

SUBMISSION BY  
FREE TV AUSTRALIA

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# Remaking the Broadcasting Services (Technical Planning Guidelines) 2017

Response to the ACMA's  
preliminary proposals  
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AUSTRALIA

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# 1. Executive Summary

## 1.1 The TPGs should work for digital television

Free TV Australia welcomes the opportunity to comment on the ACMA's preliminary proposals for remaking the **Broadcasting Services (Technical Planning Guidelines) 2017** ('the TPGs').

While we agree radio should be the ACMA's primary focus, changes are also needed to deal more appropriately with Digital Terrestrial Television (DTT).

### 1.1.1 TV's changing context

The situation of DTT is changing as audiences and advertising revenue move from DTT to online viewing of television. The revised TPGs should allow ACMA and advertiser-funded broadcasters to deal pragmatically with the rationalisation of commercial television transmission in regional and remote areas.

They should also be designed not to hinder urgent and improvised industry responses to major site damage resulting from natural disasters.

It is unclear whether the minimum coverage criteria in guidelines 11 and 12 were intended to apply to DTT. We seek clarification they do not. The minimum coverage requirements addressed risks particular to the rollout of analogue commercial broadcasting in regional Australia. There is no need for similar rules constraining future rationalisation of regional commercial DTT services, which may also be ineffective or counterproductive. The 2024 closure of TEN services in Mildura shows the alternative to reduced coverage in future may be no coverage at all.

### 1.1.2 An error in the 2017 instrument should be corrected urgently

The 'start-up procedure' in the 2017 TPGs would be impractical to apply to DTT transmitters. It results from an apparent drafting oversight that saw analogue start-up testing rules inadvertently applied to digital TV.

The error has not caused any problems, as DTT transmission arrangements have been stable since completion of the 're-stack' of DTT services in 2013-14.

However, the error should be fixed before the 1 October 2027 sunset of the current TPGs, or regulatory forbearance will be required as TV site changes proceed at Mt Alexander, near Bendigo.

### 1.1.3 TPG and the LCD rules for comparable TV transmitters should be reviewed for consistency and to minimise duplication

In several places, the TPGs and the **Radiocommunications Licence Conditions (Broadcasting Licence) Determination 2025** ('the LCD') are doing similar work for s.102 and s.100 DTT transmitter licences, respectively.

We agree this is confusing, and indeed, contributes to a situation where practitioners both at ACMA and in the TV industry appear not to know what the rules are any more.

As well as the different treatment of DTT transmitter start-up, a second area of discrepancy is the different treatments of interference from new DTT services, in TPG guideline 16 and 17 (for commercial TV) and clause 10 of the LCD (for national services).

A single consistent approach to interference is warranted. Our suggestion would be application of the current rule in the LCD (clause 10, for national services) to section 102 services as well.

## 2. Introduction

### 2.1 About Free TV

Free TV Australia is the peak industry body for Australia's commercial television broadcasters. We advance the interests of our members in national policy debates, position the industry for the future in technology and innovation and highlight the important contribution commercial FTA television makes to Australia's culture and economy. We proudly represent all of Australia's commercial free-to-air television broadcasters in metropolitan, regional and remote licence areas.



Free TV brings Australians together, supporting Australian culture and democracy. The commercial television industry creates these benefits by delivering content across a wide range of genres, including news and current affairs, sport, entertainment, lifestyle and Australian drama. At no cost to the public, our members provide a wide array of channels across a range of genres, as well as rich online and mobile offerings.

#### Commercial television networks:

- Reach 19.3 million Australians every week, including 11.4 million who watch trusted news every week, and 9.5 million who watch live and free sport each week
- Provide 25,285 hours of Australian content a year
- Spend more than \$1.625 billion on Australian content every year, dedicating over 88% of their content expenditure to local programming
- Spend more than \$400 million a year on trusted news, including on 390 local news bulletins every week across the country (plus updates and community service announcements)

A report released in September 2022 by Deloitte Access Economics, *Everybody Gets It: Revaluing the economic and social benefits of commercial television in Australia*, highlighted that in 2021, the commercial TV industry supported over 16,000 full-time equivalent jobs and contributed a total of \$2.5 billion into the local economy. Further, advertising on commercial TV contributed \$161 billion in brand value.

The commercial television industry creates these benefits by delivering content across a wide range of genres, including news and current affairs, sport, entertainment, lifestyle and Australian drama. At no cost to the public, our members provide a wide array of channels across a range of genres, as well as rich online and mobile offerings.

A strong commercial broadcasting industry delivers important public policy outcomes for all Australians and is key to a healthy local production ecosystem. This in turn sustains Australian storytelling and local voices and is critical to maintaining and developing our national identity.

## 3. Discussion of issues

### 3.1 TV's changing context

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#### 3.1.1 Pressures on regional commercial TV transmission

The situation of digital commercial television today is quite different from when the 2017 technical planning guidelines were promulgated. In regional parts of Australia, revenue from broadcast television advertising is declining while television transmission costs are fixed or rising. This factor will drive rationalisation of digital terrestrial television over the life of the 2027 TPGs, beginning in smaller regional markets.

Changes to TV transmission arrangements may also be unplanned and without notice. Climate change is increasing the risks from bushfires, floods and other natural disasters, such as we saw this summer in the Bendigo TV coverage area. Bushfires destroyed the commercial TV transmission site at Mt Alexander, necessitating a move at short notice to the nearby national TV broadcasting site. The Bendigo example highlights some key implications of the natural disaster risk:

- the response from commercial broadcasters and transmission service providers is likely to be improvised and pragmatic
- it may be critical to restore some level of service as soon as possible
- in future, natural disaster damage may exceed the financial capacity of broadcasters to fully restore pre-existing services.

Looking ahead over the next decade, a third development potentially triggering application of the TPGs is the withdrawal of antenna service provider Radio Frequency Systems (RFS) from the local market. In the scenario where antennas need replacement, the necessity to use equipment from other vendors may trigger application of the TPG procedure for changes to technical operating conditions.

To conclude, regulations designed to deliver a smooth rollout of long-term digital television broadcasting arrangements matching analogue TV coverage may actively hinder broadcasters dealing with tomorrow's challenges. Yesterday's government imposts to ensure wide coverage and safeguard reception of existing broadcasting services can be today's example of 'the perfect' being the enemy of 'the good'.

#### 3.1.2 Minimum coverage requirements should not apply to TV

At guidelines 11 and 12, the current TPGs impose requirements relating to minimum coverage. It is not entirely clear whether these requirements apply to digital television. They are expressed to apply to 'LAPs and DRCPs' and section 6 of the *BSA 1992* provides that 'licence area plan' includes a plan made under section 26(1B), which is the power to make Television Licence Area Plans. This might be read to imply digital TV transmitters are within the intended scope. On balance, having regard also to the ACMA's July 2017 consultation paper prior to the making of the 2017 TPGs, it appears the ACMA may have intended guidelines 11 and 12 to impose a 'technology-neutral' minimum coverage requirement on all types of broadcasting including digital TV. Which of the two guidelines will apply depends, however, on whether the transmitter is at the 'nominal location' shown in the LAP. As TLAPs do not specify a nominal location, this creates uncertainty about whether and how the guidelines were intended to apply to commercial television.

Whatever the ACMA's intention in 2017, Free TV does not support the application of minimum coverage criteria to DTT transmitters going forward. Minimum coverage criteria were introduced when new

analogue broadcasting services were still being licensed. They addressed the risk that when competing new (typically) FM radio services entered regional markets served by a single, wide-coverage, (typically) AM commercial service, the newcomer would choose to cherry-pick the urban centre of the market with a low-power transmitter, leaving listeners in the surrounding countryside with only a diminished or even a non-viable service from the AM operator.

The situation in TV markets today is not comparable. A minimum coverage requirement would do no needed work and may be counter-productive:

- A reduction in coverage by one TV network or network affiliate is unlikely to affect the quality of the other wide-coverage service or services in the market, which will continue to be largely network fed.
- As revenue per capita for broadcast TV declines further, the minimum power requirement may simply ensure that a service is turned off altogether, when a low-power service would be the better outcome for the public.
- A minimum coverage requirement could also be evaded. For example, a broadcaster could simply switch off its s.102 licence, with a third party then approaching the ACMA to license a low-power s.212 re-transmission service. With the alternative being 'no terrestrial service at all,' there would be strong arguments for approving such an application.

To conclude, today's minimum coverage requirements do not clearly apply to commercial TV services. They should not do so in future. TLAPs and TPGs taken together should serve as an 'envelope' within which the broadcaster can choose at what power to operate.

## 3.2 Errors in the 2017 TPGs should be corrected

### 3.2.1 Start-up procedures (Guidelines 9 and 10)

Guidelines 9 and 10 require test transmissions when a s.102 broadcasting transmitter changes site. The transmissions must include regular voice announcements, or in the case of TV, voice or visual information, with the effect of enabling identification of the operator of the transmitter by anyone receiving the transmission with a radio or TV. This analogue TV holdover appears to have been mistakenly applied to digital TV as the result of a drafting error in 2017.

- Prior to 2017, digital TV transmitters were never subject to such a requirement.
- To comply with this requirement using a digital TV transmitter, the operator would be required to create a dedicated mux carrying just the required audio or audiovisual messages to the TV audience.
- Where the transmitter in question would operate as part of a Single Frequency Network (SFN), adherence to the procedures would not only be impractical, but technically impossible.

In 2023, ACMA staff confirmed it was an error and undertook that it would be addressed in the current process, telling Free TV:

I acknowledge your points that the obligations of a kind set out in paragraph 10(e) of the TPGs may have limited utility for digital television services. In reviewing the arrangements, there was a change in drafting of this clause in 2017. The previous version of TPGs from 2007 only included these obligations in relation to analog television

services. We intend to consider the obligations set out in paragraph 10(e) of the TPGs, and their application to specific broadcasting services, in more detail next time we review the TPGs.<sup>1</sup>

Examination of the *Broadcasting Services (Technical Planning Guidelines) 2007* (available [here](#)) confirms this reading:

- The ‘general’ requirement to conduct test transmissions was found in guideline 13.
- Guideline 119 exempted digital television from guideline 13 and applied the obligations at guidelines 120-131 of the instrument instead.
- These guidelines provided for a 7-day period of test transmissions to complement extremely onerous requirements around the notification of potentially affected parties, and the correction of any interference disclosed. However, they did not make stipulations as to the content of the test signal, with the apparent assumption being the TV broadcaster would begin operating its TV multiplex.
- The ACMA’s apparent intention, when it deleted guidelines 120-131 in 2017, was to remove all test signal requirements for digital TV, as they were no longer necessary.
- However, it appears the drafter also inadvertently deleted the exemption for digital TV from the analogue-era start-up requirements now in guideline 13.

As for how to fix the problem, the **Radiocommunications Licence Conditions (Broadcasting Licence) Determination 2025** (‘the LCD’) contains start-up procedures clearly designed to take account of digital TV transmissions. Here, for example, is the corresponding start-up procedure for national TV services licensed under s.100 of the Radiocommunications Act:

#### **8. Condition – person to advertise before commencing service**

(1) Subject to subsection (3), a person must not operate a national broadcast service station except where subsection (2) has been satisfied.

(2) This subsection is satisfied if, not later than 7 days before a person first operates the national broadcast service station, that person has made the following statements and information available to the public:

(a) a statement about the person’s intention to operate the station to provide a national broadcasting service within the service area for the station;

(b) the date and time of the commencement of transmission;

(c) the frequency the station will operate on;

(d) a statement that members of the public should contact the person if the transmission causes interference to other broadcasting services or radiocommunications;

(e) the address and telephone number of the person.

Example: The person may make these statements and this information available to the public by publishing the statements and information on its website.

(3) The condition in subsection (1) does not apply to a person who operates a national broadcast service station if:

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<sup>1</sup> Email from [REDACTED], ACMA’s Manager, Carriage Policy Section, to [REDACTED], 23 March 2023.

(a) at any time before the commencement of this instrument, a person operated the station to provide a national broadcasting service; and

(b) before that person first operated the station, that person had made statements and information available to the public that are the same as, or substantially similar to, the statements and information in subsection (2).

Application of the LCD rule to s.102 licences would make sense in the case where TV services are moving to a new site altogether. However, it makes less sense where the move simply represents the consolidation onto a single site of services already serving the same locality, using the same, 6-channel block of TV channels. A current example is the consolidation of commercial TV services onto the Bendigo (Mt Alexander) national services site. In such a site consolidation scenario, all of the services should be treated as substantively co-located already, with no special requirement to advertise.

### 3.2.2 Fixing the anomaly is now urgent

The mistake in guidelines 9 and 10 went unnoticed till recently as there have been no eligible changes to DTT transmission since 2017. The error only came to light because a new s.100 TV re-transmission service operated by RBA-H in the Hunter region was initially, mistakenly thought to require a s.102 licence.

However, the anomaly now needs to be fixed urgently, as site consolidation of the s.102 TV transmitters onto the national TV site at Mt Alexander is expected in 2027. As there are already TV services utilising the same ‘block’ of channels, to serve the same general area, at the proposed site, there is no practical reason to apply start-up procedures, even the more proportionate ones in clause 8 of the LCD.

As the new TV services are likely to commence at Mt Alexander before the 1 October 2027 sunset of the TPGs, the anomaly should be fixed prior to completion of the ACMA’s wider review of the TPGs and the LCD.

## 3.3 TPG and the LCD rules for comparable TV transmitters should be reviewed for consistency and to minimise duplication

### 3.3.1 Interference to other services (Guidelines 16 and 17)

Free TV agrees the ACMA should consider whether and how to increase alignment between the TPGs and LCD where they deal with similar issues differently. At present, national and commercial TV services face quite different TPG and LCD rules in the areas of start-up procedures and interference management. We have already canvassed the issue of start-up procedures at 3.2.1.

In relation to interference management, TPG guidelines 16 and 17 (for commercial TV’s s.102 licences) provide that if a transmitter causes interference to a broadcasting service, the licensee must at its own expense fix it, whether at the transmit or the receive end.

- However, this rule only applies if the service suffering the interference is operating legally in accordance with its specifications, and the interference is within its licence or coverage area.
- Guideline 17 imposes an analogous duty in relation to other services provided by ‘radiocommunications licensees’ (i.e. spectrum or apparatus licence-holders), provided the service suffering the interference is operated, installed and maintained in good order.

The corresponding rule for national DTT services is at clause 10 of the LCD. It takes the form of a simple prohibition on causing ‘harmful interference’ to another broadcasting service within its licence area or service area.

The LCD requirements, last reviewed in 2025, are the simpler approach and represent the ACMA’s most recent word on approaches to interference. The TPG rule is unnecessarily detailed and prescriptive. For these reasons we would support application of the current approach in clause 10 of the LCD (which relates to the s.100 licences used by national broadcasters), to s.102 licensees.

Imposition of ongoing obligations on TV broadcasters to prevent interference to non-broadcasting radiocommunications transmitters operating outside of the broadcasting services bands would be risky and may have unintended consequences for the broadcasters, which have typically been operating from their sites for many years. An example would be where the interference arises from the interaction of new or changed non-BSB radiocommunications transmission arrangements with long-standing TV broadcasting transmission facilities that are operating within the limits of their respective licence, where the onus should really be placed on the radiocommunications operator to pay for any necessary mitigation.