Datacasting Transmitter Licence Fees Act 2006

No. 154, 2006

An Act to impose fees, by way of taxes, in relation to channel A datacasting transmitter licences, and for related purposes

Note: An electronic version of this Act is available in ComLaw (http://www.comlaw.gov.au/)

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[*Assented to 8 December 2006*]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Datacasting Transmitter Licence Fees Act 2006*.

2 Commencement

This Act commences on 1 January 2007.

3 Definitions

In this Act:

ACMA means the Australian Communications and Media Authority.

gross earnings, in respect of a licence in relation to a period, means so much of the gross earnings of the licensee during that period as are attributable to the transmission of matter by radiocommunications transmitters operating under the licence. To avoid doubt, clause 46 of Schedule 6 to the *Broadcasting Services Act 1992* does not apply to this definition.

licence means a channel A datacasting transmitter licence (as defined by the *Radiocommunications Act 1992*).

radiocommunications transmitter has the same meaning as in the *Radiocommunications Act 1992*.

4 Non-cash consideration

For the purposes of this Act, if, in connection with any transaction, any consideration is paid or given otherwise than in cash, the money value of that consideration is taken to have been paid or given.

5 Act to bind Crown

This Act binds the Crown in right of each of the States, of the Australian Capital Territory, of the Northern Territory and of Norfolk Island. However, it does not bind the Crown in right of the Commonwealth.

6 External Territories

This Act extends to every external Territory.

7 Imposition of fees

(1) Subject to subsection (2), there is payable to the Commonwealth by a licensee, by way of tax in respect of the licence, fees in accordance with section 8.

(2) The regulations may make provision for rebates of fees payable by licensees.

(3) Fees payable under subsection (1) are imposed.

Note: For collection of fees, see Part 14A of the *Broadcasting Services Act 1992*.

8 Amount of fees

(1) There is payable by a licensee:

(a) on each 31 December that occurs during the period of the licence; and

(b) on:

(i) if the licence's period ends on a 31 December or a day within the first 6 months of a calendar year—the first 31 December after the licence's period; or

(ii) if the licence's period ends on any other day in a calendar year—each 31 December that occurs during the 18 months immediately following the licence's period;

a fee of an amount equal to the relevant percentage of the gross earnings in respect of the licence during the period of one year ending on the 30 June last preceding the 31 December.

Relevant percentage

(2) For the purposes of subsection (1), the ***relevant percentage***, in relation to the gross earnings in respect of a licence during a period, is whichever of the following is applicable:

(a) if those gross earnings are less than $5,000,000—the percentage worked out using the formula:

$$0.5 + \left\{0.6 \times \frac{\text{Gross amount}}{1{,}000{,}000}\right\}$$

(b) if those gross earnings are not less than $5,000,000 but are less than $6,000,000—the percentage worked out using the formula:

$$3.5 + \left\{0.5 \times \frac{\text{Gross amount} - 5{,}000{,}000}{1{,}000{,}000}\right\}$$

(c) if those gross earnings are not less than $6,000,000 but are less than $7,000,000—the percentage worked out using the formula:

$$4 + \left\{0.4 \times \frac{\text{Gross amount} - 6{,}000{,}000}{1{,}000{,}000}\right\}$$

(d) if those gross earnings are not less than $7,000,000 but are less than $10,000,000—the percentage worked out using the formula:

$$4.4 + \left\{0.3 \times \frac{\text{Gross amount} - 7{,}000{,}000}{1{,}000{,}000}\right\}$$

(e) if those gross earnings are not less than $10,000,000 but are less than $20,000,000—the percentage worked out using the formula:

$$5.3 + \left\{0.11 \times \frac{\text{Gross amount} - 10{,}000{,}000}{1{,}000{,}000}\right\}$$

(f) if those gross earnings are not less than $20,000,000 but are less than $45,000,000—the percentage worked out using the formula:

$$6.4 + \left\{ 0.06 \times \frac{\text{Gross amount} - 20{,}000{,}000}{1{,}000{,}000} \right\}$$

(g) if those gross earnings are not less than $45,000,000 but are less than $75,000,000—the percentage worked out using the formula:

$$7.9 + \left\{ 0.03 \times \frac{\text{Gross amount} - 45{,}000{,}000}{1{,}000{,}000} \right\}$$

(h) if those gross earnings are not less than $75,000,000—the lesser of:

(i) 9%; and

(ii) the percentage worked out using the formula:

$$8.8 + \left\{ 0.008 \times \frac{\text{Gross amount} - 75{,}000{,}000}{1{,}000{,}000} \right\}$$

where:

gross amount means the number of dollars in those gross earnings.

Renewal

(3) For the purposes of subsection (1), the period of a licence is taken to include any period of renewal of the licence.

Rounding of gross earnings

(4) If the amount of the gross earnings in respect of a licence during a period consists of a number of dollars and a number of cents, then, for the purposes of this section, disregard the cents.

9 Earnings of subsidiary companies etc.

If the ACMA is of the opinion that:

(a) an amount, or part of an amount, earned during any period by a person other than a licensee would, if the licensee and that person were the same person, form part of the gross earnings in respect of the licence in relation to that period for the purposes of this Act; and

(b) a relationship exists between the licensee and the other person (whether by reason of any shareholding or of any agreement or arrangement, or for any other reason) of such a kind that the amount or the part of the amount, as the case may be, should, for the purposes of this Act, be treated as part of the gross earnings in respect of the licence in relation to that period;

the ACMA may direct that the amount or the part of the amount, as the case may be, is to be so treated.

10 Regulations

The Governor-General may make regulations prescribing matters:

(a) required or permitted by this Act to be prescribed; or

(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

[*Minister's second reading speech made in—*
House of Representatives on 12 October 2006
Senate on 30 November 2006]

(144/06)