



Commercial Television Conversion Scheme Variation 2007 (No. 1)

Broadcasting Services Act 1992

The AUSTRALIAN COMMUNICATIONS AND MEDIA AUTHORITY makes this Instrument under subclause 6 (1) of Schedule 4 to the *Broadcasting Services Act 1992*.

Dated 24th September 2007

LYN MADDOCK
Chairman

MARCUS BEZZI
General Manager

Australian Communications and Media Authority

1 Name of Instrument

This Instrument is the *Commercial Television Conversion Scheme Variation 2007 (No. 1)*.

2 Commencement

This Instrument commences on the day after it is registered.

3 Variation of *Commercial Television Conversion Scheme 1999*

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

Schedule 1 Variations

(section 3)

[1] After section 3

insert

3A Application

This Scheme applies to commercial television broadcasting services, but does not apply:

- (a) to HDTV multi-channelled commercial television broadcasting services; and
- (b) in relation to a commercial television broadcasting services licence if the licence was allocated under section 36 of the Act on or after 1 January 2007; and
- (c) in relation to a commercial television broadcasting services licence if the licence was allocated under subsection 40 (1) of the Act on or after 1 January 2007.

[2] Subsection 8 (4)

omit

to the Act:

insert

to the Act and the election remains in force:

[3] Subsection 8 (5), including the example

substitute

- (5) ACMA may keep channels in reserve for when an election referred to in subsection (4) is revoked.
- (6) If an election mentioned in subsection (4) is revoked ACMA may vary a digital channel plan under section 13 of this Scheme.
- (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.

[4] Subsections 9 (3A) to (8)

substitute

- (4) ACMA must have regard to the objectives set out in subclause 6 (5B) of Schedule 4 to the Act, for the purpose of ensuring that the digital channel plan makes arrangements for a holder that makes an election under paragraph 6 (5A) (d) or (5AA) (d) of that Schedule.

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- (5) Subsection (4) applies while the election remains in force.
 - (6) ACMA may also have regard to the cost to holders, national broadcasters, tower owners, tower operators and site operators of:
 - (a) allotting particular channels; and
 - (b) digital transmission using the channels.
 - (7) ACMA may also have regard to the likely cost, and disruption, to consumers caused by having to receive commercial television broadcasting services in digital mode using allotted channels.
 - (8) ACMA may also have regard to any interference that digital transmission using a particular channel is likely to cause to analog transmission.
 - (9) If a regional equalisation plan is in force for a particular area, ACMA may also have regard to the plan.
 - (10) ACMA may also have regard to other matters it considers relevant.

[5] Subsections 14 (3) and (4), including the note

substitute

- (3) ACMA must issue or vary transmitter licences in a way that makes them consistent with the characteristics.

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, ACMA may have to set priorities for carrying out its responsibilities.

[6] Section 27

substitute

27 Application date for implementation plans

- (1) ACMA must identify a date on or before which a holder must apply for approval of an implementation plan for a licence area (the *application date*).
- (2) The application date for a licence area must be:
 - (a) before the start of the simulcast period for the area; and
 - (b) after ACMA has made a digital channel plan for any part of the area.

Note The simulcast period for each metropolitan licence area starts on 1 January 2001. The simulcast period for a regional licence area is set by ACMA under section 48 of this Scheme.

- (3) ACMA must consult with all holders for the licence area about an appropriate application date for the area and may consult with other persons.
- (4) ACMA must advise each holder for the area of the application date as soon as practicable after it is identified.

- (5) If, after identifying an application date for a licence area, ACMA approves a proposal for a holder for the area to submit a series of implementation plans for the area:
- (a) the holder is not required to submit a plan in the series on or before the application date; and
 - (b) ACMA must identify another date which is the day on or before which a holder for the area must apply for approval of the first implementation plan in the series.

Example

A holder might intend to submit a single implementation plan for a whole area on or before the application date but then decide it would be more efficient to submit a series of plans.

- (6) A date identified under paragraph (5) (b) must be before the start of the simulcast period for the area.

Note The simulcast period for each metropolitan licence area starts on 1 January 2001. The simulcast period for a regional licence area is set by ACMA under section 48 of this Scheme.

- (7) ACMA must consult with all holders for the licence area about an appropriate date to be identified under paragraph 5 (b) and may consult with other persons.
- (8) ACMA must advise each holder for the licence area of a date identified under paragraph (5) (b) as soon as practicable after it is identified.

[7] Section 28, heading

substitute

28 Considering the implementation plan

[8] Subsection 28 (2)

omit

worked out under 27.

insert

specified under section 27.

[9] Subsection 31 (1)

substitute

- (1) ACMA may, in writing, ask a holder to do 1 or more of the following things to help ACMA to consider its decision on an application for approval of an implementation plan:
- (a) give ACMA the information mentioned in the request;
 - (b) carry out a test or other analysis described in the request;
 - (c) do something else mentioned in the request.

[10] Subsections 32 (3) and (4), including the notes*substitute*

- (3) If ACMA refuses to approve the application, ACMA may:
- (a) decide a date on or before which the holder must apply for approval of another implementation plan; and
 - (b) tell the holder the date as soon as practicable.

Note A decision refusing to approve an application is reviewable by the AAT: see clause 62 of Schedule 4 to the Act.

- (4) If the plan is the first in a series of plans, ACMA must also decide as many of the following dates as ACMA considers appropriate:
- (a) dates on or before which the holder must apply for approval of implementation plans in the series;
 - (b) a date on or before which the holder must apply for approval of the last plan in the series.

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 dates decided under subsection (4) may be later than dates set by ACMA for applications for approval of single plans for whole licence areas.

[11] Section 36*substitute***36 Transmitter licence**

- (1) Subject to subsections (2), (3) and (3A), if a holder's implementation plan is approved, ACMA must 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.

Note See section 102A of the *Radiocommunications Act 1992*.

- (2) If the holder already holds a suitable transmitter licence for the licence area concerned, because of the approval of a previous implementation plan in a series, ACMA may vary the licence, if it is necessary, to give the authorisation mentioned in subsection (1).

Note In the course of approving a series of implementation plans, transmitter licences may be issued that will support later plans in the series. In those circumstances, it may not be necessary for a new transmitter licence to be issued after the approval of each plan in the series.

- (3) If the holder already holds a transmitter licence for the licence area concerned, for test transmissions or for transmission in a regional area before the start of the simulcast period, ACMA must vary the licence, if it is necessary, to give the authorisation mentioned in subsection (1).

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 regional area before the start of the simulcast period.

- (4) If a holder has made an election under paragraph 6 (5A) (d) or (5AA) (d) of Schedule 4 to the Act, ACMA must ensure that the licence as issued or varied will, while the election remains in force, 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.

Note See subclause 6 (5B) of Schedule 4 to the Act.

- (5) ACMA must also:
- (a) identify conditions to which the licence should be subject, including (if appropriate) the date of effect of the licence; and
 - (b) issue or vary the licence including the conditions.

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, ACMA may have to set priorities for carrying out its responsibilities.

[12] Section 39, heading

substitute

39 Considering application for variation

[13] Section 44

substitute

44 Transmitter licence

If ACMA approves the variation of an approved implementation plan, ACMA must:

- (a) vary the transmitter licence issued under section 102A of the *Radiocommunications Act 1992* if it is necessary to support the variation of the implementation plan; and
- (b) identify conditions to which the licence should be subject; and
- (c) issue the licence including the conditions.

[14] Division 5

substitute

Division 5 Circumstances where there is no approved implementation plan

45 No implementation plan

- (1) This section applies to a holder for a licence area that:
- (a) will not have an approved implementation plan in force at the start of the simulcast period for the licence area; and

- (b) will not have a transmitter licence for the area, issued for Division 10 or 11 of this Part, at the start of the simulcast period for the licence area.

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 regional area before the start of the simulcast period.

- (2) ACMA must issue to the holder a transmitter licence that authorises the operation of 1 or more specified radiocommunications transmitters for transmitting a broadcasting service in digital mode in accordance with the holder's commercial television broadcasting licence.

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, ACMA may have to set priorities for carrying out its responsibilities.

- (3) ACMA must also:
- (a) identify conditions to which the licence should be subject; and
 - (b) issue the licence including the conditions.
- (4) The licence must take effect at the start of the simulcast period.

[15] Section 52, heading

substitute

52 Surrender of transmitter licence (SDTV or HDTV requirements contravened)

[16] Subsection 52 (1), including the note

substitute

- (1) This section applies if the holder of a commercial television broadcasting licence for a licence area contravenes any of the following provisions or standards:
- (a) paragraph 7 (1) (ma) of Schedule 2 to the Act;
 - (b) a SDTV commercial television format standard;
 - (c) a HDTV commercial television format standard;
 - (d) subclause 37E (1) of Schedule 4 to the Act;
 - (e) a standard under subclause 37E (3) of Schedule 4 to the Act.

Note See subclause 8 (7) of Schedule 4 to the Act.

[17] Paragraph 52 (2) (b)

before

standard

insert

provision or

[18] Section 53, heading

substitute

53 Replacement transmitter licence after HDTV requirements contravened

[19] Subsection 53 (1), including the note

substitute

- (1) This section applies if a holder has surrendered a transmitter licence on the grounds of a contravention of a provision or standard mentioned in paragraph 52 (1) (a), (c), (d) or (e).

Note See subclause 8 (8) of Schedule 4 to the Act. The provisions that are listed deal with HDTV requirements.

[20] Subsections 53 (5) to (8), including the notes

substitute

- (5) If ACMA approves the request, it must issue a transmitter licence to replace the surrendered licence.

Note See section 102A of the *Radiocommunications Act 1992*.

- (6) However, the amount of transmission capacity covered by the replacement licence must be less than the amount of transmission capacity covered by the surrendered licence.

Note See subclause 8 (8) of Schedule 4 to the Act.

- (7) ACMA must also:

- (a) identify conditions to which the licence should be subject; and
- (b) issue the licence including the conditions.

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, ACMA may have to set priorities for carrying out its responsibilities.

[21] Section 58

substitute

58 Transmitter licences

- (1) ACMA must issue to a licensee 1 or more transmitter licences each of which:

- (a) has effect from the end of the simulcast period; and
- (b) authorises the transmission of the commercial television broadcasting service concerned in accordance with the commercial television broadcasting licence in digital mode using the channel or channels allotted by ACMA under a digital channel plan varied under section 55 or made under section 56.

Note See section 100B of the *Radiocommunications Act 1992*.

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- (2) ACMA must also:
- (a) identify conditions to which the licence should be subject; and
 - (b) issue the licence including the conditions.

[22] Section 69

substitute

69 ACMA to issue transmitter licence

- (1) This section applies if ACMA has made a determination under section 34 of the Act, allocating part of the radiofrequency spectrum to the holder, for the purpose of transmitting a commercial television broadcasting service in digital mode on a test basis.
- (2) ACMA must issue to the holder a transmitter licence that authorises the operation of 1 or more specified radiocommunications transmitters for transmitting the commercial television broadcasting service concerned in digital mode on a test basis in accordance with the holder's commercial television broadcasting licence.

Note See section 102A of the *Radiocommunications Act 1992*.

- (3) ACMA must also:
- (a) identify conditions to which the licence should be subject, including (if appropriate) the date of effect of the licence; and
 - (b) issue the licence including the conditions.

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, ACMA may have to set priorities for carrying out its responsibilities.

- (4) ACMA does not guarantee or imply that the channel it allots to the holder for transmission on a test basis will be allotted to the holder when ACMA makes the digital channel plan.
- (5) The period during which the holder may transmit on a test basis is the period for which ACMA allocates part of the radiofrequency spectrum to the holder under section 34 of the Act for the purpose of transmitting a commercial television broadcasting service in digital mode on a test basis.

Note See subclause 6 (5) of Schedule 4 to the Act.

[23] Section 71

substitute

71 ACMA to issue transmitter licence

- (1) ACMA must issue to the holder a transmitter licence that authorises the operation of 1 or more specified radiocommunications transmitters for transmitting a commercial television broadcasting service on a test basis in digital mode in accordance with the holder's commercial television broadcasting licence.

Note See section 102A of the *Radiocommunications Act 1992*.

- (2) ACMA must also:
- (a) identify conditions to which the licence should be subject, including (if appropriate) conditions about:
 - (i) the date of effect of the licence; and
 - (ii) the period during which the holder may transmit on a test basis; and
 - (b) issue the licence including the conditions.

Note 1 See subclause 6 (5) of Schedule 4 to the Act.

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, ACMA may have to set priorities for carrying out its responsibilities.

- (3) ACMA does not guarantee or imply that the characteristics, including technical specifications, in the transmitter licence issued under section 102A of 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.

[24] Section 74
substitute

74 ACMA to issue transmitter licence

- (1) This section applies if ACMA has made a determination under section 34 of the Act, allocating part of the radiofrequency spectrum to the holder, for the purpose of transmitting a commercial television broadcasting service in digital mode on a test basis.
- (2) ACMA must issue to the holder a transmitter licence that authorises the operation of 1 or more specified radiocommunications transmitters for transmitting a commercial television broadcasting service in digital mode on a test basis in accordance with the holder's commercial television broadcasting licence.

Note See section 102A of the *Radiocommunications Act 1992*.

- (3) ACMA must also:
- (a) identify conditions to which the licence should be subject, including (if appropriate) conditions about:
 - (i) the date of effect of the licence; and
 - (ii) the period during which the holder may transmit on a test basis; and
 - (b) issue the licence including the conditions.

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, ACMA may have to set priorities for carrying out its responsibilities.

- (4) ACMA 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 section 102A of 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.

- (5) The period during which the holder may transmit on a test basis is the period for which ACMA allocates part of the radiofrequency spectrum to the holder under section 34 of the Act for the purpose of transmitting a commercial television broadcasting service in digital mode on a test basis.

Note See subclause 6 (5) of Schedule 4 to the Act.

[25] Sections 83 to 87

substitute

83 Transmitter licence — general

- (1) If ACMA approves the application, ACMA must issue to the holder a transmitter licence that authorises the operation of 1 or more specified radiocommunications transmitters for transmitting a broadcasting service in digital mode in accordance with the holder's commercial television broadcasting licence.

Note See section 102A of the *Radiocommunications Act 1992*.

- (2) However, if the holder already holds a transmitter licence for test transmissions in the licence area concerned, ACMA must vary the licence, if it is necessary, to give the authorisation mentioned in subsection (1).

Note 1 Division 10 of this Part 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, ACMA may have to set priorities for carrying out its responsibilities.

- (3) ACMA must also:
- (a) identify conditions to which the licence should be subject, including (if appropriate):
 - (i) a condition about the date of effect of the licence; and
 - (ii) a condition that the licence is to be in force until the date mentioned in section 27; and
 - (b) issue or vary the licence including the conditions.

Note The date mentioned in section 27 is the date on or before which a holder is required to apply for approval of an implementation plan.

- (4) ACMA 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.
- (5) However, ACMA 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 Act.

- (6) Also, ACMA 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.

84 Transmitter licence — no application for approval of implementation plan by application date

- (1) This section applies if:
 - (a) a holder holds a transmitter licence mentioned in section 83; and
 - (b) the holder intends to transmit before the holder has an approved implementation plan in force for the licence area, or the relevant part of the licence area; and
 - (c) the holder has not applied for approval of an implementation plan for the area, or part of the area, on or before the date mentioned in section 27.

Note The date mentioned in section 27 is the date on or before which a holder is required to apply for approval of an implementation plan.

- (2) ACMA must decide, as soon as practicable:
 - (a) to vary or renew the transmitter licence so that the transmitter licence ceases to be in force at the start of the simulcast period; or
 - (b) if the licence has ceased to be in force — to issue a new transmitter licence that is identical to the previous licence, except that the new transmitter licence will cease to be in force at the start of the simulcast period; or
 - (c) not to vary, renew or issue a transmitter licence.
- (3) ACMA must consider whether allowing the transmissions to continue under the varied, renewed or new transmitter licence will:
 - (a) assist with developing a digital channel plan, or confirming that an existing digital channel plan is satisfactory; or
 - (b) assist with developing an implementation plan, or confirming that an existing approved implementation plan is satisfactory; or

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- (c) promote the policy objectives in subclause 6 (3) of Schedule 4 to the Act.
 - (4) ACMA may, in writing, ask the holder to do 1 or more of the following things to help ACMA consider its decision:
 - (a) give ACMA the information mentioned in the request;
 - (b) carry out a test or other analysis described in the request;
 - (c) do something else mentioned in the request.
 - (5) As soon as practicable after making a decision under subsection (2), ACMA must:
 - (a) vary or renew the transmitter licence; or
 - (b) issue a new transmitter licence; or
 - (c) take no action;and tell the holder in writing of its decision.
 - (6) Application may be made to the AAT for review of a decision not to vary, renew or issue the licence.

85 Transmitter licence — unapproved application for approval of implementation plan by application date

- (1) This section applies if:
 - (a) a holder holds a transmitter licence mentioned in section 83; and
 - (b) the holder intends to transmit before the holder has an approved implementation plan in force for the licence area, or the relevant part of the licence area; and
 - (c) the holder applies for approval of an implementation plan for the area, or part of the area, by the date mentioned in section 27, and has not withdrawn the application; and
 - (d) ACMA has not approved the application by the date mentioned in section 27.

Note The date mentioned in section 27 is the date on or before which a holder is required to apply for approval of an implementation plan.

- (2) ACMA must decide, as soon as practicable:
 - (a) to vary or renew the transmitter licence so that the transmitter licence ceases to be in force at the start of the simulcast period; or
 - (b) if the licence has ceased to be in force — to issue a new transmitter licence that is identical to the previous licence, except that the new transmitter licence will cease to be in force at the start of the simulcast period; or
 - (c) not to vary, renew or issue a transmitter licence.
- (3) ACMA must consider whether allowing the transmissions to continue under the varied, renewed or new transmitter licence will:
 - (a) assist with developing a digital channel plan, or confirming that an existing digital channel plan is satisfactory; or

- (b) assist with developing an implementation plan, or confirming that an existing approved implementation plan is satisfactory; or
 - (c) promote the policy objectives in subclause 6 (3) of Schedule 4 to the Act.
- (4) ACMA may, in writing, ask the holder to do 1 or more of the following things to help ACMA to consider its decision:
- (a) give ACMA the information mentioned in the request;
 - (b) carry out a test or other analysis described in the request;
 - (c) do something else mentioned in the request.
- (5) As soon as practicable after making a decision under subsection (2), ACMA must:
- (a) vary or renew the transmitter licence; or
 - (b) issue a new transmitter licence; or
 - (c) take no action;
- and tell the holder in writing of its decision.
- (6) Application may be made to the AAT for review of a decision not to vary, renew or issue the licence.

86 Transmitter licence — no application, or unapproved application, for approval of implementation plan by start of simulcast period

- (1) This section applies if:
- (a) a holder holds a transmitter licence:
 - (i) mentioned in section 83; or
 - (ii) varied, renewed or issued as described in subsection 84 (2) or 85 (2); and
 - (b) the holder intends to transmit before the holder has an approved implementation plan in force for the licence area, or the relevant part of the licence area; and
 - (c) the holder has not applied for approval of an approved implementation plan for the area, or part of the area, by the start of the simulcast period for the area.
- (2) This section also applies if:
- (a) a holder holds a transmitter licence:
 - (i) mentioned in section 83; or
 - (ii) varied, renewed or issued as described in subsection 84 (2) or 85 (2); and
 - (b) the holder intends to transmit before the holder has an approved implementation plan in force for the licence area, or the relevant part of the licence area; and
 - (c) the holder applies for approval of an implementation plan for the area, or part of the area, by the start of the simulcast period for the area; and

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- (d) ACMA has not approved the application by the start of the simulcast period.
 - (3) ACMA must decide, as soon as practicable:
 - (a) to vary or renew the transmitter licence so that the transmitter licence ceases to be in force for a period specified by ACMA; or
 - (b) if the licence has ceased to be in force — to issue a new transmitter licence that is identical to the previous licence, except that the new transmitter licence will cease to be in force for a period specified by ACMA; or
 - (c) not to vary, renew or issue a transmitter licence.
 - (4) ACMA must consider whether allowing the transmissions to continue under the varied, renewed or new transmitter licence will:
 - (a) assist with developing a digital channel plan, or confirming that an existing digital channel plan is satisfactory; or
 - (b) assist with developing an implementation plan, or confirming that an existing approved implementation plan is satisfactory; or
 - (c) promote the policy objectives in subclause 6 (3) of Schedule 4 to the Act.
 - (5) ACMA may, in writing, ask the holder to do 1 or more of the following things to help ACMA to consider its decision:
 - (a) give ACMA the information mentioned in the request;
 - (b) carry out a test or other analysis described in the request;
 - (c) do something else mentioned in the request.
 - (6) As soon as practicable after making a decision under subsection (3), ACMA must:
 - (a) vary or renew the transmitter licence; or
 - (b) issue a new transmitter licence; or
 - (c) take no action;and tell the holder in writing of its decision.
 - (7) Application may be made to the AAT for review of a decision not to vary, renew or issue the licence.

87 Transmitter licence — starting before start date

- (1) A holder may apply to ACMA to vary the date of effect of a transmission licence if:
 - (a) the holder has an approved implementation plan in force for the licence area, or the relevant part of the licence area; and
 - (b) the holder holds a transmitter licence relating to the approved implementation plan; and
 - (c) the transmitter licence specifies a date of effect; and
 - (d) the holder wishes to start transmission in the area or part of the area before the date of effect.

Note ACMA recognises the possibility that a holder with an approved implementation plan, and a specified start date, may subsequently be in a position to start transmission earlier than expected.

- (2) ACMA must decide, as soon as practicable:
 - (a) to vary the date of effect of the transmitter licence so that it takes effect from an earlier date nominated by ACMA; or
 - (b) not to vary the date of effect of the transmitter licence.
- (3) As soon as practicable after making a decision, ACMA must:
 - (a) vary the date of effect of the transmitter licence; or
 - (b) take no action;and tell the holder in writing of its decision.
- (4) Application may be made to the AAT for review of a decision not to vary the date of effect of a transmitter licence.

[26] Paragraphs 90 (d) and (e)

substitute

- (d) the policy objective that each exempt remote area service for a remote licence area should be authorised to be transmitted in SDTV digital mode using multi-channelling transmission capacity while an election under subclause 6 (7B) of Schedule 4 to the Act is in force for the service;
- (e) the policy objective that, where and when practicable, there should be a simulcast period during which the holder of a commercial television broadcasting licence for a remote licence area would be required to transmit simultaneously in analog mode and SDTV digital mode;

[27] Paragraphs 90 (h) to (o)

substitute

- (h) the policy objective that, as soon as practicable after the start of the simulcast period for a licence area, and throughout the remainder of that period, the transmission of a commercial television broadcasting service in SDTV digital mode in that area should achieve the same level of coverage and potential reception quality as is achieved by the transmission of that service in analog mode in that area;
- (i) 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;
- (j) 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;

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- (k) the policy objective that, as soon as practicable after the end of the simulcast period for a coverage area, the transmission of a commercial television broadcasting service in SDTV digital mode in that area should achieve the same level of coverage and potential reception quality as was achieved by the transmission of that service in analog mode in that area immediately before the end of that period;
 - (l) 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;
 - (m) the policy objective that ACMA is to consult holders about the implementation of Part B of this scheme;
 - (n) the policy objective that, if the implementation of Part B of this scheme affects particular broadcasting transmission towers, ACMA must consult the owners and operators of those towers;
 - (o) the policy objective that, if the implementation of Part B of this scheme affects particular satellites, ACMA may consult the owners and operators of those satellites;
 - (p) the policy objective that, in allotting channels under Part B of this scheme or a digital channel plan, ACMA 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;
 - (q) 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.

[28] Section 90, note 2

omit

[29] Section 90, note 3

renumber as note 2

[30] Subsections 93 (4) to (7), including the notes and example

substitute

- (4) If a holder of a licence allocated under section 38B of the Act, makes a multi-channelling election under subclause 6 (7B) of Schedule 4 to the Act:
 - (a) a digital channel plan must allot only one 7 MHz channel to the holder:
 - (i) in the case of a licence under subsection 38B (5) of the Act — for the service under section 38B of the Act and the parent services to which the election applies; or
 - (ii) in the case of a licence under subsection 38B (6), (7), (8) or (9) of the Act — for the service under section 38B of the Act and the other service held by the holder of the licence; and

- (b) the policy objective mentioned in paragraph 90 (d) is achieved; and
 - (c) the services cannot be transmitted on different channels.
- (5) ACMA may alter the allotment if a multi-channelling election is revoked.
 - (6) ACMA must keep channels in reserve for when a multi-channelling election is revoked.
 - (7) ACMA must vary the digital channel plan if a multi-channelling election is revoked and a reserve channel is allocated.
 - (8) A digital channel plan may include other matters.

Example

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

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

[31] Paragraph 94 (2) (b)

substitute

- (b) the policy objectives mentioned in section 90, in particular the policy objective mentioned in paragraph 90 (d).

[32] Paragraph 94 (2) (c)

omit

[33] Subsection 94 (3)

omit

objectives mentioned in paragraph (2) (c) are

insert

objective mentioned in paragraph 90 (d) is

[34] Part B, Divisions 4 and 5

substitute

Division 4 Implementation plans

Subdivision A Purpose of implementation plans

100 Purpose

- (1) Under clause 9 of Schedule 4 to the Act, a holder must prepare, and submit to ACMA, 1 or more *implementation plans* relating to digital transmission.

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- (2) Each holder will be required to prepare an implementation plan, and give ACMA related information, to advise ACMA of how the holder proposes to:
- (a) transmit a commercial television broadcasting service in digital mode; and
 - (b) comply with the Act; and
 - (c) meet the objectives in section 90.

Note about implementation plans

Implementation plans are only required for the start-up of digital transmission in remote licence areas after the date referred to in subclause 6 (6A) of Schedule 4 to the Act.

The implementation plan is a key step in the digital conversion process.

It is a holder's binding commitment, approved by ACMA:

- to provide transmission of a commercial television broadcasting service in digital mode from specified sites; and
- to cover specified areas by specified dates;

to achieve the same level of coverage and potential reception quality as is achieved by the transmission of that service in analog mode.

Each holder for a licence area will be required to submit to ACMA at least 1 implementation plan, dealing with important technical and administrative aspects of conversion to digital transmission in the area.

The holder may submit a single, comprehensive, plan for the area or ACMA may allow the holder to submit a series of plans that develop the holder's digital transmission arrangements for the area in stages.

ACMA will assess the draft plan (or a plan that is part of a series), and approve or reject it.

An approved implementation plan is the basis on which the holder will convert to digital transmission. However, as conversion proceeds, the holder may arrange for an approved implementation plan to be varied to reflect changed circumstances or needs that arise.

Subdivision B Approval of documents

101 Form of implementation plan

- (1) ACMA must approve, in writing, the form of an implementation plan.
- (2) The plan must state:
 - (a) whether the plan constitutes the implementation plan for the licence area; or
 - (b) whether the plan is in a series of implementation plans that the holder

intends to submit for the licence area.

- (3) The plan must identify 1 or more sites that a holder proposes to use for digital transmission.

Note An implementation plan may not completely cover a whole licence area. Under Subdivision C of this Division, ACMA may approve a proposal for a holder to submit a series of implementation plans that, when read together, will make comprehensive arrangements for the whole licence area.

- (4) The plan must identify 1 or more transmitter coverage areas to be served by transmitters that the holder proposes to use for digital transmission.

- (5) For each of those transmitters, the plan must identify the date on or before which the transmitter will be used for digital transmission.

- (6) If the plan is the first in a series of plans, the plan must also state:

- (a) that it is the first plan in a series of sequentially numbered implementation plans that the holder intends to submit for the licence area; and
- (b) the total number of plans that the holder intends to submit for the licence area; and
- (c) the dates on or before which the holder expects to submit each implementation plan in the series; and
- (d) the geographic area to which an implementation plan in the series will apply; and
- (e) the reason why it is not practicable to submit a single plan for the licence area.

- (7) An implementation plan that is subsequent to the first in a series of implementation plans must also state:

- (a) the number of the implementation plan in the series of plans for the licence area; and
- (b) the geographic area to which the implementation plan applies; and
- (c) the dates on or before which the holder expects to submit any remaining implementation plan in the series; and
- (d) if any previous implementation plan that is part of the series has been approved (an *earlier approved plan*), the details of the earlier approved plan, including:
 - (i) its number in the series; and
 - (ii) the date when it was approved; and
- (e) if the plan expressly or impliedly varies an earlier approved plan, the change being made and the reason for the change.

- (8) The implementation plan may also deal with other relevant matters.

- (9) ACMA must publish a notice stating where copies of the form of implementation plan may be obtained.

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

102 Application form for approval of implementation plan

- (1) ACMA must approve, in writing, an application form for approval of an implementation plan.
- (2) ACMA must publish a notice stating where copies of the form may be obtained.

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

103 Application form — essential content

- (1) The application form must require a holder to prepare the implementation plan using the approved form of the plan, and to submit the plan with the application form.

Note See section 101.

- (2) The application form must also require the holder to identify:
 - (a) the date on which the holder proposes to start digital transmission in the area; or
 - (b) the dates on which the holder proposes to start digital transmission in specified parts of the area.

104 Application form — optional content

- (1) The application form may require a holder to give information about the site of each transmitter, 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, 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.
- (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 ACMA other relevant information.

Subdivision C Approval of implementation plans

105 Application for approval of implementation plan

- (1) A holder must apply to ACMA for approval of an implementation plan.
- (2) The holder must apply using the approved application form, and prepare the plan in the approved form.
- (3) To avoid doubt:
 - (a) strict compliance with the approved application form, and the approved form of the plan, is required; and
 - (b) section 25C of the *Acts Interpretation Act 1901* does not apply to the approved application form and the approved form of the plan.

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.

106 Application dates — implementation plans

- (1) ACMA must identify a date on or before which a holder must apply for approval of an implementation plan for a licence area (the *application date*).
- (2) The application date for a licence area must be:
 - (a) before the start of the simulcast period for the area; and
 - (b) after ACMA has made a digital channel plan for any part of the area.

Note The simulcast period for a remote licence area is set by ACMA under section 138 of this Scheme.

- (3) ACMA must consult with all holders for the licence area about an appropriate date for the area and may consult with other persons.
- (4) ACMA must advise each holder for the area of the application date as soon as practicable after it is identified.
- (5) If, after identifying an application date for a licence area, ACMA approves a proposal for a holder for the area to submit a series of implementation plans for the area:
 - (a) the holder is not required to submit a plan in the series on or before the application date; and
 - (b) ACMA must identify another date which is the day on or before which a holder for the area must apply for approval of the first implementation plan in the series.

Example

A holder might intend to submit a single implementation plan for a whole area, by the application date, but then decide that it would be more efficient to submit a series of plans.

- (6) A date identified under paragraph 5 (b) must be before the start of the simulcast period for the area.

Note The simulcast period for a remote licence area is set by ACMA under section 138 of this Scheme.

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- (7) ACMA must consult with all holders for the licence area about an appropriate date to be identified under paragraph 5 (b) and may consult with other persons.
 - (8) ACMA must advise each holder for the licence area of a date identified under paragraph 5 (b) as soon as practicable after it is identified.

107 Considering the implementation plan

- (1) ACMA must consider whether an implementation plan 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 and must have been made by the date specified under section 106.
- (3) The application must deal adequately with the matters with which the holder was required to deal by the application form.
- (4) Subject to subsection (8), the implementation plan must be consistent with the policy objectives in section 90 and, in particular, the policy object in paragraph 90 (i).
- (5) ACMA must have regard to the following matters in considering the policy objectives in section 90, and the proposed commercial television broadcasting service in SDTV digital mode:
 - (a) the technical assumptions published for subsection 91 (1);
 - (b) whether the proposed emission characteristics of the service are consistent with the technical specifications set out in the digital channel plan for the relevant licence area or part of the licence area;
 - (c) whether the proposed emission characteristics of the service are satisfactory to ensure that the median field strength of transmission beyond the licence area does not exceed ACMA's requirements;
 - (d) whether the service is likely to interfere with other services;
 - (e) whether the service will start on or before the start of the simulcast period;
 - (f) whether the policy objective will be met as soon as practicable after the start of the simulcast period;
 - (g) whether the holder proposes to transmit commercial television broadcasting services in analog and SDTV digital modes for the entire simulcast period;
 - (h) whether the holder has consulted other holders about the co-location of the holders' transmitters;
 - (i) whether the holder proposes to co-locate its own transmitters for transmitting commercial television broadcasting services in analog and SDTV digital modes;
 - (j) whether the holder has access to each site and broadcasting

transmission tower it is proposing to use.

- (6) However, if a holder has approval to submit a series of implementation plans for a licence area:
 - (a) ACMA must also be satisfied that, if a plan in the series expressly or impliedly varies an earlier approved plan in the series, the variation is suitable for approval under Subdivision E of this Division; and
 - (b) ACMA must have regard to the matters in subsection (5) for the whole licence area and for the part of the area to which a plan in the series relates.

Note The arrangements in an implementation plan in a series may provide adequately for a specific part of a licence area, but may be inadequate in the context of the whole licence area. ACMA will consider both the immediate and future adequacy of the arrangements.

- (7) If the plan is the first in a series of plans, ACMA must consider, but is not required to agree to, the dates on or before which the holder expects to submit each implementation plan in the series.
- (8) If a licence has been allocated to a holder under section 38B of the Act, ACMA must consider the policy objective in paragraph 90 (i).

Note Licences issued under section 38B are not subject to the requirements of the Act relating to the simulcast period, as the service to which the licence relates must be provided only in digital mode: see subsection 38B (18) of the Act.

108 Reduction in coverage and quality of analog transmission

- (1) This section applies if:
 - (a) a holder for a licence area applies for approval of an implementation plan; and
 - (b) the level of coverage and potential reception quality achieved by the service in analog mode in the area has reduced after Schedule 4 to the Act commenced.
- (2) ACMA may ask the holder, in writing, to explain how the holder will ensure that transmission of the service in SDTV digital mode will achieve the same level of coverage and potential reception quality as was achieved by the transmission of the service in analog mode before the commencement of Schedule 4 to the Act.
- (3) ACMA is not required to consider the application while it is waiting for the information.
- (4) If ACMA acts under subsection (2), the holder's implementation plan must ensure that transmission of the service in SDTV digital mode will achieve the same level of coverage and potential reception quality as was achieved by the transmission of the service in analog mode before the commencement of Schedule 4 to the Act.

109 Location of transmitters

- (1) This section applies if:
 - (a) a holder for a licence area applies for approval of an implementation plan; and
 - (b) it is not practicable for the holder to co-locate, during the simulcast period for the licence area:
 - (i) a transmitter used by the holder to transmit the commercial television broadcasting services in digital mode in that area; and
 - (ii) transmitters used by the holder to transmit that service in analog mode in that area.

Note See paragraph 90 (i).

- (2) ACMA must be satisfied that the location of the holder's transmitter in the holder's implementation plan is appropriate, having regard to:
 - (a) the policy objectives of this scheme (other than the objective in paragraph 90 (i)); and
 - (b) the costs that the holder is likely to incur by choosing particular locations; and
 - (c) other matters relevant to the efficient use of transmitters, and the efficient use of spectrum.

110 Further information about application

- (1) ACMA may, in writing, ask a holder to do 1 or more of the following things to help ACMA to consider its decision on an application for approval of implementation plan:
 - (a) give ACMA the information mentioned in the request;
 - (b) carry out a test or other analysis described in the request;
 - (c) 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 104 (5) and (6).

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

111 Decision on application

- (1) If ACMA considers that the application is suitable for approval, ACMA 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 ACMA considers that the application is not suitable for approval, ACMA 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) If ACMA refuses to approve the application, ACMA may:
 - (a) specify a date on or before which the holder must apply for approval of another implementation plan; and
 - (b) tell the holder the date as soon as practicable.

Note A decision refusing to approve an application is reviewable by the AAT: see clause 62 of Schedule 4 to the Act.

- (4) If the plan is the first in a series of plans, ACMA must also specify as many of the following dates as ACMA considers appropriate:
 - (a) dates on or before which the holder must apply for approval of implementation plans in the series;
 - (b) a date on or before which the holder must apply for approval of the last plan in the series.

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 dates decided under subsection (4) may be later than dates set by ACMA for applications for approval of single plans for whole licence areas.

112 New implementation plan

- (1) If ACMA refuses to approve a holder's implementation plan, the holder may apply for approval of another plan.
- (2) The holder must apply for approval of the new plan by the date (if any) specified under paragraph 111 (3) (a).
- (3) In preparing a new plan, the holder is not required to deal with the same area, transmitters or other matters dealt with in the plan that was refused.
- (4) If the holder does not have approval to submit a series of plans for the licence area, the holder may apply for that approval after the plan has been refused.

Note After a refusal under section 111, it may be appropriate for the holder to change the holder's plan to a series of plans.

- (5) The holder must give ACMA another application form with the implementation plan only if ACMA asks the holder for it.
- (6) The holder must complete the application form (if required), and prepare the implementation plan, in the way described in section 105.
- (7) ACMA must deal with the application in the way described in sections 107 to 111.

113 Date of effect of approved implementation plan

- (1) If ACMA approves a holder's application for approval of an implementation plan for a licence area, the plan takes effect as the holder's ***approved implementation plan*** for the area on the day ACMA approves the application.
- (2) If a holder has approval to submit a series of implementation plans for a licence area, and ACMA approves an application for approval of a plan in the series, the plan takes effect as the holder's ***approved implementation plan*** for the appropriate part of the area on the day ACMA approves the application.

114 Register of approved implementation plans

- (1) ACMA is to maintain a register of approved implementation plans.
- (2) The register is to be open for public inspection, and a person is entitled to be given a copy of, or an extract from, any entry in the Register.
- (3) ACMA may supply copies of or extracts from the register certified by a member, and a copy or extract so certified is admissible in evidence in all courts and proceedings without further proof or production of the original.

Subdivision D Transmitter licences**115 Transmitter licences**

- (1) If a holder's implementation plan is approved ACMA must, subject to subsections (2), (3) and (4), and to the digital channel plan, issue to the holder a transmitter licence that authorises the operation of 1 or more specified radiocommunications transmitters for transmitting the broadcasting services in digital mode, during and after the simulcast period, in accordance with the holder's commercial television broadcasting licence.

Note See section 102A of the *Radiocommunications Act 1992*.

- (2) If the holder already holds a suitable transmitter licence for the licence area concerned, ACMA may vary the licence, if it is necessary, to give the authorisation mentioned in subsection (1).
- (3) 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, ACMA must vary the licence, if it is necessary, to give the authorisation mentioned in subsection (1).

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.

- (4) If a holder has made an election under subclause 6 (7B) of Schedule 4 to the Act, ACMA 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 in digital mode that are, in accordance with the election, to be transmitted using multi-channelling transmission capacity; and
 - (b) ACMA may alter the issue or variation of the licence and require the surrender of the licence if the election is revoked; and
 - (c) if a subclause 6 (7B) multi-channelling election is in force in relation to a section 38B exempt licence ACMA must issue the transmitter licence to the holder of that exempt licence; and
 - (d) a transmitter licence is issued only if the holder of a section 38B exempt licence provides evidence that it will transmit in SDTV digital mode the services of the other licensees whilst the licence is in operation.

Note See paragraph 90 (d).

- (5) ACMA must:
- (a) identify conditions to which the licence should be subject, including (if appropriate) the date of effect of the licence; and
 - (b) issue or vary the licence including the conditions.

Note 1 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, ACMA may have to set priorities for carrying out its responsibilities.

Note 2 Sections 116 to 118 have been reserved for future use.

Subdivision E Variation of approved implementation plan

119 Application form for approval of variation

- (1) ACMA must approve, in writing, an application form for approval of a variation of an approved implementation plan.
- (2) The form may require a holder to give ACMA information.
- (3) ACMA must publish a notice stating where copies of the form may be obtained.

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

120 Application for approval of variation

- (1) A holder must apply to ACMA for approval of a variation of an approved implementation plan.
- (2) However, the holder is not required to apply for approval in the circumstances mentioned in section 122.
- (3) The holder must apply using the approved application form.

-
- (4) 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.

- (5) The holder's application must deal with 1 approved implementation plan only.

121 Considering application for variation

- (1) ACMA must consider whether the application is suitable for approval.
- (2) ACMA must decide:
 - (a) whether it is appropriate to invite comments on the application; and
 - (b) if so — whether it is appropriate for it to use the same consultation procedure as is used in section 95 for digital channel plans.

Note The public consultation procedure in section 95 may be an efficient form of consultation for this purpose, but ACMA does not assume that it will be the most efficient form in every case.

- (3) If ACMA invites comments, it must have regard to any comments it receives when considering the application.
- (4) ACMA must deal with the application by considering the implementation plan, as it would be varied, in the way described in sections 107 to 111.

122 Variation of implementation plan in a series

- (1) This section applies if:
 - (a) ACMA has approved a holder's application to submit a series of implementation plans for a licence area; and
 - (b) the holder applies for approval of an implementation plan in the series; and
 - (c) the plan expressly or impliedly varies an earlier approved implementation plan in the series.
- (2) The application for approval of the implementation plan is taken to include an application for approval of the variation of the earlier approved implementation plan.
- (3) ACMA must consider whether the application is suitable for approval.
- (4) ACMA must decide:
 - (a) whether it is appropriate to invite comments on the application; and
 - (b) if so — whether it is appropriate for it to use the same consultation procedure as is used in section 95 for digital channel plans.

Note The public consultation procedure in section 95 may be an efficient form of consultation for this purpose, but ACMA does not assume that it will be the most efficient form in every case.

- (5) If ACMA invites comments, it must have regard to any comments it receives when considering the application.
- (6) ACMA must:
 - (a) consider the earlier approved plan, as it would be varied, in the way described in sections 107 to 111; and
 - (b) have regard to the matters in subsection 107 (5) for the whole licence area and for the part of the area to which the earlier approved plan relates.

Note The arrangements in an implementation plan in a series may provide adequately for a specific part of a licence area, but may be inadequate in the context of the whole licence area. If an approved implementation plan is to be varied by a later plan in the series, ACMA will consider both the immediate and future adequacy of that plan, as it would be varied.

123 Decision on variation

- (1) If ACMA considers that the application (including an application for approval of the variation of an approved implementation plan, mentioned in subsection 122 (2)) is suitable for approval, ACMA 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 ACMA considers that the application is not suitable for approval, ACMA 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.

Note A decision refusing to approve the application is reviewable by the AAT: see clause 62 of Schedule 4 to the Act.

124 Date of effect of variation

- (1) If ACMA approves the variation of an approved implementation plan for a licence area, or a part of an area, the variation takes effect on the day ACMA approves it.
- (2) The holder's implementation plan, as varied, takes effect as the holder's approved implementation plan for the area, or part of the area, on the day ACMA approves it.

125 Register of approved implementation plans

If ACMA approves the variation of an approved implementation plan for a licence area, ACMA must include the plan, as varied, in the register of approved implementation plans.

126 Transmitter licence

- (1) If ACMA approves the variation of an approved implementation plan, ACMA must vary the transmitter licence issued under section 102A of the *Radiocommunications Act 1992*, as part of the plan, if it is necessary to support the variation of the plan.
- (2) ACMA must:
 - (a) identify conditions to which the licence should be subject; and
 - (b) vary the licence including the conditions.

Subdivision F Circumstances where there is no approved implementation plan**127 No implementation plan**

- (1) This section applies to a holder for a licence area that:
 - (a) will not have an approved implementation plan in force at the start of the simulcast period for the licence area; and
 - (b) will not have a transmitter licence for the area, issued for Division 10 or 11, at the start of the simulcast period for the licence area.

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 regional area before the start of the simulcast period.

- (2) ACMA must issue to the holder a transmitter licence that authorises the operation of 1 or more specified radiocommunications transmitters for transmitting a broadcasting service in digital mode in accordance with the holder's commercial television broadcasting licence.

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, ACMA may have to set priorities for carrying out its responsibilities.

- (3) ACMA must also:
 - (a) identify conditions to which the licence should be subject; and
 - (b) issue the licence including the conditions.
- (4) The licence must take effect at the start of the simulcast period.

Division 5 Datacasting services**128 Use of transmission capacity for datacasting services**

- (1) A holder that holds a datacasting licence issued in accordance with Schedule 6 to the Act is permitted to use any spare transmission capacity that is available on the holder's digital transmission channels for the purpose of the transmission of either or both of the following:
 - (a) datacasting services provided under, and in accordance with the conditions of, datacasting licences;

- (b) designated teletext services.

Note See paragraph 90 (l) of this Scheme.

- (2) However, the holder must use the capacity in a way that is consistent with:
 - (a) the holder's transmitter licence issued under section 102A of the *Radiocommunications Act 1992*; and
 - (b) the holder's datacasting licence issued under the Act.

Note 1 A charge is imposed for the use of transmission capacity for datacasting: see the *Datacasting Charge (Imposition) Act 1998*.

Note 2 Sections 129 to 137 have been reserved for future use.

[35] Paragraph 138 (2) (b)

omit

[36] Paragraph 138 (2) (c)

renumber as paragraph 138 (2) (b)

[37] Subsection 138 (3), note

omit

paragraph 90 (o).

insert

paragraph 90 (q).

[38] Subsections 139 (4) and (5), including the notes

substitute

- (4) Before determining the period for paragraph (3) (b), ACMA must:
 - (a) consult with:
 - (i) the public; and
 - (ii) holders; and
 - (iii) national broadcasters; and
 - (iv) owners and operators of broadcasting transmission towers; and
 - (v) owners and operators of satellite transmission facilities; and
 - (b) have regard to any comments it receives during consultation.
- (5) ACMA must publish the determination as soon as practicable after making it.

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

[39] Part B, after Division 7*insert***Division 8 Problems with starting or maintaining SDTV digital transmission****140 Surrender of transmitter licence (failure to commence SDTV digital transmission)**

- (1) This section applies if:
 - (a) the holder of a commercial television broadcasting licence for a licence area does not commence transmission in SDTV digital mode for the licence area on or before the date determined under section 138 of this Scheme; and
 - (b) ACMA is not satisfied that there were exceptional circumstances relating to the failure to commence transmission.

Note Subclause 6 (6A) of Schedule 4 to the Act sets out the policy objective about the start of SDTV digital transmission. The policy objective is supported by section 138 of this Scheme.

- (2) The holder must surrender to ACMA each transmitter licence authorising digital transmission in the area.
- (3) The holder must comply with any requirements of ACMA for surrendering a transmitter licence.
- (4) Application may be made to the AAT for review of a decision that there were no exceptional circumstances.

141 Surrender of transmitter licence (SDTV digital transmission does not continue throughout the simulcast period)

- (1) This section applies if the holder of a commercial television broadcasting licence for a licence area:
 - (a) commences transmission in SDTV digital mode on or before the date determined under section 138 of this Scheme; and
 - (b) ceases transmission in SDTV digital mode during the simulcast period for the area.

Note Subclause 6 (6A) of Schedule 4 to the Act sets out the policy objective about the start of SDTV digital transmission. The policy objective is supported by section 138 of this Scheme.

- (2) ACMA may give the holder a written direction to:
 - (a) resume transmission in SDTV digital mode in the area within the period specified in the direction; and
 - (b) continue transmission in SDTV digital mode throughout the simulcast period for the area.

- (3) The direction must include:
 - (a) the period (not longer than 1 month) within which the holder must comply with it; and
 - (b) a statement that the holder may give ACMA written reasons identifying exceptional circumstances that prevent the holder from complying with the direction; and
 - (c) a statement that the holder must surrender each transmitter licence authorising transmission of a service in digital mode in the area if:
 - (i) the holder does not comply with the direction within the time mentioned in the direction; and
 - (ii) the holder does not satisfy ACMA that there were exceptional circumstances why the holder did not resume and continue transmission in accordance with the direction given under subsection (2).
- (4) The holder must surrender to ACMA each transmitter licence authorising digital transmission in the area if:
 - (a) the holder did not comply with the direction given under subsection (2); and
 - (b) ACMA is not satisfied that there were exceptional circumstances relating to the failure to comply.
- (5) The holder must comply with any requirements of ACMA for surrendering a transmitter licence.
- (6) Application may be made to the AAT for review of a decision that there were no exceptional circumstances.

142 Surrender of transmitter licence (SDTV or HDTV requirements contravened)

- (1) The holder of a commercial television broadcasting licence is required to surrender 1 or more transmitter licences authorising analog transmission or authorising digital transmission if the holder does not comply with:
 - (a) paragraph 7 (1) (mb) of Schedule 2 to the Act; or
 - (b) a SDTV commercial television format standard; or
 - (c) a HDTV commercial television format standard; or
 - (d) a standard applicable to the holder under subclause 37G (1) of Schedule 4 to the Act; or
 - (e) a standard applicable to the holder under subclause 37G (2) of Schedule 4 to the Act.

Note See subclause 8 (10) of Schedule 4 to the Act.

- (2) ACMA may give the holder a written direction:
 - (a) identifying the contravention; and
 - (b) directing the holder to comply with the requirement, provision or standard.

-
- (3) The direction must include:
- (a) a statement specifying the period (not longer than 1 month) within which the holder must comply with it; and
 - (b) a statement that the holder may give ACMA written reasons identifying exceptional circumstances that prevent the holder from complying with the direction; and
 - (c) a statement that the holder must surrender each transmitter licence authorising transmission of a service in digital mode in the area if:
 - (i) the holder does not comply with the direction within the time mentioned in the direction; and
 - (ii) the holder does not satisfy ACMA that exceptional circumstances exist; and
 - (d) a statement that the holder may apply for a transmitter licence to replace a transmitter licence surrendered under this section.

Note A transmitter licence issued to replace a surrendered transmitter licence will have less transmission capacity than the transmission capacity specified in the surrendered licence: see subsection 143 (6) of this Scheme.

- (4) The holder must surrender to ACMA each transmitter licence authorising digital transmission in the area if:
 - (a) the holder did not comply with a direction; and
 - (b) ACMA is not satisfied that there were exceptional circumstances relating to the failure to comply.
- (5) The holder must comply with any requirements of ACMA for surrendering a transmitter licence.
- (6) Application may be made to the AAT for review of a decision that there were no exceptional circumstances.

143 Replacement transmitter licence after HDTV requirements contravened

- (1) This section applies if a holder of a commercial television broadcasting licence for a licence area has surrendered a transmitter licence on the grounds of a contravention of the provision mentioned in paragraph 142 (1) (a) or a standard mentioned in paragraph 142 (1) (c), (d) or (e).

Note See subclause 8 (10A) of Schedule 4 to the Act. The provisions that are listed deal with HDTV standards.

- (2) The holder may, in writing:
 - (a) ask ACMA to arrange for the issue of a transmitter licence to replace the surrendered licence; and
 - (b) explain why the replacement licence should be issued.
- (3) ACMA:
 - (a) may ask the holder for more information about the request; and

(b) is not required to consider the request while it is waiting for more information.

(4) ACMA must consider the request and:

- (a) approve it; or
- (b) reject it.

Note 1 If ACMA decides not to arrange for the issue of a replacement transmitter licence, it must notify the holder and give the holder the statements mentioned in clause 63 of Schedule 4 to the Act.

Note 2 A decision by ACMA not to arrange for the issue of a replacement transmitter licence is reviewable by the AAT: see clause 62 of Schedule 4 to the Act.

(5) If ACMA approves the request, it must issue a transmitter licence to replace the surrendered licence.

Note See section 102A of the *Radiocommunications Act 1992*.

(6) However, the amount of transmission capacity covered by the replacement licence must be less than the amount of transmission capacity covered by the surrendered licence.

Note See subclause 8 (10A) of Schedule 4 to the Act.

(7) ACMA must also:

- (a) identify conditions to which the licence should be subject; and
- (b) issue the licence including the conditions.

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, ACMA may have to set priorities for carrying out its responsibilities.

Division 9 End of simulcast period

144 Review of allocation

- (1) Before the end of a simulcast period, ACMA must consider whether:
 - (a) an existing digital channel plan for a simulcast period can be varied; or
 - (b) a new digital channel plan must be made;for the purposes of allotting channels for transmission of commercial television broadcasting services in digital mode after the simulcast period.
- (2) In considering which option to use, ACMA must have regard to:
 - (a) whether the channels that would be allotted for digital transmission after the simulcast period would be essentially the same channels as those allotted for the simulcast period; and
 - (b) whether the existing digital channel plan adequately meets the requirements for the licence area; and
 - (c) the need to plan the most efficient use of the spectrum; and
 - (d) the relevant policy objectives in section 90 of this Scheme and clause 6 of Schedule 4 to the Act; and
 - (e) other matters that ACMA considers relevant to the efficient use of the

spectrum for broadcasting, datacasting and other uses.

145 Allotment — variation of digital channel plan

- (1) If ACMA decides to vary an existing digital channel plan for a simulcast period, ACMA must publish a notice:
 - (a) stating where copies of the proposed variation may be obtained; and
 - (b) inviting comments on the variation in the period specified in the notice.
- (2) In considering the form of the variation, ACMA must have regard to:
 - (a) any comments it receives; and
 - (b) the matters mentioned in subsection 94 (2); and
 - (c) if the variation is likely to have an effect on an approved implementation plan, or on an implementation plan that has been submitted to the Minister, the effect of the variation on the approved implementation plan.
- (3) ACMA may also have regard to any of the matters mentioned in paragraphs 94 (4) (a), (b), (c), (d) and (e).
- (4) ACMA must vary the plan before the end of the simulcast period and in such a manner as to allow the plan, as varied, to commence from the end of the simulcast period.
- (5) ACMA must publish a notice stating where copies of the variation may be obtained.

Note ACMA's options for publishing the notice are in section 4 of this Scheme.

146 Allotment — new digital channel plan

- (1) Subsections 92 (2) and (3) and sections 93 to 97 apply if ACMA decides to make a new digital channel plan.
- (2) However, ACMA must make the new digital channel plan before the end of the simulcast period and in such a manner as to allow the new plan to commence from the end of the simulcast period.

147 End of analog transmission and surrender of licences

- (1) At the end of the simulcast period for a licence area, all transmissions of a commercial television broadcasting service in analog mode in the area are to cease.

Note See paragraph 90 (j) of this Scheme.

- (2) A licensee must surrender to ACMA all transmitter licences that authorised transmission of that service in the area during the simulcast period.
- (3) A licensee that is required to surrender a transmitter licence under this section must comply with any requirements of ACMA for surrendering the licence.

148 Transmitter licences

- (1) ACMA must issue to a licensee 1 or more transmitter licences that:
 - (a) have effect from the end of the simulcast period; and
 - (b) authorise the transmission of the commercial television broadcasting services in accordance with a commercial television licence in digital mode using the channel or channels allotted by ACMA under a digital channel plan varied under section 145 or made under section 146.

Note See section 100B of the *Radiocommunications Act 1992*.

- (2) ACMA must also:
 - (a) identify conditions to which a licence issued under this section should be subject; and
 - (b) issue the licence including the conditions.

[40] Section 159

substitute

159 ACMA to issue transmitter licence

Application

- (1) This section applies if ACMA has made a determination under section 34 of the Act allocating part of the radiofrequency spectrum to the holder of a commercial television broadcasting licence for a licence area for the purpose of transmitting a commercial television broadcasting service in digital mode on a test basis.

Election under subclause 6 (7B) of Schedule 4 to the Act

- (2) If an election is in force under subclause 6 (7B) of Schedule 4 to the Act ACMA must issue a transmitter licence to the holder of the exempt licence.
- (3) A transmitter licence issued under subsection (2) authorises the operation of 1 or more specified radiocommunications transmitters for transmitting the commercial television broadcasting service concerned in digital mode in accordance with the holder's commercial television broadcasting licence.
- (4) ACMA may alter or require surrender of the transmitter licence if the multi-channelling election is revoked.

No election under subclause 6 (7B) of Schedule 4 to the Act

- (5) If no election is in force under subclause 6 (7B) of Schedule 4 to the Act ACMA must issue a transmitter licence to the holder of the commercial television broadcasting licence.

- (6) A transmitter licence issued under subsection (5) authorises the operation of 1 or more specified radio communications transmitters for transmitting the commercial television broadcasting service concerned in digital mode on a test basis in accordance with the holder's commercial television broadcasting licence.

General

- (7) ACMA must also:
- (a) identify conditions to which a transmitter licence issued under subsection (2) or (5) should be subject, including (if appropriate) conditions about:
 - (i) the date of effect of the licence; and
 - (ii) the period during which the holder may transmit on a test basis; and
 - (b) issue the licence including the conditions.

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, ACMA may have to set priorities for carrying out its responsibilities.

- (8) ACMA 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 ACMA allocates part of the radiofrequency spectrum to the holder under section 34 of the Act for the purpose of transmitting a commercial television broadcasting service in digital mode on a test basis.

Note See paragraph 90 (g).

[41] Section 161

substitute

161 ACMA to issue transmitter licence

Election under subclause 6 (7B) of Schedule 4 to the Act

- (1) If an election is in force under subclause 6 (7B) of Schedule 4 to the Act ACMA must issue a transmitter licence to the holder of the exempt licence.

- (2) A transmitter licence issued under subsection (1) authorises the operation of 1 or more specified radiocommunications transmitters for transmitting the commercial television broadcasting service concerned in digital mode in accordance with the holder's commercial television broadcasting licence.
- (3) ACMA may alter or require surrender of the transmitter licence if the multi-channelling election is revoked.

No election under subclause 6 (7B) of Schedule 4 to the Act

- (4) If no election is in force under subclause 6 (7B) of Schedule 4 to the Act ACMA must issue a transmitter licence to the holder of the commercial television broadcasting licence.
- (5) A transmitter licence issued under subsection (4) authorises the operation of 1 or more specified radio communications transmitters for transmitting the commercial television broadcasting service concerned in digital mode on a test basis in accordance with the holder's commercial television broadcasting licence.

General

- (6) ACMA must:
 - (a) identify conditions to which a transmitter licence issued under subsection (1) or (4) should be subject, including (if appropriate) conditions about:
 - (i) the date of effect of the licence; and
 - (ii) the period during which the holder may transmit on a test basis; and
 - (b) issue the licence including the conditions.

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, ACMA may have to set priorities for carrying out its responsibilities.

- (7) ACMA 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.

[42] Section 164

substitute

164 ACMA to issue transmitter licence*Application*

- (1) This section applies if ACMA has made a determination under section 34 of the Act allocating part of the radiofrequency spectrum to the holder of a commercial television broadcasting licence for a licence area for the purpose of transmitting a commercial television broadcasting service in digital mode on a test basis.

Election under subclause 6 (7B) of Schedule 4 to the Act

- (2) If an election is in force under subclause 6 (7B) of Schedule 4 to the Act ACMA must issue a transmitter licence to the holder of the exempt licence.
- (3) A transmitter licence issued under subsection (2) authorises the operation of 1 or more specified radiocommunications transmitters for transmitting the commercial television broadcasting service concerned in digital mode in accordance with the holder's commercial television broadcasting licence.
- (4) ACMA may alter or require surrender of the transmitter licence if the multi-channelling election is revoked.

No election under subclause 6 (7B) of Schedule 4 to the Act

- (5) If no election is in force under subclause 6 (7B) of Schedule 4 to the Act ACMA must issue a transmitter licence to the holder of the commercial television broadcasting licence.
- (6) A transmitter licence issued under subsection (5) authorises the operation of 1 or more specified radio communications transmitters for transmitting the commercial television broadcasting service concerned in digital mode on a test basis in accordance with the holder's commercial television broadcasting licence.

General

- (7) ACMA must also:
- (a) identify conditions to which a transmitter licence issued under subsection (2) or (5) should be subject, including (if appropriate) conditions about:
- (i) the date of effect of the licence; and
 - (ii) the period during which the holder may transmit on a test basis; and
- (b) issue the licence including the conditions.

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, ACMA may have to set priorities for carrying out its responsibilities.

- (8) ACMA 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 ACMA allocates part of the radiofrequency spectrum to the holder under section 34 of the Act for the purpose of transmitting a commercial television broadcasting service in digital mode on a test basis.

Note See paragraph 90 (g).

[43] Subsection 170 (4)

omit

(d), (e)

insert

(d)

[44] Section 173

substitute

173 Transmitter licence — general

Election under subclause 6 (7B) of Schedule 4 to the Act

- (1) If an election is in force under subclause 6 (7B) of Schedule 4 to the Act ACMA must issue a transmitter licence to the holder of the exempt licence.
- (2) A transmitter licence issued under subsection (1) authorises the operation of 1 or more specified radiocommunications transmitters for transmitting the commercial television broadcasting service concerned in digital mode in accordance with the holder's commercial television broadcasting licence.
- (3) ACMA may alter or require surrender of the transmitter licence if the multi-channelling election is revoked.

No election under subclause 6 (7B) of Schedule 4 to the Act

- (4) If no election is in force under subclause 6 (7B) of Schedule 4 to the Act ACMA must issue a transmitter licence to the holder of the commercial television broadcasting licence.
- (5) A transmitter licence issued under subsection (4) authorises the operation of 1 or more specified radio communications transmitters for transmitting the commercial television broadcasting service concerned in digital mode on a test basis in accordance with the holder's commercial television broadcasting licence.

General

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

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, ACMA may have to set priorities for carrying out its responsibilities.

- (7) ACMA must also:
 - (a) identify conditions to which a transmitter licence issued under subsection (1) or (4) should be subject, including (if appropriate):
 - (i) a condition about the date of effect of the licence; and
 - (ii) a condition that the licence is to be in force until the first-occurring of the following events:
 - (A) the day that is 3 months before the start of the simulcast period;
 - (B) 12 months after the date of effect of the licence; and
 - (b) issue or vary the licence including the conditions.
- (8) ACMA 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, ACMA 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, ACMA 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.

[45] Part B, Division 12

substitute

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

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

- (1) If, before the start of the simulcast period, a holder makes an election under subclause 6 (7B) of Schedule 4 to the Act and then reduces the quality or coverage of transmission in analog mode, ACMA may ask the holder to make a submission about why the holder's digital transmitter licence should not be surrendered.
- (2) ACMA must:
 - (a) consider a submission made under subsection (1); 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 ACMA 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 ACMA 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 of the Act; 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), ACMA may ask the holder to make a submission about why the holder's digital transmitter licence should not be surrendered.
- (4) ACMA 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 ACMA 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 Digital Transmitter licences

- (1) This section applies to the holder of a section 38B licence if a digital transmitter licence is issued and a subclause 6 (7B) multi-channelling election is in force.
- (2) If a service provided by the holder of a broadcasting licence, to which the subclause 6 (7B) multi-channelling election referred to in subsection (1) applies, is not being transmitted:
- (a) in digital mode; or
 - (b) in an identical form to the analog form of the service;
- the holder of the digital transmitter licence under which the service is to be transmitted must make a written submission to ACMA explaining why its digital transmitter licence should not be surrendered.
- (3) On receiving a written submission from the holder of a digital transmitter licence ACMA must:
- (a) consider the written submission; and
 - (b) decide whether the holder's digital transmitter licence should be surrendered; and
 - (c) give notice of the decision to the holders of all broadcasting licences with services that are broadcast over that transmitter; and
 - (d) if ACMA decides that the holder's digital transmitter licence should be surrendered — give the holder of the transmitter licence a written notice requiring the holder to surrender the holder's digital transmitter licence.
- (4) ACMA may also, before making a decision under paragraph 176 (3) (b), request a written submission from other broadcasters to which a multi-channelling election applies.
- (5) If ACMA requests a submission under subsection (4) it must consider the submission before making a decision under paragraph 176 (3) (b).

Note Section 177 has been reserved for future use.

[46] Section 178, note

substitute

Note See paragraph 90 (m).

[47] Section 179, note

substitute

Note See paragraph 90 (n).

[48] Section 180, note

substitute

Note See paragraph 90 (o).

[49] Dictionary, definition of * ACA

substitute

* **ACMA** means the Australian Communications and Media Authority.

[50] Dictionary, after definition of *digital transmitter licence*

insert

* **exempt licence** has the meaning given by clause 2 of Schedule 4 to the Act.

* **exempt remote area licence** has the meaning given by subclause 6 (7F) of Schedule 4 to the Act.

* **HDTV commercial television format standard** has the meaning given by clause 2 of Schedule 4 to the Act.

[51] Dictionary, after definition of * HDTV digital mode

insert

* **HDTV multi-channelled commercial television broadcasting service** has the same meaning as in clause 5B of Schedule 4 to the Act.

[52] Dictionary, after definition of * multi-channelled national television broadcasting service

insert

* **multi-channelling election** means an election under subclause 6 (7B) of Schedule 4 to the Act.

[53] Dictionary, after definition of *national television conversion scheme*

insert

* **parent licence** has the meaning given by clause 2 of Schedule 4 to the Act.

[54] Dictionary, after definition of *remote licence area*

insert

* **SDTV commercial television format standard** has the meaning given by clause 2 of Schedule 4 to the Act.

[55] Dictionary, after definition of * SDTV digital mode*insert*

* *simulcast-equivalent period* has the same meaning as in clause 2 of Schedule 4 to the Act.

[56] Further variations

<i>Provision</i>	<i>omit each mention of</i>	<i>insert</i>
subsections 4 (1), (2) and (3)	the ABA	ACMA
section 5, <i>Note: simplified outline of the conversion scheme</i>	The ABA	ACMA
section 5, <i>Note: simplified outline of the conversion scheme</i>	the ABA	ACMA
section 5, <i>Note: simplified outline of the conversion scheme</i>	ABA	ACMA's
subsections 6 (1) and (2)	The ABA	ACMA
subsection 6 (3)	the ABA	ACMA
subsection 6 (3), note	The ABA's	ACMA's
subsection 6 (4)	The ABA	ACMA
subsection 6 (5)	the ABA	ACMA
subsection 6 (5), note	The ABA's	ACMA's
subsection 7 (1), subsection 8 (2), paragraph 8 (4) (a) and subsection 9 (1)	the ABA	ACMA
subsections 9 (2) and (3)	The ABA	ACMA
section 10	the ABA	ACMA
section 10, note	The ABA's	ACMA's
section 11	the ABA	ACMA
subsection 12 (1)	The ABA	ACMA
subsections 12 (2) and (3)	the ABA	ACMA
subsection 12 (3), note	The ABA's	ACMA's
paragraph 13 (1) (a)	the ABA	ACMA
subsection 13 (2)	The ABA	ACMA
subsection 13 (2), note and subsections 13 (3), (4) and (5)	the ABA	ACMA
subsection 13 (6)	The ABA	ACMA
subsection 13 (7)	the ABA	ACMA
subsection 13 (7), note	The ABA's	ACMA's
subsection 14 (1), including the note, subsection 14 (2), subsections 15 (1) and (2) and section 15, <i>Note about implementation plans</i>	the ABA	ACMA
section 15, <i>Note about implementation plans</i> and subsection 17 (1)	The ABA	ACMA

<i>Provision</i>	<i>omit each mention of</i>	<i>insert</i>
subsection 17 (2), note	the ABA	ACMA
subsection 17 (7)	The ABA	ACMA
subsection 17 (7), note	The ABA's	ACMA's
subsections 18 (1) and (2)	The ABA	ACMA
subsection 18 (2), note	The ABA's	ACMA's
subsection 20 (6) and subsection 25 (1)	the ABA	ACMA
subsections 28 (1) and (5)	The ABA	ACMA
paragraph 28 (5) (c)	the ABA's	ACMA's
subsection 28 (6)	the ABA	ACMA
subsection 28 (6), note	The ABA	ACMA
subsections 28 (7) and (8)	the ABA	ACMA
subsections 29 (2) and (3)	The ABA	ACMA
subsection 29 (4)	the ABA	ACMA
subsection 30 (2) and subsection 31 (3)	The ABA	ACMA
subsections 32 (1) and (2) and subsections 33 (1) and (5)	the ABA	ACMA
subsection 33 (7)	The ABA	ACMA
section 34	the ABA	ACMA
section 35 and subsection 37 (1)	The ABA	ACMA
subsection 37 (2)	the ABA	ACMA
subsection 37 (3)	The ABA	ACMA
subsection 37 (3), note	The ABA's	ACMA's
subsection 38 (1)	the ABA	ACMA
subsections 39 (1) and (2)	The ABA	ACMA
subsection 39 (2), note and subsection 39 (3)	the ABA	ACMA
subsection 39 (4)	The ABA	ACMA
paragraph 40 (1) (a)	the ABA	ACMA
subsections 40 (3) and (4)	The ABA	ACMA
subsection 40 (4), note and subsection 40 (5)	the ABA	ACMA
subsection 40 (6)	The ABA	ACMA
subsection 40 (6), note and sections 41, 42 and 43	the ABA	ACMA
subsection 48 (1)	The ABA	ACMA
subsection 48 (1), note	the ABA	ACMA
subsections 48 (2) and (3)	The ABA	ACMA
subsection 48 (4)	the ABA	ACMA
subsection 48 (5)	The ABA	ACMA

<i>Provision</i>	<i>omit each mention of</i>	<i>insert</i>
subsection 48 (5), note	The ABA's	ACMA's
subsection 49 (4) and paragraph 50 (1) (b)	the ABA	ACMA
subsection 50 (2)	the ACA	ACMA
subsection 50 (2), notes 1 and 2	the ABA	ACMA
subsection 50 (3)	the ACA	ACMA
subsection 51 (2)	The ABA	ACMA
subsection 51 (3)	the ABA	ACMA
subsection 51 (4)	the ACA	ACMA
paragraph 51 (4) (b) and subsection 51 (4), notes 1 and 2	the ABA	ACMA
subsection 51 (5)	the ACA	ACMA
subsection 52 (2)	The ABA	ACMA
subsection 52 (3)	the ABA	ACMA
subsection 52 (4)	the ACA	ACMA
paragraph 52 (4) (b) and subsection 52 (4), notes 1 and 2	the ABA	ACMA
subsection 52 (5)	the ACA	ACMA
paragraph 53 (2) (a)	the ABA	ACMA
subsections 53 (3) and (4)	The ABA	ACMA
subsection 53 (4), notes 1 and 2, subsections 54 (1) and (2) and subsections 55 (1) and (2)	the ABA	ACMA
subsections 55 (3), (4) and (5)	The ABA	ACMA
subsection 55 (5), note	The ABA's	ACMA's
subsections 56 (1) and (2)	the ABA	ACMA
subsections 57 (2) and (3)	the ACA	ACMA
Part A, Division 10, Note about testing	the ABA	ACMA
Part A, Division 10, Note about testing	The ABA	ACMA
paragraph 59 (3) (b)	the ABA	ACMA
section 60	The ABA	ACMA
section 60, note	The ABA's	ACMA's
section 61, subsection 62 (6) and subsection 63 (1)	the ABA	ACMA
section 64 and subsection 65 (1)	The ABA	ACMA
subsection 65 (1)	the ABA	ACMA
subsection 65 (3)	The ABA	ACMA
subsections 66 (1) and (2)	the ABA	ACMA
subsection 66 (3)	The ABA	ACMA
subsection 66 (4) and paragraph 67 (a)	the ABA	ACMA

<i>Provision</i>	<i>omit each mention of</i>	<i>insert</i>
subsection 68 (1)	The ABA	ACMA
subsections 68 (2), (3) and (4)	the ABA	ACMA
subsection 68 (4), note	The ABA's	ACMA's
paragraph 70 (a) and paragraph 72 (a)	the ABA	ACMA
subsection 73 (1)	The ABA	ACMA
subsections 73 (2), (3) and (4)	the ABA	ACMA
subsection 73 (4), note	The ABA's	ACMA's
subsection 75 (1)	The ABA	ACMA
subsection 75 (1)	the ABA	ACMA
subsection 75 (2)	The ABA	ACMA
Part A, Division 11, <i>Note about 'early' transmissions</i>	the ABA	ACMA
Part A, Division 11, <i>Note about 'early' transmissions</i>	The ABA	ACMA
Part A, Division 11, <i>Note about 'early' transmissions</i>	the ABA	ACMA
section 77	The ABA	ACMA
section 77, note	The ABA's	ACMA's
section 79	the ABA	ACMA
subsection 80 (1) and subsection 81 (1)	The ABA	ACMA
subsection 81 (1)	the ABA	ACMA
subsection 81 (2)	The ABA	ACMA
section 82	the ABA	ACMA
section 88	The ABA	ACMA
section 89 and section 90, note 1	the ABA	ACMA
subsection 91 (1)	The ABA	ACMA
subsection 91 (2)	the ABA	ACMA
subsection 91 (2), note	The ABA's	ACMA's
subsection 91 (3)	The ABA	ACMA
paragraphs 91 (3) (a) and (b) and subsection 91 (3), note	the ABA	ACMA
subsection 91 (4)	The ABA	ACMA
paragraphs 91 (4) (a) and (b) and subsection 91 (4), note	the ABA	ACMA
subsection 91 (5)	The ABA	ACMA
subsection 91 (6)	the ABA	ACMA
subsection 91 (6), note	The ABA's	ACMA's
subsection 92 (1), subsection 93 (2) and subsection 94 (1)	the ABA	ACMA
subsections 94 (2) and (4)	The ABA	ACMA
section 95	the ABA	ACMA

<i>Provision</i>	<i>omit each mention of</i>	<i>insert</i>
section 95, note	The ABA's	ACMA's
section 96	the ABA	ACMA
subsection 97 (1)	The ABA	ACMA
subsections 97 (2) and (3)	the ABA	ACMA
subsection 97 (3), note	The ABA's	ACMA's
subsection 98 (1)	the ABA	ACMA
subsection 98 (2)	The ABA	ACMA
subsection 98 (2), note and subsections 98 (3) and (4)	the ABA	ACMA
subsection 98 (6)	The ABA	ACMA
subsection 98 (7)	the ABA	ACMA
subsection 98 (7), note	The ABA's	ACMA's
subsection 99 (2)	The ABA	ACMA
subsections 99 (3), (4) and (5)	the ABA	ACMA
subsection 99 (5)	the ABA's	ACMA's
subsections 138 (1) and (2)	The ABA	ACMA
subsection 138 (3)	the ABA	ACMA
subsection 138 (3), note and subsection 138 (4)	The ABA	ACMA
subsection 138 (4), note	The ABA's	ACMA's
subsection 139 (3) and Part B, Division 10, Note about testing	the ABA	ACMA
Part B, Division 10, Note about testing	The ABA	ACMA
paragraph 149 (3) (b)	the ABA	ACMA
section 150	The ABA	ACMA
section 150, note	The ABA's	ACMA's
subsections 151 (1) and (3), subsection 152 (6) and subsection 153 (1)	the ABA	ACMA
subsections 154 (1) and (4) and subsection 155 (1)	The ABA	ACMA
subsection 155 (1)	the ABA	ACMA
subsection 155 (3)	The ABA	ACMA
subsections 156 (1) and (2)	the ABA	ACMA
subsection 156 (3)	The ABA	ACMA
subsection 156 (4) and paragraph 157 (a)	the ABA	ACMA
subsection 158 (1)	The ABA	ACMA
subsections 158 (2), (3) and (4)	the ABA	ACMA
subsection 158 (4), note	The ABA's	ACMA's

<i>Provision</i>	<i>omit each mention of</i>	<i>insert</i>
paragraph 160 (a) and paragraph 162 (a)	the ABA	ACMA
subsection 163 (1)	The ABA	ACMA
subsections 163 (2), (3) and (4)	the ABA	ACMA
section 163, note	The ABA's	ACMA's
subsection 165 (1)	The ABA	ACMA
subsection 165 (1)	the ABA	ACMA
subsection 165 (2)	The ABA	ACMA
Part B, Division 11, <i>Note about 'early' transmissions</i>	the ABA	ACMA
Part B, Division 11, <i>Note about 'early' transmissions</i> and section 167	The ABA	ACMA
section 167, note	The ABA's	ACMA's
section 169	the ABA	ACMA
subsection 170 (1) and subsection 171 (1)	The ABA	ACMA
subsection 171 (1)	the ABA	ACMA
subsection 171 (2)	The ABA	ACMA
subsections 172 (1) and (2)	the ABA	ACMA
section 178	The ABA	ACMA
section 179	the ABA	ACMA
section 180	The ABA	ACMA