Commonwealth of Australia

Radiocommunications Act 1992

Radiocommunications (Datacasting Transmitter Licence Limits) Direction No. 1 of 2001

I, RICHARD KENNETH ROBERT ALSTON, Minister for Communications, Information Technology and the Arts, give the following Direction to the Australian Communications Authority under subsection 106(9) of the Radiocommunications Act 1992.

Dated 10 January 2001

RICHARD ALSTON
Minister for Communications, Information Technology and the Arts

Citation

1. This Direction may be cited as the Radiocommunications (Datacasting Transmitter Licence Limits) Direction No. 1 of 2001.

Interpretation

2. (1) In this Direction, unless the contrary intention appears:


applicant means an applicant for a datacasting transmitter licence.

associate, in relation to an applicant, means:

(a) for a body corporate:

(i) a director or secretary of the body; or

(ii) a related body corporate; or

(iii) a director or secretary of a related body corporate; or

(iv) a business partner of the body; or
(v) an individual who controls at least 15 per cent of the voting power or holds at least 15 per cent of the issued shares in the body; or

(b) for an individual:
   (i) the individual’s spouse; or
   (ii) another person who, although not legally married to the individual, lives with the individual on a genuine domestic basis as the spouse of the person; or
   (iii) a business partner of the individual; or
   (iv) a body corporate in which the individual controls at least 15 per cent of the voting power or holds at least 15 per cent of the issued shares; or
   (v) a body corporate of which the individual is a director or secretary; or
   (vi) a body corporate that is related to a body corporate of which the individual is a director or secretary; or

(c) for any person—any other person (other than the ACA) who has a relevant agreement with the applicant that:
   (i) entitles one of the parties to the agreement to operate a transmitter under a datacasting transmitter licence issued to another person; or
   (ii) provides for the acquisition of a datacasting transmitter licence.

**datacasting service area** means an area specified in a paragraph below, comprising the areas described in the indicated Schedule or Schedules to the determination made by the ABA under subsection 34(3) of the *Broadcasting Services Act 1992* on 22 December 2000:

(a) Schedule 1 (Sydney/Central Coast/Newcastle); or
(b) Schedules 4, 5 and 6 (Melbourne); or
(c) Schedule 13 (Brisbane/Gold Coast/Sunshine Coast); or
(d) Schedule 9 (Perth); or
(e) Schedules 7 and 8 (Adelaide); or
(f) Schedule 12 (Canberra and surrounding regions); or
(g) Schedules 10 and 11 (Darwin and Batchelor); or
(h) Schedules 2 and 3 (Wollongong).

**related body corporate** has the meaning given by the Corporations Law.

**relevant agreement** means an agreement, arrangement or understanding:
   (a) whether formal or informal or partly formal and partly informal; and
   (b) whether written or oral or partly written and partly oral; and
(c) whether or not having legal or equitable force and whether or not based on legal or equitable rights;


**specified group of persons** means an applicant and all of the associates of the applicant.

(2) For this Direction, 2 or more specified groups of persons having one member in common are taken to be one specified group of persons.

**Datacasting transmitter licence limits**

3. When determining a price-based allocation system for allocating and/or issuing datacasting transmitter licences under subsection 106(1) of the Act in which two datacasting transmitter licences will be offered in each datacasting service area, the ACA must determine procedures imposing a limit of one datacasting transmitter licence per specified group of persons in a datacasting service area.

**Particular procedures**

4. Without limiting the power of the ACA to determine a price-based allocation system for allocating and/or issuing specified transmitter licences, in determining the system mentioned in section 3 the ACA must ensure that the system requires:

(a) an applicant to notify the ACA of the applicant’s associates; and

(b) the ACA to accept the first bidding instruction file received by the ACA from an applicant taking part in an auction as the only bid file of members of a specified group of persons; and

(c) the ACA to exclude an applicant who has failed to comply with requirements determined under paragraph (a) from taking part or continuing to take part in an auction.