



Broadcasting Legislation Amendment (Broadcasting Reform) Act 2017

No. 113, 2017

**An Act to amend legislation relating to
broadcasting, and for other purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation
(<https://www.legislation.gov.au/>)

Contents

1	Short title	1
2	Commencement	2
3	Schedules	3
Schedule 1—Abolition of the 75% audience reach rule		4
	<i>Broadcasting Services Act 1992</i>	4
Schedule 2—Abolition of the 2 out of 3 cross-media control rule		5
	<i>Broadcasting Services Act 1992</i>	5
Schedule 3—Local programming requirements for regional commercial television broadcasting licensees		7
Part 1—New local programming requirements		7
	<i>Broadcasting Services Act 1992</i>	7
Part 2—Abolition of old local programming requirements		17
	<i>Broadcasting Services Act 1992</i>	17
Schedule 4—Anti-siphoning		18
Part 1—Amendments		18
	<i>Broadcasting Services Act 1992</i>	18
	<i>Broadcasting Services (Events) Notice (No. 1) 2010</i>	19
Part 2—Transitional		23
Schedule 5—Abolition of licence fees and datacasting charges		24
Part 1—Repeals		24
	Division 1—Repeals	24
	<i>Broadcasting Services (Datacasting Charge) Regulations 2001</i>	24
	<i>Datacasting Charge (Imposition) Act 1998</i>	24
	<i>Datacasting Transmitter Licence Fees Act 2006</i>	24
	<i>Radio Licence Fees Act 1964</i>	24
	<i>Television Licence Fees Act 1964</i>	24
	Division 2—Application provisions	25
Part 2—Amendments		27

Division 1—Amendments	27
<i>Australian Communications and Media Authority Act 2005</i>	27
<i>Broadcasting Services Act 1992</i>	27
<i>Radiocommunications Act 1992</i>	28
Division 2—Application provisions	28
Division 3—Refund of overpayments	30
Schedule 6—Taxation and transitional support payments	31
Part 1—General amendments	31
<i>Australian Communications and Media Authority Act 2005</i>	31
<i>Broadcasting Services Act 1992</i>	31
<i>Radiocommunications Act 1992</i>	36
<i>Radiocommunications Taxes Collection Act 1983</i>	38
Part 2—Termination of the liability of commercial broadcasters to pay transmitter licence tax	44
<i>Radiocommunications (Transmitter Licence Tax) Act 1983</i>	44
Part 3—Transitional support payments	48
Schedule 7—Review of taxation arrangements etc.	53
<i>Broadcasting Services Act 1992</i>	53



Broadcasting Legislation Amendment (Broadcasting Reform) Act 2017

No. 113, 2017

An Act to amend legislation relating to broadcasting, and for other purposes

[Assented to 16 October 2017]

The Parliament of Australia enacts:

1 Short title

This Act is the *Broadcasting Legislation Amendment
(Broadcasting Reform) Act 2017*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	16 October 2017
2. Schedules 1 and 2	The day after this Act receives the Royal Assent.	17 October 2017
3. Schedule 3, Part 1	The day after this Act receives the Royal Assent.	17 October 2017
4. Schedule 3, Part 2	The day after the end of the period of 6 months beginning on the day after this Act receives the Royal Assent.	17 April 2018
5. Schedule 4	The day after this Act receives the Royal Assent.	17 October 2017
6. Schedule 5, item 1	The day after this Act receives the Royal Assent.	17 October 2017
7. Schedule 5, item 2	1 July 2016.	1 July 2016
8. Schedule 5, items 3 to 5	1 January 2017.	1 January 2017
9. Schedule 5, item 6	The day after this Act receives the Royal Assent.	17 October 2017
10. Schedule 5, item 7	1 July 2016.	1 July 2016
11. Schedule 5, items 8 to 10	1 January 2017.	1 January 2017
12. Schedule 5, Part 2	The day after this Act receives the Royal Assent.	17 October 2017
13. Schedule 6,	The day after this Act receives the Royal	17 October 2017

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
Part 1	Assent.	
14. Schedule 6, Part 2	1 July 2017.	1 July 2017
15. Schedule 6, Part 3	The day after this Act receives the Royal Assent.	17 October 2017
16. Schedule 7	The day after this Act receives the Royal Assent.	17 October 2017

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Note: The provisions of the *Broadcasting Services (Events) Notice (No. 1) 2010* amended or inserted by this Act, and any other provisions of that notice, may be amended or repealed by a legislative instrument made under section 115 of the *Broadcasting Services Act 1992* (see subsection 13(5) of the *Legislation Act 2003*).

Schedule 1—Abolition of the 75% audience reach rule

Broadcasting Services Act 1992

1 Subsection 53(1)

Repeal the subsection.

2 Subsection 53(2)

Omit “(2)”.

3 Subsections 55(1) and (2)

Repeal the subsections.

Schedule 2—Abolition of the 2 out of 3 cross-media control rule

Broadcasting Services Act 1992

1 Section 61AA (definition of *unacceptable 3-way control situation*)

Repeal the definition.

2 Section 61AEA

Repeal the section.

3 Subdivision BA of Division 5A of Part 5

Repeal the Subdivision.

4 Section 61ANA

Repeal the section.

5 Subsection 61AP(1)

Omit “or 61ANA”.

6 Subsection 61AP(3A)

Repeal the subsection.

7 Paragraph 61AP(6)(c)

Omit “or 61ANA, as the case may be”.

8 Paragraph 61AQ(1)(a)

Omit “or 61ANA”.

9 Subsection 61AR(1)

Omit “or 61ANA”.

10 Paragraph 61AS(1)(b)

Omit “area;”, substitute “area.”.

11 Paragraph 61AS(1)(c)

Repeal the paragraph.

12 Subparagraph 61AZ(1)(b)(ii)

Omit “and”.

13 Paragraph 61AZ(1)(c)

Repeal the paragraph.

14 Subsection 204(1) (table)

Omit:

Refusal to approve transaction or determination of period of approval	Section 61AJ or 61AMC	The applicant for approval
Refusal to extend time for compliance	Section 61AK or 61AMD	The applicant

substitute:

Refusal to approve transaction or determination of period of approval	Section 61AJ	The applicant for approval
Refusal to extend time for compliance	Section 61AK	The applicant

15 Section 205Q

Omit “26AA, 61AH or 61AMB”, substitute “26AA or 61AH”.

Schedule 3—Local programming requirements for regional commercial television broadcasting licensees

Part 1—New local programming requirements

Broadcasting Services Act 1992

1 After Division 5C of Part 5

Insert:

Division 5D—Local programming requirements for regional commercial television broadcasting licensees

61CU Definitions

In this Division:

eligible period has the meaning given by section 61CY.

local area: the local programming determination may provide that a specified area is a ***local area*** in relation to a specified regional commercial television broadcasting licence.

local programming determination means the determination made under section 61CZ.

material of local significance, in relation to a local area, has the meaning given by the local programming determination. The definition of ***material of local significance*** must be broad enough to cover news that relates directly to the local area concerned.

points: see section 61CY.

regional aggregated commercial television broadcasting licence means a commercial television broadcasting licence for any of the following licence areas:

- (a) Northern New South Wales TV1;
- (b) Southern New South Wales TV1;

Schedule 3 Local programming requirements for regional commercial television broadcasting licensees

Part 1 New local programming requirements

- (c) Regional Victoria TV1;
- (d) Eastern Victoria TV1;
- (e) Western Victoria TV1;
- (f) Regional Queensland TV1;
- (g) Tasmania TV1.

regional commercial television broadcasting licence means:

- (a) a regional aggregated commercial television broadcasting licence; or
- (b) a regional non-aggregated commercial television broadcasting licence.

regional non-aggregated commercial television broadcasting licence means a commercial television broadcasting licence for any of the following licence areas:

- (a) Broken Hill TV1;
- (b) Darwin TV1;
- (c) Geraldton TV1;
- (d) Griffith and MIA TV1;
- (e) Kalgoorlie TV1;
- (f) Mildura/Sunraysia TV1;
- (g) Mount Gambier/South East TV1;
- (h) Mt Isa TV1;
- (i) Remote and Regional WA TV1;
- (j) Riverland TV1;
- (k) South West and Great Southern TV1;
- (l) Spencer Gulf TV1.

timing period has the meaning given by section 61CY.

trigger event has the meaning given by section 61CV.

week means a period of 7 days starting on a Sunday.

61CV Trigger event

For the purposes of this Division, if:

- (a) a person starts to be in a position to exercise control of a commercial television broadcasting licence; and
 - (b) immediately after that event:
-

- (i) the person is in a position to exercise control of 2 or more commercial television broadcasting licences; and
- (ii) the combined licence area populations of those licences exceed 75% of the population of Australia; and
- (iii) at least one of those licences is a regional commercial television broadcasting licence;

that event is a **trigger event** for each of those licences that is a regional commercial television broadcasting licence.

61CW Local programming requirements for regional aggregated commercial television broadcasting licensees

Trigger event occurs—ongoing requirements

- (1) If:
 - (a) a trigger event for a regional aggregated commercial television broadcasting licence occurs on a particular day; and
 - (b) that event is the first or only trigger event for the licence; the licensee must broadcast, to each local area, material of local significance in order to accumulate at least:
 - (c) 900 points in each timing period that begins after the end of the period of 6 months beginning on that day; and
 - (d) 120 points in each week that is included in a timing period covered by paragraph (c).

Trigger event occurs—transitional requirements

- (2) If:
 - (a) a trigger event for a regional aggregated commercial television broadcasting licence occurs on a particular day; and
 - (b) that event is the first or only trigger event for the licence; the licensee must broadcast, to each local area, material of local significance in order to accumulate at least:
 - (c) 720 points in each timing period that:
 - (i) begins before the end of the period of 6 months beginning on that day; and
 - (ii) does not end before that day; and

Schedule 3 Local programming requirements for regional commercial television broadcasting licensees

Part 1 New local programming requirements

- (iii) begins after the end of the period of 6 months beginning at the commencement of this subsection; and
- (d) 90 points in each week that is included in a timing period covered by paragraph (c).

Note: The *Broadcasting Services (Additional Television Licence Condition) Notice 2014* imposes local programming requirements for a timing period that begins before the end of the period of 6 months beginning at the commencement of this subsection.

No trigger event has occurred

- (3) If no trigger event for a regional aggregated commercial television broadcasting licence has occurred, the licensee must broadcast, to each local area, material of local significance in order to accumulate at least:
 - (a) 720 points in each timing period that begins after the end of the period of 6 months beginning at the commencement of this subsection; and
 - (b) 90 points in each week that is included in a timing period covered by paragraph (a).

Note: The *Broadcasting Services (Additional Television Licence Condition) Notice 2014* imposes local programming requirements for a timing period that begins before the end of the period of 6 months beginning at the commencement of this subsection.

61CX Local programming requirements for regional non-aggregated commercial television broadcasting licensees

Trigger event occurs

- (1) If:
 - (a) a trigger event for a regional non-aggregated commercial television broadcasting licence occurs on a particular day; and
 - (b) that event is the first or only trigger event for the licence; the licensee must broadcast, to each local area, material of local significance in order to accumulate at least:
 - (c) 600 points in each timing period that begins after the end of the period of 6 months beginning on that day; and

- (d) 100 points in each week that is included in a timing period covered by paragraph (c).

Exemption—licences granted under section 38A or 38B

- (2) Subsection (1) does not apply to a licence granted under section 38A or 38B.

61CY Points system

Eligible periods

- (1) For the purposes of this Division, points are accumulated during the following ***eligible periods***:
- (a) from 6:30 am to midnight on Monday to Friday;
 - (b) from 8:00 am to midnight on Saturday and Sunday.

Timing periods

- (2) For the purposes of this Division, points are calculated during the following ***timing periods***:
- (a) the period of 6 weeks starting on the first Sunday in February in a year;
 - (b) each subsequent period of 6 weeks until the end of the 42nd week after the first Sunday in February;
 - (c) the period:
 - (i) starting at the end of the 42nd week after the first Sunday in February; and
 - (ii) ending immediately before the first Sunday in February in the following year.

Note 1: A licensee is not able to accumulate points during the period specified in subsection (4).

Note 2: See also subsection (9).

Points for material of local significance

- (3) Subject to subsections (4) to (8), material of local significance accumulates points in a local area according to the following table.

Schedule 3 Local programming requirements for regional commercial television
broadcasting licensees

Part 1 New local programming requirements

Points		
Item	Material	Points for each minute of material
1	News that: (a) is broadcast during an eligible period by a licensee covered by subsection 61CW(1) or 61CX(1); and (b) has not previously been broadcast to the local area during an eligible period; and (c) depicts people, places or things in the local area; and (d) meets such other requirements (if any) as are set out in the local programming determination.	3
2	News that: (a) is broadcast during an eligible period; and (b) has not previously been broadcast to the local area during an eligible period; and (c) relates directly to the local area; and (d) is not covered by item 1.	2
3	Other material that: (a) is broadcast during an eligible period; and (b) except in the case of a community service announcement—has not previously been broadcast to the local area during an eligible period; and (c) relates directly to the local area.	1
4	News that: (a) is broadcast during an eligible period; and (b) has not previously been broadcast to the local area during an eligible period; and (c) relates directly to the licensee's licence area.	1
5	Other material that: (a) is broadcast during an eligible period; and (b) except in the case of a community service announcement—has not previously been broadcast to the local area during an eligible period; and (c) relates directly to the licensee's licence area.	1

Limits on material in the timing period starting at the end of the 42nd week

- (4) For the timing period mentioned in paragraph (2)(c), points cannot be accumulated:
- (a) for 4 weeks from and including the week of the timing period that includes 15 December; and
 - (b) for any week between the end of the tenth week of the timing period mentioned in paragraph (2)(c) and the beginning of the timing period mentioned in paragraph (2)(a).

Note: See also subsection (10).

Limits on material that relates directly to the licensee's licence area

- (5) Except for service licence numbers 104 and 106, not more than 50% of the points accumulated in a local area during a timing period is to be attributable to material that relates directly to the licensee's licence area.
- (6) For service licence numbers 104 and 106, not more than 50% of the points accumulated in a local area during a timing period is to be attributable to material that relates directly to the combined licence areas of the licensees for service licence numbers 104 and 106.

Limits on community service announcements

- (7) Points may be accumulated in a local area for:
- (a) the first broadcast of a community service announcement in the area; and
 - (b) not more than 4 repeats of the community service announcement in the area.
- (8) Despite subsection (7), not more than 10% of the points accumulated in a local area during a timing period is to be attributable to material of local significance in the form of community service announcements.
- (9) The local programming determination may, with the written consent of the licensee of a regional non-aggregated commercial

television broadcasting licence, modify subsection (2) so far as that subsection applies in relation to the licence.

- (10) The local programming determination may, with the written consent of the licensee of a regional non-aggregated commercial television broadcasting licence, modify subsection (4) so far as that subsection applies in relation to the licence.

61CZ Local programming determination

- (1) The ACMA may, by legislative instrument, make a determination (the *local programming determination*) prescribing matters required or permitted by this Act to be prescribed by the local programming determination.
- (2) The ACMA must take all reasonable steps to ensure that the local programming determination is in force under subsection (1) at all times after the end of the 6-month period that began at the commencement of this section.

61CZA Record-keeping requirements

Scope

- (1) This section applies if the licensee of a regional commercial television broadcasting licence is subject to a requirement under section 61CW or 61CX.

Requirements

- (2) The licensee must:
- (a) make a record, in audiovisual form, of material of local significance that the licensee has broadcast in any of its local areas; and
 - (b) retain the record for:
 - (i) 30 days after the end of the timing period to which the record relates; or
 - (ii) if the ACMA directs the licensee to retain the record for a longer period—that longer period; and
 - (c) on request by the ACMA, provide the ACMA with access to the record.

- (3) The licensee must comply with any directions by the ACMA about:
- (a) what a record made under subsection (2) must cover; or
 - (b) how the record must be made or retained.

61CZB Licensee must submit compliance reports

Scope

- (1) This section applies if:
- (a) a trigger event for a regional commercial television broadcasting licence occurs on a particular day; and
 - (b) that event is the first or only trigger event for the licence.

Reports

- (2) The licensee must give to the ACMA:
- (a) a report covering the licensee's compliance with the requirements of this Division during the 12-month period (the ***initial reporting period***) beginning immediately after the end of the 6-month period that began on the day the trigger event happened; and
 - (b) a report covering the licensee's compliance with the requirements of this Division during the 12-month period beginning immediately after the end of the initial reporting period.

Timing of reports

- (3) The licensee must give a copy of a report under this section to the ACMA within 28 days of the end of the period covered by the report.

Other requirements

- (4) A report under this section must:
- (a) be in a form approved in writing by the ACMA; and
 - (b) set out such information as the ACMA requires.

61CZC Review of local programming requirements

- (1) The ACMA must:
 - (a) conduct a review of the following matters:
 - (i) the operation of this Division;
 - (ii) the operation of the local programming determination;
 - (iii) the operation of paragraph 7(2)(ba) of Schedule 2; and
 - (b) do so within 30 months after the commencement of this section.
- (2) The ACMA must prepare a report of the review under subsection (1).
- (3) The ACMA must give the report to the Minister.
- (4) The Minister must cause copies of the report to be tabled in each House of the Parliament within 15 sitting days of that House after the day on which the Minister receives the report.

61CZD Minister may direct the ACMA about the exercise of its powers

- (1) The Minister may, by legislative instrument, give a direction to the ACMA about the exercise of the powers conferred on the ACMA by this Division (other than section 61CZC).
- (2) The ACMA must comply with a direction under subsection (1).

2 After paragraph 7(2)(b) of Schedule 2

Insert:

- (ba) if a requirement under Division 5D of Part 5 (which sets out local programming requirements) applies to the licensee—the licensee will comply with that requirement;

Part 2—Abolition of old local programming requirements

Broadcasting Services Act 1992

3 Section 43A

Repeal the section.

4 Revocation of the *Broadcasting Services (Additional Television Licence Condition) Notice 2014*

- (1) The ACMA is taken:
 - (a) to have revoked the *Broadcasting Services (Additional Television Licence Condition) Notice 2014*; and
 - (b) to have done so under subsection 43(1) of the *Broadcasting Services Act 1992* immediately after the commencement of this item.
- (2) Subsections 43(2) and (3) of the *Broadcasting Services Act 1992* do not apply to a revocation under subitem (1).
- (3) Despite the revocation of the *Broadcasting Services (Additional Television Licence Condition) Notice 2014* by this item, that notice continues to apply, in relation to material broadcast during:
 - (a) a timing period that began before the commencement of this item; or
 - (b) a week that is included in a timing period covered by paragraph (a);as if that revocation had not happened.

Schedule 4—Anti-siphoning

Part 1—Amendments

Broadcasting Services Act 1992

1 Subsection 115(1AA)

Omit “2,016”, substitute “4,368”.

2 Paragraph 7(1)(ob) of Schedule 2

Repeal the paragraph.

3 Clause 1 of Schedule 4

Omit:

Commercial television licensees and national broadcasters who provide SDTV or HDTV multi-channelled television broadcasting services are subject to restrictions regarding the televising of anti-siphoning events and parts of anti-siphoning events.

4 Part 4A of Schedule 4 (heading)

Repeal the heading, substitute:

Part 4A—Primary television broadcasting services

5 Clause 41E of Schedule 4

Repeal the clause.

6 Clause 41FA of Schedule 4

Repeal the clause.

7 Clause 41K of Schedule 4

Repeal the clause.

8 Clause 41LA of Schedule 4

Repeal the clause.

Broadcasting Services (Events) Notice (No. 1) 2010

9 Schedule

Repeal the Schedule, substitute:

Schedule

1 Olympic Games

- (1) Each event held as part of the Summer Olympic Games, including the Opening Ceremony and the Closing Ceremony.
- (2) Each event held as part of the Winter Olympic Games, including the Opening Ceremony and the Closing Ceremony.

2 Commonwealth Games

Each event held as part of the Commonwealth Games, including the Opening Ceremony and the Closing Ceremony.

3 Horse racing

Each running of the Melbourne Cup organised by the Victoria Racing Club.

4 Australian rules football

Each match in the Australian Football League Premiership competition (including the Finals Series).

5 Rugby league football

- (1) Each match in the National Rugby League Premiership competition (including the Finals Series).
- (2) Each match in the National Rugby League State of Origin Series.
- (3) Each international rugby league test match that:
 - (a) involves the senior Australian representative team; and
 - (b) is played in Australia or New Zealand.

- (4) Each match of the Rugby League World Cup that:
 - (a) involves the senior Australian representative team; and
 - (b) is played in Australia, New Zealand or Papua New Guinea.

6 Rugby union football

- (1) Each international test match that:
 - (a) involves the senior Australian representative team selected by the Australian Rugby Union; and
 - (b) is played in Australia or New Zealand.
- (2) Each match of the Rugby World Cup tournament that involves the senior Australian representative team selected by the Australian Rugby Union.
- (3) The final of the Rugby World Cup tournament.

7 Cricket

- (1) Each test match that:
 - (a) involves the senior Australian representative team selected by Cricket Australia; and
 - (b) is played in Australia.
- (2) Each test match that:
 - (a) involves both:
 - (i) the senior Australian representative team selected by Cricket Australia; and
 - (ii) the senior English representative team; and
 - (b) is played in the United Kingdom.
- (3) Each one day cricket match that:
 - (a) involves the senior Australian representative team selected by Cricket Australia; and
 - (b) is played in Australia.
- (4) Each Twenty20 cricket match that:
 - (a) involves the senior Australian representative team selected by Cricket Australia; and
 - (b) is played in Australia.

- (5) Each match of the International Cricket Council One Day International World Cup that:
 - (a) involves the senior Australian representative team selected by Cricket Australia; and
 - (b) is played in Australia or New Zealand.
- (6) The final of the International Cricket Council One Day International World Cup if the final is played in Australia or New Zealand.
- (7) Each match of the International Cricket Council World Twenty20 tournament that:
 - (a) involves the senior Australian representative team selected by Cricket Australia; and
 - (b) is played in Australia or New Zealand.
- (8) The final of the International Cricket Council World Twenty20 tournament if the final is played in Australia or New Zealand.

8 Soccer

- (1) Each match of the Fédération Internationale de Football Association World Cup tournament that involves the senior Australian representative team selected by the Football Federation Australia.
- (2) The final of the Fédération Internationale de Football Association World Cup tournament.
- (3) Each match in the Fédération Internationale de Football Association World Cup Qualification tournament that:
 - (a) involves the senior Australian representative team selected by the Football Federation Australia; and
 - (b) is played in Australia.

9 Tennis

- (1) Each match in the Australian Open tennis tournament.
- (2) Each match in each tie of the International Tennis Federation Davis Cup World Group tennis tournament that:
 - (a) involves an Australian representative team; and

- (b) is played in Australia.
- (3) The final of the International Tennis Federation Davis Cup World Group tennis tournament if the final involves an Australian representative team.

10 Netball

- (1) A semi-final of the Netball World Cup if the semi-final involves the senior Australian representative team selected by the All Australian Netball Association.
- (2) The final of the Netball World Cup if the final involves the senior Australian representative team selected by the All Australian Netball Association.

11 Motor sports

- (1) Each race in the Fédération Internationale de l'Automobile Formula One World Championship (Grand Prix) held in Australia.
- (2) Each race in the Fédération Internationale de Motocyclisme Moto-GP held in Australia.
- (3) Each Bathurst 1000 race in the V8 Supercars Championship Series.

Part 2—Transitional

10 Transitional—subsection 115(1AA) of the *Broadcasting Services Act 1992*

- (1) The amendment made by item 1 applies in relation to events:
 - (a) specified in a notice under subsection 115(1) of the *Broadcasting Services Act 1992* before the commencement of that item and still specified in the notice at that commencement; or
 - (b) specified in a notice under subsection 115(1) of the *Broadcasting Services Act 1992* at or after the commencement of that item.
- (2) However, if the amendment made by item 1 would have the effect that an event is taken to have been removed from a notice before the commencement of that item, then, despite that amendment, the event is taken to have been removed from the notice only from the time immediately after the commencement of that item.

Schedule 5—Abolition of licence fees and datacasting charges

Part 1—Repeals

Division 1—Repeals

Broadcasting Services (Datacasting Charge) Regulations 2001

1 The whole of the Regulations

Repeal the Regulations.

Datacasting Charge (Imposition) Act 1998

2 The whole of the Act

Repeal the Act.

Datacasting Transmitter Licence Fees Act 2006

3 The whole of the Act

Repeal the Act.

Radio Licence Fees Act 1964

4 The whole of the Act

Repeal the Act.

Television Licence Fees Act 1964

5 The whole of the Act

Repeal the Act.

Division 2—Application provisions

6 Application—repeal of the *Broadcasting Services (Datacasting Charge) Regulations 2001*

Despite the repeal of the *Broadcasting Services (Datacasting Charge) Regulations 2001* by this Schedule, those regulations continue to apply, in relation to:

- (a) charge imposed by the *Datacasting Charge (Imposition) Act 1998* on a transmitter licence in respect of:
 - (i) the financial year beginning on 1 July 2015; or
 - (ii) an earlier financial year; and
- (b) chargeable datacasting services provided before 1 September 2016;

as if that repeal had not happened.

7 Application—repeal of the *Datacasting Charge (Imposition) Act 1998*

The repeal of the *Datacasting Charge (Imposition) Act 1998* by this Schedule does not apply to charge imposed on a transmitter licence in respect of:

- (a) the financial year beginning on 1 July 2015; or
- (b) an earlier financial year.

8 Application—repeal of the *Datacasting Transmitter Licence Fees Act 2006*

The repeal of the *Datacasting Transmitter Licence Fees Act 2006* by this Schedule does not apply to a fee payable by a licensee on:

- (a) 31 December 2016; or
- (b) an earlier 31 December.

9 Application—repeal of the *Radio Licence Fees Act 1964*

The repeal of the *Radio Licence Fees Act 1964* by this Schedule does not apply to a fee payable by a licensee on:

- (a) 31 December 2016; or
- (b) an earlier 31 December.

10 Application—repeal of the *Television Licence Fees Act 1964*

The repeal of the *Television Licence Fees Act 1964* by this Schedule does not apply to a fee payable by a licensee on:

- (a) 31 December 2016; or
- (b) an earlier 31 December.

Part 2—Amendments

Division 1—Amendments

Australian Communications and Media Authority Act 2005

11 Subparagraph 10(1)(o)(iv)

Repeal the subparagraph.

12 Subparagraph 10(1)(o)(v)

Omit “or”.

13 Subparagraphs 10(1)(o)(vii) and (viii)

Repeal the subparagraphs.

Broadcasting Services Act 1992

14 Subsection 204(1) (table items dealing with subsection 205B(2), subsection 205C(2) and subsection 205D(4))

Repeal the items.

15 Part 14A

Repeal the Part.

16 Paragraph 7(1)(ia) of Schedule 2

Repeal the paragraph.

17 Paragraph 8(1)(ha) of Schedule 2

Repeal the paragraph.

18 Clause 1 of Schedule 4

Omit:

An ACMA determination determines when charge imposed by the *Datacasting Charge (Imposition Act) 1998* is due and payable. The ACMA may also impose a late payment penalty.

19 Part 6 of Schedule 4

Repeal the Part.

Radiocommunications Act 1992

20 Section 5 (definition of *datacasting transmitter licence fee*)

Repeal the definition.

21 Paragraphs 109A(1)(ba) and (bb)

Repeal the paragraphs.

Division 2—Application provisions

22 Application—collection of licence fees

- (1) Despite the repeal of sections 205A, 205C and 205D of the *Broadcasting Services Act 1992* by this Schedule, those sections continue to apply, in relation to a fee imposed under:
 - (a) section 7 of the repealed *Datacasting Transmitter Licence Fees Act 2006*; or
 - (b) section 5 of the repealed *Radio Licence Fees Act 1964*; or
 - (c) section 5 of the repealed *Television Licence Fees Act 1964*;as if the first-mentioned repeal had not happened.
- (2) Despite the repeal of sections 205A and 205B of the *Broadcasting Services Act 1992* by this Schedule, those sections (other than paragraph 205B(1)(c)) continue to apply:
 - (a) in relation to accounts and records in respect of the 2012-2013 accounting period—for 5 years after the end of that accounting period; and
 - (b) in relation to accounts and records in respect of the 2013-2014 accounting period—for 5 years after the end of that accounting period; and

- (c) in relation to accounts and records in respect of the 2014-2015 accounting period—for 5 years after the end of that accounting period; and
 - (d) in relation to accounts and records in respect of the 2015-2016 accounting period—for 5 years after the end of that accounting period;as if the repeal had not happened.
 - (3) Despite the amendments of section 204 of the *Broadcasting Services Act 1992* made by this Schedule, that section continues to apply, in relation to a decision made under repealed subsection 205C(2) or 205D(4) of that Act, as if those amendments had not been made.
 - (4) In this item:
 - 2012-2013 accounting period** means:
 - (a) the financial year ending on 30 June 2013; or
 - (b) if the relevant licensee adopted an accounting period, in accordance with subsection 205B(2) of the *Broadcasting Services Act 1992*, in substitution for that financial year—that accounting period.
 - 2013-2014 accounting period** means:
 - (a) the financial year ending on 30 June 2014; or
 - (b) if the relevant licensee adopted an accounting period, in accordance with subsection 205B(2) of the *Broadcasting Services Act 1992*, in substitution for that financial year—that accounting period.
 - 2014-2015 accounting period** means:
 - (a) the financial year ending on 30 June 2015; or
 - (b) if the relevant licensee adopted an accounting period, in accordance with subsection 205B(2) of the *Broadcasting Services Act 1992*, in substitution for that financial year—that accounting period.
 - 2015-2016 accounting period** means:
 - (a) the financial year ending on 30 June 2016; or
 - (b) if the relevant licensee adopted an accounting period, in accordance with subsection 205B(2) of the *Broadcasting Services Act 1992*, in substitution for that financial year—that accounting period.
-

23 Application—collection of datacasting charge

Despite the repeal of Part 6 of Schedule 4 to the *Broadcasting Services Act 1992* by this Schedule:

- (a) that Part; and
- (b) a determination made under that Part;

continue to apply, in relation to charge imposed by the *Datacasting Charge (Imposition) Act 1998* on a transmitter licence in respect of:

- (c) the financial year beginning on 1 July 2015; or
- (d) an earlier financial year;

as if the repeal had not happened.

Division 3—Refund of overpayments

24 Refund of overpayments of licence fees

If there is an overpayment of a fee imposed under:

- (a) section 7 of the repealed *Datacasting Transmitter Licence Fees Act 2006*; or
- (b) section 5 of the repealed *Radio Licence Fees Act 1964*; or
- (c) section 5 of the repealed *Television Licence Fees Act 1964*;

the overpayment is to be refunded by the ACMA on behalf of the Commonwealth.

25 Refund of overpayments of datacasting charge

If there is an overpayment of charge imposed under the repealed *Datacasting Charge (Imposition) Act 1998*, the overpayment is to be refunded by the ACMA on behalf of the Commonwealth.

Schedule 6—Taxation and transitional support payments

Part 1—General amendments

Australian Communications and Media Authority Act 2005

1 At the end of paragraph 9(h)

Add:

or (vi) Part 14AA of the *Broadcasting Services Act 1992*;

2 Subparagraph 10(1)(o)(ii)

After “other than”, insert “Part 14AA or”.

Broadcasting Services Act 1992

3 Subsection 6(1)

Insert:

interim tax means tax imposed by the *Commercial Broadcasting (Tax) Act 2017*.

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

4 Subsection 204(1) (after table item dealing with subsection 146D(4))

Insert:

Refusal to remit the whole or part of a late payment penalty	Subsection 205AF(3)	The person liable to pay the penalty
--	---------------------	--------------------------------------

5 After Part 14

Insert:

Part 14AA—Collection and recovery of interim tax

205AA Simplified outline of this Part

- The ACMA must make assessments of interim tax.
- Interim tax is due and payable 28 days after the assessment is given to the person to whom the assessment relates.
- There is a penalty for late payment of interim tax.
- Schemes to avoid interim tax are prohibited.

205AB Assessments

- (1) If interim tax is payable by a person in relation to the issue of a transmitter licence, the ACMA must:
 - (a) make a written assessment setting out the interim tax payable by the person; and
 - (b) do so on, or as soon as practicable after, the later of the following days:
 - (i) the day the licence was issued;
 - (ii) 1 December 2017.
 - (2) If interim tax is payable by a person in relation to an anniversary of the day a transmitter licence came into force, the ACMA must:
 - (a) make a written assessment setting out the interim tax payable by the person; and
 - (b) do so on, or as soon as practicable after, the later of the following days:
 - (i) the anniversary;
 - (ii) 1 December 2017.
 - (3) If interim tax is payable by a person in relation to a transmitter licence ceasing to be in force, the ACMA must:
 - (a) make a written assessment setting out the interim tax payable by the person; and
 - (b) do so on, or as soon as practicable after, the later of the following days:
-

- (i) the day the licence ceased to be in force;
 - (ii) 1 December 2017.
- (4) If interim tax is payable by a person in relation to the holding of a transmitter licence at the start of 1 July 2017, the ACMA must:
 - (a) make a written assessment setting out the interim tax payable by the person; and
 - (b) do so on, or as soon as practicable after, 1 December 2017.

Notification of assessment

- (5) As soon as practicable after making an assessment under this section, the ACMA must give a copy of the assessment to the person to whom the assessment relates.

Variation of assessments

- (6) The ACMA may vary an assessment made under this section by making such alterations and additions as it thinks necessary, even if interim tax has been paid in respect of an assessment.
- (7) Unless the contrary intention appears, a varied assessment is taken, for the purposes of this Part, to be an assessment under this section.

205AC When interim tax becomes due and payable

Interim tax becomes due and payable on:

- (a) the 28th day after a copy of the assessment of the interim tax was given to the person to whom the assessment relates; or
- (b) if that assessment is varied—the 28th day after a copy of the varied assessment was given to the person to whom the varied assessment relates.

205AD Recovery of interim tax

Interim tax:

- (a) is a debt due to the ACMA on behalf of the Commonwealth; and
- (b) may be recovered by the ACMA, on behalf of the Commonwealth, in:
 - (i) the Federal Court; or
 - (ii) the Federal Circuit Court; or

- (iii) a court of a State or Territory that has jurisdiction in relation to the matter.

205AE Refund of overpayment of interim tax

If there is an overpayment of interim tax, the overpayment is to be refunded by the ACMA on behalf of the Commonwealth.

205AF Late payment penalty

- (1) If an amount of interim tax that is payable by a person remains unpaid after the day on which it becomes due and payable, the person is liable to pay a penalty (*late payment penalty*) on the unpaid amount for each day until all of the interim tax has been paid.
- (2) The late payment penalty rate is 20% per year, or such lower rate as the ACMA determines in writing for the purposes of this subsection.
- (3) The ACMA may remit the whole or part of a late payment penalty that a person is liable to pay under subsection (1).
- (4) The late payment penalty for a day is due and payable at the end of that day.
- (5) Late payment penalty:
 - (a) is a debt due to the ACMA on behalf of the Commonwealth; and
 - (b) may be recovered by the ACMA, on behalf of the Commonwealth, in:
 - (i) the Federal Court; or
 - (ii) the Federal Circuit Court; or
 - (iii) a court of a State or Territory that has jurisdiction in relation to the matter.
- (6) If the amount of the late payment penalty for a day is not an amount of whole dollars, the late payment penalty is rounded to the nearest dollar (rounding 50 cents upwards).
- (7) If there is an overpayment of late payment penalty, the overpayment is to be refunded by the ACMA on behalf of the Commonwealth.

- (8) A determination under subsection (2) is a legislative instrument.

205AG Anti-avoidance

- (1) The holder of a transmitter licence must not, either alone or together with one or more other persons, do any of the following:
- (a) enter into a scheme;
 - (b) begin to carry out a scheme;
 - (c) carry out a scheme;
- if it would be concluded that the holder of the transmitter licence did so for the sole or dominant purpose of avoiding the application of any provision of the *Commercial Broadcasting (Tax) Act 2017* (other than section 14 of that Act) in relation to:
- (d) the holder of the transmitter licence; or
 - (e) the holder of any other transmitter licence.

Civil penalty provision

- (2) Subsection (1) is a civil penalty provision.

Note: Part 14B deals with civil penalties.

Validity of transactions

- (3) A contravention of subsection (1) does not affect the validity of any transaction.

Scheme

- (4) For the purposes of this section, ***scheme*** means:
- (a) any agreement, arrangement, understanding, promise or undertaking, whether express or implied; or
 - (b) any scheme, plan, proposal, action, course of action or course of conduct, whether unilateral or otherwise.

6 Subsection 205F(4)

After “other than subsection”, insert “205AG(1) or”.

7 Subsection 205F(5)

After “another civil penalty provision”, insert “(other than subsection 205AG(1))”.

8 After subsection 205F(5)

Insert:

- (5A) The pecuniary penalty payable by a person in respect of a contravention of subsection 205AG(1) must not exceed the sum of:
- (a) whichever of the following is applicable:
 - (i) if the person is a body corporate—2,000 penalty units;
 - (ii) if the person is not a body corporate—400 penalty units;and
 - (b) if the Federal Court is satisfied that, as a result of the scheme to which the contravention relates, the person or another person has avoided becoming liable to pay an amount of interim tax—200% of the amount of interim tax avoided.
- (5B) The pecuniary penalty payable by a person in respect of a contravention of subsection 205E(1) that relates to subsection 205AG(1) must not exceed the sum of:
- (a) whichever of the following is applicable:
 - (i) if the person is a body corporate—2,000 penalty units;
 - (ii) if the person is not a body corporate—400 penalty units;and
 - (b) if the Federal Court is satisfied that, as a result of the scheme to which the contravention of subsection 205AG(1) relates, the person or another person has avoided becoming liable to pay an amount of interim tax—200% of the amount of interim tax avoided.

Radiocommunications Act 1992

9 Section 5

Insert:

interim tax means tax imposed by the *Commercial Broadcasting (Tax) Act 2017*.

10 After subsection 100(3B)

Insert:

- (3BA) The ACMA must not issue a transmitter licence authorising operation of a radiocommunications transmitter for transmitting or re-transmitting a commercial broadcasting service if:
- (a) the ACMA has reasonable grounds to believe that the application for the licence is part of a scheme:
 - (i) entered into; or
 - (ii) being carried out; or
 - (iii) that has been carried out;for the sole or dominant purpose of avoiding the application of any provision of the *Commercial Broadcasting (Tax) Act 2017* (other than section 14 of that Act); and
 - (b) the applicant has not satisfied the ACMA that the application for the licence is not part of such a scheme.
- (3BB) For the purposes of subsection (3BA), **scheme** means:
- (a) any agreement, arrangement, understanding, promise or undertaking, whether express or implied; or
 - (b) any scheme, plan, proposal, action, course of action or course of conduct, whether unilateral or otherwise.

11 After subsection 100(5)

Insert:

- (5A) In deciding whether to issue a transmitter licence authorising operation of a radiocommunications transmitter:
- (a) within a part of the spectrum designated under subsection 31(1) or (1A); and
 - (b) at a particular location (the **relevant location**);
- for transmitting or re-transmitting a commercial broadcasting service, the ACMA must also have regard to:
- (c) whether:
 - (i) the commercial television broadcasting licensee; or
 - (ii) the commercial radio broadcasting licensee;who provides the commercial broadcasting service has previously held a transmitter licence authorising operation of a radiocommunications transmitter for transmitting or re-transmitting the commercial broadcasting service at a location that is the same as, or substantially similar to, the relevant location; and

- (d) whether there is a commercial arrangement between:
 - (i) the applicant for the transmitter licence; and
 - (ii) the commercial television broadcasting licensee or the commercial radio broadcasting licensee who provides the commercial broadcasting service;
- in relation to:
 - (iii) the application; or
 - (iv) the transmission of the commercial broadcasting service at a location that is the same as, or substantially similar to, the relevant location.

12 At the end of paragraph 107(1)(c)

Add:
and (iii) amounts of interim tax;

13 At the end of paragraph 109(1)(b)

Add:
and (iii) amounts of interim tax;

Radiocommunications Taxes Collection Act 1983

14 After section 4

Insert:

4A Transmitter licence associated with a commercial broadcasting licence

For the purposes of this Act, the question whether a transmitter licence is *associated with a commercial broadcasting licence* is to be determined in the same manner as that question is determined for the purposes of the *Commercial Broadcasting (Tax) Act 2017*.

15 After subsection 7A(1A)

Insert:

- (1B) If there is an overpayment of penalty, the overpayment is to be refunded by the ACMA on behalf of the Commonwealth.

16 After section 10A

Insert:

10B Refund of overpayments

If there is an overpayment of tax, the overpayment is to be refunded by the ACMA on behalf of the Commonwealth.

10C Pro-rata refund of tax imposed on the issue of a transmitter licence

(1) If:

- (a) a transmitter licence was issued to a person under section 100 or 102 of the *Radiocommunications Act 1992* before 1 July 2017; and
- (b) the transmitter licence is associated with a commercial broadcasting licence; and
- (c) the transmitter licence was in force at the start of 1 July 2017; and
- (d) tax was imposed by subsection 6(1), (2) or (7) of the *Radiocommunications (Transmitter Licence Tax) Act 1983* on the issue of the transmitter licence; and
- (e) the person has paid the tax;

the amount worked out using the following formula must be refunded by the ACMA on behalf of the Commonwealth:

$$\frac{\text{Days in post-1 July 2017 period}}{\text{Days in period of transmitter licence}} \times \text{Amount of tax paid}$$

where:

days in period of transmitter licence means the number of days in the period of the transmitter licence.

days in post-1 July 2017 period means the number of days in the period:

- (a) beginning at the start of 1 July 2017; and
- (b) ending at the end of the period of the transmitter licence.

(2) If:

- (a) a transmitter licence was issued to a person under section 100 or 102 of the *Radiocommunications Act 1992* before 1 July 2017; and
- (b) the transmitter licence is associated with a commercial broadcasting licence; and
- (c) the transmitter licence was in force at the start of 1 July 2017; and
- (d) tax was imposed by subsection 6(3) or (8) of the *Radiocommunications (Transmitter Licence Tax) Act 1983* on the issue of the transmitter licence; and
- (e) the person has paid the tax;

the amount worked out using the following formula must be refunded by the ACMA on behalf of the Commonwealth:

$$\frac{\text{Days in post-1 July 2017 period}}{\text{Post-issue period}} \times \text{Amount of tax paid}$$

where:

days in post-1 July 2017 period means the number of days in the period:

- (a) beginning at the start of 1 July 2017; and
- (b) ending at the end of the anniversary of the day the transmitter licence came into force that occurs during the financial year ending on 30 June 2018.

post-issue period means the number of days in the period:

- (a) beginning at the start of the day after the transmitter licence was issued; and
- (b) ending at the end of the anniversary of the day the transmitter licence came into force that occurs during the financial year ending on 30 June 2018.

(3) For the purposes of this section, disregard:

- (a) Division 6 of Part 3.3 of the *Radiocommunications Act 1992*; and
- (b) Part 10 of the *Broadcasting Services Act 1992*;

in working out the period of a transmitter licence.

Note 1: See subsection 103(2) of the *Radiocommunications Act 1992*, which deals with the duration of transmitter licences issued under section 100 of that Act.

Note 2: See subsection 103(4A) of the *Radiocommunications Act 1992*, which deals with the duration of transmitter licences issued under section 102 of that Act.

10D Pro-rata refund of tax imposed on the anniversary of the day a transmitter licence came into force

(1) If:

- (a) a transmitter licence was issued to a person under section 100 or 102 of the *Radiocommunications Act 1992* before 1 July 2017; and
- (b) the transmitter licence is associated with a commercial broadcasting licence; and
- (c) the transmitter licence was in force at the start of 1 July 2017; and
- (d) tax was imposed by subsection 6(3) or (8) of the *Radiocommunications (Transmitter Licence Tax) Act 1983* on the anniversary of the day the transmitter licence came into force that occurred during the financial year ending on 30 June 2017; and

(e) the person has paid the tax;

the amount worked out using the following formula must be refunded by the ACMA on behalf of the Commonwealth:

$$\frac{\text{Days in post-1 July 2017 period}}{\text{Post-anniversary period}} \times \text{Amount of tax paid}$$

where:

days in post-1 July 2017 period means the number of days in the period:

- (a) beginning at the start of 1 July 2017; and
- (b) ending at whichever is the earlier of the following:
 - (i) the end of the anniversary of the day the transmitter licence came into force that occurs during the financial year ending on 30 June 2018;
 - (ii) the end of the period of the transmitter licence.

post-anniversary period means the number of days in the period:

- (a) beginning at the start of the anniversary mentioned in paragraph (d); and

- (b) ending at whichever is the earlier of the following:
- (i) the end of the anniversary of the day the transmitter licence came into force that occurs during the financial year ending on 30 June 2018;
 - (ii) the end of the period of the transmitter licence.
- (2) If:
- (a) a transmitter licence was issued to a person under section 100 or 102 of the *Radiocommunications Act 1992* before 1 July 2017; and
 - (b) the transmitter licence is associated with a commercial broadcasting licence; and
 - (c) the transmitter licence was in force at the start of 1 July 2017; and
 - (d) tax was imposed by subsection 6(5) or (11) of the *Radiocommunications (Transmitter Licence Tax) Act 1983* on the holding of the transmitter licence on an anniversary of the day the transmitter licence came into force that occurred before 1 July 2017; and
 - (e) the person has paid the tax;
- the amount worked out using the following formula must be refunded by the ACMA on behalf of the Commonwealth:
- $$\frac{\text{Days in post-1 July 2017 period}}{\text{Post-anniversary period}} \times \text{Amount of tax paid}$$
- where:
- days in post-1 July 2017 period*** means the number of days in the period:
- (a) beginning at the start of 1 July 2017; and
 - (b) ending at the end of the period of the transmitter licence.
- post-anniversary period*** means the number of days in the period:
- (a) beginning at the start of the anniversary mentioned in paragraph (d); and
 - (b) ending at the end of the period of the transmitter licence.
- (3) For the purposes of this section, disregard:
- (a) Division 6 of Part 3.3 of the *Radiocommunications Act 1992*; and

(b) Part 10 of the *Broadcasting Services Act 1992*;
in working out the period of a transmitter licence.

Note 1: See subsection 103(2) of the *Radiocommunications Act 1992*, which deals with the duration of transmitter licences issued under section 100 of that Act.

Note 2: See subsection 103(4A) of the *Radiocommunications Act 1992*, which deals with the duration of transmitter licences issued under section 102 of that Act.

10E Set-off

If:

- (a) an amount of interim tax is payable by a person (the ***first amount***); and
 - (b) an amount is payable by the Commonwealth to the person under section 10B, 10C or 10D (the ***second amount***);
- the ACMA may, on behalf of the Commonwealth, set off the whole or a part of the first amount against the whole or a part of the second amount.

Part 2—Termination of the liability of commercial broadcasters to pay transmitter licence tax

Radiocommunications (Transmitter Licence Tax) Act 1983

17 After section 4

Insert:

4A Transmitter licence associated with a commercial broadcasting licence

For the purposes of this Act, the question whether a transmitter licence is ***associated with a commercial broadcasting licence*** is to be determined in the same manner as that question is determined for the purposes of the *Commercial Broadcasting (Tax) Act 2017*.

18 At the end of subsection 6(1)

Add “This subsection has effect subject to subsection (1A).”.

19 After subsection 6(1)

Insert:

- (1A) Subsection (1) does not impose a tax on the issue of a transmitter licence if:
- (a) the transmitter licence is issued on or after 1 July 2017; and
 - (b) the transmitter licence is associated with a commercial broadcasting licence.

20 Subsection 6(2)

Omit “If”, substitute “Subject to subsection (2A), if”.

21 After subsection 6(2)

Insert:

- (2A) Subsection (2) does not impose a tax on the issue of a transmitter licence if:
- (a) the transmitter licence is issued on or after 1 July 2017; and

- (b) the transmitter licence is associated with a commercial broadcasting licence.

22 Subsection 6(3)

After “subsections” insert “(3A), (3B),”.

23 After subsection 6(3)

Insert:

- (3A) Subsection (3) does not impose a tax on the issue of a transmitter licence if:
 - (a) the transmitter licence is issued on or after 1 July 2017; and
 - (b) the transmitter licence is associated with a commercial broadcasting licence.
- (3B) Subsection (3) does not impose a tax on a particular anniversary of the day a transmitter licence came into force if:
 - (a) the anniversary occurs on or after 1 July 2017; and
 - (b) the transmitter licence is associated with a commercial broadcasting licence.

24 After subsection 6(4)

Insert:

- (4A) Subsection (4) does not apply in relation to the issue of a transmitter licence if:
 - (a) the transmitter licence is issued on or after 1 July 2017; and
 - (b) the transmitter licence is associated with a commercial broadcasting licence.

25 Subsection 6(5)

Omit “If”, substitute “Subject to subsection (5A), if”.

26 After subsection 6(5)

Insert:

- (5A) Subsection (5) does not impose a tax on the holding of a transmitter licence on a particular anniversary of the day the transmitter licence came into force if:
 - (a) the anniversary occurs on or after 1 July 2017; and

Schedule 6 Taxation and transitional support payments

Part 2 Termination of the liability of commercial broadcasters to pay transmitter licence tax

- (b) the transmitter licence is associated with a commercial broadcasting licence.

27 Subsection 6(6)

Omit “If”, substitute “Subject to subsection (6A), if”.

28 After subsection 6(6)

Insert:

- (6A) Subsection (6) does not apply to a particular anniversary of the day a transmitter licence came into force if:
 - (a) the anniversary occurs on or after 1 July 2017; and
 - (b) the transmitter licence is associated with a commercial broadcasting licence.

29 Subsection 6(7)

Omit “If”, substitute “Subject to subsection (7A), if”.

30 After subsection 6(7)

Insert:

- (7A) Subsection (7) does not impose a tax on the issue of a transmitter licence if:
 - (a) the transmitter licence is issued on or after 1 July 2017; and
 - (b) the transmitter licence is associated with a commercial broadcasting licence.

31 Subsection 6(8)

After “subsections” insert “(8A), (8B),”.

32 After subsection 6(8)

Insert:

- (8A) Subsection (8) does not impose a tax on the issue of a transmitter licence if:
 - (a) the transmitter licence is issued on or after 1 July 2017; and
 - (b) the transmitter licence is associated with a commercial broadcasting licence.
-

- (8B) Subsection (8) does not impose a tax on a particular anniversary of the day a transmitter licence came into force if:
- (a) the anniversary occurs on or after 1 July 2017; and
 - (b) the transmitter licence is associated with a commercial broadcasting licence.

33 After subsection 6(10)

Insert:

- (10A) Subsections (9) and (10) do not apply in relation to the issue of a transmitter licence if:
- (a) the transmitter licence is issued on or after 1 July 2017; and
 - (b) the transmitter licence is associated with a commercial broadcasting licence.

34 Subsection 6(11)

Omit “If”, substitute “Subject to subsection (11A), if”.

35 After subsection 6(11)

Insert:

- (11A) Subsection (11) does not impose a tax on the holding of a transmitter licence on a particular anniversary of the day the transmitter licence came into force if:
- (a) the anniversary occurs on or after 1 July 2017; and
 - (b) the transmitter licence is associated with a commercial broadcasting licence.

36 Subsection 6(12)

Omit “If”, substitute “Subject to subsection (13), if”.

37 At the end of section 6

Add:

- (13) Subsection (12) does not apply to a particular anniversary of the day a transmitter licence came into force if:
- (a) the anniversary occurs on or after 1 July 2017; and
 - (b) the transmitter licence is associated with a commercial broadcasting licence.

Part 3—Transitional support payments

38 Definitions

In this Part:

broadcasting service has the same meaning as in the *Broadcasting Services Act 1992*.

commercial radio broadcasting licence has the same meaning as in the *Broadcasting Services Act 1992*.

commercial television broadcasting licence has the same meaning as in the *Broadcasting Services Act 1992*.

designated day:

- (a) for the financial year beginning on 1 July 2017—means 1 November 2017; or
- (b) for a later financial year—means 1 July in the financial year.

eligible financial year means:

- (a) the financial year beginning on 1 July 2017; or
- (b) the financial year beginning on 1 July 2018; or
- (c) the financial year beginning on 1 July 2019; or
- (d) the financial year beginning on 1 July 2020; or
- (e) the financial year beginning on 1 July 2021.

Secretary means the Secretary of the Department.

39 Transitional support payments

(1) If:

- (a) a company is specified in the table set out in item 40; and
- (b) at the start of the designated day for an eligible financial year, the company held:
 - (i) a commercial television broadcasting licence; or
 - (ii) a commercial radio broadcasting licence; and
- (c) the Secretary is satisfied that it is likely that company will hold:
 - (i) a commercial television broadcasting licence; or
 - (ii) a commercial radio broadcasting licence;throughout the period:
 - (iii) beginning at the start of the designated day; and

- (iv) ending at the end of the financial year; and
- (d) the company has not given the Secretary a notice under subitem (2);
- the Secretary must:
- (e) determine, in writing, that the amount specified in the table opposite the name of the company is payable by the Commonwealth to the company by way of financial assistance in respect of the financial year; and
- (f) do so on, or as soon as practicable after, the designated day for the financial year.
- (2) A company may, before 1 November 2017, give the Secretary a written notice stating that the company does not want to receive any payments under this item.
- (3) A determination made under subitem (1) is not a legislative instrument.

40 Table

This is the table mentioned in item 39.

Companies and amounts		
Item	Company	Amount (\$)
1	Australian Capital Television Pty Ltd	1,398,000
2	Prime Television (Southern) Pty Limited	945,000
3	Northern Rivers Television Pty Ltd	632,000
4	WIN Television NSW Pty Limited	1,331,000
5	Star Broadcasting Network Pty Ltd	3,000
6	South Coast & Tablelands Broadcasting Pty Ltd	22,000
7	Blue Mountains Broadcasters Pty Limited	2,000
8	Tweed Radio & Broadcasting Co Pty Ltd	2,000
9	WIN Radio Pty Limited	22,000
10	Wollongong Broadcasters Pty Ltd	22,000
11	WIN Television Griffith Pty Ltd	16,000

Schedule 6 Taxation and transitional support payments
Part 3 Transitional support payments

Companies and amounts		
Item	Company	Amount (\$)
12	WIN Television SA Pty Ltd	66,000
13	Rebel FM Stereo Pty Ltd	9,000
14	Midwest Radio Network Pty Ltd	4,000
15	Darwin Digital Television Pty Ltd	6,000
16	West Digital Television No.2 Pty Limited	19,000
17	West Digital Television Pty Ltd	47,000
18	Spencer Gulf Telecasters Pty Limited	16,000
19	Mildura Digital Television Pty Ltd	15,000

41 Conditions of payments

- (1) A payment to a company under item 39 in respect of a financial year is subject to the condition that, if the company ceases to be the holder of:
- (a) a commercial television broadcasting licence; or
 - (b) a commercial radio broadcasting licence;
- at a time (the ***cessation time***) during the period:
- (c) beginning at the start of the designated day for the financial year; and
 - (d) ending at the end of the financial year;
- the company will repay to the Commonwealth the amount worked out using the formula:

$$\frac{\text{Days in non-licence period}}{\text{Days in financial year}} \times \text{Amount paid}$$

where:

amount paid means the amount of the payment to the company.

days in financial year means the number of days in the financial year.

days in non-licence period means the number of days in the period:

- (a) beginning at the start of the day after the cessation time; and
- (b) ending at the end of the financial year.

- (2) A payment to a company under item 39 in respect of a financial year is subject to the condition that the company will:
 - (a) spend the amount of the payment (reduced by any amount payable by the company under subitem (1) of this item in relation to the financial year) in connection with the provision by the company of broadcasting services authorised by the commercial television broadcasting licence, or the commercial radio broadcasting licence, held by company; and
 - (b) do so before the end of the financial year.
- (3) A payment to a company under item 39 in respect of a financial year is subject to the condition that the company will:
 - (a) give the Secretary a written statement declaring that the company has complied with the condition set out in subitem (2) of this item in relation to the financial year; and
 - (b) do so within 28 days after the end of the financial year.
- (4) A payment to a company under item 39 is subject to the condition that, if the company does not fulfil a condition to which the payment is subject under subitem (2) or (3) of this item, the company will, if the Secretary so determines, repay to the Commonwealth the amount specified in the determination.
- (5) The amount specified in the determination under subitem (4) must not be more than the amount of the payment (reduced by any amount payable by the company under subitem (1) in relation to the financial year).
- (6) A determination made under subitem (4) is not a legislative instrument.
- (7) An amount payable by a company to the Commonwealth under this item:
 - (a) is a debt due to the Commonwealth; and
 - (b) may be recovered by the Secretary, on behalf of the Commonwealth, in:
 - (i) the Federal Court of Australia; or
 - (ii) the Federal Circuit Court of Australia; or
 - (iii) a court of a State or Territory that has jurisdiction in relation to the matter.

42 Delegation by the Secretary

- (1) The Secretary may, by writing, delegate any or all of his or her powers under this Part to an SES employee, or acting SES employee, in the Department.

Note: The expressions *SES employee* and *acting SES employee* are defined in section 2B of the *Acts Interpretation Act 1901*.

- (2) In exercising powers under a delegation under subitem (1), the delegate must comply with any directions of the Secretary.

Schedule 7—Review of taxation arrangements etc.

Broadcasting Services Act 1992

1 After section 216A

Insert:

216AA Review of taxation arrangements etc.

- (1) After 30 June 2019, the ACMA must conduct a review of the following matters:
 - (a) whether the *Commercial Broadcasting (Tax) Act 2017* should be repealed or amended on or before 1 July 2022;
 - (b) such matters (if any) as are specified in an instrument under subsection (2).
- (2) The Minister may, by notifiable instrument, specify one or more matters for the purposes of paragraph (1)(b), so long as those matters relate to:
 - (a) commercial television broadcasting licensees and commercial radio broadcasting licensees; and
 - (b) the use of spectrum (within the meaning of the *Radiocommunications Act 1992*) by those licensees to provide commercial broadcasting services.
- (3) In conducting the review, the ACMA must consider such matters (if any) as are specified in an instrument under subsection (4).
- (4) The Minister may, by notifiable instrument, specify one or more matters for the purposes of subsection (3).

Consultation

- (5) In conducting the review, the ACMA must make provision for public consultation.

Report

- (6) The ACMA must give the Minister a report of the review before 1 July 2021.
 - (7) The Minister must cause copies of a report under subsection (6) to be tabled in each House of the Parliament within 15 sittings days of that House after receiving the report.
-

*[Minister's second reading speech made in—
House of Representatives on 15 June 2017
Senate on 22 June 2017]*

(124/17)
