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The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

Broadcasting Legislation Amendment
(News Media Diversity) Bill 2013

No. , 2013

(Broadband, Communications and the Digital Economy)

A Bill for an Act to amend legislation relating to
broadcasting, and for other purposes
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A Bill for an Act to amend legislation relating to broadcasting, and for other purposes

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the Broadcasting Legislation Amendment (News Media Diversity) Act 2013.

2 Commencement

(1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.
### Commencement information

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<td>The later of: (a) the day after this Act receives the Royal Assent; and (b) the day section 3 of the <em>Public Interest Media Advocate Act 2013</em> commences.</td>
<td>However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.</td>
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1. Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

2. (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

### 3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.
Schedule 1—Amendments

Australian Communications and Media Authority Act 2005

1 After section 59B

   Insert:

   59BA Disclosure to public servants for advising the Public Interest Media Advocate

   For the purpose of advising the Public Interest Media Advocate, an ACMA official may disclose authorised disclosure information to:
   (a) the Secretary of the Department; or
   (b) an APS employee in the Department who is authorised, in writing, by the Secretary of the Department for the purposes of this section.

   Note: The Public Interest Media Advocate is appointed under the Public Interest Media Advocate Act 2013.

2 After paragraph 59D(1)(na)

   Insert:

   (nb) the Public Interest Media Advocate;

Broadcasting Services Act 1992

3 After paragraph 3(1)(c)

   Insert:

   (d) to encourage diversity in control of the more influential sources of news and current affairs; and

4 Subsection 6(1) (definition of associate)

   Omit “licence or a newspaper, or control of a company in relation to a licence or a newspaper”, substitute “company, a licence, a newspaper, a print publication or an online service”.

5 Subsection 6(1) (definition of associate)

   Omit “or newspaper” (wherever occurring), substitute “, newspaper, print publication or online service”.

6 Subsection 6(1) (at the end of the definition of associate, before the notes)
   Add:
   For the purposes of this definition, print publication and online service have the same respective meanings as in Part 5A.

7 Subsection 6(1)
   Insert:
   branded group of subscription television services has the meaning given by section 6A.

8 Subsection 6(1) (paragraph (a) of the definition of licence)
   Omit “Part 5”, substitute “Parts 5 and 5A”.

9 Subsection 6(1) (after subparagraph (a)(i) of the definition of licence)
   Insert:
   (ia) a class licence so far as it authorises the provision of a particular subscription television narrowcasting service;
   or

10 Subsection 6(1)
   Insert:
   PIMA means the Public Interest Media Advocate.
   Note: See the Public Interest Media Advocate Act 2013.

11 Subsection 6(1)
   Insert:
   subscription television licence means:
   (a) a subscription television broadcasting licence; or
   (b) a class licence so far as it authorises the provision of a particular subscription television narrowcasting service.

12 Subsection 6(1)
   Insert:
   subscription television licensee means:
(a) a subscription television broadcasting licensee; or
(b) a subscription television narrowcasting licensee.

13 Subsection 6(1)
Insert:

subscription television narrowcasting licensee means a person
who provides a subscription television narrowcasting service under
a class licence.

14 Subsection 6(1)
Insert:

subscription television platform has the meaning given by
section 6A.

15 Subsection 6(1)
Insert:

subscription television service means:
(a) a subscription television broadcasting service; or
(b) a subscription television narrowcasting service.

16 After section 6
Insert:

6A Branded group of subscription television services etc.

Branded group
(1) For the purposes of this Act, if a group of 2 or more subscription
television services are marketed to the public under a common
brand, the group is a branded group of subscription television
services.

Subscription television platform
(2) For the purposes of this Act, a company is a subscription television
platform for a branded group of subscription television services if
the company controls the selection of the subscription television
services included in the group.
(3) Subsection (2) has effect subject to subsection (4).

(4) The Minister may, in writing, declare that subsection (2) does not apply to a specified company.

(5) The Minister may, in writing, declare that, for the purposes of this Act, a specified company is a *subscription television platform* for a specified branded group of subscription television services.

(6) A declaration under subsection (5) does not apply to a company in relation to a branded group of subscription television services unless:

(a) the company is a constitutional corporation; and

(b) the company is involved in any or all of the following activities:

(i) the provision of a subscription television service included in the branded group;

(ii) the operation of a subscriber management system for the branded group;

(iii) the selection of the subscription television services included in the branded group;

(iv) the acquisition of program content to be provided by a subscription television service included in the branded group.

(7) The Minister must cause a copy of a declaration under subsection (4) or (5) to be published on the Department’s website.

(8) A declaration under subsection (4) or (5) is not a legislative instrument.

17 Section 7

Before “Schedule”, insert “(1)”.

18 Paragraph 7(a)

Omit “or a newspaper”, substitute “, a newspaper, a print publication or an online service”.

19 At the end of section 7

Add:
(2) For the purposes of this Act, if a person is in a position to exercise control of a commercial television broadcasting licence, the person is taken to be in a position to exercise control of each commercial television broadcasting service provided under the licence.

(3) For the purposes of this Act, if a person is in a position to exercise control of a subscription television licence, the person is taken to be in a position to exercise control of the subscription television service provided under the licence.

(4) For the purposes of this Act, if a person is in a position to exercise control of a subscription television platform for a branded group of subscription television services, the person is taken to be in a position to exercise control of each subscription television service that belongs to the branded group.

(5) For the purposes of this section, print publication and online service have the same respective meanings as in Part 5A.

20 After Part 5

Insert:

Part 5A—News media diversity

Division 1—Introduction

78AA Simplified outline

The following is a simplified outline of this Part:

- This Part prohibits a transaction that results in a person becoming the controller of a registered news media voice unless the Public Interest Media Advocate has approved the change of control.

- The Public Interest Media Advocate must not approve a change of control unless:
  
  (a) the change of control will not result in a substantial lessening of diversity of control of registered news media voices; or
Schedule 1  Amendments

(b) the change of control is likely to result in a benefit to the public, and that benefit outweighs the detriment to the public constituted by any lessening of diversity of control of registered news media voices that would result from the change of control.

- Each of the following is a news media voice:
  
  (a) a commercial television broadcasting service that provides news or current affairs programs;

  (b) a commercial radio broadcasting service that provides news or current affairs programs;

  (c) a subscription television service that provides news or current affairs programs;

  (d) a subscription television platform;

  (e) a print publication that has news or current affairs content;

  (f) an online service that has news or current affairs content.

- A registered news media voice is a news media voice that has been registered in the Register of News Media Voices.

- A news media voice will be registered if the size of its audience or customer base exceeds 30% of the average metropolitan commercial television evening news audience.

Note 1: The Public Interest Media Advocate is appointed under the Public Interest Media Advocate Act 2013.

Note 2: This Part also sets out transitional rules dealing with the control of listed news media voices in the period before all news media voices are entered in the Register of News Media Voices.

78AB Definitions

In this Part:

aggregate includes provide links to.

associated with, in relation to an online service, has the meaning given by section 78NB.

average metropolitan commercial television evening news audience has the meaning given by section 78HG.

carriage service has the same meaning as in the Telecommunications Act 1997.

control event has the meaning given by section 78BA or 78BB.

electronic communications means communications that are carried by means of guided and/or unguided electromagnetic energy.

Eligibility Rules means the rules made under section 78HH.

engage in conduct means:
(a) do an act; or
(b) omit to perform an act.

initial Eligibility Rules completion day has the meaning given by section 78ND.

initial Register completion day has the meaning given by section 78NC.

interim period means the period:
(a) beginning at the commencement of this section; and
(b) ending at whichever is the earlier of the following:
   (i) the end of the 6-month period beginning at the commencement of this section;
   (ii) the start of the initial Register completion day.

listed news media voice has the meaning given by section 78JA.

media-related activities means:
(a) the collection; or
(b) the preparation for dissemination; or
(c) the dissemination;

of material for the purpose of making it available to the public:
(d) in printed form; or
(e) by means of electronic communications.

*news media voice* has the meaning given by section 78GA.

*news or current affairs aggregation service* means:

(a) an online service; or

(b) any other service;

that does no more than aggregate any of the following material:

(c) material having the character of news or current affairs;

(d) material consisting of commentary or opinion on, or analysis of, news or current affairs.

*news or current affairs content* means content that:

(a) has the character of news or current affairs; or

(b) consists of commentary or opinion on, or analysis of, news or current affairs.

*news or current affairs program* means a program that consists wholly or principally of news or current affairs content.

*online service* means:

(a) a service that delivers content to persons having equipment appropriate for receiving that content, where the delivery of the service is by means of electronic communications; or

(b) a service that allows end-users to access content using electronic communications;

but does not include:

(c) a broadcasting service; or

(d) a datacasting service.

*paying customer*, in relation to an online service, means:

(a) a paying subscriber to the service; or

(b) any other person who pays the provider of the service for any of the content delivered or made available by the service.

*pre-commencement period* means the period:

(a) beginning at the time when the Bill that became the *Broadcasting Legislation Amendment (News Media Diversity) Act 2013* was introduced into the House of Representatives; and

(b) ending at the commencement of this section.
For this purpose, the introduction of a Bill is taken to have occurred immediately after it is read a first time.

*print publication* means:

(a) a newspaper; or
(b) a periodical;

that is published at least once each quarter.

*quarter* means a period of 3 months beginning on 1 July, 1 October, 1 January or 1 April.

*Register* means the Register of News Media Voices maintained under section 78KA.

*registered news media voice* means a news media voice that is entered in the Register.

*registrable news media voice* has the meaning given by section 78HA, 78HB, 78HC, 78HD, 78HE or 78HF.

*service* includes a website.

### 78AC Newspapers

The definition of *newspaper* in subsection 6(1) does not apply to this Part.

### Division 2—Control events

#### 78BA Control events—registered news media voices

(1) For the purposes of this Part, if:

(a) a person is not in a position to exercise control of any registered news media voice; and

(b) the person becomes in a position to exercise control of 2 or more registered news media voices;

the event mentioned in paragraph (b) is a *control event* in relation to each of the registered news media voices mentioned in that paragraph.

(2) For the purposes of this Part, if:
(a) a person is in a position to exercise control of a single
registered news media voice; and
(b) the person becomes in a position to exercise control of one or
more additional registered news media voices;
the event mentioned in paragraph (b) is a control event in relation
to each of the registered news media voices mentioned in that
paragraph.

(3) For the purposes of this Part, if:
(a) a person is in a position to exercise control of 2 or more
registered news media voices; and
(b) the person becomes in a position to exercise control of one or
more additional registered news media voices;
the event mentioned in paragraph (b) is a control event in relation
to each of the registered news media voices mentioned in that
paragraph.

(4) For the purposes of this Part, if:
(a) a person is in a position to exercise control of 2 or more
registered news media voices; and
(b) the person ceases to be in a position to exercise control of
one or more of those registered news media voices; and
(c) the person becomes in a position to exercise control of one or
more other registered news media voices; and
(d) the event mentioned in paragraph (c) is related to the
cessation;
the event mentioned in paragraph (c) is a control event in relation
to each of the registered news media voices mentioned in that
paragraph.

78BB Control events—listed news media voices

(1) For the purposes of this Part, if:
(a) a person is not in a position to exercise control of any listed
news media voice; and
(b) the person becomes in a position to exercise control of 2 or
more listed news media voices;
the event mentioned in paragraph (b) is a control event in relation
to each of the listed news media voices mentioned in that
paragraph.
(2) For the purposes of this Part, if:
   (a) a person is in a position to exercise control of a single listed news media voice; and
   (b) the person becomes in a position to exercise control of one or more additional listed news media voices;
the event mentioned in paragraph (b) is a *control event* in relation to each of the listed news media voices mentioned in that paragraph.

(3) For the purposes of this Part, if:
   (a) a person is in a position to exercise control of 2 or more listed news media voices; and
   (b) the person becomes in a position to exercise control of one or more additional listed news media voices;
the event mentioned in paragraph (b) is a *control event* in relation to each of the listed news media voices mentioned in that paragraph.

(4) For the purposes of this Part, if:
   (a) a person is in a position to exercise control of 2 or more listed news media voices; and
   (b) the person ceases to be in a position to exercise control of one or more of those listed news media voices; and
   (c) the person becomes in a position to exercise control of one or more other listed news media voices; and
   (d) the event mentioned in paragraph (c) is related to the cessation;
the event mentioned in paragraph (c) is a *control event* in relation to each of the listed news media voices mentioned in that paragraph.

(5) It is immaterial whether a control event occurred before, at or after the commencement of this section.

78BC Prohibition of transactions that result in a control event occurring in relation to one or more registered news media voices—offence
A person commits an offence if:
Schedule 1  Amendments

(a) one or more transactions take place after the commencement of this section; and

(b) the transactions have the result that a control event occurs after the interim period in relation to one or more registered news media voices; and

(c) the person was:

(i) a party to the transactions; or

(ii) in a position to prevent the transactions taking place; and

(d) the PIMA has not approved the transactions under section 78CB.

Penalty: 20,000 penalty units.

78BD  Prohibition of transactions that result in a control event occurring in relation to one or more listed news media voices—offence

A person commits an offence if:

(a) one or more transactions take place after the commencement of this section; and

(b) the transactions have the result that a control event occurs during the interim period in relation to one or more listed news media voices; and

(c) the person was:

(i) a party to the transactions; or

(ii) in a position to prevent the transactions taking place; and

(d) the PIMA has not approved the transactions under section 78CB.

Penalty: 20,000 penalty units.

78BE  Prohibition of transactions that result in a control event occurring in relation to one or more registered news media voices—civil penalty

Scope

(1) This section applies if:
(a) one or more transactions take place after the commencement of this section; and
(b) the transactions have the result that a control event occurs after the interim period in relation to one or more registered news media voices; and
(c) the PIMA has not approved the transactions under section 78CB.

Prohibition

(2) A person must not be:
   (a) a party to the transactions; or
   (b) in a position to prevent the transactions taking place.

(3) Subsection (2) is a civil penalty provision.

78BF Prohibition of transactions that result in a control event occurring in relation to one or more listed news media voices—civil penalty

Scope

(1) This section applies if:
   (a) one or more transactions take place after the commencement of this section; and
   (b) the transactions have the result that a control event occurs during the interim period in relation to one or more listed news media voices; and
   (c) the PIMA has not approved the transactions under section 78CB.

Prohibition

(2) A person must not be:
   (a) a party to the transactions; or
   (b) in a position to prevent the transactions taking place.

(3) Subsection (2) is a civil penalty provision.
Division 3—Prior approval of transactions that result in a control event occurring

78CA Application for prior approval of transactions that result in a control event occurring

(1) A person may, before a transaction takes place that would place a person in breach of section 78BC, 78BD, 78BE or 78BF, make an application to the PIMA for an approval of the transaction.

(2) An application is to be made in accordance with a form approved, in writing, by the PIMA.

(3) If the PIMA considers that additional information is required before the PIMA can make a decision on an application, the PIMA may, by written notice given to the applicant within 30 days after receiving the application, request the applicant to provide that information.

78CB Prior approval of transactions that result in a control event occurring

Scope

(1) This section applies if an application under section 78CA has been made for approval of a transaction.

Decision

(2) After considering the application, the PIMA must, by writing:
   (a) approve the transaction; or
   (b) refuse to approve the transaction.

Criteria for approval after the interim period

(3) If the transaction would have the result that a control event would occur in relation to one or more registered news media voices after the interim period, the PIMA must not approve the transaction unless:
   (a) the applicant satisfies the PIMA that the relevant control event will not result in a substantial lessening of diversity of control of registered news media voices; or
(b) the PIMA is satisfied:
   (i) that the relevant control event is likely to result in a
       benefit to the public; and
   (ii) that the benefit outweighs, or would outweigh, the
       detriment to the public constituted by any lessening of
       diversity of control of registered news media voices that
       would result from the relevant control event.

Criteria for approval during the interim period

(4) If the transaction would have the result that a control event would
    occur in relation to one or more listed news media voices during
    the interim period, the PIMA must not approve the transaction
    unless:
    (a) the applicant satisfies the PIMA that the relevant control
        event will not result in a substantial lessening of diversity of
        control of listed news media voices; or
    (b) the PIMA is satisfied:
        (i) that the relevant control event is likely to result in a
            benefit to the public; and
        (ii) that the benefit outweighs, or would outweigh, the
            detriment to the public constituted by any lessening of
            diversity of control of listed news media voices that
            would result from the relevant control event.

(5) In deciding whether to approve the transaction, the PIMA may
    have regard to:
    (a) any relevant undertakings that:
        (i) have been accepted by the PIMA under section 78DA;
            and
        (ii) have not been withdrawn; and
    (b) such other matters (if any) as the PIMA considers relevant.

Duration of approval

(6) If the PIMA approves the transaction, the approval remains in
    force until the end of the period specified in the approval.
Schedule 1 Amendments

Timing

(7) The PIMA must use his or her best endeavours to make a decision on the application:

(a) if the PIMA requests the applicant to provide additional information under subsection 78CA(3)—within 90 days after the applicant gave the PIMA the additional information; or

(b) otherwise—within 90 days after receipt of the application.

Notification of decision

(8) If the PIMA approves the transaction, the PIMA must:

(a) give written notice of the approval, and the reasons for the approval, to:

(i) the applicant; and

(ii) the ACMA; and

(b) publish the approval, and the reasons for the approval, on the Department’s website.

(9) If the PIMA refuses to approve the transaction, the PIMA must:

(a) give written notice of the refusal, and the reasons for the refusal, to:

(i) the applicant; and

(ii) the ACMA; and

(b) publish the refusal, and the reasons for the refusal, on the Department’s website.

78CC Consultation

Before making a decision under subsection 78CB(2), the PIMA must:

(a) cause to be published on the Department’s website a notice:

(i) setting out the proposed decision; and

(ii) inviting persons to make submissions to the PIMA about the proposed decision within 28 days after the notice is published; and

(b) consider any submissions that were received within the 28-day period mentioned in paragraph (a).
Division 4—Undertakings

78DA Acceptance of undertaking

(1) The PIMA may:

(a) after the interim period, accept a written undertaking given by a person that the person will take specified action in relation to news or current affairs content provided by a specified registered news media voice; or

(b) after the interim period, accept a written undertaking given by a person that the person will refrain from taking specified action in relation to news or current affairs content provided by a specified registered news media voice; or

(c) during the interim period, accept a written undertaking given by a person that the person will take specified action in relation to news or current affairs content provided by a specified listed news media voice; or

(d) during the interim period, accept a written undertaking given by a person that the person will refrain from taking specified action in relation to news or current affairs content provided by a specified listed news media voice.

(2) The undertaking must be expressed to be an undertaking under this section.

(3) The undertaking, or one or more provisions of the undertaking, may be expressed to be contingent on the happening of a specified event.

Withdrawal of undertaking

(4) The person may withdraw or vary the undertaking at any time before the undertaking is accepted by the PIMA.

Decision to accept undertaking

(5) If the undertaking was given to the PIMA after the interim period, then, in deciding whether to accept the undertaking, the PIMA must have regard to:

(a) the need to maintain diversity of control of registered news media voices; and

(b) such other matters (if any) as the PIMA considers relevant.
(6) If the undertaking was given to the PIMA during the interim period, then, in deciding whether to accept the undertaking, the PIMA must have regard to:
   (a) the need to maintain diversity of control of listed news media voices; and
   (b) such other matters (if any) as the PIMA considers relevant.

(7) Before deciding whether to accept the undertaking, the PIMA must consult the ACMA.

Functions and powers

(8) If the undertaking provides for the PIMA to perform functions or exercise powers in relation to the undertaking, the PIMA may perform those functions and exercise those powers.

(9) If the undertaking provides for the ACMA to perform functions or exercise powers in relation to the undertaking, the ACMA may perform those functions and exercise those powers.

Publication of undertaking

(10) The PIMA must publish a summary of the undertaking on the Department’s website.

(11) The PIMA may publish the undertaking on the Department’s website.

78DB Variation of undertaking

Scope

(1) This section applies if an undertaking given by a person has been accepted by the PIMA under section 78DA.

Variation

(2) The person may give the PIMA a variation of the undertaking.

Decision to accept or reject variation

(3) After considering the variation, the PIMA must decide to:
   (a) accept the variation; or
(b) reject the variation.

(4) If the variation was given to the PIMA after the interim period, then, in making a decision under subsection (3), the PIMA must have regard to:
   (a) the need to maintain diversity of control of registered news media voices; and
   (b) such other matters (if any) as the PIMA considers relevant.

(5) If the variation was given to the PIMA during the interim period, then, in making a decision under subsection (3), the PIMA must have regard to:
   (a) the need to maintain diversity of control of listed news media voices; and
   (b) such other matters (if any) as the PIMA considers relevant.

(6) Before making a decision under subsection (3), the PIMA must consult the ACMA.

Timing

(7) The PIMA must use his or her best endeavours to make a decision under subsection (3) within 90 days after receipt of the variation.

Notice of decision

(8) If the PIMA accepts the variation, the PIMA must give the person and the ACMA a written notice:
   (a) stating that the variation has been accepted; and
   (b) setting out the terms of the variation.

(9) If the PIMA rejects the variation, the PIMA must give the person and the ACMA a written notice:
   (a) stating that the variation has been rejected; and
   (b) setting out the reasons for the rejection.

Publication of variation

(10) If the PIMA accepts the variation:
   (a) the PIMA must publish a summary of the variation on the Department’s website; and
Schedule 1 Amendments

(b) the PIMA may publish the variation on the Department’s website.

78DC Withdrawal of undertaking

Scope

(1) This section applies if an undertaking given by a person has been accepted by the PIMA under section 78DA.

Consent to withdrawal

(2) The person may, with the consent of the PIMA, withdraw the undertaking.

Application

(3) The person may apply to the PIMA for consent to withdraw the undertaking.

(4) An application is to be made in accordance with a form approved, in writing, by the PIMA.

Decision on application

(5) After considering the application, the PIMA must decide to:

(a) consent to the withdrawal; or

(b) refuse to consent to the withdrawal.

(6) If the application was made after the interim period, then, in making a decision under subsection (5), the PIMA must have regard to:

(a) the need to maintain diversity of control of registered news media voices; and

(b) such other matters (if any) as the PIMA considers relevant.

(7) If the application was made during the interim period, then, in making a decision under subsection (5), the PIMA must have regard to:

(a) the need to maintain diversity of control of listed news media voices; and

(b) such other matters (if any) as the PIMA considers relevant.
(8) Before making a decision under subsection (5), the PIMA must consult the ACMA.

Timing

(9) The PIMA must use his or her best endeavours to make a decision under subsection (5) within 90 days after receipt of the withdrawal.

Notice of decision

(10) If the PIMA consents to the withdrawal, the PIMA must give the person and the ACMA a written notice stating that the PIMA has consented to the withdrawal.

(11) If the PIMA refuses to consent to the withdrawal, the PIMA must give the person and the ACMA a written notice stating that the PIMA has refused to consent to the withdrawal.

Publication of withdrawal

(12) If the PIMA consents to the withdrawal, the PIMA must publish the withdrawal on the Department’s website.

78DD Consultation—variation or withdrawal of undertaking

(1) Before making a decision under subsection 78DB(3) or 78DC(5), the PIMA must:

(a) cause to be published on the Department’s website a notice:

(i) setting out the proposed decision; and

(ii) inviting persons to make submissions to the PIMA about the proposed decision within 28 days after the notice is published; and

(b) consider any submissions that were received within the 28-day period mentioned in paragraph (a).

(2) Subsection (1) of this section does not apply to a decision under subsection 78DB(3) that relates to a minor variation.

78DE Enforcement of undertaking

(1) If:

(a) the PIMA has accepted an undertaking given by a person under section 78DA; and
Schedule 1 Amendments

(b) the undertaking has not been withdrawn; and

c) the ACMA considers that the person has breached the undertaking;

the ACMA may apply to the Federal Court for an order under subsection (2).

(2) If the Federal Court is satisfied that the person has breached the undertaking, the court may make any or all of the following orders:

(a) an order directing the person to comply with the undertaking;

(b) an order directing the person to pay to the ACMA, on behalf of the Commonwealth, an amount up to the amount of any financial benefit that the person has obtained directly or indirectly and that is reasonably attributable to the breach;

(c) any order that the court considers appropriate directing the person to compensate any other person who has suffered loss or damage as a result of the breach;

(d) any other order that the court considers appropriate.

Division 5—Remedial directions

78EA Directions relating to control events that occur after the interim period

Scope

(1) This section applies if:

(a) one or more transactions took place after the commencement of this section; and

(b) the transactions had the result that a control event occurred after the interim period in relation to one or more registered news media voices; and

(c) the control event involved a person becoming in a position to exercise control of a particular registered news media voice; and

(d) the PIMA did not approve the transactions under section 78CB.
Direction

(2) The PIMA may, by written notice given to the person, direct the person to take specified action for the purposes of ensuring that the person ceases to be in a position to exercise control of the registered news media voice.

(3) The PIMA’s directions may include any or all of the following:
   (a) a direction requiring the disposal of shares or interests in shares;
   (b) a direction restraining the exercise of any rights attached to:
      (i) shares; or
      (ii) interests in shares;
   (c) a direction prohibiting or deferring the payment of any sums due to a person in respect of shares, or interests in shares, held by the person;
   (d) a direction that any exercise of rights attached to:
      (i) shares; or
      (ii) interests in shares;
      be disregarded.

(4) Subsection (3) does not limit subsection (2).

(5) A direction under subsection (2) must specify a period within which the person must comply with the direction.

(6) The period must not be longer than 12 months.

(7) In exercising the power conferred by subsection (2), the PIMA must have regard to:
   (a) the need to maintain or restore diversity of control of registered news media voices; and
   (b) such other matters (if any) as the PIMA considers relevant.

78EB Directions relating to control events that occur during the interim period

Scope

(1) This section applies if:
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(a) one or more transactions took place after the commencement of this section; and
(b) the transactions had the result that a control event occurred during the interim period in relation to one or more listed news media voices; and
(c) the control event involved a person becoming in a position to exercise control of a particular listed news media voice; and
(d) the PIMA did not approve the transactions under section 78CB.

Direction

(2) The PIMA may, by written notice given to the person, direct the person to take specified action for the purposes of ensuring that the person ceases to be in a position to exercise control of the listed news media voice.

(3) The PIMA’s directions may include any or all of the following:
   (a) a direction requiring the disposal of shares or interests in shares;
   (b) a direction restraining the exercise of any rights attached to:
      (i) shares; or
      (ii) interests in shares;
   (c) a direction prohibiting or deferring the payment of any sums due to a person in respect of shares, or interests in shares, held by the person;
   (d) a direction that any exercise of rights attached to:
      (i) shares; or
      (ii) interests in shares;
      be disregarded.

(4) Subsection (3) does not limit subsection (2).

(5) A direction under subsection (2) must specify a period within which the person must comply with the direction.

(6) The period must not be longer than 12 months.

(7) In exercising the power conferred by subsection (2), the PIMA must have regard to:
(a) the need to maintain or restore diversity of control of listed
news media voices; and
(b) such other matters (if any) as the PIMA considers relevant.

78EC Directions relating to control events that occurred during the
pre-commencement period

Scope

(1) This section applies if:
(a) one or more transactions took place before the
    commencement of this section; and
(b) the transactions had the result that a control event occurred
    before the commencement of this section in relation to one or
    more listed news media voices; and
(c) the control event involved a person becoming in a position to
    exercise control of a particular listed news media voice; and
(d) the PIMA is satisfied that the control event has resulted in a
    substantial lessening of diversity of control of listed news
    media voices.

Direction

(2) The PIMA may, by written notice given to the person during the
    interim period, direct the person to take specified action for the
    purposes of ensuring that the person ceases to be in a position to
    exercise control of the listed news media voice.

(3) The PIMA’s directions may include any or all of the following:
(a) a direction requiring the disposal of shares or interests in
    shares;
(b) a direction restraining the exercise of any rights attached to:
    (i) shares; or
    (ii) interests in shares;
(c) a direction prohibiting or deferring the payment of any sums
    due to a person in respect of shares, or interests in shares,
    held by the person;
(d) a direction that any exercise of rights attached to:
    (i) shares; or
    (ii) interests in shares;
be disregarded.

(4) Subsection (3) does not limit subsection (2).

(5) A direction under subsection (2) must specify a period within which the person must comply with the direction.

(6) The period must not be longer than 12 months.

(7) In exercising the power conferred by subsection (2), the PIMA must have regard to:
   (a) the need to maintain or restore diversity of control of listed news media voices; and
   (b) such other matters (if any) as the PIMA considers relevant.

78ED Breach of direction—offence

(1) A person commits an offence if:
   (a) the person has been given a direction under section 78EA, 78EB or 78EC; and
   (b) the person engages in conduct; and
   (c) the person’s conduct contravenes a requirement in the direction.

Penalty: 20,000 penalty units.

(2) A person who contravenes subsection (1) commits a separate offence in respect of each day (including a day of a conviction for the offence or any later day) during which the contravention continues.

78EE Breach of direction—civil penalty

(1) A person must comply with a direction under section 78EA, 78EB or 78EC.

(2) Subsection (1) is a civil penalty provision.

(3) A person who contravenes subsection (1) commits a separate contravention of that subsection in respect of each day (including a day of the making of a relevant civil penalty order or any later day) during which the contravention continues.
Division 6—Information-gathering powers

78FA  PIMA may obtain information or documents

Scope

(1) This section applies to a person if the PIMA believes on reasonable grounds that the person has information or a document that is relevant to the operation of this Part.

Requirement

(2) The PIMA may, by written notice given to the person, require the person:
   (a) to give to the PIMA, within the period and in the manner and form specified in the notice, any such information; or
   (b) to produce to the PIMA, within the period and in the manner specified in the notice, any such documents; or
   (c) to make copies of any such documents and to produce to the PIMA, within the period and in the manner specified in the notice, those copies.

(3) A period specified under subsection (2) must not be shorter than 14 days after the notice is given.

Compliance

(4) A person must comply with a requirement under subsection (2).

(5) Subsection (4) is a civil penalty provision.

78FB  Copying documents—compensation

A person is entitled to be paid by the Commonwealth reasonable compensation for complying with a requirement covered by paragraph 78FA(2)(c).

78FC  Copies of documents

(1) The PIMA may:
   (a) inspect a document or copy produced under subsection 78FA(2); and
Schedule 1 Amendments

(b) make and retain copies of, or take and retain extracts from, such a document.

(2) The PIMA may retain possession of a copy of a document produced in accordance with a requirement covered by paragraph 78FA(2)(c).

78FD PIMA may retain documents

(1) The PIMA may take, and retain for as long as is necessary, possession of a document produced under subsection 78FA(2).

(2) The person otherwise entitled to possession of the document is entitled to be supplied, as soon as practicable, with a copy certified by the PIMA to be a true copy.

(3) The certified copy must be received in all courts and tribunals as evidence as if it were the original.

(4) Until a certified copy is supplied, the PIMA must, at such times and places as the PIMA thinks appropriate, permit the person otherwise entitled to possession of the document, or a person authorised by that person, to inspect and make copies of, or take extracts from, the document.

Division 7—News media voices

78GA News media voices

(1) For the purposes of this Part, each of the following is a news media voice:

(a) a commercial television broadcasting service that:

   (i) provides regularly scheduled news or current affairs programs; or

   (ii) specialises in news or current affairs content;

(b) a commercial television broadcasting service that is specified in a legislative instrument made by the Minister;

(c) a commercial radio broadcasting service that:

   (i) provides regularly scheduled news or current affairs programs; or

   (ii) specialises in news or current affairs content;
(d) a commercial radio broadcasting service that is specified in a legislative instrument made by the Minister;
(e) a subscription television service that:
   (i) provides regularly scheduled news or current affairs programs that are targeted to the public in Australia; or
   (ii) specialises in news or current affairs content that is targeted to the public in Australia;
(f) a subscription television service that is specified in a legislative instrument made by the Minister;
(g) a subscription television platform;
(h) a print publication:
   (i) the content of which consists of, or includes, news or current affairs content; and
   (ii) that is published by a constitutional corporation whose activities are wholly or principally media-related activities; and
   (iii) the content of which is targeted to the public in Australia; and
   (iv) the content of which is not targeted to a special interest group; and
   (v) that is intended to be circulated wholly or principally by way of sale;
(i) a print publication that:
   (i) is published by a constitutional corporation; and
   (ii) is specified in a legislative instrument made by the Minister;
(j) an online service:
   (i) that delivers or makes available news or current affairs content; and
   (ii) that is provided by a person whose activities are wholly or principally media-related activities; and
   (iii) the content of which is targeted to the public in Australia; and
   (iv) the content of which is not targeted to a special interest group; and
   (v) that has paying customers; and
   (vi) that is not a news or current affairs aggregation service;
(k) an online service that is specified in a legislative instrument made by the Minister.

Note: For specification by class, see subsection 13(3) of the Legislative Instruments Act 2003.

(2) Subsection (1) has effect subject to subsections (3) to (8).

Exemptions

(3) The Minister may, by legislative instrument, determine that a specified commercial television broadcasting service is not a news media voice for the purposes of this Part.

(4) The Minister may, by legislative instrument, determine that a specified commercial radio broadcasting service is not a news media voice for the purposes of this Part.

(5) The Minister may, by legislative instrument, determine that a specified subscription television service is not a news media voice for the purposes of this Part.

(6) The Minister may, by legislative instrument, determine that a specified subscription television platform is not a news media voice for the purposes of this Part.

(7) The Minister may, by legislative instrument, determine that a specified print publication is not a news media voice for the purposes of this Part.

(8) The Minister may, by legislative instrument, determine that a specified online service is not a news media voice for the purposes of this Part.

Section 38C licences

(9) This section does not apply to a commercial television broadcasting service that is provided under a licence allocated under section 38C.
Division 8—Registrable news media voices

78HA Commercial television broadcasting services that are registrable news media voices

(1) If a commercial television broadcasting service is a news media voice, the service is a *registrable news media voice* for the purposes of this Part if the sum of:

(a) the number that, under the Eligibility Rules, is taken to be the average number of viewers of the commercial television broadcasting service; and

(b) if an online service is:

(i) associated with the commercial television broadcasting service; and

(ii) a news media voice;

the number that, under the Eligibility Rules, is taken to be the average number of paying customers of the online service;

exceeds 30% of the average metropolitan commercial television evening news audience.

Exemptions

(2) Subsection (1) has effect subject to subsection (3).

(3) The Minister may, by legislative instrument, determine that a specified commercial television broadcasting service is not a *registrable news media voice* for the purposes of this Part.

78HB Commercial radio broadcasting services that are registrable news media voices

(1) If a commercial radio broadcasting service is a news media voice, the service is a *registrable news media voice* for the purposes of this Part if the sum of:

(a) the number that, under the Eligibility Rules, is taken to be the average number of listeners to the commercial radio broadcasting service; and

(b) if an online service is:

(i) associated with the commercial radio broadcasting service; and
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(ii) a news media voice;
the number that, under the Eligibility Rules, is taken to be the
average number of paying customers of the online service;
exceeds 30% of the average metropolitan commercial television
evening news audience.

Exemptions

(2) Subsection (1) has effect subject to subsection (3).

(3) The Minister may, by legislative instrument, determine that a
specified commercial radio broadcasting service is not a
registrable news media voice for the purposes of this Part.

78HC Subscription television services that are registrable news media voices

(1) A subscription television service is a registrable news media voice
for the purposes of this Part if the sum of:
(a) the number that, under the Eligibility Rules, is taken to be the
average number of viewers of the subscription television
service; and
(b) if an online service is:
(i) associated with the subscription television service; and
(ii) a news media voice;
the number that, under the Eligibility Rules, is taken to be the
average number of paying customers of the online service;
exceeds 30% of the average metropolitan commercial television
evening news audience.

Exemptions

(2) Subsection (1) has effect subject to subsection (3).

(3) The Minister may, by legislative instrument, determine that a
specified subscription television service is not a registrable news
media voice for the purposes of this Part.

78HD Subscription television platforms that are registrable news media voices

(1) A subscription television platform for a branded group of subscription television services is a registrable news media voice for the purposes of this Part if the sum of:

(a) the number that, under the Eligibility Rules, is taken to be the average number of viewers of subscription television services that:

(i) are news media voices; and

(ii) belong to the branded group; and

(b) if:

(i) an online service is associated with a subscription television service; and

(ii) the subscription television service is a news media voice; and

(iii) the subscription television service belongs to the branded group; and

(iv) the online service is a news media voice;

the number that, under the Eligibility Rules, is taken to be the average number of paying customers of the online service;

exceeds 30% of the average metropolitan commercial television evening news audience.

Exemptions

(2) Subsection (1) has effect subject to subsection (3).

(3) The Minister may, by legislative instrument, determine that a specified subscription television platform is not a registrable news media voice for the purposes of this Part.

78HE Print publications that are registrable news media voices

(1) If a print publication is a news media voice, the print publication is a registrable news media voice for the purposes of this Part if the sum of:

(a) the number that, under the Eligibility Rules, is taken to be the average number of purchasers of the publication; and

(b) if an online service is:
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(i) associated with the print publication; and
(ii) a news media voice;
the number that, under the Eligibility Rules, is taken to be the average number of paying customers of the online service;
exceeds 30% of the average metropolitan commercial television evening news audience.

Exemptions

(2) Subsection (1) has effect subject to subsection (3).

(3) The Minister may, by legislative instrument, determine that a specified print publication is not a registrable news media voice for the purposes of this Part.

78HF Online services that are registrable news media voices

Online services—general

(1) If:
(a) an online service is a news media voice; and
(b) the number that, under the Eligibility Rules, is taken to be the average number of paying customers of the online service, exceeds 30% of the average metropolitan commercial television evening news audience;
the online service is a registrable news media voice for the purposes of this Part.

Associated online services

(2) If:
(a) a commercial television broadcasting service is a registrable news media voice; and
(b) an online service is associated with the commercial television broadcasting service;
the online service is a registrable news media voice for the purposes of this Part.

(3) If:
(a) a commercial radio broadcasting service is a registrable news media voice; and
(b) an online service is associated with the commercial radio broadcasting service;
the online service is a *registrable news media voice* for the purposes of this Part.

(4) If:
   (a) a subscription television service is a registrable news media voice; and
   (b) the service belongs to a branded group of subscription television services; and
   (c) an online service is associated with the branded group;
the online service is a *registrable news media voice* for the purposes of this Part.

(5) If:
   (a) a subscription television service is a registrable news media voice; and
   (b) an online service is associated with the subscription television service;
the online service is a *registrable news media voice* for the purposes of this Part.

(6) If:
   (a) a subscription television platform for a branded group of subscription television services is a registrable news media voice; and
   (b) an online service is associated with the branded group;
the online service is a *registrable news media voice* for the purposes of this Part.

(7) If:
   (a) a print publication is a registrable news media voice; and
   (b) the online service is associated with the print publication;
the online service is a *registrable news media voice* for the purposes of this Part.

Exemptions

(8) Subsections (1) to (7) have effect subject to subsection (9).
(9) The Minister may, by legislative instrument, determine that a specified online service is not a *registrable news media voice* for the purposes of this Part.

**78HG Average metropolitan commercial television evening news audience**

(1) For the purposes of this Part, the *average metropolitan commercial television evening news audience* is the number worked out using the formula:

\[
\text{Aggregate metropolitan commercial television evening news audience number} \div 15
\]

where:

*aggregate metropolitan commercial television evening news audience number* means the number that, under the Eligibility Rules, is taken to be the aggregate metropolitan commercial television evening news audience number.

(2) In making Eligibility Rules for the purposes of subsection (1), the ACMA:

(a) must have regard to commercial television broadcasting services provided in metropolitan licence areas (within the meaning of Schedule 4); and

(b) must not have regard to commercial television broadcasting services provided in any other licence areas.

**78HH Eligibility Rules**

(1) The ACMA may, by writing, make rules (the *Eligibility Rules*) prescribing matters permitted by a provision of this Division (other than this section) to be prescribed by the Eligibility Rules.

(2) The Eligibility Rules are not a legislative instrument.

(3) The ACMA must publish a copy of the Eligibility Rules on the ACMA’s website.
Division 9—Listed news media voices

78JA  Listed news media voices

Commercial television broadcasting services

(1) For the purposes of this Part, a commercial television broadcasting service set out in the following table is a listed news media voice:

<table>
<thead>
<tr>
<th>Item</th>
<th>On-air identifier</th>
<th>Licence area</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Nine</td>
<td>Adelaide TV 1</td>
</tr>
<tr>
<td>2</td>
<td>Seven</td>
<td>Adelaide TV 1</td>
</tr>
<tr>
<td>3</td>
<td>TEN</td>
<td>Adelaide TV 1</td>
</tr>
<tr>
<td>4</td>
<td>Nine</td>
<td>Brisbane TV 1</td>
</tr>
<tr>
<td>5</td>
<td>Seven</td>
<td>Brisbane TV 1</td>
</tr>
<tr>
<td>6</td>
<td>TEN</td>
<td>Brisbane TV 1</td>
</tr>
<tr>
<td>7</td>
<td>Nine</td>
<td>Melbourne TV 1</td>
</tr>
<tr>
<td>8</td>
<td>Seven</td>
<td>Melbourne TV 1</td>
</tr>
<tr>
<td>9</td>
<td>TEN</td>
<td>Melbourne TV 1</td>
</tr>
<tr>
<td>10</td>
<td>Nine</td>
<td>Northern New South Wales TV 1</td>
</tr>
<tr>
<td>11</td>
<td>Prime</td>
<td>Northern New South Wales TV 1</td>
</tr>
<tr>
<td>12</td>
<td>TEN</td>
<td>Northern New South Wales TV 1</td>
</tr>
<tr>
<td>13</td>
<td>Nine Perth</td>
<td>Perth TV 1</td>
</tr>
<tr>
<td>14</td>
<td>Seven</td>
<td>Perth TV 1</td>
</tr>
<tr>
<td>15</td>
<td>TEN</td>
<td>Perth TV 1</td>
</tr>
<tr>
<td>16</td>
<td>Prime</td>
<td>Regional Queensland TV 1</td>
</tr>
<tr>
<td>17</td>
<td>Southern Cross TEN</td>
<td>Regional Queensland TV 1</td>
</tr>
<tr>
<td>18</td>
<td>WIN Television</td>
<td>Regional Queensland TV 1</td>
</tr>
<tr>
<td>19</td>
<td>WIN Television</td>
<td>Regional Victoria TV 1</td>
</tr>
<tr>
<td>20</td>
<td>Prime</td>
<td>Regional Victoria TV 1</td>
</tr>
<tr>
<td>21</td>
<td>Prime</td>
<td>Southern New South Wales TV 1</td>
</tr>
<tr>
<td>22</td>
<td>WIN</td>
<td>Southern New South Wales TV 1</td>
</tr>
<tr>
<td>23</td>
<td>Nine</td>
<td>Sydney TV 1</td>
</tr>
<tr>
<td>24</td>
<td>Seven</td>
<td>Sydney TV 1</td>
</tr>
</tbody>
</table>
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### Commercial television broadcasting services

<table>
<thead>
<tr>
<th>Item</th>
<th>On-air identifier</th>
<th>Licence area</th>
</tr>
</thead>
<tbody>
<tr>
<td>25</td>
<td>TEN</td>
<td>Sydney TV 1</td>
</tr>
<tr>
<td>26</td>
<td>Southern Cross Television</td>
<td>Tasmania TV 1</td>
</tr>
</tbody>
</table>

(2) If the on-air identifier of a commercial television broadcasting service is changed, a reference in the table in subsection (1) to the service under its former on-air identifier is to be construed as a reference to the service under the new on-air identifier.

### Commercial radio broadcasting services

(3) For the purposes of this Part, a commercial radio broadcasting service set out in the following table is a listed news media voice:

<table>
<thead>
<tr>
<th>Item</th>
<th>Call sign</th>
<th>Licence area</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>5AA</td>
<td>Adelaide RA 1</td>
</tr>
<tr>
<td>2</td>
<td>4BC</td>
<td>Brisbane RA 1</td>
</tr>
<tr>
<td>3</td>
<td>3AW</td>
<td>Melbourne RA 1</td>
</tr>
<tr>
<td>4</td>
<td>6PR</td>
<td>Perth RA 1</td>
</tr>
<tr>
<td>5</td>
<td>2UE</td>
<td>Sydney RA 1</td>
</tr>
<tr>
<td>6</td>
<td>2GB</td>
<td>Sydney RA 1</td>
</tr>
</tbody>
</table>

(4) If the call sign of a commercial radio broadcasting service is changed, a reference in the table in subsection (3) to the service under its former call sign is to be construed as a reference to the service under the new call sign.

### Subscription television services

(5) For the purposes of this Part, the subscription television service known as Sky News National is a listed news media voice.

(6) If the name of a subscription television service is changed, a reference in subsection (5) to the service under its former name is to be construed as a reference to the service under the new name.
Subscription television platform

(7) For the purposes of this Part, if a subscription television platform is a subscription television platform for the branded group of subscription television services marketed to the public under the Foxtel brand, the platform is a listed news media voice for the purposes of this Part.

Print publications

(8) For the purposes of this Part, if:
   (a) a print publication is set out in the following table; and
   (b) the publisher of the print publication is a constitutional corporation;

   the print publication is a listed news media voice:

<table>
<thead>
<tr>
<th>Print publications</th>
</tr>
</thead>
<tbody>
<tr>
<td>Print publication</td>
</tr>
<tr>
<td>The Advertiser</td>
</tr>
<tr>
<td>The Age</td>
</tr>
<tr>
<td>Australian Financial Review</td>
</tr>
<tr>
<td>The Australian</td>
</tr>
<tr>
<td>The Weekend Australian</td>
</tr>
<tr>
<td>The Courier Mail</td>
</tr>
<tr>
<td>Daily Telegraph</td>
</tr>
<tr>
<td>Herald Sun</td>
</tr>
<tr>
<td>The Sydney Morning Herald</td>
</tr>
<tr>
<td>Sunday Age</td>
</tr>
<tr>
<td>Sun-Herald</td>
</tr>
<tr>
<td>Sunday Herald-Sun</td>
</tr>
<tr>
<td>The Sunday Mail (Adelaide)</td>
</tr>
<tr>
<td>Sunday Mail (Queensland)</td>
</tr>
<tr>
<td>The Sunday Times (Perth)</td>
</tr>
<tr>
<td>Sunday Telegraph</td>
</tr>
<tr>
<td>The Weekly Times (Victoria)</td>
</tr>
<tr>
<td>The West Australian</td>
</tr>
</tbody>
</table>
(9) If the name of a print publication is changed, a reference in the
table in subsection (8) to the print publication under its former
name is to be construed as a reference to the print publication
under the new name.

Division 10—Register of News Media Voices

78KA Register of News Media Voices

(1) The ACMA is to maintain a register, to be known as the Register
of News Media Voices, in which are to be made the entries
required by section 78KB.

(2) The Register is to be maintained by electronic means.

(3) The Register is to be made available for inspection on the internet.

(4) The Register is not a legislative instrument.

(5) The ACMA must begin to comply with subsection (1):

(a) as soon as practicable; and

(b) in any event, within 6 months;

after the commencement of this section.

78KB Registrable news media voices to be entered in the Register
etc.

(1) If the ACMA is satisfied that a news media voice is a registrable
news media voice, the ACMA must enter the news media voice in
the Register.

(2) If:

(a) there is an entry for a news media voice in the Register; and

(b) the ACMA is satisfied that the news media voice is not a
registrable news media voice;

the ACMA must remove the entry from the Register.

78KC Corrections of clerical errors or obvious defects

The ACMA may alter the Register for the purposes of correcting a
clerical error or an obvious defect in the Register.
78KD  Legislative instrument—further provision about the
operation of the Register

The Minister may, by legislative instrument, make further
provision about the operation of the Register.

Division 11—Prior opinions by the ACMA

78LA  Requests to the ACMA to give an opinion on whether a person
is in a position to control a print publication, an online
service or a subscription television service etc.

(1) A person may apply to the ACMA for an opinion as to whether:
   (a) the person is in a position to exercise control of:
       (i) a print publication; or
       (ii) an online service; or
       (iii) a subscription television service; or
       (iv) a subscription television platform; or
   (b) the person would, if a specified transaction took place, be in a
       position to exercise control of:
       (i) a print publication; or
       (ii) an online service; or
       (iii) a subscription television service; or
       (iv) a subscription television platform.

(2) An application must be in accordance with the form approved, in
writing, by the ACMA.

(3) An application must set out the applicant’s opinion as to whether
the applicant is, or would be, in a position to exercise control of the
print publication, online service, subscription television service or
subscription television platform, as the case may be.

(4) If the ACMA considers that additional information is required
before an opinion can be given, the ACMA may, by written notice
given to the applicant within 30 days after receiving the
application, request the applicant to provide that information.

(5) The ACMA must, as soon as practicable after:
   (a) receiving the application; or
(b) if the ACMA has requested further information—receiving
that further information;
give the applicant, in writing, its opinion as to whether the
applicant is, or would be, in a position to exercise control of the
relevant print publication, online service, subscription television
service or subscription television platform, as the case may be.

(6) If the ACMA has given an opinion under this section to a person
that the person is not in a position to exercise control of:

(a) a print publication; or
(b) an online service; or
(c) a subscription television service; or
(d) a subscription television platform;
neither the ACMA nor any other Government agency may, while
the circumstances relating to:

(e) the applicant; and
(f) the print publication, online service, subscription television
service or subscription television platform, as the case may
be;
remain substantially the same as those advised to the ACMA in
relation to the application for the opinion, take any action against
the person under this Act on the basis that the person is in a
position to exercise control of the print publication, online service,
subscription television service or subscription television platform,
as the case may be.

(7) If the ACMA does not, within 45 days after:

(a) receiving the application; or
(b) if the ACMA has requested further information—receiving
that further information;
give the applicant, in writing, its opinion as to whether the
applicant is, or would be, in a position to exercise control of the
relevant print publication, online service, subscription television
service or subscription television platform, the ACMA is to be
taken to have given an opinion at the end of that period that
accords with the applicant’s opinion.

(8) The ACMA may charge a fee for providing an opinion under this
section.
For the purposes of this section, the PIMA is taken to be a
Government agency.

**78LB Requests to the ACMA to give an opinion on whether an**
online service is associated with a non-online service or a
print publication etc.

(1) A person may apply to the ACMA for an opinion as to whether an
online service is associated with:
   (a) a non-online service; or
   (b) a branded group of subscription television services; or
   (c) a print publication.

(2) An application must be in accordance with the form approved, in
writing, by the ACMA.

(3) An application must set out the applicant’s opinion as to whether
the online service is associated with the non-online service, the
branded group of subscription television services or the print
publication, as the case may be.

(4) If the ACMA considers that additional information is required
before an opinion can be given, the ACMA may, by written notice
given to the applicant within 30 days after receiving the
application, request the applicant to provide that information.

(5) The ACMA must, as soon as practicable after:
   (a) receiving the application; or
   (b) if the ACMA has requested further information—receiving
      that further information;
      give the applicant, in writing, its opinion as to whether the online
      service is associated with the non-online service, the branded group
      of subscription television services or the print publication, as the
case may be.

(6) If the ACMA has given an opinion under this section to a person
that an online service is not associated with:
   (a) a non-online service; or
   (b) a branded group of subscription television services; or
   (c) a print publication;
(d) the applicant; and
(e) the non-online service, branded group or print publication, as the case may be;

remain substantially the same as those advised to the ACMA in relation to the application for the opinion, take any action against the online service under this Act on the basis that the online service is associated with the non-online service, the branded group or the print publication, as the case may be.

(7) If the ACMA does not, within 45 days after:
(a) receiving the application; or
(b) if the ACMA has requested further information—receiving that further information;

give the applicant, in writing, its opinion as to whether the applicant is associated with the relevant non-online service, branded group of subscription television services or print publication, the ACMA is to be taken to have given an opinion at the end of that period that accords with the applicant’s opinion.

(8) The ACMA may charge a fee for providing an opinion under this section.

(9) For the purposes of this section, the PIMA is taken to be a Government agency.

(10) For the purposes of this section, each of the following is a non-online service:
(a) a commercial television broadcasting service;
(b) a commercial radio broadcasting service;
(c) a subscription television service.
Division 12—Notification provisions

Subdivision A—Control of registered news media voices

78MA  Requirement to notify control and directorships

Notification by subscription television platform

(1) If a subscription television platform becomes a registered news media voice, the platform must:
   (a) give to the ACMA in writing:
       (i) details of the persons who, to the knowledge of the platform, were in a position to exercise control of the platform when the platform became a registered news media voice; and
       (ii) the name of each person who was a director of the platform when the platform became a registered news media voice; and
   (b) do so within 28 days after the platform became a registered news media voice.

(2) The details are to be provided in a form approved, in writing, by the ACMA.

(3) If a subscription television platform is a registered news media voice at the end of a financial year, the platform must:
   (a) give to the ACMA in writing:
       (i) details of the persons who, to the knowledge of the platform, were in a position to exercise control of the platform at the end of the financial year; and
       (ii) the name of each person who was a director of the platform at the end of the financial year; and
   (b) do so within 3 months after the end of the financial year.

(4) The details are to be provided in a form approved, in writing, by the ACMA.
Notification by subscription television licensee

(5) If a subscription television service becomes a registered news media voice, the subscription television licensee who provides the service must:

(a) give to the ACMA in writing:
   (i) details of the persons who, to the knowledge of the licensee, were in a position to exercise control of the service when the service became a registered news media voice; and
   (ii) the name of each person who was a director of the licensee when the service became a registered news media voice; and

(b) do so within 28 days after the service became a registered news media voice.

(6) The details are to be provided in a form approved, in writing, by the ACMA.

(7) If a subscription television service is a registered news media voice at the end of a financial year, the subscription television licensee who provides the service must:

(a) give to the ACMA in writing:
   (i) details of the persons who, to the knowledge of the licensee, were in a position to exercise control of the service at the end of the financial year; and
   (ii) the name of each person who was a director of the licensee at the end of the financial year; and

(b) do so within 3 months after the end of the financial year.

(8) The details are to be provided in a form approved, in writing, by the ACMA.

Notification by publisher of a print publication

(9) If a print publication becomes a registered news media voice, the publisher of the print publication must:

(a) give to the ACMA in writing:
   (i) details of the persons who, to the knowledge of the publisher, were in a position to exercise control of the
print publication when the print publication became a
registered news media voice; and
(ii) if the publisher is a company—the name of each person
who was a director of the publisher when the print
publication became a registered news media voice; and
(b) do so within 28 days after the print publication became a
registered news media voice.

(10) The details are to be provided in a form approved, in writing, by
the ACMA.

(11) If a print publication is a registered news media voice at the end of
a financial year, the publisher of the print publication must:
(a) give to the ACMA in writing:
(i) details of the persons who, to the knowledge of the
publisher, were in a position to exercise control of the
print publication at the end of the financial year; and
(ii) if the publisher is a company—the name of each person
who was a director of the publisher at the end of the
financial year; and
(b) do so within 3 months after the end of the financial year.

(12) The details are to be provided in a form approved, in writing, by
the ACMA.

Notification by provider of an online service

(13) If an online service becomes a registered news media voice, the
provider of the online service must:
(a) give to the ACMA in writing:
(i) details of the persons who, to the knowledge of the
provider, were in a position to exercise control of the
online service when the online service became a
registered news media voice; and
(ii) if the provider is a company—the name of each person
who was a director of the provider when the online
service became a registered news media voice; and
(b) do so within 28 days after the online service became a
registered news media voice.
(14) The details are to be provided in a form approved, in writing, by
the ACMA.

(15) If an online service is a registered news media voice at the end of a
financial year, the provider of the online service must:
   (a) give to the ACMA in writing:
      (i) details of the persons who, to the knowledge of the
      provider, were in a position to exercise control of the
      online service at the end of the financial year; and
      (ii) if the provider is a company—the name of each person
      who was a director of the provider at the end of the
      financial year; and
   (b) do so within 3 months after the end of the financial year.

(16) The details are to be provided in a form approved, in writing, by
the ACMA.

Offence

(17) A person commits an offence if:
   (a) the person is subject to a requirement under subsection (1),
      (3), (5), (7), (9), (11), (13) or (15); and
   (b) the person omits to do an act; and
   (c) the omission breaches the requirement.

Penalty for contravention of this subsection: 500 penalty units.

78MB Requirement to notify changes in control

Notification by subscription television platform

(1) If:
   (a) a subscription television platform is a registered news media
       voice; and
   (b) the platform becomes aware that:
      (i) a person who was not in a position to exercise control of
          the platform has become in a position to exercise
          control of the platform; or
      (ii) a person who was in a position to exercise control of the
          platform has ceased to be in that position;

   the platform must:
(c) notify the ACMA, in writing, of that event; and
(d) do so within 5 days after becoming so aware.

(2) The details are to be provided in a form approved, in writing, by
the ACMA.

Notification by subscription television licensee

(3) If:
(a) a subscription television service is a registered news media
voice; and
(b) the subscription television licensee who provides the service
becomes aware that:
   (i) a person who was not in a position to exercise control of
the service has become in a position to exercise control
of the service; or
   (ii) a person who was in a position to exercise control of the
service has ceased to be in that position;
the licensee must:
(c) notify the ACMA, in writing, of that event; and
(d) do so within 5 days after becoming so aware.

(4) The details are to be provided in a form approved, in writing, by
the ACMA.

Notification by publisher of print publication

(5) If:
(a) a print publication is a registered news media voice; and
(b) the publisher of the print publication becomes aware that:
   (i) a person who was not in a position to exercise control of
the print publication has become in a position to
exercise control of the print publication; or
   (ii) a person who was in a position to exercise control of the
print publication has ceased to be in that position;
the publisher must:
(c) notify the ACMA, in writing, of that event; and
(d) do so within 5 days after becoming so aware.

(6) The details are to be provided in a form approved, in writing, by
the ACMA.
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Notification by provider of online service

(7) If:
(a) an online service is a registered news media voice; and
(b) the provider of the online service becomes aware that:
   (i) a person who was not in a position to exercise control of
       the online service has become in a position to exercise
       control of the online service; or
   (ii) a person who was in a position to exercise control of the
        online service has ceased to be in that position;
the provider must:
(c) notify the ACMA, in writing, of that event; and
(d) do so within 5 days after becoming so aware.

(8) The details are to be provided in a form approved, in writing, by the ACMA.

Offence

(9) A person commits an offence if:
(a) the person is subject to a requirement under subsection (1),
   (3), (5) or (7); and
(b) the person omits to do an act; and
(c) the omission breaches the requirement.

Penalty for contravention of this subsection: 500 penalty units.

78MC Person who obtains control must notify the ACMA

Notification by controller of subscription television platform

(1) If:
(a) a subscription television platform is a registered news media
    voice; and
(b) a person who was not in a position to exercise control of the
    platform becomes aware that the person is in a position to
    exercise control of the platform;
the person must:
(c) notify the ACMA, in writing, of that position; and
(d) do so within 5 days after becoming so aware.
(2) The details are to be provided in a form approved, in writing, by the ACMA.

Notification by controller of subscription television service

(3) If:

(a) a subscription television service is a registered news media voice; and
(b) a person who was not in a position to exercise control of the service becomes aware that the person is in a position to exercise control of the service;

the person must:

(c) notify the ACMA, in writing, of that position; and
(d) do so within 5 days after becoming so aware.

(4) The details are to be provided in a form approved, in writing, by the ACMA.

Notification by controller of print publication

(5) If:

(a) a print publication is a registered news media voice; and
(b) a person who was not in a position to exercise control of the print publication becomes aware that the person is in a position to exercise control of the print publication;

the person must:

(c) notify the ACMA, in writing, of that position; and
(d) do so within 5 days after becoming so aware.

(6) The details are to be provided in a form approved, in writing, by the ACMA.

Notification by controller of online service

(7) If:

(a) an online service is a registered news media voice; and
(b) a person who was not in a position to exercise control of the online service becomes aware that the person is in a position to exercise control of the online service;

the person must:

(c) notify the ACMA, in writing, of that position; and
(d) do so within 5 days after becoming so aware.

(8) The details are to be provided in a form approved, in writing, by the ACMA.

**Offence**

(9) A person commits an offence if:

(a) the person is subject to a requirement under subsection (1), (3), (5) or (7); and

(b) the person omits to do an act; and

(c) the omission breaches the requirement.

Penalty for contravention of this subsection: 500 penalty units.

**Subdivision B—Control of listed news media voices**

**78MD Notification of control events that occurred during the pre-commencement period**

**Scope**

(1) This section applies if:

(a) one or more transactions took place during the pre-commencement period; and

(b) the transactions had the result that a control event occurred in relation to one or more listed news media voices; and

(c) a person was:

(i) a party to the transactions; or

(ii) in a position to prevent the transactions taking place.

**Notification**

(2) The person must:

(a) notify the PIMA, in writing, of:

(i) the transactions; and

(ii) the occurrence of the control event; and

(b) do so within 28 days after the commencement of this section.
Offence

(3) A person commits an offence if:

(a) the person is subject to a requirement under subsection (2); and

(b) the person omits to do an act; and

(c) the omission breaches the requirement.

Penalty for contravention of this subsection: 500 penalty units.

78ME Notification of controllers of listed news media voices etc.

Notification by subscription television platform

(1) If a subscription television platform is a listed news media voice immediately after the commencement of this section, the platform must:

(a) give to the ACMA in writing:

(i) details of the persons who, to the knowledge of the platform, were in a position to exercise control of the platform immediately after the commencement of this section; and

(ii) the name of each person who was a director of the platform immediately after the commencement of this section; and

(b) do so within 28 days after the commencement of this section.

(2) The details are to be provided in a form approved, in writing, by the ACMA.

Notification by subscription television licensee

(3) If a subscription television service is a listed news media voice immediately after the commencement of this section, the subscription television licensee who provides the service must:

(a) give to the ACMA in writing:

(i) details of the persons who, to the knowledge of the licensee, were in a position to exercise control of the service immediately after the commencement of this section; and
(ii) the name of each person who was a director of the licensee immediately after the commencement of this section; and

(b) do so within 28 days after the commencement of this section.

(4) The details are to be provided in a form approved, in writing, by the ACMA.

Notification by publisher of a print publication

(5) If a print publication is a listed news media voice immediately after the commencement of this section, the publisher of the print publication must:

(a) give to the ACMA in writing:
   (i) details of the persons who, to the knowledge of the publisher, were in a position to exercise control of the print publication immediately after the commencement of this section; and
   (ii) if the publisher is a company—the name of each person who was a director of the publisher immediately after the commencement of this section; and

(b) do so within 28 days after the commencement of this section.

(6) The details are to be provided in a form approved, in writing, by the ACMA.

Notification by provider of an online service

(7) If an online service is a listed news media voice immediately after the commencement of this section, the provider of the online service must:

(a) give to the ACMA in writing:
   (i) details of the persons who, to the knowledge of the provider, were in a position to exercise control of the online service immediately after the commencement of this section; and
   (ii) if the provider is a company—the name of each person who was a director of the provider immediately after the commencement of this section; and

(b) do so within 28 days after the commencement of this section.
(8) The details are to be provided in a form approved, in writing, by the ACMA.

**Offence**

(9) A person commits an offence if:

(a) the person is subject to a requirement under subsection (1), (3), (5) or (7); and

(b) the person omits to do an act; and

(c) the omission breaches the requirement.

Penalty for contravention of this subsection: 500 penalty units.

**78MF Requirement to notify changes in control**

**Notification by subscription television platform**

(1) If:

(a) a subscription television platform is a listed news media voice; and

(b) during the interim period, the platform becomes aware that:

(i) a person who was not in a position to exercise control of the platform has become in a position to exercise control of the platform; or

(ii) a person who was in a position to exercise control of the platform has ceased to be in that position;

the platform must:

(c) notify the ACMA, in writing, of that event; and

(d) do so within 5 days after becoming so aware.

(2) The details are to be provided in a form approved, in writing, by the ACMA.

**Notification by subscription television licensee**

(3) If:

(a) a subscription television service is a listed news media voice; and

(b) during the interim period, the subscription television licensee who provides the service becomes aware that:
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(i) a person who was not in a position to exercise control of
the service has become in a position to exercise control
of the service; or
(ii) a person who was in a position to exercise control of the
service has ceased to be in that position;

the licensee must:
(c) notify the ACMA, in writing, of that event; and
(d) do so within 5 days after becoming so aware.

(4) The details are to be provided in a form approved, in writing, by
the ACMA.

Notification by publisher of print publication

(5) If:
(a) a print publication is a listed news media voice; and
(b) during the interim period, the publisher of the print
publication becomes aware that:
(i) a person who was not in a position to exercise control of
the print publication has become in a position to
exercise control of the print publication; or
(ii) a person who was in a position to exercise control of the
print publication has ceased to be in that position;

the publisher must:
(c) notify the ACMA, in writing, of that event; and
(d) do so within 5 days after becoming so aware.

(6) The details are to be provided in a form approved, in writing, by
the ACMA.

Notification by provider of online service

(7) If:
(a) an online service is a listed news media voice; and
(b) during the interim period, the provider of the online service
becomes aware that:
(i) a person who was not in a position to exercise control of
the online service has become in a position to exercise
control of the online service; or
(ii) a person who was in a position to exercise control of the online service has ceased to be in that position;

the provider must:

(c) notify the ACMA, in writing, of that event; and

(d) do so within 5 days after becoming so aware.

(8) The details are to be provided in a form approved, in writing, by the ACMA.

Offence

(9) A person commits an offence if:

(a) the person is subject to a requirement under subsection (1), (3), (5) or (7); and

(b) the person omits to do an act; and

(c) the omission breaches the requirement.

Penalty for contravention of this subsection: 500 penalty units.

78MG Person who obtains control must notify the ACMA

Notification by controller of subscription television platform

(1) If:

(a) a subscription television platform is a listed news media voice; and

(b) during the interim period, a person who was not in a position to exercise control of the platform becomes aware that the person is in a position to exercise control of the platform;

the person must:

(c) notify the ACMA, in writing, of that position; and

(d) do so within 5 days after becoming so aware.

(2) The details are to be provided in a form approved, in writing, by the ACMA.

Notification by controller of subscription television service

(3) If:

(a) a subscription television service is a listed news media voice; and
(b) during the interim period, a person who was not in a position
to exercise control of the service becomes aware that the
person is in a position to exercise control of the service;
the person must:
   (c) notify the ACMA, in writing, of that position; and
   (d) do so within 5 days after becoming so aware.

(4) The details are to be provided in a form approved, in writing, by
the ACMA.

Notification by controller of print publication

(5) If:
   (a) a print publication is a listed news media voice; and
   (b) during the interim period, a person who was not in a position
to exercise control of the print publication becomes aware
that the person is in a position to exercise control of the print
publication;
the person must:
   (c) notify the ACMA, in writing, of that position; and
   (d) do so within 5 days after becoming so aware.

(6) The details are to be provided in a form approved, in writing, by
the ACMA.

Notification by controller of online service

(7) If:
   (a) an online service is a listed news media voice; and
   (b) during the interim period, a person who was not in a position
to exercise control of the online service becomes aware that
the person is in a position to exercise control of the online
service;
the person must:
   (c) notify the ACMA, in writing, of that position; and
   (d) do so within 5 days after becoming so aware.

(8) The details are to be provided in a form approved, in writing, by
the ACMA.


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Offence

(9) A person commits an offence if:

(a) the person is subject to a requirement under subsection (1),
    (3), (5) or (7); and

(b) the person omits to do an act; and

(c) the omission breaches the requirement.

Penalty for contravention of this subsection: 500 penalty units.

Subdivision C—Notification of registrability

78MH Initial notification of registrability

(1) If, at the start of the initial Eligibility Rules completion day, a commercial television broadcasting service is a registrable news media voice, the commercial television broadcasting licensee who provides the service must:

(a) notify the ACMA, in writing, that the service is a registrable news media voice; and

(b) do so within 28 days after the initial Eligibility Rules completion day.

(2) If, at the start of the initial Eligibility Rules completion day, a commercial radio broadcasting service is a registrable news media voice, the commercial radio broadcasting licensee who provides the service must:

(a) notify the ACMA, in writing, that the service is a registrable news media voice; and

(b) do so within 28 days after the initial Eligibility Rules completion day.

(3) If, at the start of the initial Eligibility Rules completion day, a subscription television service is a registrable news media voice, the subscription television licensee who provides the service must:

(a) notify the ACMA, in writing, that the service is a registrable news media voice; and

(b) do so within 28 days after the initial notification day.

(4) If, at the start of the initial Eligibility Rules completion day, a subscription television platform is a registrable news media voice, the platform must:
(a) notify the ACMA, in writing, that the platform is a registrable news media voice; and
(b) do so within 28 days after the initial Eligibility Rules completion day.

(5) If, at the start of the initial Eligibility Rules completion day, a print publication is a registrable news media voice, the publisher of the print publication must:
   (a) notify the ACMA, in writing, that the print publication is a registrable news media voice; and
   (b) do so within 28 days after the initial Eligibility Rules completion day.

(6) If, at the start of the initial Eligibility Rules completion day, an online service is a registrable news media voice, the provider of the service must:
   (a) notify the ACMA, in writing, that the service is a registrable news media voice; and
   (b) do so within 28 days after the initial Eligibility Rules completion day.

**Offence**

(7) A person commits an offence if:
   (a) the person is subject to a requirement under subsection (1), (2), (3), (4), (5) or (6); and
   (b) the person omits to do an act; and
   (c) the omission breaches the requirement.

Penalty for contravention of this subsection: 500 penalty units.

**78MJ Subsequent notification of registrability**

(1) If, after the start of the initial Eligibility Rules completion day, a commercial television broadcasting service becomes a registrable news media voice, the commercial television broadcasting licensee who provides the service must:
   (a) notify the ACMA, in writing, that the service has become a registrable news media voice; and
   (b) do so within 5 days after becoming so aware.
(2) If, after the start of the initial Eligibility Rules completion day, a commercial radio broadcasting service becomes a registrable news media voice, the commercial radio broadcasting licensee who provides the service must:
(a) notify the ACMA, in writing, that the service has become a registrable news media voice; and
(b) do so within 5 days after becoming so aware.

(3) If, after the start of the initial Eligibility Rules completion day, a subscription television service becomes a registrable news media voice, the subscription television licensee who provides the service must:
(a) notify the ACMA, in writing, that the service has become a registrable news media voice; and
(b) do so within 5 days after becoming so aware.

(4) If, after the start of the initial Eligibility Rules completion day, a subscription television platform becomes a registrable news media voice, the platform must:
(a) notify the ACMA, in writing, that the platform has become a registrable news media voice; and
(b) do so within 5 days after becoming so aware.

(5) If, after the start of the initial Eligibility Rules completion day, a print publication becomes a registrable news media voice, the publisher of the print publication must:
(a) notify the ACMA, in writing, that the print publication has become a registrable news media voice; and
(b) do so within 5 days after becoming so aware.

(6) If, after the start of the initial Eligibility Rules completion day, an online service becomes a registrable news media voice, the provider of the service must:
(a) notify the ACMA, in writing, that the service has become a registrable news media voice; and
(b) do so within 5 days after becoming so aware.

Offence

(7) A person commits an offence if:
(a) the person is subject to a requirement under subsection (1),
    (2), (3), (4), (5) or (6); and
(b) the person omits to do an act; and
(c) the omission breaches the requirement.

Penalty for contravention of this subsection: 500 penalty units.

Subdivision D—Notification of certain subscription television services

78MK Requirement to notify composition of branded group of subscription television services

(1) If there is a branded group of subscription television services immediately after the commencement of this section, a subscription television platform for the group must:
    (a) give to the ACMA, in writing, details of the subscription television services included in the group immediately after the commencement of this section; and
    (b) do so within 28 days after the commencement of this section.

(2) The details are to be provided in a form approved, in writing, by the ACMA.

(3) If a subscription television platform for a branded group of subscription television services becomes aware of a change in the composition of the subscription television services included in the group, the platform must:
    (a) give to the ACMA, in writing, details of the change; and
    (b) do so within 5 days after becoming so aware.

(4) The details are to be provided in a form approved, in writing, by the ACMA.

Offence

(5) A person commits an offence if:
    (a) the person is subject to a requirement under subsection (1) or (3); and
    (b) the person omits to do an act; and
    (c) the omission breaches the requirement.
Penalty: 500 penalty units.

Multiple subscription television platforms

(6) If:
   (a) this section imposes a notification obligation on a
       subscription television platform for a branded group of
       subscription television services; and
   (b) there are 2 or more subscription television platforms for the
       branded group; and
   (c) the obligation is discharged by one of those platforms;
       the obligation is taken to have been discharged by each of those
       platforms.

Subdivision E—Miscellaneous

78ML  Strict liability offences

An offence against this Division is an offence of strict liability.

Note: For strict liability, see section 6.1 of the Criminal Code.

78MM  Designated infringement notice provisions

Sections 78MA, 78MB, 78MC, 78MD, 78ME, 78MF, 78MG, 78MH, 78MJ and 78MK are designated infringement notice
provisions.

Division 13—Miscellaneous

78NA  Online service provider

(1) For the purposes of this Part, a person does not provide an online
    service merely because the person supplies a carriage service that
    enables content to be delivered or accessed.

(2) For the purposes of this Part, a person does not provide an online
    service merely because the person provides a billing service, or a
    fee collection service, in relation to an online service.
78NB  When an online service is associated with a non-online service or a print publication etc.

**Non-online service**

(1) For the purposes of this section, each of the following is a non-online service:

(a) a commercial television broadcasting service;
(b) a commercial radio broadcasting service;
(c) a subscription television service.

(2) For the purposes of this Part, an online service is associated with a non-online service if, and only if, the public would reasonably believe that the online service and the non-online service are associated with each other, having regard to:

(a) the extent of the sameness or similarity of the brands under which the online service and the non-online service are marketed to the public; and

(b) the extent to which the online service and the non-online service share the same or similar news or current affairs content; and

(c) the extent to which the same person is, or the same persons are, in a position to exercise control of the online service and the non-online service.

**Branded group of subscription television services**

(3) For the purposes of this Part, an online service is associated with a branded group of subscription television services if, and only if, the public would reasonably believe that the online service and the branded group are associated with each other, having regard to:

(a) the extent of the sameness or similarity of the brands under which the online service and the branded group are marketed to the public; and

(b) the extent to which the online service and any of the subscription television services included in the branded group share the same or similar news or current affairs content; and

(c) the extent to which the same person is, or the same persons are, in a position to exercise control of the online service and any of the subscription television services included in the branded group.
Print publication

(4) For the purposes of this Part, an online service is associated with a print publication if, and only if, the public would reasonably believe that the online service and the print publication are associated with each other, having regard to:

(a) the extent of the sameness or similarity of the brands under which the online service and the print publication are marketed to the public; and

(b) the extent to which the online service and the print publication share the same or similar news or current affairs content; and

(c) the extent to which the same person is, or the same persons are, in a position to exercise control of the online service and the print publication.

78NC Initial Register completion day

(1) If a particular day is the first day after the commencement of this section on which the ACMA is satisfied that all registrable news media voices have been entered in the Register, the ACMA must, by writing, declare that the next following day is the initial Register completion day for the purposes of this Part.

(2) An instrument under subsection (1) is not a legislative instrument.

(3) The ACMA must publish a copy of an instrument under subsection (1) on the ACMA’s website.

78ND Initial Eligibility Rules completion day

(1) If a particular day is the first day after the commencement of this section on which Eligibility Rules are in force for the purposes of each of the following provisions:

(a) paragraph 78HA(1)(a);

(b) paragraph 78HA(1)(b);

(c) paragraph 78HB(1)(a);

(d) paragraph 78HB(1)(b);

(e) paragraph 78HC(1)(a);

(f) paragraph 78HC(1)(b);

(g) paragraph 78HD(1)(a);
(h) paragraph 78HD(1)(b);
(i) paragraph 78HE(1)(a);
(j) paragraph 78HE(1)(b);
(k) paragraph 78HF(1)(b);
(l) subsection 78HG(1);

the ACMA must, by writing, declare that the next following day is the initial Eligibility Rules completion day for the purposes of this Part.

(2) An instrument under subsection (1) is not a legislative instrument.

(3) The ACMA must publish a copy of an instrument under subsection (1) on the ACMA’s website.

78NE Part has effect notwithstanding Competition and Consumer Act

The provisions of this Part have effect notwithstanding the Competition and Consumer Act 2010.

21 Section 205PA

After:

• The Federal Court may also grant injunctions in relation to transactions that are prohibited under Division 5A of Part 5 (which deals with media diversity).

insert:

• The Federal Court may also grant injunctions in relation to transactions that are prohibited under Part 5A (which deals with news media diversity).

22 Section 205Q

Omit “or 61AMB”, substitute “, 61AMB, 78BE or 78BF”.

23 Section 205ZA

Before “The penalty”, insert “(1)”. 
24 Paragraph 205ZA(a)
Omit “or a subscription television broadcasting licensee”, substitute “, a subscription television broadcasting licensee, a subscription television broadcasting platform, the publisher of a print publication or the provider of an online service”.

25 At the end of section 205ZA
Add:
(2) For the purposes of subsection (1), print publication and online service have the same respective meanings as in Part 5A.

26 Subsection 214(1)
After “66(2),”, insert “78ED(2),”.

27 Subclause 1(1) of Schedule 1
Omit “subscription television broadcasting licences”, substitute “subscription television licences”.

28 Subclause 1(1) of Schedule 1
Omit “newspapers and companies”, substitute “newspapers, print publications, online services and companies”.

29 Subclause 1(1) of Schedule 1
Omit “licence, a newspaper”, substitute “licence, a newspaper, a print publication, an online service”.

30 Subclause 1(1) of Schedule 1
Omit “and 3”, substitute “, 3, 3A and 3B”.

31 Subclause 1(1) of Schedule 1
Omit “or a newspaper”, substitute “, a newspaper, a print publication or an online service”.

32 Subclause 1(1) of Schedule 1
Omit “or the newspaper”, substitute “, the newspaper, the print publication or the online service”.
33 Subclause 1(2) of Schedule 1

After “74”, insert “or 78LA”.

34 After clause 1 of Schedule 1

Insert:

1A Definitions

In this Schedule:

- **online service** has the same meaning as in Part 5A.
- **print publication** has the same meaning as in Part 5A.

35 After paragraph 2(1)(c) of Schedule 1

Insert:

- (ca) in the case of a company that is a subscription television platform for a branded group of subscription television services—the person is in a position, either alone or together with an associate of the person and whether directly or indirectly, to exercise control of the selection of the subscription television services included in the branded group; or

36 At the end of clause 3 of Schedule 1

Add:

- (4) More than one person may be in a position to exercise control of a newspaper.

37 After clause 3 of Schedule 1

Insert:

3A When a person is in a position to exercise control of a print publication (other than a newspaper)

(1) For the purposes of this Schedule, a person is in a position to exercise control of a print publication (other than a newspaper) if:

(a) the person is the publisher of the print publication; or
(b) the person is in a position, either alone or together with an
associate of the person and whether directly or indirectly:
    (i) to exercise control of a significant proportion of the
operations of the publisher in publishing the print
publication; or
    (ii) to exercise control of the selection or provision of a
significant proportion of the material to be published in
the print publication; or
(c) if the print publication is published by a company:
    (i) the person is in a position, either alone or together with
an associate of the person, to exercise control of the
company; or
    (ii) the person, either alone or together with an associate of
the person, is in a position to veto any action taken by
the board of directors of the company; or
    (iii) the person, either alone or together with an associate of
the person, is in a position to appoint or secure the
appointment of, or veto the appointment of, at least half
of the board of directors of the company; or
    (iv) the person, either alone or together with an associate of
the person, is in a position to exercise, in any other
manner, whether directly or indirectly, direction or
restraint over any substantial issue affecting the
management or affairs of the company; or
    (v) the company or more than 50% of its directors:
       (A) act, or are accustomed to act; or
       (B) under a contract or an arrangement or
           understanding (whether formal or informal) are
           intended or expected to act;
           in accordance with the directions, instructions or wishes
           of, or in concert with, the person or of the person and an
           associate of the person acting together or, if the person
           is a company, of the directors of the person.

(2) Subparagraph (1)(b)(ii) does not apply to the provision of material
by a person to a print publication (other than a newspaper) under
an agreement for the supply of material of that kind if the
conditions of the agreement relate only to the material so supplied.
(3) An employee of the publisher of a print publication (other than a newspaper) is not, except through an association with another person, to be regarded as being in a position to control the print publication under subclause (1) purely because of being an employee.

(4) More than one person may be in a position to exercise control of a print publication (other than a newspaper).

3B When a person is in a position to exercise control of an online service

(1) For the purposes of this Schedule, a person is in a position to exercise control of an online service if:

   (a) the person is the provider of the online service; or
   (b) the person is in a position, either alone or together with an associate of the person and whether directly or indirectly:
      (i) to exercise control of a significant proportion of the operations of the provider in providing the online service; or
      (ii) to exercise control of the selection or provision of a significant proportion of the content to be provided by the online service; or
   (c) if the online service is provided by a company:
      (i) the person is in a position, either alone or together with an associate of the person, to exercise control of the company; or
      (ii) the person, either alone or together with an associate of the person, is in a position to veto any action taken by the board of directors of the company; or
      (iii) the person, either alone or together with an associate of the person, is in a position to appoint or secure the appointment of, or veto the appointment of, at least half of the board of directors of the company; or
      (iv) the person, either alone or together with an associate of the person, is in a position to exercise, in any other manner, whether directly or indirectly, direction or restraint over any substantial issue affecting the management or affairs of the company; or
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(v) the company or more than 50% of its directors:

(A) act, or are accustomed to act; or

(B) under a contract or an arrangement or understanding (whether formal or informal) are intended or expected to act;

in accordance with the directions, instructions or wishes of, or in concert with, the person or of the person and an associate of the person acting together or, if the person is a company, of the directors of the person.

(2) Subparagraph (1)(b)(ii) does not apply to the provision of content by a person to the provider of an online service under an agreement for the supply of content of that kind if the conditions of the agreement relate only to the content so supplied.

(3) An employee of the provider of an online service is not, except through an association with another person, to be regarded as being in a position to control the online service under subclause (1) purely because of being an employee.

(4) More than one person may be in a position to exercise control of an online service.

38 Subclause 4(1) of Schedule 1

Omit “licence or newspaper”, substitute “licence, newspaper, print publication or online service”.

39 After subclause 4(3) of Schedule 1

Insert:

(3A) Subclause (1) does not apply in relation to being in a position to exercise control of a print publication (other than a newspaper) if the lender or a controller of the lender:

(a) controls the selection or provision of any of the material to be published in the print publication; or

(b) appoints or secures the appointment of at least half of the board of directors of the media company that publishes the print publication; or

(c) vetoes the appointment of at least half of the board of directors of the media company that publishes the print publication otherwise than:
(3B) Subclause (1) does not apply in relation to being in a position to exercise control of an online service if the lender or a controller of the lender:

(a) controls the selection or provision of any of the content to be provided by the online service; or

(b) appoints or secures the appointment of at least half of the board of directors of the media company that provides the online service; or

(c) vetoes the appointment of at least half of the board of directors of the media company that provides the online service otherwise than:

(i) under a loan agreement or an agreement or transaction referred to in paragraph (1)(b); and

(ii) in the ordinary course of carrying on a business of providing financial accommodation.

40 Subclause 4(4) of Schedule 1 (after paragraph (c) of the definition of media company)

Insert:

(ca) a company that publishes a print publication; or

(cb) a company that provides an online service; or

(cc) a company that is a subscription television platform for a branded group of subscription television services; or