



Broadcasting and Other Legislation Amendment (Deregulation) Act 2015

No. 22, 2015

**An Act to amend legislation relating to
broadcasting, and for related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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Broadcasting and Other Legislation Amendment (Deregulation) Act 2015

No. 22, 2015

An Act to amend legislation relating to broadcasting, and for related purposes

[Assented to 19 March 2015]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Broadcasting and Other Legislation
Amendment (Deregulation) Act 2015*.

No. 22, 2015

*Broadcasting and Other Legislation Amendment (Deregulation) Act
2015*

1

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	19 March 2015
2. Schedule 1	The day after this Act receives the Royal Assent.	20 March 2015
3. Schedule 2	The later of: (a) 1 January 2015; and (b) the day this Act receives the Royal Assent.	19 March 2015 (paragraph (b) applies)
4. Schedules 3 to 9	The day after this Act receives the Royal Assent.	20 March 2015

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments relating to ACMA planning powers

Australian Communications and Media Authority Act 2005

1 Paragraphs 53(2)(e) and (f)

Repeal the paragraphs.

Broadcasting Services Act 1992

2 Sections 24 and 25

Repeal the sections.

3 Subsection 26(1)

Omit “, and those plans must be consistent with the relevant frequency allotment plan”.

4 Paragraph 26(1B)(a)

Omit “, under the relevant frequency allotment plan,”.

5 Subsection 26(1F)

Repeal the subsection.

6 Subsection 26(1M)

Omit “Sections 23 and 27 have”, substitute “Section 23 has”.

7 Subsection 26(8)

Omit “television licence area plan”, substitute “licence area plan”.

8 Sections 27 and 35

Repeal the sections.

9 Paragraph 39(4)(a)

Repeal the paragraph.

Radiocommunications Act 1992

10 Subsections 32(2) and (2A)

Repeal the subsections.

11 Paragraph 44A(2)(c)

Repeal the paragraph.

Schedule 2—Digital switchover and re-stack provisions

Australian Communications and Media Authority Act 2005

1 Paragraphs 53(2)(q) and (r)

Repeal the paragraphs.

Broadcasting Services Act 1992

2 Subsection 6(1) (paragraph (b) of the definition of *commercial television broadcasting licence*)

Omit “41B or”.

3 Subsection 6(1)

Repeal the following definitions:

- (a) definition of *core commercial television broadcasting service*;
- (b) definition of *core/primary commercial television broadcasting service*;
- (c) definition of *designated re-stack day*;
- (d) definition of *final digital television switch-over day*.

4 Subsection 6(1)

Insert:

primary commercial television broadcasting service, in relation to a commercial television broadcasting licence, has the same meaning as in Schedule 4.

5 Section 8AE

Repeal the section.

6 Subsections 26(1H) to (1L) and (7), (10) and (12)

Repeal the subsections.

7 Subsection 26(13)

Repeal the following definitions:

- (a) definition of *simulcast-equivalent period*;
- (b) definition of *simulcast period*.

8 Sections 26A and 26B

Repeal the sections.

9 Subparagraph 38A(2)(a)(ii)

Repeal the subparagraph.

10 Subsections 38A(9) and (10)

Repeal the subsections.

11 Subsections 38B(18) to (23)

Repeal the subsections.

12 Subsections 38C(2) to (14)

Repeal the subsections, substitute:

Allocation of licence

- (2) A commercial television broadcasting licence that was allocated under this section before the commencement of Schedule 2 to the *Broadcasting and Other Legislation Amendment (Deregulation) Act 2015* continues in force unless it is cancelled.

13 Subsection 38C(17)

Repeal the subsection, substitute:

Allocation of licence after cancellation etc.

- (17) If the ACMA gives a notice under subsection (15) to a licensee, cancelling the licence for a licence area, the ACMA must, within 45 days after the giving of the notice, advertise, in a manner determined by the ACMA, for applications for a licence to be allocated under subsection (23) for the licence area.

14 Subsection 38C(26) (definition of *applicable terrestrial digital television switch-over date*)

Repeal the definition.

15 Sections 41A, 41B and 41C

Repeal the sections, substitute:

41C Services authorised by commercial television broadcasting licences

- (1) A commercial television broadcasting licence for a licence area authorises the licensee to provide the following services in the licence area:
 - (a) one or more HDTV multi-channelled commercial television broadcasting services;
 - (b) one or more SDTV multi-channelled commercial television broadcasting services.

Licences allocated under section 38C or subsection 40(1)

- (2) This section does not apply to a commercial television broadcasting licence allocated under section 38C or subsection 40(1).

Definitions

- (3) In this section:

HDTV multi-channelled commercial television broadcasting service has the same meaning as in Schedule 4.

SDTV multi-channelled commercial television broadcasting service has the same meaning as in Schedule 4.

16 Subparagraphs 41CA(1)(b)(ii), (c)(ii), (e)(ii) and (f)(ii)

Omit “core/primary commercial television broadcasting service”, substitute “primary commercial television broadcasting service”.

17 Subsections 41CA(5) and 43AA(3AA)

Repeal the subsections.

18 Subsection 43AA(7) (definition of *start date*)

Repeal the definition.

19 Subsections 43AB(3), 43AC(3A) and (4)

Repeal the subsections.

20 Subsection 43AC(5) (definition of *start date*)

Repeal the definition.

21 Subsection 61AC(1) (table item 4)

Omit “core/primary commercial television broadcasting services”,
substitute “primary commercial television broadcasting services”.

22 Subsection 61AE(3)

Repeal the subsection.

23 Subsection 121G(1) (heading)

Repeal the heading, substitute:

*Programs transmitted on primary commercial television
broadcasting service*

24 Subsection 121G(1) (paragraph (b) of the definition of *total hours of Australian programs transmitted during the year*)

Omit “core/primary commercial television broadcasting service”,
substitute “primary commercial television broadcasting service”.

25 Subsection 121G(1) (paragraph (b) of the definition of *total hours of programs transmitted during the year*)

Omit “core/primary commercial television broadcasting service”,
substitute “primary commercial television broadcasting service”.

26 Subsection 121G(2) (heading)

Repeal the heading, substitute:

Programs transmitted otherwise than on primary commercial television broadcasting service

27 Subsection 121G(2)

Repeal the subsection, substitute:

- (2) A commercial television broadcasting licensee must ensure that, for each calendar year beginning on or after 1 January 2015, the total number of hours of Australian programs that were transmitted by the licensee:
- (a) during targeted viewing hours in the year; and
 - (b) otherwise than on the primary commercial television broadcasting service provided by the licensee;
- is not less than 1,460.

28 Paragraph 121G(3)(b)

Omit “core/primary commercial television broadcasting service”, substitute “primary commercial television broadcasting service”.

29 Subsections 130A(4) and (5)

Repeal the subsections.

30 Paragraph 130L(d)

Repeal the paragraph.

31 Subparagraph 130ZB(3)(a)(ii)

Omit “area;”, substitute “area; and”.

32 Subparagraph 130ZB(3)(a)(iii)

Repeal the subparagraph.

33 Paragraphs 130ZB(3)(aa) and (ab)

Repeal the paragraphs.

34 Subsections 130ZB(6), (11), (14) and (15)

Repeal the subsections.

35 Subsection 130ZB(16)

Repeal the following definitions:

- (a) definition of *digital-only local market area*;
- (b) definition of *local market area*;
- (c) definition of *simulcast area*;
- (d) definition of *simulcast period*.

36 Subparagraph 130ZBB(3)(a)(ii)

Omit “area;”, substitute “area; and”.

37 Subparagraph 130ZBB(3)(a)(iii)

Repeal the subparagraph.

38 Paragraphs 130ZBB(3)(aa) and (ab)

Repeal the paragraphs.

39 Subsection 130ZBB(6)

Repeal the subsection.

40 Subsection 130ZBB(8)

Omit “will, after the end of the simulcast period, or the simulcast-equivalent period, as the case may be, for the related terrestrial licence area in which the related terrestrial sub-area is included, be able”, substitute “are”.

41 Subsections 130ZBB (12), (14), (15), (18) and (19)

Repeal the subsections.

42 Subsection 130ZBB(22)

Repeal the following definitions:

- (a) definition of *digital-only local market area*;
- (b) definition of *local market area*;
- (c) definition of *simulcast area*;
- (d) definition of *simulcast period*.

43 Sections 130ZBC and 130ZEA

Repeal the sections.

44 Subsections 130ZH(2) and (3)

Repeal the subsections.

45 Subsection 130ZH(6)

Repeal the following definitions:

- (a) definition of *digital-only local market area*;
- (b) definition of *local market area*;
- (c) definition of *simulcast-equivalent period*;
- (d) definition of *simulcast period*.

46 Section 130ZK

Repeal the following definitions:

- (a) definition of *primary commercial television broadcasting service*;
- (b) definition of *simulcast-equivalent period*;
- (c) definition of *simulcast period*.

47 Subsections 130ZR(2) and (3)

Repeal the subsections (not including the heading).

48 Subsection 130ZR(4)

Omit “core/primary commercial television broadcasting service” (wherever occurring), substitute “primary commercial television broadcasting service”.

49 Subsection 130ZR(6)

Repeal the subsection, substitute:

- (6) If:
 - (a) a national broadcaster provides a national television broadcasting service in a coverage area; and
 - (b) the service is not provided with the use of a satellite; subsection (1) does not require the provision of a captioning service for a television program transmitted on:
 - (c) a SDTV multi-channelled national television broadcasting service provided by the national broadcaster otherwise than with the use of a satellite; or

(d) a HDTV multi-channelled national television broadcasting service provided by the national broadcaster otherwise than with the use of a satellite;

unless the television program was previously transmitted by the national broadcaster on the primary national television broadcasting service provided by the national broadcaster.

50 Subsection 204(1) (table item dealing with refusal to allocate licence under section 38C)

Repeal the item.

51 Section 211

Repeal the section.

52 Paragraphs 7(1)(k) to (nb) of Schedule 2

Repeal the paragraphs.

53 Subclauses 7(4) to (8) of Schedule 2

Repeal the subclauses.

54 Clause 7B of Schedule 2 (heading)

Repeal the heading, substitute:

7B Conditions about the provision of primary commercial television broadcasting services

55 Subclause 7B(1) of Schedule 2 (heading)

Repeal the heading, substitute:

Conditions about the provision of primary services

56 Subclause 7B(1) of Schedule 2

Omit “*related terrestrial core/primary services*”, substitute “*related terrestrial primary services*”.

57 Paragraph 7B(1)(b) of Schedule 2

Omit “core/primary commercial television broadcasting service”, substitute “primary commercial television broadcasting service”.

58 Paragraph 7B(1)(d) of Schedule 2

Omit “related terrestrial core/primary service”, substitute “related terrestrial primary service”.

59 Subclause 7B(2) of Schedule 2

Omit “*related terrestrial core/primary services*”, substitute “*related terrestrial primary services*”.

60 Paragraph 7B(2)(b) of Schedule 2

Omit “core/primary commercial television broadcasting service”, substitute “primary commercial television broadcasting service”.

61 Subparagraph 7B(2)(d)(i) of Schedule 2

Omit “related terrestrial core/primary service”, substitute “related terrestrial primary service”.

62 Subparagraph 7B(2)(e)(i) of Schedule 2

Omit “core/primary commercial television broadcasting service”, substitute “primary commercial television broadcasting service”.

63 Paragraph 7B(3)(b) of Schedule 2

Omit “*related terrestrial core/primary service*”, substitute “*related terrestrial primary service*”.

64 Subparagraph 7B(3)(b)(ii) of Schedule 2

Omit “core/primary commercial television broadcasting service”, substitute “primary commercial television broadcasting service”.

65 Paragraph 7B(3)(c) of Schedule 2

Omit “related terrestrial core/primary service”, substitute “related terrestrial primary service”.

66 Subparagraph 7B(3)(d)(i) of Schedule 2

Omit “core/primary commercial television broadcasting service”, substitute “primary commercial television broadcasting service”.

67 Subclause 7B(4) of Schedule 2

Repeal the subclause.

68 Subclause 7B(5) (heading) of Schedule 2

Repeal the heading, substitute:

Exemption—cessation of related terrestrial primary service

69 Paragraphs 7B(5)(a) and (b) and (6)(a) and (b) of Schedule 2

Omit “core/primary commercial television broadcasting service”, substitute “primary commercial television broadcasting service”.

70 Subparagraph 7B(6)(e)(i) of Schedule 2

Omit “core/primary commercial television broadcasting service”, substitute “primary commercial television broadcasting service”.

71 Clause 7C of Schedule 2 (heading)

Repeal the heading, substitute:

7C Conditions about the provision of non-primary commercial television broadcasting services

72 Subclause 7C(3) of Schedule 2

Repeal the subclause.

73 Subclause 7C(4) of Schedule 2

Repeal the subclause, substitute:

- (4) Subclause (2) does not apply to a HDTV multi-channelled commercial television broadcasting service that a commercial television broadcasting licensee for a metropolitan licence area commences to provide after 10 December 2013.

74 Paragraphs 7C(6)(b) and (7)(b) of Schedule 2

Omit “core/primary commercial television broadcasting service”, substitute “primary commercial television broadcasting service”.

75 Subclause 7C(8) of Schedule 2

Repeal the subclause.

76 Subclause 7C(9) of Schedule 2

Repeal the subclause, substitute:

- (9) Subclause (7) does not apply to a SDTV multi-channelled commercial television broadcasting service that a commercial television broadcasting licensee for a metropolitan licence area commences to provide after 10 December 2013.

77 Paragraph 7C(10)(b) of Schedule 2

Omit “core/primary commercial television broadcasting service”, substitute “primary commercial television broadcasting service”.

78 Subclause 7D(4) of Schedule 2

Repeal the subclause.

79 Paragraph 7E(b) of Schedule 2

Omit “after the start date for the licence area of the section 38C licence,”.

80 Subparagraph 7E(b)(ii) of Schedule 2

Omit “core/primary commercial television broadcasting service”, substitute “primary commercial television broadcasting service”.

81 Clause 7E of Schedule 2 (note 1)

Repeal the note.

82 Clause 7E of Schedule 2 (note 2)

Omit “Note 2”, substitute “Note”.

83 Subparagraph 7F(1)(a)(ii) of Schedule 2

Omit “core/primary commercial television broadcasting service”, substitute “primary commercial television broadcasting service”.

84 Paragraph 7G(b) of Schedule 2

Omit “after the start date for the licence area of the section 38C licence,”.

85 Subparagraph 7G(b)(ii) of Schedule 2

Omit “core/primary commercial television broadcasting service”, substitute “primary commercial television broadcasting service”.

86 Clause 7G of Schedule 2 (note 1)

Repeal the note.

87 Clause 7G of Schedule 2 (note 2)

Omit “Note 2”, substitute “Note”.

88 Clauses 7H and 7K of Schedule 2

Repeal the clauses.

89 Clause 7L of Schedule 2

Repeal the following definitions:

- (a) definition of *digital-only local market area*;
- (b) definition of *local market area*;
- (c) definition of *simulcast period*.

90 Clause 1 of Schedule 4

Repeal the clause, substitute:

1 Simplified outline of this Schedule

National broadcasters who operate a transmitter are subject to restrictions regarding the services that may be transmitted in digital mode using the transmitter.

Commercial television licensees and national broadcasters who provide SDTV or HDTV multi-channelled television broadcasting services are subject to restrictions regarding the televising of anti-siphoning events and parts of anti-siphoning events.

Owners and operators of broadcasting transmission towers must give digital broadcasters and datacasters access to the towers for the purposes of installing or maintaining digital transmitters. Applications to the AAT for review of a decision regarding access

may be made by the person seeking access, or by the owner or operator of the facility to which access is sought.

An ACMA determination determines when charge imposed by the *Datacasting Charge (Imposition Act) 1998* is due and payable. The ACMA may also impose a late payment penalty.

91 Clause 2 of Schedule 4

Repeal the following definitions:

- (a) definition of *commercial television broadcasting service*;
- (b) definition of *commercial television conversion scheme*.

92 Clause 2 of Schedule 4 (note at the end of the definition of coverage area)

Repeal the note.

93 Clause 2 of Schedule 4

Repeal the following definitions:

- (a) definition of *designated HDTV multi-channelled national television broadcasting service*;
- (b) definition of *designated teletext service*;
- (c) definition of *digital-only local market area*;
- (d) definition of *exempt licence*;
- (e) definition of *exempt remote area service*;
- (f) definition of *HDTV commercial television format standard*;
- (g) definition of *HDTV national television format standard*;
- (h) definition of *local market area*;
- (i) definition of *national radio broadcasting service*;
- (j) definition of *national television conversion scheme*;
- (k) definition of *parent licence*;
- (l) definition of *SDTV commercial television format standard*;
- (m) definition of *SDTV national television format standard*;
- (n) definition of *simulcast-equivalent period*;
- (o) definition of *simulcast period*.

94 Clauses 3, 4C and 4D of Schedule 4

Repeal the clauses.

95 Subclause 5A(1) of Schedule 4

Omit “(1)”.

96 Paragraph 5A(1)(c) of Schedule 4

Omit “licensee; and”, substitute “licensee.”.

97 Paragraph 5A(1)(d) of Schedule 4

Repeal the paragraph.

98 Subclauses 5A(2), 5C(2) and (3) of Schedule 4

Repeal the subclauses.

99 Clauses 5E, 5F and 5J of Schedule 4

Repeal the clauses.

100 Part 2 of Schedule 4

Repeal the Part.

101 Clauses 19 to 35AA of Schedule 4

Repeal the clauses.

102 Subclause 36(1) of Schedule 4

Omit “(1)”.

103 Part 4 of Schedule 4

Repeal the Part.

104 Clauses 41A to 41D of Schedule 4

Repeal the clauses.

105 Clause 41E of Schedule 4 (heading)

Repeal the heading, substitute:

41E SDTV multi-channelled commercial television broadcasting service—restrictions on televising anti-siphoning events

106 Subclause 41E(1) of Schedule 4

Omit “after the end of the simulcast period, or the simulcast-equivalent period, for the licence area of the licence”.

107 Paragraph 41E(1)(a) of Schedule 4

After “the licence area”, insert “of the licence”.

108 Paragraph 41E(1)(b) of Schedule 4

Omit “the licence area”, substitute “that licence area”.

109 Clause 41F of Schedule 4 (heading)

Repeal the heading, substitute:

41F HDTV multi-channelled commercial television broadcasting service—restrictions on televising anti-siphoning events

110 Subclause 41F(1) of Schedule 4

Omit “after the end of the simulcast period, or the simulcast-equivalent period, for the licence area of the licence”.

111 Subclause 41F(2) of Schedule 4

Omit “in the licence area” (first occurring), substitute “, in the licence area of the licence,”.

112 Subclause 41F(3) of Schedule 4

Omit “in the licence area” (first occurring), substitute “, in the licence area of the licence,”.

113 Subclauses 41G(1) and (1A) of Schedule 4

Repeal the subclauses.

114 Subclause 41G(2) of Schedule 4 (heading)

Repeal the heading.

115 Subclause 41G(2) of Schedule 4

Omit “after the end of the simulcast period, or the simulcast-equivalent period,”.

116 Subclause 41G(3) of Schedule 4

Repeal the subclause, substitute:

- (3) The ACMA must ensure that a declaration under subclause (2) is in force at all times after the licensee commences to provide a SDTV multi-channelled commercial television broadcasting service in the licence area.

117 Subclause 41G(6) of Schedule 4

Omit “on and after the start date”.

118 Subclause 41G(7) of Schedule 4

Repeal the subclause.

119 Clauses 41H and 41J of Schedule 4

Repeal the clauses.

120 Clause 41K of Schedule 4 (heading)

Repeal the heading, substitute:

41K SDTV multi-channelled national television broadcasting service—restrictions on televising anti-siphoning events

121 Subclause 41K(1) of Schedule 4

Omit “after the end of the simulcast period, or the simulcast-equivalent period, for a coverage area”.

122 Paragraph 41K(1)(a) of Schedule 4

Omit “the coverage area”, substitute “a coverage area”.

123 Paragraph 41K(1)(b) of Schedule 4

Omit “the coverage area”, substitute “that coverage area”.

124 Clause 41L of Schedule 4 (heading)

Repeal the heading, substitute:

41L HDTV multi-channelled national television broadcasting service—restrictions on televising anti-siphoning events

125 Subclause 41L(1) of Schedule 4

Omit “after the end of the simulcast period, or the simulcast-equivalent period, for a coverage area”.

126 Subclauses 41L(2) and (3) of Schedule 4

Omit “the coverage area” (first occurring), substitute “a coverage area”.

127 Subclause 41M(1) of Schedule 4

Omit “after the end of the simulcast period, or the simulcast-equivalent period, for a coverage area”, substitute “in a specified coverage area”.

128 Subclause 41M(2) of Schedule 4

Omit “after the end of the simulcast period, or the simulcast-equivalent period”.

129 Part 7 of Schedule 4

Repeal the Part.

130 Subclauses 62(1) to (4) of Schedule 4

Repeal the subclauses.

131 Part 11 of Schedule 4

Repeal the Part.

132 Subclause 2(1) of Schedule 6

Insert:

designated teletext service means a teletext service provided by a commercial television broadcasting licensee, where:

- (a) the licensee provided the service throughout the 2-year period ending immediately before the commencement of this Schedule; and

(b) the service remains substantially the same as the service provided throughout that 2-year period.

133 Clause 51A of Schedule 6

Omit “(within the meaning of Schedule 4)”.

Datacasting Charge (Imposition) Act 1998

134 Section 3 (definition of *designated teletext service*)

Omit “Schedule 4”, substitute “Schedule 6”.

Radiocommunications Act 1992

135 Section 5 (paragraph (a) of the definition of *datacasting transmitter licence*)

Omit “section 101B, 101C, 102 or 102A”, substitute “section 102”.

136 Section 5 (definition of *designated teletext service*)

Omit “Schedule 4”, substitute “Schedule 6”.

137 Paragraph 44A(2)(d)

Omit “1992; and”, substitute “1992.”

138 Paragraphs 44A(2)(e) and (f)

Repeal the paragraphs.

139 Subsection 44A(12)

Repeal the subsection.

140 Subsection 100(1)

Omit “100B, 101B, 101C, 102, 102A”, substitute “102”.

141 Subsection 100(5)

Omit “100B, 102A, 102AH or”.

142 Section 100AA

Repeal the section, substitute:

100AA NBS transmitter licences—authorised channels

(1) If:

- (a) an NBS transmitter licence is issued under section 100; and
- (b) the licence authorises the operation of one or more radiocommunications transmitters for transmitting one or more national television broadcasting services in digital mode in a BSA coverage area;

the licence authorises the operation of the transmitter or transmitters concerned for transmitting those services in that area using the channel or channels allotted to the national broadcaster concerned under the BSA television licence area plan for that BSA television licence area.

(2) In this section:

BSA television licence area means a BSA licence area for a commercial television broadcasting licence.

national television broadcasting service means a national broadcasting service that provides television programs.

NBS transmitter licence means a transmitter licence for a transmitter that is for use for transmitting, to the public, a national broadcasting service.

143 Sections 100B, 101B and 101C

Repeal the sections.

144 Subsections 102(2A), (2B), (2C), (2D), (2E), (2EA), (2F), (2G), (2H), (2J) and (6)

Repeal the subsections.

145 Sections 102A, 102AA and 102AB

Repeal the sections.

146 Sections 102AC and 102AD

Repeal the sections, substitute:

102AD Transmitter licences—authorised channels

(1) If:

- (a) a transmitter licence is issued under section 102 in relation to a broadcasting services bands licence (the *related licence*); and
- (b) the transmitter licence is held by the licensee of the related licence; and
- (c) the transmitter licence authorises the operation of one or more radiocommunications transmitters for transmitting one or more commercial television broadcasting services in accordance with the related licence;

the transmitter licence authorises the operation of the transmitter or transmitters concerned for transmitting:

- (d) one or more HDTV multi-channelled commercial television broadcasting services; and
- (e) one or more SDTV multi-channelled commercial television broadcasting services;

in accordance with the related licence, using the channel or channels allotted to the licensee of the related licence under the BSA television licence area plan.

(2) In this section:

commercial television broadcasting licence has the same meaning as in the *Broadcasting Services Act 1992*.

commercial television broadcasting service means a commercial broadcasting service that provides television programs.

HDTV multi-channelled commercial television broadcasting service has the same meaning as in Schedule 4 to the *Broadcasting Services Act 1992*.

SDTV multi-channelled commercial television broadcasting service has the same meaning as in Schedule 4 to the *Broadcasting Services Act 1992*.

147 Sections 102AG and 102AH

Repeal the sections.

148 Subsection 103(1)

Omit “(other than an apparatus licence issued under subsection 101C(3), 102(2D), 102(2G) or 102A(2D))”.

149 Subsection 103(2)

Omit “, 101B, 101C, 102 or 102A”, substitute “or 102”.

150 Subsections 103(4AA), (4AB), (4C), (4D), (4E) and (4F)

Repeal the subsections.

151 Subsection 106A(2)

Omit “101B, 101C, 102 or 102A”, substitute “102”.

152 Paragraphs 107(3)(a) and 108(5)(a)

Omit “, 101B, 101C, 102 or 102A”, substitute “or 102”.

153 Subsection 109(1)

Omit “101B, 101C, 102 or 102A”, substitute “102”.

154 Subsections 109(1A) and (1B)

Repeal the subsections.

155 Subsection 109(2)

Omit “or 102A” (wherever occurring).

156 Paragraph 111(1)(d)

Omit “, 101B, 101C, 102 or 102A”, substitute “or 102”.

157 Subsection 111(5)

Repeal the subsection.

158 Subsections 125(2) and 129(1)

Omit “, 101B, 101C, 102 or 102A”, substitute “or 102”.

159 Subsection 130(3)

Repeal the subsection, substitute:

- (3) In deciding whether to renew the licence, the ACMA:
- (a) must have regard to the same matters to which it must have regard under subsections 100(4) and (6) in deciding whether to issue such a licence; and
 - (b) may have regard to the same matters to which it may have regard under subsection 100(5) in deciding whether to issue such a licence.

160 Subsection 131AB(2)

Repeal the subsection, substitute:

- (2) In deciding whether to transfer the licence, the ACMA:
- (a) must have regard to the same matters to which it must have regard under subsections 100(4) and (6) in deciding whether to issue such a licence; and
 - (b) may have regard to the same matters to which it may have regard under subsection 100(5) in deciding whether to issue such a licence.

161 Subparagraphs 153H(1)(c)(ii) and (iii)

Repeal the subparagraphs.

162 Paragraph 153P(2)(db)

Repeal the paragraph.

163 Subsection 153P(4)

Repeal the subsection.

164 Application—appeals to the AAT

The amendment of section 204 of the *Broadcasting Services Act 1992* made by this Schedule does not apply in relation to a decision made before the commencement of this item.

165 Application—right of review

The amendment of clause 62 to Schedule 4 of the *Broadcasting Services Act 1992* made by this Schedule does not apply in relation to a decision made before the commencement of this item.

166 Application—NBS transmitter licences

The amendment of section 100AA of the *Radiocommunications Act 1992* made by this Schedule applies in relation to a transmitter licence whether the licence was issued before or after the commencement of this item.

Schedule 3—Eligible drama program expenditure audits

Broadcasting Services Act 1992

1 Section 103B

Repeal the following definitions:

- (a) definition of *compliance certificate*;
- (b) definition of *registered auditor*.

2 Subsection 103ZA(1)

Repeal the subsection, substitute:

- (1) A licensee who provides one or more subscription TV drama services must, within 60 days after the end of each financial year of operation, give to the ACMA a return, in the approved form, containing such information as is required by that form in relation to the application of this Division in connection with those services.

3 Subsection 103ZB(1)

Repeal the subsection, substitute:

- (1) If a person is a channel provider or a part-channel provider in relation to one or more subscription TV drama services provided by a licensee during a financial year, the person must, within 60 days after the end of that financial year, give to the ACMA a return, in the approved form, containing such information as is required by that form in relation to the application of this Division in connection with those services.

4 Subdivision I of Division 2A of Part 7

Repeal the Subdivision.

5 Application of amendments

The amendments made by this Schedule apply in relation to the financial year in which this item commences and later financial years.

Schedule 4—Requirement to review codes of practice

Broadcasting Services Act 1992

1 Section 123A

Repeal the section.

2 Clause 29 of Schedule 6

Repeal the clause.

Schedule 5—Directorship notifications

Broadcasting Services Act 1992

1 Section 62

Repeal the section.

2 Subsections 63(1), (2A) and (3) and 64(1), (2A) and (3)

Omit “10 days”, substitute “10 business days”.

3 Sections 65A and 65B

Omit “62”.

4 Application of amendments

- (1) The amendments of section 62 of the *Broadcasting Services Act 1992* made by this Schedule apply in relation to the financial year in which this item commences and later financial years.
- (2) The amendments of section 63 of the *Broadcasting Services Act 1992* made by this Schedule apply in relation to the notification by a person of an event, if the person becomes aware of the event after the commencement of this item.
- (3) The amendments of section 64 of the *Broadcasting Services Act 1992* made by this Schedule apply in relation to the notification by a person of a position, if the person becomes aware of the position after the commencement of this item.

Schedule 6—Captioning

Broadcasting Services Act 1992

1 Section 130ZK

Insert:

channel means a continuous stream of programs.

channel provider has the meaning given by section 130ZKA.

incidental matter means:

- (a) advertising or sponsorship matter (whether or not of a commercial kind); or
- (b) a program promotion; or
- (c) an announcement; or
- (d) a hosting; or
- (e) any other interstitial program.

part-channel provider has the meaning given by section 130ZKB.

2 After section 130ZK

Insert:

130ZKA Definition of *channel provider*

For the purposes of this Part, a *channel provider*, in relation to a subscription television service provided by a subscription television licensee, is a person who:

- (a) packages a channel (which may include programs produced by the person); and
- (b) supplies the licensee with the channel;

where, apart from any breaks for the purposes of the transmission of incidental matter, the channel is televised by the licensee on the service.

130ZKB Definition of *part-channel provider*

For the purposes of this Part, a *part-channel provider*, in relation to a subscription television service provided by a subscription television licensee, is a person who:

- (a) assembles a package of programs (which may include programs produced by the person); and
- (b) supplies the licensee with the package;

where:

- (c) the package constitutes a significant proportion of the program material that is televised by the licensee on the service; and
- (d) there is no channel provider in relation to the service.

130ZKC Supply of channel or package

For the purposes of this Part, a person is taken to have supplied a channel or a package to a subscription television licensee if the channel or package is supplied by the person to the licensee:

- (a) directly; or
- (b) indirectly through one or more interposed persons.

3 Paragraph 130ZUA(3)(c)

Repeal the paragraph, substitute:

- (c) be made in the period:
 - (i) commencing on 1 July in the financial year immediately before the eligible period specified in the application; and
 - (ii) ending on the first 31 March in the eligible period specified in the application.

4 Subsections 130ZV(1) to (4)

Repeal the subsections, substitute:

Annual captioning targets

- (1) If a subscription television licensee provides a subscription television service in a financial year, the licensee must ensure that the percentage worked out using the following formula is not less

than the annual captioning target for the service for the financial year:

$$\frac{\text{Total captioned hours}}{\text{Total program hours}} \times 100$$

where:

total captioned hours means the total number of hours of television programs transmitted on the service during the financial year for which a captioning service was provided.

total program hours means the total number of hours of television programs transmitted on the service during the financial year.

- (2) For the purposes of this section, the **annual captioning target** for a subscription television service for a financial year is:
- (a) for the financial year beginning on 1 July 2014—the applicable percentage set out in the following table; and
 - (b) for a later financial year—the lesser of:
 - (i) the annual captioning target for the service for the previous financial year plus an additional 5%; and
 - (ii) 100%.

Note: For example, the annual captioning target for the financial year beginning on 1 July 2015 for a category A subscription television movie service is 80% (75% plus an additional 5%).

Annual captioning target for financial year beginning on 1 July 2014		
Item	Service	Percentage
1	Category A subscription television movie service	75%
2	Category B subscription television movie service	55%
3	Category C subscription television movie service	45%
4	Category A subscription television general entertainment service	55%
5	Category B subscription television general entertainment service	45%
6	Category C subscription television	25%

Annual captioning target for financial year beginning on 1 July 2014		
Item	Service	Percentage
	general entertainment service	
7	Subscription television news service	15%
8	Subscription television sports service	15%
9	Subscription television music service	5%

Modified formula for subscription television sports services

- (3) If, in relation to a financial year:
- (a) a subscription television licensee provides a subscription television sports service; and
 - (b) the percentage worked out using the formula in subsection (1) for the service is at least two-thirds of the annual captioning target;
- the licensee is taken to have satisfied the requirement in subsection (1) for the service for the financial year if the percentage worked out using the following formula is not less than the annual captioning target:

$$\frac{\text{Total captioned hours on relevant sports services}}{\text{Total program hours on relevant sports services}} \times 100$$

where:

relevant sports services means all subscription television sports services provided by the licensee that televise channels supplied by the same channel provider, other than:

- (a) services to which subsection 130ZV(1) does not apply during the financial year because of subsection 130ZX(7); and
- (b) services to which an exemption order or target reduction order under section 130ZY applies for the financial year.

total captioned hours on relevant sports services means the total number of hours of television programs transmitted on relevant sports services during the financial year for which a captioning service was provided.

total program hours on relevant sports services means the total number of hours of television programs transmitted on relevant sports services during the financial year.

5 At the end of section 130ZV

Add:

Exclusion for new subscription television service

- (6) This section does not apply to a subscription television service until the financial year beginning on the first 1 July that is at least 1 year after the service commenced, if the service predominantly consists of programs not transmitted in Australia before that commencement.

6 Subsection 130ZVA(2)

Omit “more than 6, but fewer than 8,”, substitute “7”.

7 Paragraph 130ZY(2)(c)

Repeal the paragraph, substitute:

(c) be made in the period:

- (i) commencing on 1 July in the financial year immediately before the eligible period specified in the application;
and
(ii) ending on the first 31 March in the eligible period specified in the application.

8 Subsection 130ZYA(2)

Repeal the subsection, substitute:

Subscription television broadcasting and narrowcasting services

- (2) The subscription television licensee who provides the service must ensure that the percentage worked out using the following formula is not less than the reduced annual captioning target for the service for the financial year:

$$\frac{\text{Total captioned hours}}{\text{Total program hours}} \times 100$$

where:

total captioned hours means the total number of hours of television programs transmitted on the service during the financial year for which a captioning service was provided.

total program hours means the total number of hours of television programs transmitted on the service during the financial year.

9 Section 130ZZ

Before “If”, insert “(1)”.

10 At the end of section 130ZZ

Add:

- (2) Subsection (1) does not apply if:
 - (a) the program when previously transmitted was supplied by a channel provider or part-channel provider; and
 - (b) the program when transmitted as mentioned in paragraph (1)(a) was not supplied by that channel provider or part-channel provider.

11 After subsection 130ZZA(2)

Insert:

- (2A) In determining a standard under subsection (1), the ACMA must consider the differences (including time constraints for live content) between providing captioning services for:
 - (a) live television programs and pre-recorded television programs; and
 - (b) wholly live or wholly pre-recorded television programs and television programs that include both live and pre-recorded program material.
- (2B) Subsection (2A) does not authorise the ACMA to determine that a lower quality (within the meaning of subsection (2)) of captioning service is acceptable for a kind of program or program material.

12 After subsection 130ZZA(7)

Insert:

-
- (7A) A failure by a licensee or broadcaster to comply with a standard determined under subsection (1) is to be disregarded to the extent to which the failure is attributable to significant difficulties of a technical or engineering nature for the licensee or broadcaster, which it could not reasonably have foreseen.

15 Section 130ZZD

Repeal the section, substitute:

130ZZD Record-keeping

- (1) This section applies to each of the following (a *responsible person*):
- (a) a commercial television broadcasting licensee;
 - (b) a national broadcaster;
 - (c) a subscription television licensee that is a body corporate.

Note: For compliance, see clause 7 of Schedule 2 (for commercial television broadcasting licensees), clause 10 of Schedule 2 (for subscription television broadcasting licensees) and clause 11 of Schedule 2 (for subscription television narrowcasting licensees).

- (2) A responsible person must, in a form approved in writing by the ACMA, make:
- (a) written records sufficient to enable the responsible person's compliance with Division 2 or 3 to be readily ascertained; and
 - (b) audio-visual records sufficient to enable the responsible person's compliance with Divisions 4 and 5 to be readily ascertained.
- (3) A written record must be retained in the responsible person's custody for at least 90 days after the responsible person's report under section 130ZZC in relation to the financial year to which the record relates is given to the ACMA.
- (4) An audio-visual record must be retained in the responsible person's custody:
- (a) for at least 30 days after the day the program to which the record relates was broadcast; or

- (b) if, before the end of those 30 days, the responsible person becomes aware that a complaint has been made under Part 11 about captioning of the program—for at least 90 days after the day the program was broadcast.
- (5) A responsible person must, without charge, make available to the ACMA on request any records retained by the responsible person under this section (whether or not the minimum period for retaining the records has passed).

16 Subsection 130ZZE(1)

Omit “2015”, substitute “2016”.

16A Subsection 130ZZE(3)

Omit “2016”, substitute “2017”.

17 Application of amendments

- (1) The amendment of section 130ZV of the *Broadcasting Services Act 1992* made by item 4 of this Schedule applies in relation to the financial year in which this item commences and later financial years.
- (2) The amendment of section 130ZV of the *Broadcasting Services Act 1992* made by item 5 of this Schedule applies to subscription television services that a subscription television licensee commences to provide in the financial year in which this item commences or in any later financial year.
- (3) The amendments of section 130ZZ of the *Broadcasting Services Act 1992* made by this Schedule apply to the transmission of a television program as mentioned in paragraph 130ZZ(1)(a) as amended by this Schedule, regardless of whether the previous transmission was before, on or after the day this item commences.
- (4) The amendment of section 130ZZA of the *Broadcasting Services Act 1992* made by item 12 of this Schedule applies in relation to failures that occur on or after the day this item commences.
- (6) The amendment of section 130ZZD of the *Broadcasting Services Act 1992* made by this Schedule applies in relation to the financial year in which this item commences and later financial years.

18 Transitional provision—standards under section 130ZZA

The ACMA must review, and vary as appropriate, any standards made under section 130ZZA of the *Broadcasting Services Act 1992*, having regard to subsection 130ZZA(2A) of that Act as inserted by this Schedule. The ACMA must do so within 12 months of the commencement of the subsection.

Schedule 7—Media diversity points for commercial radio voices

Broadcasting Services Act 1992

1 Subsection 61AC(1) (table item 1, paragraph (d))

Omit “the licence area of the commercial radio broadcasting licence is, or is the same as, the first radio licence area”, substitute “the first radio licence area is the same as, or is entirely within, the licence area of the commercial radio broadcasting licence”.

2 Subsection 61AC(1) (table item 2, paragraph (b))

Omit “the licence area of the licence is, or is the same as, the first radio licence area”, substitute “the first radio licence area is the same as, or is entirely within, the licence area of the licence”.

Schedule 8—Effects of licence area population change

Broadcasting Services Act 1992

1 Subsections 43C(4) to (4C)

Repeal the subsections, substitute:

Changes in licence area populations not to put persons in breach of condition

(4) If:

- (a) the ACMA makes a new determination of the licence area population of a licence area or of the population of Australia; and
- (b) as a result of the determination, a person would be in breach of the condition;

the condition continues to apply to the person as if the previous determination remained in force.

2 Section 52

Omit “subsection 53(1) or 55(1) or (2)”, substitute “a provision of Division 2 or 3”.

3 Application of amendments

The amendments of sections 43C and 52 of the *Broadcasting Services Act 1992* made by this Schedule apply in relation to determinations made by the ACMA on or after the day this item commences.

Schedule 9—References to legislative instruments

Broadcasting Services Act 1992

1 Subclause 5(1) of Schedule 4

Omit “writing”, substitute “legislative instrument”.

2 Subclause 5(3) of Schedule 4

Repeal the subclause.

3 Subclause 48(1) of Schedule 4

Omit “written”, substitute “legislative”.

4 Subclause 48(5) of Schedule 4

Repeal the subclause.

5 Subclause 51(2) of Schedule 4

Omit “written determination made by the ACMA”, substitute “determination under subclause (2A)”.

6 After subclause 51(2) of Schedule 4

Insert:

(2A) The ACMA may, by legislative instrument, make a determination for the purposes of subclause (2).

7 Subclause 51(3) of Schedule 4

Omit “written”, substitute “legislative”.

8 Subclause 51(9) of Schedule 4

Repeal the subclause.

*[Minister's second reading speech made in—
House of Representatives on 22 October 2014
Senate on 2 March 2015]*

(231/14)

*No. 22, 2015 Broadcasting and Other Legislation Amendment (Deregulation) Act 43
2015*