Broadcasting Services Amendment (Digital Television) Bill 2012

A Bill for an Act to amend the Broadcasting Services Act 1992, and for related purposes
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### Schedule 1—Broadcasting Services Act 1992

3
A Bill for an Act to amend the Broadcasting Services Act 1992, and for related purposes

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the Broadcasting Services Amendment (Digital Television) Act 2012.

2 Commencement

This Act commences on the day after this Act receives the Royal Assent.

3 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Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule.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—Broadcasting Services Act 1992

1 Subsection 38C(1) (table item 1, column 2)
   After “Australian Capital Territory”, insert “, Norfolk Island”.

2 Subsection 38C(1) (table item 2, column 2)
   Omit “and the Northern Territory”, substitute “, the Northern Territory and the Coral Sea Islands Territory”.

3 Subsection 38C(1) (table item 3, column 2)
   After “Western Australia”, insert “, the Territory of Christmas Island and the Territory of Cocos (Keeling) Islands”.

4 After subsection 41CA(5)
   Insert:
   Providing an authorised service on Norfolk Island
   (5A) A person authorised by a licence allocated under section 38C to provide a commercial television broadcasting service in a licence area including Norfolk Island may provide the service despite a law of Norfolk Island about broadcasting services.

5 Paragraph 130ZB(3)(a)
   Repeal the paragraph, substitute:
   (a) the scheme should specify all of the following 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:
      (i) the related terrestrial licence areas;
      (ii) the external Territory in the section 38C licence area;
      (iii) areas (open access areas) identified by the scheme administrator as areas where it is reasonable to expect that, at the end of the simulcast period for the simulcast area, people will be unable to receive adequate reception of all of the applicable terrestrial digital commercial television broadcasting services; and
Schedule 1 Broadcasting Services Act 1992

1 (aa) the scheme should specify that the scheme administrator
   must have regard to the following when deciding whether to
   identify an area as an open access area:
   (i) the extent to which people in the area have adequate
       reception of applicable terrestrial digital commercial
       television broadcasting services;
   (ii) the extent to which it is predicted, on a basis agreed by
       the ACMA and the scheme administrator if the scheme
       does not identify the ACMA as the scheme
       administrator, that people in the area will have adequate
       reception of those services at the end of the simulcast
       period for the simulcast area;
   (iii) any information provided by a commercial television
       broadcasting licensee or the ACMA about the extent to
       which people in the area have or will have adequate
       reception of those services;
   (iv) any representations made to the scheme administrator
       by persons who reside in the area;
   (v) any other matters the scheme administrator considers
       relevant; and

2 (ab) the scheme should, unless it identifies the ACMA as the
   scheme administrator, specify that the scheme administrator
   will promptly give the ACMA descriptions of open access
   areas for publication on the ACMA’s website; and

6 Paragraph 130ZBB(3)(a)

   Repeal the paragraph, substitute:
   (a) the scheme should specify all of the following as areas that
       are, subject to paragraph (c), 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:
       (i) the related terrestrial licence areas;
       (ii) the external Territories in the section 38C licence area;
       (iii) areas (open access areas) identified by the scheme
           administrator as areas where it is reasonable to expect
           that, at the end of the simulcast period for the simulcast
           area, people will be unable to receive adequate reception
           of all of the applicable terrestrial digital commercial
           television broadcasting services; and
(aa) the scheme should specify that the scheme administrator
must have regard to the following when deciding whether to
identify an area as an open access area:
(i) the extent to which people in the area have adequate
reception of applicable terrestrial digital commercial
television broadcasting services;
(ii) the extent to which it is predicted, on a basis agreed by
the ACMA and the scheme administrator if the scheme
does not identify the ACMA as the scheme
administrator, that people in the area will have adequate
reception of those services at the end of the simulcast
period for the simulcast area;
(iii) any information provided by a commercial television
broadcasting licensee or the ACMA about the extent to
which people in the area have or will have adequate
reception of those services;
(iv) any representations made to the scheme administrator
by persons who reside in the area;
(v) any other matters the scheme administrator considers
relevant; and
(ab) the scheme should, unless it identifies the ACMA as the
scheme administrator, specify that the scheme administrator
will promptly give the ACMA descriptions of open access
areas for publication on the ACMA’s website; and

7 Paragraph 130ZBB(3)(b)
Omit “taken in”, substitute “taken”.

8 Transitional provision—conditional access schemes
Within 30 days after the commencement of this item, the ACMA must
request under section 130ZCAB of the Broadcasting Services Act 1992
the development of conditional access schemes to replace all the
conditional access schemes that were registered under Part 9C of that
Act immediately before that commencement.

9 After section 130ZBB
Insert:
130ZBC Publishing details of open access areas on the ACMA’s website

If the ACMA becomes aware of an open access area identified by a scheme administrator under a conditional access scheme that the ACMA is satisfied complies with section 130ZB or 130ZBB, the ACMA must publish on its website a description of the open access area.

Note: This applies whether the scheme administrator is the ACMA or another person.

10 Subsection 130ZG(2)

Repeal the subsection, substitute:

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) a commercial television broadcasting service that is:
   (i) provided by a commercial television broadcasting licensee in the licence area; and
   (ii) transmitted in digital mode; or
(b) a service that:
   (i) is merely a re-transmission of the programs provided by a commercial television broadcasting service described in paragraph (a); and
   (ii) is provided in the licence area; and
   (iii) is transmitted in digital mode; and
   (iv) is provided by a person declared by the ACMA under subsection (2A).

(2A) If the ACMA is satisfied that a person represents one or more commercial television broadcasting licensees, the ACMA may declare the person for the purposes of subparagraph (2)(b)(iv).

(2B) If the declaration under subsection (2A) is made in writing, the declaration is not a legislative instrument.

(2C) For the purposes of this Part, an applicable terrestrial digital commercial television broadcasting service described in
paragraph (2)(b) is taken to be the same as the commercial television broadcasting service mentioned in subparagraph (2)(b)(i).

Note: This means a person is taken to receive adequate reception of a single applicable terrestrial digital commercial television broadcasting service whether the person receives adequate reception of:
(a) the commercial television broadcasting service described in paragraph (2)(a); or
(b) the service of re-transmission described in paragraph (2)(b) by reference to that commercial television broadcasting service.

11 Subsection 130ZG(4)

Insert:

_re-transmission_ has the same meaning as in section 212.

12 Subsection 211AA(1)

Repeal the subsection, substitute:

Scope

(1A) This section affects the operation of the following (the affected provisions) in relation to a commercial television broadcasting licence for the Remote Central and Eastern Australia TV1 licence area or the Remote Central and Eastern Australia TV2 licence area:
(a) this Act;
(b) any program standards;
(c) any other instrument under this Act;
(d) any codes of practice registered under section 123.

Nomination of places for services under licence

(1) The licensee of the licence may nominate one or more specified places in the licence area for one or more specified broadcasting services provided under the licence in specified parts of the licence area.

Note: A nomination may specify one place for all parts of the licence area.

13 Subsection 211AA(5)

Repeal the subsection, substitute:
Time when a program is broadcast

(5) The affected provisions have effect, in relation to any programs broadcast in a part of the licence area on a service for which part and service a place is nominated under subsection (1), as if the programs had been broadcast in that part on that service at the legal time they were broadcast in that place on that service.

14 Saving of nominations under section 211AA

(1) A nomination of a place in force under section 211AA of the Broadcasting Services Act 1992 immediately before the amendment of that section by this Schedule has effect on and after that amendment as if it were a nomination of that place for all broadcasting services provided under the licence concerned in all parts of the licence area.

(2) Subitem (1) does not prevent withdrawal of the nomination on or after that amendment.

15 Subclauses 5F(7), (8) and (9) of Schedule 4

Repeal the subclauses.

16 Subclause 6A(9) of Schedule 4

Repeal the subclause.

17 Subclause 6A(10) of Schedule 4

Omit all the words from and including “than” to and including “was made”, substitute “than the end of 31 December 2013”.

8 Broadcasting Services Amendment (Digital Television) Bill 2012 No. , 2012