



## Digital Television Reviews

2004–2005



We compiled the following table in the course of preparing for the digital television reviews required in 2004 and 2005 under the *Broadcasting Services Act 1992*. The electronic copy of the table has hyperlinks at references in italics and is available at our website at [www.aar.com/pubs/cmt/digitaltv.htm](http://www.aar.com/pubs/cmt/digitaltv.htm)

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## Part A

### Introduction to the reviews



## Part A – Introduction to the reviews

### 1. Digital television reviews – 2004-2005

Under the *Broadcasting Services Act 1992 (Cth)*<sup>1</sup> (**BSA** or the **Act**), the Minister of Communications, Information Technology and the Arts (**Minister**) is required, before certain specified dates in 2005 and 2006, to conduct a series of reviews into the implementation of the digital television conversion regime set out in the Act.

#### 1.1 Reviews to be conducted before 1 January 2005 (BSA sch 4 cl 60)

On 10 May 2004 the Minister issued a news release indicating that the Government proposed to group the reviews to be conducted before 1 January 2005 into the following four broad thematic reviews:

##### **Review 1- Multi-channelling**

A review of the provision of services other than simulcasting by free-to-air broadcasters on digital spectrum, taking into account:

- whether the requirement that a commercial broadcaster must only broadcast the same program in both analog and digital mode during the simulcast period should be amended or repealed (para 60(1)(B)); and
- whether the prohibition on the provision of subscription television services by commercial or national broadcasters, and of other kinds of broadcasting services currently not permitted, should be amended or repealed (para 60(1)(c)).

##### **Review 2 – Fourth commercial licence**

A review of matters relating to the issuance of new commercial television broadcasting licences after expiration of the current moratorium (on 31 December 2006) and on arrangements for the conversion of datacasting licences to other broadcasting types, taking into account:

<sup>1</sup> BSA sch 4 clauses 60, 60A and 60B

- the competitive and regulatory arrangements that should apply to a datacasting transmitter (under a datacasting transmitter licence) to transmit licensed broadcasting services on or after 1 January 2007 (para 60(1)(h));
- the revenues to be raised by the Commonwealth in connection with the operation of datacasting transmitter licences to transmit licensed broadcasting services on or after 1 January 2007 (para 60(1)(i)); and
- the conditions that should apply to commercial television broadcasting licences on or after 1 January 2007 for the provision of commercial television broadcasting services (para 60(1)(j)).

##### **Review 3 – Spectrum allocation**

An examination of the efficient allocation of spectrum for digital television, taking into account:

- whether all parts of the broadcasting services bands available for allocation for broadcasting or datacasting services have been identified (para 60(1)(e)); and
- whether all parts of the broadcasting services bands have been efficiently structured (para 60(1)(f)).

##### **Review 4 – Under-served areas**

An examination of the legislation relating to under-served licence areas, taking into account:

- whether provisions of the Act relating to additional commercial television broadcasting licences in under-served areas, including the exemptions from HDTV requirements for multi-channelled services, should be amended or repealed (para 60(1)(g)).

##### **Indigenous broadcasting review**

The news release also anticipated the review to be conducted before 1 January 2005 into the introduction of an indigenous broadcasting service (the **Indigenous service review**), which will assess:

- the viability of creating an indigenous television broadcasting service and the regulatory arrangements that should apply to the digital transmission of such a service using spectrum in the broadcasting services bands (para 60(1)(k)).

### **1.2 Review to be conducted by 1 July 2005 (BSA sch 4 cl 60A)**

A further review to be conducted under the Act concerns HDTV and must be completed before 1 July 2005 (the *HDTV review*). The review will consider:

- whether Division 2 of part 4 of Schedule 4 to the BSA (dealing with HDTV quotas) should be amended or repealed, including the regulatory arrangements that should apply to commercial and national broadcasters in respect of HDTV transmission in remote areas.

### **1.3 Review to be conducted by 1 January 2006 (BSA sch 4 cl 60B)**

The final digital television review required under the Act must be conducted by 1 January 2006 and concerns the duration of the simulcast period (the *Simulcast period review*).

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## Part B

### History of the legislation and other sources



Reports and legislation	Other sources
<p><b>30 January 1997</b> Digital Terrestrial Television Broadcasting Specialist Group releases its final report, <i>Digital Terrestrial Television Broadcasting in Australia</i>.</p>	
<p><b>July 1997</b> Australian Broadcasting Authority (<i>ABA</i>) responds to the specialist group report in its paper, <i>Digital Terrestrial Television Broadcasting</i>.</p>	
<p><b>24 March 1998</b> The Federal Government announces its intention to adopt the approach recommended in the ABA report.</p> <ul style="list-style-type: none"> <li>• Department for Communications, Information Technologies and the Arts (<i>DCITA</i>) Media Release, <i>Digital – A New Era in Television Broadcasting</i>.</li> </ul>	<ul style="list-style-type: none"> <li>• DCITA, <i>Digital Broadcasting – Questions &amp; Answers</i>, 24 March 1998</li> <li>• J Given, 'Being Digital: Australia's Television Choice' (March 1998) <i>Media and Arts Law Review</i> Vol 3, p38</li> </ul>
<p><b>8 April 1998</b> Government tables Television Broadcasting Services (Digital Conversion) Bill 1998.</p> <ul style="list-style-type: none"> <li>• <i>Explanatory Memoranda</i></li> <li>• <i>Supplementary Explanatory Memoranda</i></li> <li>• <i>Second Reading Speech</i></li> </ul> <p><i>Act assented to on 27 July 1998.</i></p>	<ul style="list-style-type: none"> <li>• <i>Bills Digest</i></li> <li>• Relevant Hansard debates, 3 June 1998 – 2 July 1998</li> <li>• DCITA, <i>Summary of the main features of the Television Broadcasting Services (Digital Conversion) Act 1998</i>, Fact sheet</li> <li>• DCITA, <i>Digital Television and Datacasting – TV's new dawn</i>, speech by the Hon Richard Alston, 19 August 1999</li> <li>• M Duigan, 'The Introduction of Digital Television' (1999) <i>Media and Arts Law Review</i> Vol 4, p26</li> <li>• R Greeney, <i>Choosing a Digital Television Standard – an Australian Perspective</i>, ABA presentation, 12 June 1999</li> </ul>
<p><b>June 1998</b> Senate Environment, Communications, Information Technology and the Arts Committee Report tabled.</p>	<ul style="list-style-type: none"> <li>• <i>Minority Report tabled by the Australian Labor Party Senators</i></li> <li>• <i>Minority Report tabled by the Australian Democrat Senators</i></li> </ul>

## Reports and legislation

**December 1998 – December 1999** *DCITA conducts reviews of various digital television issues and calls for submissions.*

### Enhanced Programming

- Options Paper
- Issues Paper
- Report

### Datacasting

- Options Paper
- Issues Paper
- Report

### Multi-channelling

- Options Paper
- Issues Paper
- Report

### Retransmission

- Options Paper
- Issues Paper
- Report

### Convergence

- Options Paper
- Issues Paper
- Report

### HDTV Standards

- Options Paper
- Issues Paper
- Report

### Under-served regional areas

### Captioning standards

## Other sources

### Enhanced programming

- Submissions pre Options Paper (December 1998): News Limited, Telstra, SBS, FACTS

### Datacasting

- Submissions pre Options Paper (December 1998): News Limited, ntl, OzEmail, ABC, FACTS, ACA
- Submissions in Response to Options Paper (June 1999): ABC, Australian Caption Centre, AIIA, AOL Bertelsmann, CBAA, Fairfax, Joanna Jacobs (Monash), News Limited, OzEmail, Seven Network, Telstra, SBS, FACTS, ASTRA, Cable & Wireless Optus, AANA, ABA

### Multi-channelling

- Submissions pre Options Paper (February/March 1999): Fairfax, National Advisory Council, ABC Digital Broadcasting Content Strategy, ABC, FACTS, News Limited, ASTRA, Cable & Wireless Optus, SBS, Communications Law Centre, ABA, ACA
- Submissions in Response to Options Paper (August 1999): SPAA, ACA, ASTRA, ABC, FACTS, SBS

### Retransmission

- Submissions in Response to Options Paper (August 1999): SPAA, Australia Caption Centre, ASTRA, Fairfax, ABC, Screenrights, FACTS

### Convergence

- Submissions pre Options Paper (December 1999): ABC, Nortel, Telstra

### HDTV Standards

- Submission pre Options Paper (February 1999): News Limited, Panasonic/Matshushita, Fairfax, Sony Australia, Allan J Williams, AANA, ABC, FACTS, EMI Australia, A N Thiele, Harant, Cable & Wireless Optus, ASTRA, SBS, Imparja
- Submissions to response to Options Paper (August 1999): Philips, SPAA, FACTS, News Limited, ACA, SBS, ASTRA, Fairfax, ABC, Frank James

Reports and legislation		Other sources
<b>March 1999</b>	The <i>Digital Broadcasting Industry Action Agenda</i> is prepared by <i>DCITA</i> , under the <i>Television Broadcasting Services (Digital Conversion) Act 1998</i> .	<ul style="list-style-type: none"> <li>• <i>Digital Broadcasting – Australian Industry Opportunities for the New Millennium</i>, Report to the Digital Broadcasting Industry Action Agenda Working Group, November 1998</li> <li>• Media Release</li> </ul>
<b>9 June 1999</b>	Commencement of the Commercial Television Conversion Scheme 1999, an instrument formulated by the ABA, under s6(1) of Schedule 4 to the <i>Broadcasting Services Act 1992</i> .	<ul style="list-style-type: none"> <li>• ABA, <i>Commercial and National Television Conversion Schemes: Part B – Remote Licence Areas</i>, Issues Paper, December 1998</li> <li>• D Varan, D &amp; M Balnaves, 2001 – A Digital Odyssey, paper presented at ABA Planning Seminar, 8 - 9 November 1999</li> <li>• I McGill &amp; R Costelloe, 'Digital Terrestrial Television – adding flesh to regulatory bones' (1999) 2(8) <i>Telemedia</i> 103</li> </ul>
<b>30 June 1999</b>	Government tables Broadcasting Services Amendment Bill (No. 2) 1999. <i>Act assented to 13 October 1999.</i>	
<b>9 December 1999</b>	Government tables Broadcasting Services Amendment Bill 2000. <i>Act assented to 21 December 2000.</i>	
<b>21 December 1999</b>	Government releases policy statement outlining its decisions on <i>key elements of the regulatory regime</i> .	<ul style="list-style-type: none"> <li>• DCITA, <i>Digital Broadcasting and Datacasting</i> – Fact sheet, 21 December 1999</li> <li>• R Costelloe, 'Digital Television and datacasting decisions – a clearer picture?' (1999) <i>Internet Law Bulletin</i>, Vol 2 p10</li> <li>• Mitchell, D (ed), <i>Datacasting and Interactive Television: Seminar Proceedings</i>, Network Insight, Sydney, 1999</li> </ul>
<b>16 February 2000</b>	Commencement of the National Television Conversion Scheme 1999, an instrument formulated by the ABA under s19(1) of Schedule 4 to the <i>Broadcasting Services Act 1992</i> .	
<b>3 March 2000</b>	Productivity Commission releases <i>Broadcasting Inquiry Report</i> .	<ul style="list-style-type: none"> <li>• J Thomas, 'Digital Television and its Discontents: Competition Policy and Broadcasting in Australia' (2000-2001) <i>International Journal of Communications Law and Policy</i>, Vol 6 2000</li> </ul>

Reports and legislation		Other sources
<b>10 May 2000</b>	<p>Government tables Broadcasting Services Amendment (Digital Television and Datacasting) Bill 2000.</p> <ul style="list-style-type: none"> <li>• <i>Explanatory Memoranda</i></li> <li>• <i>Second Reading Speech</i></li> </ul> <p>Act assented to on 3 August 2000.</p>	<ul style="list-style-type: none"> <li>• <i>Bills Digest</i></li> <li>• Relevant Hansard debates 21 – 29 June 2000</li> <li>• J Forster &amp; C Lovell, 'Sorting Out the Bits – Digital Television and Datacasting in Australia' (2000/2001) <i>International Journal of Communications Law and Policy</i> Vol 6 2000</li> <li>• D Mentzines &amp; R Costelloe, 'Digital television and datacasting – a realisation of The Dream or a dog's breakfast?' (September 2000) 4(5) <i>Telemedia</i></li> </ul>
<b>8 June 2000</b>	<p>Report of the <i>Senate Environment, Communications, Information Technology and the Arts Committee</i> tabled</p>	<ul style="list-style-type: none"> <li>• Minority Report tabled by the <i>Australian Labor Party Senators</i></li> <li>• Minority Report tabled by the <i>Australian Democrat Senators</i></li> </ul>
<b>July 2000</b>	<p>July 2000 - Report to Parliament on the <i>Review Of Audio and Video Streaming Over The Internet</i>.</p>	<ul style="list-style-type: none"> <li>• DCITA Media Release, '<i>Video and Audio Streaming</i>', 21 July 2000</li> </ul>
<b>17 August 2000</b>	<p>Government tables the Copyright Amendment (Digital Agenda) Bill 2000.</p> <ul style="list-style-type: none"> <li>• <i>Explanatory Memoranda</i></li> <li>• <i>Second Reading Speech</i></li> </ul> <p>Act assented to on 4 September 2000.</p>	<ul style="list-style-type: none"> <li>• Attorney-General's Department, Copyright Reform: <i>Copyright Amendment (Digital Agenda) Act 2000</i>.</li> </ul>
<b>12 September 2000</b>	<p>Ministerial Determination under section 6(1) of the <i>Broadcasting Services Act 1992</i> on the definition of 'broadcasting service' to exclude Internet streaming.</p>	<ul style="list-style-type: none"> <li>• R Nicholls and C Lidgerwood, 'Ministerial Determination Gives Pause for Thought to High speed Internet service providers' <i>Telemedia</i>, Vol 4, No 7 (2000) p96</li> <li>• R Costelloe, 'Internet Television and Radio Services – The Streaming Controversy,' <i>Communications Law Bulletin</i> Vol 19 No 3, p9</li> </ul>

Reports and legislation		Other sources
<b>5 October 2000</b>	<i>Broadcasting Services (Digital Television Format Standards) Regulations 2000</i> come into operation.	
<b>29 November 2000</b>	<i>Broadcasting Services (Digital Television Standards) Regulations 2000</i> come into operation.	
<b>6 December 2000</b>	Government tables Broadcasting Legislation Amendment Bill 2000 [2001].  <i>Act assented to 6 April 2001.</i>	
<b>14 December 2000</b>	ABA Determination of Remote Licence Areas under Subclause 5(1) of Schedule 4 to the <i>Broadcasting Services Act 1992</i> .	<ul style="list-style-type: none"> <li>• ABA, <i>Determination of Remote Licence Areas</i> Issues Paper, October 2000</li> <li>• ABA, <i>Determination of Remote Licence Areas Explanatory Paper</i></li> </ul>
<b>5 April 2001</b>	Government tables Broadcasting Legislation Amendment Bill (No. 2) 2001.  <i>Act assented to 20 July 2001.</i>	
<b>20 September 2001</b>	<i>Broadcasting Services (Transmitter Access) Regulations 2001</i> come into operation.	
<b>1 January 2002</b>	<i>Broadcasting Services (Datacasting Charge) Regulations 2001</i> come into operation.	
<b>March 2002</b>	Report to Parliament on the <i>Review Of The Spectrum Allocation Powers Of The Australian Broadcasting Authority</i> .	<ul style="list-style-type: none"> <li>• ABA Update, <i>Digital TV – one year on</i>, December 2001, January 2002</li> <li>• ABA, <i>Digital Terrestrial Television Broadcasting – Planning Handbook</i>, April 2002</li> </ul>
<b>June 2002</b>	Report to Parliament on the <i>Review of Digital Transmission of Community Television</i> , released by DCITA.	

Reports and legislation		Other sources
<b>19 September 2002</b>	ABA releases report on the <i>Determination of Simulcast Start Date for Regional Licence Areas and Application Date for Implementation Plans</i> .	
<b>25 September 2002</b>	Government tables Broadcasting Legislation Amendment Bill (No.1) 2002.  <i>Act assented to 10 December 2002.</i>	
<b>10 December 2002</b>	Report to Parliament on the <i>Review of the Operation of Schedule 6 of the Broadcasting Services Act 1992</i> .	<ul style="list-style-type: none"> <li>• DCITA <i>Issues Paper</i></li> <li>• DCITA Media Release, <i>Government Encourages Datacasting Trials</i>, 5 December 2002</li> <li>• S Barns (ed) <i>Interactive TV and Datacasting: How to Make It Happen?</i>, Network Insight Group, Sydney, 2002</li> </ul>
<b>11 December 2002</b>	Government tables Broadcasting Legislation Amendment Bill (No.1) 2003.  <ul style="list-style-type: none"> <li>• <i>Explanatory Memoranda</i></li> <li>• <i>Second Reading Speech</i></li> </ul> <i>Act assented to on 26 February 2003.</i>	<ul style="list-style-type: none"> <li>• Hansard debate 13 February 2003</li> </ul>
<b>19 June 2003</b>	Government tables Communications Legislation Amendment Bill (No. 3) 2003.  <ul style="list-style-type: none"> <li>• <i>Explanatory Memoranda</i></li> <li>• <i>Second Reading Speech</i></li> </ul> <i>Act assented to on 24 October 2003.</i>	<ul style="list-style-type: none"> <li>• <i>Bills Digest</i></li> <li>• ACCC Report, <i>Emerging Structures in the Communications Sector</i>, 30 June 2003. <ul style="list-style-type: none"> <li>• Submissions in response: Austar, ASTRA, Broadcast Australia, Foxtel, Nine Network and Network Ten (joint submission), Seven Network, Sports Investments Australia</li> </ul> </li> <li>• Hodgson, <i>New Media Markets, the UK Experience</i>, ABA Conference, Canberra 2003</li> <li>• Independent Television Commission (ITC), <i>The UK Television Market: An Overview</i>, 2003</li> <li>• Telecommunications Journal of Australia, special issue on Digital TV, Summer 2003, Vol 53, No.4</li> </ul>

Reports and legislation		Other sources
<b>January 2004</b>	Attorney-General's Department releases <i>Digital Agenda Review report</i> .	<ul style="list-style-type: none"> <li>I McGill, Retransmission: Broadcasting and Copyright Issues, paper presented at IPRIA conference, 27 April 2004</li> </ul>
<b>10 May 2004</b>	<p><i>Government announces the commencement of:</i></p> <ul style="list-style-type: none"> <li>Four thematic reviews under to Schedule 4 paragraph 60 of the Broadcasting Services Act 1992.</li> <li>A review of the viability of an indigenous television broadcasting service.</li> </ul>	<ul style="list-style-type: none"> <li>DCITA, <i>Provision of Services Other Than Simulcasting by Free-to-Air Broadcasters on Digital Spectrum</i>, Issues Paper.</li> <li>DCITA, <i>Review of the viability of an indigenous television broadcasting service and the regulatory arrangements that should apply to the digital transmission of such a service using spectrum in the broadcasting services bands</i>, May 2004</li> </ul>