



Commercial Television Conversion Scheme Variation 2003 (No. 1)

The AUSTRALIAN BROADCASTING AUTHORITY makes this instrument under subclause 6 (1) of Schedule 4 to the *Broadcasting Services Act 1992*.

Dated 30 January 2003

DAVID FLINT
Chairman

Australian Broadcasting Authority

1 Name of instrument

This instrument is the *Commercial Television Conversion Scheme Variation 2003 (No. 1)*.

2 Commencement

This instrument commences on gazettal.

3 Variation of *Commercial Television Conversion Scheme 1999*

Schedule 1 varies the *Commercial Television Conversion Scheme 1999*.

Schedule 1 Variations

(section 3)

[1] Part B

substitute

Part B Remote licence areas

Division 1 Policy objectives

90 Policy objectives for Part B

Part B of this scheme is directed towards ensuring the achievement of the following policy objectives:

- (a) the policy objective mentioned in subclause 6 (6A) of Schedule 4 to the Act;
- (b) the policy objective that a holder should be authorised, under 1 or more transmitter licences, to use 1 or more additional channels to transmit the commercial television broadcasting service concerned in digital mode in the holder's licence area;
- (c) the policy objective that each additional channel should occupy 7 MHz of bandwidth;
- (d) the policy objective that if a commercial television broadcasting licence is issued under section 38B of the Act and the holder makes an election under paragraph 6 (5A) (d) of Schedule 4 to the Act, the holder should be allowed to use the spare transmission capacity of the additional 7 MHz channel mentioned in paragraph (c) to transmit more than 1 commercial television broadcasting service, as long as 1 of the services is the service for which a licence was issued under section 38B of the Act;
- (e) the policy objective that if, before the simulcast period has commenced, a commercial television broadcasting licence is issued under section 38B of the Act and the holder makes an election under paragraph 102 (2) (b), the holder should be allowed to use the spare transmission capacity of the additional 7 MHz channel mentioned in paragraph (c) to transmit more than 1 commercial television broadcasting service before the simulcast period commences, as long as 1 of the services is the service for which a licence was issued under section 38B of the Act;
- (f) the policy objective that, before the simulcast period for a licence area has commenced, a holder may be allowed to transmit the commercial television broadcasting service concerned in digital mode in that area, so long as that transmission complies with such requirements as are ascertained in accordance with Part B of this scheme;

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- (g) the policy objective that, before the simulcast period for a licence area has commenced, a holder may be allowed to transmit, on a test basis, the commercial television broadcasting service concerned in digital mode in that area, so long as that transmission:
 - (i) complies with the requirements of Part B of this scheme; and
 - (ii) occurs during a period ascertained in accordance with Part B of this scheme;
 - (h) the policy objective that, during the simulcast period for a licence or coverage area, there should, as far as practicable, be co-location of:
 - (i) transmitters used by a holder for that area to transmit the television broadcasting service concerned in digital mode in that area; and
 - (ii) transmitters used by a holder to transmit that service in analog mode in that area;
 - (i) the policy objective that, at the end of the simulcast period for a licence area, all transmissions of commercial television broadcasting services in analog mode in that area are to cease;
 - (j) the policy objective that a holder should be allowed to use any spare transmission capacity that is available on the digital transmission channels for the transmission of:
 - (i) datacasting services provided under, and in accordance with the conditions of, datacasting licences; or
 - (ii) designated teletext services;
 - (k) the policy objective that the ABA is to consult holders about the implementation of Part B of this scheme;
 - (l) the policy objective that, if the implementation of Part B of this scheme affects particular broadcasting transmission towers, the ABA must consult the owners and operators of those towers;
 - (m) the policy objective that, if the implementation of Part B of this scheme affects particular satellites, the ABA may consult the owners and operators of those satellites;
 - (n) the policy objective that, in allotting channels under Part B of this scheme or a digital channel plan, the ABA must have regard to:
 - (i) the need to plan the most efficient use of the spectrum; and
 - (ii) the other relevant policy objectives of Part B of this scheme;
 - (o) the policy objective that processes for conversion of transmissions of television broadcasting services from analog mode to digital mode will occur as soon as practicable.

Note 1 The policy objective mentioned in subclause 6 (6A) of Schedule 4 to the Act is that each holder of a commercial television broadcasting licence for a remote licence area is required to commence transmitting the commercial television broadcasting service concerned in SDTV digital mode in that area by such date as the ABA determines under the scheme.

Note 2 For paragraph (d), an election under paragraph 6 (5A) (d) of Schedule 4 to the Act permits a holder to use the spare transmission capacity of the additional 7 MHz channel mentioned in paragraph 90 (c) to transmit more than 1 commercial television broadcasting service, as long as 1 of the services is the service for which a licence was issued under section 38B of the Act.

Note 3 The implementation of Part A of this scheme will have priority over the implementation of Part B of this scheme, but Part B of this scheme will be implemented as soon as practicable.

Division 2 Technical documents

91 Documents about technical matters

- (1) The ABA may prepare a document explaining general technical assumptions to which it will have regard when preparing or making a digital channel plan under Division 3.
- (2) If the ABA prepares a document, it must publish a notice explaining where copies of the document may be obtained.

Note The ABA's options for publishing the document are in section 4.

- (3) The ABA may publish a notice stating that:
 - (a) a document prepared by the ABA under subsection 6 (1) of the *National Television Conversion Scheme 1999*, as in force when this section commences, is adopted as, and taken to be, a document prepared for this section; or
 - (b) a document prepared by the ABA under subsection 6 (1) of this scheme, as in force when this section commences, is adopted as, and taken to be, a document prepared for this section.

Note A document prepared under subsection 6 (1) of the *National Television Conversion Scheme 1999* or of subsection 6 (1) of this scheme explains technical assumptions to which the ABA will have regard when considering whether the transmission of a commercial television broadcasting service in SDTV digital mode will achieve the same level of coverage and potential reception quality as is achieved by the transmission of that service in analog mode.

- (4) The ABA may publish a notice stating that:
 - (a) a document prepared by the ABA under subsection 6 (2) or 85 (1) of the *National Television Conversion Scheme 1999*, and as in force when this section commences, is adopted as, and taken to be, a document prepared for this section; or
 - (b) a document prepared by the ABA under subsection 6 (2) of this scheme, as in force when this section commences, is adopted as, and taken to be, a document prepared for this section

Note A document prepared under subsection 6 (2) or 85 (1) of the *National Television Conversion Scheme 1999* or of subsection 6 (2) of this scheme explains general technical assumptions to which the ABA will have regard when preparing or making a digital channel plan.

- (5) The ABA may, at any time, vary a document it has prepared.

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- (6) If the ABA varies the document, it must publish a notice explaining where copies of the variation (or the document as varied) may be obtained.

Note The ABA's options for publishing the document are in section 4.

Division 3 Digital channel plan

92 Digital channel plan

- (1) The allotment of additional channels to holders, allowing the holders to transmit programs in analog and digital modes during a simulcast period, will be done in a *digital channel plan* made by the ABA under section 97.
- (2) The allotment of channels to holders, allowing the holders to transmit in digital mode after a simulcast period, may be done by:
- (a) varying the digital channel plan mentioned in subsection (1); or
 - (b) making a new digital channel plan.
- (3) A digital channel plan may deal with:
- (a) all licence areas (other than licence areas dealt with in Part A of this scheme); or
 - (b) 1 or more specified licence areas (other than licence areas dealt with in Part A of this scheme); or
 - (c) a specified part of a licence area (other than a specified part of a licence area dealt with in Part A of this scheme).

Note As a result of subsection (3), there may be more than 1 document available at any time with the title *digital channel plan*.

93 Content of digital channel plan

- (1) Subject to this section, a digital channel plan must allot channels to holders.
- (2) A digital channel plan must also explain any technical limitations on the use of a particular channel that the ABA believes should be shown.
- (3) A digital channel plan must also explain whether the use of a channel depends on any event or circumstances described in the plan.

Example

If a channel is currently being used by another service, the use of the channel for digital transmission may depend on the other service vacating the channel, possibly by a particular date.

- (4) A digital channel plan must ensure that, if, before the start of the simulcast period, a holder of a licence allocated under subsection 38B (6), (7), (8) or (9) of the Act makes an election under paragraph 6 (5A) (d) of Schedule 4 to the Act:
- (a) the ABA must not allot a channel to the holder for transmitting the service to which the holder's licence that was allocated under section 38B of the Act relates; and
 - (b) the policy objective mentioned in paragraph 90 (d) is achieved; and

- (c) the holder is not authorised to use different channels to transmit:
 - (i) the service to which the holder's licence that was allocated under section 38B of the Act relates; and
 - (ii) other commercial television broadcasting services.

Note The policy objective mentioned in paragraph 90 (d) is if a commercial television broadcasting licence is issued under section 38B of the Act and the holder makes an election under paragraph 6 (5A) (d) of Schedule 4 to the Act, the holder should be allowed to use the spare transmission capacity of the additional 7 MHz channel mentioned in paragraph (c) to transmit more than 1 commercial television broadcasting service, as long as 1 of the services is the service for which a licence was issued under section 38B of the Act.

- (5) A digital channel plan must ensure that if, before the start of the simulcast period, a joint venture-company that is the holder of a licence allocated under subsection 38B (5) of the Act and 1 or 2 holders make an election under paragraph 102 (2) (b):
 - (a) the ABA must allot a channel to the holder specified in the notice under paragraph 102 (2) (c) for transmitting the service to which the licence that was allocated under section 38B of the Act relates; and
 - (b) the ABA must not allot a channel to a holder not specified in a notice under paragraph 102 (2) (c) for transmitting the service to which the licence that was allocated under section 38B of the Act relates; and
 - (c) the policy objective mentioned in paragraph 90 (e) is achieved; and
 - (d) the holder is authorised to use that channel to transmit:
 - (i) the service to which the joint-venture company's licence that was allocated under subsection 38B (5) of the Act relates; and
 - (ii) other commercial television broadcasting services to which the election relates; and
 - (e) the ABA makes arrangements under which it may alter the allotment if the election is revoked.

Note 1 Subsection 38B (5) of the Act provides for the allocation of a licence to a joint-venture company that is jointly owned by 2 existing licensees for the licence area.

Note 2 The policy objective mentioned in paragraph 90 (e) is if, before the simulcast period has commenced, a commercial television broadcasting licence is issued under section 38B of the Act and the holder makes an election under paragraph 102 (2) (b), the holder should be allowed to use the spare transmission capacity of the additional 7 MHz channel mentioned in paragraph (c) to transmit more than 1 commercial television broadcasting service before the simulcast period commences, as long as 1 of the services is the service for which a licence was issued under section 38B of the Act.

Note 3 The transmitter licence relating to the licence allocated under subsection 38B (5) can be held by any of the holders.

- (6) A digital channel plan must ensure that, at the start of the simulcast period, a channel is allotted to the joint-venture company that is the holder mentioned in subsection (5), and to each party to the joint-venture company.

Note Subsection 102 (8) provides that an election under paragraph 102 (2) (b) that relates to the issue of a licence to a joint-venture company is taken to have been revoked at the start of the simulcast period.

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- (7) A digital channel plan may include other matters.

Example

Whether there is any channel capacity available for uses other than:

- the conversion of existing broadcasting services; and
- the provision of services mentioned in section 38B of the Act.

94 Preparing draft digital channel plan

- (1) If the ABA wishes to make a digital channel plan, it must prepare a draft version of the plan, having regard to the matters in this section.
- (2) The ABA must have regard to:
- (a) the need to plan the most efficient use of the spectrum for broadcasting services or other uses, including the need for spectrum to be made available for allocation for the purposes of the transmission of datacasting services under, and in accordance with the conditions of, datacasting licences; and
 - (b) the policy objectives mentioned in section 90; and
 - (c) the policy objectives mentioned in paragraphs 90 (d) and (e), for ensuring that the digital channel plan makes arrangements for a holder that makes an election under paragraph 6 (5A) (d) of Schedule 4 to the Act or paragraph 102 (2) (b).
- (3) For subsection (2), the objectives mentioned in paragraph (2) (c) are more important than the need mentioned in paragraph (2) (a).
- (4) The ABA may also have regard to:
- (a) the cost, to holders, national broadcasters, tower owners, tower operators and site operators, of:
 - (i) allotting particular channels; and
 - (ii) digital transmission using the channels; and
 - (b) the likely cost, and disruption, to consumers caused by having to receive commercial television broadcasting services in digital mode using allotted channels; and
 - (c) any interference that digital transmission using a particular channel is likely to cause to analog transmission; and
 - (d) if a regional equalisation plan is in force for a particular area — the plan; and
 - (e) other matters it considers relevant.

95 Notice inviting comments on draft digital channel plan

If the ABA prepares a draft digital channel plan, it must publish a notice:

- (a) stating where copies of the draft plan may be obtained; and
- (b) inviting comments on the draft plan in the period specified in the notice.

Note The ABA's options for publishing the notice are in section 4.

96 Revising draft digital channel plan

If the ABA revises a draft digital channel plan, it must decide whether it is appropriate to give notice of and invite comments on the revised draft digital channel plan under section 95.

97 Making digital channel plan

- (1) The ABA may make a digital channel plan at any time after complying with sections 95 and 96.
- (2) When considering the form of a plan, the ABA must have regard to any comments it receives.
- (3) If the ABA makes a digital channel plan, it must publish a notice stating where copies of the plan may be obtained.

Note The ABA's options for publishing the notice are in section 4.

98 Varying digital channel plan

- (1) This section applies if the ABA wishes to vary a digital channel plan made for this scheme.
- (2) The ABA must decide:
 - (a) whether it is appropriate to invite comments on the variation; and
 - (b) if so — whether it is appropriate for it to use the process for inviting comments in section 95.

Note In some circumstances, it may be more efficient for the ABA to use a different form of public consultation.

- (3) If the ABA invites comments, it must have regard to any comments it receives when considering the form of a variation.
- (4) Also, the ABA:
 - (a) must have regard to the matters in subsection 94 (2); and
 - (b) may have regard to the matters in subsection 94 (4).
- (5) For subsection (4), the objectives mentioned in paragraph 94 (2) (c) are more important than the need mentioned in paragraph 94 (2) (a).
- (6) The ABA may vary the digital channel plan:
 - (a) at any time after completing its consultation; or
 - (b) if there is no consultation — at any time.
- (7) If the ABA varies the digital channel plan, it must publish a notice stating where copies of the variation may be obtained.

Note The ABA's options for publishing the notice are in section 4.

99 First digital channel plan

- (1) This section applies to the preparation and making of, and the consultation process for, the first digital channel plan.
- (2) The ABA may use material or a document prepared before the commencement of this section.
- (3) The preparation of a draft digital channel plan by the ABA before the commencement of this section is taken to comply with section 94.
- (4) The publication of a notice about a draft digital channel plan and inviting comments on the draft digital channel plan by the ABA before the commencement of this section is taken to comply with section 95.
- (5) The revision of the draft digital channel plan by the ABA before the commencement of this section, and the ABA's decision, before the commencement of this section, whether to invite comments on the revised draft digital channel plan, are taken to comply with section 96.

Division 4 Implementation plans**100 Implementation plans**

- (1) The ABA may make arrangements for:
 - (a) the preparation of the form of an implementation plan for holders in remote licence areas; and
 - (b) the preparation of an application form for approval of implementation plans for remote licence areas; and
 - (c) advising holders in remote licence areas of the requirements for implementation plans.
- (2) However, the ABA is not required to make the arrangements before the start of all of the simulcast periods required for Part A of this scheme.

Note See Act, Schedule 4, subclause 9 (1).

101 Transmitter licences

- (1) This section applies if a holder's implementation plan is approved.
- (2) Subject to subsections (3), (4) and (5), and to the digital channel plan, the ABA must make arrangements with the ACA to issue to the holder a transmitter licence that authorises the operation of 1 or more specified radiocommunications transmitters for transmitting the broadcasting service concerned in digital mode, during and after the simulcast period, in accordance with the holder's commercial television broadcasting licence.

Note See *Radiocommunications Act 1992*, section 102A.

- (3) If the holder already holds a suitable transmitter licence for the licence area concerned, the ABA may make arrangements with the ACA to vary the licence, if it is necessary, to give the authorisation mentioned in subsection (2).
- (4) If the holder already holds a transmitter licence for the licence area concerned, for test transmissions or for transmission in a remote licence area before the start of the simulcast period, the ABA must make arrangements with the ACA to vary the licence, if it is necessary, to give the authorisation mentioned in subsection (2).

Note Division 10 of this Part deals with transmitter licences issued to support test transmissions. Division 11 of this Part deals with transmitter licences issued to support transmission in a remote licence area before the start of the simulcast period.

- (5) If a holder has made an election under paragraph 6 (5A) (d) of Schedule 4 to the Act, the ACA must ensure that:
 - (a) the transmitter licence, as issued or varied, will authorise the operation of 1 or more transmitters for transmitting the commercial television broadcasting services that are, in accordance with the election, to be transmitted using multi-channelling transmission capacity; and
 - (b) the ABA and ACA make arrangements under which it may alter the issue or variation of the licence (including requiring the surrender of the licence) if the election is revoked.

Note See paragraph 90 (d).

- (6) The ABA must also make arrangements with the ACA to identify conditions to which the licence should be subject, including (if appropriate) the date of effect of the licence.
- (7) The ACA must issue or vary the licence in accordance with the arrangements.

Note Schedule 4 to the Act imposes a timetable for conversion to digital transmission, with simulcasts starting at different times in different licence areas. To support the timetable, the ABA and the ACA may have to set priorities for carrying out their responsibilities.

Division 5 Election for multi-channelling

102 Election to multi-channel

- (1) This section applies if:
 - (a) the holder of a commercial television broadcasting licence is a party to a joint-venture company; and
 - (b) the joint-venture company holds another commercial television broadcasting licence, allocated under subsection 38B (5) of the Act; and
 - (c) the areas to which the licences relate overlap.

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- (2) 1 or 2 holders (including a holder who is a party to the joint-venture company) and the joint-venture company may give the ABA a written notice:
- (a) stating which holder or holders wish to transmit the commercial television broadcasting services of the other holder or holders; and
 - (b) electing that this section apply to the commercial television broadcasting services concerned; and
 - (c) asking the ABA to make any arrangements necessary to issue to the holder or holders specified in the notice a transmitter licence that authorises the operation of 1 or more specified radiocommunications transmitters for transmitting the commercial television broadcasting services concerned in digital mode in the overlap area.

Note Subclause 7 (2A) of Schedule 2 to the Act provides that a commercial television licence is subject to the condition that the licensee will not provide commercial television broadcasting services under the licence outside the licence area of the licence, unless the circumstances mentioned in that subclause apply.

- (3) In addition to subsection (2), if the holder (or holders) and the joint-venture company propose that all of the services to which the notice relates are to be supplied on the same channel, the notice must:
- (a) include a statement to that effect; and
 - (b) be accompanied by evidence that the parties have agreed to supply the services on the same channel.

Note If these requirements are not met, the transmitter licence will not be issued to the holder.

- (4) If the transmitter licence is to be issued to the holder that is the joint-venture company, the notice must be accompanied by evidence that:
- (a) the holder will transmit, under the licence that was allocated under section 38B of the Act, the commercial television broadcasting services of each other holder; and
 - (b) the commercial television broadcasting services mentioned in paragraph (a) that will be transmitted by the holder that is the joint-venture company will be simultaneously broadcast in analog mode.

Note If these requirements are not met, the transmitter licence will not be issued to the holder that is the joint-venture company.

- (5) If the transmitter licence is to be issued to a holder that is not the joint-venture company, the notice must be accompanied by evidence that the holder will transmit the commercial television broadcasting service under the licence that was allocated under section 38B of the Act.

Note If this requirement is not met, the transmitter licence will not be issued to the holder.

- (6) If a transmitter licence is to be issued to each holder that is not the joint-venture company, the notice must be accompanied by evidence that:
- (a) each holder will transmit commercial television broadcasting services under the licence that was allocated under section 38B of the Act using separate transmitters; and

- (b) the commercial television broadcasting service to be transmitted by each holder, under the licence that was allocated under section 38B of the Act, will be identical.

Note If these requirements are not met, transmitter licences will not be issued to the holders.

- (7) Each of the holders may give the ABA a written notice revoking the election.

Note If the election is revoked, it will be necessary for the ABA to make arrangements for the surrender of the transmitter licence, and the issue of new licences that will allow the parties to end the multi-channelling arrangements.

- (8) An election under paragraph (2) (b) is taken to have been revoked at the start of the simulcast period.

Note Sections 103–137 have been reserved for future use.

Division 7 Starting SDTV digital transmission

138 Starting SDTV digital transmissions

- (1) The ABA must determine a date, for a remote licence area, by which each holder for the area is required to commence transmitting the commercial television broadcasting service concerned in SDTV digital mode in that area.
- (2) The ABA must:
- (a) consult with all holders for a remote licence area before determining a date for the area; and
 - (b) have regard to any election that has been made under paragraph 102 (2) (b) before the date determined under subsection (1); and
 - (c) have regard to any comments it receives during consultation.
- (3) The date must be later than the day when the ABA makes the determination.

Note The ABA intends to determine the date in accordance with paragraph 90 (o).

- (4) The ABA must publish the determination as soon as practicable after making it.

Note The ABA's options for publishing the determination are in section 4.

139 Simulcast period

- (1) There is a transitional period for a licence area, to be known as the *simulcast period*.

Note See Act, Schedule 4, subclauses 6 (7) and (7A).

- (2) A holder for the area must transmit simultaneously the commercial television broadcasting service concerned in both analog mode and SDTV digital mode in the area throughout the simulcast period.

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- (3) The simulcast period:
- (a) begins on the date determined by the ABA under subsection 138 (1); and
 - (b) runs for a period determined by the ABA.
- (4) Before determining the period for paragraph (3) (b), the ABA must:
- (a) consult with:
 - (i) the public; and
 - (ii) holders; and
 - (iii) national broadcasters; and
 - (iv) the ACA; and
 - (v) owners and operators of broadcasting transmission towers; and
 - (vi) owners and operators of satellite transmission facilities; and
 - (b) have regard to any comments it receives during consultation.
- (5) The ABA must publish the determination as soon as practicable after making it.

Note 1 The ABA's options for publishing the determination are in section 4.

Note 2 Sections 140–148 have been reserved for future use.

Division 10 Test transmissions

Note about testing

An essential part of the conversion to digital transmission is the need for holders to test their digital equipment, and their capacity to provide transmissions of adequate coverage and quality.

Test transmissions are likely to take various forms, from full transmissions of broadcast material to short transmissions of test signals, and may happen at any time before or during a simulcast period. Holders may need to use the channels allotted to them in the digital channel plan, or may want to use 'spare' channels for specific tests.

Although there may appear to be no visual difference between a test transmission and a 'regular' transmission, the Act treats them differently and allows this scheme to impose different requirements for the kinds of transmission. This is particularly significant for a holder that wishes to transmit before the start of the simulcast period for the holder's licence area — the transmission may be a test or it may be an early start of full digital transmission.

Under this Division, the ABA will be responsible for approving all test transmissions, either by approving specific tests or by approving a testing plan submitted by a holder.

The ABA wishes to draw the reader's attention to the provisions in this Division that state that permission to carry out tests in a particular way, or using a particular channel, is not a guarantee that a holder will have a permanent right, or obligation, to transmit in that way, or to use that channel.

Subdivision A Test transmissions

149 Test transmissions

- (1) A holder for a licence area may transmit, on a test basis, the commercial television broadcasting service concerned in digital mode in the area before or after the start of the simulcast period for the area.
- (2) The holder may transmit, on a test basis, material that is part of, or reasonably related to, the transmission of the commercial television broadcasting service concerned in digital mode in the area before or after the start of the simulcast period for the area.
- (3) However, the holder may transmit on a test basis only if:
 - (a) the holder complies with the arrangements in this Division; and
 - (b) the ABA has given written permission for the transmission.

Subdivision B Approval of application form

150 Application form for approval of testing

- (1) The ABA must approve, in writing, an application form for approval to transmit on a test basis.
- (2) The ABA must publish a notice stating where copies of the application form may be obtained.

Note The ABA's options for publishing the notice are in section 4.

151 Application form — essential content

- (1) The application form must require a holder to tell the ABA which of the following circumstances applies:
 - (a) no digital channel plan is in force for the licence area in which the holder wishes to transmit on a test basis;
 - (b) a digital channel plan is in force for the licence area, and the holder wishes to transmit on a test basis using a channel allotted to the holder under the digital channel plan for the area;
 - (c) a digital channel plan is in force for the licence area, and the holder wishes to transmit on a test basis using a channel that was not allotted to the holder under the digital channel plan for the area.
- (2) The form must also require the holder:
 - (a) to identify the date on which the holder proposes to start transmission on a test basis; or

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- (b) to explain why it is not practicable for the holder to identify a date.
 - (3) The form must also require the holder to tell the ABA the period during which the holder expects to transmit on a test basis.

152 Application form — optional content

- (1) The application form may require a holder to give information about the site of each transmitter to be used for transmission on a test basis, including:
 - (a) the name of the site; and
 - (b) the Australian map grid reference.
- (2) The form may require a holder to give information about the proposed emission characteristics of each transmitter to be used for transmission on a test basis, including:
 - (a) the frequency band; and
 - (b) the channel; and
 - (c) the polarisation; and
 - (d) the effective radiated power.
- (3) The form may require a holder to state that the holder has access to each site and broadcasting transmission tower it is proposing to use for transmission on a test basis.
- (4) The form may require a holder to state that the holder has used its best endeavours to obtain any approvals required from third parties, and conducted necessary consultations.

Examples

- 1 Local government approval for use of a site.
 - 2 Consultation with other holders about co-location.
- (5) The form may require a holder to carry out a test or other analysis described in the form.
 - (6) The form may require a holder to give the ABA other information.

Subdivision C Approval to transmit on a test basis

153 Application for approval to transmit on test basis

- (1) A holder may apply to the ABA, at any time, for approval to transmit on a test basis.

Note There is no assumption that test transmissions will only be needed, or approved, before the start of the simulcast period for a licence area. Testing may be needed at any time before or during the period.

- (2) The holder must apply using the approved application form.
- (3) To avoid doubt:
 - (a) strict compliance with the approved application form is required; and

- (b) section 25C of the *Acts Interpretation Act 1901* does not apply to the approved application form.

Note Section 25C of the *Acts Interpretation Act 1901* explains a general presumption that it is permissible for a person to use a prescribed form, or to comply substantially with the prescribed form.

154 Considering decision

- (1) The ABA must consider whether the application is suitable for approval, having regard to:
 - (a) the criteria in this section; and
 - (b) other matters that it considers relevant to efficient digital transmission and the efficient use of spectrum.
- (2) The application must be in strict compliance with the approved application form.
- (3) The application must deal adequately with the matters with which the holder was required to deal by the application form.
- (4) The ABA must be satisfied that approving the transmissions on a test basis will:
 - (a) assist with developing a digital channel plan, or confirming that an existing digital channel plan is satisfactory; or
 - (b) promote the policy objectives mentioned in section 90.

155 Further information about application

- (1) The ABA may, in writing, ask a holder to do 1 or more of the following things to help the ABA to consider its decision on an application:
 - (a) to give the ABA the information mentioned in the request;
 - (b) to carry out a test or other analysis described in the request;
 - (c) to do something else mentioned in the request.
- (2) The request may be to do, or repeat, something that was required in the application form.

Note See subsections 152 (5) and (6).

- (3) The ABA is not required to consider the application while it is waiting for the holder to respond to the request.

156 Decision on application

- (1) If the ABA considers that the application is suitable for approval, the ABA must, in writing:
 - (a) approve the application; and
 - (b) tell the holder of the decision as soon as practicable after approving the application.

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- (2) If section 158 or 163 applies, the ABA must include in the approval the following statements:
 - (a) the approval does not, of itself, authorise transmission on a test basis; and
 - (b) the ABA must be able to allocate part of the radiofrequency spectrum under section 34 of the Act before the holder will be issued with a transmitter licence.
 - (3) The ABA may include any of the following matters in the approval:
 - (a) 1 or more dates on which the holder is permitted to transmit on a test basis;
 - (b) a period in which the holder is permitted to transmit on a test basis;
 - (c) technical requirements with which the holder must comply when transmitting on a test basis;
 - (d) conditions to which the approval is subject, including (if appropriate) a condition that transmissions on a test basis may only be carried out in accordance with a licence mentioned in this Division.
 - (4) If the ABA considers that the application is not suitable for approval, the ABA must, in writing:
 - (a) refuse to approve the application; and
 - (b) tell the holder of the decision as soon as practicable after refusing to approve the application.
 - (5) Application may be made to the AAT for review of a decision refusing to approve the application.

Subdivision D Test transmissions if there is no digital channel plan

157 Application of Subdivision D

This Subdivision applies if:

- (a) the ABA approves a holder's application for approval to transmit on a test basis; and
- (b) there is no digital channel plan in force for the licence area, or part of a licence area, where the holder wishes to transmit on a test basis.

158 Allocation of spectrum

- (1) The ABA must consider whether to allocate part of the radiofrequency spectrum to the holder under section 34 of the Act for the purpose of the transmission.
- (2) However, the ABA does not guarantee that it will be able to allocate a part of the spectrum.
- (3) The holder is not permitted to transmit if the ABA has not allocated a part of the spectrum.

- (4) If the ABA makes a determination allocating part of the spectrum, it must publish a notice either:
 - (a) setting out the determination; or
 - (b) stating where copies of the determination may be obtained.

Note The ABA's options for publishing the notice are in section 4.

159 ABA to make arrangements with ACA for issue of transmitter licence

Application

- (1) This section applies if the ABA has made a determination allocating part of the radiofrequency spectrum to the holder under section 34 of the Act for the purpose of the transmission.

No election under paragraph 102 (2) (b), or election under paragraph 6 (5A) (d) of Schedule 4 to the Act

- (2) Subsection (3) applies if:
 - (a) the holder has made an election under paragraph 6 (5A) (d) of Schedule 4 to the Act; or
 - (b) the holder has not made an election under paragraph 102 (2) (b).
- (3) The ABA must make arrangements with the ACA to issue to the holder a transmitter licence that authorises the operation of 1 or more specified radiocommunications transmitters for transmitting the commercial television broadcasting services concerned in digital mode on a test basis in accordance with the holder's commercial television broadcasting licence.

Election under paragraph 102 (2) (b)

- (4) Subsection (5) applies if:
 - (a) the holder of a licence issued under subsection 38B (5) of the Act has made an election under paragraph 102 (2) (b); and
 - (b) the election complies with section 102.
- (5) The ABA must make arrangements with the ACA:
 - (a) to issue to the holder specified in the election a transmitter licence that authorises the operation of 1 or more specified radiocommunications transmitters for transmitting the commercial television broadcasting services concerned in digital mode on a test basis in accordance with the holder's commercial television broadcasting licence; and
 - (b) under which the issue of the licence may be altered (including requiring the surrender of the licence) if the election is revoked.

Note Subsection 102 (8) provides that an election under paragraph 102 (2) (b) is taken to have been revoked at the start of the simulcast period.

General

- (6) The ABA must also make arrangements with the ACA to identify conditions to which a transmitter licence issued under subsection (3) or (5) should be subject, including (if appropriate) conditions about:
- (a) the date of effect of the licence; and
 - (b) the period during which the holder may transmit on a test basis.

- (7) The ACA must issue the licence in accordance with the arrangements.

Note Schedule 4 to the Act imposes a timetable for conversion to digital transmission, with simulcasts starting at different times in different licence areas. To support the timetable, the ABA and the ACA may have to set priorities for carrying out their responsibilities.

- (8) The ABA does not guarantee or imply that:

- (a) the channel used by the holder for transmission on a test basis will be made available to the holder for any other purpose; or
- (b) the characteristics, including technical specifications, in the transmitter licence issued under the *Radiocommunications Act 1992* for transmission on a test basis will be included in any transmitter licence held by the holder after the holder ceases testing.

Note A licence for test transmissions may include characteristics that are appropriate for testing, but not for general commercial broadcasting: for example, power restrictions or a requirement to use equipment in a particular way.

- (9) The period during which the holder may transmit on a test basis is the period for which the ABA allocates part of the radiofrequency spectrum to the holder under section 34 of the Act for the purpose of the transmission.

Note See paragraph 90 (g).

Subdivision E Test transmissions if there is a digital channel plan (tests using allotted channel)

160 Application of Subdivision E

This Subdivision applies if:

- (a) the ABA approves a holder's application for approval to transmit on a test basis; and
- (b) there is a digital channel plan in force for the licence area, or part of a licence area, where the holder wishes to transmit on a test basis; and
- (c) the holder wishes to transmit using a channel allotted to the holder by the digital channel plan.

161 ABA to make arrangements with ACA for issue of transmitter licence

No election under paragraph 102 (2) (b), or election under paragraph 6 (5A) (d) of Schedule 4 to the Act

- (1) Subsection (2) applies if:
 - (a) the holder has made an election under paragraph 6 (5A) (d) of Schedule 4 to the Act; or
 - (b) the holder has not made an election under paragraph 102 (2) (b).
- (2) The ABA must make arrangements with the ACA to issue to the holder a transmitter licence that authorises the operation of 1 or more specified radiocommunications transmitters for transmitting the commercial television broadcasting services concerned in digital mode on a test basis in accordance with the holder's commercial television broadcasting licence.

Election under paragraph 102 (2) (b)

- (3) Subsection (4) applies if:
 - (a) the holder of a licence issued under subsection 38B (5) of the Act has made an election under paragraph 102 (2) (b); and
 - (b) the election complies with section 102.
- (4) The ABA must make arrangements with the ACA:
 - (a) to issue to the holder specified in the election a transmitter licence that authorises the operation of 1 or more specified radiocommunications transmitters for transmitting the commercial television broadcasting services concerned in digital mode on a test basis in accordance with the holder's commercial television broadcasting licence; and
 - (b) under which the issue of the licence may be altered (including requiring the surrender of the licence) if the election is revoked.

Note Subsection 102 (8) provides that an election under paragraph 102 (2) (b) is taken to have been revoked at the start of the simulcast period.

General

- (5) The ABA must also make arrangements with the ACA to identify conditions to which a transmitter licence issued under subsection (2) or (4) should be subject, including (if appropriate) conditions about:
 - (a) the date of effect of the licence; and
 - (b) the period during which the holder may transmit on a test basis.
- (6) The ACA must issue the licence in accordance with the arrangements.

Note Schedule 4 to the Act imposes a timetable for conversion to digital transmission, with simulcasts starting at different times in different licence areas. To support the timetable, the ABA and the ACA may have to set priorities for carrying out their responsibilities.

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- (7) The ABA does not guarantee or imply that the characteristics, including technical specifications, in the transmitter licence issued under the *Radiocommunications Act 1992* for transmission on a test basis will be included in any transmitter licence held by the holder after the holder ceases testing.

Note A licence for test transmissions may include characteristics that are appropriate for testing, but not for general commercial broadcasting: for example, power restrictions or a requirement to use equipment in a particular way.

Subdivision F Test transmissions if there is a digital channel plan (tests not using allotted channel)

162 Application of Subdivision F

This Subdivision applies if:

- (a) the ABA approves a holder's application for approval to transmit on a test basis; and
- (b) there is a digital channel plan in force for the licence area, or part of a licence area, where the holder wishes to transmit on a test basis; and
- (c) the holder wishes to transmit using a channel that has not been allotted to the holder by the digital channel plan.

163 Allocation of spectrum

- (1) The ABA must consider whether to allocate part of the radiofrequency spectrum to the holder under section 34 of the Act for the purpose of the transmission.
- (2) However, the ABA does not guarantee that it will be able to allocate a part of the spectrum.
- (3) The holder is not permitted to transmit if the ABA has not allocated a part of the spectrum.
- (4) If the ABA makes a determination allocating part of the spectrum, it must publish a notice either:
 - (a) setting out the determination; or
 - (b) stating where copies of the determination may be obtained.

Note The ABA's options for publishing the notice are in section 4.

164 ABA to make arrangements with ACA for issue of transmitter licence

Application

- (1) This section applies if the ABA has made a determination allocating part of the radiofrequency spectrum to the holder under section 34 of the Act for the purpose of the transmission.

No election under paragraph 102 (2) (b), or election under paragraph 6 (5A) (d) of Schedule 4 to the Act

- (2) Subsection (3) applies if:
 - (a) the holder has made an election under paragraph 6 (5A) (d) of Schedule 4 to the Act; or
 - (b) the holder has not made an election under paragraph 102 (2) (b).
- (3) The ABA must make arrangements with the ACA to issue to the holder a transmitter licence that authorises the operation of 1 or more specified radiocommunications transmitters for transmitting the commercial television broadcasting services concerned in digital mode on a test basis in accordance with the holder's commercial television broadcasting licence.

Election under paragraph 102 (2) (b)

- (4) Subsection (5) applies if:
 - (a) the holder of a licence issued under subsection 38B (5) of the Act has made an election under paragraph 102 (2) (b); and
 - (b) the election complies with section 102.
- (5) The ABA must make arrangements with the ACA:
 - (a) to issue to the holder specified in the election a transmitter licence that authorises the operation of 1 or more specified radiocommunications transmitters for transmitting the commercial television broadcasting services concerned in digital mode on a test basis in accordance with the holder's commercial television broadcasting licence; and
 - (b) under which the issue of the licence may be altered (including requiring the surrender of the licence) if the election is revoked.

Note Subsection 102 (8) provides that an election under paragraph 102 (2) (b) is taken to have been revoked at the start of the simulcast period.

General

- (6) The ABA must also make arrangements with the ACA to identify conditions to which a transmitter licence issued under subsection (3) or (5) should be subject, including (if appropriate) conditions about:
 - (a) the date of effect of the licence; and
 - (b) the period during which the holder may transmit on a test basis.
- (7) The ACA must issue the licence in accordance with the arrangements.

Note Schedule 4 to the Act imposes a timetable for conversion to digital transmission, with simulcasts starting at different times in different licence areas. To support the timetable, the ABA and the ACA may have to set priorities for carrying out their responsibilities.

- (8) The ABA does not guarantee or imply that:
 - (a) the channel used by the holder for transmission on a test basis will be made available to the holder for any other purpose; or

- (b) the characteristics, including technical specifications, in the transmitter licence issued under the *Radiocommunications Act 1992* for transmission on a test basis will be included in any transmitter licence held by the holder after the holder ceases testing.

Note A licence for test transmissions may include characteristics that are appropriate for testing, but not for general commercial broadcasting: for example, power restrictions or a requirement to use equipment in a particular way.

- (9) The period during which the holder may transmit on a test basis is the period for which the ABA allocates part of the radiofrequency spectrum to the holder under section 34 of the Act for the purpose of the transmission.

Note See paragraph 90 (g).

Subdivision G Test data

165 Test data

- (1) The ABA may, in writing, ask a holder to give the ABA information about transmissions on a test basis, including:
- (a) the holder's test data; and
 - (b) the holder's technical conclusions from the test data.
- (2) The ABA may also ask the holder, in writing, to give the information in a particular way.
- (3) The holder must comply with a request as soon as practicable.

Division 11 Transmission in licence area before start of simulcast period

Note about 'early' transmissions

Schedule 4 to the Act imposes a timetable for conversion to digital transmission, with the conversion process starting at different times in different licence areas.

The timetable, and other arrangements in this scheme, assume that a holder will make arrangements with the intention of broadcasting in digital mode from the start of the simulcast period applicable to the holder. However, the timetable does not prevent a holder for a remote licence area from starting transmissions before the start of the simulcast period.

It is important to note that some holders may be broadcasting before the start of simulcast periods to test their digital equipment, and their capacity to provide transmissions of adequate coverage and quality. Other holders will be broadcasting their regular digital services in accordance with an approval to transmit a regular service before the start of the simulcast period.

Although there may appear to be no visual difference between a test transmission and a 'regular' transmission, the Act treats them differently and allows this scheme to impose different requirements for the kinds of transmission.

Under this Division, the holder will need to apply to the ABA for approval to transmit a regular digital service before the start of the simulcast period. The ABA will approve an application if certain requirements are met.

166 Division 11 does not apply to testing

This Division does not apply to a holder that proposes to transmit, on a test basis, a commercial television broadcasting service in digital mode.

Note See Division 10 of Part B of this scheme.

167 Application form for approval to transmit before start of simulcast period

- (1) The ABA must approve, in writing, an application form for approval to transmit before the start of the simulcast period.
- (2) The ABA must publish a notice stating where copies of the form may be obtained.

Note The ABA's options for publishing the notice are in section 4.

168 Application form — content

The application form must require a holder to identify the date on which the holder proposes to start digital transmission in the area.

169 Application for approval to transmit before start of simulcast period

A holder for a remote licence area may apply to the ABA for approval to transmit a commercial television broadcasting service in digital mode in the area, or a part of the area before the start of the simulcast period for that area.

Note See Act, Schedule 4, subclauses 6 (7) and (7A) and section 139.

170 Considering decision on application

- (1) The ABA must consider whether the application is suitable for approval, having regard to:
 - (a) the criteria in this section; and
 - (b) other matters that it considers relevant to efficient digital transmission and the efficient use of spectrum.
- (2) The application must deal adequately with the matters with which the holder was required to deal by the application form.
- (3) The digital channel plan for the area, or part of the area, must be in force.
- (4) The application must be consistent with the policy objectives mentioned in section 90, and, in particular, the policy objectives mentioned in paragraphs 90 (d), (e) and (h).

171 Further information about application

- (1) The ABA may, in writing, ask a holder to do 1 or more of the following things to help the ABA to consider its decision on the application:
 - (a) to give the ABA the information mentioned in the request;
 - (b) to carry out a test or other analysis described in the request;
 - (c) to do something else mentioned in the request.
- (2) The ABA is not required to consider the application while it is waiting for the holder to respond to the request.

172 Decision on application

- (1) If the ABA considers that the application is suitable for approval, the ABA must, in writing:
 - (a) approve the application; and
 - (b) tell the holder of the decision as soon as practicable after approving the application.
- (2) If the ABA considers that the application is not suitable for approval, the ABA must, in writing:
 - (a) refuse to approve the application; and
 - (b) tell the holder of the decision as soon as practicable after refusing to approve the application.
- (3) Application may be made to the AAT for review of a decision refusing to approve the application.

173 Transmitter licence — general

No election under paragraph 102 (2) (b), or election under paragraph 6 (5A) (d) of Schedule 4 to the Act

- (1) Subsection (2) applies if:
 - (a) the holder has made an election under paragraph 6 (5A) (d) of Schedule 4 to the Act; or
 - (b) the holder has not made an election under paragraph 102 (2) (b).
- (2) If the ABA approves the application, the ABA must make arrangements with the ACA to issue to the holder a transmitter licence that authorises the operation of 1 or more specified radiocommunications transmitters for transmitting the broadcasting service concerned in digital mode in accordance with the holder's commercial television broadcasting licence.

Election under paragraph 102 (2) (b)

- (3) Subsection (4) applies if:
 - (a) the holder of a licence issued under subsection 38B (5) of the Act has made an election under paragraph 102 (2) (b); and

- (b) the election complies with section 102.
- (4) If the ABA approves the application under section 172, the ABA must make arrangements with the ACA:
 - (a) to issue to the holder specified in the election a transmitter licence that authorises the operation of 1 or more specified radiocommunications transmitters for transmitting the commercial television broadcasting services concerned in digital mode in accordance with the holder's commercial television broadcasting licence; and
 - (b) under which the issue of the licence may be altered (including requiring the surrender of the licence) if the election is revoked.

Note Subsection 102 (8) provides that an election under paragraph 102 (2) (b) is taken to have been revoked at the start of the simulcast period.

General

- (5) However, if the holder already holds a transmitter licence for the licence area concerned, for test transmissions, the ABA must make arrangements with the ACA to vary the licence, if it is necessary, to give the authorisation mentioned in subsection (2) or (4).

Note 1 Division 10 of Part B of this scheme deals with transmitter licences issued to support test transmissions.

Note 2 Schedule 4 to the Act imposes a timetable for conversion to digital transmission, with simulcasts starting at different times in different licence areas. To support the timetable, the ABA and the ACA may have to set priorities for carrying out their responsibilities.

- (6) The ABA must also make arrangements with the ACA to identify conditions to which a transmitter licence issued under subsection (2) or (4) should be subject, including (if appropriate):
 - (a) a condition about the date of effect of the licence; and
 - (b) a condition that the licence is to be in force until the first-occurring of the following events:
 - (i) the day that is 3 months before the start of the simulcast period;
 - (ii) 12 months after the date of effect of the licence.
- (7) The ACA must issue or vary the licence in accordance with the arrangements.
- (8) The ABA will ensure, as far as practicable, that the channel used by the holder for transmission will be made available to the holder during the simulcast period.
- (9) However, the ABA does not guarantee or imply that the channel will be made available.

Examples of problems with making channel available during simulcast period

- 1 The use of the channel is inconsistent with the digital channel plan for the area.
- 2 The holder is required under this scheme to surrender a transmitter licence relating to the channel.

3 A transmitter licence relating to the channel is cancelled under the *Radiocommunications Act 1992*.

- (10) Also, the ABA does not guarantee or imply that the characteristics, including technical specifications, in the transmitter licence will be included in any transmitter licence subsequently issued to the holder for the area or part of the area.

Division 12 Action by ABA — holder not complying with Part B of this scheme

174 Action by ABA if holder reduces quality or coverage of analog service — election under Act

- (1) This section applies to a holder who, before the start of the simulcast period, makes an election under paragraph 6 (5A) (d) of Schedule 4 to the Act.
- (2) If, before the start of the simulcast period, the holder reduces the quality or coverage of transmission in analog mode, the ABA may ask the holder to make a submission about why the holder's digital transmitter licence should not be surrendered.
- (3) The ABA must:
- (a) consider a submission made under subsection (2); and
 - (b) decide whether the holder's digital transmitter licence should be surrendered; and
 - (c) give the holder written notice of the decision; and
 - (d) if the ABA decides that the holder's digital transmitter licence should be surrendered — give the holder a written notice requiring the holder to surrender the holder's digital transmitter licence.

175 Action by ABA if holder reduces quality or coverage of analog service — election under paragraph 102 (2) (b)

- (1) This section applies to a holder who, before the start of the simulcast period, makes an election under paragraph 102 (2) (b).
- (2) If, before the start of the simulcast period, the holder reduces the quality or coverage of transmission in analog mode, the ABA may ask the holder to make a submission about why the holder's digital transmitter licence should not be surrendered.
- (3) The ABA must:
- (a) consider a submission made under subsection (2); and
 - (b) decide whether the holder's digital transmitter licence should be surrendered; and
 - (c) give the holder written notice of the decision; and

- (d) if the ABA decides that the holder's digital transmitter licence should be surrendered — give the holder a written notice requiring the holder to surrender the holder's digital transmitter licence.

176 Action by ABA if holder not broadcasting identical programs in analog and digital modes before simulcast period has commenced

- (1) Subsection (2) applies to a holder for a remote licence area if the holder:
 - (a) holds a commercial television broadcasting licence allocated under a section of the Act other than section 38B; and
 - (b) transmits the commercial television broadcasting service concerned in SDTV digital mode in the remote licence area (other than on a test basis) before the commencement of the simulcast period.
- (2) The holder must ensure that each program that the holder broadcasts in analog mode before the commencement of the simulcast period is also simultaneously broadcast in SDTV digital mode.
- (3) If the holder does not comply with subsection (2), the ABA may ask the holder to make a submission about why the holder's digital transmitter licence should not be surrendered.
- (4) The ABA must:
 - (a) consider a submission made under subsection (3); and
 - (b) decide whether the holder's digital transmitter licence should be surrendered; and
 - (c) give the holder written notice of the decision; and
 - (d) if the ABA decides that the holder's digital transmitter licence should be surrendered — give the holder a written notice requiring the holder to surrender the holder's digital transmitter licence.

177 Action by ABA if holder not transmitting as intended

- (1) This section applies if a transmitter licence is issued under section 173.
- (2) The ABA may ask a holder to make a submission about why the holder's digital transmitter licence should not be surrendered if:
 - (a) for a licence mentioned in subsection 102 (4) — the commercial television broadcasting services mentioned in paragraph 102 (4) (a) that are transmitted by the holder that is the joint-venture company are not being broadcast in analog mode; or
 - (b) for a licence mentioned in subsection 102 (5) — the holder is not transmitting commercial television broadcasting services under the licence that was allocated under section 38B of the Act; or
 - (c) for a licence mentioned in subsection 102 (6) — the commercial television broadcasting service transmitted by each holder, under the licence that was allocated under section 38B of the Act, is not identical.

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- (3) The ABA must:
- (a) consider a submission made under subsection (2); and
 - (b) decide whether the holder's digital transmitter licence should be surrendered; and
 - (c) give the holder written notice of the decision; and
 - (d) if the ABA decides that the holder's digital transmitter licence should be surrendered — give the holder a written notice requiring the holder to surrender the holder's digital transmitter licence.

Division 13 Consultation

178 Consultation with holders

The ABA must consult holders about the implementation of Part B of this scheme.

Note See paragraph 90 (k).

179 Consultation with tower owners and tower operators

If the implementation of Part B of this scheme affects a particular broadcasting transmission tower, the ABA must consult the tower owner and the tower operator.

Note See paragraph 90 (l).

180 Consultation with owners and operators of satellite transmission facilities

The ABA may consult the owners and operators of satellite transmission facilities about the implementation of Part B of this scheme.

Note See paragraph 90 (m).

[2] Dictionary, after definition of *digital transmission*

insert

digital transmitter licence means a transmitter licence issued under the *Radiocommunications Act 1992* authorising the transmission of commercial television broadcasting services in digital mode.

[3] Dictionary, after definition of *holder*

insert

joint-venture company means a company that is capable of being specified as a joint-venture company in a notice under subsection 38B (1) of the Act.

[4] Dictionary, definition of *simulcast period*

substitute

simulcast period:

- (a) for a licence area that is not a remote licence area, see Division 7 of Part A;
and
- (b) for a remote licence area, see Division 6 of Part B.