

# Media reform – Guidelines for narrowcasting television services

## Background

The ACMA has published guidelines on the types of services that may be provided as narrowcasting television services under the *Broadcasting Services Act 1992* (BSA). The guidelines set out the ACMA's approach to matters it must consider when deciding which category a broadcasting service falls into and encourage industry to seek formal opinions from the ACMA on the categories of new services. The guidelines will assist parties who are contemplating providing narrowcasting television services on the proposed new Channel A or Channel B.

## Legislative basis

Categories of broadcasting services are defined in the BSA. Subscription narrowcasting and open narrowcasting services are defined in sections 17 and 18. Under section 21 of the BSA, a person may apply to the ACMA for an opinion about the category a service falls in to. The ACMA must consider certain matters set out in section 22 of the BSA when providing such an opinion.

The provision of broadcasting services on Channel A and Channel B is authorised by datacasting transmitter licences issued under the *Radiocommunications Act 1992* (RA). Section 109A of the RA prohibits the provision of certain types of services on those channels but permits narrowcasting services on both channels.

## Date of effect

The guidelines were published on 10 May 2007.

## Operational summary

The narrowcasting television service guidelines are set out the factors the ACMA will consider when giving an opinion about the category into which a broadcasting service falls.

The guidelines help to inform:

- industry about the regulation of proposed services, and
- the ACMA's consideration of applications for a section 21 opinion.

While providing useful direction, the guidelines do not pre-empt any opinion that the ACMA may provide on an application. This is because the ACMA's section 21 opinions will depend on a detailed assessment of any proposed service against the matters set out in section 22 of the BSA.

**A prospective provider of a narrowcasting television service should apply to the ACMA as soon as possible for a section 21 opinion on the category into which the service will fall.**

Information about applying for an opinion is on the ACMA's website at [www.acma.gov.au](http://www.acma.gov.au).

Section 21 of the BSA establishes a timeframe that encourages the ACMA to provide an opinion within 45 days of receiving an application.

## Current status

The guidelines were published on 10 May 2007.

## Next steps and expected timing

Prospective providers of narrowcasting television services should apply for category-of-service opinions as soon as possible. The ACMA must provide an opinion within 45 days of receiving completed applications, or is taken to have provided the opinion stated by the applicant in the application.

## Important dates for industry

15 February 2007 – draft guidelines were published for consultation.

9 March 2007 – submissions were due to the ACMA.

10 May 2007 – guidelines finalised and published.

## Legal obligations on industry

Providers of broadcasting services must ensure that they hold appropriate transmitter and broadcasting service licences. There are legal penalties for providing broadcasting services without a licence, including those in Part 10 of the BSA and Part 3.1 of the RA).

Under the BSA, subscription narrowcasting and open narrowcasting services are provided under class licences, meaning that individual licences for the services are not required.

However, the operators of such services must ensure that their services meet the legislative criteria for narrowcasting services and that their services comply with the conditions of the class licences.

To help ensure compliance with the licensing requirements of the BSA, prospective narrowcasting service providers should apply to the ACMA for an opinion about the category a proposed service falls in to. Such applications can be made at any time, though prospective providers of open narrowcasting television services are encouraged to apply to the ACMA for an opinion as soon as possible.

## Consequences of failing to comply with obligations

While narrowcasting services are authorised by class licences and individual broadcasting service licences are not required, providers of subscription narrowcasting and open narrowcasting services must ensure that their services meet the legislative requirements for those service categories. The BSA contains legal penalties for providing a broadcasting service without the appropriate licence for that category of broadcasting service (see Part 10 of the BSA).

The RA prohibits the provision of certain types of services on Channel A and Channel B (see section 109A). Providing a service in a category other than what is permitted for Channel A and B may amount to a breach of the RA (see section 113 of the RA).

## Further information

For further information, go to [www.acma.gov.au/mediareform](http://www.acma.gov.au/mediareform)

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