests in the company and the company held the licence; or
  - (ii) the other circumstances existed;
- (d) the holding by the person of interests in the company that is the publisher of the newspaper, or the existence of other circumstances, where, immediately before the day on which the licence and the newspaper became associated under section 89S:
- (i) the person held those interests in the company and the company was the publisher of the newspaper; or
  - (ii) the other circumstances existed;
- (e) the holding by the person of interests in the company holding the commercial television licence, where:
- (i) the interests resulted from the allotment or issue, on or after the day on which the licence and the newspaper became associated under section 89S, of shares in, or debentures of, a company to a person who, immediately before that day, held shares in, or debentures of, that company;
  - (ii) that person received the shares or debentures so allotted or issued in accordance with rights of a kind enjoyed by that person in common with other holders of shares or debentures of the same class as the shares or debentures that were so held; and
  - (iii) immediately before the day on which the licence and the newspaper became associated under section 89S, the first-mentioned company held the licence;
- (f) the holding by the person of interests in the company that is the publisher of the newspaper, where:
- (i) the interests resulted from the allotment or issue, on or after the day on which the licence and the newspaper became associated under section 89S, of shares in, or debentures of, a company to a person who, immediately before that day, held shares in, or debentures of, that company;
  - (ii) that person received the shares or debentures so allotted or issued in accordance with rights of a kind enjoyed by that person in common with other holders of shares or debentures of the same class as the shares or debentures that were so held; and
  - (iii) immediately before the day on which the licence and the newspaper became associated under section 89S, the first-mentioned company was the publisher of the newspaper.

“(3) Where there is in force an entry under subsection 89S (5) stating that a commercial television licence and a newspaper are affected by consolidation, a person shall not be taken to be in contravention of section

92JB by virtue of subsection 92JB (2) by reason only of the association of the licence and newspaper under section 89S and 2 of the following:

- (a) the holding by the person of the licence, where:
  - (i) immediately before the day on which the licence and the newspaper became associated under section 89S, the person held the licence;
  - (ii) the licence was granted to the person; and
  - (iii) immediately before the licence was granted, the person would, but for subsection (2), have contravened section 92JB by virtue of subsection 92JB (2) because the person held a prescribed interest in any of the former licences in relation to the licence;
- (b) the person's continuing to be the publisher of the newspaper, where the person was the publisher of the newspaper immediately before the day on which the licence and the newspaper became associated under section 89S;
- (c) the holding by the person of interests in the company holding the licence or the existence of other circumstances, where:
  - (i) immediately before the day on which the licence and the newspaper became associated under section 89S, the person held those interests in the company and the company held the licence, or the other circumstances existed;
  - (ii) the licence was granted to the company when the person held those interests or when the other circumstances existed; and
  - (iii) immediately before the licence was granted, the person would, but for subsection (2), have contravened section 92JB by virtue of subsection 92JB (2) because the person held a prescribed interest in any of the former licences in relation to the licence;
- (d) the holding by the person of interests in the company that is the publisher of the newspaper, or the existence of other circumstances, where, immediately before the day on which the licence and the newspaper became associated under section 89S:
  - (i) the person held those interests in the company and the company was the publisher of the newspaper; or
  - (ii) the other circumstances existed;
- (e) the holding by the person of interests in the company holding the commercial television licence, where:
  - (i) the interests resulted from the allotment or issue, on or after the day on which the licence and the newspaper became associated under section 89S, of shares in, or debentures of, a company to a person who, immediately before that day, held shares in, or debentures of, that company;

- (ii) that person received the shares or debentures so allotted or issued in accordance with rights of a kind enjoyed by that person in common with other holders of shares or debentures of the same class as the shares or debentures that were so held;
  - (iii) immediately before the day on which the licence and the newspaper became associated under section 89S, the first-mentioned company held the licence;
  - (iv) the licence was granted to the first-mentioned company when the person held the shares or debentures; and
  - (v) immediately before the licence was granted, the person holding the interests in the first-mentioned company would, but for subsection (2), have contravened section 92JB by virtue of subsection 92JB (2) because that person held a prescribed interest in any of the former licences in relation to the licence;
- (f) the holding by the person of interests in the company that is the publisher of the newspaper, where:
- (i) the interests resulted from the allotment or issue, on or after the day on which the licence and the newspaper became associated under section 89S, of shares in, or debentures of, a company to a person who, immediately before that day, held shares in, or debentures of, that company;
  - (ii) that person received the shares or debentures so allotted or issued in accordance with rights of a kind enjoyed by that person in common with other holders of shares or debentures of the same class as the shares or debentures that were so held; and
  - (iii) immediately before the day on which the licence and the newspaper became associated under section 89S, the first-mentioned company was the publisher of the newspaper.

“(4) For the purposes of subsection (3), where a commercial television licence is granted pursuant to section 94ZC or 94ZG as part of the consolidation of 2 or more other television licences, each of the other television licences is a former licence in relation to the first-mentioned licence.

“(5) Where the Tribunal makes an entry in the Associated Newspaper Register under subsection 89S (6) stating that a period is a notional association period in relation to a commercial television licence and a newspaper, subsections (2) and (3) of this section apply, in relation to the association of the licence and the newspaper under section 89S concerned, as if the references in those subsections to the day on which the licence and the newspaper became associated under section 89S were references to the first day of the notional association period.

“(6) Where:

- (a) paragraph (1) (c) or (d), (2) (c) or (d) or (3) (c) or (d) applies; and
- (b) the person referred to in that paragraph became the holder of an interest in the company referred to in that paragraph on or after:
  - (i) where paragraph (1) (c) or (d) applies—28 November 1986; or
  - (ii) in any other case—the day on which the licence and the newspaper referred to in subsection (2) or (3), as the case requires, became associated under section 89S or, where subsection (5) applies, the first day of the notional association period referred to in that subsection;

subsection (1), (2) or (3) does not apply in relation to the person in relation to the association of the licence and the newspaper under section 89S concerned if and so long as the person is the holder of the interest.

“(7) The operation of subsection (6) is not affected by the fact that on or after the day referred to in subparagraph (6) (b) (i) or (ii) and before the person became the holder of the interest, there has been a reduction in the amount of the interest held by the person in the company.

“(8) Where:

- (a) but for this subsection, subsection (6) would apply in relation to the person;
- (b) immediately before the day referred to in subparagraph (6) (b) (i) or (ii) (which day is in this subsection called the ‘grandfathering day’), the person held a shareholding interest in:
  - (i) the company (in this subsection called the ‘licensee company’) holding the commercial television licence; or
  - (ii) the company (in this subsection called the ‘publishing company’) that is the publisher of the newspaper;
- (c) the person held that interest because the person held a direct shareholding interest in a company (in this subsection called the ‘intervening company’) other than the licensee company or publishing company;
- (d) the intervening company became or becomes, on or after the grandfathering day, the holder of a further interest (whether a direct or indirect interest and whether a shareholding interest or another interest) in the licensee company or publishing company; and
- (e) the person became or becomes, because of the circumstances referred to in paragraph (d), the holder of a further interest (whether a shareholding interest or another interest) in the licensee company or publishing company;

subsection (6) does not apply in relation to the person by reason only of the holding by the person of the interest referred to in paragraph (e) of this subsection if and so long as:

- (f) the person’s shareholding interest percentage in the licensee company or publishing company is not greater than:

- (i) the percentage that was the person's shareholding interest percentage in that company immediately before the grandfathering day; or
  - (ii) if, at any time on or after the grandfathering day, the person's shareholding interest percentage in that company has fallen below the percentage referred to in subparagraph (i)—that lower percentage or the lowest such percentage; and
- (g) the person is not in a position to exercise greater control of the licensee company or publishing company than the person was able to exercise immediately before the grandfathering day.

“(9) For the purposes of the application of subsection (6), where:

- (a) immediately before the day referred to in subparagraph (6) (b) (i) or (ii) (which day is in this subsection called the ‘grandfathering day’), a company (in this subsection called the ‘holding company’) was in a position to exercise significant control over another company (in this subsection called the ‘licensee company’) holding the commercial television licence; and
- (b) on or after the grandfathering day, the holding company became or becomes the holder of a loan interest in the licensee company;

the following provisions have effect:

- (c) subject to paragraph (d), the loan interest shall be disregarded for the purposes of the application of subsection (6) in relation to the holding company;
- (d) paragraph (c) does not apply in relation to the holding company if:
  - (i) the holding company ceased or ceases, at any time on or after the grandfathering day, to be in a position to exercise significant control of the licensee company; or
  - (ii) subsection (1), (2) or (3) ceased or ceases, at any time on or after the grandfathering day, to apply in relation to the holding company;
- (e) subject to paragraph (f), if, immediately before the grandfathering day, a person, by reason of being in a position to exercise control of the holding company, held an interest in the licensee company, the loan interest shall be disregarded for the purposes of the application of subsection (6) in relation to the person;
- (f) paragraph (e) does not apply in relation to the person if:
  - (i) the holding company ceased or ceases, at any time on or after the grandfathering day, to be in a position to exercise significant control of the licensee company;
  - (ii) the person ceased or ceases, at any time on or after the grandfathering day, to be in a position to exercise control of the holding company; or

- (iii) subsection (1), (2) or (3) ceased or ceases, at any time on or after the grandfathering day, to apply in relation to the holding company or in relation to the person.

“(10) For the purposes of subsection (9), a company shall be deemed to be in a position to exercise significant control of another company if, had the references in section 89K to 15% been references to 50%, the first company would, in accordance with that section, be deemed to have been in a position to exercise control of the second company.

“(11) Where:

- (a) a commercial television licence (in this subsection called the ‘consolidated licence’) is granted, pursuant to section 94ZC or 94ZG, as part of the consolidation of 2 or more other commercial television licences (in this subsection called the ‘former licences’);
- (b) a person held a prescribed interest in one of the former licences immediately before 28 November 1986 and has continued to hold a prescribed interest in that licence from that time until immediately before the grant of the consolidated licence; and
- (c) immediately after the grant of the consolidated licence, the person holds a prescribed interest in the consolidated licence;

subsection (1) applies in relation to the circumstances giving rise to the prescribed interest referred to in paragraph (c) as if those circumstances had existed immediately before 28 November 1986.

**Television/newspaper cross media directorship limit—introduced by  
*Broadcasting (Ownership and Control) Act 1987***

“92ZJ. (1) A person shall not be taken to be in contravention of section 92JD by virtue of subsection 92JD (2) in relation to a commercial television licence and a newspaper by reason of:

- (a) the holding by the person of a directorship of a company that is in a position to exercise control of the commercial television licence, where, immediately before 28 November 1986, the person held the directorship and the company was in a position to exercise control of the licence; and
- (b) either:
  - (i) the holding by the person of a directorship of a company that is in a position to exercise control of the newspaper, where, immediately before 28 November 1986, the person held the directorship and the company was in a position to exercise control of the newspaper; or
  - (ii) the person’s continuing to be the publisher of the newspaper, where the person was the publisher of the newspaper immediately before 28 November 1986.

**“(2) Where there is in force an entry under subsection 89S (3) stating that a commercial television licence and a newspaper are affected by an eligible service area change, a person shall not be taken to be in contravention of section 92JD by virtue of subsection 92JD (2) by reason of:**

- (a) the holding by the person of a directorship of a company that is in a position to exercise control of the commercial television licence, where, immediately before the day on which the licence and the newspaper became associated under section 89S, the person held the directorship and the company was in a position to exercise control of the licence; and**
- (b) either:**
  - (i) the holding by the person of a directorship of a company that is in a position to exercise control of the newspaper, where, immediately before the day on which the licence and the newspaper became associated under section 89S, the person held the directorship and the company was in a position to exercise control of the newspaper; or**
  - (ii) the person’s continuing to be the publisher of the newspaper, where the person was the publisher of the newspaper immediately before the day on which the licence and the newspaper became associated under section 89S.**

**“(3) Where there is in force an entry under subsection 89S (5) stating that a commercial television licence and a newspaper are affected by consolidation, a person shall not be taken to be in contravention of section 92JD by virtue of subsection 92JD (2) by reason of:**

- (a) the holding by the person of a directorship of a company that is in a position to exercise control of the commercial television licence, where:**
  - (i) both immediately before the day on which the licence and the newspaper became associated under section 89S and immediately after the grant of the licence, the person held the directorship and the company was in a position to exercise control of the licence; and**
  - (ii) immediately before the grant of the licence, the person would, but for subsection (2), have contravened section 92JD by virtue of subsection 92JD (2) because the person held a directorship of a company that was in a position to exercise control of any of the former licences in relation to the licence; and**
- (b) either:**
  - (i) the holding by the person of a directorship of a company that is in a position to exercise control of the newspaper, where, immediately before the day on which the licence and the newspaper became associated under section 89S, the person held the directorship and the company was in a position to exercise control of the newspaper; or**

- (ii) the person's continuing to be the publisher of the newspaper, where the person was the publisher of the newspaper immediately before the day on which the licence and the newspaper became associated under section 89S.

“(4) For the purposes of subsection (3), where a commercial television licence is granted pursuant to section 94ZC or 94ZG as part of the consolidation of 2 or more other television licences, each of the other television licences is a former licence in relation to the first-mentioned licence.

“(5) Where the Tribunal makes an entry in the Associated Newspaper Register under subsection 89S (6) stating that a period is a notional association period in relation to a commercial television licence and a newspaper, subsections (2) and (3) of this section apply, in relation to the association of the licence and the newspaper under section 89S concerned, as if the references in those subsections to the day on which the licence and the newspaper became associated under section 89S were references to the first day of the notional association period.

“(6) Where, but for subsection 92ZI (1), (2) or (3), a company would contravene section 92JB by virtue of subsection 92JB (2), a person does not contravene section 92JD by virtue of subsection 92JD (2) by reason only of holding a directorship in that company together with a directorship or directorships in a company that is a subsidiary, or companies that are subsidiaries, of the first company.

“(7) Where:

- (a) a commercial television licence (in this subsection called the ‘consolidated licence’) is granted, pursuant to section 94ZC or 94ZG, as part of the consolidation of 2 or more other commercial television licences (in this subsection called the ‘former licences’);
- (b) a person was a director of a company that was in a position to exercise control of one of the former licences immediately before 28 November 1986 and has continued to hold that directorship from that time until immediately before the grant of the consolidated licence; and
- (c) immediately after the grant of the consolidated licence the person is a director of a company that is in a position to exercise control of the consolidated licence;

subsection (1) applies as if the person held the directorship referred to in paragraph (c), and the company referred to in that paragraph was in a position to exercise control of the consolidated licence, immediately before 28 November 1986.

**Television/radio cross media interest limit—introduced by *Broadcasting (Ownership and Control) Act 1987* and modified by *Broadcasting (Ownership and Control) Act 1988***

“92ZK. (1) A person shall not be taken to be in contravention of section 92JB by virtue of subsection 92JB (1) by reason only of the pairing of a commercial television licence and a commercial radio licence under section 89T and one or more of the following:

- (a) the holding by the person of either of the licences, where, immediately before 29 October 1987:
  - (i) the person held that licence; and
  - (ii) the holding of that licence did not result in a contravention by the person of section 92FAB by virtue of paragraph 92FAB (1) (a) and subparagraph 92FAB (1) (b) (i) (as in force at that time);
- (b) the holding by the person of interests in the company holding either of the licences or the existence of other circumstances, where:
  - (i) immediately before 29 October 1987, the person held those interests in the company and the company held the licence, or the other circumstances existed; and
  - (ii) either:
    - (A) the holding of those interests or the existence of those circumstances did not, immediately before 29 October 1987, result in a contravention by the person of section 92FAB by virtue of paragraph 92FAB (1) (a) and subparagraph 92FAB (1) (b) (i) (as in force at that time); or
    - (B) on or after that day action has been taken that, if it had been taken before that day, would have caused the holding of those interests or the existence of those circumstances not to result in such a contravention;
- (c) the holding by the person of interests in the company holding either of the licences, where:
  - (i) the interests resulted from the allotment or issue, on or after 29 October 1987, of shares in, or debentures of, a company to a person who, immediately before that day, held shares in, or debentures of, that company;
  - (ii) that person received the shares or debentures so allotted or issued in accordance with rights of a kind enjoyed by that person in common with other holders of shares or debentures of the same class as the shares or debentures that were so held; and
  - (iii) immediately before 29 October 1987, the first-mentioned company held the licence.

“(2) Where:

- (a) a commercial television licence and a commercial radio licence are paired under section 89T; and
- (b) there is not in force a declaration under subsection 89T (5) or (6) that the pair of licences is affected by aggregation;

a person shall not be taken to be in contravention of section 92JB by virtue of subsection 92JB (1) by reason only of the pairing of the licences under section 89T and one or more of the following:

- (c) the holding by the person of either of the licences, where:
  - (i) immediately before the day on which the licences became paired under section 89T, the person held that licence; and
  - (ii) if the licence is the commercial television licence and there is in force a declaration under subsection 89T (7) that the pair of licences is affected by consolidation:
    - (A) the licence was granted to the person; and
    - (B) immediately before the licence was granted, the person would, but for this subsection, have contravened section 92JB by virtue of subsection 92JB (1) because the person held a prescribed interest in any of the former licences in relation to the licence;
- (d) the holding by the person of interests in the company holding either of the licences or the existence of other circumstances, where:
  - (i) immediately before the day on which the licences became paired under section 89T, the person held those interests in the company and the company held the licence, or the other circumstances existed; and
  - (ii) if the licence is the commercial television licence and there is in force a declaration under subsection 89T (7) that the pair of licences is affected by consolidation:
    - (A) the licence was granted to the company when the person held those interests or when the other circumstances existed; and
    - (B) immediately before the licence was granted, the person would, but for this subsection, have contravened section 92JB by virtue of subsection 92JB (1) because the person held a prescribed interest in any of the former licences in relation to the licence;
- (e) the holding by the person of interests in the company holding either of the licences, where:
  - (i) the interests resulted from the allotment or issue, on or after the day on which the licences became paired under section 89T, of shares in, or debentures of, a company to a person who, immediately before that day, held shares in, or debentures of, that company;
  - (ii) that person received the shares or debentures so allotted or issued in accordance with rights of a kind enjoyed by that

person in common with other holders of shares or debentures of the same class as the shares or debentures that were so held;

- (iii) immediately before the day on which the licences became paired under section 89T, the first-mentioned company held the licence; and
- (iv) if the licence is the commercial television licence and there is in force a declaration under subsection 89T (7) that the pair of licences is affected by consolidation:

- (A) the licence was granted to the first-mentioned company when the person held the shares or debentures; and

- (B) immediately before the licence was granted, the person holding the interests in the first-mentioned company would, but for this subsection, have contravened section 92JB by virtue of subsection 92JB (1) because that person held a prescribed interest in any of the former licences in relation to the licence.

“(3) For the purposes of subsection (2), where a commercial television licence is granted pursuant to section 94ZC or 94ZG as part of the consolidation of 2 or more other television licences, each of the other television licences is a former licence in relation to the first-mentioned licence.

“(4) Where, in a notice under subsection 89T (2) in relation to a commercial television licence and a commercial radio licence, the Minister includes a declaration under subsection 89T (8) that a period is a notional pairing period in relation to the licences, subsection (2) of this section applies, in relation to the pairing of the licences under section 89T concerned, as if the references in that subsection to the day on which the licences became paired under section 89T were references to the first day of the notional pairing period.

“(5) Where:

- (a) paragraph (1) (b) or (2) (d) applies; and
- (b) the person referred to in that paragraph became the holder of an interest in the company holding any of the licences concerned on or after:
  - (i) where paragraph (1) (b) applies—29 October 1987; or
  - (ii) where paragraph (2) (d) applies—the day on which the licences referred to in that paragraph became paired under section 89T or, where subsection (4) applies, the first day of the notional pairing period referred to in that subsection;

subsection (1) or (2), as the case requires, does not apply in relation to the person in relation to the pairing of the licences under section 89T concerned, if and so long as the person is the holder of the interest.

“(6) The operation of subsection (5) is not affected by the fact that on or after the day referred to in subparagraph (5) (b) (i) or (ii) and before the person became the holder of the interest, there has been a reduction in the amount of the interest held by the person in the company.

“(7) Where:

- (a) but for this subsection, subsection (5) would apply in relation to the person;
- (b) immediately before the day referred to in subparagraph (5) (b) (i) or (ii) (which day is in this subsection called the ‘grandfathering day’), the person held a shareholding interest in the company (in this subsection called the ‘licensee company’) holding the commercial television licence or commercial radio licence;
- (c) the person held that interest because the person held a direct shareholding interest in a company (in this subsection called the ‘intervening company’) other than the licensee company;
- (d) the intervening company became or becomes, on or after the grandfathering day, the holder of a further interest (whether a direct or indirect interest and whether a shareholding interest or another interest) in the licensee company; and
- (e) the person became or becomes, because of the circumstances referred to in paragraph (d), the holder of a further interest (whether a shareholding interest or another interest) in the licensee company;

subsection (5) does not apply in relation to the person by reason only of the holding by the person of the interest referred to in paragraph (e) of this subsection if and so long as:

- (f) the person’s shareholding interest percentage in the licensee company is not greater than:
  - (i) the percentage that was the person’s shareholding interest percentage in that company immediately before the grandfathering day; or
  - (ii) if, at any time on or after the grandfathering day, the person’s shareholding interest percentage in that company has fallen below the percentage referred to in subparagraph (i)—that lower percentage or the lowest such percentage; and
- (g) the person is not in a position to exercise greater control of the licensee company than the person was able to exercise immediately before the grandfathering day.

“(8) For the purposes of the application of subsection (5), where:

- (a) immediately before the day referred to in subparagraph (5) (b) (i) or (ii) (which day is in this subsection called the ‘grandfathering day’), a company (in this subsection called the ‘holding company’) was in a position to exercise significant control over another company (in this subsection called the ‘licensee company’) holding a commercial television licence; and

(b) on or after the grandfathering day, the holding company became or becomes the holder of a loan interest in the licensee company;  
the following provisions have effect:

- (c) subject to paragraph (d), the loan interest shall be disregarded for the purposes of the application of subsection (5) in relation to the holding company;
- (d) paragraph (c) does not apply in relation to the holding company if:

- (i) the holding company ceased or ceases, at any time on or after the grandfathering day, to be in a position to exercise significant control of the licensee company; or
- (ii) subsection (1) or (2) ceased or ceases, at any time on or after the grandfathering day, to apply in relation to the holding company;

- (e) subject to paragraph (f), if, immediately before the grandfathering day, a person, by reason of being in a position to exercise control of the holding company, held an interest in the licensee company, the loan interest shall be disregarded for the purposes of the application of subsection (5) in relation to the person;

- (f) paragraph (e) does not apply in relation to the person if:

- (i) the holding company ceased or ceases, at any time on or after the grandfathering day, to be in a position to exercise significant control of the licensee company;
- (ii) the person ceased or ceases, at any time on or after the grandfathering day, to be in a position to exercise control of the holding company; or
- (iii) subsection (1) or (2) ceased or ceases, at any time on or after the grandfathering day, to apply in relation to the holding company or in relation to the person.

“(9) For the purposes of subsection (8), a company shall be deemed to be in a position to exercise significant control of another company if, had the references in section 89K to 15% been references to 50%, the first company would, in accordance with that section, be deemed to have been in a position to exercise control of the second company.

“(10) Where:

- (a) a commercial television licence (in this subsection called the ‘consolidated licence’) is granted, pursuant to section 94ZC or 94ZG, as part of the consolidation of 2 or more other commercial television licences (in this subsection called the ‘former licences’);
- (b) a person held a prescribed interest in one of the former licences immediately before 29 October 1987 and has continued to hold a prescribed interest in that licence from that time until immediately before the grant of the consolidated licence; and

(c) immediately after the grant of the consolidated licence, the person holds a prescribed interest in the consolidated licence;  
subsection (1) applies in relation to the circumstances giving rise to the prescribed interest referred to in paragraph (c) as if those circumstances had existed immediately before 29 October 1987.

**Television/radio cross media directorship limit—introduced by  
*Broadcasting (Ownership and Control) Act 1987* and modified by  
*Broadcasting (Ownership and Control) Act 1988***

“92ZL. (1) A person shall not be taken to be in contravention of section 92JD by virtue of subsection 92JD (1) by reason of being:

- (a) a director of a company that is in a position to exercise control of a commercial television licence; and
- (b) a director of another company that is in a position to exercise control of a commercial radio licence;

where:

- (c) the person held the directorships immediately before 29 October 1987;
- (d) the company referred to in paragraph (a) was in a position to exercise control of the commercial television licence immediately before 29 October 1987; and
- (e) the company referred to in paragraph (b) was in a position to exercise control of the commercial radio licence immediately before 29 October 1987.

“(2) Where:

- (a) a commercial television licence and a commercial radio licence are paired under section 89T; and
- (b) there is not in force a declaration under subsection 89T (5) or (6) that the pair of licences is affected by aggregation;

a person shall not be taken to be in contravention of section 92JD by virtue of subsection 92JD (1) by reason of being:

- (c) a director of a company that is in a position to exercise control of the commercial television licence; and
- (d) a director of another company that is in a position to exercise control of the commercial radio licence;

where:

- (e) the person held the directorships immediately before the day on which the licences became paired under section 89T;
- (f) the company referred to in paragraph (c) was in a position to exercise control of the commercial television licence immediately before the day on which the licences became paired under section 89T;
- (g) the company referred to in paragraph (d) was in a position to exercise control of the commercial radio licence immediately before the day on which the licences became paired under section 89T; and

- (h) if there is in force a declaration under subsection 89T (7) that the pair of licences is affected by consolidation:
  - (i) immediately after the grant of the commercial television licence, the person held the directorship referred to in paragraph (c) and the company referred to in that paragraph was in a position to exercise control of the licence; and
  - (ii) immediately before the grant of the licence, the person would, but for this subsection, have contravened section 92JD by virtue of subsection 92JD (1) because the person held a directorship of a company that was in a position to exercise control of any of the former licences in relation to the licence.

“(3) For the purposes of subsection (2), where a commercial television licence is granted pursuant to section 94ZC or 94ZG as part of the consolidation of 2 or more other television licences, each of the other television licences is a former licence in relation to the first-mentioned licence.

“(4) Where, in a notice under subsection 89T (2) in relation to a commercial television licence and a commercial radio licence, the Minister includes a declaration under subsection 89T (8) that a period is a notional pairing period in relation to the licences, subsection (2) of this section applies, in relation to the pairing of the licences under section 89T concerned, as if the references in that subsection to the day on which the licences became paired under section 89T were references to the first day of the notional pairing period.

“(5) Where, but for subsection 92ZK (1) or (2), a company would contravene section 92JB by virtue of subsection 92JB (1), a person does not contravene section 92JD by virtue of subsection 92JD (1) by reason only of holding a directorship in that company together with a directorship or directorships in a company that is a subsidiary, or companies that are subsidiaries, of the first company.

“(6) Where:

- (a) a licence (in this subsection called the ‘consolidated licence’) is granted, pursuant to section 94ZC or 94ZG, as part of the consolidation of 2 or more other licences (in this subsection called the ‘former licences’);
- (b) a person was a director of a company that was in a position to exercise control of one of the former licences immediately before 29 October 1987 and has continued to hold that directorship from that time until immediately before the grant of the consolidated licence; and
- (c) immediately after the grant of the consolidated licence, the person is a director of a company that is in a position to exercise control of the consolidated licence;

subsection (1) applies as if the person held the directorship referred to in paragraph (c), and the company referred to in that paragraph was in a position to exercise control of the consolidated licence, immediately before 29 October 1987.

**Radio/newspaper cross media interest limit—introduced by *Broadcasting (Ownership and Control) Act 1988***

“92ZM. (1) A person shall not be taken to be in contravention of section 92JB by virtue of subsection 92JB (3) by reason only of the association of a commercial radio licence and a newspaper under section 89S and 2 of the following:

- (a) the holding by the person of the commercial radio licence, where the person held the licence immediately before 29 October 1987;
- (b) the person's continuing to be the publisher of the newspaper, where the person was the publisher of the newspaper immediately before 29 October 1987;
- (c) the holding by the person of interests in the company holding the commercial radio licence, or the existence of other circumstances, where, immediately before 29 October 1987:
  - (i) the person held those interests in the company and the company held the licence; or
  - (ii) the other circumstances existed;
- (d) the holding by the person of interests in the company that is the publisher of the newspaper, or the existence of other circumstances, where, immediately before 29 October 1987:
  - (i) the person held those interests in the company and the company was the publisher of the newspaper; or
  - (ii) the other circumstances existed;
- (e) the holding by the person of interests in the company holding the commercial radio licence, where:
  - (i) the interests resulted from the allotment or issue, on or after 29 October 1987, of shares in, or debentures of, a company to a person who, immediately before that day, held shares in, or debentures of, that company;
  - (ii) that person received the shares or debentures so allotted or issued in accordance with rights of a kind enjoyed by that person in common with other holders of shares or debentures of the same class as the shares or debentures that were so held; and
  - (iii) immediately before 29 October 1987, the first-mentioned company held the licence;
- (f) the holding by the person of interests in the company that is the publisher of the newspaper, where:
  - (i) the interests resulted from the allotment or issue, on or after 29 October 1987, of shares in, or debentures of, a company

to a person who, immediately before that day, held shares in, or debentures of, that company;

- (ii) that person received the shares or debentures so allotted or issued in accordance with rights of a kind enjoyed by that person in common with other holders of shares or debentures of the same class as the shares or debentures that were so held; and
- (iii) immediately before 29 October 1987, the first-mentioned company was the publisher of the newspaper.

“(2) Where there is in force an entry under subsection 89S (3) stating that a commercial radio licence and a newspaper are affected by an eligible service area change, a person shall not be taken to be in contravention of section 92JB by virtue of subsection 92JB (3) by reason only of the association of the licence and the newspaper under section 89S and 2 of the following:

- (a) the holding by the person of the commercial radio licence, where the person held the licence immediately before the day on which the licence and the newspaper became associated under section 89S;
- (b) the person’s continuing to be the publisher of the newspaper, where the person was the publisher of the newspaper immediately before the day on which the licence and the newspaper became associated under section 89S;
- (c) the holding by the person of interests in the company holding the commercial radio licence, or the existence of other circumstances, where, immediately before the day on which the licence and the newspaper became associated under section 89S:
  - (i) the person held those interests in the company and the company held the licence; or
  - (ii) the other circumstances existed;
- (d) the holding by the person of interests in the company that is the publisher of the newspaper, or the existence of other circumstances, where, immediately before the day on which the licence and the newspaper became associated under section 89S:
  - (i) the person held those interests in the company and the company was the publisher of the newspaper; or
  - (ii) the other circumstances existed;
- (e) the holding by the person of interests in the company holding the commercial radio licence, where:
  - (i) the interests resulted from the allotment or issue, on or after the day on which the licence and the newspaper became associated under section 89S, of shares in, or debentures of, a company to a person who, immediately before that day, held shares in, or debentures of, that company;
  - (ii) that person received the shares or debentures so allotted or issued in accordance with rights of a kind enjoyed by that person in common with other holders of shares or debentures

of the same class as the shares or debentures that were so held; and

- (iii) immediately before the day on which the licence and the newspaper became associated under section 89S, the first-mentioned company held the licence;
- (f) the holding by the person of interests in the company that is the publisher of the newspaper, where:
  - (i) the interests resulted from the allotment or issue, on or after the day on which the licence and the newspaper became associated under section 89S, of shares in, or debentures of, a company to a person who, immediately before that day, held shares in, or debentures of, that company;
  - (ii) that person received the shares or debentures so allotted or issued in accordance with rights of a kind enjoyed by that person in common with other holders of shares or debentures of the same class as the shares or debentures that were so held; and
  - (iii) immediately before the day on which the licence and the newspaper became associated under section 89S, the first-mentioned company was the publisher of the newspaper.

“(3) Where the Tribunal makes an entry in the Associated Newspaper Register under subsection 89S (6) stating that a period is a notional association period in relation to a commercial radio licence and a newspaper, subsection (2) of this section applies, in relation to the association of the licence and the newspaper under section 89S concerned, as if the references in that subsection to the day on which the licence and the newspaper became associated under section 89S were references to the first day of the notional association period.

“(4) Where:

- (a) paragraph (1) (c) or (d) or (2) (c) or (d) applies; and
- (b) the person referred to in that paragraph became the holder of an interest in the company referred to in that paragraph on or after:
  - (i) where paragraph (1) (c) or (d) applies—29 October 1987; or
  - (ii) where paragraph (2) (c) or (d) applies—the day on which the licence and the newspaper referred to in subsection (2) became associated under subsection 89S or, where subsection (3) applies, the first day of the notional association period referred to in that subsection;

subsection (1) or (2) does not apply in relation to the person in relation to the association of the licence and the newspaper under section 89S concerned if and so long as the person is the holder of the interest.

“(5) The operation of subsection (4) is not affected by the fact that on or after the day referred to in subparagraph (4) (b) (i) or (ii) and before

the person became the holder of the interest, there has been a reduction in the amount of the interest held by the person in the company.

“(6) Where:

- (a) but for this subsection, subsection (4) would apply in relation to the person;
- (b) immediately before the day referred to in subparagraph (4) (b) (i) or (ii) (which day is in this subsection called the ‘grandfathering day’), the person held a shareholding interest in:
  - (i) the company (in this subsection called the ‘licensee company’) holding the commercial radio licence; or
  - (ii) the company (in this subsection called the ‘publishing company’) that is the publisher of the newspaper;
- (c) the person held that interest because the person held a direct shareholding interest in a company (in this subsection called the ‘intervening company’) other than the licensee company or publishing company;
- (d) the intervening company became or becomes, on or after the grandfathering day, the holder of a further interest (whether a direct or indirect interest and whether a shareholding interest or another interest) in the licensee company or publishing company; and
- (e) the person became or becomes, because of the circumstances referred to in paragraph (d), the holder of a further interest (whether a shareholding interest or another interest) in the licensee company or publishing company;

subsection (4) does not apply in relation to the person by reason only of the holding by the person of the interest referred to in paragraph (e) of this subsection if and so long as:

- (f) the person’s shareholding interest percentage in the licensee company or publishing company is not greater than:
  - (i) the percentage that was the person’s shareholding interest percentage in that company immediately before the grandfathering day; or
  - (ii) if, at any time on or after the grandfathering day, the person’s shareholding interest percentage in that company has fallen below the percentage referred to in subparagraph (i)—that lower percentage or the lowest such percentage; and
- (g) the person is not in a position to exercise greater control of the licensee company or publishing company than the person was able to exercise immediately before the grandfathering day.

**Radio/newspaper cross media directorship limit—introduced by  
*Broadcasting (Ownership and Control) Act 1988***

“92ZN. (1) A person shall not be taken to be in contravention of section 92JD by virtue of subsection 92JD (3) in relation to a commercial radio licence and a newspaper by reason of:

- (a) the holding by the person of a directorship of a company that is in a position to exercise control of the commercial radio licence, where, immediately before 29 October 1987, the person held the directorship and the company was in a position to exercise control of the licence; and
- (b) either:
  - (i) the holding by the person of a directorship of a company that is in a position to exercise control of the newspaper, where, immediately before 29 October 1987, the person held the directorship and the company was in a position to exercise control of the newspaper; or
  - (ii) the person's continuing to be the publisher of the newspaper, where the person was the publisher of the newspaper immediately before 29 October 1987.

“(2) Where there is in force an entry under subsection 89S (3) stating that a commercial radio licence and a newspaper are affected by an eligible service area change, a person shall not be taken to be in contravention of section 92JD by virtue of subsection 92JD (3) by reason of:

- (a) the holding by the person of a directorship of a company that is in a position to exercise control of the commercial radio licence, where, immediately before the day on which the licence and the newspaper became associated under section 89S, the person held the directorship and the company was in a position to exercise control of the licence; and
- (b) either:
  - (i) the holding by the person of a directorship of a company that is in a position to exercise control of the newspaper, where, immediately before the day on which the licence and the newspaper became associated under section 89S, the person held the directorship and the company was in a position to exercise control of the newspaper; or
  - (ii) the person's continuing to be the publisher of the newspaper, where the person was the publisher of the newspaper immediately before the day on which the licence and the newspaper became associated under section 89S.

“(3) Where the Tribunal makes an entry in the Associated Newspaper Register under subsection 89S (6) stating that a period is a notional association period in relation to a commercial radio licence and a newspaper, subsection (2) of this section applies, in relation to the association of the licence and the newspaper under section 89S concerned, as if the references in that subsection to the day on which the licence and the newspaper become associated under section 89S were references to the first day of the notional association period.

“(4) Where, but for subsection 92ZM (1) or (2), a company would contravene section 92JB by virtue of subsection 92JB (3), a person does not

contravene section 92JD by virtue of subsection 92JD (3) by reason only of holding a directorship in that company together with a directorship or directorships in a company that is a subsidiary, or companies that are subsidiaries, of the first company.”.

**Minor and consequential amendments of Principal Act**

- 14.** (1) The Principal Act is amended as set out in Schedule 1.
- (2) The Principal Act is amended as set out in Schedule 2.

**Consequential amendments of other Acts**

**15.** The Acts set out in Schedule 3 are amended as set out in that Schedule.

**References to provisions**

**16.** A reference in a law of the Commonwealth or of a Territory or in an instrument or document, to a Part, Division or section of the Principal Act that has been renumbered, or repealed and re-enacted, pursuant to this Act shall be read as a reference to that Part, Division or section as so renumbered.

**Savings**

**17.** (1) A notice made under subsection 90P (1), 92JA (1) or 92W (1) of the Principal Act shall be deemed to have been made under subsection 89X (1) of the amended Act.

(2) Where, immediately before the commencement of this section:

- (a) a register is kept for the purposes of section 91C of the Principal Act—the register shall be deemed to be kept for the purposes of section 89Q of the amended Act;
- (b) an application made under subsection 91C (2) of the Principal Act is pending—the application shall be deemed to have been made under subsection 89Q (2) of the amended Act;
- (c) a registration under section 91C of the Principal Act is in force—the registration continues in force, subject to the amended Act, for the purposes of section 89Q of the amended Act; or
- (d) a notice is or has been lodged under subsection 91C (6) of the Principal Act—the notice shall be deemed to have been lodged under subsection 89Q (6) of the amended Act.

(3) A certificate in effect under section 91D of the Principal Act immediately before the commencement of this section, continues in effect, subject to the amended Act, for the purposes of section 89R of the amended Act.

(4) In this section:

“amended Act” means the Principal Act as in force at any time after the commencement of this section.

**Transitional**

**18. Where:**

- (a) after the commencement of this section and before the commencement of section 12, the Australian Broadcasting Tribunal makes an entry, in relation to a licence and a newspaper, under subsection 89S (2) of the Principal Act as in force at that time; and
- (b) immediately before the commencement of this section, an entry was in force under subsection 91AAE (2) of the Principal Act in relation to the licence and the newspaper;

the Tribunal may be satisfied as to the matters referred to in subsection 89S (3), (5) or (6) of the Principal Act as in force as mentioned in paragraph (a), and may make any entry required as a result to be made under that subsection, at the time of making the entry referred to in paragraph (a) or at any time before the commencement of section 12 of this Act.

**Application**

**19. (1)** For the purposes of the application of sections 92ZD and 92ZE of the Principal Act, those sections have effect at all times after their commencement as if they had come into operation immediately after the commencement of section 19 of the *Broadcasting (Ownership and Control) Act 1987*.

**(2)** For the purposes of the application of the Principal Act, the *Broadcasting (Ownership and Control) Act 1987* and the *Broadcasting Amendment Act 1987*, as in force at any time before the amendments made by section 13 of this Act came into operation, the amendments made by that section shall be disregarded.

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**SCHEDULE 1**

Subsection 14 (1)

**MINOR AND CONSEQUENTIAL AMENDMENTS OF PRINCIPAL ACT**

**Paragraph 16 (1) (c):**

Omit "Part IIIB", substitute "Part IIIBA".

**Paragraph 17A (2) (g):**

Omit "91C" (wherever occurring), substitute "89Q".

**Paragraph 17A (2) (h):**

Omit "91D", substitute "89R".

**Subsection 80 (1) (definition of "government policy statement"):**

Omit "Division", substitute "Part".

**Paragraph 83 (7) (b):**

Omit "Division 2 or 3, as the case requires", substitute "Part IIIBA".

**Subparagraph 83 (7A) (c) (iv):**

After "Division 6", insert "of Part IIIBA".

**Paragraph 86 (11C) (b):**

Omit "Division 2 or 3, as the case requires", substitute "Part IIIBA".

**Subparagraphs 86 (11DA) (c) (v) and (vi):**

After "Division 6", insert "of Part IIIBA".

**Paragraphs 88 (1F) (d) and (e):**

After "Division 6", insert "of Part IIIBA".

**Paragraph 89A (1E) (b):**

Omit "Division 2 or 3, as the case requires", substitute "Part IIIBA".

**Subsection 90 (1) (definitions of "control" and "interest"):**

Omit the definitions.

**Subsections 90 (2) to (8) (inclusive):**

Omit the subsections.

**Sections 90AAA, 90AAB, 90A, 90AA and 90B:**

Repeal the sections.

**Paragraph 90G (2) (a):**

Omit the paragraph, substitute the following paragraph:

"(a) be in a position to exercise control of more than 20% of the general meeting votes in the company holding the licence;"

**SCHEDULE 1—continued**

**Paragraph 90G (4) (a):**

Omit the paragraph, substitute the following paragraph:

“(a) the person is, or persons are, in a position to exercise control of more than 50% of the general meeting votes in the company;”.

**Paragraph 90J (3) (a):**

After subparagraph (iv), insert the following subparagraphs:

“(iva) whether or not the prescribed party has a prescribed interest in a newspaper associated with the service area of the licence and, if so, setting out particulars of each such prescribed interest;

(ivb) whether or not, by reason of the interests to be held as a result of the transaction, together with any other interest, the prescribed party will have a prescribed interest in a newspaper associated with the service area of the licence and, if so, setting out particulars of each such prescribed interest;”.

**Subsection 90J (7B):**

Omit “or a notice lodged in pursuance of subsection (7)”.

**Subsection 90J (7F):**

Omit “(7) or”.

**Subparagraph 90L (1) (c) (ii):**

Omit “Division”, substitute “Part”.

**Section 90P:**

Repeal the section.

**Subsection 91 (1) (definitions of “Associated Newspaper Register”, “control”, “debentures”, “financial interest”, “interest”, “joint venture”, “joint venturer”, “newspaper” and “publisher”):**

Omit the definitions.

**Subsections 91 (2) to (6A) (inclusive) and 91 (7) to (12) (inclusive):**

Omit the subsections.

**Sections 91AAA, 91AAB and 91AAC:**

Repeal the sections.

**Sections 91AAE, 91AA, 91AB, 91A, 91B, 91C and 91D:**

Repeal the sections.

**Subsection 92 (1AF):**

(a) Omit “91A”, substitute “98N”.

(b) Omit “91AAC”, substitute “89J”.

**SCHEDULE 1—continued**

**Paragraph 92D (2) (a):**

Omit the paragraph, substitute the following paragraph:

“(a) be in a position to exercise control of more than 20% of the general meeting votes in the company holding the licence;”.

**Paragraph 92D (4) (a):**

Omit the paragraph, substitute the following paragraph:

“(a) the person is, or persons are, in a position to exercise control of more than 50% of the general meeting votes in the company;”.

**Subsection 92F (8A):**

Omit “92B”, substitute “89K”.

**Subsection 92F (9):**

Omit “91A and 91B”, substitute “89N and 89P”.

**Subparagraph 92FAA (4) (b) (ii):**

Omit “91AAC”, substitute “89K”.

**Paragraph 92FAA (4) (c):**

Omit “91AAC”, substitute “89K”.

**Subparagraph 92G (1) (c) (ii):**

Omit “Division”, substitute “Part”.

**Section 92JA:**

Repeal the section.

**Section 92L (definition of “interest”):**

Omit the definition.

**Subsection 92S (2):**

Omit “section 90F, 90J, 90JA, or 90P, subsection 91C (6) or section 92C, 92F, 92FAA, 92FAC, 92FAD, 92JA”, substitute “subsection 89J (6) or section 89X, 90F, 90J, 90JA, 92C, 92F, 92FAA, 92FAC, 92FAD”.

**Subsection 92T (1):**

Omit “Division 2 or 3 or this Division”, substitute “this Part”.

**Section 92U:**

Omit “Division 2 or 3 or this Division”, substitute “this Part”.

**Section 92W:**

Repeal the section.

**SCHEDULE 1—continued**

**Subsection 92X (1):**

Omit the subsection.

**Section 92Y:**

Omit “88 (1A)”, substitute “88 (1E)”.

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**SCHEDULE 2**

Subsection 14 (2)

**MINOR AND CONSEQUENTIAL AMENDMENTS OF PRINCIPAL ACT**

**Subparagraph 83 (6) (f) (i):**

Omit “92FAB”, substitute “92JB”.

**Subparagraph 83 (6) (f) (ii):**

Omit “92FAD”, substitute “92JD”.

**Subsection 83 (7):**

Omit “92FAB”, substitute “92JB”.

**Subparagraph 86 (11B) (d) (i):**

Omit “92FAB”, substitute “92JB”.

**Subparagraph 86 (11B) (d) (ii):**

Omit “92FAD”, substitute “92JD”.

**Subsection 86 (11C):**

Omit “92FAB”, substitute “92JB”.

**Subparagraph 89A (1D) (d) (i):**

Omit “92FAB”, substitute “92JB”.

**Subparagraph 89A (1D) (d) (ii):**

Omit “92FAD”, substitute “92JD”.

**Subsection 89A (1E):**

Omit “92FAB”, substitute “92JB”.

**Subparagraph 90J (3) (a) (v):**

Omit “92FAD”, substitute “92JD”.

**Subsection 90J (9):**

Omit “90AAB”, substitute “89K”.

**SCHEDULE 2—continued**

**Section 90J:**

Add at the end the following subsection:

“(10) Where:

- (a) a person acquired a prescribed interest in a commercial radio licence on or after 28 October 1987 and before the commencement of this subsection; and
- (b) at the time when the person acquired that interest the person had a prescribed interest in a newspaper associated with the service area of the licence;

the person shall give the Tribunal notice in writing, within 28 days after the commencement of this subsection, setting out particulars of the person's prescribed interest in that newspaper.”.

**Subparagraph 90JA (4) (b) (ii):**

Omit “90AAB”, substitute “89K”.

**Paragraph 90JA (4) (c):**

Omit “90AAB”, substitute “89K”.

**Subparagraph 90L (1) (a) (i):**

Omit “92FAB”, substitute “92JB”.

**Paragraph 90M (aa):**

Omit the paragraph, substitute the following paragraph:

“(aa) whether to the best of his or her knowledge and belief, there has been, at any time during that period, any contravention of section 92JB by a person by virtue of holding a prescribed interest in the licence and:

- (i) a prescribed interest in a commercial television licence; or
  - (ii) a prescribed interest in a newspaper;
- and the particulars of any such contravention;”.

**Subparagraph 92F (3) (a) (vi):**

Omit “92FAD”, substitute “92JD”.

**Subparagraph 92G (1) (a) (i):**

Omit “92FAB”, substitute “92JB”.

**Paragraph 92H (aa):**

Omit “92FAB”, substitute “92JB”.

**Subdivision C of Division 3 of Part IIIB:**

Repeal the Subdivision.

**SCHEDULE 2—continued**

**Subsection 92N (1):**

Omit “92FAB”, substitute “92JB”.

**Paragraph 92P (1) (aa):**

Omit “92FAB”, substitute “92JB”.

**Section 92Q:**

Omit “92FAB, 92FAC or 92FAD”, substitute “92JB, 92JC or 92JD”.

**Subsection 92R (1):**

Omit “or 3”, substitute “, 3 or 3A”.

**Subsection 92S (1):**

Omit “92FAB”, substitute “92JB”.

**Subsection 92S (2):**

Omit “92FAC, 92FAD”, substitute “92JC, 92JD”.

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**SCHEDULE 3**

Section 15

**CONSEQUENTIAL AMENDMENTS OF OTHER ACTS**

***Broadcasting and Television Amendment Act 1985***

**Subsection 101 (1):**

Omit “Divisions 2, 3 and 4 of Part IIIB”, substitute “Part IIIBA”.

**Subsection 101 (2):**

Omit “Part IIIB” (wherever occurring), substitute “Part IIIBA”.

***Broadcasting (Ownership and Control) Act 1987***

**Subsections 22 (3) to (9) (inclusive):**

Omit the subsections.

**Subsections 24 (2) and (3):**

Omit the subsections.

**Subsections 27 (2) to (18) (inclusive):**

Omit the subsections.

**SCHEDULE 3—continued*****Broadcasting Amendment Act 1987***

**Subsections 13 (2) to (6) (inclusive):**

Omit the subsections.

***Broadcasting Amendment Act (No. 3) 1987***

**Schedule 2 (item headed “New Division” and inserting a proposed new Division 2 of Part IVA of the *Broadcasting and Television Act 1942* as in force immediately before 1 January 1986):**

Omit the item.

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**NOTE**

1. No. 33, 1942, as amended. For previous amendments, see No. 39, 1946; No. 64, 1948; No. 80, 1950; No. 41, 1951; No. 12, 1953; No. 82, 1954; Nos. 33, 65 and 92, 1956; No. 36, 1960 (as amended by No. 32, 1961); No. 96, 1962; No. 82, 1963; Nos. 67 and 121, 1964; Nos. 38 and 120, 1965; No. 57, 1966; No. 47, 1967; No. 69, 1968; Nos. 21 and 31, 1969; Nos. 8, 72 and 136, 1971; No. 49, 1972; No. 50, 1973; No. 216, 1973 (as amended by No. 20, 1974); No. 55, 1974; No. 56, 1975; Nos. 89, 157 and 187, 1976; No. 160, 1977; Nos. 36, 52 and 210, 1978; Nos. 143 and 177, 1980; Nos. 61, 113 and 153, 1981; No. 154, 1982; Nos. 7, 37, 39, 91 and 136, 1983; Nos. 10, 63, 72, 163 and 165, 1984; Nos. 66 and 191, 1985; Nos. 2 and 76, 1986; and Nos. 68, 79, 80, 134 and 184, 1987.

[*Minister's second reading speech made in—*  
*Senate on 14 April 1988*  
*House of Representatives on 25 May 1988*]