EXPLANATORY STATEMENT

Broadcasting and Datacasting Services (Parental Lock) Technical Standard 2010

Broadcasting Services Act 1992

Issued by the authority of the Australian Communications and Media Authority

Purpose

The Broadcasting and Datacasting Services (Parental Lock) Technical Standard 2010 (**the Standard**) requires that particular domestic reception equipment:

- have parental lock capabilities; or
- distribute information that enables the parental lock capabilities in other domestic reception equipment to operate.

From the date specified in section 6 of the Standard, the Standard will apply to the relevant domestic reception equipment and it will be an offence under section 130B the *Broadcasting Services Act 1992* (**the BSA**) to supply equipment that does not comply with the Standard.

Legislative basis

The Standard is determined by the Australian Communications and Media Authority (**the ACMA**) under subsection 130B(1) of the BSA.

Subsection 130B(1) of the BSA provides that the ACMA may, by legislative instrument, determine technical standards that relate to domestic reception equipment that is capable of receiving television broadcasting services and datacasting services transmitted in digital mode using the broadcasting services bands.

The Standard is determined by the ACMA in response to the Australian Communications and Media Authority (Development of Technical Standards for Domestic Digital Television Reception Equipment) Direction No. 1 of 2009 (**the Ministerial Direction**).

Clause 4 of the Ministerial Direction directed the ACMA to exercise its power under subsection 130B(1) of the BSA, as soon as practicable, to determine technical standards to ensure that domestic reception equipment used for receiving any or all digital television broadcasting services or datacasting services have parental lock capabilities. Clause 5(a) of the Ministerial Direction directed the ACMA to consider, during the course of determining a technical standard about child lock capabilities, whether to exempt any particular class of domestic reception equipment from the technical standards determined pursuant to the Ministerial Direction. The Explanatory Statement to the Ministerial Direction states:

> *It is the Australian Government's intention that, together with the classification of television content already in place under the Commercial Television Industry Code of Practice 2004, mandating parental locks in digital television receivers will further protect children from viewing material which may be inappropriate or harmful and support parents and guardians in protecting their children from such content. The Government considers this an important objective as Australia moves towards a*

digital-only television environment and the amount of content and channels available to viewers increases.

The Standard is a legislative instrument for the purposes of the *Legislative Instruments Act 2003.*

The Ministerial Direction also required the ACMA to:

- at clause 5(b), consider whether to request an industry code under Part 9B of the BSA that deals with electronic program guides; and
- at clause 5(c), consider whether to request an industry code under Part 9B of the BSA that deals with domestic reception equipment labelling schemes.

The ACMA's responses to clauses 5(b) and (c) of the Ministerial Direction are being considered by the ACMA separately from the development of the Standard.

Operation

This part of the explanatory statement provides a broad overview of how the Standard is intended to operate. A more detailed explanation about the intended operation and effect of each section in the Standard is provided under 'notes on sections', below.

The existing industry arrangements are set out in the Australian standard AS 4933.1-2010 *Digital television – Requirements for receivers Part 1: VHF/UHF DVB-T television broadcasts* (**AS 4933.1**) developed by Standards Australia. Compliance with AS4933.1 is voluntary. One of the optional features addressed in AS 4933.1 is a 'parental guidance lock-out function' which serves the same type of function as the 'parental lock capabilities' required under the Standard.

Consistent with the general approach taken in AS 4933.1, the Standard sets out the requirement for equipment to have parental lock capabilities by:

- describing the function to be performed by the parental lock capabilities;
- requiring that the parental lock capabilities must function on the basis of program classification codes:
  - employed by national, commercial and community free-to-air television broadcasters under their respective codes of practice (no such code of practice currently exists in relation to datacasting licensees);
  - transmitted to equipment as part of the service information data provided as part of a digital video broadcasting-terrestrial (DVB-T) broadcast, or the same classification code information transmitted to equipment by a separate mode of transmission; and
- specifying program classification levels at which users must be able to set the parental lock capabilities so that programs classified at or above those levels will be blocked from being shown.

To ensure that parental lock capabilities are made available in different types of domestic reception equipment as broadly and consistently as practicable, the Standard also addresses a number of other issues *not* addressed in AS4933.1. That is, the Standard also:

- requires that where domestic reception equipment designed to operate only when connected to another device (e.g., a modular reception device designed to operate only when connected to a computer using a universal serial bus, or USB, port) is supplied with software that allows the equipment to receive digital television or datacasting services, the equipment must, *when used with that software*, have parental lock capabilities;
- requires that amplifiers and distribution devices used in the installation of antenna systems that support the reception of digital television broadcasting or datacasting services (e.g., head-end distribution systems used to distribute television services to multiple connected domestic digital television receivers in an apartment building or nursing home) must, when distributing services to connected domestic reception equipment using particular modulation techniques, include the program classification information necessary to enable parental lock capabilities to function in the connected equipment (but does not require such amplifiers and distribution devices to have parental lock capabilities themselves); and
- exempts certain classes of domestic reception equipment from the requirements of the Standard.

From the date specified in section 6 of the Standard, it will be an offence under section 130B of the BSA to *supply* equipment of a type referred to in section 7, 8 or 9 of the Standard if the equipment does not comply with the Standard. For the purposes of section 130B of the BSA, the term *supply* has the same meaning as in the *Trade Practices Act 1974*. That is, the meaning of the term includes supply (including re-supply) by way of sale, exchange, lease, hire or hire-purchase. Situations where a person would be considered to have *supplied* equipment include:

- an Australian-based manufacturer in Australia who sells equipment in Australia;
- an Australian-based importer who sells equipment to a retailer on a wholesale basis, or directly to a consumer; and
- a retailer who sells equipment to a consumer.

The requirement to comply with the Standard applies only to equipment supplied *for the first time* on or after the date specified in section 6 of the Standard. Equipment that is re-supplied on or after that date, having already been supplied prior to the date specified in section 6, is *not* required to comply with the Standard. This point is discussed further under section 10, below.

Consultation

On 24 February 2010, the ACMA released a discussion paper describing the approach it intended to take in determining the Standard and seeking stakeholder comments on related issues, including comments on whether any classes of equipment should be exempted from the Standard.

The closing date for comments was 2 April 2010. The ACMA received 13 submissions in response to the discussion paper. All 13 submissions were published on the ACMA website shortly after the closing date.

The submissions were considered by the ACMA in its drafting of the Standard.

Notes on sections

Section 1: Name of Standard

Section 1 provides that the name of the Standard is the Broadcasting and Datacasting Services (Parental Lock) Technical Standard 2010.

Section 2: Commencement

Section 2 provides that the Standard commences on the day after it is registered by the ACMA on the Federal Register of Legislative Instruments.

Section 3: Definitions

Section 3 defines the terms used throughout the Standard.

Act: As it is used in the Standard, the term *Act* refers to the *Broadcasting Services Act 1992* (**the BSA**).

Classification code: Section 3 of the Standard provides that the term *classification code* has the meaning given by section 4 of the Standard. Section 4 of the Standard is discussed further below.

Electricity supply body: As it is used in the Standard, the term *electricity supply body* has the meaning given by section 3 of the Radiocommunications (Domestic Digital Television Receiver – Characteristic) Determination 2007.

Parental lock capabilities: Section 3 of the Standard describes the function that the parental lock capabilities referred to in the Standard must perform.

In summary, the definition requires that parental lock capabilities in domestic reception equipment must block a television program of a particular classification (e.g., PG, M or MA) from being shown unless the correct personal identification number is first entered into the equipment.

Subsections 7(3) to 7(5) and subsections 8(3) to 8(5) of the Standard further require that parental lock capabilities must be able to do particular things when performing this function.

Program classification information: As it is used in the Standard, the term *program classification information* means information about the *classification code* for a television program or datacasting content that is transmitted using the broadcasting services bands to domestic digital television receivers as part of the data that accompanies the television program or datacasting content.

The definition in section 3 of the Standard refers to the classification code information transmitted in the parental_rating_descriptor field of the event information table (EIT) present/following field in the service information data provided as part of a digital video broadcasting-terrestrial (DVB-T) broadcast in relation to the television program or datacasting content. Present/following field coding arrangements are set out in the Free TV Australia operational practice OP-44, *Implementation Guide for DVB EIT present/following information (EITp/f)*.

This definition recognises that classification code information may be transmitted to reception equipment other than in the EIT present/following fields in a DVB-T broadcast (e.g., it may also be transmitted by satellite to equipment that is capable of receiving services transmitted by DVB-T using the broadcasting services bands *and* services transmitted by satellite). The intention of this definition is to clarify that where classification code information is transmitted to equipment other than by DVB-T and the classification code information is identical to that contained in the EIT present/following fields in the DVB-T transmission, the equipment is not limited to using the EIT information but may also use the other source of classification code information.

Section 4: Meaning of classification code

Section 7 and 8 of the Standard provide that parental lock capabilities must function (i.e., must block a television program or datacasting content of a particular classification from being shown) with reference to the *classification code* applicable the television program or datacasting content.

Subsection 4(1) of the Standard provides that the term *classification code* means the classification code that applies to a television program or datacasting content. Subsection 4(2) lists the individual classification codes that may apply.

Frameworks for the classification of television programs are contained in the various codes of practice applicable to free-to-air digital television broadcasters:

- The code of practice applicable to commercial broadcasters is registered by the ACMA under section 123 of the *Broadcasting Services Act 1992*. The current version of this code is titled the *Commercial Television Industry Code of Practice 2010*.
- The code of practice applicable to the ABC is registered by the ACMA under the *Australian Broadcasting Corporation Act 1983*. The current version of this code is titled the *ABC Code of Practice, March 2007*.
- The code of practice applicable to SBS is registered by the ACMA under the *Special Broadcasting Service Act 1991*. The current version of this code is titled the *SBS Codes of Practice 2006*.

There is currently no equivalent code in place for the classification of datacasting content under Schedule 6 to the BSA.

Section 5: Purpose

Section 5 states that the purpose of the Standard is to ensure that particular domestic reception equipment has parental lock capabilities, or distributes information that enables the parental lock capabilities in other domestic reception equipment to operate.

Section 6: Application

Section 6 provides that the requirements of the Standard apply to domestic reception equipment from the day that is six months after the day on which the Standard is registered by the ACMA on the Federal Register of Legislative Instruments.

The purpose of the six month period is to provide affected parties (e.g., equipment suppliers) with reasonable opportunity to make whatever arrangements are necessary to comply with the Standard.

Section 7: Standard – domestic digital television receiver (general)

Subsections 7(1) and 7(2) of the Standard together provide that domestic reception equipment must have parental lock capabilities if it:

- is a *domestic digital television receiver*, and
- does not fall within a category of equipment to which section 8 or 9 applies.

The term *domestic digital television receiver* is defined in section 6 of the BSA, with reference to section 5 of the *Radiocommunications Act 1992*.

In summary, a domestic digital television receiver is domestic reception equipment that:

- is not a hand-held device; and
- is capable of receiving television programs transmitted in either standard definition or high definition digital mode; and
- will work if connected to a mains electricity supply, and does not have a battery that allows it to operate otherwise than by connection to a mains electricity supply.[1]

Domestic reception equipment that falls within the definition of domestic digital television reception equipment includes:

- integrated digital televisions – that is, television sets with an in-built digital receiver;
- set-top boxes (**STBs**) – that is, devices that connect to a television or screen to enable the reception and display of digital television programs or datacasting content (this category includes STBs that are used primarily to receive a subscription television broadcasting service, but which are also capable of receiving digital television or datacasting services transmitted using the broadcasting services bands – such STBSs are commonly referred to as 'hybrid STBs' because they can be used to receive both subscription and free-to-air services);
- personal video recorders (**PVRs**);
- modular reception equipment designed to operate as a domestic digital television receiver when used in conjunction with a gaming console (e.g., PlayTV, which is designed to operate in conjunction with the Sony PlayStation 3); and
- peripheral component interconnect (**PCI**) or universal serial bus (**USB**) connected modular reception equipment designed to operate as a domestic digital television receiver when used in conjunction with a laptop or home computer.

[1] The characteristic stated in the third dot-point was specified by the ACMA in the Radiocommunications (Domestic Digital Television Receiver Characteristic) Determination 2007. The determination was made by the ACMA under paragraph (c) of the definition of *domestic digital television receiver* in section 5 of the *Radiocommunications Act 1992*.

None of the equipment types listed above is considered to be a 'hand-held device' because, although in some cases it may be possible for a person to hold the equipment in his or her hand, none of the equipment is primarily designed to be hand-held during use.

In accordance with the policy objective set out in the Explanatory Statement to the Ministerial Direction, it is intended that the requirement to have parental lock capabilities be applied to domestic reception equipment as broadly and consistently as practicable. To that end, section 7 of the Standard applies the requirement to *all* domestic reception equipment that is a domestic digital television receiver, except for equipment that is subject to either section 8 or 9 of the Standard. Section 10 of the Standard also exempts some classes of equipment from having to comply with the Standard.

Subsections 7(3) to 7(5) of the Standard provide that the parental lock capabilities required under subsections 7(1) and 7(2) must function in accordance with the following criteria:

1. Subsection 7(3) provides that the parental lock capabilities must be able to identify the classification code that applies to a television program by using the *program classification information* for the program.
2. Subsection 7(4) provides that the parental lock capabilities must be able to identify the classification code that applies to datacasting content using the program classification information for the datacasting content.
3. Subsection 7(5) provides that the parental lock capabilities must allow a user of the equipment to set the classification code level at or above which they wish blocking to occur. The parental lock capability must enable users to set their equipment so that a television program or datacasting content will be blocked if it is classified:
    - PG or higher (in which case, any program or content classified at or above the PG level must be blocked from being shown unless the correct PIN is entered);
    - M or higher (in which case any program or content classified at or above the M level must be blocked from being shown unless the correct PIN is entered); and
    - MA or higher (in which case any program or content classified at or above the MA level must be blocked from being shown unless the correct PIN is entered).

The Standard requires that the three 'blocking level options' specified under subsection 7(5) *must* be made available to users as a minimum set of options and are not exclusive. The Standard does not preclude additional blocking level options (e.g., 'G or higher', or 'AV or higher') being made available to users also.

<u>Section 8: Standard – domestic digital television receiver (modular reception equipment)</u>

Subsection 8(1) of the Standard limits the types of domestic digital television receiver to which subsections 8(2) to 8(5) of the Standard apply. (The meaning of *domestic digital television receiver* is discussed under section 7, above.)

- Paragraph 8(1)(a) specifies that the receiver must only be able to operate as a domestic digital television receiver when used in conjunction with another device.
- Paragraph 8(1)(b) specifies that, in addition to the point above, it must not be possible to connect the receiver to an electricity system of an electricity supply body

(i.e., to a mains electricity supply) otherwise than through the device mentioned in paragraph 8(1)(a). The intention of paragraph 8(1)(b) is to distinguish these specified receivers from reception equipment such as STBs and PVRs, to which section 7 of the Standard, rather than section 8, applies.

Equipment to which section 8 of the Standard applies is referred to in the Standard as 'modular reception equipment'.

Examples of such equipment include:

- PCI or USB connected reception equipment designed to operate in conjunction with a laptop or home computer; and
- PlayTV, which is designed to operate in conjunction with Sony PlayStation 3.

Modular reception equipment is commonly supplied with software that enables it to operate as a domestic digital television receiver. In some cases though, such software is not provided with the equipment. For example, the equipment may be supplied with the intention that it be used with software not supplied with the equipment (e.g., with a compatible computer operating system).

Subsection 8(2) of the Standard provides that where modular reception equipment *is* supplied with software, the equipment must, when used with the software, have parental lock capabilities.

Subsection 8(2) recognises that the effective operation of parental lock capabilities in modular reception equipment relies on the equipment being used with appropriate software. On this basis, it is intended that where modular reception equipment is *not* supplied with software, or is used with software other than that provided with the equipment, the equipment is not required to have parental lock capabilities.

Subsection 8(3) to (5) provide that the parental lock capabilities required under subsection 8(2) must function in accordance with the same criteria that are contained in subsections 7(3) to 7(5) of the Standard.

<u>Section 9: Standard – domestic digital television receiver (amplifiers and distribution devices)</u>

Section 9 of the Standard applies to amplifiers and distribution devices that are used in association with the reception of digital television broadcasting or datacasting services and the redistribution of those services to one or more connected domestic digital television receivers to which section 7 or section 8 of the Standard applies (i.e., connected receivers that are required, under the Standard, to have parental lock capabilities).

Such amplifier and distribution devices are commonly used to enable reception of television broadcasting or datacasting services in locations that contain multiple receivers (e.g., apartment buildings, nursing homes, hotels, pubs, clubs and other venues). The devices receive service transmissions, demodulate or decode the transmissions, and then remodulate or re-encode the services before distributing the services to one or more connected receivers.

In keeping with the function described above, subsection 9(1) of the Standard limits the types of *domestic digital television receiver* to which subsection 9(2) applies. (The meaning of *domestic digital television receiver* is discussed under section 7, above.)

- Paragraph 9(1)(a) specifies that the receiver must be an amplifier or distribution device used in the installation of antenna systems that support terrestrial reception of, either or both, digital television broadcasting services and datacasting services.
- Paragraph 9(1)(b) specifies that, in addition to the point above, the receiver must be capable of receiving a television broadcasting or datacasting service that was transmitted using either of two specified modulation techniques:
    - complex orthogonal frequency-division multiplexing (COFDM); or
    - quadrature phase shift keying (QPSK).
- Subsection 9(1)(c) specifies that, in addition to the points above, the equipment must be designed to demodulate or decode, and then remodulate or re-encode, the service.
- Subsection 9(1)(d) specifies that, in addition to the points above, the equipment must be designed to distribute the service to one or more receivers connected to the amplifier or distribution device using any of the three specified modulation techniques:
    - COFDM;
    - QPSK; or
    - quadrature amplitude modulation (QAM).

Subsection 9(2) provides that domestic digital television receivers that meet all the criteria set out in paragraphs 9(1)(a) to (f) must, when distributing digital television broadcasting or datacasting services to connected receivers to which section 7 or 8 of the Standard applies (i.e., receivers that are required, under the Standard, to have parental lock capabilities), include in the distributed service the program classification information necessary to enable the parental lock capabilities to operate in the connected receiver.

The intention of section 9 is to ensure that where a receiver with parental lock capabilities receives digital television broadcasting or datacasting services via an amplifier or distribution device, the receiver has access to the elements of the service transmissions (i.e., the program classification information) that are necessary for the parental lock capabilities to operate effectively. That is, the section 9 is intended to ensure that the program classification information is not omitted from the service information that is output from an amplifier or distribution device to a receiver with parental lock capabilities.

Section 10: Exemption

Subsection 130B(7) of the BSA provides that the ACMA may, by legislative instrument, exempt specified domestic reception equipment from the offence and civil penalty provisions associated with a technical standard determined by the ACMA under subsection 130B(1) of the BSA.

This means that if the ACMA has so exempted specified equipment, it will not be an offence to supply the equipment if the equipment does not comply with the Standard. In practical terms, this means that the exempted equipment does not need to comply with the Standard.

Section 10 of the Standard provides that two classes of domestic reception equipment are so exempted. The two classes of exempted equipment are described in items 1 and 2, respectively, in the table in section 10.

Item 1 in the table provides that all equipment that was supplied *for the first time* before the date referred to in section 6 of the Standard is exempted. Item 1 further specifies that this class of equipment includes:

- a particular model of domestic digital television receiver that was supplied by a wholesaler to a retailer before the date referred to in section 6; and
- a domestic digital television receiver that was sold by a retailer to a customer before the date referred to in section 6.

For example, a receiver is first supplied to the market (e.g., by a wholesaler to retailer A, or by a retailer to customer A) prior to the date referred to in section 6. Then, on or after the date in section 6, the receiver is supplied for a second time (e.g., by retailer A to a customer, or by customer A to another person on a second-hand basis). Because the receiver was supplied to the market *for the first time* prior to the date referred to in section 6, the receiver need not ever comply with the Standard – and retailer A and customer A would not be committing an offence by supplying the receiver if the receiver did not comply with the Standard.

For the purpose of establishing whether the exemption in item 1 applies to an item of equipment, all items of a particular model of equipment are treated generically. That is, if a single item of a particular model of equipment was supplied before the date referred to in section 6 (and therefore covered by the exemption), then every item of that model of equipment is covered by the exemption. For example:

- A single digital receiver (GAZCo brand, model XXX-A) is supplied to the market for the first time (e.g., by a wholesaler to a retailer or by a retailer to a consumer) prior to the date specified in section 6 of the Standard. In this scenario, because an item of the GAZCo XXX-A model was supplied prior to the date in section 6, no GAZCo XXX-A units need ever comply with the Standard.
- The first GAZCo YYY-B digital receiver is supplied to the market for the first time (e.g., by a wholesaler to a retailer or by a retailer to a customer) after the date specified in section 6 of the Standard. In this scenario, because not one unit of the GAZCo YYY-B model had been supplied prior to the date in section 6, all GAZCo YYY-B units must comply with the Standard.

As it is used in the Standard, the term wholesaler includes manufacturers in Australia, importers in Australia and agents of those manufacturers and importers. This approach gives consistency between the application of the Standard and the application of other standards determined by the ACMA as part of other regulatory arrangements under the *Radiocommunications Act 1992* and the *Telecommunications Act 1997*.

Item 2 in the table provides that domestic reception equipment that is imported to Australia for the sole purpose of being exported is exempted. Such equipment may include equipment that enters Australia for a period en route to another country (e.g., equipment imported to Australia so that it can be exported to New Zealand), with no intention that the equipment

would be supplied to a person in Australia. The intention of item 2 is that the Standard should apply only to equipment that is supplied to the Australian market.