



Commercial Television Conversion Scheme Variation 2000 (No. 1)

The AUSTRALIAN BROADCASTING AUTHORITY makes this instrument under clause 6 of Schedule 4 to the *Broadcasting Services Act 1992*.

Dated 21 December 2000

(David Flint)

Chairperson

(Lyn Maddock)

Deputy Chairperson

Australian Broadcasting Authority

1 Name of instrument

This instrument is the *Commercial Television Conversion Scheme Variation 2000 (No. 1)*.

2 Commencement

This Variation commences as follows:

- (a) on 1 January 2001 — sections 1 to 3 and Schedule 1;
- (b) on 3 February 2001 – Schedule 2;
- (c) on the commencement of item 1 of Schedule 2 to the *Broadcasting Services Amendment Act 2000* — Schedule 3.

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- 3 Variation of *Commercial Television Conversion Scheme 1999***
Schedules 1, 2 and 3 vary the *Commercial Television Conversion Scheme 1999*.

Schedule 1 Amendments commencing on 1 January 2001
(section 3)

[1] Section 5, note, second dot point

omit

television programs in both modes.

insert

television programs in analog and SDTV digital modes.

[2] Section 5, note, sixth dot point

omit

- There are to be reviews before 1 January 2000 and 31 December 2005

insert

- There are to be reviews before 1 January 2002, 1 January 2004, 1 January 2005 and 1 January 2006

[3] Subsection 6 (1)

omit

digital mode

insert

SDTV digital mode

[4] After subsection 7 (1)

insert

- (1A) The allotment of channels to holders, allowing the holders to transmit in digital mode after a simulcast period, may be done by:
- (a) varying the digital channel plan mentioned in subsection (1); or
 - (b) making a new digital channel plan.

[5] Paragraph 7 (2) (a)

omit

(including licence areas

insert

(other than licence areas)

[6] Paragraph 7 (2) (b)

omit

(which may include 1 or more licence areas)

insert

(other than licence areas)

[7] Paragraph 7 (2) (c)

omit

licence area.

insert

licence area (other than a specified part of a licence area dealt with in Part B of this Scheme).

[8] Subsection 8 (4)

substitute

(4) A digital channel plan must ensure that, if a holder has made an election under paragraph 6 (5A) (d) of Schedule 4 to the Act:

- (a) the ABA must not allot a channel to the holder for the purpose of transmitting the service to which the holder's licence that was allocated under section 38A or 38B of the Act relates; and
- (b) the objectives mentioned in subclause 6 (5B) of that Schedule are achieved; and
- (c) the holder is not authorised to use different channels to transmit:
 - (i) the service to which the holder's licence that was allocated under section 38A or 38B of the Act relates; and
 - (ii) other commercial television broadcasting services.

Note It is an objective in subclause 6 (5B) of Schedule 4 to the Act that a holder who makes an election under paragraph 6 (5A) (d) of that Schedule is to be authorised, under one or more transmitter licences, to use one or more particular channels to transmit the commercial television broadcasting services to which the election relates in digital mode using multi-channelling transmission capacity on each channel.

(5) A digital channel plan may include other matters.

Example

Whether there is any channel capacity available for uses other than the conversion of existing broadcasting services.

[9] Subsection 9 (2)

substitute

- (2) The ABA must have regard to the need to plan the most efficient use of the spectrum for broadcasting services or other uses, including the need for spectrum to be made available for allocation for the purposes of the transmission of datacasting services under, and in accordance with the conditions of, datacasting licences.

[10] After subsection 9 (3)

insert

- (3A) The ABA must have regard to the objectives set out in subclause 6 (5B) of Schedule 4 to the Act, for the purpose of ensuring that the digital channel plan makes arrangements for a holder that makes an election under paragraph 6 (5A) (d) of that Schedule.

[11] Subsection 9 (4)

after

holders,

insert

national broadcasters,

[12] Paragraph 13 (1)

substitute

- (1) This section applies if:
- (a) the ABA wishes to vary a digital channel plan made, or taken to be made, for this Scheme; and
 - (b) section 55 does not apply.

[13] Section 16

omit

[14] After subsection 17 (1)

insert

- (1A) The plan must state:
- (a) whether the plan constitutes the implementation plan for the licence area; or
 - (b) whether the plan is in a series of implementation plans that the holder intends to submit for the licence area.

[15] Subsection 17 (5)

substitute

- (5) If the plan is the first in a series of plans, the plan must also state:
- (a) that it is the first plan in a series of sequentially numbered implementation plans that the holder intends to submit for the licence area; and
 - (b) the total number of plans that the holder intends to submit for the licence area; and
 - (c) the dates by which the holder expects to submit each implementation plan in the series; and
 - (d) the geographic area to which an implementation plan in the series will apply; and
 - (e) the reason why it is not practicable to submit a single plan for the licence area.
- (5A) A plan that is subsequent to the first in a series of plans must also state:
- (a) the number of the implementation plan in the series of plans for the licence area; and
 - (b) the geographic area to which the implementation plan applies; and
 - (c) the dates by which the holder expects to submit any remaining implementation plan in the series; and
 - (d) if any previous implementation plan that is part of the series has been approved (an ***earlier approved plan***), the details of the earlier approved plan, including:
 - (i) its number in the series; and
 - (ii) the date when it was approved; and
 - (e) if the plan expressly or impliedly varies an earlier approved plan, the change being made and the reason for the change.

[16] Part A, Division 3, Subdivision C

omit

[17] Section 26

omit

[18] Section 27, heading

substitute

27 Application dates: implementation plans

[19] Subsection 27 (1)

substitute

- (1) The ABA must decide the date by which a holder must apply for approval of an implementation plan for a licence area.

[20] Paragraph 27 (2) (b)

omit

the digital channel plan for the entire area.

insert

a digital channel plan for any part of the area.

[21] After subsection 27 (5)

insert

- (6) The date by which a holder must apply for approval of the first implementation plan in a series must be before the start of the simulcast period for the area.

Note The simulcast period for each metropolitan licence area starts on 1 January 2001. The simulcast period for a regional licence area is set by the ABA under section 48 of this scheme.

- (7) The ABA must consult with all holders for the area about an appropriate date for subsection (6), and may consult with other persons.
- (8) The ABA must advise each holder for the area of the date as soon as practicable after making the decision.

[22] Subsection 28 (2)

omit

section 26 or

[23] Subsection 28 (4)

omit

The implementation plan

insert

Subject to subsection (8), the implementation plan

[24] Subsection 28 (5)

omit

digital mode:

insert

SDTV digital mode:

[25] Paragraph 28 (5) (g)

omit

digital modes

insert

SDTV digital modes

[26] Paragraph 28 (5) (i)

omit

digital modes;

insert

SDTV digital modes;

[27] After subsection 28 (6)

insert

- (7) If the plan is the first in a series of plans, the ABA must consider, but is not required to agree to, the dates by which the holder expects to submit each implementation plan in the series.
- (8) If a licence has been allocated to a holder under section 38B of the Act, the ABA:
 - (a) must consider the policy objective in paragraph 6 (3) (g) of Schedule 4 to the Act; and
 - (b) must not consider the policy objectives in paragraphs 6 (3) (f) and (j) of that Schedule.

Note Licences issued under section 38B are not subject to the requirements of the Act relating to the simulcast period, as the service to which the licence relates must be provided only in digital mode: see subsection 38B (18).

[28] Section 29, heading

omit

digital

insert

analog

[29] Subsection 29 (2)

omit

digital transmission of the service

insert

transmission of the service in SDTV digital mode

[30] Subsection 29 (4)

omit

digital transmission of the service

insert

transmission of the service in SDTV digital mode

[31] After subsection 32 (3)

insert

- (4) If the plan is the first in a series of plans, the ABA must also decide as many of the following dates as the ABA considers appropriate:
- (a) dates by which the holder must apply for approval of implementation plans in the series;
 - (b) a date by which the holder must apply for approval of the last plan in the series.

Note Schedule 4 to the Act imposes a timetable for conversion to digital transmission, with simulcasts starting at different times in different licence areas. To support the timetable, the dates decided under subsection (4) may be later than dates set by the ABA for applications for approval of single plans for whole licence areas.

[32] Subsection 36 (1)

omit

If

insert

Subject to subsections (2), (3) and (3A), if

[33] Subsection 36 (2)

omit

However, if

insert

If

[34] Subsection 36 (3)

omit

Also, if

insert

If

[35] After subsection 36 (3)

insert

- (3A) If a holder has made an election under paragraph 6 (5A) (d) of Schedule 4 to the Act, the ACA must ensure that the licence, as issued or varied, will authorise the operation of 1 or more transmitters for transmitting the commercial television broadcasting services that are, in accordance with the election, to be transmitted using multi-channelling transmission capacity.

Note See subclause 6 (5B) of Schedule 4 to the Act.

[36] Subsection 46 (1)

omit

A holder

insert

A holder that holds a datacasting licence issued in accordance with Schedule 6 to the Act

[37] Subsection 46 (2)

substitute

- (2) However, the holder must use the capacity in a way that is consistent with:
- (a) the holder's transmitter licence issued under section 102A of the *Radiocommunications Act 1992*; and
 - (b) the holder's datacasting licence issued under the Act.

Note A charge is imposed for the use of transmission capacity for datacasting: see the *Datacasting Charge (Imposition) Act 1998*.

[38] **Part A, Division 7, heading**

substitute

Division 7 Starting SDTV digital transmission

[39] **Section 47, heading**

substitute

**47 Starting SDTV digital transmissions (metropolitan
licence area)**

[40] **Section 47**

omit

digital mode

insert

SDTV digital mode

[41] **Section 48, heading**

substitute

**48 Starting SDTV digital transmissions (regional licence
area)**

[42] **Subsection 48 (1)**

omit

digital mode

insert

SDTV digital mode

[43] **Subsection 49 (2)**

omit

digital mode

insert

SDTV digital mode

[44] Part A, Division 8, heading

substitute

**Division 8 Problems with starting or maintaining
SDTV digital transmission**

[45] Section 50, heading

substitute

**50 Surrender of transmitter licence (failure to commence
SDTV digital transmission)**

[46] Paragraph 50 (1) (a)

omit

digital transmission

insert

transmission in SDTV digital mode

[47] Section 51, heading

substitute

**51 Surrender of transmitter licence (SDTV digital
transmission does not continue throughout the
simulcast period)**

[48] Paragraph 51 (1) (a)

omit

digital transmission

insert

transmission in SDTV digital mode

[49] Paragraph 51 (1) (b)

omit

digital transmission

insert

transmission in SDTV digital mode

[50] Paragraph 51 (2) (a)

omit

digital transmission

insert

transmission in SDTV digital mode

[51] Paragraph 51 (2) (b)

omit

digital transmission

insert

transmission in SDTV digital mode

[52] Section 52, heading

substitute

52 Surrender of transmitter licence (SDTV or HDTV standards contravened)

[53] Subsection 52 (1)

omit

subclause 37 (1) of Schedule 4 to the Act (which deals with HDTV).

insert

subclause 37 (1), 37A (1) or 37E (1) or (3) of Schedule 4 to the Act.

[54] Subsection 53 (1)

substitute

(1) This section applies if a holder has surrendered a transmitter licence on the grounds of a contravention of a standard under any of the following provisions of Schedule 4 to the Act:

- (a) subclause 37A (1);
- (b) subclause 37E (1);
- (c) subclause 37E (3).

Note See Act, Schedule 4, subclause 8 (8). The subclauses that are listed deal with HDTV standards.

[55] Division 9

substitute

Division 9 End of simulcast period

54 Review of allocation

- (1) Before the end of a simulcast period, the ABA must consider whether:
 - (a) an existing digital channel plan for a simulcast period can be varied; or
 - (b) a new digital channel plan must be made;
for the purposes of allotting channels for transmission of the commercial television broadcasting service in digital mode after the simulcast period.
- (2) In considering which option to use, the ABA must have regard to:
 - (a) whether the channels that would be allotted for digital transmission after the simulcast period would be essentially the same channels as those allotted for the simulcast period; and
 - (b) whether the existing digital channel plan adequately meets the requirements for the licence area; and
 - (c) the need to plan the most efficient use of the spectrum; and
 - (d) the relevant policy objectives in clause 6 of Schedule 4 to the Act; and
 - (e) other matters that the ABA considers relevant to the efficient use of the spectrum for broadcasting, datacasting and other uses.

55 Allotment — variation of digital channel plan

- (1) If the ABA decides to vary an existing digital channel plan for a simulcast period, the ABA must publish a notice:
 - (a) stating where copies of the proposed variation may be obtained; and
 - (b) inviting comments on the variation in the period specified in the notice.
- (2) In considering the form of the variation, the ABA must have regard to:
 - (a) any comments it receives; and
 - (b) the matters mentioned in subsection 9 (2); and
 - (c) if the variation is likely to have an effect on an approved implementation plan, or on an implementation plan that has been submitted to the Minister, the effect of the variation on the approved implementation plan.

-
- (3) The ABA may also have regard to any of the matters mentioned in subsection 9 (4), (5), (6) or (7).
 - (4) The ABA must vary the plan before the end of the simulcast period and in such a manner as to allow the plan, as varied, to commence from the end of the simulcast period.
 - (5) The ABA must publish a notice stating where copies of the variation may be obtained.

Note The ABA's options for publishing the notice are in s 4.

56 Allotment — new digital channel plan

- (1) Subsections 7 (2) and (3) and sections 8 to 12 (inclusive) apply if the ABA decides to make a new digital channel plan.
- (2) However, the ABA must make the new digital channel plan before the end of the simulcast period and in such a manner as to allow the new plan to commence from the end of the simulcast period.

57 End of analog transmission and surrender of licences

- (1) At the end of the simulcast period for a licence area, all transmissions of a commercial television broadcasting service in analog mode in the area are to cease.

Note See Act, Schedule 4, paragraph 6 (3) (h).

- (2) A licensee must surrender to the ACA all transmitter licences that authorised transmission of that service in the area during the simulcast period.
- (3) A licensee that is required to surrender a transmitter licence under this section must comply with any requirements of the ACA for surrendering the licence.

58 Transmitter licences

- (1) The ABA must make arrangements with the ACA to issue to a licensee one or more transmitter licences that:
 - (a) have effect from the end of the simulcast period; and
 - (b) authorise the transmission of the commercial television broadcasting service concerned in digital mode using the channel or channels allotted by the ABA under a digital channel plan varied under section 55 or made under section 56.

Note See *Radiocommunications Act 1992*, s 100B.

- (2) The ABA must also make arrangements with the ACA to identify conditions to which a licence issued under this section should be subject.

-
- (3) The ACA must issue the licence in accordance with the arrangements.

[56] Dictionary, after definition of * *broadcasting transmission tower*

insert

channel, in relation to digital transmission, means a channel that occupies 7MHz of bandwidth.

[57] Dictionary, definition of *datacasting service* [fix-up]

substitute

datacasting licence see subsection 6 (1) of the Act.

datacasting service see subsection 6 (1) of the Act.

[58] Dictionary, after definition of *digital transmission*

insert

* ***HDTV digital mode*** see clause 4A of Schedule 4 to the Act.

[59] Dictionary, after definition of * *metropolitan licence area*

insert

* ***multi-channelled national television broadcasting service*** see clause 5A of Schedule 4 to the Act.

* ***national broadcaster*** see subsection 6 (1) of the Act.

[60] Dictionary, after definition of *remote licence area*

substitute

* ***SDTV digital mode*** see clause 4B of Schedule 4 to the Act.

Schedule 2 Amendment commencing on 3 February 2001

(section 3)

[2] Dictionary, definition of * *broadcasting transmission tower*

omit everything after

used

insert

to supply:

- (e) a broadcasting service by means of radiocommunications using the broadcasting services bands; or

-
- (f) a datacasting service provided under, and in accordance with the conditions of, a datacasting licence.

**Schedule 3 Amendment commencing on
commencement of item 1 of
Schedule 2 to the *Broadcasting
Services Amendment Act 2000***

(section 3)

[3] Subsection 46 (1)

substitute

- (1) A holder that holds a datacasting licence issued in accordance with Schedule 6 to the Act is permitted to use any spare transmission capacity that is available on the holder's digital transmission channels for the purpose of the transmission of either or both of the following:
- (a) datacasting services provided under, and in accordance with the conditions of, datacasting licences;
 - (b) designated teletext services.

Note See Act, Schedule 4, paragraph 6 (3) (k).