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**Digital TV: the regulatory perspective: reviews,
reviews, reviews, reviews and, in 2006, the mother
of all reviews?**

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Coverage

- **Where we have come from since 1998**
- **Where we appear to be going: the mother of reviews and then holistic media reform?**
- **Some prognostications on a future regulatory environment**

Evolution of digital terrestrial TV policy

1998: *Television Broadcasting Services (Digital Conversion) Act and Datacasting Charge (Imposition) Act.*

These determined the digital terrestrial roll-out timetable via amendments to the *Broadcasting Services Act 1992, (BSA) Schedule 4, Clause 6*

- 2001: Metropolitan launch of DTTV, soft regional launch
- 2004: Full regional launch of DTTV
- 2009: Analogue switch-off starts - extendable by regulation

They also mandated a raft of reviews...

The reviews under the *Broadcasting Services Act*

BSA Schedule 4, Part 8

2005: Deadline for reviews into

- Commercial multi channelling
- Fourth commercial licence
- Spectrum allocation
- Under-served areas
- High definition service requirements

2006: Deadline for review into the simulcast period

Non-legislated reviews and inquiries into digital TV

1997: DTT Broadcasting Specialist Group (DTTBSG) report

1997: ABA response to DTTBSG

1999: DCITA Digital Broadcasting Industry Action Agenda

2000: Productivity Commission: *Broadcasting Inquiry Report*

2002: DCITA *Review of Digital Transmission of Community TV*

2005: House of Representatives Standing Committee on Communications - *Inquiry into the uptake of Digital TV*

- Due to report in February 200

2006: Ministerial discussion paper release

Datacasting: Barriers to new uses of spectrum

BSA Schedule 6, Clauses 13-23B

Until 31 December 2006 datacasting is distinguished from other digital TV on the basis of content restrictions governing licences

BSA ss 34 (5) and (6)

From 2007 datacasting transmitter licensees can use transmitters for any kind of service that has been issued a content licence by ACMA under the BSA or falls into one of the BSA's class licensing schemes...however...

Datacasting: Barriers to new uses of spectrum

In 2002 the Government decided not to allocate any long-term datacasting transmitter licences due to the “nascent state of the market”

- ‘Trials’ on the datacasting spectrum have been permitted using a scientific licence system
 - Expiry before 2007
- The government has not indicated when it will table a report relating to datacasting as required under the *BSA* Schedule 4 clauses 60(e), (i) and (h): perhaps in the “Mother”?

2007 - End of legislative moratorium

BSA s.28

The moratorium on ACMA's ability to award new commercial TV broadcasting licences expires on 31 December 2006

BSA s. 40

Under the current *BSA*, ACMA will be able to issue new licences to applicants

- However, licences authorising distribution of commercial services through use of the broadcasting services band spectrum can only be allocated by a price-based system
- Licences for other services (subscription, narrowcast or commercial TV service distributed off the radiofrequency spectrum) may be issued over the counter

2007 - End of legislative moratorium

But the Government indicated in 2004 that it will introduce amendments to the *BSA* to move the power to allocate new commercial TV broadcasting licences from ACMA to the Government

- The current minister reconfirmed this in August 2005
- And the Government has said it does not favour the awarding of a fourth commercial TV licence with the expiry of the moratorium in December 2006

2007 - End of legislative moratorium

With the absence of incumbent datacasting transmitter licensees, the issue of use of that spectrum from 2007 falls to government

- Government has made no decision on the method of allocation or use of the datacasting channels in each market
- For commercial TV broadcasters to be eligible, the *BSA* (s. 54A) and *Radio Communications Act 1992* (s. 102B) will require amendment to remove prohibition against commercial broadcasters controlling datacasting transmitter licensees.

Multichannelling

BSA Schedule 4 clause 6(3)(c)

Commercial broadcasters are prohibited from multi-channelling.

- The BSA requires that standard definition television programs be simultaneously broadcast in analogue mode
- There are limited exceptions for time-shifting programs affected by event coverage over-runs (Schedule 4, Clause 6(8))

Anti-siphoning provisions

BSA s. 115

The intent of the scheme is to give free-to-air broadcasters priority over pay TV licensees in acquiring rights to listed events

- The current anti-siphoning list comprises domestic and international sporting events in 11 categories including cricket, tennis, golf, motor sports and the football codes - covering about 1,000 events
- ACMA will monitor free-to-air coverage of events on the anti_siphoning list from 1 January 2006 until 31 December 2010, when the current list is due to expire

ACCC Issues: platforms or content?

The traditional view has been to consider print, magazines, radio and television as separate markets

The ACCC Chairman has raised his hand: “the upshot of all these changes is that in the future a media market might be defined by the content...for example, classified advertising...rather than the medium used to convey the content”

Whether the traditional view of markets or a digital framework for examination of substitutability of media products and services will prevail will be determined by the courts

The Digital future: after 31 December 2006???

BSA repealed and restated to effect a new framework for audiovisual industry and cultural policy

Digital conversion and analogue switch off will be hardwired to occur on 31 December 2010 but subject to milestones and benchmarks set by a legislated digital action plan

Whether there is a 4th commercial network and the use of datacasting spectrum: decision before 31/12/2010 but status quo until then

Cross media and foreign reform and permission to multi channel: implemented at the same time as analogue switch off



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