Explanatory Statement

Broadcasting Services Act 1992

Broadcasting Services (Simulcast Period for Regional Queensland TV1) Determination (No. 1) 2011 (Amendment No. 1 of 2012)

Issued by the authority of the Minister for Broadband, Communications and the Digital Economy

Purpose

The Broadcasting Services (Simulcast Period for Regional Queensland TV1) Determination (No. 1) 2011 (Amendment No. 1 of 2012) (the Determination) is made by the Minister for Broadband, Communications and the Digital Economy (the Minister) under paragraph 6A(7)(b) of Schedule 4 to the Broadcasting Services Act 1992 (the BSA). The Determination is a legislative instrument for the purposes of section 5 of the Legislative Instruments Act 2003.

The purpose of this Determination is to amend the Broadcasting Services (Simulcast Period for Regional Queensland TV1) Determination (No. 1) 2011 made under subclause 6A(2) of Schedule 4 to the BSA (the Principal Determination) to vary the end of the simulcast period for the regional licence area of Regional Queensland TV1 to 28 May 2013. The simulcast period for the corresponding regional coverage area will end on the same date.

Background

Legislative background

The BSA allows the Minister to implement a phased, region-by-region digital television switchover timetable for metropolitan and regional licence areas.

The dates for digital television switchover are set through a transitional period, known as the ‘simulcast period’, during which national and commercial television broadcasters are required to transmit simultaneously in analog and standard definition digital mode (unless an area is a digital-only local market area). At the end of the simulcast period, or at a time an area becomes a digital-only local market area, analog transmissions will cease. Only digital television transmissions are permitted after that time.

Clauses 6 and 19 of Schedule 4 to the BSA set out the framework for the making by the Australian Communications and Media Authority (ACMA) of a scheme for the conversion of commercial television broadcasting services and national television broadcasting services, respectively, from analog to digital mode. The ACMA has made the Commercial Television Conversion Scheme 1999 and the National Television Conversion Scheme 1999.

Subclauses 6(3) and 19(3) of Schedule 4 to the BSA set out the policy objectives towards which the schemes must be directed. One objective, specified in paragraphs 6(3)(c) and 19(3)(c), is that there should be a transitional period known as the simulcast period for metropolitan and regional licence areas. The commercial television licence area of Regional Queensland TV1 is a regional licence area (with a corresponding regional coverage area) for the purposes of the BSA.
In the case of a holder of a commercial television broadcasting licence in a regional licence area, subparagraph 6(3)(c)(iiia) of Schedule 4 to the BSA provides that the simulcast period should run until 31 December 2013, or for such other period as is determined by the Minister under subclause 6A of Schedule 4 to the BSA (see subclause 6A(2)). Subclause 6A(4) provides that a period determined by the Minister under subclause 6A(2) must end before the end of 31 December 2013.

The **Broadcasting Services (Simulcast Period for Regional Queensland TV1) Determination (No. 1) 2011** (Principal Determination) set the date for the end of the simulcast period in the commercial television licence area of Regional Queensland TV1 as 30 June 2013.

The Minister can vary the Principal Determination under paragraph 6A(7)(b) of Schedule 4 to the BSA. The purpose of this Determination is to vary that date.

In the case of national broadcasters, subparagraph 19(3)(c)(iii) of Schedule 4 to the BSA provides that the simulcast period for a coverage area will end at the end of the simulcast period for the corresponding commercial television licence area (determined in accordance with paragraph 6(3)(c) of Schedule 4 to the BSA).

As a result, the end of the simulcast period in the regional coverage area that corresponds to the regional licence area of Regional Queensland TV1 will be 28 May 2013.

**A phased, region-by-region digital switchover timetable**

On 19 October 2008, the Minister announced a phased, region-by-region timetable for the switchover to digital television. The timetable proposes to progress switchover through regional areas on a state basis, then metropolitan areas and remote Australia in 2013.

**Criteria for prioritisation of particular switchover areas**

The digital television switchover timetable was developed by identifying six key criteria for prioritisation and applying them to the identified switchover areas. The prioritisation operates such that the areas which require more time to prepare for switchover are later in the timetable. The key criteria are:

- **Population**: the number of households and other dwellings in a particular switchover area impacts on the level of resources required by industry and government to facilitate switchover in that area.

- **Number of multi dwelling units and communal aerial systems**: the added complexity of converting multi dwelling units (MDUs) may impact on planning and preparation for digital switchover in a particular area. MDUs include apartment and townhouse complexes, boarding houses and hostels in both private and public ownership. A significant proportion of these MDUs have communal television aerial systems. Communal aerial systems are also used in public buildings such as hospitals and schools, as well as commercial properties such as hotels. A proportion of these aerial systems will require upgrading or reconfiguration to adequately receive digital free to air transmissions. MDUs are more common in urban and metropolitan areas.

- **The number of sites of potential digital signal deficiency**: the number of sites of potential digital signal deficiency in an area and the measures required to address signal deficiency may impact on planning and preparation for digital switchover.

- **Ongoing cost of the analog-digital simulcast**: the requirement to provide analog and digital transmissions until the end of the simulcast period represents an ongoing cost for commercial
television broadcasters, and for the Government in relation to the transmission costs for national broadcasters. The cost impact is particularly significant for broadcasters operating in regional areas.

- **Digital conversion**: the consumer digital take-up rate in a particular area may reflect the preparedness of a particular area to switch to digital. The Government’s information campaign is designed to educate consumers, and increase community awareness, about the switch to digital television.

- **Instances of VHF to UHF transition for digital transmitters**: digital signals transmitted in the Ultra High Frequency (UHF) band of spectrum may have potentially less digital coverage than the existing analog service transmitted in the Very High Frequency (VHF) band. There may be some reception issues in some switchover areas where VHF analog signals are replaced by UHF digital signals.

**Simulcast period in the Regional Queensland TV1 licence area**

The switchover timetable released by the Minister on 19 October 2008 provided for most of Regional Queensland, including Wide Bay, Capricornia, Queensland Central Coast, the Darling Downs, North Queensland and Far North Queensland, to switch to digital-only television between 1 July and 31 December 2011. Regional Queensland TV1 licence area also contains the Sunshine Coast, which, the timetable indicated, would switch over with the Brisbane TV1 licence area in the first half of 2013.

On 19 April 2011, the Minister made two Determinations - the Principal Determination and the Broadcasting Services (Digital-Only Local Market Areas for Regional Queensland TV1) Determination (No. 1) 2011. Read together these provided that all of the Regional Queensland TV1 licence area, except for the Sunshine Coast area, was a digital-only local market area that switched over on 6 December 2011 and the remaining area that is not a digital-only local market area (the Sunshine Coast) would switch over on 30 June 2013, the same date as the Brisbane TV1 licence area.

The Minister now proposes to vary the Brisbane TV1 licence area switchover date to 28 May 2013 (see Broadcasting Services (Simulcast Period for Metropolitan Licence Areas) Determination (No. 1) 2009 (Amendment No. 1 of 2012)). Accordingly, this Determination varies the switchover date for the remaining part of the Regional Queensland TV1 licence area that is not a digital-only local market area (the Sunshine Coast) to 28 May 2013.

**Notes on Clauses**

**Clause 1** provides that the name of the Determination is the Broadcasting Services (Simulcast Period for Regional Queensland TV1) Determination (No. 1) 2011 (Amendment No. 1 of 2012) (the Determination).

**Clause 2** provides that the Determination takes effect from the day after it is registered on the Federal Register of Legislative Instruments.

**Clause 3** is a definitions clause.

**Clause 4** is the main operative clause.

Clause 4 provides that the simulcast period for the Regional Queensland TV1 licence area will run until and including 28 May 2013.
Statement of Compatibility with Human Rights (prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011)

This Determination is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the Human Rights (Parliamentary Scrutiny) Act 2011.

Australia is a signatory to the International Covenant on Civil and Political Rights (one of the international instruments listed in section 3 of the Human Rights (Parliamentary Scrutiny) Act 2011) (the ICCPR). Article 19(2) of the ICCPR protects freedom of expression, including the right to seek, receive and impart information and ideas of all kinds, and the means of their dissemination. Article 15(1) of the ICESCR protects the right of everyone to take part in cultural life.

The effect of this Determination is that analog transmissions in the Regional Queensland TV1 licence area will cease once the simulcast period ends on 28 May 2013. From then on, transmissions in this area will be digital only. The change in the mode of transmission does not limit the fundamental human right to freedom of expression as the viewer continues to have free access to television broadcasting services, albeit in digital mode only.

The move to digital television is reasonably accessible to all Australians and where vulnerable Australians need support to access digital television they are provided practical assistance by the Australian government through various programs.

The cessation of analog mode television is a necessary technological change, which has been occurring around the world. Digital television is more spectrally efficient and delivers television programs using a higher quality of transmission service and thus enhances the viewing experience for Australian audiences.

Based on this, this Determination is compatible with the rights protected by Article 15(1) of the ICESCR and Article 19(2) of the ICCPR.

Consultation

As required by subclause 6A(13) of Schedule 4 to the BSA, the Minister has consulted with the ACMA about the timing of the end of the simulcast period in the Regional Queensland TV1 licence area. The ACMA has indicated that it is unaware of any significant difficulties that might affect the decision to determine 28 May 2013 as the switchover date in this area.