

Commonwealth of Australia

Radiocommunications Act 1992

**Radiocommunications (Datacasting Transmitter
Licence Limits) Direction No. 1 of 2001**

I, RICHARD KENNETH ROBERT ALSTON, Minister for Communications, Information Technology and the Arts, give the following Direction to the Australian Communications Authority under subsection 106(9) of the *Radiocommunications Act 1992*.

Dated 10 January 2001

RICHARD ALSTON
Minister for Communications, Information Technology
and the Arts

Citation

1. This Direction may be cited as the *Radiocommunications (Datacasting Transmitter Licence Limits) Direction No. 1 of 2001*.

Interpretation

2. (1) In this Direction, unless the contrary intention appears:

Act means the *Radiocommunications Act 1992*.

applicant means an applicant for a datacasting transmitter licence.

associate, in relation to an applicant, means:

- (a) for a body corporate:
 - (i) a director or secretary of the body; or
 - (ii) a related body corporate; or
 - (iii) a director or secretary of a related body corporate; or
 - (iv) a business partner of the body; or

- (v) an individual who controls at least 15 per cent of the voting power or holds at least 15 per cent of the issued shares in the body; or
- (b) for an individual:
 - (i) the individual's spouse; or
 - (ii) another person who, although not legally married to the individual, lives with the individual on a genuine domestic basis as the spouse of the person; or
 - (iii) a business partner of the individual; or
 - (iv) a body corporate in which the individual controls at least 15 per cent of the voting power or holds at least 15 per cent of the issued shares; or
 - (v) a body corporate of which the individual is a director or secretary; or
 - (vi) a body corporate that is related to a body corporate of which the individual is a director or secretary; or
- (c) for any person—any other person (other than the ACA) who has a relevant agreement with the applicant that:
 - (i) entitles one of the parties to the agreement to operate a transmitter under a datacasting transmitter licence issued to another person; or
 - (ii) provides for the acquisition of a datacasting transmitter licence.

datacasting service area means an area specified in a paragraph below, comprising the areas described in the indicated Schedule or Schedules to the determination made by the ABA under subsection 34(3) of the *Broadcasting Services Act 1992* on 22 December 2000:

- (a) Schedule 1 (Sydney/Central Coast/Newcastle); or
- (b) Schedules 4, 5 and 6 (Melbourne); or
- (c) Schedule 13 (Brisbane/Gold Coast/Sunshine Coast); or
- (d) Schedule 9 (Perth); or
- (e) Schedules 7 and 8 (Adelaide); or
- (f) Schedule 12 (Canberra and surrounding regions); or
- (g) Schedules 10 and 11 (Darwin and Batchelor); or
- (h) Schedules 2 and 3 (Wollongong).

related body corporate has the meaning given by the Corporations Law.

relevant agreement means an agreement, arrangement or understanding:

- (a) whether formal or informal or partly formal and partly informal; and
- (b) whether written or oral or partly written and partly oral; and

- (c) whether or not having legal or equitable force and whether or not based on legal or equitable rights;

other than an agreement between carriers provided for by or under the *Telecommunications Act 1997*, Part XIC of the *Trade Practices Act 1974* or the *Telecommunications (Transitional Provisions and Consequential Amendments) Act 1997*.

specified group of persons means an applicant and all of the associates of the applicant.

(2) For this Direction, 2 or more specified groups of persons having one member in common are taken to be one specified group of persons.

Datacasting transmitter licence limits

3. When determining a price-based allocation system for allocating and/or issuing datacasting transmitter licences under subsection 106(1) of the Act in which two datacasting transmitter licences will be offered in each datacasting service area, the ACA must determine procedures imposing a limit of one datacasting transmitter licence per specified group of persons in a datacasting service area.

Particular procedures

4. Without limiting the power of the ACA to determine a price-based allocation system for allocating and/or issuing specified transmitter licences, in determining the system mentioned in section 3 the ACA must ensure that the system requires:

- (a) an applicant to notify the ACA of the applicant's associates; and
- (b) the ACA to accept the first bidding instruction file received by the ACA from an applicant taking part in an auction as the only bid file of members of a specified group of persons; and
- (c) the ACA to exclude an applicant who has failed to comply with requirements determined under paragraph (a) from taking part or continuing to take part in an auction.