Broadcasting Legislation Amendment (Digital Television) Bill 2010

No.  , 2010

(Broadband, Communications and the Digital Economy)

A Bill for an Act to amend legislation relating to broadcasting, and for other purposes
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A Bill for an Act to amend legislation relating to broadcasting, and for other purposes

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the Broadcasting Legislation Amendment (Digital Television) Act 2010.

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

<table>
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<th>Provision(s)</th>
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<tr>
<td>1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table</td>
<td>The day this Act receives the Royal Assent.</td>
<td></td>
</tr>
<tr>
<td>2. Schedule 1</td>
<td>The day after this Act receives the Royal Assent.</td>
<td></td>
</tr>
</tbody>
</table>

Note: This table relates only to the provisions of this Act as originally passed by both Houses of the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

(2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

## Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.
Schedule 1—Amendments

Broadcasting Services Act 1992

1 Subsection 6(1) (before paragraph (a) of the definition of commercial television broadcasting licence)

Insert:

(aa) in the case of a licence allocated under section 38C—the commercial television broadcasting services that, under section 41CA, are authorised by the licence; or

2 Subsection 6(1)

Insert:

conditional access scheme means a scheme that complies with section 130ZB.

3 Subsection 6(1) (at the end of the definition of core commercial television broadcasting service)

Add:

Note: There is no core commercial television broadcasting service in relation to a licence allocated on or after 1 January 2009. This is because core commercial television broadcasting services are certain services authorised by licences allocated before 1 January 2009.

4 Subsection 6(1)

Insert:

core/primary commercial television broadcasting service, in relation to a commercial television broadcasting licence, means:

(a) if a core commercial television broadcasting service is provided under the licence—that service; or

(b) if a primary commercial television broadcasting service (within the meaning of Schedule 4) is provided under the licence—that service.

5 Subsection 6(1) (definition of licence area)

Repeal the definition, substitute:
Schedule 1  Amendments

**licence area** means:
(a) an area designated by the ACMA under section 29, 40 or 92G; or
(b) an area specified in column 1 of the table in subsection 38C(1).

Note 1: See also section 8AD, which deals with deemed radio broadcasting licence areas.

Note 2: See also section 8 of the Broadcasting Services (Transitional Provisions and Consequential Amendments) Act 1992, which deals with deemed licence areas.

6 Subsection 6(1)
Insert:

**reception certificate** means a reception certificate issued under a conditional access scheme registered under Part 9C.

7 Subsection 6(1)
Insert:

**scheme administrator**, in relation to a conditional access scheme, means the company identified in the scheme as the scheme administrator for the scheme.

8 Section 14
Before “Commercial broadcasting services”, insert “(1)”.

9 At the end of section 14
Add:

(2) For the purposes of the application of subsection (1) to a broadcasting service provided under a licence allocated under section 38C, assume that there is no conditional access system that relates to the broadcasting service.

10 At the end of section 29
Add:

(3) This section does not apply to a licence allocated under section 38C.
11 Before section 35A

Insert:

Division 1—Allocation of licences

12 Paragraph 37(1)(a)

Omit “formed in Australia or in an external Territory”, substitute “registered as a company under Part 2A.2 of the Corporations Act 2001”.

13 After paragraph 38A(1)(a)

Insert:

(aa) the parent licence is not a licence allocated under section 38C; and

14 Paragraph 38B(1)(b)

Repeal the paragraph.

15 At the end of paragraph 38B(1)(c)

Add “and”.

16 After paragraph 38B(1)(c)

Insert:

(ca) the ACMA, by notice published in the Gazette, invites:

(i) the existing licensees to give the ACMA a joint written notice under paragraph (d); and

(ii) each existing licensee to give the ACMA a written notice under paragraph (e);

during the period specified in the notice;

17 Subsection 38B(1)

Omit “90 days after the designated time for the licence area”, substitute “the period specified in the paragraph (ca) notice”.

18 Subparagraph 38B(1)(d)(iii)

Omit “formed in Australia or an external Territory”, substitute “registered as a company under Part 2A.2 of the Corporations Act 2001”.

Broadcasting Legislation Amendment (Digital Television) Bill 2010 No. , 2010 5
19 After subsection 38B(1)

   Insert:

   (1A) A notice under paragraph (1)(ca) is not a legislative instrument.

20 Subsections 38B(2) and (3)

   Omit “designated time for the licence area”, substitute “notice is given”.

21 Paragraphs 38B(7)(b) and (8)(b)

   Omit “designated time for the licence area”, substitute “time when the
   notice is given”.

22 Paragraphs 38B(18)(b) and (c)

   After “if”, insert “the licence was allocated before the commencement
   of section 38C and”.

23 At the end of subsection 38B(19)

   Add “before the commencement of section 38C”.

24 After subsection 38B(19)

   Insert:

   (19A) Paragraphs 7(1)(l) and (m) of Schedule 2 do not apply to an
   additional licence allocated under this section after the
   commencement of section 38C.

25 Subsections 38B(26), (27) and (28)

   Repeal the subsections.

26 After section 38B

   Insert:

38C Commercial television broadcasting licences—services provided
   with the use of a satellite

   (1) The following table has effect:
<table>
<thead>
<tr>
<th>Item</th>
<th>Licence area for a commercial television broadcasting licence allocated, or to be allocated, under this section</th>
<th>Description of the licence area</th>
<th>Eligible joint venturers for the licence area</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>South Eastern Australia TV3</td>
<td>The area consisting of New South Wales, Victoria, South Australia, Tasmania, the Australian Capital Territory and the Jervis Bay Territory.</td>
<td>The commercial television broadcasting licensees for the following licence areas: (a) Remote Central and Eastern Australia TV1; (b) Remote Central and Eastern Australia TV2; (c) Mt Isa TV1.</td>
</tr>
<tr>
<td>2</td>
<td>Northern Australia TV3</td>
<td>The area consisting of Queensland and the Northern Territory.</td>
<td>The commercial television broadcasting licensees for the following licence areas: (a) Remote Central and Eastern Australia TV1; (b) Remote Central and Eastern Australia TV2; (c) Mt Isa TV1.</td>
</tr>
<tr>
<td>3</td>
<td>Western Australia TV3</td>
<td>The area consisting of Western Australia.</td>
<td>The commercial television broadcasting licensees for the following licence areas: (a) Remote and Regional WA TV1; (b) Western Zone TV1; (c) Kalgoorlie TV1;</td>
</tr>
</tbody>
</table>
### Licence areas and eligible joint venturers

<table>
<thead>
<tr>
<th>Item</th>
<th>Column 1</th>
<th>Column 2</th>
<th>Column 3</th>
</tr>
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<td>Licence area for a commercial television broadcasting licence allocated, or to be allocated, under this section</td>
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</tr>
</tbody>
</table>

(d) Geraldton TV1;  
(e) South West and Great Southern TV1.

#### Joint-venture company

(2) Two or more of the eligible joint venturers for a licence area specified in column 1 of the table in subsection (1) may, during whichever of the following periods is applicable:

(a) in the case of the South Eastern Australia TV3 licence area—the 28-day period beginning at the commencement of this section;  
(b) otherwise—the period:

(i) beginning at the commencement of this section; and  
(ii) ending 6 months before the start of the earliest applicable terrestrial digital television switch-over date for the licence area;  

give the ACMA a joint written notice stating that:

(c) a company specified in the notice (the joint-venture company) will apply under subsection (3) for a commercial television broadcasting licence for the licence area; and  
(d) the joint-venture company is registered as a company under Part 2A.2 of the Corporations Act 2001 and has a share capital.

#### Application by joint-venture company

(3) If a notice is given under subsection (2) in relation to a licence area specified in column 1 of the table in subsection (1), the joint-venture company must:
(a) apply in writing to the ACMA for a commercial television broadcasting licence for the licence area; and
(b) do so within 28 days after the notice is given.

Allocation of licence to joint-venture company

(4) If the ACMA receives an application under subsection (3) that relates to a licence area, the ACMA must:
(a) allocate a commercial television broadcasting licence to the joint-venture company for the licence area; and
(b) do so within 28 days after the application is received.

(5) Subsection (4) has effect subject to section 37.

Special purpose company

(6) If no notice is given under subsection (2) in relation to a licence area specified in column 1 of the table in subsection (1), an eligible joint venturer for the licence area may, within 28 days after the end of whichever of the periods mentioned in paragraphs (2)(a) and (b) is applicable, give the ACMA a written notice stating that:
(a) a company specified in the notice (the special purpose company) will apply under subsection (7) for a commercial television broadcasting licence for the licence area; and
(b) the special purpose company is a wholly-owned subsidiary of the eligible joint venturer; and
(c) the special purpose company is registered as a company under Part 2A.2 of the Corporations Act 2001 and has a share capital.

Application by special purpose company

(7) If a notice is given under subsection (6), the special purpose company must:
(a) apply in writing to the ACMA for a commercial television broadcasting licence for the licence area specified in the notice; and
(b) do so within 28 days after the notice is given.
Allocation of licence to special purpose company

(8) If only one special purpose company makes an application under subsection (7) in relation to a licence area specified in column 1 of the table in subsection (1), the ACMA must:
   (a) allocate a commercial television broadcasting licence to the special purpose company for the licence area; and
   (b) do so within 28 days after the application is received.

(9) If the ACMA receives applications from 2 or more special purpose companies under subsection (7) in relation to a licence area specified in column 1 of the table in subsection (1), the ACMA must allocate a commercial television broadcasting licence to one of those companies for the licence area in accordance with a price-based system determined under subsection (11).

(10) Subsections (8) and (9) have effect subject to section 37.

Price-based system for allocating licences where 2 or more applications have been received.

(11) The ACMA may, by written instrument, determine a price-based system for allocating commercial television broadcasting licences under subsection (9).

(12) A instrument made under subsection (11) is not a legislative instrument.

(13) The Minister may, by legislative instrument, give specific directions to the ACMA in relation to the power conferred by subsection (11). Directions may be to include in a determination specified reserve prices for licences, and those reserve prices may be different for licences in different licence areas.

(14) If a commercial television broadcasting licence is allocated under subsection (9), the ACMA must, unless the price-based allocation system adopted was public, publish in the Gazette:
   (a) the name of the successful applicant; and
   (b) the amount that the applicant agreed to pay to the Commonwealth for the allocation of the licence.

Cancellation of licence—services not provided

(15) If:
(a) the licensee of a licence allocated under this section is contravening a licence condition set out in:
   (i) clause 7B of Schedule 2; or
   (ii) clause 7C of Schedule 2; and
(b) the ACMA is satisfied that the contravention is not due to:
   (i) technical circumstances that are beyond the licensee’s control; or
   (ii) unforeseen circumstances that are beyond the licensee’s control; or
   (iii) circumstances specified in the regulations; and
(c) the ACMA gives the licensee a written notice warning the licensee that, if the contravention continues for 30 days, the licence may be cancelled; and
(d) 30 days pass after the notice is given, and the contravention continues;
   the ACMA must, by written notice given to the licensee, cancel the licence.

(16) The cancellation takes effect:
   (a) when the notice of cancellation is given to the licensee; or
   (b) if a later time is specified in the notice of cancellation—at that later time.

Allocation of licence after cancellation etc.

(17) If:
   (a) the ACMA gives a notice under subsection (15) to a licensee, cancelling the licence for a licence area; or
   (b) both:
      (i) no notice is given under subsection (2) in relation to a licence area; and
      (ii) no notice is given under subsection (6) in relation to a licence area; or
   (c) a joint-venture company for a licence area contravenes subsection (3); or
   (d) both:
      (i) there is only one special purpose company for a licence area; and
(ii) the special purpose company contravenes subsection (7); or

(e) both:

(i) there are 2 or more special purpose companies for a licence area; and

(ii) each of those special purpose companies contravene subsection (7);

the ACMA must, within 45 days after:

(f) if paragraph (a) applies—the giving of the notice; or

(g) if paragraph (b) applies—the the last day on which a notice could have been given under subsection (6) in relation to the licence area; or

(h) if paragraph (c), (d) or (e) applies—the contravention;

advertise, in a manner determined by the ACMA, for applications for a licence to be allocated under subsection (23) for the licence area.

(18) Before commencing to advertise under subsection (17), the ACMA must, by legislative instrument, determine the eligibility requirements that must be met by persons applying for a licence in response to such an advertisement.

(19) The eligibility requirements determined under subsection (18) must include that the applicant has the capacity to provide the services that the licensee will be required to provide under clauses 7B, 7C and 7D of Schedule 2. This subsection does not limit other eligibility requirements that may be determined under subsection (18).

(20) The Minister may, by legislative instrument, direct the ACMA about the exercise of its powers under subsection (18).

(21) The ACMA must include in an advertisement under subsection (17):

(a) a description of the matter mentioned in the applicable paragraph of subsection (17); and

(b) the date on or before which applications must be received by the ACMA (the applications closing date); and

(c) a statement specifying how details of:

(i) the licence area for the licence; and

(ii) the eligibility requirements; and
Amendments Schedule 1

(iii) the conditions that will apply to the licence; may be obtained.

(22) The applications closing date must be the 90th day after the day of publication of the first advertisement under subsection (17) that describes the contravention or cancellation concerned.

(23) If:

(a) in response to an advertisement under subsection (17), the ACMA receives one or more applications for a licence; and
(b) the applications were received on or before the applications closing date specified in the advertisement; and
(c) the ACMA is satisfied that one or more of the applicants meets the eligibility requirements;

the ACMA must:

(d) allocate the licence to one of the applicants referred to in paragraph (c); and
(e) do so within 90 days after the applications closing date.

(24) Subsection (23) has effect subject to section 37.

Restrictions on transfer of licences

(25) During the period of 2 years after the date of allocation of a licence under this section, any attempt by any person to transfer the licence is of no effect.

Definitions

(26) In this section:

applicable terrestrial digital television switch-over date has the same meaning as in clause 7H of Schedule 2.

wholly-owned subsidiary has the same meaning as in the Corporations Act 2001.

27 After section 41

Insert:
Division 2—Services authorised by licences

28 After subsection 41B(1)

Insert:

(1A) Subsection (1) does not apply, after the commencement of section 38C, to an eligible parent licence.

Note: For eligible parent licence, see subsection (2E).

Note: The heading to subsection 41B(1) is altered by adding at the end “—general”.

29 After subsection 41B(2)

Insert:

(2A) Subsection (2) does not apply, after the commencement of section 38C, to:

(a) an eligible parent licence; or

(b) an eligible section 38B licence.

Note 1: For eligible parent licence, see subsection (2E).

Note 2: For eligible section 38B licence, see subsection (2E).

Eligible parent licences in force immediately before 1 January 2009

(2B) If:

(a) an eligible parent licence for a licence area was in force immediately before 1 January 2009; and

(b) the eligible parent licence authorised the licensee to provide the following 3 services in the licence area:

(i) the core commercial television broadcasting service;

(ii) a HDTV multi-channelled commercial television broadcasting service;

(iii) a SDTV multi-channelled commercial television broadcasting service;

the eligible parent licence is taken to authorise the licensee to provide the following services in the licence area:

(c) the core commercial television broadcasting service;

(d) either:
(i) a HDTV multi-channelled commercial television broadcasting service and a SDTV multi-channelled commercial television broadcasting service; or
(ii) 2 SDTV multi-channelled commercial television broadcasting services;
during the simulcast period, or the simulcast-equivalent period, as the case may be, for the licence area.

Note: For eligible parent licence, see subsection (2E).

Eligible parent licences allocated on or after 1 January 2009

(2C) If an eligible parent licence for a licence area is allocated on or after 1 January 2009 but before the end of whichever of the following periods is applicable:
(a) the simulcast period for the licence area;
(b) the simulcast-equivalent period for the licence area;
the eligible parent licence is taken to authorise the licensee to provide:
(c) the following services in the licence area:
   (i) a HDTV multi-channelled commercial television broadcasting service;
   (ii) 2 SDTV multi-channelled commercial television broadcasting services; or
   (d) 3 SDTV multi-channelled commercial television broadcasting services in the licence area;
during the simulcast period, or the simulcast-equivalent period, as the case may be, for the licence area.

Note: For eligible parent licence, see subsection (2E).

Eligible section 38B licences

(2D) If an eligible section 38B licence for a licence area is allocated before the end of whichever of the following periods is applicable:
(a) the simulcast period for the licence area;
(b) the simulcast-equivalent period for the licence area;
the eligible section 38B licence authorises the licensee to provide:
(c) the following services in the licence area:
   (i) a HDTV multi-channelled commercial television broadcasting service;
(ii) 2 SDTV multi-channelled commercial television broadcasting services; or
(d) 3 SDTV multi-channelled commercial television broadcasting services in the licence area;
during the simulcast period, or the simulcast-equivalent period, as the case may be, for the licence area.

Note: For eligible section 38B licence, see subsection (2E).

Eligible parent licence and eligible section 38B licence

(2E) For the purposes of this section, if:

(a) a person (the original licensee) is the licensee of a commercial television broadcasting licence allocated under section 38A; and
(b) after the commencement of section 38C, the original licensee is allocated an additional commercial television broadcasting licence under subsection 38B(6), (7), (8) or (9); and
(c) at a particular time, the licences mentioned in paragraphs (a) and (b) are held by the same person (whether or not that person is the original licensee);
then, at that time:
(d) the licence mentioned in paragraph (a) is an eligible parent licence; and
(e) the licence mentioned in paragraph (b) is an eligible section 38B licence.

Note: The heading to subsection 41B(2) is altered by adding at the end “—general”.

30 Subsection 41B(3)

After “under”, insert “section 38C or”.

Note: The heading to subsection 41B(3) is altered by inserting “section 38C or” after “under”.

31 Subsection 41C(3)

After “under”, insert “section 38C or”.

Note: The heading to subsection 41C(3) is altered by inserting “section 38C or” after “under”.

32 After section 41C

Insert:
41CA Services authorised by commercial television broadcasting licences allocated under section 38C

Authorised services

(1) A licence allocated under section 38C authorises the licensee to provide the following commercial television broadcasting services in the licence area:

(a) if a commercial television broadcasting licensee (a related terrestrial licensee) for a related terrestrial licence area provides a HDTV multi-channelled commercial television broadcasting service in the related terrestrial licence area—a HDTV multi-channelled commercial television broadcasting service the program content of which is the same, or substantially the same, as the service provided by the related terrestrial licensee;

(b) if:

(i) a commercial television broadcasting licensee (a related terrestrial licensee) for a related terrestrial licence area provides a SDTV multi-channelled commercial television broadcasting service in the related terrestrial licence area; and

(ii) the service is not the core/primary commercial television broadcasting service provided by the related terrestrial licensee;

a SDTV multi-channelled commercial television broadcasting service the program content of which is the same, or substantially the same, as the service provided by the related terrestrial licensee;

(c) if:

(i) a commercial television broadcasting licensee (a related terrestrial licensee) for a related terrestrial licence area provides a SDTV multi-channelled commercial television broadcasting service in the related terrestrial licence area; and

(ii) the service is the core/primary commercial television broadcasting service provided by the related terrestrial licensee;

a commercial television broadcasting service the program content of which is the same, or substantially the same, as the service provided by the related terrestrial licensee;
Schedule 1 Amendments

(d) if a commercial television broadcasting licensee (a metropolitan licensee) for a metropolitan licence area provides a HDTV multi-channelled commercial television broadcasting service in the metropolitan licence area—a HDTV multi-channelled commercial television broadcasting service the program content of which is the same, or substantially the same, as the service provided by the metropolitan licensee;

(e) if:
   (i) a commercial television broadcasting licensee (a metropolitan licensee) for a metropolitan licence area provides a SDTV multi-channelled commercial television broadcasting service in the metropolitan licence area; and
   (ii) the service is not the core/primary commercial television broadcasting service provided by the metropolitan licensee;
   a SDTV multi-channelled commercial television broadcasting service the program content of which is the same, or substantially the same, as the service provided by the metropolitan licensee;

(f) if:
   (i) a commercial television broadcasting licensee (a metropolitan licensee) for a metropolitan licence area provides a SDTV multi-channelled commercial television broadcasting service in the metropolitan licence area; and
   (ii) the service is the core/primary commercial television broadcasting service provided by the metropolitan licensee;
   a commercial television broadcasting service the program content of which is the same, or substantially the same, as the service provided by the metropolitan licensee;

(g) one or more SDTV multi-channelled commercial television broadcasting services the program content of which consists wholly or primarily of programs provided, or required to be provided, to the licensee under subsection 43A(3A) or 43AA(1).
Program content

(2) In determining, for the purposes of this section, whether the program content of a commercial television broadcasting service provided by a licensee in a licence area is the same, or substantially the same, as the program content of another commercial television broadcasting service:

(a) ignore the following:

(i) advertising or sponsorship material (whether or not of a commercial kind);

(ii) a promotion for a television program or a television broadcasting service;

(iii) community information material or community promotional material;

(iv) a weather bulletin;

(v) any other similar material; and

(b) ignore a news program; and

(c) ignore any program the broadcasting of which in any jurisdiction in the licence area could result in the licensee:

(i) committing an offence; or

(ii) becoming liable to a civil penalty; or

(iii) breaching an order or direction of a court; or

(iv) being in contempt of court; and

(d) ignore a program broadcast in circumstances specified in the regulations.

(3) In determining, for the purposes of:

(a) paragraph (1)(c); or

(b) paragraph (1)(f);

whether the program content of a commercial television broadcasting service provided by a licensee in a licence area is the same, or substantially the same, as the program content of another commercial television broadcasting service, assume that a program that provides coverage of an anti-siphoning event is the same as a program that provides coverage of another anti-siphoning event.

(4) Subsection (3) does not limit subsection (2).
SDTV multi-channelled commercial television broadcasting service

(5) For the purposes of subsection (1), assume that paragraph 5A(1)(d) of Schedule 4 had not been enacted.

Definitions

(6) In this section:

HDTV multi-channelled commercial television broadcasting service has the same meaning as in Schedule 4.

metropolitan licence area means a licence area in which is situated the General Post Office of the capital city of:

(a) New South Wales; or
(b) Victoria; or
(c) Queensland; or
(d) Western Australia; or
(e) South Australia;
but does not include the licence area of a commercial television broadcasting licence allocated under section 38C.

related terrestrial licence area:

(a) in relation to a licence allocated under section 38C for the South Eastern Australia TV3 licence area—means a licence area mentioned in column 3 of item 1 of the table in subsection 38C(1); or
(b) in relation to a licence allocated under section 38C for the Northern Australia TV3 licence area—means a licence area mentioned in column 3 of item 2 of the table in subsection 38C(1); or
(c) in relation to a licence allocated under section 38C for the Western Australia TV3 licence area—means a licence area mentioned in column 3 of item 3 of the table in subsection 38C(1).

SDTV multi-channelled commercial television broadcasting service has the same meaning as in Schedule 4.

33 After section 41D

Insert:
Division 3—Licence conditions

34 Paragraph 42(1)(a)

After “set out in”, insert “Division 1 of”.

35 After subsection 42(1)

Insert:

(1A) Each commercial television broadcasting licence allocated under
section 38C is also subject to the conditions set out in Division 2 of
Part 3 of Schedule 2.

36 Subsection 43A(2)

Omit “subsection (1)”, substitute “this section”.

37 Subsection 43A(3)

After “condition” (first occurring), insert “mentioned in subsection (1)”.

38 After subsection 43A(3)

Insert:

(3A) If the licence area of a regional aggregated commercial television
broadcasting licence is wholly or partly included in the licence area
of a licence allocated under section 38C, the regional aggregated
commercial television broadcasting licence is subject to the
condition that the licensee of the regional aggregated commercial
television broadcasting licence must:

(a) provide to the section 38C licensee, for broadcast by the
section 38C licensee, any material of local significance
broadcast by the regional aggregated commercial television
broadcasting licensee in a local area; and

(b) do so:

(i) simultaneously with the broadcast of the material by the
regional aggregated commercial television broadcasting
licensee; or

(ii) as soon as practicable after the broadcast of the material
by the regional aggregated commercial television
broadcasting licensee.
(3B) Material must be provided under subsection (3A) by transmitting it in digital mode (within the meaning of Schedule 4).

(3C) For the purposes of subsection (3A), **local area** and **material of local significance** have the same meanings as in the condition mentioned in subsection (1).

39 **Paragraphs 43A(4)(a), (b) and (c)**
After “condition”, insert “mentioned in subsection (1)”.

40 **At the end of subsection 43A(5)**
Add “mentioned in subsection (1)”.

41 **After section 43A**
Insert:

43AA **Local news and information to be provided to section 38C licensees by regional commercial television broadcasting licensees**

(1) A commercial television broadcasting licence for a regional licence area is subject to the condition that, if:

(a) the licensee broadcasts a local news program, or a local information program, in the licence area; and

(b) the licence area is wholly or partly included in the licence area of a licence allocated under section 38C;

the licensee of the regional commercial television broadcasting licence must:

(c) provide the local news program, or the local information program, as the case may be, to the licensee of the section 38C licence for broadcast by the section 38C licensee; and

(d) do so:

(i) simultaneously with the broadcast of the program by the licensee of the regional commercial television broadcasting licence; or

(ii) as soon as practicable after the broadcast of the program by the licensee of the regional commercial television broadcasting licence.
(2) A program must be provided under subsection (1) by transmitting it in digital mode (within the meaning of Schedule 4).

(3) The condition set out in subsection (1) does not apply to a local news program, or a local information program, broadcast by the licensee of a regional aggregated commercial television broadcasting licence if the program is material of local significance for the purposes of the condition mentioned in subsection 43A(1).

(4) For the purposes of this section, *local news program* has the meaning set out in a legislative instrument made by the ACMA.

(5) For the purposes of this section, *local information program* has the meaning set out in a legislative instrument made by the ACMA.

(6) This section does not apply to a commercial television broadcasting licence allocated under subsection 40(1).

(7) In this section:

*metropolitan licence area* means a licence area in which is situated the General Post Office of the capital city of:

(a) New South Wales; or
(b) Victoria; or
(c) Queensland; or
(d) Western Australia; or
(e) South Australia;

but does not include the licence area of a commercial television broadcasting licence allocated under section 38C.

*regional aggregated commercial television broadcasting licence* has the meaning given by subsection 43A(2).

*regional licence area* means a licence area that is not a metropolitan licence area, but does not include:

(a) the licence area of a commercial television broadcasting licence allocated under section 38C; or
(b) a licence area specified in column 3 of the table in subsection 38C(1).
43AB Commercial television programs to be provided to section 38C licensees by metropolitan commercial television broadcasting licensees

Programs to be provided by metropolitan licensees

(1) A commercial television broadcasting licence for a metropolitan licence area is subject to the condition that, if:
   (a) the licensee (the metropolitan licensee) broadcasts a program in a metropolitan licence area on either of the following services (a metropolitan service):
      (i) a HDTV multi-channelled commercial television broadcasting service;
      (ii) a SDTV multi-channelled commercial television broadcasting service; and
   (b) before the program is broadcast, a section 38C licensee requests the metropolitan licensee to provide the section 38C licensee with the programs broadcast on the metropolitan service;
   the metropolitan licensee must:
   (c) provide the program to the section 38C licensee for broadcast by the section 38C licensee; and
   (d) do so:
      (i) simultaneously with the broadcast of that program on the metropolitan service; or
      (ii) as soon as practicable after the broadcast of that program on the metropolitan service.

HDTV digital mode or SDTV digital mode

(2) A program must be provided under subsection (1) by transmitting it:
   (a) if subparagraph (1)(a)(i) applies—in HDTV digital mode (within the meaning of Schedule 4); or
   (b) if subparagraph (1)(a)(ii) applies—in SDTV digital mode (within the meaning of Schedule 4).
SDTV multi-channelled commercial television broadcasting
service

(3) For the purposes of subsection (1), assume that paragraph 5A(1)(d) of Schedule 4 had not been enacted.

Definitions

(4) In this section:

HDTV multi-channelled commercial television broadcasting service has the same meaning as in Schedule 4.

metropolitan licence area means a licence area in which is situated the General Post Office of the capital city of:
(a) New South Wales; or
(b) Victoria; or
(c) Queensland; or
(d) Western Australia; or
(e) South Australia;
but does not include the licence area of a commercial television broadcasting licence allocated under section 38C.

SDTV multi-channelled commercial television broadcasting service has the same meaning as in Schedule 4.

section 38C licensee means the licensee of a commercial television broadcasting licence allocated under section 38C.

43AC Commercial television programs to be provided to section 38C licensees by remote terrestrial licensees

Scope

(1) This section applies if the licence area of a commercial television broadcasting licence (the remote terrestrial licence) is a related terrestrial licence area of a licence allocated under section 38C.

Programs to be provided by remote terrestrial licensees

(2) The remote terrestrial licence is subject to the condition that, if the licensee broadcasts a program in the related terrestrial licence area on either of the following services (a remote terrestrial service):
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(a) a HDTV multi-channelled commercial television broadcasting service;
(b) a SDTV multi-channelled commercial television broadcasting service;
the licensee of the remote terrestrial licence must:
(c) provide the program to the section 38C licensee for broadcast by the section 38C licensee; and
(d) do so:
   (i) simultaneously with the broadcast of that program on the remote terrestrial service; or
   (ii) as soon as practicable after the broadcast of that program on the remote terrestrial service.

_HDTV digital mode or SDTV digital mode_

(3) A program must be provided under subsection (2) by transmitting it:
   (a) if paragraph (2)(a) applies—in HDTV digital mode (within the meaning of Schedule 4); or
   (b) if paragraph (2)(b) applies—in SDTV digital mode (within the meaning of Schedule 4).

_SDTV multi-channelled commercial television broadcasting service_

(4) For the purposes of subsection (2), assume that paragraph 5A(1)(d) of Schedule 4 had not been enacted.

_Definitions_

(5) In this section:

_HDTV multi-channelled commercial television broadcasting service_ has the same meaning as in Schedule 4.

_related terrestrial licence area:_

(a) in relation to a licence allocated under section 38C for the South Eastern Australia TV3 licence area—means a licence area mentioned in column 3 of item 1 of the table in subsection 38C(1); or
(b) in relation to a licence allocated under section 38C for the Northern Australia TV3 licence area—means a licence area
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mentioned in column 3 of item 2 of the table in subsection 38C(1); or
(c) in relation to a licence allocated under section 38C for the Western Australia TV3 licence area—means a licence area mentioned in column 3 of item 3 of the table in subsection 38C(1).

SDTV multi-channelled commercial television broadcasting service has the same meaning as in Schedule 4.

section 38C licensee means the licensee of a commercial television broadcasting licence allocated under section 38C.

43AD Compensation for acquisition of property

(1) If the operation of:
   (a) subsection 43A(3A); or
   (b) section 43AA; or
   (c) section 43AB; or
   (d) section 43AC;
   in relation to the provision of a program or material to the licensee of a commercial television broadcasting licence would result in an acquisition of property from a person otherwise than on just terms, the licensee is liable to pay a reasonable amount of compensation to the person.

(2) If the licensee and the person do not agree on the amount of the compensation, the person may institute proceedings in a court of competent jurisdiction for the recovery from the licensee of such reasonable amount of compensation as the court determines.

(3) In this section:

   acquisition of property has the same meaning as in paragraph 51(xxxi) of the Constitution.

   just terms has the same meaning as in paragraph 51(xxxi) of the Constitution.

42 After section 44

   Insert:
Division 4—General provisions

43 Section 45

Before “Subject to”, insert “(1)”.

44 Section 45

After “commercial television broadcasting licences”, insert “(other than commercial television broadcasting licences allocated under section 38C)”.

45 At the end of section 45

Add:

(2) A commercial television broadcasting licence allocated under section 38C remains in force for 10 years.

(3) Subsection (2) has effect subject to:
(a) subsection 38C(15); and
(b) Part 10.

46 Section 50A

After “allocated under”, insert “section 38C or”.

Note: The heading to section 50A is altered by inserting “section 38C or” after “allocated under”.

47 Section 61AA (definition of core/primary commercial television broadcasting service)

Repeal the definition.

48 Section 61AA (definition of primary commercial television broadcasting service)

Repeal the definition.

49 Paragraph 95(1)(a)

Omit “a company that is formed in Australia or in an external Territory”, substitute “a company that is registered under Part 2A.2 of the Corporations Act 2001”.

50 Subsection 98D(2)
After “this Act”, insert “(other than subsection 43A(3A), section 43AA, section 43AB or section 43AC)”.

51 Paragraphs 121FB(1)(a) and (2)(a)
Omit “a company that is formed in Australia or in an external Territory”, substitute “registered as a company under Part 2A.2 of the Corporations Act 2001”.

52 Paragraph 121FLC(1)(c)
Omit “a company that is formed in Australia or in an external Territory”, substitute “registered as a company under Part 2A.2 of the Corporations Act 2001”.

53 Paragraph 121FLG(1)(c)
Omit “a company that is formed in Australia or in an external Territory”, substitute “registered as a company under Part 2A.2 of the Corporations Act 2001”.

54 Subparagraph 121FLH(1)(c)(i)
Omit “a company that is formed in Australia or in an external Territory”, substitute “registered as a company under Part 2A.2 of the Corporations Act 2001”.

55 Subparagraph 121FLH(1)(c)(ii)
Omit “a company that is formed in Australia or in an external Territory”, substitute “a company that is registered under Part 2A.2 of the Corporations Act 2001”.

56 Paragraph 121FLH(2)(c)
Omit “a company that is formed in Australia or in an external Territory”, substitute “registered as a company under Part 2A.2 of the Corporations Act 2001”.

57 After paragraph 122(7)(a)
Insert:
(aa) the licence was not allocated under section 38C; and

58 After paragraph 122(8)(a)
Insert:
(aa) the licence was not allocated under section 38C; and

59 After subsection 122(8)

   Insert:

   (8A) If:

       (a) a commercial television broadcasting licence is allocated  
           under section 38C; and

       (b) the licensee provides a primary commercial television  
           broadcasting service in the licence area;

   then, until the end of the last applicable terrestrial digital television  
   switch-over date for the licence area, standards under  
   subsection (1), in so far as they relate to programs for children, do  
   not apply to a commercial television broadcasting service provided  
   by the licensee unless that service is the primary commercial  
   television broadcasting service.

   (8B) If:

       (a) a commercial television broadcasting licence is allocated  
           under section 38C; and

       (b) the licensee provides a primary commercial television  
           broadcasting service in the licence area;

   then, until the end of the last applicable terrestrial digital television  
   switch-over date for the licence area, standards under  
   subsection (1), in so far as they relate to Australian content of  
   programs, do not apply to a commercial television broadcasting  
   service provided by the licensee unless that service is the primary  
   commercial television broadcasting service.

60 Subsection 122(10)

   Insert:

   *applicable terrestrial digital television switch-over date* has the  
   same meaning as in clause 7H of Schedule 2.

61 Subsection 122(10)

   Insert:

   *primary commercial television broadcasting service* has the same  
   meaning as in Schedule 4.
62 After section 130AB

Insert:

130AC Technical standards for digital transmission of television services provided with the use of a satellite

(1) The ACMA may, by legislative instrument, determine technical standards that relate to the transmission in digital mode of either or both of the following services:

(a) commercial television broadcasting services provided under a licence allocated under section 38C;

(b) national television broadcasting services provided with the use of a satellite.

Instruments

(2) Section 589 of the Telecommunications Act 1997 applies to standards determined under subsection (1) of this section in a corresponding way to the way in which it applies to an instrument under that Act.

Compliance

(3) A national broadcaster must comply with a standard determined under subsection (1).

Note: For compliance by holders of commercial television broadcasting licences, see paragraph 7A(1)(d) of Schedule 2.

Definitions

(4) In this section:

digital mode has the same meaning as in Schedule 4.

national television broadcasting service has the same meaning as in Schedule 4.

63 At the end of Part 9A

Add:
130BB  Technical standards for domestic digital reception
equipment—television services provided with the use of a satellite

(1) The ACMA may, by legislative instrument, determine technical standards that relate to domestic reception equipment that is capable of receiving either or both of the following services transmitted in digital mode:

(a) commercial television broadcasting services provided under a licence allocated under section 38C;

(b) national television broadcasting services provided with the use of a satellite.

Offence

(2) A person commits an offence if:

(a) the person supplies equipment; and

(b) the equipment is domestic reception equipment; and

(c) the equipment is capable of receiving either or both of the following services transmitted in digital mode:

(i) commercial television broadcasting services provided under a licence allocated under section 38C;

(ii) national television broadcasting services provided with the use of a satellite; and

(d) the equipment does not comply with a standard determined under subsection (1).

Penalty: 1,500 penalty units.

Civil penalty

(3) A person must not supply domestic reception equipment if:

(a) the equipment is capable of receiving either or both of the following services transmitted in digital mode:

(i) commercial television broadcasting services provided under a licence allocated under section 38C;

(ii) national television broadcasting services provided with the use of a satellite; and

(b) the equipment does not comply with a standard determined under subsection (1).
(4) Subsection (3) is a civil penalty provision.

Instruments

(5) Section 589 of the Telecommunications Act 1997 applies to standards determined under subsection (1) of this section in a corresponding way to the way in which it applies to an instrument under that Act.

Reception of television services provided with the use of a satellite

(6) For the purposes of this section, it is immaterial whether domestic reception equipment is capable of receiving either or both of the following transmitted in digital mode:

(a) commercial television broadcasting services provided under a licence allocated under section 38C;
(b) national television broadcasting services provided with the use of a satellite;
when used:
(c) in isolation; or
(d) in conjunction with any other equipment.

Exemptions

(7) The ACMA may, by legislative instrument, exempt specified domestic reception equipment from subsections (2) and (3).

Note: For specification by class, see subsection 13(3) of the Legislative Instruments Act 2003.

Definitions

(8) In this section:

digital mode has the same meaning as in Schedule 4.
national television broadcasting service has the same meaning as in Schedule 4.
supply has the same meaning as in the Trade Practices Act 1974.

64 After Part 9B

Insert:
Part 9C—Access to commercial television broadcasting services provided with the use of a satellite

130ZBA Simplified outline

The following is a simplified outline of this Part:

- A conditional access scheme is a scheme that sets out rules relating to access to services provided under a commercial television broadcasting licence allocated under section 38C.

- The ACMA may register a conditional access scheme developed by a body or association that represents commercial television broadcasting licensees.

- If no conditional access scheme is developed by a body or association that represents commercial television broadcasting licensees, the ACMA may formulate and register a conditional access scheme.

Note: Under paragraph 7A(1)(c) of Schedule 2, it is a condition of a licence allocated under section 38C that the licensee will ensure that any conditional access system relating to the services provided under the licence will comply with any conditional access scheme registered under this Part.

130ZB Objectives of conditional access scheme

Scope

(1) This section applies to a commercial television broadcasting licence allocated under section 38C.

Objectives

(2) A conditional access scheme for the section 38C licence area must be directed towards the achievement of the objectives set out in this section.

(3) The first objective is that:
(a) the scheme should specify the related terrestrial licence areas as areas that are taken to be areas (category A reception areas) in which people are unable to receive adequate reception of all of the applicable terrestrial digital commercial television broadcasting services; and

(b) if a terrestrial licensee for a related terrestrial licence area is authorised, under paragraph 7(2A)(d) of Schedule 2, to provide a commercial television broadcasting service outside the related terrestrial licence area to one or more persons who are in the section 38C licence area—the scheme should provide that those persons are taken in to be in a category A reception area.

(4) The second objective is that the scheme should:

(a) specify one or more areas included in the section 38C licence area; or

(b) specify a method for ascertaining one or more areas included in the section 38C licence area;

that are taken to be areas (category B reception areas) in which people are unable to receive adequate reception of all of the applicable terrestrial digital commercial television broadcasting services.

(5) The third objective is that a conditional access system that relates to any of the commercial television broadcasting services provided under the section 38C licence must enable persons in:

(a) a category A reception area; or

(b) a category B reception area;

to receive those commercial television broadcasting services.

(6) Subsection (5) has effect subject to subsections (14) and (15).

(7) The fourth objective is that the scheme should provide that so much of the section 38C licence area as is neither:

(a) a category A reception area; nor

(b) a category B reception area;

is a category C reception area.

(8) The fifth objective is that the scheme must:

(a) if the scheme is developed by a body or association that the ACMA is satisfied represents commercial television broadcasting licensees—identify a company; or
(b) if the scheme is formulated by the ACMA—identify the ACMA; as the scheme administrator for the scheme.

(9) The sixth objective is that the scheme must authorise the scheme administrator to issue a certificate (a reception certificate) to a person in a category C reception area stating that the person is unable to receive adequate reception of all of the applicable terrestrial digital commercial television broadcasting services.

(10) The seventh objective is that a conditional access system that relates to any of the commercial television broadcasting services provided under the section 38C licence must enable a person who:
(a) is in a category C reception area; and
(b) holds a reception certificate;
to receive those commercial television broadcasting services.

(11) Subsection (10) has effect subject to subsections (14) and (15).

(12) The eighth objective is that, if an application for a reception certificate is made in accordance with the scheme, the application must:
(a) be dealt with by the scheme administrator within 14 days after receiving the application; and
(b) be accepted, and dealt with, without requiring:
(i) the payment of a fee by the applicant; or
(ii) the applicant to incur any expenses (other than the expense of filling in the application and sending it to the scheme administrator).

(13) The ninth objective is that the scheme must authorise the scheme administrator to revoke a reception certificate issued to a person if the person is no longer eligible for the reception certificate.

(14) The tenth objective is that, if persons are:
(a) in a local market area; and
(b) not in a category A reception area;
a conditional access system that relates to any of the commercial television broadcasting services provided under the section 38C licence must not enable those persons to receive those commercial television broadcasting services earlier than 6 months before the
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time when the local market area becomes a digital-only local
market area.

(15) The 11th objective is that, if persons are:

(a) in a simulcast area; and
(b) not in a local market area; and
(c) not in a category A reception area;

a conditional access system that relates to any of the commercial
television broadcasting services provided under the section 38C
licence must not enable those persons to receive those commercial
television broadcasting services earlier than 6 months before the
end of the simulcast period for the simulcast area.

(16) In this section:

digital-only local market area has the same meaning as in
Schedule 4.

local market area has the same meaning as in Schedule 4.

related terrestrial licence area:

(a) in relation to a licence allocated under section 38C for the
South Eastern Australia TV3 licence area—means a
terrestrial licence area mentioned in column 3 of item 1 of the
table in subsection 38C(1); or
(b) in relation to a licence allocated under section 38C for the
Northern Australia TV3 licence area—means a terrestrial
licence area mentioned in column 3 of item 2 of the table in
subsection 38C(1); or
(c) in relation to a licence allocated under section 38C for the
Western Australia TV3 licence area—means a terrestrial
licence area mentioned in column 3 of item 3 of the table in
subsection 38C(1).

simulcast area means an area covered by paragraph 6(3)(c) of
Schedule 4.

simulcast period has the same meaning as in Schedule 4.

Note 1: For adequate reception, see section 130ZFA.

Note 2: For applicable terrestrial digital commercial television broadcasting
services, see section 130ZG.
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terrestrial licence means a commercial television broadcasting licence other than a commercial television broadcasting licence allocated under section 38C or subsection 40(1).

terrestrial licence area means the licence area of a terrestrial licence.

130ZC Registration of conditional access scheme developed by representative body or association

Scope

(1) This section applies if:

(a) the ACMA is satisfied that a body or association represents commercial television broadcasting licensees; and
(b) that body or association develops a conditional access scheme (the new scheme) for the licence area of a commercial television broadcasting licence allocated under section 38C; and
(c) the body or association gives a copy of the new scheme to the ACMA; and
(d) either:

(i) the body or association gives the copy of the new scheme to the ACMA within 45 days after the first or only occasion on which a licence for the licence area is allocated under section 38C; or
(ii) the new scheme is expressed to replace another conditional access scheme registered under this section; and
(e) the ACMA is satisfied that the new scheme is consistent with the principle that a person in the licence area should have adequate reception of:

(i) all of the applicable terrestrial digital commercial television broadcasting services; or
(ii) all of the commercial television broadcasting services that the section 38C licensee is required to provide under clauses 7B and 7C of Schedule 2.

Note: This section may cease to apply to a licence area—see subsection 130ZCA(7).
Registration

(2) The ACMA must:
   (a) register the new scheme by including it in the register under section 130ZE; and
   (b) do so within 28 days after the copy of the new scheme is given to the ACMA.

130ZCA Registration of conditional access scheme formulated by the ACMA

Scope

(1) This section applies if:
   (a) a commercial television broadcasting licence is allocated under section 38C for a particular licence area; and
   (b) that is the first or only occasion on which a commercial television broadcasting licence is allocated under section 38C for the licence area; and
   (c) 90 days pass, and no conditional access scheme for the licence area has been registered, or is required to be registered, under section 130ZC.

Scheme

(2) The ACMA may, by legislative instrument, formulate a conditional access scheme for the licence area.

(3) The ACMA must not formulate a conditional access scheme unless the ACMA is satisfied that the scheme is consistent with the principle that a person in the licence area should have adequate reception of:
   (a) all of the applicable terrestrial digital commercial television broadcasting services; or
   (b) all of the commercial television broadcasting services that the section 38C licensee is required to provide under clauses 7B and 7C of Schedule 2.

Registration

(4) The ACMA must register a scheme formulated under subsection (2) by including it in the register under section 130ZE.
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Consultation

(5) Before registering a conditional access scheme formulated under subsection (2), the ACMA must:

(a) publish on its website:
   (i) a draft of the scheme; and
   (ii) a notice inviting interested persons to give written submissions about the draft to the ACMA within the period specified in the notice; and
(b) if any submissions are given to the ACMA within that period—have due regard to those submissions in formulating the scheme.

(6) The period specified under subparagraph (5)(a)(ii) must not be shorter than 14 days.

Section 130ZC ceases to apply to the licence area

(7) Section 130ZC ceases to apply to the licence area.

130ZD  Replacement of conditional access scheme

(1) Changes to a conditional access scheme are to be achieved by replacing the scheme instead of varying the scheme.

(2) If:

(a) the replacement scheme is formulated by the ACMA; and
(b) the replacement scheme differs in only minor respects from the original scheme;

section 130ZCA has effect, in relation to the registration of the scheme, as if subsections 130ZCA(5) and (6) had not been enacted.

Note: Subsections 130ZCA(5) and (6) deal with submissions about a draft scheme formulated by the ACMA.

(3) If:

(a) a conditional access scheme is registered under this Part; and
(b) the scheme is expressed to replace another conditional access scheme;

the other conditional access scheme ceases to be registered under this Part when the replacement scheme is registered.
(4) The replacement of a conditional access scheme does not affect the continuity of a reception certificate issued under the scheme.

130ZE ACMA to maintain register of conditional access schemes

(1) The ACMA is to maintain a Register in which the ACMA includes any conditional access schemes required to be registered under section 130ZC or 130ZCA.

(2) The Register is to be maintained by electronic means.

(3) The Register is to be made available for inspection on the ACMA’s website.

(4) The Register is not a legislative instrument.

130ZF ACMA may direct a scheme administrator to issue a reception certificate etc.

Scope

(1) This section applies if:
   (a) a conditional access scheme is registered under section 130ZC; and
   (b) a person is in a category C reception area (within the meaning of the scheme); and
   (c) the person considers that he or she does not have adequate reception of all of the applicable terrestrial digital commercial television broadcasting services.

Note: For applicable terrestrial digital commercial television broadcasting services, see section 130ZG.

Investigation of complaint

(2) The person may make a complaint to the ACMA about the matter, so long as:
   (a) the following conditions are satisfied:
      (i) the person has previously made an application under the scheme for a reception certificate;
      (ii) the application was made in accordance with the scheme;
(iii) the scheme administrator refused to issue the reception certificate; or

(b) the following conditions are satisfied:

(i) the person has previously held a reception certificate under the scheme;

(ii) the scheme administrator revoked the reception certificate; or

(c) the following conditions are satisfied:

(i) the person has previously made an application under the scheme for a reception certificate;

(ii) the application was made in accordance with the scheme;

(iii) the scheme administrator did not deal with the application within 14 days after receiving the application.

(3) The ACMA must investigate the complaint in a manner determined by the ACMA.

(4) However, the ACMA need not investigate the complaint if it is satisfied that the complaint:

(a) is frivolous or vexatious; or

(b) was not made in good faith.

Direction to issue reception certificate

(5) If:

(a) the person makes a complaint under paragraph (2)(a) or (b);

and

(b) having investigated the complaint, the ACMA is satisfied that the person does not have adequate reception of all of the applicable terrestrial digital commercial television broadcasting services;

the ACMA may, by written notice given to the scheme administrator, direct the scheme administrator to issue a reception certificate to the person within a specified period.

(6) The specified period must not be longer than 28 days.

(7) In deciding whether to give a direction under subsection (5), it is to be presumed that the person does not have adequate reception of
all of the applicable terrestrial digital commercial television
broadcasting services, unless the scheme administrator satisfies the
ACMA that the person has adequate reception of all of those
services.

Consultation

(8) Before giving a direction under subsection (5), the ACMA must,
by written notice given to the scheme administrator:
(a) invite the scheme administrator to make a submission to the
ACMA, within the time limit specified in the notice, about
the question of whether the person has adequate reception of
all of the applicable terrestrial digital commercial television
broadcasting services; and
(b) have regard to any submission received within that time
limit.

(9) The time limit must not be longer than 28 days.

Compliance with direction

(10) The scheme administrator must comply with a direction under
subsection (5).

(11) If the scheme administrator does not comply with a direction under
subsection (5), then:
(a) this Act; and
(b) the conditional access scheme;
have effect as if, at the end of the last day for compliance, the
scheme administrator had issued a reception certificate to the
person.

Determination that reception certificate is taken to have been
issued to complainant

(12) If the person makes a complaint under paragraph (2)(c), the
ACMA may determine that:
(a) this Act; and
(b) the conditional access scheme;
have effect as if the scheme administrator had issued a reception
certificate to the person.
Revocation of reception certificate taken to have been issued

(13) This Act does not prevent the subsequent revocation of a reception certificate that is taken to have been issued under subsection (11) or (12).

Notification of results of investigation

(14) If:
(a) the person makes a complaint under subsection (2); and
(b) the ACMA investigates the complaint;
the ACMA must notify the person of the results of the investigation.

130ZFA Adequate reception

The ACMA may, by legislative instrument, determine that, for the purposes of this Part, adequate reception has the meaning ascertained in accordance with the determination.

130ZG Applicable terrestrial digital commercial television broadcasting services

Scope

(1) This section applies if a person is in the licence area of a commercial television broadcasting licence.

Applicable terrestrial digital commercial television broadcasting services

(2) For the purposes of the application of this Part to the person, a service is an applicable terrestrial digital commercial television broadcasting service if it is a commercial television broadcasting service that is:
(a) provided by a commercial television broadcasting licensee in the licence area; and
(b) transmitted in digital mode.
Exemptions

(3) This section does not apply to a commercial television broadcasting licence allocated under section 38C or subsection 40(1).

Definitions

(4) In this section:

digital mode has the same meaning as in Schedule 4.

65 Section 204

Before “Subject to”, insert “(1)”.

Note: The following heading to subsection 204(1) is inserted “Decisions under this Act”.

66 Section 204 (after table item dealing with section 38B)

Insert:

<table>
<thead>
<tr>
<th>Refusal to allocate licence</th>
<th>Section 38C</th>
<th>The applicant</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cancellation of licence</td>
<td>Section 38C</td>
<td>The licensee</td>
</tr>
</tbody>
</table>

67 At the end of section 204

Add:

Decisions under a conditional access scheme registered under section 130ZCA

(2) An application may be made to the Administrative Appeals Tribunal for review of a decision set out in column 1 of the table, but such an application may only be made by the person described in column 2.

Reviewable decisions

<table>
<thead>
<tr>
<th>Item</th>
<th>Decision</th>
<th>Person who may apply</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Refusal to issue a reception certificate under a conditional access scheme registered under section 130ZCA</td>
<td>The applicant</td>
</tr>
</tbody>
</table>
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#### Reviewable decisions

<table>
<thead>
<tr>
<th>Item</th>
<th>Decision</th>
<th>Person who may apply</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>Revocation of a reception certificate under a conditional access scheme registered under section 130ZCA</td>
<td>The holder of the reception certificate</td>
</tr>
</tbody>
</table>

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68  **After section 211**

Insert:

211A  **Time when a television program is broadcast—South Eastern Australia TV3 and Northern Australia TV3 licence areas**

*Nomination of place—South Eastern Australia TV3 licence area*

(1) The licensee of a commercial television broadcasting licence allocated under section 38C for the South Eastern Australia TV3 licence area may, by written notice given to the ACMA, nominate either or both of the following:

(a) a specified place in:

(i) the South Eastern Australia TV3 licence area; or

(ii) the Northern Australia TV3 licence area;

for the purposes of the HDTV multi-channelled commercial television broadcasting services provided under the licence;

(b) a specified place in the South Eastern Australia TV3 licence area for the purposes of the SDTV multi-channelled commercial television broadcasting services provided under the licence.

(2) The nomination must be expressed to be a nomination under subsection (1).

*Nomination of place—Northern Australia TV3 licence area*

(3) The licensee of a commercial television broadcasting licence allocated under section 38C for the Northern Australia TV3 licence area may, by written notice given to the ACMA, nominate either or both of the following:

(a) a specified place in:

(i) the Northern Australia TV3 licence area; or
(ii) the South Eastern Australia TV3 licence area;
for the purposes of the HDTV multi-channelled commercial
television broadcasting services provided under the licence;
(b) a specified place in the Northern Australia TV3 licence area
for the purposes of the SDTV multi-channelled commercial
television broadcasting services provided under the licence.

(4) The nomination must be expressed to be a nomination under
subsection (3).

Withdrawal of nomination

(5) If a nomination is in force under subsection (1) or (3), the licensee
may, by written notice given to the ACMA, withdraw the
nomination.

(6) The withdrawal of a nomination does not prevent the licensee from
making a fresh nomination under subsection (1) or (3).

Time when a program is broadcast

(7) If a nomination of a place is in force under paragraph (1)(a) or
(3)(a) for the purposes of the HDTV multi-channelled commercial
television broadcasting services provided under a licence, then:
(a) this Act; and
(b) any program standards; and
(c) any other instrument under this Act; and
(d) any codes of practice registered under section 123;
have effect, in relation to any programs broadcast on those
services, as if those programs had been broadcast in all parts of the
licence area at the time that is legal time in the nominated place.

(8) If a nomination of a place is in force under paragraph (1)(b) or
(3)(b) for the purposes of the SDTV multi-channelled commercial
television broadcasting services provided under a licence, then:
(a) this Act; and
(b) any program standards; and
(c) any other instrument under this Act; and
(d) any codes of practice registered under section 123;
have effect, in relation to any programs broadcast on those
services, as if those programs had been broadcast in all parts of the
licence area at the time that is legal time in the nominated place.
Definitions

(9) In this section:

HDTV multi-channelled commercial television broadcasting service has the same meaning as in Schedule 4.

SDTV multi-channelled commercial television broadcasting service has the same meaning as in Schedule 4.

69 Before clause 7 of Schedule 2

Insert:

Division 1—General

70 Paragraph 7(1)(c) of Schedule 2

After “allocated under”, insert “section 38C or”.

71 Paragraphs 7(2)(a) and (c) of Schedule 2

After “allocated under”, insert “section 38C or”.

72 At the end of Part 3 of Schedule 2

Add:

Division 2—Licences allocated under section 38C

7A Common conditions

(1) A licence allocated under section 38C is subject to the following conditions:

(a) the licensee may only provide commercial television broadcasting services in digital mode (within the meaning of Schedule 4);

(b) the licensee may only provide commercial television broadcasting services with the use of a satellite;

(c) if a conditional access scheme for the licence area is registered under Part 9C—the licensee will ensure that any conditional access system that relates to any of the commercial television broadcasting services provided under the licence complies with the scheme;
(d) the licensee will comply with any standards under
section 130AC (which deals with technical standards for
digital transmission).

(2) Paragraphs 7(1)(i) and (oa) of this Schedule do not apply to a
licence allocated under section 38C.

7B Conditions about the provision of core/primary commercial
television broadcasting services

Conditions about the provision of core/primary services

(1) A licence allocated under section 38C is subject to the condition
that, if there are at least 3 commercial television broadcasting
services (the related terrestrial core/primary services), where each
of the services:
(a) is provided by a terrestrial licensee in a related terrestrial
licence area; and
(b) is a core/primary commercial television broadcasting service;
and
(c) is distinct from each of the other services;
the section 38C licensee will provide at least 3 commercial
television broadcasting services, where:
(d) the program content of each of the services is the same, or
substantially the same, as the program content of a related
terrestrial core/primary service; and
(e) each of the services is distinct from each of the other
services.

(2) A licence allocated under section 38C is subject to the condition
that, if there are only 2 commercial television broadcasting services
(the related terrestrial core/primary services), where each of the
services:
(a) is provided by a terrestrial licensee in a related terrestrial
licence area; and
(b) is a core/primary commercial television broadcasting service;
and
(c) is distinct from the other service;
the section 38C licensee will provide:
(d) 2 commercial television broadcasting services, where:
(i) the program content of each of the services is the same, or substantially the same, as the program content of a related terrestrial core/primary service; and
(ii) the services are distinct from one another; and
(e) one commercial television broadcasting service, where:
   (i) the program content of the service is the same, or substantially the same, as the program content of a core/primary commercial television broadcasting service provided by a terrestrial licensee in a metropolitan licence area; and
   (ii) the service is distinct from each of the services required to be provided by paragraph (d).

(3) A licence allocated under section 38C is subject to the condition that, if:
   (a) neither subclause (1) nor subclause (2) applies; and
   (b) there is a commercial television broadcasting service (the related terrestrial core/primary service), where:
       (i) the service is provided by a terrestrial licensee in a related terrestrial licence area; and
       (ii) the service is a core/primary commercial television broadcasting service;
   the section 38C licensee will provide:
   (c) one commercial television broadcasting service that has program content that is the same, or substantially the same, as the program content of the related terrestrial core/primary service; and
   (d) 2 commercial television broadcasting services, where:
       (i) the program content of each of the services is the same, or substantially the same, as the program content of a core/primary commercial television broadcasting service provided by a terrestrial licensee in a metropolitan licence area; and
       (ii) the services are distinct from each other and from the service required to be provided by paragraph (d).

Services not required before start date

(4) Subclauses (1), (2) and (3) do not require a licensee to provide a service before the start date for the licence area.
Exemption—cessation of related terrestrial core/primary service

(5) If:

(a) in compliance with subclause (1), the licensee of a licence allocated under section 38C provides a commercial television broadcasting service that has the same, or substantially the same, program content as a core/primary commercial television broadcasting service provided by a terrestrial licensee in a related terrestrial licence area; and

(b) the core/primary commercial television broadcasting service ceases to be provided by the terrestrial licensee in the related terrestrial licence area; and

(c) as a result of the cessation of the service, subclause (2) applies to the section 38C licensee;

subclause (2) has effect in relation to the section 38C licensee, while the cessation continues, as if paragraph (2)(e) had not been enacted.

(6) If:

(a) in compliance with subclause (2), the licensee of a licence allocated under section 38C provides a commercial television broadcasting service that has the same, or substantially the same, program content as a core/primary commercial television broadcasting service provided by a terrestrial licensee in a related terrestrial licence area; and

(b) the core/primary commercial television broadcasting service ceases to be provided by the terrestrial licensee in the related terrestrial licence area; and

(c) as a result of the cessation of the service, subclause (3) applies to the section 38C licensee;

then, while the cessation continues:

(d) subclause (3) has effect in relation to the section 38C licensee as if paragraph (3)(d) had not been enacted; and

(e) the section 38C licence is subject to the condition that the section 38C licensee will provide one commercial television broadcasting service, where:

(i) the program content of the service is the same, or substantially the same, as the program content of a core/primary commercial television broadcasting
service provided by a terrestrial licensee in a
metropolitan licence area; and
(ii) the service is distinct from the service required to be
provided by paragraph (3)(c).

Distinct services

(7) For the purposes of this clause, a commercial television
broadcasting service is distinct from another commercial television
broadcasting service if, and only if, the program content of the
services is not the same or substantially the same.

Note: For metropolitan licence area, related terrestrial licence area and
terrestrial licence, see clause 7L.

7C Conditions about the provision of non-core/primary commercial
television broadcasting services

HDTV multi-channelled commercial television broadcasting
services

(1) A licence allocated under section 38C is subject to the condition
that, if:
(a) the licensee of a terrestrial licence for a metropolitan licence
area provides a HDTV multi-channelled commercial
television broadcasting service (the metropolitan service) in
the metropolitan licence area; and
(b) the licensee of a terrestrial licence for a related terrestrial
licence area provides a HDTV multi-channelled commercial
television broadcasting service (the related terrestrial
service) in the related terrestrial licence area; and
(c) the related terrestrial service has the same, or substantially
the same, program content as the metropolitan service;
the section 38C licensee will provide a HDTV multi-channelled
commercial television broadcasting service that has the same, or
substantially the same, program content as the related terrestrial
service.

(2) A licence allocated under section 38C is subject to the condition
that, if:
(a) the licensee of a terrestrial licence for a metropolitan licence
area provides a HDTV multi-channelled commercial
television broadcasting service (the *metropolitan service*) in the metropolitan licence area; and

(b) there is no HDTV multi-channelled commercial television broadcasting service that:
   (i) is provided by the licensee of a terrestrial licence for a related terrestrial licence area; and
   (ii) has the same, or substantially the same, program content as the metropolitan service;

the section 38C licensee will provide a HDTV multi-channelled commercial television broadcasting service that has the same, or substantially the same, program content as the metropolitan service.

(3) Subclauses (1) and (2) do not require a licensee to provide a service before the start date for the licence area.

Note: For *start date*, see clause 7H.

(4) Subclause (2) does not apply to a HDTV multi-channelled commercial television broadcasting licensee for a metropolitan licence area commences to provide after the end of the simulcast period for the metropolitan licence area.

(5) If:
   (a) the licensee of a commercial television broadcasting licence for a metropolitan licence area provides a HDTV multi-channelled commercial television broadcasting service (the *metropolitan service*) in the metropolitan licence area; and
   (b) the licensee of a terrestrial licence for a related terrestrial licence area provides a HDTV multi-channelled commercial television broadcasting service (the *related terrestrial service*) in the related terrestrial licence area; and
   (c) the related terrestrial service has the same, or substantially the same, program content as the metropolitan service; and
   (d) in compliance with subclause (1), the licensee of a licence allocated under section 38C provides a HDTV multi-channelled commercial television broadcasting service that has the same, or substantially the same, program content as the related terrestrial service; and
(e) the related terrestrial service ceases to be provided by the terrestrial licensee in the related terrestrial licence area; subclause (2) does not apply to the section 38C licensee in relation to the metropolitan service while the cessation continues.

SDTV multi-channelled commercial television broadcasting services

(6) A licence allocated under section 38C is subject to the condition that, if:

(a) the licensee (the metropolitan licensee) of a commercial television broadcasting licence for a metropolitan licence area provides a SDTV multi-channelled commercial television broadcasting service (the metropolitan service) in the metropolitan licence area; and

(b) the metropolitan service is not the core/primary commercial television broadcasting service provided by the metropolitan licensee; and

(c) the licensee of a terrestrial licence for a related terrestrial licence area provides a SDTV multi-channelled commercial television broadcasting service (the related terrestrial service) in the related terrestrial licence area; and

(d) the related terrestrial service has the same, or substantially the same, program content as the metropolitan service; the section 38C licensee will provide a SDTV multi-channelled commercial television broadcasting service that has the same, or substantially the same, program content as the related terrestrial service.

(7) A licence allocated under section 38C is subject to the condition that, if:

(a) the licensee (the metropolitan licensee) of a commercial television broadcasting licence for a metropolitan licence area provides a SDTV multi-channelled commercial television broadcasting service (the metropolitan service) in the metropolitan licence area; and

(b) the metropolitan service is not the core/primary commercial television broadcasting service provided by the metropolitan licensee; and

(c) there is no SDTV multi-channelled commercial television broadcasting service that:
(i) is provided by the licensee of a terrestrial licence for a related terrestrial licence area; and
(ii) has the same, or substantially the same, program content as the metropolitan service;
the section 38C licensee will provide a SDTV multi-channelled commercial television broadcasting service that has the same, or substantially the same, program content as the metropolitan service.

(8) Subclauses (6) and (7) do not require a licensee to provide a service before the start date for the licence area.
Note: For start date, see clause 7H.

(9) Subclause (7) does not apply to a SDTV multi-channelled commercial television broadcasting service that a commercial television broadcasting licensee for a metropolitan licence area commences to provide after the end of the simulcast period for the metropolitan licence area.

(10) If:
(a) the licensee (the metropolitan licensee) of a commercial television broadcasting licence for a metropolitan licence area provides a SDTV multi-channelled commercial television broadcasting service (the metropolitan service) in the metropolitan licence area; and
(b) the metropolitan service is not the core/primary commercial television broadcasting service provided by the metropolitan licensee; and
(c) the licensee of a terrestrial licence for a related terrestrial licence area provides a SDTV multi-channelled commercial television broadcasting service (the related terrestrial service) in the related terrestrial licence area; and
(d) the related terrestrial service has the same, or substantially the same, program content as the metropolitan service; and
(e) in compliance with subclause (6), the licensee of a licence allocated under section 38C provides a SDTV multi-channelled commercial television broadcasting service that has the same, or substantially the same, program content as the related terrestrial service; and
(f) the related terrestrial service ceases to be provided by the terrestrial licensee in the related terrestrial licence area;
subclause (7) does not apply to the section 38C licensee in relation to the metropolitan service while the cessation continues.

Note: For metropolitan licence area, related terrestrial licence area and terrestrial licence, see clause 7L.

7D Condition about the provision of local news services

A licence allocated under section 38C is subject to the condition that, if a program or material is provided, or required to be provided, to the licensee by another licensee under:

(a) subsection 43A(3A); or
(b) subsection 43AA(1);

the section 38C licensee will broadcast the program or material on a service authorised by paragraph 41CA(1)(c), (f) or (g) as soon as practicable after the other licensee begins to broadcast the program or material, unless the section 38C licensee has previously broadcast the program or material on such a service.

7E Exemption—provision of new commercial television broadcasting services not technically feasible

If:

(a) a licence is allocated under section 38C; and
(b) after the start date for the licence area of the section 38C licence, a commercial television broadcasting licensee (the terrestrial licensee) for a terrestrial licence area commences to provide, or proposes to commence to provide:

(i) a HDTV multi-channelled commercial television broadcasting service; or
(ii) a SDTV multi-channelled commercial television broadcasting service that is not the core/primary commercial television broadcasting service provided by the terrestrial licensee; and

(c) apart from this clause, the licensee of the section 38C licence is, or will be, required to provide:

(i) if subparagraph (b)(i) applies—a HDTV multi-channelled commercial television broadcasting service the program content of which is the same, or substantially the same, as the service provided by the terrestrial licensee; or
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(ii) if subparagraph (b)(ii) applies—a SDTV multi-channelled commercial television broadcasting service the program content of which is the same, or substantially the same, as the service provided by the terrestrial licensee; and

(d) the ACMA considers that it is not technically feasible for the licensee of the section 38C licence to provide the required service;

the ACMA may, by legislative instrument, determine that clause 7C does not oblige the section 38C licensee to provide the required service.

Note 1: For start date, see clause 7G.

Note 2: For terrestrial licence area, see clause 7L.

7F Exemption—commercial television broadcasting services with the same program content

(1) If:

(a) a commercial television broadcasting licensee (the terrestrial licensee) for a terrestrial licence area provides, or proposes to commence to provide:

(i) a HDTV multi-channelled commercial television broadcasting service; or

(ii) a SDTV multi-channelled commercial television broadcasting service that is not the core/primary commercial television broadcasting service provided by the terrestrial licensee; and

(b) the program content of the service provided, or to be provided, by the terrestrial licensee is, or will be:

(i) the same; or

(ii) substantially the same;

as the program content of another commercial television broadcasting service provided, or to be provided, by the terrestrial licensee; and

(c) apart from this subclause, the licensee of a section 38C licence is, or will be, required to provide:

(i) if subparagraph (a)(i) applies—a HDTV multi-channelled commercial television broadcasting service the program content of which is the same, or
substantially the same, as the service provided by the terrestrial licensee; or
(ii) if subparagraph (a)(ii) applies—a SDTV multi-channelled commercial television broadcasting service the program content of which is the same, or substantially the same, as the service provided by the terrestrial licensee;

the Minister may, by legislative instrument, determine that clause 7C does not oblige the section 38C licensee to provide the required service during a period specified in the determination.

(2) The specified period must not be longer than 2 years.

(3) The Minister may, by legislative instrument, extend or further extend the specified period.

(4) Before making:
(a) a determination under subclause (1); or
(b) an instrument under subclause (3);
the Minister must consult:
(c) the section 38C licensee concerned; and
(d) the ACMA.

Note: For terrestrial licence area, see clause 7L.

7G Delay in commencement of new commercial television broadcasting services

For the purposes of this Division, if:
(a) a licence is allocated under section 38C; and
(b) after the start date for the licence area of the section 38C licence, a commercial television broadcasting licensee (the terrestrial licensee) for a terrestrial licence area commences to provide:
(i) a HDTV multi-channelled commercial television broadcasting service; or
(ii) a SDTV multi-channelled commercial television broadcasting service that is not the core/primary commercial television broadcasting service provided by the terrestrial licensee; and
(c) the licensee of the section 38C licence is required to provide:
(i) if subparagraph (b)(i) applies—a HDTV multi-channelled commercial television broadcasting service the program content of which is the same, or substantially the same, as the service provided by the terrestrial licensee; or
(ii) if subparagraph (b)(ii) applies—a SDTV multi-channelled commercial television broadcasting service the program content of which is the same, or substantially the same, as the service provided by the terrestrial licensee; and
(d) there is a delay in the provision of the required service; disregard the delay so long as the delay is as short as is practicable.

Note 1: For start date, see clause 7H.
Note 2: For terrestrial licence area, see clause 7L.

7H Start dates for licence areas

Start date

(1) The ACMA may, by legislative instrument, declare that, for the purposes of this Division, a specified day is the start date for the South Eastern Australia TV3 licence area.

(2) The start date for the South Eastern Australia TV3 licence area must not be later than 90 days after the first or only occasion on which a licence for the licence area is allocated under section 38C.

(3) The ACMA may, by legislative instrument, declare that, for the purposes of this Division, a specified day is the start date for the Northern Australia TV3 licence area.

(4) The ACMA may, by legislative instrument, declare that, for the purposes of this Division, a specified day is the start date for the Western Australia TV3 licence area.

(5) The start date for:
(a) the Northern Australia TV3 licence area; or
(b) the Western Australia TV3 licence area; must not be later than 3 months before the end of the earliest applicable terrestrial digital television switch-over date for the licence area.
Applicable terrestrial digital television switch-over date—Northern Australia TV3 licence area

(6) For the purposes of this clause, if:
(a) the licence area of a terrestrial licence is included in the Northern Australia TV3 licence area; and
(b) there is a simulcast period for the terrestrial licence area; and
(c) there is no local market area included in the terrestrial licence area;
the last day of the simulcast period for the terrestrial licence area is an applicable terrestrial digital television switch-over date for the Northern Australia TV3 licence area.

(7) For the purposes of this clause, if:
(a) the licence area of a terrestrial licence is included in the Northern Australia TV3 licence area; and
(b) there is a simulcast period for the terrestrial licence area; and
(c) a local market area is included in the terrestrial licence area;
the day on which the local market area becomes a digital-only local market area is an applicable terrestrial digital television switch-over date for the Northern Australia TV3 licence area.

Applicable terrestrial digital television switch-over date—Western Australia TV3 licence area

(8) For the purposes of this clause, if:
(a) the licence area of a terrestrial licence is included in the Western Australia TV3 licence area; and
(b) there is a simulcast period for the terrestrial licence area; and
(c) there is no local market area included in the terrestrial licence area;
the last day of the simulcast period for the terrestrial licence area is an applicable terrestrial digital television switch-over date for the Western Australia TV3 licence area.

(9) For the purposes of this clause, if:
(a) the licence area of a terrestrial licence is included in the Western Australia TV3 licence area; and
(b) there is a simulcast period for the terrestrial licence area; and
(c) a local market area is included in the terrestrial licence area;
the day on which the local market area becomes a digital-only local market area is an *applicable terrestrial digital television switch-over date* for the Western Australia TV3 licence area.

### 7J Program content

1. In determining, for the purposes of this Division, whether the program content of a commercial television broadcasting service provided by a licensee in a licence area is the same, or substantially the same, as the program content of another commercial television broadcasting service:
   
   (a) ignore the following:
      
      (i) advertising or sponsorship material (whether or not of a commercial kind);
   
      (ii) a promotion for a television program or a television broadcasting service;
   
      (iii) community information material or community promotional material;
   
      (iv) a weather bulletin;
   
      (v) any other similar material; and

   (b) ignore a news program; and

   (c) ignore any program the broadcasting of which in any jurisdiction in the licence area could result in the licensee:
      
      (i) committing an offence; or
   
      (ii) becoming liable to a civil penalty; or
   
      (iii) breaching an order or direction of a court; or
   
      (iv) being in contempt of court; and

   (d) ignore a program broadcast in circumstances specified in the regulations.

2. In determining, for the purposes of clause 7B of this Schedule, whether the program content of a commercial television broadcasting service is the same, or substantially the same, as the program content of another commercial television broadcasting service, assume that a program that provides coverage of an anti-siphoning event is the same as a program that provides coverage of another anti-siphoning event.
7K SDTV multi-channelled commercial television broadcasting service

For the purposes of this Division, assume that paragraph 5A(1)(d) of Schedule 4 had not been enacted.

7L Definitions

In this Division:

digital-only local market area has the same meaning as in Schedule 4.

HDTV multi-channelled commercial television broadcasting service has the same meaning as in Schedule 4.

local market area has the same meaning as in Schedule 4.

metropolitan licence area means a licence area in which is situated the General Post Office of the capital city of:

(a) New South Wales; or
(b) Victoria; or
(c) Queensland; or
(d) Western Australia; or
(e) South Australia;

but does not include the licence area of a commercial television broadcasting licence allocated under section 38C.

related terrestrial licence area:

(a) in relation to a licence allocated under section 38C for the South Eastern Australia TV3 licence area—means a terrestrial licence area mentioned in column 3 of item 1 of the table in subsection 38C(1); or
(b) in relation to a licence allocated under section 38C for the Northern Australia TV3 licence area—means a terrestrial licence area mentioned in column 3 of item 2 of the table in subsection 38C(1); or
(c) in relation to a licence allocated under section 38C for the Western Australia TV3 licence area—means a terrestrial licence area mentioned in column 3 of item 3 of the table in subsection 38C(1).
**SDTV multi-channelled commercial television broadcasting service** has the same meaning as in Schedule 4.

**simulcast period** has the same meaning as in Schedule 4.

**terrestrial licence** means a commercial television broadcasting licence other than a commercial television broadcasting licence allocated under section 38C or subsection 40(1).

**terrestrial licence area** means the licence area of a terrestrial licence.

73 **Subparagraph 10(1)(e)(ii) of Schedule 2**

After “allocated under”, insert “section 38C or”.

74 **Subclauses 10(1A) and (1B) of Schedule 2**

After “allocated under”, insert “section 38C or”.

75 **Clause 2 of Schedule 4 (definition of metropolitan licence area)**

Repeal the definition, substitute:

**metropolitan licence area** means a licence area in which is situated the General Post Office of the capital city of:

(a) New South Wales; or
(b) Victoria; or
(c) Queensland; or
(d) Western Australia; or
(e) South Australia;

but does not include the licence area of a commercial television broadcasting licence allocated under section 38C.

76 **Clause 2 of Schedule 4**

Insert:

**primary satellite national television broadcasting service**, in relation to a national broadcaster, has the meaning given by clause 41N.

77 **Clause 2 of Schedule 4 (definition of regional licence area)**

Repeal the definition, substitute:
**Schedule 1** Amendments

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*regional licence area* means a licence area that is not a metropolitan licence area, but does not include the licence area of a commercial television broadcasting licence allocated under section 38C.

**78 Clause 2 of Schedule 4**

Insert:

*satellite delivery area* means an area that corresponds to the licence area of a commercial television broadcasting licence allocated under section 38C.

**79 Clause 2 of Schedule 4 (paragraph (a) of the definition of simulcast period)**

After “is”, insert “a metropolitan licence area or a regional licence area, but”.

**80 Clause 4C of Schedule 4**

Before “If there is”, insert “(1)”. 

**81 At the end of clause 4C of Schedule 4**

Add:

(2) Subclause (1) does not apply to a commercial television broadcasting licence allocated under section 38C.

**82 After subclause 5(1) of Schedule 4**

Insert:

(1A) Subclause (1) does not apply to the licence area of a commercial television broadcasting licence allocated under section 38C.

**83 Paragraph 5A(1)(b) of Schedule 4**

Repeal the paragraph, substitute:

(b) the service is transmitted in SDTV digital mode:

(i) using multi-channelling transmission capacity; or

(ii) with the use of a satellite; and

**84 Paragraph 5B(b) of Schedule 4**

Repeal the paragraph, substitute:
(b) the service is transmitted in HDTV digital mode:
   (i) using multi-channelling transmission capacity; or
   (ii) with the use of a satellite; and

85 Paragraph 5C(1)(b) of Schedule 4

Repeal the paragraph, substitute:
   (b) the service is transmitted in SDTV digital mode:
      (i) using multi-channelling transmission capacity; or
      (ii) with the use of a satellite; and

86 At the end of clause 5C of Schedule 4

Add:
   (4) Paragraph (1)(d) does not apply to a national television
       broadcasting service provided with the use of a satellite.

87 Paragraph 5D(b) of Schedule 4

Repeal the paragraph, substitute:
   (b) the service is transmitted in HDTV digital mode:
      (i) using multi-channelling transmission capacity; or
      (ii) with the use of a satellite; and

88 Paragraph 6(3)(c) of Schedule 4

Omit “a licence area”, substitute “a metropolitan licence area or a
   regional licence area”.

89 Paragraph 6(5A)(d) of Schedule 4

Repeal the paragraph, substitute:
   (d) either:
      (i) if the other licence was allocated before the
          commencement of section 38C—at or about the time
          when the other licence was allocated, the holder gave
          the ACMA a written notice electing that this subclause
          apply to both of the commercial television broadcasting
          services concerned; or
      (ii) if the other licence was allocated after the
          commencement of section 38C—before the end of the
          simulcast period for the licence area of the other licence,
          the holder gave the ACMA a written notice electing that
this subclause apply to the commercial television
broadcasting services provided under the licences;

90 Paragraph 6(5A)(e) of Schedule 4

Omit “either of the commercial television broadcasting services
concerned”, substitute “the commercial television broadcasting services
provided under the licences”.

91 Paragraph 6(5AA)(e) of Schedule 4

Omit “either of the commercial television broadcasting services
concerned”, substitute “the commercial television broadcasting services
provided under the licences”.

92 Paragraph 6(5B)(a) of Schedule 4

Omit “both of the commercial television broadcasting services
concerned”, substitute “the commercial television broadcasting services
provided under the commercial television broadcasting licences referred
to in whichever of paragraph (5A)(a) or (5AA)(a) is applicable”.

93 Paragraph 6(5B)(c) of Schedule 4

Repeal the paragraph.

94 After subclause 6(5BA) of Schedule 4

Insert:

(5BB) If:

(a) an election is in force under subclause (5A) or (5AA) in
relation to a commercial television broadcasting service
provided in a licence area; and

(b) the simulcast period for the licence area ends;
then:

(c) a notice of revocation of the election is taken to have been
given to the ACMA under subclause (5BA); and

(d) the ACMA is taken to have approved the revocation under
clause 7B; and

(e) the ACMA is taken to have specified the day after the end of
the simulcast period as the day on which the revocation takes
effect.

95 After subclause 6(5C) of Schedule 4
Amendments Schedule 1

1 Insert:

(5CA) For the purposes of paragraphs (3)(f), (j) and (ja), ignore any commercial television broadcasting service provided under a licence allocated under section 38C.

96 After subclause 6(7C) of Schedule 4

Insert:

(7D) If:

(a) an election is in force under subclause (7B) in relation to a commercial television broadcasting service provided in a remote licence area; and
(b) the simulcast period for the licence area ends;
then:
(c) a notice of revocation of the election is taken to have been given to the ACMA under subclause (7C); and
(d) the ACMA is taken to have approved the revocation under clause 7B; and
(e) the ACMA is taken to have specified the day after the end of the simulcast period as the day on which the revocation takes effect.

97 Subclause 6(5D) of Schedule 4

Omit “and (5B)(c)”.

98 After subclause 6(7K) of Schedule 4

Insert:

Licences allocated under section 38C

(7KA) This clause does not apply to a commercial television broadcasting licence allocated under section 38C.

99 At the end of clause 7A of Schedule 4

Add:

(4) Subclause (1) does not apply in relation to a commercial television broadcasting licence allocated under section 38C.

100 After subclause 9(1B) of Schedule 4
Schedule 1  Amendments

1 Insert:

(1BA) Subclause (1) does not apply in relation to a commercial television broadcasting licence allocated under section 38C.

101 After subclause 19(7C) of Schedule 4

Insert:

Satellite national television broadcasting services

(7CA) This clause does not apply to a national television broadcasting service provided with the use of a satellite.

102 Before clause 37DA of Schedule 4

Insert:

37DAA This Division does not apply in relation to section 38C licences

This Division does not apply in relation to a commercial television broadcasting licence allocated under section 38C.

103 After paragraph 38(4)(a) of Schedule 4

Insert:

(aa) the licence was not allocated under section 38C; and

104 Paragraph 38(4A)(a) of Schedule 4

After “subsection 41B(2)”, insert “or (2C)”.

105 After subclause 38(4A) of Schedule 4

Insert:

(4B) If:

(a) a commercial television broadcasting licence is allocated under section 38C; and

(b) the licensee provides a primary commercial television broadcasting service in the licence area; and

(c) the licensee provides in the licence area:

(i) another SDTV multi-channelled commercial television broadcasting service; or
(ii) a HDTV multi-channelled commercial television broadcasting service;
then, until the end of the last applicable terrestrial digital television switch-over date for the licence area, subclause (1) does not require the provision of a captioning service for a television program transmitted on:
(d) the other SDTV multi-channelled commercial television broadcasting service; or
(e) the HDTV multi-channelled commercial television broadcasting service;
unless the program has been previously transmitted on the primary commercial television broadcasting service.

106 After paragraph 38(5)(a) of Schedule 4
Insert:
(aa) the service is not provided with the use of a satellite; and

107 Paragraph 38(5)(c) of Schedule 4
After “national broadcaster”, insert “otherwise than with the use of a satellite”.

108 At the end of paragraph 38(5)(d) of Schedule 4
Add “otherwise than with the use of a satellite”.

109 After subclause 38(5) of Schedule 4
Insert:
(5A) If:
(a) a national broadcaster provides a national television broadcasting service in a satellite delivery area; and
(b) the service is provided with the use of a satellite;
then, until the end of the last applicable terrestrial digital television switch-over date for the licence area that corresponds to the satellite delivery area, subclause (1) does not require the provision of a captioning service for a television program transmitted on:
(c) a SDTV multi-channelled national television broadcasting service provided by the national broadcaster with the use of a satellite; or
(d) a HDTV multi-channelled national television broadcasting service provided by the national broadcaster with the use of a satellite;

unless the television program has been previously transmitted by the national broadcaster on the broadcaster’s primary satellite national television broadcasting service.

110 After paragraph 38(9)(a) of Schedule 4
Insert:
(aa) the licence was not allocated under section 38C; and

111 After subclause 38(9) of Schedule 4
Insert:
(9A) If:
(a) a commercial television broadcasting licence is allocated under section 38C; and
(b) before the end of the last applicable terrestrial digital television switch-over date for the licence area, the licensee transmits a television program on:
   (i) a SDTV multi-channelled commercial television broadcasting service; or
   (ii) a HDTV multi-channelled commercial television broadcasting service;
   in the licence area; and
(c) the program has been previously transmitted on another commercial television broadcasting service provided by the licensee in the licence area; and
(d) the licensee provided a captioning service for the program when the program was so previously transmitted on the other service;
the licensee must provide a captioning service for the television program transmitted as mentioned in paragraph (b).

112 After subclause 38(10) of Schedule 4
Insert:
(10A) Subclause (10) does not apply to a national television broadcasting service provided with the use of a satellite.
(10B) If:

(a) a national broadcaster transmits a television program on:

   (i) a SDTV multi-channelled national television
        broadcasting service; or

   (ii) a HDTV multi-channelled national television
        broadcasting service;

   in a satellite delivery area; and

(b) the service mentioned in paragraph (a) is provided with the
    use of a satellite; and

(c) the program is transmitted before the end of the last
    applicable terrestrial digital television switch-over date for
    the licence area that corresponds to the satellite delivery area;
    and

(d) the program has been previously transmitted on another
    national television broadcasting service provided by the
    national broadcaster, with the use of a satellite, in the satellite
    delivery area; and

(e) the national broadcaster provided a captioning service for the
    program when the program was so previously transmitted on
    the other service;

the national broadcaster must provide a captioning service for the
television program transmitted as mentioned in paragraph (a).

113 Subclause 38(12) of Schedule 4

Insert:

applicable terrestrial digital television switch-over date has the
same meaning as in clause 7H of Schedule 2.

Note: The heading to subclause 38(12) of Schedule 4 is replaced by the heading “Definitions”.

114 At the end of clause 41A of Schedule 4

Add:

Licences allocated under section 38C

(4) This clause does not apply in relation to a licence allocated under
section 38C.

115 Paragraph 41B(1)(a) of Schedule 4

After “subsection 41B(2)”, insert “or (2C)”.  

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116  At the end of clause 41B of Schedule 4

Add:

Licences allocated under section 38C

(4) This clause does not apply in relation to a licence allocated under section 38C.

117  At the end of clause 41C of Schedule 4

Add:

Licences allocated under section 38C

(4) This clause does not apply in relation to a licence allocated under section 38C.

118  Paragraph 41D(1)(a) of Schedule 4

After “subsection 41B(2)”, insert “or (2C)”.

119  At the end of clause 41D of Schedule 4

Add:

Licences allocated under section 38C

(4) This clause does not apply in relation to a licence allocated under section 38C.

120  At the end of clause 41E of Schedule 4

Add:

Licences allocated under section 38C

(4) This clause does not apply in relation to a licence allocated under section 38C.

121  At the end of clause 41F of Schedule 4

Add:

Licences allocated under section 38C

(4) This clause does not apply in relation to a licence allocated under section 38C.
122 After clause 41F of Schedule 4

Insert:

41FA SDTV multi-channelled commercial television broadcasting service provided under a section 38C licence—restrictions on televising anti-siphoning events

Scope

(1) This clause applies to a commercial television broadcasting licensee if:

(a) the licence was allocated under section 38C; and

(b) the licensee provides:

(i) a SDTV multi-channelled commercial television broadcasting service that is one of the licensee’s primary commercial television broadcasting services in the licence area; and

(ii) one or more SDTV multi-channelled commercial television broadcasting services that are not the licensee’s primary commercial television broadcasting services (the secondary commercial television broadcasting services) in the licence area.

Televising the whole of an anti-siphoning event

(2) The licensee must not televise on a secondary commercial television broadcasting service in the licence area the whole of an anti-siphoning event unless:

(a) the licensee has previously televised in the licence area the whole of the event on one or more of the licensee’s primary commercial television broadcasting services; or

(b) the licensee will televise simultaneously in the licence area the whole of the event:

(i) one or more of the licensee’s primary commercial television broadcasting services; and

(ii) the secondary commercial television broadcasting service.
Televising a part of an anti-siphoning event

(3) The licensee must not televise on a secondary commercial
television broadcasting service in the licence area a part of an
anti-siphoning event unless:

(a) the licensee has previously televised in the licence area the
part of the event on one or more of the licensee’s primary
commercial television broadcasting services; or

(b) the licensee will televise simultaneously in the licence area
the part of the event on:

(i) one or more of the licensee’s primary commercial
    television broadcasting service; and

(ii) the secondary commercial television broadcasting
    service; or

(c) the licensee televises the part of the event in a news or
    current affairs program broadcast on the secondary
    commercial television broadcasting service.

Note 1: For primary commercial television broadcasting service, see
subclause 41G(3).

Note 2: For anti-siphoning event, see subsection 6(1).

41FB HDTV multi-channelled commercial television broadcasting
service provided under a section 38C licence—restrictions
on televising anti-siphoning events

Scope

(1) This clause applies to a commercial television broadcasting
licensee if the licence was allocated under section 38C.

Televising the whole of an anti-siphoning event

(2) The licensee must not televise on a HDTV multi-channelled
commercial television broadcasting service in the licence area the
whole of an anti-siphoning event unless:

(a) the licensee has previously televised in the licence area the
whole of the event on one or more of the licensee’s primary
commercial television broadcasting services; or

(b) the licensee will televise simultaneously in the licence area
the whole of the event on:
(i) one or more of the licensee’s primary commercial television broadcasting services; and
(ii) the HDTV multi-channelled commercial television broadcasting service.

Televising a part of an anti-siphoning event

(3) The licensee must not televise on a HDTV multi-channelled commercial television broadcasting service in the licence area a part of an anti-siphoning event unless:

(a) the licensee has previously televised in the licence area the part of the event on one or more of the licensee’s primary commercial television broadcasting services; or

(b) the licensee will televise simultaneously in the licence area the part of the event on:

(i) one or more of the licensee’s primary commercial television broadcasting services; and

(ii) the HDTV multi-channelled commercial television broadcasting service; or

(c) the licensee televises the part of the event in a news or current affairs program broadcast on the HDTV multi-channelled commercial television broadcasting service.

Note 1: For primary commercial television broadcasting service, see subclause 41G(3).

Note 2: For anti-siphoning event, see subsection 6(1).

123 Subclause 41G(1) of Schedule 4

After “subsection 41B(2)”, insert “or (2C)”.

124 After subclause 41G(1) of Schedule 4

Insert:

(1A) The ACMA must ensure that a declaration under subclause (1):

(a) comes into force as soon as practicable after the later of the following:

(i) when the licensee commences to provide a SDTV multi-channelled commercial television broadcasting service in the licence area;

(ii) the commencement of this subclause; and

(b) is in force at all times during the period:
(i) beginning at the time worked out under paragraph (a);
and
(ii) ending at the end of the simulcast period, or simulcast-equivalent period, for the licence area.

125 At the end of clause 41G of Schedule 4

Add:

(3) The ACMA must ensure that a declaration under subclause (2) is in force at all times after the later of the following:
   (a) the end of the simulcast-period, or simulcast equivalent period, for the licence area;
   (b) when the licensee commences to provide a SDTV multi-channelled commercial television broadcasting service in the licence area

   Service provided under a section 38C licence

(4) The ACMA may, by legislative instrument, declare that one or more specified SDTV multi-channelled commercial television broadcasting services provided by a commercial television broadcasting licensee whose licence was allocated under section 38C are the licensee’s primary commercial television broadcasting services in the licence area.

(5) The number of services declared under subclause (4) in relation to a particular licensee must not exceed 3.

(6) The ACMA must ensure that a declaration under subclause (4) is in force at all times on and after the start date for the licence area concerned.

Definition

(7) In this clause:

   start date has the same meaning as in clause 7H of Schedule 2.

126 At the end of cause 41H of Schedule 4

Add:
Amendments

National television broadcasting services provided with the use of a satellite

(4) This clause does not apply in relation to national television broadcasting services provided with the use of a satellite.

127 At the end of clause 41J of Schedule 4

Add:

National television broadcasting services provided with the use of a satellite

(4) This clause does not apply in relation to national television broadcasting services provided with the use of a satellite.

128 At the end of clause 41K of Schedule 4

Add:

National television broadcasting services provided with the use of a satellite

(4) This clause does not apply in relation to national television broadcasting services provided with the use of a satellite.

129 At the end of clause 41L of Schedule 4

Add:

National television broadcasting services provided with the use of a satellite

(4) This clause does not apply in relation to national television broadcasting services provided with the use of a satellite.

130 After clause 41L of Schedule 4

Insert:
41LA  SDTV multi-channelled national television broadcasting
service provided with the use of a satellite—restrictions
on televising anti-siphoning events

Scope

(1) This clause applies to a national broadcaster if the national
broadcaster provides, with the use of a satellite:

(a) a SDTV multi-channelled national television broadcasting
service that is the broadcaster’s primary satellite national
television broadcasting service in a satellite delivery area;
and

(b) one or more other SDTV multi-channelled national television
broadcasting services (the secondary national television
broadcasting services) in the satellite delivery area.

Televising the whole of an anti-siphoning event

(2) The national broadcaster must not televise on a secondary national
television broadcasting service in the satellite delivery area the
whole of an anti-siphoning event unless:

(a) the national broadcaster has previously televised in the
satellite delivery area the whole of the event on the
broadcaster’s primary satellite national television
broadcasting service; or

(b) the national broadcaster will televise simultaneously in the
satellite delivery area the whole of the event on both:

(i) the broadcaster’s primary satellite national television
broadcasting service; and

(ii) the secondary national television broadcasting service.

Televising a part of an anti-siphoning event

(3) The national broadcaster must not televise on a secondary national
television broadcasting service in the satellite delivery area a part
of an anti-siphoning event unless:

(a) the national broadcaster has previously televised in the
satellite delivery area the part of the event on the
broadcaster’s primary satellite national television
broadcasting service; or
(b) the national broadcaster will televise simultaneously in the
satellite delivery area the part of the event on both:

(i) the broadcaster’s primary satellite national television
broadcasting service; and

(ii) the secondary national television broadcasting service;
or

(c) the national broadcaster televises the part of the event in a
news or current affairs program broadcast on the secondary
national television broadcasting service.

Note 1: For primary satellite national television broadcasting service, see
clause 41N.

Note 2: For anti-siphoning event, see subsection 6(1).

41LB HDTV multi-channelled national television broadcasting
service provided with the use of a satellite—restrictions
on televising anti-siphoning events

Scope

(1) This clause applies to a national broadcaster if the national
broadcaster provides, with the use of a satellite, a HDTV
multi-channelled national television broadcasting service.

Televising the whole of an anti-siphoning event

(2) The national broadcaster must not televise on the HDTV
multi-channelled national television broadcasting service in a
satellite delivery area the whole of an anti-siphoning event unless:

(a) the national broadcaster has previously televised in the
satellite delivery area the whole of the event on the
broadcaster’s primary satellite national television
broadcasting service; or

(b) the national broadcaster will televise simultaneously in the
satellite delivery area the whole of the event on both:

(i) the broadcaster’s primary satellite national television
broadcasting service; and

(ii) the HDTV multi-channelled national television
broadcasting service.
Televising a part of an anti-siphoning event

(3) The national broadcaster must not televise on the HDTV multi-channelled national television broadcasting service in a satellite delivery area a part of an anti-siphoning event unless:

(a) the national broadcaster has previously televised in the satellite delivery area the part of the event on the broadcaster’s primary satellite national television broadcasting service; or

(b) the national broadcaster will televise simultaneously in the satellite delivery area the part of the event on both:

(i) the broadcaster’s primary satellite national television broadcasting service; and

(ii) the HDTV multi-channelled national television broadcasting service; or

(c) the national broadcaster televises the part of the event in a news or current affairs program broadcast on the HDTV multi-channelled national television broadcasting service.

Note 1: For primary satellite national television broadcasting service, see clause 41N.

Note 2: For anti-siphoning event, see subsection 6(1).

131 At the end of Part 4A of Schedule 4

Add:

41N Primary satellite national television broadcasting service

Primary national television broadcasting service

(1) A national broadcaster must, by written notice given to the Minister, declare that a specified SDTV multi-channelled national television broadcasting service provided by the national broadcaster, with the use of a satellite, in a specified satellite delivery area is the broadcaster’s primary satellite national television broadcasting service in the satellite delivery area.

(2) The national broadcaster must ensure that a declaration under subclause (1):

(a) comes into force as soon as practicable after the national broadcaster commences to provide a SDTV multi-channelled
national television broadcasting service, with the use of a
satellite, in the satellite delivery area; and
(b) is in force at all times after that commencement.

132 Clause 43 of Schedule 4

Insert:

commercial television broadcasting licence does not include a
commercial television broadcasting licence allocated under
section 38C.

133 Subclause 2(1) of Schedule 6 (subparagraph (a)(i) of the
definition of qualified entity)

Omit “formed in Australia or in an external Territory”, substitute
“registered under Part 2A.2 of the Corporations Act 2001”.

134 Transitional—licences allocated under section 38B of the
Broadcasting Services Act 1992

The amendments of section 38B of the Broadcasting Services Act 1992
made by this Schedule do not affect the continuity of a licence allocated
under that section before the commencement of this item.

Copyright Act 1968

135 Subsection 10(1) (at the end of the definition of
broadcast) (before the note)

Add:

For the purposes of the application of this definition to a service
provided under a satellite BSA licence, assume that there is no
conditional access system that relates to the service.

136 Subsection 10(1)

Insert:

satellite BSA licence means a commercial television broadcasting
licence allocated under section 38C of the Broadcasting Services

137 Subsection 10(1)
Insert:

\textit{satellite BSA licensee} means the licensee of a satellite BSA licence.

138 Section 100AH (note)
Omit “135ZB or 135ZZI”, substitute “135ZB, 135ZZI or 135ZZZF”.

139 Section 135ZZJA
Before “This Part”, insert “(1)”.

140 At the end of section 135ZZJA
Add:

(2) This Part does not apply in relation to a re-transmission by a satellite BSA licensee.

Note: For re-broadcasts by satellite BSA licensees, see Part VD.

141 After Part VC
Insert:

\textbf{Part VD—Re-broadcasts by satellite BSA licensees}

\textbf{Division 1—Preliminary}

135ZZZF Definitions
In this Part:

\textit{collecting society} means a body that is, for the time being, declared to be a collecting society under section 135ZZZO.

\textit{commercial television broadcasting licence} has the same meaning as in the \textit{Broadcasting Services Act 1992}.

\textit{eligible program} has the meaning given by section 135ZZZG.

\textit{engage in conduct} means:

(a) do an act; or
(b) omit to perform an act.
notice holder means the person who is, for the time being, appointed to be the notice holder under section 135ZZZT.

original broadcaster has the meaning given by section 135ZZZG.

relevant collecting society, in relation to a remuneration notice, means a collecting society for owners of copyright in the same kind of work or other subject-matter as that to which the remuneration notice relates.

relevant copyright owner means the owner of the copyright in a work, a sound recording or a cinematograph film, but does not include a new owner of the copyright in a sound recording of a live performance within the meaning of Subdivision B of Division 5 of Part IV.

remuneration notice means a notice referred to in section 135ZZZJ.

rules, in relation to a collecting society, means the provisions of the memorandum and articles of association of the society.

135ZZZG Eligible program and original broadcaster

(1) For the purposes of this Part, if the following conditions are satisfied in relation to material:

(a) the material is broadcast by the licensee of a regional aggregated commercial television broadcasting licence (within the meaning of section 43A of the Broadcasting Services Act 1992);

(b) the licensee is required to provide the material to a satellite BSA licensee under subsection 43A(3A) of that Act;

then:

(c) the material is an eligible program; and

(d) the licensee mentioned in paragraph (a) is the original broadcaster of the eligible program.

(2) For the purposes of this Part, if the following conditions are satisfied in relation to a program:

(a) the program is broadcast by the licensee of a commercial television broadcasting licence for a regional licence area (within the meaning of section 43AA of the Broadcasting Services Act 1992);
(b) the licensee is required to provide the program to a satellite BSA licensee under section 43AA of that Act;

then:

(c) the program is an eligible program; and

(d) the licensee mentioned in paragraph (a) is the original broadcaster of the eligible program.

(3) For the purposes of this Part, if the following conditions are satisfied in relation to a program:

(a) the program is broadcast by the licensee of a commercial television broadcasting licence;

(b) the licensee is required to provide the program to a satellite BSA licensee under section 43AB or 43AC of the Broadcasting Services Act 1992;

then:

(c) the program is an eligible program; and

(d) the licensee mentioned in paragraph (a) is the original broadcaster of the eligible program.

135ZZZH Operation of collecting society rules

This Part applies to a collecting society despite anything in the rules of the society, but nothing in this Part affects those rules so far as they can operate together with this Part.

Division 2—Re-broadcasts by satellite BSA licensees

135ZZZI Re-broadcasts by satellite BSA licensees

Copyright in a work, sound recording or cinematograph film included in an eligible program

(1) The copyright in a work, sound recording or cinematograph film included in a broadcast of an eligible program is not infringed by the re-broadcast of the eligible program if:

(a) the eligible program is re-broadcast by a satellite BSA licensee; and

(b) the eligible program is re-broadcast on a service authorised by the satellite BSA licensee’s satellite BSA licence; and
(c) the re-broadcast of the eligible program complies with the conditions of the satellite BSA licensee’s satellite BSA licence that are set out in clause 7A of Schedule 2 to the Broadcasting Services Act 1992; and

(d) a remuneration notice given by the satellite BSA licensee to the relevant collecting society is in force; and

(e) the original broadcaster of the eligible program was specified in the remuneration notice; and

(f) the satellite BSA licensee complies with section 135ZZZL.

Copyright in a broadcast of an eligible program

(2) The copyright in a broadcast of an eligible program is not infringed by the re-broadcast of the eligible program if:

(a) the eligible program is re-broadcast by a satellite BSA licensee; and

(b) the eligible program is re-broadcast on a service authorised by the satellite BSA licensee’s satellite BSA licence; and

(c) the re-broadcast of the eligible program complies with the conditions of the satellite BSA licensee’s satellite BSA licence that are set out in clause 7A of Schedule 2 to the Broadcasting Services Act 1992; and

(d) any of the following conditions is satisfied:

(i) there is an agreement in force between the satellite BSA licensee and the owner of the copyright in the broadcast of the eligible program as to the amount payable by the satellite BSA licensee to the owner of the copyright for the re-broadcast of eligible programs during a particular period;

(ii) if there is no agreement—there is in force a determination of the Copyright Tribunal under section 153RA of the amount payable by the satellite BSA licensee to the owner of the copyright in the broadcast of the eligible program for the re-broadcast of eligible programs during a particular period;

(iii) if there is no agreement or determination—the satellite BSA licensee has given the owner of the copyright in the broadcast of the eligible program a written undertaking to pay to the owner of the copyright such amount as is determined by the Copyright Tribunal
under section 153RA for the re-broadcast of eligible programs during a particular period; and

(e) the eligible program is re-broadcast by the satellite BSA licensee during the period mentioned in whichever of subparagraphs (d)(i), (ii) or (iii) applies.

Making a copy for the purpose of a re-broadcast

(3) The copyright in a work, sound recording or cinematograph film included in a broadcast of an eligible program is not infringed by the making of a copy of the eligible program if:

(a) the sole purpose of making the copy is to enable a re-broadcast of the eligible program at a later time; and

(b) subsection (1) would apply to the re-broadcast of the eligible program at the later time.

(4) The copyright in a broadcast of an eligible program is not infringed by the making of a copy of the eligible program if:

(a) the sole purpose of making the copy is to enable a re-broadcast of the eligible program at a later time; and

(b) subsection (2) would apply to the re-broadcast of the eligible program at the later time.

(5) If a copy of an eligible program made for a purpose referred to in subsection (3) or (4) is not destroyed within 7 days after it is made, subsection (3) or (4), as the case requires, does not apply, and is taken never to have applied, in relation to the making of the copy.

(6) In this section, a reference to the making of a copy of an eligible program is a reference to making a cinematograph film or sound recording of the broadcast of the eligible program, or a copy of such a film or sound recording.

135ZZZJ Remuneration notices

(1) A satellite BSA licensee may, by written notice given to the relevant collecting society, undertake to pay equitable remuneration to the society for re-broadcasts of eligible programs broadcast by specified original broadcasters, where the eligible programs are re-broadcast by the satellite BSA licensee while the notice is in force.
(2) A remuneration notice must specify that the amount of equitable remuneration is to be assessed on the basis of the records to be kept by the satellite BSA licensee under section 135ZZZL.

(3) A remuneration notice comes into force on:
   (a) the day on which it is given to the collecting society; or
   (b) such earlier day as is specified in the notice;
and remains in force until it is revoked.

135ZZZK Amount of equitable remuneration

(1) If a satellite BSA licensee gives a remuneration notice to a collecting society, the amount of equitable remuneration payable to the collecting society for re-broadcasts of eligible programs by the satellite BSA licensee while the notice is in force is the amount:
   (a) determined by agreement between the satellite BSA licensee and the collecting society; or
   (b) failing such agreement—determined by the Copyright Tribunal on application made by either of them.

(2) If a determination has been made by the Copyright Tribunal under subsection (1), either:
   (a) the satellite BSA licensee; or
   (b) the collecting society; may, at any time after 12 months from the day on which the determination was made, apply to the Tribunal under that subsection for a new determination of amounts payable to the collecting society by the satellite BSA licensee for re-broadcasts of eligible programs by the satellite BSA licensee.

(3) For the purposes of subsection (1), different amounts may be determined (whether by agreement or by the Copyright Tribunal) in relation to different classes of:
   (a) works; or
   (b) sound recordings; or
   (c) cinematograph films;
included in re-broadcasts.
135ZZZL Record system

(1) If a remuneration notice is given to a collecting society by a satellite BSA licensee, the satellite BSA licensee must establish and maintain a record system.

(2) The record system must provide:
   (a) for a record to be kept of the title of each eligible program that is:
      (i) broadcast by an original broadcaster specified in the remuneration notice; and
      (ii) re-broadcast by the satellite BSA licensee; and
   (b) for the collecting society to have access to such a record.

(3) The record system must be:
   (a) determined by agreement between the satellite BSA licensee and the collecting society; or
   (b) failing such agreement—determined by the Copyright Tribunal on application made by either of them.

(4) Subsection (3) has effect subject to subsection (2).

135ZZZM Revocation of remuneration notice

(1) A remuneration notice may be revoked at any time by the relevant satellite BSA licensee by written notice given to the collecting society to which the remuneration notice was given.

(2) The revocation takes effect:
   (a) at the end of 3 months after the date of the notice; or
   (b) on such later day as is specified in the notice.

135ZZZN Request for payment of equitable remuneration

(1) If a remuneration notice is or has been in force, the collecting society to which the notice was given may, by written notice given to the relevant satellite BSA licensee, request the satellite BSA licensee to pay to the society, within a reasonable time after the date of the notice, the amount of equitable remuneration specified in the notice.
(2) The amount specified in the notice must be an amount payable under section 135ZZZK for re-broadcasts made by the satellite BSA licensee while the remuneration notice is or was in force.

(3) Subsection (1) has effect subject to subsection (4).

(4) If an amount specified in a request under subsection (1) is not paid in accordance with the request, it may be recovered from the satellite BSA licensee by the collecting society in:
   (a) the Federal Court of Australia; or
   (b) any other court of competent jurisdiction;
   as a debt due to the society.

Division 3—Collecting societies

135ZZZO Collecting societies

(1) A body may apply to the Minister to be declared as a collecting society for:
   (a) all relevant copyright owners; or
   (b) specified classes of relevant copyright owners.

(2) After receiving the application, the Minister must do one of the following:
   (a) by notice published in the Gazette, declare the body to be a collecting society;
   (b) refuse to declare the body to be a collecting society;
   (c) both:
      (i) refer the application to the Copyright Tribunal in the way prescribed by the regulations; and
      (ii) notify the body of the referral.

(3) A declaration made under paragraph (2)(a) is not a legislative instrument.

(4) If the Minister refers the application to the Copyright Tribunal, the Tribunal may declare the body to be a collecting society.

Note: Section 153U sets out the procedure of the Copyright Tribunal in dealing with the reference.

(5) A declaration of the body as a collecting society must declare the body to be:
(a) the collecting society for all relevant copyright owners; or
(b) the collecting society for classes of relevant copyright owners specified in the declaration.

(6) If:
(a) a body is declared to be the collecting society for a specified class of copyright owners; and
(b) another body is subsequently declared to be the collecting society for that class of copyright owners:
then:
(c) the first-mentioned collecting society ceases to be the collecting society for that class of copyright owners on the day on which the subsequent declaration is made; and
(d) any remuneration notice given to that collecting society ceases to be in force to the extent to which it relates to relevant copyright owners included in that class of copyright owners.

(7) The Minister and the Copyright Tribunal must not declare a body to be a collecting society unless:
(a) it is:
   (i) registered as a company under Part 2A.2 of the Corporations Act 2001; and
   (ii) a company limited by guarantee; and
(b) all persons who are included in a class of relevant copyright owners to be specified in the declaration, or their agents, are entitled to become its members; and
(c) its rules prohibit the payment of dividends to its members; and
(d) its rules contain such other provisions as are prescribed, where the provisions are necessary to ensure that the interests of members of the collecting society who are relevant copyright owners, or their agents, are protected adequately, including, in particular, provisions about:
   (i) the collection of amounts of equitable remuneration payable under section 135ZZZK; and
   (ii) the payment of the administrative costs of the collecting society out of amounts collected by it; and
   (iii) the distribution of amounts collected by the collecting society; and
(iv) the holding on trust by the collecting society of amounts for relevant copyright owners who are not its members; and

(v) access to records of the collecting society by its members.

(8) If the Minister or the Copyright Tribunal has declared a body to be the collecting society for a specified class of copyright owners, the Minister and the Copyright Tribunal may refuse to declare another body to be the collecting society for that class of copyright owners unless satisfied that to do so would be in the interests of those copyright owners, having regard to:

(a) the number of members of the first-mentioned society; and

(b) the scope of its activities; and

(c) such other considerations as are relevant.

135ZZZP Revocation of declaration

(1) This section applies if the Minister is satisfied that a body declared as a collecting society:

(a) is not functioning adequately as a collecting society; or

(b) is not acting in accordance with its rules or in the best interests of those of its members who are relevant copyright owners, or their agents; or

(c) has altered its rules so that they no longer comply with paragraphs 135ZZZO(7)(c) and (d); or

(d) has refused or failed, without reasonable excuse, to comply with section 135ZZZQ or 135ZZZR.

(2) The Minister may:

(a) by notice published in the Gazette, revoke the declaration; or

(b) refer the question whether the declaration should be revoked to the Copyright Tribunal in the way prescribed by the regulations.

(3) If the Minister refers the question to the Copyright Tribunal, the Tribunal may revoke the declaration if it is satisfied that any of paragraphs (1)(a), (b), (c) and (d) applies to the body.

Note: Section 153V sets out the procedure of the Copyright Tribunal in dealing with the reference.
135ZZZQ Annual report and accounts

(1) A collecting society must, as soon as practicable after the end of each financial year, prepare a report of its operations during that financial year and send a copy of the report to the Minister.

(2) The Minister must cause a copy of the report sent to the Minister under subsection (1) to be tabled in each House of the Parliament within 15 sitting days of that House after the receipt of the report by the Minister.

(3) A collecting society must keep accounting records correctly recording and explaining:
   (a) the transactions of the society (including any transactions as trustee); and
   (b) the financial position of the society.

(4) The accounting records must be kept in such a manner as will enable:
   (a) true and fair accounts of the society to be prepared from time to time; and
   (b) those accounts to be conveniently and properly audited.

(5) A collecting society must, as soon as practicable after the end of each financial year:
   (a) cause its accounts to be audited by an auditor who is not a member of the society; and
   (b) send to the Minister a copy of its accounts as so audited.

(6) A collecting society must give its members reasonable access to copies of all reports and audited accounts prepared by it under this section.

(7) This section does not affect any obligations of a collecting society relating to the preparation and lodging of annual returns or accounts under the Corporations Act 2001.

(8) For the purposes of this section, the period:
   (a) beginning at the commencement of this section; and
   (b) ending at the end of 30 June 2010;

is taken to be a financial year.
135ZZZR Amendment of rules

A collecting society must, within 21 days after it alters its rules, send a copy of the rules as so altered to the Minister, together with a statement setting out:
(a) the effect of the alteration; and
(b) the reasons why it was made.

135ZZZS Applying to Tribunal for review of distribution arrangement

(1) A collecting society or a member of a collecting society may apply to the Copyright Tribunal for review of the arrangement adopted, or proposed to be adopted, by the collecting society for distributing amounts it collects in a period.

(2) If the Tribunal makes an order under section 153W varying the arrangement or substituting for it another arrangement, the arrangement reflecting the Tribunal’s order has effect as if it had been adopted in accordance with the collecting society’s rules, but does not affect a distribution started before the order was made.

Division 4—Interim re-broadcasts

135ZZZT Appointment of notice holder

The Minister may, by notice published in the Gazette, appoint a person to be the notice holder for the purposes of this Division.

135ZZZU Re-broadcast before declaration of collecting society

The copyright in a work, sound recording or cinematograph film included in a broadcast of an eligible program is not infringed by the re-broadcast of the eligible program if:
(a) the eligible program is re-broadcast by a satellite BSA licensee; and
(b) the eligible program is re-broadcast on a service authorised by the satellite BSA licensee’s satellite BSA licence; and
(c) the re-broadcast of the eligible program complies with the conditions of the satellite BSA licensee’s satellite BSA licence that are set out in clause 7A of Schedule 2 to the Broadcasting Services Act 1992; and
135ZZZV Notices by satellite BSA licensees

(1) A satellite BSA licensee may, at any time before the declaration of the first collecting society, by written notice given to the notice holder by the satellite BSA licensee, undertake to pay equitable remuneration to a collecting society, when it is declared, for re-broadcasts of eligible programs by the satellite BSA licensee while the notice is in force.

(2) A notice must specify that the amount of equitable remuneration is to be assessed on the basis of the records to be kept by the satellite BSA licensee under section 135ZZZL.

(3) A notice comes into force on:
   (a) the day on which it is given to the notice holder; or
   (b) such later day as is specified in the notice;
   and remains in force until it is revoked.

(4) A notice may be revoked at any time by the satellite BSA licensee by written notice given to the notice holder.

(5) The revocation takes effect:
   (a) on the date of the notice of revocation; or
   (b) on such later date as is specified in the notice of revocation.

135ZZZW Record keeping requirements

If a satellite BSA licensee gives a notice to the notice holder under section 135ZZZV, sections 135ZZZK and 135ZZZL apply as if:
   (a) references to a collecting society were references to the notice holder; and
   (b) references to a remuneration notice were references to a notice under section 135ZZZV.
135ZZZX  Effect of declaration of collecting society

(1) If:
   (a) as a result of the declaration of one or more collecting
       societies, there is a society for all relevant copyright owners;
       and
   (b) a notice under section 135ZZZV was in force immediately
       before the day on which the declaration came into force;
   then, on and after that day, the notice ceases to have effect as such
   a notice, but is taken, for the purposes of this Part, to be a
   remuneration notice that:
   (c) was given by the relevant satellite BSA licensee to the
       collecting society, or to each of the collecting societies, as the
       case may be; and
   (d) came into force on the same day as the notice came into
       force.

(2) If:
   (a) one or more collecting societies are declared for one or more,
       but not for all, classes of relevant copyright owners; and
   (b) a notice was in force immediately before the day on which
       the declaration came into force;
   then, on and after that day:
   (c) the notice ceases to have effect as such a notice in relation to
       the relevant copyright owners in the class or classes of
       copyright owners for whom a collecting society is declared,
       but is taken, for the purposes of this Part, to be a
       remuneration notice that:
       (i) was given by the relevant satellite BSA licensee to the
           collecting society or to each of the collecting societies,
           as the case may be; and
       (ii) came into force on the same day as the notice came into
           force; and
   (d) the notice continues to have effect as such a notice in relation
       to all other relevant copyright owners.

(3) When a notice is, under this section, taken to be a remuneration
    notice, the relevant satellite BSA licensee must cause copies of all
    records made under section 135ZZZL on or after the day on which
    the notice is taken to have come into force to be sent to the relevant
collecting society within 21 days after the declaration of the collecting society.

Division 5—Miscellaneous

135ZZZY Relevant copyright owner may authorise re-broadcast

(1) Nothing in this Part affects the right of the owner of the copyright in a broadcast of an eligible program to grant a licence authorising a satellite BSA licensee to re-broadcast the eligible program without infringing that copyright.

(2) Nothing in this Part affects the right of the owner of the copyright in a work, sound recording or cinematograph film included in a broadcast of an eligible program to grant a licence authorising a satellite BSA licensee to re-broadcast the eligible program without infringing that copyright.

135ZZZZ Copyright not to vest under this Part

Despite any other provision of this Act, the re-broadcast of an eligible program that is not an infringement of copyright under this Part does not vest copyright in any work or other subject-matter in any person.

135ZZZZA Licence to re-broadcast does not authorise copyright infringements

The owner of the copyright in a broadcast of an eligible program is not taken, for the purposes of this Act, to have authorised the infringement of copyright in any work, sound recording or cinematograph film included in the broadcast of the eligible program merely because the owner licenses the re-broadcast of the eligible program.

142 After Subdivision G of Division 3 of Part VI

Insert:
153RA Application to the Tribunal to determine amount payable to owner of copyright in a broadcast

(1) Either:
   (a) a satellite BSA licensee; or
   (b) a person (the copyright owner) who is, or will be, the owner of the copyright in the broadcast of an eligible program;

   may apply to the Tribunal for an order determining the amount payable by the satellite BSA licensee to the copyright owner for the re-broadcast by the satellite BSA licensee, during the period specified in the application, of eligible programs, where the copyright owner owns the copyright in the broadcast of the eligible programs.

(2) The parties to an application under subsection (1) are:
   (a) the satellite BSA licensee; and
   (b) the copyright owner.

(3) On an application to the Tribunal under subsection (1), the Tribunal must consider the application and, after giving the parties an opportunity to present their cases, make an order determining the amount that it considers to be equitable remuneration for re-broadcasts of eligible programs during the period specified in the order, where the copyright owner owns the copyright in the broadcast of the eligible programs.

(4) In this section:

  eligible program has the same meaning as in Part VD.

153S Applications to the Tribunal under paragraph
135ZZZK(1)(b)—equitable remuneration

(1) The parties to an application to the Tribunal under paragraph 135ZZZK(1)(b) for the determination of the amount of equitable remuneration payable to a collecting society by a satellite BSA licensee for re-broadcasts by the satellite BSA licensee of eligible programs are:
   (a) the society; and
(b) the satellite BSA licensee.

(2) On an application to the Tribunal under paragraph 135ZZZK(1)(b), the Tribunal must consider the application and, after giving the parties an opportunity to present their cases, make an order determining the amount that it considers to be equitable remuneration for the re-broadcast of eligible programs.

(3) In making an order, the Tribunal may have regard to such matters (if any) as are prescribed.

(4) An order may be expressed to have effect in relation to re-broadcasts of eligible programs in reliance on section 135ZZZI before the day on which the order is made.

(5) In this section:

collecting society has the same meaning as in Part VD.

eligible program has the same meaning as in Part VD.

153T Applications to Tribunal under paragraph 135ZZZL(3)(b)—record system

(1) The parties to an application to the Tribunal under paragraph 135ZZZL(3)(b) for the determination of a record system are:

(a) the collecting society concerned; and

(b) the satellite BSA licensee concerned.

(2) On an application to the Tribunal under paragraph 135ZZZL(3)(b), the Tribunal must consider the application and, after giving the parties an opportunity to present their cases, make an order determining the record system.

(3) In this section:

collecting society has the same meaning as in Part VD.

153U References relating to declaration of collecting society

(1) This section has effect if the Minister refers to the Copyright Tribunal under section 135ZZZO an application of a body to be declared a collecting society.
(2) The parties to the reference are the applicant and any person made a party by the Tribunal.

(3) The Tribunal may make a person a party if:
   (a) the person asks to be made a party; and
   (b) the Tribunal thinks that the person has a sufficient interest in either or both of the following questions:
       (i) whether the applicant should be declared to be a collecting society for all relevant copyright owners (as defined in Part VD) or a particular class of relevant copyright owners;
       (ii) whether another body should cease to be the collecting society for any of the relevant copyright owners (as defined in Part VD) if the applicant is declared to be a collecting society.

(4) After giving each party an opportunity to present its case, the Tribunal must:
   (a) declare the applicant to be a collecting society under section 135ZZZO; or
   (b) reject the application.

(5) If the Tribunal declares the applicant to be the collecting society under section 135ZZZO, the Registrar must publish notice of the declaration in the Gazette.

153V References relating to revocation of declaration of collecting society

(1) This section has effect if the Minister refers to the Copyright Tribunal under paragraph 135ZZZP(2)(b) the question whether the declaration of a body as a collecting society should be revoked.

(2) The parties to the reference are:
   (a) the Minister; and
   (b) the collecting society; and
   (c) any person made a party by the Tribunal.

(3) The Tribunal may make a person a party if:
   (a) the person asks to be made a party; and
(b) the Tribunal thinks that the person has a sufficient interest in
the question whether the declaration of the collecting society
should be revoked.

(4) After giving each party an opportunity to present its case, the
Tribunal must:
(a) revoke the declaration of the collecting society under
subsection 135ZZZP(3); or
(b) refuse to revoke the declaration.

(5) If the Tribunal revokes the declaration of the collecting society:
(a) the revocation must specify the day on which it takes effect;
and
(b) the Registrar must publish notice of the revocation in the
Gazette.

153W Review of collecting society’s distribution arrangement

(1) This section has effect if an application is made to the Tribunal
under section 135ZZZS for review of an arrangement adopted, or
proposed to be adopted, by a collecting society for distributing
amounts it collects in a period.

(2) The parties to the application are:
(a) the applicant; and
(b) the collecting society (if it is not the applicant); and
(c) a member of the collecting society, or an organisation
claiming to be representative of members of the collecting
society, that the Tribunal makes a party to the application.

(3) The Tribunal may make a member of the collecting society, or an
organisation claiming to be representative of members of the
collecting society, a party to the application if:
(a) the member or organisation asks to be made a party; and
(b) the Tribunal is satisfied that the member or organisation has a
substantial interest in the arrangement.

(4) The Tribunal must consider the application, give the parties an
opportunity to present their cases then make an order:
(a) confirming the arrangement; or
(b) varying the arrangement; or
(c) substituting for the arrangement another arrangement for distributing amounts the collecting society collects in the period.

(5) In this section:

*collecting society* has the same meaning as in Part VD.

143 Paragraph 195B(1)(e)

Omit “135ZZB(1A)(b) or 135ZZT(1A)(b)”, substitute “135ZZB(1A)(b), 135ZZT(1A)(b) or 135ZZZO(2)(b)”.  

144 Paragraph 195B(1)(f)

Omit “135ZZC(2)(a) or 135ZZU(2)(a)”, substitute “135ZZC(2)(a), 135ZZU(2)(a) or 135ZZP(2)(a)”.  
