



**Submission by  
Free TV Australia Limited**

Senate Standing Committee on  
Environment, Communications and the Arts

Inquiry into the Broadcasting Legislation  
Amendment (Digital Television Switch-over)  
Bill 2008

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## 1 Executive Summary

- Free TV is committed to working cooperatively with the Government to deliver a mutually agreed timetable for the switch-off of analogue terrestrial television signals.
- This submission addresses the provisions of the Broadcasting Legislation Amendment (Digital Television Switch-over) Bill 2008 (the Bill) and also sets out further proposed legislative amendments.
- Free TV supports the Bill in so far as it provides the legislative framework necessary for a well-planned and coordinated switchover process. Free TV supports a legislative framework which accommodates staged switchover in geographic areas other than licence areas.
- Free TV understands the importance of a timely and efficient process for analogue switch-off. Free-to-air broadcasters are committed to driving take-up and have made significant investments in infrastructure and new services.
- However, switch-off must not come at the expense of the underlying objective of digital switch-over - that every Australian who currently receives a free-to-air analogue television picture will receive a free-to-air digital television picture at switch-off.
- Free-to-air digital television penetration must be in excess of 95% before analogue signals are switched-off. Even if 1% of people lose their signal, that would mean that 200,000 Australians would no longer be able to watch free-to-air television.
- Whilst the Bill would enable the Minister to adapt the switch-over timetable in response to changing on-the-ground developments, such as slow digital take-up or inadequate coverage, this may not be sufficient to properly safeguard against premature analogue switch-off in a region.
- Free TV supports the inclusion in this Bill of a mechanism to ensure that analogue signals will not be switched-off in a region until that region is clearly ready. The proposed amendments ensure the switch-over timetable set by the Minister is underpinned by a series of measurable, relevant and public milestones.
- However, it is possible there will be limited circumstances in which not all readiness milestones can be fully achieved prior to switchover. In these circumstances, broadcasters and the Government should have the option of agreeing that switchover should proceed, notwithstanding the fact that not all milestones have been met.
- The task of switchover will be highly complex, resource-intensive and operationally demanding for broadcasters. It would therefore be inappropriate for broadcasters to face differing content regulatory requirements within and across licence areas throughout the switchover period.
- The Bill should include provisions to remedy this. The current exemptions for multi-channels from requirements for Australian and children's content and captioning should be extended until after switchover. A review should be timed to take place after switchover. It is only at this time that the multi-channel operating environment will become clear.
- Free TV does not support the Bill's proposed requirement for a review before 1 January 2012, of whether additional commercial television licences should be issued. The digital dividend process is the appropriate forum for matters relating to the broadcast spectrum to be considered. This makes the formal requirement for a review prior to switchover unnecessary.



## 2 Introduction

Free TV represents all of Australia's free-to-air television broadcasters. Free TV welcomes the opportunity to contribute to the Senate Standing Committee on Environment, Communications and the Arts inquiry into the Broadcasting Legislation Amendment (Digital Television Switch-over) Bill 2008 (the Bill).

Free TV is committed to working cooperatively with the Government to deliver a mutually agreed timetable for the switch-off of analogue terrestrial television signals. Free-to-air broadcasters have strongly supported Australia's digital transition. We have invested more than a billion dollars in rolling out digital transmission infrastructure to over 90% of the population – one of the fastest digital roll-outs in the world. All free-to-air broadcasters have joined together to form Freeview, a new body to promote the digital free-to-air platform. From 2009, there will be 15 high-quality free to view multi channels under the Freeview banner. From the end of 2008, Freeview will launch a multimillion dollar advertising campaign showcasing the benefits of digital to viewers. These efforts will provide a significant boost to digital take-up in Australia.

The Government has announced a date of 31 December 2013 to complete the digital switch-over process. This date is challenging but manageable and will require ongoing collaboration between industry and Government.

The timetable for analogue switch-off needs to be informed by the impact on viewers, as well as the impact on the commercial free-to-air television industry. It is crucial that viewers do not lose access to free-to-air services at any stage of the switchover process.

There are also transitional costs associated with switch-off, such as purchasing new equipment and upgrading antennas. A considerable proportion of these costs will be borne by Australian viewers and the community generally. As such, the timetable for switch-off needs to be carefully managed to ensure that the transition is as smooth as possible for Australian viewers.

It is therefore vital that the underlying legislative framework for digital switch-over strikes the right balance between facilitating an efficient and timely switch-off process and minimising the disruption to Australian viewers.

Australian viewers place a high value on their current free-to-air television services, with a clear majority choosing to rely solely on free-to-air services (over 70%). The viewing public will rightly expect that they continue to receive the services they have come to expect from free-to-air broadcasters.

Whilst the Bill includes a number of important provisions which will be crucial for a well planned and coordinated switch-off, Free TV is concerned the Bill does not include any safeguards against the loss of free-to-air television signals.

The Bill should include an explicit link between a region's readiness for switch-over and the switch-off of analogue television signals. Free TV has prepared proposed amendments which would safeguard Australian viewers against a premature switch-off of analogue signals.

The Bill should also delink changing content regulatory requirements for digital multi-channels from the end of the simulcast period in each individual licence area. The existing regulatory framework for captioning, children's content and Australian content on digital multi-channels should continue through until a review is conducted one-year after digital switchover in 2013.



These are new and emerging services which are set to play an important role in driving television consumers to switch to digital television. It is only once digital multi-channels are truly established that a proper impact assessment of additional content regulatory requirements can be undertaken.

This submission considers the provisions in the Bill as currently drafted and then discusses additional amendments proposed by Free TV.

### **3 The Provisions of the Bill**

#### **3.1 Region-by-region switch-off**

Free TV supports proposed new clause 5F of Schedule 4 to the *Broadcasting Services Act 1992* (BSA) (Item 4 in Schedule 2 of the Bill), in so far as it would enable the Minister to determine a staged, region-by-region timetable for switchover. These amendments will be necessary in order to provide the Government with sufficient flexibility to plan an appropriate timetable for switch-over.

#### **3.2 Ministerial decision-making**

Free TV supports proposed new clauses 5F and 6A of Schedule 4 to the BSA (Items 4 and 12 of Schedule 2 of the Bill) in so far as it provides for the switch-over timetable to be set by Ministerial Determination.

In contrast to a switch-over timetable set in legislation, Ministerial decision-making would appear to provide a mechanism for a nimble and responsive approach to setting dates that can consider specific conditions within each market.

Timetable decisions are critical to the success of the digital switch-over project and it is therefore appropriate that they be made at Ministerial level (as opposed to a delegation of such powers to the Minister's Department or the regulator). The Minister is best able to consider all relevant policy, technical and readiness factors and to take a holistic view of timetabling issues.

Whilst Free TV supports these provisions in so far as they invest decision-making power in the Minister, we note that the Minister's time-table setting powers are not linked to switch-over readiness criteria. There should also be a formal requirement for public reporting of a market's progress towards switch-off in the lead up to the switchover date, to ensure greater transparency.

These issues are discussed in more detail below in section 4.1 of this submission.

#### **3.3 Variation of the switch-over date**

Free TV notes that the Bill includes a limited amount of flexibility for the Minister to vary the switch-over date for local market areas and for licence areas.

Proposed new subclauses 5F(5) to (9) of Schedule 4 to the BSA would allow the Minister to vary the date for a local market area to become a digital-only local market area (ie, the



date for digital switch-over). The Minister's ability to vary the date will be limited to a 3-month window on either side of the original date. The Minister would be permitted to extend the switch-over date for a local market area for a period longer than 3-months after the original date only in exceptional circumstances.

A similar power is proposed as regards the date for the end of the simulcast period for licence areas (ie, the date for digital switch-over in a licence area) (refer to proposed new subclauses 6A(7) to (11) to Schedule 4 to the BSA). This power is also limited to only allow variations within a 3-month window on either side of the original date. There is an additional restriction whereby any extension of the switch-over date must not be later than the end of 31 December 2013, except in exceptional circumstances.

In making either kind of these variations, the Minister will be required to consult with the Australian Communications and Media Authority (ACMA).

Free TV supports these provisions of the Bill in so far as they provide flexibility in the Minister's timetable setting powers. It is vital that the switch-over timetable is able to respond quickly and efficiently to technical and market developments. It is likely that levels of technical and consumer readiness will develop at different and difficult to predict rates. Government and industry must therefore be able to respond to varying trends and circumstances in a timely fashion. An ability to adjust the timetable will be crucial to a well-coordinated switch-off process.

The Bill proposes a mechanism by which a change to the switch-over date will be at the discretion of the Minister. However, as discussed in detail below at section 4.1 of this submission, Free TV is concerned that there may be circumstances which justify a mandatory review and amendment to the switch-over date. Given the high level of reliance in Australia on free-to-air television services, the legislation must include a safeguard against premature switch-off of analogue television signals.

In section 4.1 of this submission, Free TV proposes additional amendments to set out the circumstances in which the Minister would be compelled to vary the switch-over date for a local market area or licence area.

### **3.4 The simulcast period**

Free TV supports proposed new clause 6A of Schedule 4 to the BSA (Item 12 of Schedule 2 of the Bill) in so far as it would enable the Minister to vary the simulcast period. Whilst the Minister is already able to lengthen the simulcast period, the BSA does not currently allow the simulcast period to be shortened. The Bill will allow the Minister to shorten the simulcast period.

This will prove particularly important in non-remote regional areas. As presently drafted, the BSA would prevent switch-over in non-remote regional areas before either 31 March 2011 or 31 December 2011, depending on the area.

Regional broadcasters are disproportionately impacted by the financial costs of simulcasting. Existing analogue transmission equipment is rapidly reaching obsolescence and will be difficult and expensive to replace. The largest of the regional commercial television broadcasters operates more than ten times the number of transmitter and translator sites than the largest metropolitan television broadcaster.



### 3.5 Consequential amendments

Free TV notes that the Bill contains various amendments which are necessary as a consequence of the creation of the new concepts of 'local market areas' and 'digital-only market areas'. Free TV has no comment on these provisions.

## 4 Suggested Amendments to the Bill

### 4.1 Analogue switch-off must be contingent on key readiness benchmarks and criteria

The underlying objective of the switch-over project is to ensure that all Australians continue to receive the services they have come to value so highly. Australia has a very high level of reliance on free-to-air television services, with over 70% of Australians still solely reliant on free-to-air television services.

If even 1% of people lose their signal, that would mean that 200,000 Australians would no longer be able to watch free-to-air television.

As noted above, the Bill includes a discretionary power for the Minister to vary the date for switch-over in a region. This is presumably to allow the Minister to vary the timetable in response to the level of readiness in that region. Free TV is concerned that this power is only discretionary, and may not be sufficient to properly safeguard against premature switch-over in a region.

Free TV supports the inclusion in this Bill of a mechanism to ensure that analogue signals will not be switched-off in a region until that region is ready.

Free TV proposes a legislative mechanism which would:

- require explicit statement of the minimum criteria that must be met before analogue television can be switched-off in any region;
- mandate reviews of a region's current and projected readiness in the lead-up to switch-over, measured by a region's performance against the minimum criteria;
- require consultation with broadcasters as part of that review process;
- compel the release of a public report following the review of a region's readiness;
- mandate a further review in the month immediately preceding the switch-over date; and
- automatically trigger a change in switch-over date for any area which has not met minimum readiness criteria one-month out from the nominated switch-over date.

Amendments to the Bill to implement such a mechanism are set out at **Attachment A** and are described in detail below.

Free TV understands the importance of a timely and efficient switch-over process. The proposed amendments are not intended to delay the overall switch-over project but rather to provide a mechanism for switch-over to be linked to a series of measurable and relevant milestones. The amendments are consistent with the underlying objective of the



digital switch-over project in that they would safeguard against the possibility of Australians losing access to television services as a result of digital television switchover.

The provisions have been drafted so as to apply to local market areas and licence areas, given that both of these concepts will be used in determining the switch-over timetable.

#### **4.1.1 *Minimum analogue switch-off readiness criteria***

In order to determine the criteria by which a region's readiness for analogue switch-over will be measured, Free TV's proposed amendments would require the Minister to make a determination setting out minimum readiness benchmarks.

The development of detailed readiness criteria will require close consultation between government and industry. To allow for this, the Minister would be required to make a determination in consultation with relevant parties, and within 6 months of the passage of the Bill.

The Minister's determination must be consistent with the principle objectives of the switch-over project:

- that all Australians who currently receive an analogue free-to-air television service should be able to receive a digital free to view television service after switch-over;
- that analogue television signals should not be switched-off unless in excess of 95% of households have free-to-air digital terrestrial television equipment;
- that there are adequate processes in place to ensure any unconverted households are aware of switch-off and are able to convert to digital at minimal cost; and
- that analogue television signals should not be switched-off unless digital free-to-air terrestrial television signals achieve the same coverage and reception levels as was achieved in analogue.

Setting goals will ensure that all parties involved in switch-off are focussed on achieving the same specific and measurable outcomes. The proposed criteria are not intended to unduly delay analogue switch-off in an area. Rather, the underlying principle is to safeguard against premature switch-off where preparations are clearly inadequate.

#### **4.1.2 *Six-month review of readiness***

In order to assess the adequacy of digital switch-over preparations in a region, Free TV's proposed amendments would require a review of readiness six months in advance of the switch-over date set by the Minister for each region.

The review would be conducted by the Digital Television Switchover Taskforce (consulting with ACMA on technical issues) and would assess the region's progress against the minimum readiness criteria determined by the Minister. The review would also be required to forecast the region's likely readiness by the switchover date. The review would be conducted in consultation with the broadcasters in the relevant region. A report of the review's findings would be provided to the Minister and published on the Taskforce's website.

An early review of a region's readiness will help Government and industry identify any potential barriers or obstacles which may prevent a region from achieving readiness by the nominated switch-over date. This process can be likened to standard risk-management procedures - early identification of impediments will allow early action to be taken, to ensure switch-over can proceed by the nominated date.

#### **4.1.3 One-month review of readiness and variation of switch-over date**

Ideally, sufficient planning and preparations will have been undertaken to ensure that a region or licence area is ready for digital switch-over by the nominated date. The proposed six-month review of readiness (see 4.1.2 above) is intended to allow early identification of potential problems and facilitate timely and efficient trouble-shooting.

However, given the implications for viewers and broadcasters of a premature switch-off of analogue signals, it is vital that the Bill include a 'last-resort' safeguard against such an occurrence.

Free TV's proposed amendments would require a review of actual readiness in a region one month prior to the switch-off date for a local market area or licence area. It is intended this review would provide a definitive measurement of a region's readiness for switchover.

The review would be undertaken by the Digital Switchover Taskforce, in consultation with ACMA on technical issues, and with relevant broadcasters. A report of the review would be provided to the Minister and would be placed on the Taskforce's website.

If the review found that a region had not met the minimum readiness criteria set down by the Minister, this would trigger a requirement for the Minister to vary the nominated switch-off date for the region. Any new date set by the Minister must be at least two-months after the original nominated date, to allow sufficient time for broadcasters, government and the public to adjust and plan for the revised date.

In order to minimise the resulting delay in switch-over for that region, the Minister will be required to identify what steps will be taken to ensure that the region in question is ready in time for the new switch-over date.

However, there may be limited circumstances in which fully meeting the switchover readiness milestones prior to the switch-off date may not be practical. It is important to ensure any milestones or consumer safeguards do not give rise to prohibitive or costly delays to the switchover process. This is a particularly important consideration for regional broadcasters, for whom the costs of simulcasting through two separate transmission networks are extremely high.

In these circumstances, broadcasters and the Government should have the option of agreeing that switchover should proceed, notwithstanding the fact that not all milestones have been met.

The proposed provisions have been drafted so as to require a further review of any switch-over date that has been varied under the safeguard mechanism,



one-month prior to that varied date. It is appropriate to ensure such regions are further reviewed prior to the amended switch-off date to ensure that the problems previously identified have been addressed.

## **4.2 Content requirements for digital multi-channels**

The Bill includes a range of measures which relate to the content requirements which apply to digital multi-channels. Free TV proposes further amendments to the Bill in relation to these requirements.

### **4.2.1 Australian and children's content and captioning requirements**

Free-to-air television multi-channels are currently exempt from the Australian and children's program standards which apply to a broadcaster's primary channel. There is a similar exemption as regards captioning requirements. These exemptions are timed to end with the end of the simulcast period in a licence area.

With the simulcast period certain to end at different times for different licence areas, if the BSA is not amended broadcasters will face differing regulatory requirements across different licence areas. This would not be acceptable or indeed desirable for broadcasters.

The task of switch-over will be highly complex, resource-intensive and operationally demanding for broadcasters. Differing content requirements across licence areas would create an unjustifiably high compliance burden, for no apparent public policy benefit. A substantial amount of programming is compiled and transmitted on a network basis and significant costs would arise from differing content obligations across different markets.

Such an outcome would be of particular concern for regional broadcasters carrying content provided through affiliation agreements with metropolitan broadcasters.

Free TV is concerned that the Bill does not include provisions to remedy these issues.

### **4.2.2 The approach taken in the Bill**

In the lead-up to the introduction of the Bill, the Digital Switchover Taskforce released a Discussion Paper addressing, inter alia, these issues. The Discussion Paper, *Legislative framework for implementing a digital television switchover timetable* identified the specific issue of differing end-dates for the multi-channel content exemptions.<sup>1</sup>

In its submission to the Taskforce, Free TV identified its concerns regarding this situation and supported amendments to address those concerns.

However, rather than fixing a clear date for the end of these exemptions, the Bill defers consideration of this issue into a review, timed to occur in 2009.

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<sup>1</sup> [http://www.dbcde.gov.au/data/assets/pdf\\_file/0004/84109/Legislative\\_framework\\_-\\_Digital\\_television\\_switchover\\_timetable\\_Discussion\\_Paper.pdf](http://www.dbcde.gov.au/data/assets/pdf_file/0004/84109/Legislative_framework_-_Digital_television_switchover_timetable_Discussion_Paper.pdf)



Free TV does not support this approach.

#### **4.2.3 Future regulatory requirements for multi-channels**

A more appropriate arrangement would be for the commencement date for any new obligations to be determined as part of the overall statutory reviews of the content and captioning requirements. Those reviews should not take place before switch-over, as would be the case if the Bill were passed in its current form.

The appropriate timing for these reviews is in the year following complete analogue switch-off. Free TV has previously identified this as an issue in its submission to the DBCDE Discussion Paper *Access to Electronic Media for the Hearing and Vision Impaired*.

Multi-channels are new services, whose final composition and nature are still unclear. This makes it particularly important to carefully consider the impact of regulatory settings for these services. Given the current start-up nature of the digital multi-channels, and the niche audiences attracted to specialised programming, broadcasters are currently building audiences for multi-channel content. This means it will be premature to consider additional content requirements until these services have become established.

The appropriate time for the consideration of future content requirements on multi-channels will come following their establishment in the marketplace and once Australia has moved to a digital-only environment.

It should also be noted that in the years leading up to switchover, broadcasters will be facing significant technical and operational commitments in delivering what the Government has described as the biggest change facing this country since decimal currency was introduced.<sup>2</sup>

For these reasons, Free TV therefore supports the statutory reviews taking place in the year after digital television switchover. It is through these reviews that the future of the existing regulatory exemptions for captioning and Australian and children's content on multi-channels will be determined. Hence, these exemptions must be extended to accommodate this timeframe, rather than being matched to the end of the simulcast period in individual licence areas.

The proposed amendments to the Bill at **Attachment A** include provisions to give effect to this position.

### **4.3 Review of 4<sup>th</sup> commercial television licence**

The Bill would amend the BSA to set a date for a review of whether one or more additional commercial television licences should be issued. The review is currently required to occur before the 'earliest television switchover day'.<sup>3</sup> The Bill would require the review to take place before 1 January 2012.

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<sup>2</sup> Refer to Media Release of Senator the Hon Stephen Conroy, 19 October 2008 [http://www.minister.dbcde.gov.au/media/media\\_releases/2008/077](http://www.minister.dbcde.gov.au/media/media_releases/2008/077)

<sup>3</sup> Section 35A of the *Broadcasting Services Act 1992*



Free TV does not support this change and instead suggests there is no need to retain a specific statutory requirement for a review on this matter prior to switchover.

The Government is expected to shortly consult and decide on a range of highly significant issues around the future use of broadcasting spectrum. Free TV understands these decisions will be made well in advance of 1 January 2012.

This calls into question the Bill's proposed timing for the review. It is not clear what value a review in 2011/2012 will have if the Government will have already determined the allocation of broadcasting spectrum by that time.

Questions relating to the use of digital dividend spectrum will be appropriately considered as part of the upcoming deliberations on future spectrum use. This makes the formal requirement for a review prior to switchover unnecessary. Rather than bringing this review forward, Free TV proposes that the Bill remove the requirement for a specific review prior to switchover.

#### **4.4 Other issues**

There are also a number of technical provisions identified in the Taskforce Discussion Paper which do not appear to have been addressed in the Bill. We would like to draw these to the attention of the Committee:

- The return of transmitter licences following the end of the simulcast period (Sch 4 cl 8(4)(b); cl 23(4) of the BSA);
- End of the high definition quota (Sch 2, cl 7(1)(ma)-(mc) of the BSA); and
- Transmitter licence provisions in the *Radiocommunications Act 1992* (ss 102B; 102AB and 102 AC (from 1 Jan 2009)).

**ATTACHMENT A****Broadcasting Legislation Amendment (Digital Television Switch-over) Bill 2008****Proposed Amendments to the Bill**

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(1) Schedule 1, page 3 (lines 8 to 10), omit the item, substitute:

**2 Subsection 35A(1)**

Repeal the subsection.

**Subsection 35A(3)**

Repeal the subsection.

(2) Schedule 1, page 3 (lines 11 to 13), omit the item, substitute:

**3 Subclause 60C(1) of Schedule 4**

Omit “At least one year before the earliest digital television switch-over day”, substitute “Before 1 January 2015”.

(3) Schedule 2, page 4 (after line 13), before item 4, insert:

**3A Clause 2 of Schedule 4**

Insert:

*minimum analogue switch-off readiness criteria* has the meaning given by clause 5G.

(4) Schedule 2, page 5 (after line 32), before item 5, insert:

**4A At the end of Part 1 of Schedule 4**

Add:

**5G Minimum analogue switch-off readiness criteria**

- (1) The Minister must, by legislative instrument, determine *minimum analogue switch-off readiness criteria*.
- (2) The Minister must make a subclause (1) determination within the period of 6 months beginning on the day that this Bill receives Royal Assent.
- (3) A determination made under subclause (1) must include criteria consistent with the objectives that:
  - (a) all Australians who currently receive an analogue free to air television service should be able to receive a digital free to view television service after digital television switch-over;
  - (b) the simulcast period for a licence area, or a part of licence area, should not cease unless in excess of 95% of households in that area, or part of that area, have equipment capable of receiving digital terrestrial free to air television transmissions;
  - (c) there should be processes in place for each licence area, or part of a licence area, to ensure adequate awareness of analogue switch-off and of methods to convert to digital; and
  - (d) the simulcast period for a licence area should not cease unless the transmission of a commercial free to air television broadcasting service in SDTV digital mode in that area achieves the same level of coverage and potential reception quality as was achieved by the transmission of that service in analog mode
- (4) A determination made under subclause (1) must specify how the *minimum analogue switch-off criteria* will be measured.

*Consultation*

- (5) Before making or varying a subclause (1) determination, the Minister must:
  - (a) consult the ACMA;
  - (b) consult the Digital Switchover Taskforce;
  - (c) take into account any relevant research undertaken by the Digital Switchover Taskforce and ACMA; and
  - (d) make provision for public consultation.

## 5H Review and forecast of analogue switch-off readiness

- (1) If,
- (a) there is a determination in place under clause 5F of Schedule 4 specifying a *local market area*; and
  - (b) that determination specifies a time at which a *local market area* becomes a *digital-only local market area* (the *specified time*);
- then,
- (c) no later than 6 months before the *specified time*, the Digital Television Switchover Taskforce must complete a review of:
    - i) whether the local market area meets the *minimum analogue switch-off readiness criteria*; and
    - ii) whether the local market area will meet the *minimum analogue switch-off readiness criteria* by the specified time
- (2) In conducting a review of a *local market area*, the Digital Switchover Taskforce must consult with:
- (a) ACMA regarding technical issues;
  - (b) the commercial television broadcasting licensees for the licence area concerned; and
  - (c) the national broadcasters
- (3) The Digital Switchover Taskforce must, within 7 days of completing a review under subclause (1), provide a report of the review to the Minister and publish the report on its website.

## 5I Review of analogue switch-off readiness

- (1) If,
- (a) there is a determination in place under subclause 5F(1) or subclause 5F(1)(d) of Schedule 4 specifying a time at which a *local market area* becomes a *digital-only local market area* (the *specified time*);
- then,
- (b) no later than 30 days before the *specified time*, the Digital Switchover Taskforce must complete a review of whether the local market area has met the *minimum analogue switch-off readiness criteria*
- (2) In conducting a review of a *local market area*, the Digital Switchover Taskforce must consult with:
- (a) the ACMA regarding technical issues;

- (b) the commercial television broadcasting licensees for the licence area concerned; and
    - (c) the national broadcasters
  - (3) The Digital Switchover Taskforce must, within 7 days of completing a review under subclause (1), provide a report of the review to the Minister and publish the report on its website.
- (5) Schedule 2, page 5 (lines 31-32), omit the item, substitute:
- (11) Before making or varying a subclause (1) determination, the Minister must consult:
    - (a) the ACMA
    - (b) the Digital Switchover Taskforce;
    - (c) the commercial television broadcasting licensees for the licence area concerned; and
    - (d) the national broadcasters
- (6) Schedule 2, page 5 (after line 32), insert:
- (14) If,
    - (a) there is a determination in place under subclause (1) or subclause 12(d) specifying a time at which a *local market area* becomes a *digital-only local market area* (the *specified time*); and
    - (b) there has been a review of a *local market area* under clause 5I; and
    - (c) that review has found that the *local market area* concerned does not meet the *minimum analogue switch-off readiness criteria*then
    - (d) within 14 days of receiving the report of the review the Minister must, by legislative instrument, vary the *specified time* for that *local market area*, unless:
      - i) each of the national broadcasters, each of the commercial television broadcasting licensees for the local market area concerned, and the Digital Switchover Taskforce have notified the Minister in writing of their agreement that the *specified time* should not be varied.

- (15) If there is a variation made under subclause (12)(d), the date specified in the varied determination must not be earlier than 2 months after the date specified before any variation was made
- (16) A variation made under clause (12)(d) must specify what measures will be taken to ensure the *local market area* concerned will meet the *minimum analogue switch-off readiness criteria* by the time specified in that variation.

#### *Consultation*

- (17) Before making a variation under subclause (12)(d), the Minister must consult with:
  - (a) the ACMA
  - (b) the Digital Switchover Taskforce;
  - (c) the commercial television broadcasting licensees for the licence area concerned; and
  - (d) the national broadcasters
- (7) Schedule 2, page 9, omit lines 2 to 5 and substitute
  - (11) Before making or varying a subclause (1) or subclause (2) determination, the Minister must consult:
    - (a) the ACMA
    - (b) the Digital Switchover Taskforce;
    - (c) the commercial television broadcasting licensees for the licence area concerned; and
    - (d) the national broadcasters

- (8) Schedule 2, page 9 (after line 10), insert

#### **6C Review and forecast of analogue switch-off readiness**

- (1) If,
  - (a) there is a determination in place under clause 6A(1) or clause 6A(2) to determine the simulcast period for a metropolitan licence area or regional licence area;then,

- (b) no later than 6 months before the end of the simulcast period for a licence area, the Digital Switchover Taskforce must complete a review of:
  - i) whether the licence area meets the *minimum analogue switch-off readiness criteria*; and
  - ii) whether the licence area will meet the *minimum analogue switch-off readiness criteria* by the specified time
- (2) In conducting a review of a licence area, the Digital Switchover Taskforce must consult with:
  - (a) ACMA regarding technical issues;
  - (b) the commercial television broadcasting licensees for the licence area concerned; and
  - (c) the national broadcasters
- (3) The Digital Switchover Taskforce must, within 7 days of completing a review under subclause (1), provide a report of the review to the Minister and publish the report on its website.

#### **6D Review of analogue switch-off readiness**

- (1) If,
  - (a) there is a determination in place under clause 6A(1) or clause 6A(2) to determine the simulcast period for a metropolitan licence area or regional licence area;then,
  - (b) no later than 30 days before the end of the simulcast period for a licence area, the Digital Switchover Taskforce must complete a review of whether the licence area has met the *minimum analogue switch-off readiness criteria*
- (2) In conducting a review of a licence area, the Digital Switchover Taskforce must consult with:
  - (a) ACMA regarding technical issues;
  - (b) the commercial television broadcasting licensees for the licence area concerned; and
  - (c) the national broadcasters
- (3) The Digital Switchover Taskforce must, within 7 days of completing a review under subclause (1), provide a report of the review to the Minister and publish the report on its website.

(9) Schedule 2, page 9, item 12 (after line 5) insert:

- (14) If,
- (a) there is a determination in place under subclause 6A(1) or subclause 6A(2) to determine the simulcast period for a metropolitan or regional licence area; and
  - (b) there has been a review of a licence area clause 6D; and
  - (c) that review has found that the licence area concerned does not meet the *minimum analogue switch-off readiness criteria*
- then
- (d) within 14 days of receiving the report of the review the Minister must, by legislative instrument, vary the simulcast period for that licence area, unless:
    - i) each of the national broadcasters, each of the commercial television broadcasting licensees for the licence area concerned, and the Digital Switchover Taskforce have notified the Minister in writing of their agreement that the *specified time* should not be varied.
- (15) If there is a variation made under subclause (14)(d), the date for the end of the simulcast period in the varied determination must not be earlier than 2 months after the date for the end of the simulcast period specified before any variation was made.
- (16) A variation made under subclause (14)(d) must specify what measures will be taken to ensure the licence area concerned will meet the *minimum analogue switch-off readiness criteria* by the date for the end of the simulcast period specified in that variation.

#### *Consultation*

- (17) Before making a variation under subclause (14)(d), the Minister must consult with:
- (a) the ACMA
  - (b) the Digital Switchover Taskforce;
  - (c) the commercial television broadcasting licensees for the licence area concerned; and
  - (d) the national broadcasters

(10) Schedule 2, page 11 (after line 14), insert

**23 Subsection 122(7)**

Repeal the subsection and substitute:

- (7) Standards under subsection (1), in so far as they relate to programs for children, do not apply to a commercial television broadcasting service unless that service is the core commercial television broadcasting service

Note: For review provisions, see subsection 35A(1)

**24 Subsection 122(8)**

Repeal the subsection and substitute:

- (8) Standards under subsection (1), in so far as they relate to Australian content of programs, do not apply to a commercial television broadcasting service provided by the licensee unless that service is the core commercial television broadcasting service.

Note: For review provisions, see subsection 35A(1)

**25 Subclause 38(4) of Schedule 4**

Repeal the subclause and substitute:

- (4) Subclause (1) does not require the provision of a captioning service for a television program transmitted on:
- (a) An SDTV multi-channelled commercial television broadcasting service; or
  - (b) An HDTV multi-channelled commercial television broadcasting service;

unless the program has been previously transmitted on the core commercial television broadcasting service.

Note: For review provisions, see Subclause 60C(1) of Schedule 4

**26 Subclause 38(5) of Schedule 4**

Repeal the subclause and substitute:

- (5) Subclause (1) does not require the provision of a captioning service for a television program transmitted on:
- (a) An SDTV national television broadcasting service provided by the national broadcaster; or

(b) An HDTV national television broadcasting service provided by the national broadcaster;

unless the television program has been previously transmitted by the national broadcaster on the national television broadcasting service to which clause 19 applies