

## **Explanatory Statement**

**Issued by the authority of the Australian Communications and Media Authority**

### ***Digital Television Commencement Date (Remote Central and Eastern Australia Licence Areas) Determination 2011***

#### ***Commercial Television Conversion Scheme 1999***

#### **Purpose**

The purpose of the *Digital Television Commencement Date (Remote Central and Eastern Australia Licence Areas) Determination 2011* (the Determination), is to determine, under subsection 138(1) of the *Commercial Television Conversion Scheme 1999* (the Scheme), the date by which each holder of a commercial television broadcasting licence in remote central and eastern Australia licence areas is to commence transmitting the commercial television broadcasting service concerned in SDTV digital mode.

#### **Legislative Basis**

The Scheme is made under subclause 6(1) of Schedule 4 to the *Broadcasting Services Act 1992* (Act) which requires the Australian Communications and Media Authority (ACMA) to formulate a scheme for the conversion of the transmission of commercial television broadcasting services from analog mode to digital mode.

The Scheme is divided into two Parts (Part A and Part B). Part A applies to commercial television broadcasting services in non-remote (i.e. regional and metropolitan) licence areas, and Part B applies to remote licence areas. Each Part contains rules for:

- the creation of digital channel plans by the ACMA, which allot digital channels to holders of existing commercial television broadcasting licences for the transmission of their services in digital mode;
- the preparation of implementation plans by a holder of a commercial television broadcasting licence which outlines the introduction of commercial television broadcasting services in digital mode;
- test transmissions of digital services; and
- other matters necessary for the conversion of the transmission of commercial television broadcasting services from analog to digital mode.

Subsection 138(1) of the Scheme requires the ACMA to determine a date for each remote licence area by which each holder of a commercial television broadcasting licence for that area is required to commence transmitting the relevant commercial television broadcasting service in SDTV digital mode. Under subsection 138(2), the ACMA must consult with all holders of a commercial television broadcasting licence in the relevant remote licence area before determining a date for the area, and must have regard to any comments it receives during the consultation.

Subsection 138(3) of the Scheme specifies that the date determined by the ACMA under subsection 138(1) must be later than the day when the ACMA makes the determination, and subsection 138(4) specifies that the ACMA must publish the determination as soon as practicable after making it.

The determination of a commencement date is made by legislative instrument.

## Background

There are three remote commercial television licence areas in remote central and eastern Australia:

- Remote Central and Eastern Australia TV1 (RCEA TV1)
- Remote Central and Eastern Australia TV2 (RCEA TV2); and
- Mount Isa TV1

Each is a remote licence area in accordance with the Determination of Remote Licence areas made under subclause 5(1) of Schedule 4 to the Act by the Australian Broadcasting Authority on 14 December 2000.

The Determination sets 2 May 2011 as the date by which the holders of the commercial television broadcasting licences for the RCEA TV1, RCEA TV2 and Mount Isa TV1 licence areas are required to commence transmitting the commercial television broadcasting service concerned in SDTV digital mode in each area.

On 4 May 2010, the ACMA allocated an additional commercial television broadcasting licence for each of the RCEA TV2 and Mount Isa TV1 licence areas, under subsection 38B(5) of the Act. The holder of these licences has special rules about the commencement of transmission of a service in digital mode under the licence.

## Consultation

Consultation with licensees is required under section 138(2) of the Scheme before a digital television commencement date for a remote licence area is determined by the ACMA. Section 17 of the *Legislative Instruments Act 2003* (the LIA) also requires the ACMA to be satisfied that any consultation it considers to be appropriate and that is reasonably practicable to undertake has been undertaken.

The ACMA consulted with representatives from the holders of the commercial television broadcasting service licences for the relevant licence areas: Imparja Television Pty Ltd and Regional Television Pty Ltd and Central Digital Television Pty Ltd, as required under section 138(2) of the Scheme. The ACMA also undertook broader consultation, releasing a consultation paper for public comment on the proposed digital commencement date of 18 April 2011 for the remote central and eastern Australia licence areas on 24 February 2011. Copies of the discussion paper and invitation to comment were sent to the commercial television industry association, Free TV, and the commercial television broadcasting licensees in the remote central and eastern Australia licence areas.

A period of 9 days was provided for public and industry comment (24 February to 4 March 2011).

One submission was received jointly from Imparja Television Pty Ltd, Regional Television Pty Ltd and Central Digital Television Pty Ltd requesting the digital commencement date be 2 May 2011, a two week delay on the date proposed in the consultation paper.

Comments received during the consultation process have been considered prior to the Determination being made. The ACMA is satisfied that consultation has been conducted in accordance with the requirements of section 17 of the LIA.

## Regulatory Impact

The ACMA has formed the view that the recommendation in this submission would give rise to regulatory change with only minor or machinery impact on the business or not-for-profit sector.

**Commencement**

In accordance with section 2, the Determination will commence the day after it is registered on the Federal Register of Legislative Instruments.

## **Notes on the Sections**

### **Section 1 – Name of Determination**

This section sets out the title of the Determination.

### **Section 2 – Commencement**

This section provides that the Determination commences the day after it is registered on the Federal Register of Legislative Instruments.

### **Section 3 – Definitions**

This section sets out definitions of terms used in the Determination.

### **Section 4 – Determination – subsection 138 (1) of the Scheme**

This section determines that, under subsection 138(1) of the Scheme, the date by which each commercial television broadcasting licence holder for the RCEA TV1, RCEA TV2 and Mount Isa TV1 licence areas is required to commence transmitting the commercial television broadcasting service concerned in SDTV digital mode is 2 May 2011. This is also the start of the simulcast period for these licence areas (see section 139 of the Scheme).