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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

BROADCASTING SERVICES (TRANSITIONAL PROVISIONS AND
CONSEQUENTIAL AMENDMENTS) BILL 1992

SUPPLEMENTARY EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Transport and
Communications, Senator the Hon Bob Collins)



**BROADCASTING SERVICES (TRANSITIONAL PROVISIONS AND
CONSEQUENTIAL AMENDMENTS) BILL 1992**

OUTLINE

These amendments will:

- (a) reflect a change to the commencement provisions of the *Broadcasting Services Bill 1992* (Broadcasting Services Bill); and
- (b) ensure that the Australian Broadcasting Authority considers existing applications under the *Broadcasting Act 1942* (Broadcasting Act) for the grant of supplementary licences; and
- (c) ensure that any application under the Broadcasting Act for an independent commercial radio licence in an area is finalised before an application by an existing licensee for an additional service under the Broadcasting Services Bill can be considered; and
- (d) enable conditions to be imposed, requiring all users of the radiofrequency spectrum to rectify, at their own expense, interference resulting from their service; and
- (e) make related consequential amendments.

FINANCIAL IMPACT

The amendments will have no direct impact on revenue or expenses.

NOTES ON CLAUSES

Amendment 1 - Commencement

Parts of the Broadcasting Services Bill will now commence on Royal Assent to allow applications for certain licences to be called. Clause 2 of the Bill must be amended to ensure that the Bill will commence on the same day as the remainder of the Broadcasting Services Bill, being a day fixed either by Proclamation under subclause 2(2) of that latter Bill or 6 months after Royal Assent, whichever is the earlier.

**Amendment 2 - Pending applications for grant of licences
under the Broadcasting Act**

This amendment will ensure that the Australian Broadcasting Authority is required to finalise inquiries into the grant of supplementary licences under the Broadcasting Act. The processes of that Act will apply as if the ABA were the Australian Broadcasting Tribunal, and any licence granted

will be deemed to be a commercial broadcasting licence under the Broadcasting Services Bill.

Amendments 3 and 4

These amendments are consequential on amendment 2.

Amendment 5

These amendments ensure that any application under the Broadcasting Act for an independent commercial radio licence in an area is finalised before an application by an existing licensee for an additional service in respect of that area can be considered under the Broadcasting Services Bill. This ensures that a competitive applicant is not disadvantaged in competing for a service in an area. It preserves the rights of the independent applicant, which may have devoted considerable resources to the application and could, if faced by an additional service in the area, find it difficult to discharge the onus placed on it under the Broadcasting Act to establish its viability and to show that the viability of the other services would not be adversely affected.

Amendment 6

This amendment is consequential on amendment 2.

Amendment 7

The opportunity has been taken to clarify the fact that determinations of the Australian Broadcasting Authority are disallowable instruments under the Acts Interpretation Act 1901.

Amendment 8

This amendment replaces a similar amendment to section 25 of the Radiocommunications Act 1983 which applied only to non-broadcasting services band services. It will enable conditions to be imposed, requiring any user of the radiofrequency spectrum to rectify, at its own expense, interference resulting from its service. As the radiofrequency spectrum becomes more congested, particularly in metropolitan areas, it is becoming more difficult to plan for new services so that they will not cause unreasonable levels of interference to existing users. Often, that interference can be remedied by fitting filters and other devices. This amendment will require the operator, as a condition of being allowed to provide the service, to rectify those problems at its own expense, and, if necessary, to notify residents that it is under that obligation.