

Explanatory Statement

RADIOCOMMUNICATIONS (DATACASTING TRANSMITTER LICENCE LIMITS) DIRECTION NO. 1 OF 2007

**Issued by the authority of the Minister for Communications,
Information Technology and the Arts**

Purpose

The *Radiocommunications (Datacasting Transmitter Licence Limits) Direction No. 1 of 2007* (the Direction) is made by the Minister for Communications, Information Technology and the Arts (the Minister) under subsection 106(9) of the *Radiocommunications Act 1992* (the Act).

The purpose of the Direction is to revoke the *Radiocommunications (Datacasting Transmitter Licence Limits) Direction No. 1 of 2001*, and to direct the Australian Communications and Media Authority (ACMA) to revoke the *Radiocommunications (Datacasting Transmitter Licence Allocation) Determination 2001*.

Background

Section 106 of the Act provides, inter alia, that the ACMA may determine in writing a price-based system for allocating and/or issuing certain transmitter licences. The system may apply generally, or to a particular area or range of frequencies.

When determining procedures to be applied in allocating licences the ACMA must, where directed to do so by the Minister:

- impose limits on the number of transmitter licenses that the ACMA may issue to any one person, or to a specified person; or
- impose limits on the number of transmitter licences that the ACMA may, in total, issue to the members of a specified group of persons.

On 10 January 2001, the then Minister issued the *Radiocommunications (Datacasting Transmitter Licence Limits) Direction No. 1 of 2001*. That direction required the then Australian Communications Authority (ACA), when determining an allocation system offering two datacasting transmitter licences in each datacasting service area, to determine procedures imposing a limit of one datacasting transmitter licence per specified group of persons in a datacasting service area. The Minister's 2001 direction also required the ACA to incorporate particular procedures into the allocation system.

On 18 January 2001 the ACA issued the *Radiocommunications (Datacasting Transmitter Licence Allocation) Determination 2001* under s. 106 of the Act. The ACA

determination set out a licence allocation system and imposed competition limits consistent with the Minister's direction.

The former Minister's direction and the ACA determination were made in anticipation of a datacasting transmitter licence allocation that was scheduled to occur in 2001 but which did not ultimately proceed.

On 18 October 2006 Parliament passed the Government's media reform legislation, including the *Broadcasting Legislation Amendment (Digital Television) Act 2006*. That Act amended the Act and the *Broadcasting Services Act 1992* to provide for the allocation of two new types of datacasting transmitter licences (channel A and channel B).

The Government wishes to ensure that the licence allocation system and competition limits that were introduced for the proposed 2001 allocation do not apply to the allocation of new channel A and B transmitter licences. Accordingly, the Direction revokes the former Minister's direction and instructs ACMA to revoke the ACA determination.

The Minister does not propose to impose competition limits in relation to the allocation of Channel A datacasting transmitter licences and Channel B transmitter licences in 2007.

Consultation

ACMA and the Australian Competition and Consumer Commission have been consulted on the making of this direction. Stakeholder views were sought on the issue of competition limits in the context of the consultations papers released by ACMA about the allocation of these licences.