

Commonwealth of Australia

Australian Communications and Media Authority Act 2005
Broadcasting Services Act 1992

**AUSTRALIAN COMMUNICATIONS AND MEDIA AUTHORITY
(REALISING THE DIGITAL DIVIDEND) DIRECTION 2010**

I, STEPHEN MICHAEL CONROY, Minister for Broadband, Communications, and the Digital Economy make the following Directions under section 14 of the *Australian Communications and Media Authority Act 2005*, subsection 25(3) and clauses 15 and 29 of Schedule 4 to the *Broadcasting Services Act 1992*.

Dated 9 July 2010.

STEPHEN MICHAEL CONROY
Minister for Broadband, Communications, and the Digital Economy

1 Name of Direction

This Direction is the *Australian Communications and Media Authority (Realising the Digital Dividend) Direction 2010*.

2 Commencement

This Direction commences on the day after it is registered on the Federal Register of Legislative Instruments.

3 Definitions

In this Direction:

ACMA means the Australian Communications and Media Authority.

ACMA Act means the *Australian Communications and Media Authority Act 2005*.

broadcasting services bands has the same meaning as in section 6 of the BSA.

BSA means the *Broadcasting Services Act 1992*.

commercial television conversion scheme means a scheme under clause 6 of Schedule 4 to the BSA.

DCP means a digital channel plan made under a commercial television conversion scheme or a national television conversion scheme in accordance with the applicable clause 7A or clause 22A of Schedule 4 to the BSA.

digital dividend policy objectives has the meaning given by clause 4.

digital mode has the same meaning as in clause 4 of Schedule 4 to the BSA.

digital radio broadcasting service means a broadcasting service that delivers radio programs, and is transmitted using a digital modulation technique.

FAP means a frequency allotment plan made under subsection 25(1) of the BSA.

final digital television switch-over day has the same meaning as in section 8AE of the BSA.

LAP means a licence area plan made under subsection 26(1) of the BSA.

metropolitan licence area has the same meaning as in clause 2 of Schedule 4 to the BSA.

national television conversion scheme means a scheme under clause 19 of Schedule 4 to the BSA.

Radiocommunications Act means the *Radiocommunications Act 1992*.

regional licence area has the same meaning as in clause 2 of Schedule 4 to the BSA.

remote licence area has the same meaning as in clause 5 of Schedule 4 to the BSA.

television broadcasting service means a broadcasting service that transmits television programs in analog or digital mode using the broadcasting services bands that are able to be received by domestic reception equipment that is neither hand-held nor battery operated.

4 Direction – ACMA to manage radiofrequency spectrum in accordance with Commonwealth communications policy objectives

- (1) I direct the ACMA under section 14 of the ACMA Act when performing its spectrum management functions to act in accordance with the following Commonwealth communications policy objectives (the **digital dividend policy objectives**):
 - (a) that the part of the broadcasting services bands comprising the frequencies 694 to 820 megahertz inclusive (the **digital dividend**

spectrum) is to be cleared, over time, of broadcasting services and datacasting services;

- (b) that the clearance of the digital dividend spectrum be completed as soon as possible after the final digital television switch-over day.

5 Direction – ACMA to consider whether to vary a FAP

I direct ACMA under subsection 25(3), and clauses 15 and 29 of Schedule 4 to the BSA to consider, in relation to the digital dividend policy objectives, whether to exercise its powers to vary:

- (a) a FAP under subsection 25(2) of the BSA; or
- (b) the commercial television conversion scheme or the national television conversion scheme in a manner that varies a FAP under subclauses 16(1) and 30(1) of Schedule 4 to the BSA;

so that, over time:

- (c) in each metropolitan licence area, the number of channels to be made available for the provision of television broadcasting services in digital mode not exceed six at a particular area (located between 174 megahertz and 230 megahertz inclusive);
- (d) in each metropolitan licence area, 14 megahertz (located between 174 megahertz and 230 megahertz inclusive) should not be made available for television broadcasting services, to allow for the provision of digital radio broadcasting services.

6 Direction – ACMA to consider whether to vary a LAP

- (1) I direct the ACMA under section 14 of the ACMA Act to consider whether to exercise its powers under subsection 26(2) of the BSA to vary each LAP to the extent that it deals with:
 - (a) commercial television broadcasting services;
 - (b) national television broadcasting services;
 - (c) digital radio broadcasting services (as the case requires);
 - (d) other television broadcasting services (as the case requires).
- (2) Pursuant to subclause (1), I direct the ACMA to have regard to the digital dividend policy objectives when considering whether (and, if so, how) to vary each LAP.

Licence area planning for metropolitan licence areas

- (3) Pursuant to subclause (1), in deciding whether (and, if so, how) to exercise its power under subsection 26(2) of the BSA in relation to a LAP for a metropolitan licence area, I direct the ACMA under section 14 of the ACMA Act to take into account the policy objective that, where practicable, it is desirable for all television broadcasting services transmitted in digital mode and digital radio broadcasting services to be located in the same frequency band.

Licence area planning for regional licence areas and remote licence areas

- (4) Pursuant to subclause (1), in deciding whether (and, if so, how) to exercise its power under subsection 26(2) of the BSA in relation to a LAP for a regional licence area or a remote licence area, I direct the ACMA under section 14 of the ACMA Act to take into account the policy objective that licence area planning that is not necessary for, or directly consequential to, achieving the digital dividend policy objectives should, wherever possible:
- (a) minimise disruption for the affected television audience including, but not limited to, disruption caused by the need to re-orientate, upgrade or replace antennas;
 - (b) minimise the financial impact on affected commercial television broadcasting services and national television broadcasting services.

7 Direction – ACMA to consider whether to vary a conversion scheme

- (1) I direct the ACMA under clauses 15 and 29 of Schedule 4 to the BSA to have regard to the digital dividend policy objectives and to consider whether to exercise its powers under clauses 16 or 30 of Schedule 4 to the BSA to vary the commercial television conversion scheme or the national television conversion scheme (the *conversion schemes*) so as to make or vary, over time, a DCP, or to allot channels for transmission in digital mode.
- (2) Pursuant to subclause (1), in deciding whether (and, if so, how) to exercise its power to vary the conversion schemes, I direct ACMA under section 14 of the ACMA Act to take into account the following Commonwealth policy objectives:
- (a) the desirability that, where practicable, commercial television broadcasting services and national television broadcasting services in a metropolitan licence area be located in the same frequency band;
 - (b) the desirability that where DCPs are made or varied, or channels for digital transmission allotted, in regional licence areas or remote licence areas and the particular DCP activity or channel allotment is not necessary for, or directly consequential to, clearing the digital dividend spectrum, such planning or allotment is to:
 - (i) minimise the financial impact on affected commercial television broadcasting services and national television broadcasting services;
 - (ii) minimise disruption for the affected television audience including, but not limited to, disruption caused by the need to re-orientate, upgrade, or replace antennas.

8 Direction – ACMA to provide quarterly reports to the Minister about progress with re-organising broadcasting spectrum

- (1) I direct the ACMA under section 14 of the ACMA Act to report to and advise the Minister about progress in each licence area towards achieving the Commonwealth communications policy objectives set out in these Directions, on a quarterly basis.
- (2) This Direction does not prevent the ACMA from providing reports or advice to the Minister about any matter at any time.

9 Direction – ACMA to review the desirability of frequencies 519-526 for broadcasting purposes

- (1) I direct the ACMA under section 14 of the ACMA Act to periodically monitor and review the feasibility and desirability of using the frequencies 519-526 megahertz (inclusive) for future broadcasting purposes.
- (2) I direct the ACMA under section 14 of the ACMA Act to provide advice, in a written report, to the Minister if the ACMA forms the opinion that the frequencies 519-526 megahertz (inclusive) are desirable for future broadcasting purposes.