



# Broadcasting Amendment Act (No. 2) 1990

No. 7 of 1991

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## An Act to amend the *Broadcasting Act 1942* and other Acts relating to broadcasting, and for related purposes

[Assented to 8 January 1991]

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

### Short title etc.

1. (1) This Act may be cited as the *Broadcasting Amendment Act (No. 2) 1990*.

(2) In this Act, “Principal Act” means the *Broadcasting Act 1942*<sup>1</sup>.

### Commencement

2. (1) Sections 1 to 12 (inclusive), paragraphs 13 (a), (b) and (e), section 14, paragraph 15 (a), sections 17, 18 and 19, paragraphs 24 (c) and 28 (c) and sections 32, 35 and 37 commence on the day on which this Act receives the Royal Assent.

(2) The amendment of the *Broadcasting (National Metropolitan Radio Plan) Act 1988* made by section 35 is taken to have commenced on 26 December 1988.

(3) The amendment of the *Broadcasting Legislation Amendment Act 1988* made by section 35 is taken to have commenced on 1 March 1989.

(4) Subject to subsection (5), the remaining provisions of this Act commence on a day or days to be fixed by Proclamation.

(5) If a provision referred to in subsection (4) does not commence under that subsection within the period of 6 months beginning on the day on which this Act receives the Royal Assent, it commences on the first day after the end of that period.

3. Section 14 of the Principal Act is repealed and the following section is substituted:

#### **Leave of absence**

“14. (1) The Minister may grant the Chairman leave of absence on such terms and conditions as to remuneration or otherwise as the Minister determines in writing.

“(2) The Chairman may grant another member or an associate member leave of absence on such terms and conditions as to remuneration or otherwise as the Chairman determines in writing.”.

#### **Termination of office**

4. Section 15A of the Principal Act is amended by omitting from subparagraph (2) (b) (ii) “granted by the Minister”.

#### **Ordinary inquiries**

5. Section 17C of the Principal Act is amended by inserting after subsection (6A) the following subsection:

“(6B) Before the Tribunal holds a joint ordinary inquiry into the renewal of 2 or more commercial licences whose service areas do not overlap, the Tribunal is to obtain consent to do so from the holders of the licences.”.

#### **Interpretation**

6. Section 80 of the Principal Act is amended by inserting in subsection (1) the following definition:

“‘**networking agreement**’ means a written agreement lodged with the Tribunal that provides for the supply of programs to the holder of a licence;”.

#### **Duration**

7. (1) Section 87 of the Principal Act is amended:

- (a) by omitting from subsection (2) “3 years” (first occurring) and substituting “5 years”;
- (b) by omitting from subsection (2) all the words after “in the licence”;
- (c) by inserting after subsection (2) the following subsections:

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“(2AA) The Tribunal is not to specify a lesser period under subsection (2) unless it is satisfied that the circumstances justify its doing so.

“(2AB) Without limiting the generality of subsection (2AA), circumstances justify the Tribunal specifying a lesser period where:

- (a) the Tribunal is satisfied that the period is likely to enable a future inquiry into the further renewal of that licence to be conducted as a joint ordinary inquiry; and
- (b) the licensee has consented in writing to that period.”;
- (d) by omitting from subsection (2C) “and (2)” and substituting “, (2) and (2AA)”;
- (e) by omitting from paragraph (2C)(b) “3 years” (wherever occurring) and substituting “5 years”.

(2) Without limiting the application of the amendment made by paragraph (1)(a) to licences granted by way of renewal or further renewal after the commencement of this section, that amendment also applies to licences in force on that commencement otherwise than because of subsection 87 (3) of the Principal Act.

(3) Where a licence granted by way of renewal is in force on the commencement of this section for a period of less than 3 years:

- (a) the Tribunal may, within the period of 3 months immediately after that commencement, direct that the period is to be extended by a period, not longer than 2 years, specified in the direction; and
- (b) where the Tribunal gives such a direction, the licence continues in force for the extended period.

### **Transfer of commercial licences**

8. Section 89A of the Principal Act is amended by adding at the end the following subsections:

“(11) Notwithstanding subsection (8), where, at the end of the period of 6 months beginning on the day on which an inquiry by the Tribunal into an application for consent to the transfer of a commercial licence began, or that period as extended under subsection (12), the Tribunal has neither given nor refused that consent, the Tribunal is taken to have given that consent.

“(12) Subject to subsection (13), where, during the period of 6 months beginning on the day on which an inquiry referred to in subsection (11) began, or that period as previously extended under this subsection, the Tribunal considers that it is necessary to extend or further extend the period to a particular date to enable a matter relevant to the inquiry to be dealt with, the Tribunal may so extend the period.

“(13) The Tribunal must not extend the period to a date unless it gives written reasons for the extension to that date.

“(14) For the purposes of this section, where, under a networking agreement, programs are supplied to the holder of a commercial licence by a party to the agreement, the party, or a person who holds a direct or indirect interest in the party, is not taken to be admitted by the holder to participate in any of the benefits of the licence, or to exercise any of the powers or authorities granted by the licence, just because of:

- (a) the terms of the agreement that relate to the supply of the programs; or
- (b) a business relationship created by those terms; or
- (c) the dependence of the holder on that supply for the provision of the service under the licence.

“(15) For the purposes of this section, where the holder of a commercial licence makes payments of a proportion of the holder’s gross earnings to a person for the purpose of distribution among the owners of copyrights, that person and the persons among whom the payments are distributed are not taken to be admitted by the holder to participate in any of the benefits of the licence, or to exercise any of the powers or authorities granted by the licence, just because of the payments or distribution.”.

#### **Transfer of supplementary radio licences**

9. Section 89B of the Principal Act is amended by adding at the end the following subsections:

“(7) For the purposes of this section where, under a networking agreement, programs are supplied to the holder of a supplementary radio licence by a party to the agreement, the party, or a person who holds a direct or indirect interest in the party, is not taken to be admitted by the holder to participate in any of the benefits of the licence, or to exercise any of the powers or authorities granted by the licence, just because of:

- (a) the terms of the agreement that relate to the supply of the programs; or
- (b) a business relationship created by those terms; or
- (c) the dependence of the holder on that supply for the provision of the service under the licence.

“(8) For the purposes of this section, where the holder of a supplementary radio licence makes payments of a proportion of the holder’s gross earnings to a person for the purpose of distribution among the owners of copyrights, that person and the persons among whom the payments are distributed are not taken to be admitted by the holder to participate in any of the benefits of the licence, or to exercise any of the powers or authorities granted by the licence, just because of the payments or distribution.”.

**Transfer of public licences**

**10.** Section 89C of the Principal Act is amended by adding at the end the following subsection:

“(4) For the purposes of this section, where the holder of a public licence makes payments of a proportion of the holder’s gross earnings to a person for the purpose of distribution among the owners of copyrights, that person and the persons among whom the payments are distributed are not taken to be admitted by the holder to participate in any of the benefits of the licence, or to exercise any of the powers or authorities granted by the licence, just because of the payments or distribution.”.

**Transfer of remote licences**

**11.** Section 89CA of the Principal Act is amended by adding at the end the following subsections:

“(6) For the purposes of this section, where, under a networking agreement, programs are supplied to the holder of a remote licence by a party to the agreement, the party, or a person who holds a direct or indirect interest in the party, is not taken to be admitted by the holder to participate in any of the benefits of the licence, or to exercise any of the powers or authorities granted by the licence, just because of:

- (a) the terms of the agreement that relate to the supply of the programs; or
- (b) a business relationship created by those terms; or
- (c) the dependence of the holder on that supply for the provision of the service under the licence.

“(7) For the purposes of this section, where the holder of a remote licence makes payments of a proportion of the holder’s gross earnings to a person for the purpose of distribution among the owners of copyrights, that person and the persons among whom the payments are distributed are not taken to be admitted by the holder to participate in any of the benefits of the licence, or to exercise any of the powers or authorities granted by the licence, just because of the payments or distribution.”.

**Transfer of limited licence**

**12.** Section 89CB of the Principal Act is amended by adding at the end the following subsection:

“(7) For the purposes of this section, where the holder of a limited licence makes payments of a proportion of the holder’s gross earnings to a person for the purpose of distribution among the owners of copyrights, that person and the persons among whom the payments are distributed are not taken to be admitted by the holder to participate in any of the benefits of the licence, or to exercise any of the powers or

authorities granted by the licence, just because of the payments or distribution.”.

### **Interpretation**

13. Section 89E of the Principal Act is amended:

- (a) by inserting “subject to section 89KB,” before “when” in paragraph (c) of the definition of “control” in subsection (1);
- (b) by omitting “meaning given by section 89K” from paragraph (c) of the definition of “control” in subsection (1) and substituting “meanings given by sections 89JA and 89K”;
- (c) by omitting from subsection (1) the definition of “interest” and substituting the following definition:  
“**‘interest’**, in relation to a commercial licence or a newspaper, means a shareholding interest or a voting interest;”;
- (d) by omitting from subsection (1) the definitions of “financial interest” and “loan interest”;
- (e) by inserting in subsection (1) the following definition:  
“**‘loan agreement’**, in relation to a company, means an agreement under which:
  - (a) money is lent or advanced to the company; or
  - (b) money is deposited with the company; or
  - (c) a debt or liability (whether or not financial) of the company arises;whether or not:
  - (d) the money, debt or liability is secured; or
  - (e) money payable by the company under the agreement is presently payable; or
  - (f) liability arising under the agreement is unconditional;”.

14. After section 89E of the Principal Act the following section is inserted:

### **Networking agreements not to create certain interests or control**

“89EA. (1) In this section:

**‘competing licensee’** means:

- (a) the holder of a commercial television licence that is one of 2 or more such licences with co-extensive service areas; or
- (b) the holder of a commercial television licence in an approved market who has been given notice under section 94J stating that the market is proceeding immediately towards aggregation;

**‘networking agreement’** means a written agreement lodged with the Tribunal that provides for the supply of programs to a competing licensee.

“(2) Where, under a networking agreement, programs are supplied to a competing licensee by a party to the agreement, being programs

for the provision of the service under the licence because of which the licensee is a competing licensee, then, for the purposes of paragraphs 92 (1) (a), 92JB (1) (a) and 92JB (2) (a), the party, or a person who holds a direct or indirect interest in the party, is not taken to have a prescribed interest in that licence just because of:

- (a) the terms of the agreement that relate to the supply of the programs; or
- (b) a business relationship created by those terms; or
- (c) the dependence of the licensee on that supply for the provision of the service under the licence.

“(3) Where, under a networking agreement, programs are supplied to a competing licensee by a company that is a party to the agreement, being programs for the provision of the service under the licence because of which the licensee is a competing licensee, then, for the purposes of subsections 92C (1), 92JD (1) and 92JD (2), the company is not taken to be in a position to exercise control of that licence just because of:

- (a) the terms of the agreement that relate to the supply of the programs; or
- (b) a business relationship created by those terms; or
- (c) the dependence of the licensee on that supply for the provision of the service under the licence.”.

### **Prescribed interests**

**15.** Section 89F of the Principal Act is amended:

- (a) by omitting from subsection (2) “For” and substituting “Subject to subsection 89EA (2), for”;
- (b) by omitting from paragraph (2) (c) “5%” and substituting “15%”;
- (c) by adding at the end of paragraph (2) (c) “or”;
- (d) by omitting paragraph (2) (d);
- (e) by omitting from paragraph (2) (e) “5%” and substituting “15%”.

### **Shareholding interests and voting interests**

**16.** Section 89G of the Principal Act is amended by omitting subsections (3) and (4).

**17.** After section 89J of the Principal Act the following section is inserted:

#### **Control of company by exercise of direction or restraint**

“89JA. (1) For the purposes of this Part, a person who is in a position:

- (a) to veto any action taken by the board of directors; or
- (b) to appoint, or veto the appointment of, at least half of the board of directors; or

- (c) in any other manner to exercise, either directly or indirectly, direction or restraint over any substantial issue affecting the management or affairs;

of a company is taken (but not to the exclusion of any other person) to be in a position to exercise control of:

- (d) that company; and
- (e) all acts and operations of that company; and
- (f) any votes, of which that company is in a position to exercise control, in another company.

“(2) For the purposes of this section, where a person is, because of any application or applications of this section, taken to be in a position to exercise control of a company that has a shareholding interest in another company, that person is taken (but not to the exclusion of any other person) to have that shareholding interest.”.

### **Control of company**

18. Section 89K of the Principal Act is amended:

- (a) by inserting in subsection (1) “89JA (1),” after “subsections”;
- (b) by adding at the end the following subsection:

“(4) References in subsections (2) and (3) to any application or applications of this section include references to a combination of such an application or applications and the operation of section 89JA.”.

19. (1) After section 89K of the Principal Act the following sections are inserted:

### **Control by persons acting together**

“89KA. For the purposes of this Part, where:

- (a) 2 or more persons act together, in accordance with an agreement, arrangement, understanding or practice (whether formal or informal), for the purpose of being, between them, in a position, otherwise than because of section 89K, to exercise control of a commercial licence, newspaper or company; and
- (b) because of so acting, they are, between them, in that position;

each of them is taken to be in that position.”.

### **Certain loans not to result in control**

“89KB. (1) In this section:

‘authorised lender’ means:

- (a) a bank within the meaning of the *Banking Act 1959*;
- (b) a corporation formed under the law of a State or Territory to carry on the business of banking within Australia; or
- (c) a corporation whose sole or principal business is the making of loans to other persons, being a corporation:



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- (i) that is registered as a financial institution under the *Financial Corporations Act 1974*; or
- (ii) in respect of which a declaration under subsection (5) is in force; or
- (iii) in respect of which an application for such a declaration has been made but not finally disposed of;

**'controller'**, in relation to an authorised lender, means a person in a position to exercise control of the lender;

**'media company'** means:

- (a) a company that holds a commercial licence; or
- (b) a company that publishes a newspaper; or
- (c) a company that is in a position to exercise control of a company referred to in paragraph (a) or (b).

“(2) Subject to subsections (3) and (4), where an authorised lender has a loan agreement with a media company, then, for the purposes of this Part:

- (a) the agreement; and
- (b) any arrangement, mortgage or other transaction associated with the agreement; and
- (c) any rights or powers of the lender under the agreement or such a transaction; and
- (d) the exercise of any of those rights or powers;

are to be disregarded in determining whether, or to what extent, the lender or any controller of the lender is in a position to exercise control of:

- (e) the company; or
- (f) the acts and operations of the company; or
- (g) the votes, of which the company is in a position to exercise control, in another company.

“(3) Where:

- (a) the media company holds, or is in a position to exercise control of a company that holds, a commercial licence; and
- (b) the authorised lender or a controller of the lender:
  - (i) exercises control over persons or matters in such a way as to prevent the licensee complying with a condition of the licence; or
  - (ii) controls the selection or provision of the programs to be broadcast pursuant to the licence;

then subsection (2) does not apply in determining whether, or to what extent, the lender or that person is in a position to exercise control of the media company or of a matter referred to in paragraph (2) (f) or (g).

“(4) Where:

- (a) the media company publishes, or is in a position to exercise control of a company that publishes, a newspaper; and
- (b) the authorised lender or a controller of the lender controls the selection or provision of the material to be published in the newspaper;

then subsection (2) does not apply in determining whether, or to what extent, the lender or the person is in a position to exercise control of the media company or of a matter referred to in paragraph (2) (f) or (g).

“(5) The Tribunal may, in writing, declare a corporation (whether formed inside or outside Australia) whose sole or principal business is the making of loans to other persons to be an authorised lender for the purposes of this section.”.

(2) During the 3 months beginning on the commencement of this section, a corporation whose sole or principal business is the making of loans to other persons is an authorised lender for the purposes of section 89KB and 92M of the Principal Act as amended by this Act.

#### **Certain loans not to result in control**

20. Section 89KB of the Principal Act is amended by inserting in subsection (2) “(other than sections 90LA and 92GA)” after “Part”.

#### **Repeal of sections 89P, 89Q and 89R**

21. Sections 89P, 89Q and 89R of the Principal Act are repealed.

#### **Limitation of interests in commercial radio licences**

22. Section 90C of the Principal Act is amended:

- (a) by omitting from subsection (5B) “to which the person is a party and”;
- (b) by omitting paragraph (5B) (a);
- (c) by omitting paragraph (5B) (c) and substituting the following paragraphs:
  - “(c) subject to paragraph (d), where the person lodged, or was required to lodge, an application under section 90J about the transaction—after the end of the period of 6 months beginning immediately after the day on which the Tribunal gives approval, or refuses approval in whole or in part, of the transaction in so far as it affects the person; or
- (d) where:
  - (i) the person, not being a party to the transaction, lodged, or was required to lodge, an application under section 90J about the transaction; and
  - (ii) a party to the transaction also lodged, or was required to lodge, such an application—

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after the end of the period of 6 months beginning immediately after whichever is the later of:

- (iii) the day on which the Tribunal gives approval, or refuses approval in whole or in part, of the transaction in so far as it affects the person; or
  - (iv) the day on which the Tribunal gives approval, or refuses approval in whole or in part, of the transaction, in so far as it affects the party; or
- (e) subject to paragraph (f), where the person did not, and was not required to, lodge an application under section 90J about the transaction—after the end of the period of 6 months beginning immediately after the last day on which, if paragraphs 90J (7CA) (a) and (b) applied in relation to the transaction, a direction under subsection 90J (7CA) about the transaction could have been given; or

(f) where:

(i) the person, not being a party to the transaction, did not, and was not required to, lodge an application under section 90J about the transaction; but

(ii) a party to the transaction lodged, or was required to lodge, such an application—

after the end of the period of 6 months beginning immediately after whichever is the later of:

(iii) the last day on which, if paragraphs 90J (7CA) (a) and (b) applied in relation to the transaction, a direction under subsection 90J (7CA) about the transaction could have been given; or

(iv) the day on which the Tribunal gives approval, or refuses approval in whole or in part, of the transaction in so far as it affects the party.”;

(d) by omitting subsections (5C), (5D) and (5E) and substituting the following subsections:

“(5C) Subject to subsections (5D) and (5E), the Tribunal may extend a period of 6 months referred to in paragraph (5B) (c), (d), (e) or (f) in relation to a contravention of this section by a person.

“(5D) The Tribunal may only grant an extension under subsection (5C):

- (a) on the application of a person made within the period of 6 months that is being extended; and
- (b) by written notice served on the applicant.

“(5E) The Tribunal must not grant an application for the

extension of a period in relation to the contravention of this section by a person unless the Tribunal is satisfied that, within the period, the person made all reasonable efforts to end the contravention.”.

**Changes in ownership of shares etc.**

23. Section 90J of the Principal Act is amended:

- (a) by omitting subsections (3) to (7C) (inclusive) and substituting the following subsections:

**[Party to proposed transaction acquiring interests may apply for prior approval]**

“(3) A person who is a prescribed party to a proposed transaction because of paragraph (1) (a) may lodge with the Tribunal an application for approval of the transaction in so far as it affects the person.

**[Certain persons acquiring interests must apply for approval]**

“(4) A person to whom this section applies in relation to a transaction because of paragraph (1) (a), not being a person who lodged an application about it under subsection (3), must lodge with the Tribunal an application for approval of the transaction in so far as it affects the person.

**[Applications under subsection (4)]**

“(5) An application under subsection (4):

- (a) must be lodged within 28 days after the day on which the transaction took place; and
- (b) where the person to whom the application relates is not a party to the transaction—may be lodged on the person’s behalf by a party to the transaction.

**[Party to proposed transaction increasing interests may apply for prior approval]**

“(6) A person who is a prescribed party to a proposed transaction because of paragraph (1) (b) or (c) may lodge with the Tribunal an application for approval of the transaction in so far as it affects the party.

**[Party to transaction increasing interests must give notice]**

“(7) A person who is a prescribed party to a transaction because of paragraph (1) (b) or (c), not being a person who lodged an application about it under subsection (6), must lodge with the Tribunal a notice of the transaction within 7 days after the day on which the transaction took place.

**[Non-party to transaction having interests increased must give notice]**

“(7A) Subject to subsection (7B), a person to whom this section applies in relation to a transaction because of paragraph (1) (b) or (c) who is not a party to it must lodge with the Tribunal a notice of the transaction.

**[Non-application of subsection (7A)]**

“(7B) Subsection (7A) does not apply to a transaction where a party to it:

- (a) has lodged an application under subsection (3) or (6); or
- (b) is required to lodge an application under subsection (4) or a notice under subsection (7);

about the transaction.

**[Notices under subsection (7A)]**

“(7C) A notice under subsection (7A) by a person about a transaction:

- (a) must be lodged within 28 days after the day on which the transaction took place; and
- (b) may be lodged on the person’s behalf by a party to the transaction.

**[Tribunal may direct application for approval]**

“(7CA) Where:

- (a) an application or notice under this section (whether as in force before or after the commencement of this subsection) about a transaction is lodged; and
- (b) the Tribunal is satisfied that:
  - (i) because of the transaction, a person to whom this section applies in relation to the transaction because of paragraph (1) (b) or (c) is, or is reasonably likely to be, in a position because of section 89JA to exercise control of the company holding the licence to which the transaction relates; or
  - (ii) because of the effect of the transaction in relation to a person, a condition to which the licence is subject because of section 90G might not be complied with;

the Tribunal may, within 3 months after the day on which:

- (c) where all the applications and notices about the transaction were under subsection (3) or (6)—the transaction took place; or
- (d) in any other case—the last application or notice about the transaction, other than an application under this subsection, was lodged;

direct the person to lodge with it, within 28 days after the day on which the direction is given, an application for approval of the transaction in so far as it affects the person, and the person must comply with the direction.

**[Applications]**

“(7CB) An application under this section must be in a form approved by the Tribunal.

**[Contents of notices under subsection (7) or (7A)]**

“(7CC) A notice under subsection (7) or (7A) about a transaction must give:

- (a) the name of the person lodging the notice and, where the notice is lodged on behalf of another person, the name of that other person; and
- (b) the call sign of the licence affected by the transaction; and
- (c) the name of the company to which the transaction relates; and
- (d) the number of shares in the company that were concerned in the transaction; and
- (e) a full description of the voting rights attached to those shares; and
- (f) the date of the transaction; and
- (g) the name of the party to the transaction acquiring interests; and
- (h) the name of the company’s holding company (within the meaning of section 90LA), if any; and
- (j) the last date, if any, on which the person required to lodge the notice lodged, or had lodged on the person’s behalf, an application or earlier notice under this section (whether before or after the commencement of this paragraph); and
- (k) where a date is given under paragraph (j):
  - (i) particulars of any changes since the date in the issued capital of the company to which the transaction relates and, where another company is required to lodge the notice, the other company, including changes in the value or voting rights of shares; and
  - (ii) in the case of a company required to lodge the notice—particulars of the number and classes of shares in the company held by the persons with the 5 largest shareholdings in the company; and
  - (iii) in the case of a company required to lodge the notice—particulars of any changes since the date

of the directors of, or of directorships held by directors of, the company; and

- (iv) notice of any change because of which the person required to lodge the notice has become, or ceased to be, a foreign person.

**[Extension of periods for lodging]**

“(7CD) Where a person is required to lodge an application or notice under this section within a period, the Tribunal may, on the application of a person, extend the period.

**[Incorrect applications and notices not lodged]**

“(7CE) An application or notice is to be taken not to be lodged under this section if it contains a statement (not being a statement as to future events) that:

- (a) is false or misleading in a material particular; or
- (b) is misleading in a material respect because of the omission of any matter or thing.

**[Applications or notices may be combined]**

“(7CF) Where 2 or more applications under subsection (4), or 2 or more notices under subsection (7A), about a transaction are lodged by the same person, they may be combined in one document, but subsection (7CE) and the other provisions of this Act apply in relation to the applications or notices as if they had not been combined.”;

- (b) by omitting from subsection (7D) “given to or” (wherever occurring);
- (c) by omitting from subsection (7D) “subsection (3) or (7A)” and substituting “this section”;
- (d) by omitting subsection (7E);
- (e) by omitting from subsection (7F) “(7A)” and substituting “(4), (7), (7A) or (7CA)”;
- (f) by omitting subsection (7G);
- (g) by omitting subsection (10).

**Approval of transactions**

**24.** Section 90JA of the Principal Act is amended:

- (a) by inserting after subsection (2) the following subsections:

“(3) Notwithstanding subsection (2), where, at the end of the period of 6 months beginning on the day on which an inquiry by the Tribunal into an application for the approval of a transaction in so far as it affects a person began, or that period as extended under subsection (3A), the Tribunal has neither:

- (a) given that approval; nor
- (b) refused that approval in whole or in part;

the Tribunal is taken to have given that approval.

“(3A) Subject to subsection (3B), where, during the period of 6 months beginning on the day on which an inquiry began, or that period as previously extended under this subsection, the Tribunal considers that it is necessary to extend or further extend the period to a particular date to enable a matter relevant to the inquiry to be dealt with, the Tribunal may so extend the period.

“(3B) The Tribunal must not extend the period to a date unless it gives written reasons for the extension to that date.

“(3C) Where the Tribunal:

- (a) has begun an inquiry into an application for the approval of a transaction in so far as it affects a person; and
- (b) joins the inquiry with an inquiry into an application for the approval of a later transaction in so far as it affects the person;

then, for the purposes of subsections (3) and (3A), the inquiry about the earlier transaction is taken to have begun on the day on which it was joined with the other inquiry.”;

- (b) by omitting from subsection (5) “paragraph 90J (3) (b)” and substituting “subsection 90J (3) or (6)”;
- (c) by omitting from paragraph (9) (e) “3” and substituting “5”;
- (d) by omitting from paragraph (11) (a) “subsection 90J (7A)” and substituting “section 90J”.

25. After section 90L of the Principal Act the following section is inserted:

**Condition about quarterly notifications**

“90LA. (1) In this section:

**‘agreement’** includes arrangement and understanding;

**‘holding company’**, in relation to a company, means another company that would be deemed to be in a position to exercise control of the company because of section 89K if the references in subsection 89K (1) to 15% were references to 50%;

**‘quarter’** means a period of 3 months ending on the last day of March, June, September or December in any year.

“(2) Subject to subsections (3) and (6), a licence is subject to a condition that, where a person:

- (a) was not in a position to exercise control of the licensee immediately before the commencement of a quarter; but
- (b) was in that position during that quarter because of a loan agreement between the licensee and the person, or between a holding company of the licensee and the person, or another



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agreement, or a practice or event, notice of which is not required to be given under another provision of this Act;

then:

- (c) the Chairman of Directors of the licensee or another director approved by the Tribunal; and
- (d) the person holding or acting in the office of manager of the licensee or the person holding or acting in the office of secretary of the licensee;

must, not later than 28 days after the end of the quarter, lodge with the Tribunal a notice of the circumstances described in paragraphs (a) and (b).

“(3) Subsection (2) does not apply to:

- (a) the quarter in which this section commenced; or
- (b) the next quarter.

“(4) Subject to subsection (6), a licence in force in the next quarter after the quarter in which this section commenced is subject to a condition that, where a person:

- (a) was not in a position to exercise control of the licensee immediately before the commencement of this section or the grant of the licence, whichever occurred last; but
- (b) was in that position at the end of that next quarter because of a loan agreement between the licensee and the person, or between a holding company of the licensee and the person, or another agreement, or a practice or event, notice of which is not required to be given under another provision of this Act;

then:

- (c) the Chairman of Directors of the licensee or another director approved by the Tribunal; and
- (d) the person holding or acting in the office of manager of the licensee or the person holding or acting in the office of secretary of the licensee;

must, not later than 28 days after the end of the quarter, lodge with the Tribunal a notice of the circumstances described in paragraphs (a) and (b).

“(5) The notice under subsection (2) or (4) must:

- (a) give the name and address of the person in the position to exercise control; and
- (b) specify the period during which the person was in that position; and
- (c) give particulars of any matter that:
  - (i) has a material effect on the capacity of the person to exercise control; and

- (ii) is known to the persons lodging the notice; and
- (d) give particulars of the steps each of the persons lodging the notice has taken to find out particulars of the matters referred to in paragraphs (a), (b) and (c).

“(6) A notice under subsection (2) or (4) about a person being in a position to exercise control of a licensee is not required where:

- (a) the person is deemed to be in the position because of section 89K but would not otherwise be in the position for the purposes of this Part; or
- (b) the person is in that position only because he or she is an officer or employee of the licensee or of a holding company of the licensee; or
- (c) the position arose because of a transaction about which an application or notice has been lodged under section 90J; or
- (d) the position arose because of a networking agreement (within the meaning of Part IIIB).”.

**Limitation of interests in commercial television licences**

**26. Section 92 of the Principal Act is amended:**

- (a) by omitting from subsection 92 (4B) “to which the person is a party”;
- (b) by omitting paragraph (4B) (a);
- (c) by omitting paragraph (4B) (c) and substituting the following paragraphs:

“(c) subject to paragraph (d), where the person lodged, or was required to lodge, an application under section 92F about the transaction—after the end of the period of 6 months beginning immediately after the day on which the Tribunal gives approval, or refuses approval in whole or in part, of the transaction in so far as it affects the person; or

(d) where:

(i) the person, not being a party to the transaction, lodged, or was required to lodge, an application under section 92F about the transaction; and

(ii) a party to the transaction also lodged, or was required to lodge, such an application—

after the end of the period of 6 months beginning immediately after whichever is the later of:

(iii) the day on which the Tribunal gives approval, or refuses approval in whole or in part, of the transaction in so far as it affects the person; or

(iv) the day on which the Tribunal gives approval, or refuses approval in whole or in part, of the transaction, in so far as it affects the party; or

- (e) subject to paragraph (f), where the person did not, and was not required to, lodge an application under section 92F about the transaction—after the end of the period of 6 months beginning immediately after the last day on which, if paragraphs 92F (7CA) (a) and (b) applied in relation to the transaction, a direction under subsection 92F (7CA) about the transaction could have been given; or
- (f) where:
  - (i) the person, not being a party to the transaction, did not, and was not required to, lodge an application under section 92F about the transaction; but
  - (ii) a party to the transaction lodged, or was required to lodge, such an application—  
after the end of the period of 6 months beginning immediately after whichever is the later of:
    - (iii) the last day on which, if paragraphs 92F (7CA) (a) and (b) applied in relation to the transaction, a direction under subsection 92F (7CA) about the transaction could have been given; or
    - (iv) the day on which the Tribunal gives approval, or refuses approval in whole or in part, of the transaction in so far as it affects the party.”;
- (d) by omitting subsections (4C), (4D) and (4E) and substituting the following subsections:
  - “(4C) Subject to subsections (4D) and (4E), the Tribunal may extend a period of 6 months referred to in paragraph (4B) (c), (d), (e) or (f) in relation to a contravention of this section by a person.
  - “(4D) The Tribunal may only grant an extension under subsection (5):
    - (a) on the application of a person made within the period of 6 months that is being extended; and
    - (b) by written notice served on the applicant.
  - “(4E) The Tribunal must not grant an application for the extension of a period in relation to the contravention of this section by a person unless the Tribunal is satisfied that, within the period, the person made all reasonable efforts to end the contravention.”.

**Changes in ownership of shares etc.**

27. Section 92F of the Principal Act is amended:

- (a) by adding at the end of paragraph (1) (b) “or”;

- (b) by omitting from paragraph (1) (c) “or” (last occurring);
- (c) by omitting paragraph (1) (d);
- (d) by omitting subsections (3) to (7C) (inclusive) and substituting the following subsections:

**[Party to proposed transaction acquiring interests may apply for prior approval]**

“(3) A person who is a prescribed party to a proposed transaction because of paragraph (1) (a) may lodge with the Tribunal an application for approval of the transaction in so far as it affects the person.

**[Certain persons acquiring interests must apply for approval]**

“(4) A person to whom this section applies in relation to a transaction because of paragraph (1) (a), not being a person who lodged an application about it under subsection (3), must lodge with the Tribunal an application for approval of the transaction in so far as it affects the person.

**[Applications under subsection (4)]**

“(5) An application under subsection (4):

- (a) must be lodged within 28 days after the day on which the transaction took place; and
- (b) where the person to whom the application relates is not a party to the transaction—may be lodged on the person’s behalf by a party to the transaction.

**[Party to proposed transaction increasing interests may apply for prior approval]**

“(6) A person who is a prescribed party to a proposed transaction because of paragraph (1) (b) or (c) may lodge with the Tribunal an application for approval of the transaction in so far as it affects the party.

**[Party to transaction increasing interests must give notice]**

“(7) A person who is a prescribed party to a transaction because of paragraph (1) (b) or (c), not being a person who lodged an application about it under subsection (6), must lodge with the Tribunal a notice of the transaction within 7 days after the day on which the transaction took place.

**[Non-party to transaction having interests increased must give notice]**

“(7A) Subject to subsection (7B), a person to whom this section applies in relation to a transaction because of paragraph (1) (b) or (c) who is not a party to it must lodge with the Tribunal a notice of the transaction.

**[Non-application of subsection (7A)]**

“(7B) Subsection (7A) does not apply to a transaction where a party to it:

- (a) has lodged an application under subsection (3) or (6); or
- (b) is required to lodge an application under subsection (4) or a notice under subsection (7);

about the transaction.

**[Notices under subsection (7A)]**

“(7C) A notice under subsection (7A) by a person about a transaction:

- (a) must be lodged within 28 days after the day on which the transaction took place; and
- (b) may be lodged on the person’s behalf by a party to the transaction.

**[Tribunal may direct application for approval]**

“(7CA) Where:

- (a) an application or notice under this section (whether as in force before or after the commencement of this subsection) about a transaction is lodged; and
- (b) the Tribunal is satisfied that:
  - (i) because of the transaction, a person to whom this section applies in relation to the transaction because of paragraph (1)(b) or (c) is, or is reasonably likely to be, in a position because of section 89JA to exercise control of the company holding the licence to which the transaction relates; or
  - (ii) because of the effect of the transaction in relation to a person, a condition to which the licence is subject because of section 92D might not be complied with;

the Tribunal may, within 3 months after the day on which:

- (c) where all the applications and notices about the transaction were under subsection (3) or (6)—the transaction took place; or
- (d) in any other case—the last application or notice about the transaction, other than an application under this subsection, was lodged;

direct the person to lodge with it, within 28 days after the day on which the direction was given, an application for approval of the transaction in so far as it affects the person, and the person must comply with the direction.

**[Applications]**

“(7CB) An application under this section must be in a form approved by the Tribunal.

**[Content of notices under subsection (7) or (7A)]**

“(7CC) A notice under subsection (7) or (7A) about a transaction must give:

- (a) the name of the person lodging the notice and, where the notice is lodged on behalf of another person, the name of that other person; and
- (b) the call sign of the licence affected by the transaction; and
- (c) the name of the company to which the transaction relates; and
- (d) the number of shares in the company that were concerned in the transaction; and
- (e) a full description of the voting rights attached to those shares; and
- (f) the date of the transaction; and
- (g) the name of the party to the transaction acquiring interests; and
- (h) the name of the company’s holding company (within the meaning of section 90LA), if any; and
- (j) the last date, if any, on which the person required to lodge the notice lodged, or had lodged on the person’s behalf, an application or earlier notice under this section (whether before or after the commencement of this paragraph); and
- (k) where a date is given under paragraph (j):
  - (i) particulars of any changes since the date in the issued capital of the company to which the transaction relates and, where another company is required to lodge the notice, the other company, including changes in the value or voting rights of shares; and
  - (ii) in the case of a company required to lodge the notice—particulars of the number and classes of shares in the company held by the persons with the 5 largest shareholdings in the company; and
  - (iii) in the case of a company required to lodge the notice—particulars of any changes since the date of the directors of, or of directorships held by directors of, the company; and

- (iv) notice of any change because of which the person required to lodge the notice has become, or ceased to be, a foreign person.

**[Extension of periods for lodging]**

“(7CD) Where a person is required to lodge an application or notice under this section within a period, the Tribunal may, on the application of a person, extend the period.

**[Incorrect applications and notices not lodged]**

“(7CE) An application or notice is to be taken not to be lodged under this section if it contains a statement (not being a statement as to future events) that:

- (a) is false or misleading in a material particular; or
- (b) is misleading in a material respect because of the omission of any matter or thing.

**[Applications or notices may be combined]**

“(7CF) Where 2 or more applications under subsection (4), or 2 or more notices under subsection (7A), about a transaction are lodged by the same person, they may be combined in one document, but subsection (7CE) and the other provisions of this Act apply in relation to the applications or notices as if they had not been combined.”;

- (e) by omitting from subsection (7D) “given to or” (wherever occurring);
- (f) by omitting from subsection (7D) “subsection (3) or (7A)” and substituting “this section”;
- (g) by omitting subsection (7E);
- (h) by omitting from subsection (7F) “(7) or (7A)” and substituting “(4), (7), (7A) or (7CA)”;
- (j) by omitting subsection (7G);
- (k) by omitting subsections (9) and (10).

**Approval of transactions**

**28.** Section 92FAA of the Principal Act is amended:

- (a) by inserting after subsection (2) the following subsections:

“(3) Notwithstanding subsection (2), where, at the end of the period of 6 months beginning on the day on which an inquiry by the Tribunal into an application for the approval of a transaction in so far as it affects a person began, or that period as extended under subsection (3A), the Tribunal has neither:

- (a) given that approval; nor
  - (b) refused that approval in whole or in part;
- the Tribunal is taken to have given that approval.

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“(3A) Subject to subsection (3B), where, during the period of 6 months beginning on the day on which an inquiry began, or that period as previously extended under this subsection, the Tribunal considers that it is necessary to extend or further extend, as the case may be, the period to a particular date to enable a matter relevant to the inquiry to be dealt with, the Tribunal may so extend the period.

“(3B) The Tribunal must not extend the period to a date unless it gives written reasons for the extension to that date.

“(3C) Where the Tribunal:

- (a) has begun an inquiry into an application for the approval of a transaction in so far as it affects a person; and
- (b) joins the inquiry with an inquiry into an application for the approval of a later transaction in so far as it affects the person;

then, for the purposes of subsections (3) and (3A), the inquiry about the earlier transaction is taken to have begun on the day on which it was joined with the other inquiry.”;

- (b) by omitting from subsection (5) “paragraph 92F (3) (b)” and substituting “subsection 92F (3) or (6)”;
- (c) by omitting from paragraph (9) (e) “3” and substituting “5”;
- (d) by omitting from subsection (10) “voting interests of a particular kind, or financial interests” and substituting “or voting interests of a particular kind”;
- (e) by omitting from subsection (10) “, voting or financial interests” and substituting “or voting interests”;
- (f) by omitting from subsection (10) “the voting interests of that kind, or the financial interests” and substituting “or the voting interests of that kind”.
- (g) by omitting from paragraph (11) (a) “subsection 92F (7A)” and substituting “section 92F”;
- (h) by omitting from paragraph (11) (c) “voting interests of a particular kind, or financial interests” and substituting “or voting interests of a particular kind”;
- (j) by omitting from subparagraphs (11) (c) (i) and (ii) “the voting interests of that kind, or the financial interests” and substituting “or the voting interests of that kind”;
- (k) by omitting from subparagraph (11) (c) (ii) “voting interests of that kind, or financial interests” and substituting “or voting interests of that kind”.

**29.** After section 92G of the Principal Act the following section is inserted:



**Condition about quarterly notifications**

“92GA. (1) In this section, ‘**agreement**’, ‘**holding company**’ and ‘**quarter**’ have the same meanings as in section 90LA.

“(2) Subject to subsections (3) and (6), a licence is subject to a condition that, where a person:

- (a) was not in a position to exercise control of the licensee immediately before the commencement of a quarter; but
- (b) was in that position during that quarter because of a loan agreement between the licensee and the person, or between a holding company of the licensee and the person, or another agreement, or a practice or event, notice of which is not required to be given under another provision of this Act;

then:

- (c) the Chairman of Directors of the licensee or another director approved by the Tribunal; and
- (d) the person holding or acting in the office of manager of the licensee or the person holding or acting in the office of secretary of the licensee;

must, not later than 28 days after the end of the quarter, lodge with the Tribunal a notice of the circumstances described in paragraphs (a) and (b).

“(3) Subsection (2) does not apply to:

- (a) the quarter in which this section commenced; or
- (b) the next quarter.

“(4) Subject to subsection (6), a licence in force in the next quarter after the quarter in which this section commences is subject to a condition that, where a person:

- (a) was not in a position to exercise control of the licensee immediately before the commencement of this section or the grant of the licence, whichever occurred last; but
- (b) was in that position at the end of that next quarter because of a loan agreement between the licensee and the person, or between a holding company of the licensee and the person, or another agreement, or a practice or event, notice of which is not required to be given under another provision of this Act;

then:

- (c) the Chairman of Directors of the licensee or another director approved by the Tribunal; and
- (d) the person holding or acting in the office of manager of the licensee or the person holding or acting in the office of secretary of the licensee;

must, not later than 28 days after the end of the quarter, lodge with the Tribunal a notice of the circumstances described in paragraphs (a) and (b).

“(5) The notice under subsection (2) or (4) must:

- (a) give the name and address of the person in the position to exercise control; and
- (b) specify the period during which the person was in that position; and
- (c) give particulars of any matter that:
  - (i) has a material effect on the capacity of the person to exercise control; and
  - (ii) is known to the persons lodging the notice; and
- (d) give particulars of the steps each of the persons lodging the notice has taken to find out particulars of the matters referred to in paragraphs (a), (b) and (c).

“(6) A notice under subsection (2) or (4) about a person being in a position to exercise control of a licensee is not required where:

- (a) the person is deemed to be in the position because of section 89K but, apart from being so deemed, would not be in the position for the purposes of this Part; or
- (b) the person is in that position only because he or she is an officer or employee of the licensee or of a holding company of the licensee; or
- (c) the position arose because of a transaction about which an application or notice has been lodged under section 92F; or
- (d) the position arose because of a networking agreement (within the meaning of Part IIIB).”.

### **Limitations on cross media interests**

**30.** Section 92JB of the Principal Act is amended:

- (a) by omitting from subsection (4) “(1)” and substituting “(2)”;
- (b) by omitting from subsection (4) “and only if”;
- (c) by omitting from subsection (4) “5% references to 15%” and substituting “15% references to 5%”;
- (d) by omitting subsection (8);
- (e) by omitting subsection (11);
- (f) by omitting paragraph (12) (a) and substituting the following paragraph:

“(a) the transaction is in respect of shares in:

- (i) a company that publishes a newspaper; or
- (ii) a company that has an interest in a company that publishes a newspaper; or
- (iii) a company holding a commercial television licence; or
- (iv) a company that has an interest in a company holding a commercial television licence; and”;

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- (g)** by inserting in paragraph (12) (b) “or licence, as the case requires,” after “newspaper”;
- (h)** by inserting in paragraph (13) (a) “(3)” after “92JC”;
- (j)** by inserting in paragraph (13) (a) “against subsection 92JC (3)” after “offence” (second occurring);
- (k)** by omitting from paragraph (13) (a) “that subsection” and substituting “subsection 92JC (3)”;
- (m)** by inserting in subparagraph (13) (b) (i) “is in respect of shares in a company described in subparagraph (12) (a) (i) or (ii) and” after “transaction”;
- (n)** by omitting subparagraph (13) (b) (ii) and substituting the following subparagraph:
  - “(ii) in any other case—the period of 6 months after the transaction takes place.”;
- (p)** by omitting from paragraph (13) (b) all the words after subparagraph (13) (b) (ii);
- (q)** by inserting after subsection (13) the following subsections:
  - “(13A) Subject to subsections (13B), (14A) and (14B), the Tribunal may extend the period of 6 months referred to in subparagraph (13) (b) (ii) in relation to a contravention of this section by a person.
  - “(13B) The Tribunal may only grant an extension under subsection (13A):
    - (a) on an application under subsection (14); and
    - (b) by written notice served on the applicant in accordance with subsection (14C).”;
- (r)** by omitting from subsection (14) “subsection (13)” and substituting “subparagraph (13) (b) (ii)”;
- (s)** by inserting after subsection (14) the following subsections:
  - “(14A) The Tribunal must not grant an application for the extension of a period made within the period in relation to a contravention of this section by a person unless it is satisfied that, within the period, the person made all reasonable efforts to end the contravention.
  - “(14B) The Tribunal must not grant an application for the extension of a period made after the period in relation to a contravention of this section by a person unless it is satisfied that, as soon as practicable after the person became aware of the contravention, the person made all reasonable efforts to end the contravention.
  - “(14C) The notice referred to in paragraph (13B) (b) is to be served:
    - (a) where the application is received not less than 2 weeks

before the end of the 6 month period referred to in that subparagraph—within that 6 month period; or

(b) in any other case—as soon as practicable.

“(14D) Where, under subsection (14C), a notice allowing an extension of the 6 month period referred to in subparagraph (13) (b) (ii) is served on the person after the end of that period:

(a) the notice is taken to have been served immediately before the end of the period; and

(b) for the purposes of ascertaining under subsection (13) the day or days in respect of which the person is guilty of a separate offence, there is taken to have been no break in that period as extended by the Tribunal.”;

(t) by omitting from subsection (15) “radio” (last occurring) and substituting “television”;

(u) by omitting from subsection (15) “television” (last occurring) and substituting “radio”.

**Person to notify Tribunal of acquisition of certain cross media interests**

**31. Section 92JC of the Principal Act is amended:**

(a) by inserting after subsection (1) the following subsection:

“(1A) Where a person:

(a) has a prescribed interest in a newspaper associated with the service area of a commercial television licence; and

(b) acquires a prescribed interest in that licence otherwise than because of a transaction referred to in section 92F;

the person must give the Tribunal notice in writing of the acquisition.”;

(b) by omitting subsection (2) and substituting the following subsection:

“(2) A notice under subsection (1) or (1A) must be given:

(a) in the case of a transaction referred to in subparagraph 92JB (12) (a) (i) or (ii) resulting in an acquisition during the relevant transition period—not more than 28 days after the end of the relevant transition period; or

(b) in any other case—not more than 28 days after the acquisition occurs.”;

(c) by inserting in subsection (3) “or (1A)” after “subsection (1)”;

(d) by inserting after subsection (3) the following subsection:

“(3A) For the purposes of subsections (1) and (1A), a person is taken to have a prescribed interest in a commercial television licence where the person would have such an interest if the references in subsection 89F (2) to 15% were references to 5%.”.

**Directions to protect licensee**

**32.** Section 92M of the Principal Act is amended:

(a) by inserting after subsection (1) the following subsections:

“(1AA) At any time the Tribunal may, by notice in writing served on a person who is in a position to exercise control of a commercial licence, give such directions to the person as it thinks fit for the purpose of preventing the person or any servant or agent of the person from doing any act or thing likely to have an adverse effect on:

(a) the ability of the licensee to comply with the conditions of the licence; or

(b) the operations of the licensee in providing the service pursuant to the licence or the selection or the provision of the programs to be broadcast pursuant to the licence.

“(1AB) For the purposes of subsection (1AA), where an authorised lender (within the meaning of section 89KB) has a loan agreement with the company holding a commercial licence or with a company in a position to exercise control of that company, the lender and any person in a position to exercise control of the lender is in a position to exercise control of the licence.”;

(b) by inserting in subsection (2) “, (1AA)” after “(1)”.

**Interpretation**

**33.** Section 92UA of the Principal Act is amended by omitting “financial interest” from the definition of “interest” and substituting “an interest under a loan agreement”.

**Secrecy**

**34.** Section 125 of the Principal Act is amended by omitting from subsection (2A) “90J (3) or 92F (3)” and substituting “90J (3) or (6) or 92F (3) or (6)”.

**Amendments of Acts about broadcasting**

**35.** The Principal Act and the other Acts specified in Schedule 1 are amended as set out in that Schedule.

**Consequential amendments**

**36.** The Principal Act is amended as set out in Schedule 2.

**Application**

**37.** The amendments made by sections 22 and 23, paragraph 24 (a), sections 26 and 27 and paragraph 28 (a) do not apply in relation to transactions (within the meaning of Divisions 2 and 3 of Part IIIA of the Principal Act) occurring before the commencement of those amendments.

**SCHEDULE 1**

Section 35

**AMENDMENTS OF ACTS ABOUT BROADCASTING**

***Broadcasting Act 1942***

**Subsection 4 (1) (definition of “commercial television licence”):**

Add at the end “, including such a licence as renewed or further renewed”.

**Paragraph 17A (2) (r):**

Omit “119A (2)”, substitute “119AA (2)”.

**Subsections 85 (3) and (4):**

Omit “80 (1)”, substitute “4 (1)”.

**Subsection 89CA (1):**

Omit “The holder”, substitute “Subject to subsections (1A) and (1B), the holder”.

**After subsection 89CA (1):**

Insert the following subsections:

“(1A) A person must not be admitted to participate in any of the benefits of a remote licence, or to exercise any of the powers or authorities granted by a remote licence, if the person would be ineligible for the grant of the licence under subsection 81AA (4).

“(1B) A remote licence must not be transferred to a person if the person would, because of subsection 81AA (4), be ineligible for the grant of the licence.”.

**Subsection 89CB (1):**

Omit “The holder”, substitute “Subject to subsection (1A), the holder”.

**After subsection 89CB (1):**

Insert the following subsection:

“(1A) A person must not be admitted to participate in any of the benefits of a limited licence, or to exercise any of the powers or authorities granted by a limited licence, if the person would be ineligible for the grant of the licence under subsection 81AA (5).”.

***Broadcasting Legislation Amendment Act 1988***

**Section 36:**

Omit “89D”, substitute “89DAP”.

**SCHEDULE 1—continued**

***Broadcasting (National Metropolitan Radio Plan) Act 1988***

**Section 4:**

Omit “Before Division 2 of Part IIIB”, substitute “After section 89D”.

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**SCHEDULE 2**

Section 36

**Paragraphs 17A (2) (g) and (h):**

Omit the paragraphs.

**Subsection 91 (1) (definition of “transaction”):**

(a) Omit paragraph (a), substitute the following paragraph:

“(a) the allotment to a person of shares, the payment of calls on shares or the repayment of capital in respect of shares;”;

(b) Omit from paragraph (b) “or debentures”.

**Subparagraph 92 (1AA) (d) (iii):**

Omit “, or debentures of,” (wherever occurring).

**Sub-subparagraph 92 (1AA) (d) (iii) (B):**

Omit “or debentures” (wherever occurring).

**Paragraph 92 (1AB) (g):**

(a) Omit “, or debentures of,” (wherever occurring).

(b) Omit “or debentures” (wherever occurring).

**Subsections 92E (1), (3) and (10):**

Omit “or debenture”.

**Subsection 92E (10):**

Omit “or debentures”.

**Subsection 92F (1):**

Omit “or debentures”.

**Subsection 92J (1):**

Omit “, or debenture of,”.

**Subsection 92J (3):**

Omit “or debenture” (wherever occurring).

**Subsection 92J (4):**

Omit “, or debentures of,”.

*Broadcasting Amendment (No. 2) No. 7, 1991*

**NOTE**

1. No. 33, 1942, as amended. For previous amendments, see No. 39, 1946; No. 64, 1948; No. 80, 1950; No. 41, 1951; No. 12, 1953; No. 82, 1954; Nos. 33, 65 and 92, 1956; No. 36, 1960 (as amended by No. 32, 1961); No. 96, 1962; No. 82, 1963; Nos. 67 and 121, 1964; Nos. 38 and 120, 1965; No. 57, 1966; No. 47, 1967; No. 69, 1968; Nos. 21 and 31, 1969; Nos. 8, 72 and 136, 1971; No. 49, 1972; No. 50, 1973; No. 216, 1973 (as amended by No. 20, 1974); No. 55, 1974; No. 56, 1975; Nos. 89, 157 and 187, 1976; No. 160, 1977; Nos. 36, 52 and 210, 1978; Nos. 143 and 177, 1980; Nos. 61, 113 and 153, 1981; No. 154, 1982; Nos. 7, 37, 39, 91 and 136, 1983; Nos. 10, 63, 72, 163 and 165, 1984; Nos. 66 and 191, 1985; Nos. 2 and 76, 1986; Nos. 68, 79, 80, 134 and 184, 1987; Nos. 56, 146 and 147, 1988; Nos. 29 and 31, 1989; and Nos. 23, 102 and 103, 1990.

**NOTE ABOUT SUBSECTION HEADINGS**

1. On the day on which the *Broadcasting Act 1942* is amended by this Act, headings to subsections of that Act are inserted as set out in the following table.

**TABLE**

<i>Heading to</i>	<i>Heading to be inserted</i>
Subsection 90J (1)	[Application of section]
Subsection 90J (2)	[Interpretation]
Subsection 90J (7D)	[Action by Tribunal on applications and notices]
Subsection 90J (7F)	[Offence]
Subsection 90J (8)	[Meaning of proportion of shareholding interests]
Subsection 90J (9)	[Meaning of proportion of voting interests]
Subsection 92F (1)	[Application of section]
Subsection 92F (2)	[Interpretation]
Subsection 92F (7D)	[Action by Tribunal on applications and notices]
Subsection 92F (7F)	[Offence]
Subsection 92F (8)	[Meaning of proportion of shareholding interests]
Subsection 92F (9)	[Meaning of proportion of voting interests]

*[Minister's second reading speech made in—  
House of Representatives on 16 May 1990  
Senate on 1 June 1990]*