

# Conditional Access Scheme South Eastern Australia TV3

## VAST Free-to-Air Satellite Services

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## 1. Outline

This Conditional Access Scheme (**'Scheme'**) sets out the rules, in accordance with Part 9C of the *Broadcasting Services Act (Cth) 1992* (**'the Act'**), governing viewer access to satellite television services provided in accordance with commercial television broadcasting licences allocated under section 38C of the Act (**'the VAST Services'**).

This Scheme is developed by FreeTV Australia Limited, the industry body representing all of Australia's commercial television broadcasting licensees.

This Scheme will apply to services provided in accordance with digital commercial television broadcasting service licences allocated under section 38C of the Act relating to the South Eastern Australia TV3 licence area.

This Scheme replaces that registered by the Australian Communications and Media Authority (**'the ACMA'**) on 14 September 2011.

Terms used in this Scheme shall have the same meaning as set out in provisions contained in Part 9C of the Act and Schedule 4 of the Act, unless otherwise defined in this Scheme. For clarity, the terms used in this Scheme that are intended to have the same meaning as in the Act include, in the order in which they appear in this Scheme:

- (a) "applicable terrestrial digital commercial television broadcasting service" (s130ZG of the Act);
- (b) "licence area" (s121B of the Act)
- (c) "local market area" (clause 5F of Schedule 4 to the Act);
- (d) "digital-only local market area" (clause 5F of Schedule 4 to the Act);
- (e) "simulcast period" (clause 2 of Schedule 4 to the Act);
- (f) "simulcast area" (s130ZB of the Act);
- (g) "declared service-deficient area" (s130ZH of the Act);
- (h) "related terrestrial licence area" (s130ZB of the Act); and
- (i) "terrestrial licence area" (s130ZB of the Act).

## 2. Definitions

*Adequate reception* of an applicable terrestrial digital commercial television broadcasting service (**'relevant service'**) means that the digital television signal of the relevant service, at a height of 10 metres above ground level at the place where it is being received, satisfies both of the following conditions:

- (a) Its median field strength is equal to or greater than the planned minimum field strength as defined in the *Broadcasting Services (Technical Planning) Guidelines 2007*, as amended from time to time; and
- (b) Its modulation error ratio (MER) is equal to or greater than 24dB.

*Analog switch-off* for a licence area is the last date at which a local market area in the licence area becomes a digital-only local market area, or the last date at which a simulcast period for a simulcast area in the licence area ends, whichever is applicable.

*Declared Location* means the street address or the latitude and longitude coordinates of the proposed reception location for the VAST Services, and includes the whole of the property described by the Certificate of Title or Crown Lease pertaining to the proposed reception location.

*Out-of-area Authorisation* has the meaning given in clause 3.9.4 of this Scheme.

*Section 38C licence area* means the South Eastern Australia TV3 licence area.

*Section 38C licensee* means the licensed operator of a digital satellite broadcasting service in the South Eastern Australia TV3 licence area.

*Terms of Access* mean the terms and conditions that are notified by or on behalf of the Scheme Administrator to persons seeking access to the VAST Services.

*Terrestrial licensee* means the licensed operator of a commercial television broadcasting licence other than a commercial television broadcasting licence allocated under section 38C or subsection 40(1) of the Act.

*Travellers* has the meaning given in clause 9.1 of this Scheme.

### **3. Access Principles**

- 3.1. This Scheme creates three categories of reception areas for the purpose of determining access to the VAST Services.
- 3.2. Persons situated within Category A or Category B reception areas or in a declared service-deficient area will have access to the VAST Services enabled.
- 3.3. Persons situated within Category C reception areas who hold a Reception Certificate issued by the Scheme Administrator will have access to the VAST Services enabled.
- 3.4. Persons situated within Category C reception areas who do not hold a Reception Certificate issued by the Scheme Administrator will not have access to the VAST Services enabled.
- 3.5. Subject to clause 7.16 and part 8 of this Scheme, any person who has requested access to the VAST Services and is granted access by the

Scheme Administrator on a particular date (the **'first date'**) on the basis that the person is located in a Category A or a Category B reception area or a declared service-deficient area will retain the right to access the VAST Services, even if, at a later date, the person's Declared Location is no longer in a Category A or a Category B reception area or a declared service-deficient area.

- 3.5.1. For clarity, clause 3.5 of this Scheme does not apply in circumstances where the Declared Location at the first date is different to the Declared Location at the later date.
- 3.6. Persons situated outside the section 38C licence area will be ineligible to apply for the VAST Services broadcast by the applicable section 38C licensee.
- 3.7. Persons authorised to access the VAST Services under this Scheme will be afforded access to all elements of the VAST Services broadcast by the applicable section 38C licensee.
- 3.8. The Scheme Administrator is RBA Holdings Pty Ltd (ACN 144 070 986).
- 3.9. In accordance with section 130ZB of the Act, the three categories of reception areas are defined as follows:

#### **Category A reception areas**

- 3.9.1. Those areas contained within the Remote Central & Eastern TV1 licence area, the Remote Central & Eastern TV2 licence area or the Mount Isa TV1 licence area are taken to be Category A reception areas.
- 3.9.2. Those areas contained within the external Territory in the section 38C licence area are taken to be Category A reception areas.
- 3.9.3. Those areas (**'Open Access Areas'**) identified by the Scheme Administrator as areas where it is reasonable to expect that, at the end of the simulcast period for the simulcast area, people will be unable to receive adequate reception of all of the applicable terrestrial digital commercial television broadcasting services are taken to be Category A reception areas.
  - 3.9.3.1. When deciding whether to identify an area as an Open Access Area, the Scheme Administrator must have regard to:

- 3.9.3.1.1. the extent to which people in the area have adequate reception of applicable terrestrial digital commercial television broadcasting services;
  - 3.9.3.1.2. the extent to which it is predicted, on a basis agreed by the Scheme Administrator and the ACMA, that people in the area will have adequate reception of those services at the end of the simulcast period for the simulcast area;
  - 3.9.3.1.3. any information provided by a commercial television broadcasting licensee or the ACMA about the extent to which people in the area have or will have adequate reception of those services;
  - 3.9.3.1.4. any representations made to the Scheme Administrator by persons who reside in the area; and
  - 3.9.3.1.5. any other matters the Scheme Administrator considers relevant.
- 3.9.3.2. The Scheme Administrator will promptly give the ACMA descriptions of any areas identified as Open Access Areas for publication on the ACMA's website.
- 3.9.4. If a terrestrial licensee for a related terrestrial licence area is authorised, under paragraph 7(2A)(d)(iii) of Schedule 2 to the Act, to provide a commercial television broadcasting service outside its related terrestrial licence area (**'Out-of-area Authorisations'**) to one or more persons who are in the section 38C licence area, those persons are taken to be in a Category A reception area.

#### **Category B reception areas**

- 3.9.5. Areas in the section 38C licence area, not being Category A reception areas, in which persons do not have adequate reception of all applicable terrestrial digital commercial television broadcasting services, as predicted using industry-accepted coverage mapping systems as agreed between the Scheme Administrator and the ACMA, are taken to be Category B reception areas.
- 3.9.6. Any person in the section 38C licence area who has been declared to be eligible to receive Commonwealth assistance under the Satellite Subsidy Scheme administered by the Commonwealth Department of Broadband, Communications and the Digital Economy is taken to be in a Category B reception area.

- 3.9.7. Category B reception areas may vary from time to time due to changes to broadcast transmission infrastructure. For the purposes of any request for access to the VAST Services, Category B reception areas will be determined as at the date of the relevant request.
- 3.9.8. Subject to clause 7.16 and part 8 of this Scheme, any person who has requested access to the VAST Services and is declared by the Scheme Administrator on a particular date (the ‘**first date**’) to be located in a Category B reception area will retain the right to access the VAST Services, even if, at a later date, the person’s Declared Location is no longer in a Category B reception area.
- 3.9.9. For clarity, clause 3.9.8 of this Scheme does not apply in circumstances where the Declared Location at the first date is different to the Declared Location at the later date.

#### **Category C reception areas**

- 3.9.10. So much of the section 38C licence area that is not a Category A reception area or a Category B reception area is a Category C reception area.

### **4. Reception Certificates**

- 4.1. The Scheme Administrator will issue a Reception Certificate to a person in a Category C reception area but not in a declared service-deficient area if, upon application by the person, the Scheme Administrator considers that the person does not have adequate reception of all of the applicable terrestrial digital commercial television broadcasting services.
- 4.2. The Reception Certificate will take the form of a notice in writing, whether issued by email or facsimile or surface mail, notifying the person of their eligibility for access to the VAST Services.

### **5. Timing of access to the VAST Services**

- 5.1. The Scheme Administrator will grant persons in Category A reception areas access to the VAST Services upon and from commencement of this Scheme.
- 5.2. Persons in a local market area and not in a Category A reception area will not be able to seek access or to have access to the VAST Services earlier than 6 months before the time when the local market area becomes a digital-only local market area.

- 5.3. Persons in a simulcast area and not in a local market area and not in a Category A reception area will not be able to seek access or to have access to the VAST Service earlier than 6 months before the end of the simulcast period for the simulcast area.
- 5.4. The Scheme Administrator will grant persons in declared service-deficient areas access to the VAST Services upon and from declaration of the relevant areas as declared service-deficient areas.

## **6. Commencement**

- 6.1. This Scheme commences on the day after it is registered by the ACMA as a replacement conditional access scheme in accordance with section 130ZC of the Act.

## **7. Application and Access Procedures**

- 7.1. Persons seeking access to the VAST Services will be directed to an on-line portal, facsimile service, postal address or telephone service nominated by the Scheme Administrator for the purpose of processing access applications.
- 7.2. Persons applying for access to VAST Services will be required to provide the Scheme Administrator with the following information:
  - 7.2.1. name of applicant;
  - 7.2.2. postal address of applicant;
  - 7.2.3. contact phone number of applicant;
  - 7.2.4. email address of applicant (optional);
  - 7.2.5. the Declared Location, or in the case of Travellers, the proposed area of travel; and
  - 7.2.6. acknowledgement of acceptance of the Terms of Access to the VAST Services, which will be consistent with the Act and this Scheme.
- 7.3. If an applicant for VAST Services has an Out-of-area Authorisation, the applicant may be asked for details of the Out-of-area Authorisation.
- 7.4. Persons applying for access to VAST Services will receive a confirmation of their application, including a unique identifier.
- 7.5. Applicants for a Reception Certificate may subsequently be contacted by the Scheme Administrator to provide additional information regarding the nature of their terrestrial digital television reception. Any

such request for information will not extend the period of time within which the Scheme Administrator will determine such applications as specified in clause 10.2 of this Scheme.

- 7.6. Persons granted access to the VAST Services will also be required to provide the Scheme Administrator with the following information prior to activation of their access to the VAST Services:
  - 7.6.1. A VAST Services decoder Smart Card number.
- 7.7. Except for Travellers, applications for access to the VAST Services will be assessed on the basis of the applicant's Declared Location.
- 7.8. The Declared Location of the applicant's VAST Service receiving equipment will be plotted against:
  - 7.8.1. those areas contained within the Remote Central & Eastern TV1 licence area, the Remote Central & Eastern TV2 licence area or the Mount Isa TV1 licence area;
  - 7.8.2. if the Declared Location is not in an area described in clause 7.8.1 of this Scheme – all declared service-deficient areas as declared by the ACMA in accordance with s130ZH of the Act; and
  - 7.8.3. if the Declared Location is not in the areas described in clauses 7.8.1 or 7.8.2 of this Scheme – a predictive coverage analysis generated by an industry-accepted coverage mapping system, as agreed between the Scheme Administrator and the ACMA.
- 7.9. Applications for access to VAST Services at Declared Locations situated in Category A or Category B reception areas, or in a declared service-deficient area, will be authorised automatically by the Scheme Administrator.
- 7.10. Applications for access to VAST Services at Declared Locations situated in Category C reception areas, but not in a declared service-deficient area, will be considered by the Scheme Administrator as applications for Reception Certificates.
- 7.11. Applications for a Reception Certificate will ordinarily be determined by the Scheme Administrator using an industry-accepted system for point-to-point signal path analysis, as agreed between the Scheme Administrator and the ACMA, to assess whether the applicant has adequate reception of all of the applicable terrestrial digital commercial television broadcasting services at the Declared Location. The



Scheme Administrator may have regard to licence conditions that affect the operation of the relevant transmitters, and to any conditions or advisory notes about limitations on interference protection.

- 7.12. The Scheme Administrator will accept applications for Reception Certificates lodged on behalf of persons by selected antenna installation contractors approved under the Household Assistance Scheme administered by the Commonwealth Department of Broadband, Communications and the Digital Economy, based on signal measurements collected by those contractors at the Declared Location in accordance with the definition of Adequate Reception at part 2 of this Scheme.
- 7.13. Subject to clause 7.12 of this Scheme, the Scheme Administrator will provide interim access to VAST Services to such persons pending consideration of applications for Reception Certificates. The Scheme Administrator may refuse to issue a Reception Certificate to such a person in accordance with this Scheme and may withdraw interim access, but will not withdraw interim access from the person until:
  - 7.13.1. if the person, or the approved antenna installation contractor who lodged the application for Reception Certificate on behalf of the person, makes a complaint under section 130ZF of the Act within 15 business days of the Scheme Administrator refusing to issue a Reception Certificate – the ACMA has completed its investigation of the complaint; or
  - 7.13.2. in all other cases – 15 business days after the Scheme Administrator refuses to issue a Reception Certificate.
- 7.14. Applicants determined by the Scheme Administrator to be ineligible for a Reception Certificate will be entitled to apply to the ACMA for review of the Scheme Administrator's decision, as provided in part 13 of this Scheme and section 130ZF of the Act.
- 7.15. A person who is in a Category C reception area and holds a Reception Certificate will be granted access to the VAST Services in accordance with clause 3.7 of this Scheme.
- 7.16. Where an applicant for access to VAST Services does not provide the information required by clause 7.6 of this Scheme within 6 months after determination of the application by the Scheme Administrator, the applicant will be deemed to have withdrawn their application for access, unless the applicant later demonstrates to the Scheme Administrator that they purchased the satellite receiving equipment

within that 6 month period. This clause 7.16 does not affect the validity of the Reception Certificate issued as part of the initial application.

- 7.17. For the purposes of this Scheme, a renewed or revised application for access to the VAST Services or a Reception Certificate, including a renewed application arising from an application deemed withdrawn at clause 7.16 of this Scheme, or a material amendment to the person's service details lodged with the Scheme Administrator, will be treated as a new application as at the date of receipt of the amendment or renewed or revised application. The following are not material amendments of an application for this purpose:
- 7.17.1. subject to clause 7.16 of this Scheme, notification to the Scheme Administrator of a VAST Smart Card number for the relevant applicant; or
  - 7.17.2. a response to a request by the Scheme Administrator to a Category C applicant for additional information regarding the applicant's terrestrial digital television reception.
- 7.18. The Scheme Administrator will endeavour to ensure that wherever possible access to the VAST Services is enabled immediately, but in any event within two business days after its determination to grant access, subject to clause 7.6 of this Scheme.

## **8. Withdrawal of Access**

- 8.1. The Scheme Administrator may withdraw access to the VAST Services from a viewer whose application for access to the VAST Services (including an application for a Reception Certificate) is found to have included false or misleading information, whether or not such application was made by the viewer or by another person acting or purporting to act on the viewer's behalf.
- 8.2. If a person taken to be in a Category A reception area in accordance with clause 3.9.1, clause 3.9.2 or clause 3.9.3 of this Scheme notifies the Scheme Administrator that they will be moving or have moved location and provides details of their new Declared Location to the Scheme Administrator, and it is established that the person's new Declared Location will be within a Category A or a Category B reception area, the person will not lose access to the VAST Services as a result of moving location.
- 8.3. The Scheme Administrator may withdraw access to the VAST Services from a person taken to be in a Category A reception area who holds an Out-of-area Authorisation under clause 3.9.4 of this Scheme but who is subsequently found to have relocated the relevant

receiving equipment to any location other than the street address specified in the relevant application for Out-of-area Authorisation.

- 8.4. The Scheme Administrator may request the ACMA to revoke an Out-of-area Authorisation for a person who was taken to be in a Category A reception area, on the grounds that the person (or another person acting or purporting to act on their behalf) was found to have submitted false or misleading information in connection with the Out-of-area Authorisation.
- 8.5. If the ACMA revokes an Out-of-area Authorisation for a person, the Scheme Administrator may withdraw access to the VAST Services from the person.
- 8.6. If a person in a Category B reception area or in a declared service-deficient area notifies the Scheme Administrator that they will be moving or have moved location and provides details of their new Declared Location, and it is established that the person's new Declared Location will be within a Category B reception area or a Category A reception area or a declared service-deficient area, the person will not lose access to the VAST Services as a result of moving location.
- 8.7. The Scheme Administrator may withdraw access to the VAST Services from a person in a Category B reception area or in a declared service-deficient area, if the person:
  - 8.7.1. has not notified the Scheme Administrator of a change of Declared Location in compliance with clause 8.6 of this Scheme; and
  - 8.7.2. whose authorised VAST Services receiving equipment is found to be located other than at the Declared Location advised in the person's application for access or in any subsequent amendment to the application lodged by or on behalf of the person and approved by the Scheme Administrator.
- 8.8. If, at a particular time, a person was in a declared service-deficient area and was granted access to the VAST Services, and has not moved to new premises, that person will retain the right to access VAST Services, even if, at a later date, the viewer's Declared Location is no longer in a declared service-deficient area.
- 8.9. Where an application for a Reception Certificate contains false or misleading information, the Reception Certificate will be taken not to have been issued.

- 8.10. The Scheme Administrator may revoke a Reception Certificate issued to a person if the person is no longer eligible for the Reception Certificate.
- 8.11. For the purposes of clause 8.10 of this Scheme, if, at a particular time, a Reception Certificate was issued to a person and, after that time, the person's Declared Location has not changed, the person is taken to be eligible for the Reception Certificate.
- 8.12. The Scheme Administrator may withdraw access to the VAST Services from a person whose Reception Certificate is revoked.
- 8.13. Nothing in this part 8 precludes a person whose access to the VAST Services has been withdrawn or revoked from making a new application for access to the VAST Services (including an application for a Reception Certificate). Any application will be determined on its own merits by the Scheme Administrator.

## 9. Travellers

- 9.1. Persons applying for access to the VAST Services for mobile receiving equipment installed in caravans or mobile homes and the like, or in watercraft afloat, (**'Travellers'**) and intending to travel in areas where adequate reception is unlikely, such as a remote licence area, will be deemed to be situated in a Category C reception area and will be issued with a temporary Reception Certificate for a fixed period of 6 months from the date of issue (**'the First Period'**).
- 9.2. Any such temporary Reception Certificate will expire at the end of the First Period and, unless a further temporary Reception Certificate is issued in accordance with clause 9.3 of this Scheme, access to the VAST Services will be withdrawn.
- 9.3. Within 4 weeks prior to the expiration of a temporary Reception Certificate, a Traveller may apply for a further temporary Reception Certificate. Any application for a further temporary Reception Certificate will be assessed by the Scheme Administrator on its merits.
- 9.4. Each application for a further temporary Reception Certificate under this part 9 must be in writing and lodged by email or facsimile or surface mail to the Scheme Administrator's address advised for the purpose, stating the applicant's reasons for seeking a further temporary Reception Certificate.

- 9.5. Each further temporary Reception Certificate issued by the Scheme Administrator will be for a fixed period of 6 months from the date of issue (**'the Subsequent Period'**).
- 9.6. Each further temporary Reception Certificate will expire at the end of the relevant Subsequent Period (as specified in the relevant further temporary Reception Certificate) and, unless a further temporary Reception Certificate is issued in accordance with clause 9.3 of this Scheme, access to the VAST Services will be withdrawn at the end of the relevant Subsequent Period.
- 9.7. The Scheme Administrator will determine applications from Travellers for temporary Reception Certificates within 15 business days after receipt of the application.
- 9.8. In respect of applications to the Scheme Administrator for the issue or reissue of a Reception Certificate under this part 9, clause 7.14 and part 13 of this Scheme (i.e. review by the ACMA) will apply.
- 9.9. All of the provisions of this Scheme will apply to Travellers as if they were applicants for access to VAST Services with a Declared Location situated in a Category C reception area and who do not have adequate reception of the applicable terrestrial digital commercial television broadcasting services. Where a provision of this part 9 is inconsistent with another clause of this Scheme, the relevant provision in this part 9 will prevail.
- 9.10. The Scheme Administrator will comply with any directions given by the ACMA with regards to Travellers as if the directions were given under section 130ZF of the Act.

## **10. Determination by the Scheme Administrator**

- 10.1. The Scheme Administrator will determine each application for access to the VAST Services from persons in Category A or Category B reception areas, or in declared service-deficient areas, immediately upon receipt whenever possible, but in any event within 5 business days after receipt of the application by the Scheme Administrator.
- 10.2. The Scheme Administrator will determine each application for access to the VAST Services from persons in Category C reception areas within 15 business days after receipt of the application by the Scheme Administrator.
- 10.3. In the event of a failure by the Scheme Administrator to determine an application for a Reception Certificate within 15 business days after

receipt of the application by the Scheme Administrator, the application will be deemed to have been approved.

- 10.4. For the purposes of this part 10, a request for access to VAST Services is determined by the Scheme Administrator when it has been:
  - 10.4.1. approved, and instructions given to the applicant on how to access the relevant VAST Services for the receiving equipment held by the applicant; or
  - 10.4.2. denied, and the applicant notified of the determination by response of an on-line registration website or telephone service operated by or on behalf of the Scheme Administrator, by email or facsimile or surface mail. Notification by email or facsimile shall be taken to have occurred when the relevant email or facsimile is sent by the Scheme Administrator, and notification by surface mail shall be taken to have occurred 2 business days after the relevant letter is consigned to Australia Post for delivery. Failure of the applicant to receive the relevant email or facsimile or letter within 15 business days, or at all, shall not constitute failure of the Scheme Administrator to notify the applicant, provided that the Scheme Administrator can provide sufficient evidence that the notice was given.

## **11. Costs**

- 11.1. No fee will be charged by the Scheme Administrator to determine an application by or on behalf of a person.
- 11.2. Costs incurred by the applicant in preparing or submitting or otherwise dealing with the application will remain the sole responsibility of the applicant.
- 11.3. Costs incurred by the applicant in relation to the purchase, installation, maintenance or removal of the VAST Services receiving equipment, or in any other respect in relation to the VAST Services receiving equipment, will remain the sole responsibility of the applicant.
- 11.4. No responsibility will rest with the Scheme Administrator for any costs incurred by the applicant, in any manner at all, in relation to an application denied by the Scheme Administrator or in relation to an approval subsequently withdrawn by the Scheme Administrator.
- 11.5. The applicant will not be asked, as part of applying for access to VAST Services, to arrange or pay for a technician to visit the Declared

Location for the sole purpose of establishing whether there is adequate reception at the location.

## **12. Keeping of records**

- 12.1. The Scheme Administrator will maintain appropriate records of applications received for access to the VAST Services, including applications received for Reception Certificates, as well as their outcomes.
- 12.2. The Scheme Administrator will provide the ACMA with access to the records for the purpose of review of a decision of the Scheme Administrator in accordance with clause 7.14 and part 13 of this Scheme.

## **13. Complaints**

- 13.1. A person who has
  - (a) been denied a Reception Certificate upon application; or
  - (b) had an existing Reception Certificate revoked; or
  - (c) not had their application for a Reception Certificate determined within 15 business days;may lodge a complaint with the ACMA.
- 13.2. The Scheme Administrator will advise applicants for VAST Services, in notifications regarding eligibility for access to the VAST Services, that if an applicant has concerns regarding the process of obtaining access, to contact the Scheme Administrator. The Scheme Administrator will also advise applicants that if such concerns are not resolved by the Scheme Administrator, or if an application for a Reception Certificate is denied, the applicant should contact the ACMA. The notifications will also include information on how applicants should contact the ACMA.