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RECENT MAJOR BROADCASTING AMENDMENTS PASSED BY FEDERAL PARLIAMENT

Two major broadcasting bills were among eight communications bills passed by the Commonwealth Parliament during a legislative feeding frenzy in the dying hours of the current session. They received Royal Assent on 5 June, 1987.

The main amendments to the Broadcasting Act fall into two broad categories:

- Implementation of "equalisation";
- New ownership and control limits.

Equalisation

The broad thrust of the "equalisation" policy is already well-known, as the amendments enacted followed the Forward Development Unit Report on Future Directions for Commercial Television in June 1985, the Minister's major announcement on 20 May, 1986, and finally the Richardson Committee Report in March 1987. In summary, the equalisation policy is intended to provide three competitive commercial television services in regional areas as soon as practicable, in larger and more viable markets.

Section 16 of the Broadcasting Amendment Act, 1987 inserts a new Part IIIC into the Broadcasting Act, which:

- requires the Minister to prepare and publish the Equalisation of Regional Commercial Television Indicative Plan (ss94B, 94E); the Indicative Plan sets out the basic elements of the equalisation scheme, including approved markets (s94C), aggregation areas

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MEDIA OWNERSHIP AND NETWORKING IN AUSTRALIA

Conference held by ACLA
at Menzies Hotel, Sydney,
10 April 1987.

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for each licensee (s94D), licences eligible for consolidation etc;

- provides for licensees to elect for immediate aggregation, or provide multi-channel services ("MCS") first (s94G); if two licensees in an approved market elect for immediate aggregation, then all three licensees must proceed down that path (s94H);
- requires licensees to submit implementation plans to the Minister (ss94K-94L); the implementation plan sets the timetable for equalisation and provides a measure of progress;
- provides additional provisions covering the processes of aggregation, licence consolidation and the grant etc of MCS permits (ss94S-94ZD); special provisions apply to Tasmania, where there will be two state-wide services (ss94ZF-94ZH).

Ownership and Control

The Broadcasting (Ownership and Control) Act, 1987 has two main purposes:

- to replace the "two-station rule" with a "60% reach rule" based on the population of Australia and the service area population of each commercial television service area (s92); in summary, a person may have prescribed interest in any number of licences serving a combined population no greater than 60% of the Australian population - in practice this allows licences to be held in, for example, Sydney, Melbourne, Brisbane and Perth;
- to provide limits on cross-media interests within the service area of a commercial television licence (s92FAB); these limits prohibit the holder of a prescribed interest in a commercial television licence from having also a prescribed interest in:

- a commercial radio licence that has an area of monopoly within the service area of the commercial television licence; or
- a newspaper that is associated with the service area of the commercial television licence.

The Australian Broadcasting Tribunal must keep a Register of Associated Newspapers (s91AAE). A newspaper is associated with a commercial television service area if it is in English, is published at least four days each week, is sold as a newspaper, and has not less than 50% of its circulation in the service area (see definition in s91).

All these ownership rules apply broadly to interests acquired on or after 28 November, 1986 (the day after the Minister's announcement that the law was to be changed) but earlier interests are "grandfathered". However, the transitional provisions in the amending Act are complex and need careful study by any practitioner assessing the scope of the new laws.

No significant changes are made to the ownership rules for commercial radio (except in cross-ownership with television), or in the basic tracing provisions or share transaction approval regime. These are to be dealt with in future legislation at a later date.

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