



Broadcasting Legislation Amendment (Digital Radio) Bill 2007

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Law and Bills Digest Section

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Broadcasting Legislation Amendment (Digital Radio) Bill 2007

Date introduced: 28 March 2007

House: House of Representatives

Portfolio: Communications, Information Technology and the Arts

Commencement: Sections 1 to 3 and Schedule 1 commence the day after the Act receives Royal Assent. Schedule 2 commences on the later of: Royal Assent, or immediately after the commencement of section 155AAA of the *Trade Practices Act 1974*. However, if the commencement of section 155AAA of the TPA does not occur, then Section 2 of this Act does not commence.

Purpose

The Broadcasting Legislation Amendment (Digital Radio) Bill 2007 (the Digital Radio Bill) seeks to amend the *Broadcasting Services Act 1992* (the BSA), the *Radiocommunications Act 1992* (the Radcomms Act), and the *Trade Practices Act 1974* (the TPA) to enable the licensing, planning and regulation of digital radio services, and to give the Australian Communications and Media Authority (ACMA) and the Australian Competition and Consumer Commission (ACCC) sufficient powers to undertake such activities.

The Radio Licence Fees Amendment Bill 2007, also tabled on 28 March 2007, complements the Digital Radio Bill, and seeks to amend the *Radio Licence Fees Act 1964* to ensure that all revenue earned from analogue and digital radio broadcasting services is counted for the purposes of calculating the radio broadcasting licence fee (see separate [Bills Digest](#) for more information).¹

Background

Basis of policy commitment

What is digital radio?

Digital radio is capable of worldwide broadcast of compact-disc-quality sound, along with a variety of data services. The technology enables minimal interference or signal fading. New services offered by digital radio include:

- tuning into a radio station using its name only
- while listening to a program, a user may ascertain a music title by scanning the radio monitor display

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- while travelling, the digital radio will automatically tune to the same program on a stronger frequency
- the user can set the radio to have travel news interrupt the normal programs, or to select specific music types
- ability rewind and record radio programs
- pay-per-listen program choices
- other text information such as weather details, sports results, map information, graphics, etc.²
- See further: Matthew James, *A digital television and radio future?* Parliamentary Library, 2001, available at: <http://www.aph.gov.au/library/pubs/rn/1996-97/97rn5.htm>.

Digital radio services are well established in Britain and some other parts of Europe and Asia. Attempts to implement in the US and some other countries such as Sweden and Finland have been less successful. The Explanatory Memorandum notes that

...these and other experiences suggest that the successful introduction of digital radio is dependent on the adopted system receiving wide support from broadcasters and the public, and demonstrating a capacity to provide services that go beyond those available in analog.³

In 2001 it was estimated that Australians had 29 million radio receivers. However, very few of these could be used for digital services. If they wish to receive digital radio transmissions, consumers will need to buy new equipment when digital radio services commence. It is important to note that analog services will not cease, so buying a digital radio receiver will be the consumer's choice rather than a necessity. In Britain a digital radio receiver currently retails for around £30.

There are a number of different technologies available for digital radio broadcasting. In Australia, Commercial Radio Australia has announced that commercial broadcasters will be using the DAB+ standard, using the Eureka 147 Platform. However, the ABC has indicated that it believes DAB will not adequately service remote areas, and will look into a supplementary DRM system.⁴ Further information about the technology for digital radio broadcasting is available at the Digital Radio Australia internet site: <http://www.digitalradioaustralia.com.au/>.

Industry-funded trials of digital radio broadcasting began in Sydney and Melbourne in 2003, involving commercial stations and the ABC and SBS.

Government policy announcement

Following a consultation process which included a [report](#) by the Digital Radio Advisory Group (1997) and a 2004 [issues paper](#) which sought public submissions, the Government

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announced its policy framework for the introduction of digital radio services in October 2005. The key points of the policy include:

- digital radio will supplement existing analogue radio services for a considerable period, and may never be a complete replacement.
- the initial rollout of digital radio will include existing licence holders for State capital commercial, national and wide-coverage community broadcasters. Introduction in regional areas will commence at a later stage.
- a moratorium will be introduced on the issue of new commercial digital radio licences for a period of six years, following the introduction of digital radio services in State capital markets.
- digital radio services will be subject to existing content regulation arrangements administered by ACMA.
- there will be no requirement on broadcasters to simulcast their analogue service in digital.
- a new licence category will be established to enable non-radio broadcasters to make use of the digital radio platform to deliver non-radio services
- incumbent commercial and, if they choose, wide-coverage community broadcasters in a licence area will have a first right of refusal to elect to jointly manage the operations of the multiplex ensembles and hold the associated spectrum licences. If they so elect, spectrum licences will be issued for an administrative charge only. A dedicated multiplex spectrum will be available to national broadcasters.
- access rules will be established ensure minimum levels of capacity on ‘multiplex ensembles’ for commercial and wide-coverage community broadcasters (see discussion on p. 6).
- the ACCC will be given power to intervene to manage multiplex access, including addressing access disputes and anti-competitive conduct.
- spectrum allocation and licensing will continue to be managed by ACMA.

Full details of the government policy announcement can be found at:

http://www.minister.dcita.gov.au/media/media_releases/framework_for_the_introduction_of_digital_radio. This bill seeks to implement the framework.

Senate inquiry

The Senate referred the Digital Radio Bill to the Senate Environment, Communications, Information Technology and the Arts Committee for inquiry and report by 30 April 2007. The committee received eight [submissions](#). On 7 May 2007 the Committee tabled its [report](#). The committee’s report acknowledged that two factors – the scarcity of spectrum, and the need for broadcasters to co-operate in the use of a single data stream (see below

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for further detail) have combined to create a challenging policy implementation environment. The Committee supported the ABC's concerns about the commercial stations' choice of DAB+ technology for digital radio, which could preclude some regional areas. The committee stated:

...if the government does not signal a preferred standard for digital radio for the bush, the next generation of radios sold in the market may not be able to receive and decode these signals. Experience of digital radio in the UK highlights how existing receiver technology can hamper the evolution of digital radio services. The committee hopes that the government will take an approach that minimises the barriers to the adoption of digital radio in regional and remote areas.⁵

However, despite this concern and others raised in submissions, the committee concluded that 'in broad terms [the digital radio] challenge has been successfully met in the government's framework', and recommended that the bill be passed. The majority report did not recommend any amendments to the bill.⁶

The ALP members of the committee included a minority report, which criticised the rapid timeframe in which the committee's inquiry had been held, particularly given the complexities of the legislation. The Labor Senators commented:

the way in which this process has been handled demonstrates the government's disinterest in external scrutiny of its legislation and its disinterest in allowing the Senate to do anything more than simply rubber stamp its proposed legislation.⁷

Position of significant interest groups/press commentary

A number of interest groups have commented on the Digital Radio Bill, either via submissions to the Senate inquiry or in their own media statements. While most groups welcome the move towards digital broadcasting, some concerns have been raised, particularly by the community broadcasting sector which feels it will be too dependent on the goodwill of commercial broadcasters to facilitate their digital broadcasting. Comments on specific aspects of the bill are outlined in sections below.

Financial implications

The Explanatory Memorandum states that the bill is expected to have no impact on Commonwealth expenditure. On the contrary, the future price-based allocation of digital radio multiplex transmitter licences is likely to generate revenue for the government. The government is unwilling to predict the level of revenue, as a model for digital radio licences has not yet been tested.⁸

In its policy announcement in October 2005 the government stated that, depending on the success of the state capital rollout, it would consider providing some capped financial

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assistance for the capital costs associated with rollout of digital transmission facilities by commercial broadcasters in regional areas.

Main provisions

Much of the bill makes technical amendments to add the digital broadcasting framework into the BSA, the RadComms Act, and the TPA. The items which implement the key points of the government's digital broadcasting policy are outlined below.

Schedule 1

Digital start-up date

Item 26 inserts **new section 8AC** into the BSA, which provides for ACMA to declare a date as the 'digital start-up day' for a licence area. The section stipulates that for metropolitan licence areas, the start-day must be no later than **1 January 2009**. Regional start-up dates are to be declared in a legislative instrument made by the Minister. However, before declaring a digital start-up day, ACMA must be satisfied that it has taken sufficient action to plan requirements for commercial, community and national digital broadcasters, that one or more foundation digital radio multiplex transmitter licences has been issued, and that the capacity is sufficient to meet the access entitlements of broadcasters under the Radcomms Act.

Allocation of multiplex licences

The Explanatory Memorandum states that spectrum issues are a factor in the development of Australia's digital radio framework. In Australia, much of the spectrum suitable for digital radio broadcasting is already being used for analog and digital television, and Defence communications.⁹ As a result, unoccupied spectrum appropriate for digital radio services is limited, particularly in Sydney and Melbourne. For digital radio, the spectrum is split into 'multiplexes', allowing a number of different streams of content to be broadcast within the one spectrum. The DAB+ technology which has been selected by commercial broadcasters for use in Australia allows nine channels per multiplex. Overseas experience has shown that management of each multiplex can be a contentious issue, as the manager or 'owner' has a potential gatekeeper function with respect to access to content streams.¹⁰

The bill proposes amendments to the *Radiocommunications Act 1992* (the RadComms Act) to implement the following multiplex management and access arrangements:

- A distinction is drawn between *foundation* digital radio multiplex transmitter licences and *non-foundation* digital radio multiplex transmitter licences:

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- *foundation* digital radio multiplex transmitter licences are licences that provide standard access entitlements for digital commercial, digital community and digital national radio broadcasting operators in an area (see **item 172, new sections 118NQ, 118NR, 118NS**). Essentially, they are licences designed to accommodate incumbent operators.
- *non-foundation* digital radio multiplex transmitter licences are any additional licences issued in an area which do not provide for standard access entitlements (see **item 172, new section 118NU**). These licences are intended to accommodate any future digital radio broadcasters, and may be issued in a particular area once sufficient foundation licences are in force (see **item 161 of Schedule 1**).¹¹
- Licences will also be divided into three categories:
 - *Category 1* licences will be provided to commercial broadcasters and wide-coverage community broadcasters who elect to jointly operate multiplexes for a service in their licence area). Any such election would be subject to minimum requirements for community broadcasters, to ensure the joint venture operates fairly and transparently (**new section 102C** of the RadComms Act). The joint venture multiplex licences will be issued by ACMA for an administrative charge only.
 - *Category 2* licences will be offered to joint ventures which may comprise commercial, community and national broadcasters. Incumbents will be offered first choice take up the licence, for an administration fee only. If incumbents choose not to apply for a Category 2 licence, or the application is rejected, ACMA may allocate the licence to newcomers on an auction system (**new section 102D**).
 - *Category 3* licences will be reserved for the national broadcasters (ABC and SBS), to jointly manage a multiplex in all markets, separate from the other broadcasters (**new section 102E**).

National, community and commercial broadcasters have raised some concerns regarding this approach.

National broadcaster concerns

The ABC raised its concern about **proposed section 102E** of the Radcomms Act, under which the ACMA can only issue Category 3 multiplex transmitter licences to qualified companies whose only shareholders are national broadcasters. The ABC argued that the need to form a company would place additional burdens such as tax obligations, administrative and compliance costs, audit costs and directors' insurance. The ABC submitted to the Senate inquiry:

The Corporation strongly supports the view, reflected in the legislation, that the most efficient model for Category 3 licences involves the ABC and SBS owning and managing a common ensemble multiplex and other shared infrastructure, rather than a

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third party. However, this does not of itself require the formation of company. In discussion, the ABC and SBS have been considering less formal instruments, such as a Memorandum of Understanding. The ABC believes that the legislation should not specify the precise instrument that is used for this purpose.¹²

The ABC expressed concern about **new section 44A (item 154)** of the RadComms Act, which outlines ACMA's planning requirements for digital radio implementation. ABC states that the new planning requirements will mean that digital radio services delivered by the national broadcasters will be planned on the same basis as commercial services.

The ABC acknowledges that in a situation of scarce Band III spectrum, there are practical reasons for housing commercial, community and national digital radio services in adjacent multiplexes broadcast from the same transmitter. Nonetheless, the Corporation has an in-principle objection to such an approach being applied more widely to the planning of digital radio or broadcasting services in general.

The planning of commercial licence areas reflects particular policy assumptions about business competition for audiences between commercial radio providers. These assumptions are not shared by the ABC, which is not in business competition with commercial radio providers and conceives of its audiences, particularly in regional areas, quite differently from commercial radio services.¹³

SBS has expressed reservations about its sharing of multiplex spectrum with the ABC. The bill does not specify how the spectrum is to be shared between the two national broadcasters. SBS submitted to the Senate committee:

Given the number of new services and expansion to existing services planned by SBS to ensure it delivers appropriate services to those communities identified in its Charter and to address the current imbalance between the ABC and SBS in terms of both service provision and coverage it would be appropriate for the national broadcasters to share the national broadcaster multiplex on an **equal** basis.¹⁴

The issue of access to media for diverse Australian 'voices' is discussed further by Rhonda Jolly in the Parliamentary Library publication *Bills Digest: Broadcasting Services Amendment (Media Ownership) Bill 2006*: see <http://www.aph.gov.au/library/pubs/BD/2006-07/07bd032.pdf>.

Community broadcaster concerns

The Community Broadcasting Association of Australia (CBAA) expressed concern at the commercial/community broadcaster sharing of Category 1 multiplex licences, arguing that it makes community broadcasters too dependent on the decisions of the commercial broadcasters:

...access rights to digital capacity for the community broadcasting radio services can only arise where a multiplex is first brought into existence by virtue of commercial

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radio licensees exercising rights for digital capacity. As the only path to digital for community radio broadcasting, this is not equitable or acceptable.¹⁵

The Category 2 licences, which will be available via an auction allocation process only if there is spare capacity after Category 1 licences are filled, do not have a guaranteed entitlement to community radio access.

CBAA argue that this is in contradiction to the Minister's 2005 policy statement, which guaranteed capacity for community radio broadcasting services on all available multiplexes. They submitted:

A solution to this set of issues is that the Bill be amended to reflect the Minister's October 2005 announcement insofar as rights to capacity be available to community radio broadcasting licensees on all available multiplexes. That is, both Category 1 and Category 2 multiplexes. Where there is excess capacity available priority should be given to providing 1/9th multiplex entitlements in respect of all existing analog community radio licensees in each market. All multiplexes should be considered foundation multiplexes until existing community radio entitlements are exhausted. That is, community radio broadcasting licensees should be able to assert an access entitlement on any available multiplex.¹⁶

Similarly, Triple R broadcasters in Melbourne argued that the shared management with commercial broadcasters would add extra management costs and stifle the creativity and collaboration that community broadcasters are known for.¹⁷

Commercial broadcaster concerns

Commercial Radio Australia raised concern that in the major metropolitan areas of Sydney and Melbourne, if all the existing commercial and community broadcasters take up the offer to form a company to operate a Category 1 licence, there would not be enough capacity in a single multiplex (which allows nine channels), to meet the standard entitlements of all the shareholders. Commercial Radio Australia stated:

In such circumstances, Commercial Radio Australia understands that more than one foundation licence would be allocated to that eligible joint venture company (so that it is authorised to operate more than one foundation multiplex). However, Commercial Radio Australia requests that this be clarified in the Bill or confirmed in the Explanatory Memorandum.¹⁸

Access to multiplex capacity by content providers

The holder of a multiplex Category 1 or Category 2 licence (outlined above), is required to comply with access obligations set out in **new Division 4B of the BSA** (item 172). Access undertakings must be provided to the ACCC, which may request further information, accept or reject access undertakings or variations on undertakings, and retain a register of all access undertakings (**new sections 118ND-NK**).

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New section 118NQ states that a standard access entitlement for a commercial broadcaster will be one-ninth of the multiplex capacity under licence. Under **new section 118NR**, two-ninths of each Category 1 multiplex capacity will be reserved for community broadcasters.

Moratorium on new licences

Item 16 in the Bill inserts a definition of ‘digital radio moratorium period’ into existing section 6 of the BSA. The moratorium on new radio licences is defined as the six-year period dating from the start of the digital radio start-up day for the licence area. **Item 37** inserts **new section 35C** into the BSA, giving effect to the moratorium. This item gives effect to the Government’s commitment to give incumbent broadcasters a level of certainty during the digital radio investment phase.¹⁹ The six-year duration mirrors that provided for the introduction of digital television.

In its submission to the Senate inquiry, Commercial Radio Australia notes that it is not clear how the moratorium provision is intended to interact with the moratorium on the issue of new analog licences, announced by the ABA on 25 September 2003.²⁰ Commercial Radio Australia states:

It must be emphasised that it will be extremely difficult for commercial radio broadcasters to focus on digital radio rollout if they are distracted by new analog licence allocations in their licence areas.²¹

While Commercial Radio Australia states that it believes there are no plans to change the current moratorium on analog licences, it believes that clarification in the Digital Radio Bill would be appropriate.

Commercial Radio Australia also requested that the Minister be provided with the discretion to extend the moratorium period, following the completion of a review of implementation of digital radio services. Commercial Radio Australia also argued that while a moratorium should begin on the day of the Act’s Royal Assent, the six-year period should begin on an ‘adequate coverage date’, which would mean that at least one digital radio service is available to at least 80 per cent of the licence area population.²²

‘Use it or lose it’

Item 37 inserts **new section 35D** to the BSA, which provides that the continuity of the moratorium on issue of new licences in any licence area is contingent upon the provision of at least one digital commercial radio broadcasting service by each commercial radio broadcasting licensee. In the event that a commercial radio broadcasting licensee does not provide a digital service, ACMA must revoke the licence to provide digital services in the licence area, and allocate the digital services licence to another provider under subsection 36(1) of the BSA. The commercial broadcaster’s analogue licence does not change. Decisions under this section of the Act will be reviewable by the AAT (**item 65**). **New subsection 35D(4)** provides flexibility in what is considered to be provision of a digital

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broadcasting service, by allowing ACMA to specify circumstances in which digital broadcasting is taken to be provided, via legislative instrument. This is to provide for circumstances where a digital service may legitimately be interrupted, for example, by weather damage to transmission equipment.²³

Commercial Radio Australia takes exception to this clause, describing it as a ‘significant and potentially draconian power’, and noting that the Bill does not contain a provision for a commercial radio licensee to transfer, assign, lease or otherwise grant rights over the digital licence to a third party.

Commercial Radio Australia asks that ACMA should not be allowed to exercise these powers for at least two years after the digital start-up date in a licence area. Commercial Radio Australia also submitted that the Bill should outline guidelines for the application of section 35D, including some defences or ‘reasonable excuses’ for non-compliance.²⁴

Content enhancement

Item 26 inserts **new section 8AB** which relates to ‘digital program enhancement content’. This allows commercial, community or national broadcasters to take advantage of the new digital technologies which will allow them to deliver content other than traditional audio programming, for example text-based program guides and graphics. This new section defines such content as radio programming.

However, in the definitions section of the bill, **subsection 6(1)** defines digital program enhancement content as content in the form of text, or *still* visual images, or in a form specified in a legislative instrument made by the Minister. The Explanatory Memorandum highlights animation as an example of further content which could be approved by the Minister through a legislative instrument.²⁵

Several submissions to the Senate inquiry raised concerns about the limitations this definition will place on digital program enhancement. For example, the Australian Broadcasting Corporation (ABC) states that its organisation:

...is interested in digital radio being rich radio, rather than poor television. However, it believes that the definition of digital program enhancement content should be extended to include animation and video clips of a short duration to enable such things as transmission of broadcast web pages, animated weather maps and short video clips to illustrate news and sport coverage and the like. The ABC notes that this sort of content is already widely available via mobile phones. Further, as the nation’s emergency broadcaster, the Corporation believes that during natural disasters, such as cyclones or bushfires, the ability to show animated maps would be of considerable value.

It is enhancements of this kind that will ensure that digital radio becomes an integral part of the new digital multi-media environment. Conversely, it is such enhancements

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that will drive the take-up of digital radio, enabling digital radio to play this integral role.²⁶

Similarly, Broadcast Australia argues:

...the ability to provide such images is likely to be of importance to the overall digital radio consumer proposition. Any concern that moving images may somehow replicate or compete with commercial TV broadcasting services is, in BA's view, unfounded given the applicable bandwidth limitations in the digital radio context.²⁷

A possible remedy to this problem would be an amendment to the definitions in subsection 6(1) to allow 'moving visual images'.

Licence areas

Item 26 inserts a **new subsection 8AA** to the **BSA**, establishing a new 'designated community radio broadcasting licence'. The new community radio broadcasting licences will initially be limited to wide-coverage community broadcasters, as defined in existing Part 6 of the BSA. Under **new subsection 8AA(2)**, the Minister may, by legislative instrument, give ACMA a direction about any other conditions to be placed on the community broadcaster.

Item 26 also defines some digital radio broadcasting licence areas, specifically for Sydney and Hobart. **New subsection 8AD (1)** relates to commercial radio licensees operating in the licence area known as Western Suburbs Sydney RA1. The licence areas of Sydney and Western Suburbs Sydney have a large population overlap. **New subsection 8AD (1)** provides that, for the purposes of digital radio, commercial radio broadcasting licensees operating in Western Suburbs Sydney RA1 will be deemed to operate in the Sydney RA1 licence area. The Explanatory Memorandum states:

The commercial radio licence areas of Sydney and Western Suburbs Sydney have a large population overlap. The technical arrangements for digital radio multiplex transmitter licences mean that it is not possible for both licence areas to operate for the purposes of digital radio....Listeners in the section of the Western Suburbs licence area which falls outside the Sydney licence area will not be served by digital commercial radio services. This amendment will have not effect on analogue services.²⁸

According to the former Australian Broadcasting Authority (now ACMA), 94.88 per cent of the population in the Western Suburbs Sydney RA1 area are also covered by the Sydney RA1 area.²⁹ Maps of the two licence areas can be found at:

Sydney RA1:

http://www.aba.gov.au/licplan/planning/licareas/defmaps/documents/maps/la_542.pdf

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Western Sydney Suburbs RA1:

http://www.aba.gov.au/licplan/planning/licareas/defmaps/documents/maps/la_386.pdf

New subsection 8AD(2) makes a similar provision for two community radio broadcasting licensees in Hobart, operating in the licence areas known as Hobart RA2 and Hobart RA4. The new subsection will mean that for the purposes of digital radio, the licences for Hobart RA2 and Hobart RA4 will be taken to be the same as the main commercial radio broadcasting licence area for Hobart ('that in which is situated the General Post Office of Hobart'). The Explanatory Memorandum states that this will allow two community radio broadcasters (7RPH and 7THE) which broadcast to a wide proportion of the population of the commercial licence area (Hobart RA1), but which technically have a smaller licence area, to be considered as wide-coverage community broadcasting services and therefore enabled to provide digital services.³⁰

New subsection 8AD(3) provides ACMA with the ability to determine that the licence areas of other community radio broadcasters are taken to be the same as a commercial radio broadcasting licence area, as has been done for the Hobart stations mentioned above.

New subsection 8AD(4) allows the Minister to direct ACMA in relation to this power.

Special licence conditions for commercial broadcasters

Item 40 inserts **new section 43D** to the **BSA**, which provides special licence conditions for digital radio commercial broadcasters. The special licence conditions essentially provide a 50 per cent cap on the amount of analog/digital simulcasting a commercial broadcaster can undertake. The Explanatory Memorandum states

This is intended to ensure the development of new and innovative digital-only programming, while not unreasonably constraining a broadcaster's legitimate right to replicate a reasonable amount of their analog service in digital.³¹

Restricted datacasting services

New section 54B to the **BSA** will allow new entrants to make use of the digital radio platform for new types of non-radio services, called 'restricted datacasting services' (see also **items 105, 24, 25, 110**). The Explanatory Memorandum states that these types of non-traditional radio services may include:

- information-only programs
- educational programs
- interactive computer games
- text or still visual images
- Parliamentary broadcasts

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- email
- internet content
- 10-minute extracts of a television program
- 10-minute news, current affairs, financial or weather bulletins, repeated at 30 minute intervals
- foreign-language news or current affairs radio programs.³²

Reviews

Item 70 inserts new **section 215A** to the **BSA**, which requires that the Minister undertake a review by **1 January 2011**, into the relative merits of terrestrial and satellite technologies capable of transmitting digital radio and restricted datacasting services in regional licence areas. The review must be tabled in Parliament. This review will inform Government decisions about the path for introduction of digital radio services in regional Australia.

New section 215B of the **BSA** requires a second review, by **1 January 2014**. This second review will look at the development of technologies and the operation of the Act since its introduction, so far as it deals with the licensing and regulation of digital radio and restricted datacasting.

A similar review, to be completed by **1 January 2014**, is required under **new section 313B** of the **RadComms Act (item 177)**.

The Explanatory Memorandum states:

These reviews will provide for an evaluation of a range of aspects of the policy framework for digital radio as digital radio technologies develop and the platform becomes established. This is appropriate given that digital radio is relatively untested in the Australian market.

The reviews will also enable an examination of appropriateness of the current regulatory framework for the period after the moratorium ends.³³

Concluding comments

This Bills Digest highlights some of the key areas of implementation of the digital radio framework for Australia. Commercial, national and community broadcasters have raised a number of concerns, primarily surrounding the operation of multiplex licences, access entitlements, and content provisions. The future for digital radio broadcasting in regional Australia is somewhat unclear, as the Bill initially deals with the start-up of digital broadcasting in major metropolitan areas from 1 January 2009. The ABC has raised some

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concern that the technology preferred by the commercial broadcasters will not be wholly suitable for broadcasting into regional areas.

A number of interest groups have voiced the opinion that the success of digital radio in Australia will depend on adequate planning and promotion of the new technology. It is well known that Australians in the past have enthusiastically embraced new technologies such as mobile phones, although uptake of digital television has been slow.³⁴ Submissions to the Senate inquiry noted that successful consumer uptake will depend on new and varied content for digital radio, and active promotion by existing broadcasters. For example, Broadcast Australia recommended that the Bill include a provision that obliges individual licensees to devote a small percentage of their airtime to cross-promotion of the digital radio platform, in peak listening times each week.³⁵

Endnotes

1. Bronwen Jagers, Radio Licence Fees Amendment Bill 2007, *Bills Digest No. 144, 2006-07*, Parliamentary Library, Canberra, 8 May 2007. <http://www.aph.gov.au/library/pubs/bd/2006-07/07bd144.pdf>
2. ABC Radio internet site: Digital Radio, at <http://www.abc.net.au/radio/digital/>.
3. Explanatory Memorandum, p. 7.
4. Joshua Gliddon, 'ABC questions reach of favoured digital radio option', *Australian Financial Review*, 20 April 2007.
5. Senate Committee on Environment, Communications, Information Technology and the Arts, *Report: Broadcasting Legislation Amendment (Digital Radio) Bill 2007 and Radio Licence Fees Amendment Bill 2007*, at: http://www.aph.gov.au/Senate/committee/ecita_ctte/digital_radio/report/index.htm.
6. *ibid.*
7. Labor Senators' Minority Report, Senate Committee on Environment, Communications Information Technology and the Arts, at: http://www.aph.gov.au/Senate/committee/ecita_ctte/digital_radio/report/d01.htm.
8. EM, p. 4.
9. EM, p. 8.
10. EM, p. 14.
11. EM, p. 64.
12. ABC, submission to the Senate Committee on Environment, Communications, Information Technology and the Arts, http://www.aph.gov.au/Senate/committee/ecita_ctte/digital_radio/submissions/sub01.pdf.
13. *ibid.*

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14. SBS, submission to the Senate Committee on Environment, Communications, Information Technology and the Arts,
http://www.aph.gov.au/Senate/committee/ecita_ctte/digital_radio/submissions/sub03.pdf.
15. Community Broadcasting Association of Australia, submission to the Senate Committee on Environment, Communications, Information Technology and the Arts,
http://www.aph.gov.au/Senate/committee/ecita_ctte/digital_radio/submissions/sub05.pdf
16. Community Broadcasting Association of Australia, op. cit.
17. Triple R Broadcasters Pty Ltd, submission to the Senate Committee on Environment, Communications, Information Technology and the Arts,
http://www.aph.gov.au/Senate/committee/ecita_ctte/digital_radio/submissions/sub06.pdf.
18. Commercial Radio Australia, submission to the Senate Committee on Environment, Communications, Information Technology and the Arts,
http://www.aph.gov.au/Senate/committee/ecita_ctte/digital_radio/submissions/sub07.pdf.
19. EM, p. 39.
20. The announced moratorium was for a period of at least five years from the final allocation in the 2003 round, however the ABA stated that this should not be taken to mean that at the end of the five years it would immediately allocate more analog licences. See press release:
http://www.aba.gov.au/newspubs/news_releases/archive/2003/60nr03.shtml.
21. Commercial Radio Australia, submission to the Senate Committee on Environment, Communications, Information Technology and the Arts, 20 April 2007, available at:
http://www.aph.gov.au/Senate/committee/ecita_ctte/digital_radio/submissions/sub07.pdf.
22. Commercial Radio Australia, op. cit.
23. EM , p. 45.
24. Commercial Radio Australia, op. cit.
25. Explanatory Memorandum, p. 39.
26. Australian Broadcasting Corporation, submission to the Senate Committee on Environment, Communications, Information Technology and the Arts, April 2007, available at:
http://www.aph.gov.au/Senate/committee/ecita_ctte/digital_radio/submissions/sub01.pdf.
27. Broadcast Australia, submission to the Senate Committee on Environment, Communications, Information Technology and the Arts, April 2007, available at:
http://www.aph.gov.au/Senate/committee/ecita_ctte/digital_radio/submissions/sub02.pdf.
28. EM, p. 42.
29. Australian Broadcasting Authority internet site, available at:
http://www.aba.gov.au/licplan/planning/licareas/population/la_386.shtml, accessed 10 April 2006.
30. EM, p. 42.
31. EM, p. 47.
32. EM, p. 56.

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33. EM, p. 54.
34. House of Representatives Standing Committee on Communications, Information Technology and Arts: *Digital Television: Who's Buying It?* February 2006, at <http://www.aph.gov.au/house/committee/cita/digitaltv/report/front.pdf>.
35. Broadcast Australia, op. cit.

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