

# POLICY UPDATE – MAY 2013



## NEWS

### **ACCC draft decision on NBN Co Special Access Undertaking**

On 4 April 2013, the Australian Competition and Consumer Commission (ACCC) released its draft decision on the revised Special Access Undertaking (SAU) lodged by NBN Co on 18 December 2012. If accepted, the SAU would be a key part of the framework that governs the price and other terms upon which NBN Co will supply services over its fibre, wireless and satellite networks to telecommunications companies.

In its draft decision, the ACCC states that it is not satisfied that the SAU has met the statutory criteria under the *Competition and Consumer Act 2010* (Cth). The consultation paper outlines proposed amendments to the SAU which would facilitate NBN Co's ability to lodge an amended SAU that is capable of meeting the statutory criteria. The ACCC expects that the changes should deliver a framework for the regulation of NBN Co's services which ensures value and quality services for consumers and businesses, and encourages investment and competition in telecommunications.

Further information is available on the ACCC website at:

<http://transition.accc.gov.au/content/index.phtml/itemId/1080594>

### **ASB Review of Operations 2012**

On 5 April 2013, the Advertising Standards Bureau (ASB) released its *Review of Operations 2012*. The review details the ASB's work in ensuring new forms of advertising and marketing communications are included in complaint processes, along with delivery of an advertising self-regulation conference with APEC economies. The report is available on the ASB website at:

<http://www.adstandards.com.au/publications/reviewofoperations>

### **Reform to the National Classification System**

On 5 April 2013, the Minister for Home Affairs Jason Clare announced that he would introduce the first stage of reforms to the National Classification System into Parliament during the 2013 winter session, after State and Territory Minister's agreed to the reforms at a meeting of the Standing Council on Law and Justice held on 4 April. The reforms implement seven of the recommendations of the [National Classification Scheme Review](#) undertaken by the ALRC in 2012. The Minister's media release is available at:

<http://www.ministerhomeaffairs.gov.au/Mediareleases/Pages/2013/Second%20Quarter/5April2013-ReformtotheNationalClassificationSystem.aspx>

### **ACMA Contemporary Community Safeguards Inquiry**

On 12 April 2013, the ACMA announced the start of an inquiry into contemporary community safeguards, which will inform the review of the codes of practice for commercial television and commercial radio, as well as provide an evidence base for future code reviews. The ACMA will be releasing an issues paper by the end of June for stakeholder comment. The review will also include a series of citizens conversations during the month of June. Further information is available on the ACMA website at: <http://engage.acma.gov.au/contemporary-community-safeguards-inquiry/>

### **Live odds promotions in sports broadcasts**

On 22 April 2013, ASTRA released draft amendments to the ASTRA Codes of Practice that would reduce and control the promotion of live odds in sports broadcasts. The draft amendments are open for public comment until **Monday 20 May 2013**, and are available on the ASTRA website at:

<http://www.astra.org.au/Menu/Policy/Codes-of-Practice>. Free TV Australia has also released draft amendments to the commercial television codes of practice to deal with live odds promotion.

### **Screen NSW Terms of Trade**

On 23 April 2013, Screen NSW published its updated terms of trade. Screen NSW has adopted the same layout and numbering as Screen Australia, with the aim to make business easier for program makers by aligning Screen NSW terms of trade with the federal funding body, through a consistent approach with consistent language in the areas that are common to both agencies. Further information on the Screen NSW website at: [http://www.screen.nsw.gov.au/index.php?page\\_id=44&news\\_id=1248](http://www.screen.nsw.gov.au/index.php?page_id=44&news_id=1248)

### **ALRC Copyright Inquiry**

On 24 April 2013, the Australian Law Reform Commission (ALRC) announced that a discussion paper for its inquiry into Copyright and the Digital Economy would be released by 4 June.

The ALRC noted that it would examine the operation of exceptions in the Copyright Act that refer to the concept of a 'broadcast' and 'broadcasting'. In *Phonographic Performance Company of Australia Limited v Commercial Radio Australia Limited [2013] FCAFC 11*, the Full Court of the Federal Court held that where a radio station provides an internet simulcast of its terrestrial broadcast, the radio station is acting outside the terms of its statutory licence (as internet streaming is not a 'broadcast'). An application for special leave to appeal this decision to the High Court was filed in March 2013. Further information about the Inquiry on the ALRC website at: <http://www.alrc.gov.au/inquiries/copyright-and-digital-economy>

## **CONFERENCES & EVENTS**

### **CASBAA Satellite Industry Forum 2013 (17 June 2013)**

CASBAA's annual Satellite Industry Forum will be held at the Shangri-La Hotel, Singapore on 17 June 2013. Further information on the CASBAA website at: <http://www.casbaa.com/events/events-calendar/details/363-satellite-industry-forum>

### **Screen Australia: Jobs, Dollars, Hearts & Minds – Australian screen industries and audience (18 June 2013)**

Screen Australia is hosting a one-day policy conference in Canberra on the key issues and opportunities facing screen businesses and Australian content. Industry leaders and decision makers will describe their visions for the future, alongside new research about the Australian screen industries and audiences – including results from the first Australian Bureau of Statistics (ABS) screen sector survey in six years. Further information on the Screen Australia website at:

[http://www.screenaustralia.gov.au/news\\_and\\_events/Events/2013/JDHMconference.aspx](http://www.screenaustralia.gov.au/news_and_events/Events/2013/JDHMconference.aspx)

### **ACMA Radcomms Conference (2-3 October 2013)**

The ACMA has announced that its annual conference on the management of the radiofrequency spectrum will be held on Wednesday 2 and Thursday 3 October 2013 at Sydney's Maritime Museum of Australia. Further information is available on the ACMA website at: <http://engage.acma.gov.au/save-the-date/>

## **ASTRA ACTIVITY**

- **Joint Select Committee on Gambling Reform: Inquiry into the advertising and promotion of gambling services in sport** – The Joint Select Committee on Gambling Reform is undertaking an inquiry into the advertising and promotion of gambling services in sport. ASTRA made a submission to this Inquiry and gave evidence before the Committee in Sydney on 27 March 2013. Further information on the Inquiry, including submissions and transcripts, are available from the Parliament of Australia website at:

[http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate\\_Committees?url=gamblingref orm\\_ctte/gambling\\_sport/index.htm](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate_Committees?url=gamblingref orm_ctte/gambling_sport/index.htm)

- **Producer Offset/Definition of documentary** – ASTRA provided written support to the Screen Producers Association of Australia for its appearance on 18 April 2013 before the House of Representatives Economics Committee [Inquiry into the Tax and Superannuation Laws Amendment \(2013 Measures No. 2\) Bill 2013](#), which includes provisions that would insert a definition of ‘documentary’ for the purposes of the producer offset scheme. ASTRA made a submission in January to the exposure draft of the relevant legislation.
- **Captioning** – ASTRA continues to work with the ACMA and the Government in relation to operational aspects of new captioning obligations on STV under the *Broadcasting Services Act 1992*, including reporting requirements and procedures relating to an application for exemption or target reduction orders.
- **Long term spectrum arrangements for television outside broadcasts (TOB) in alternative bands to the 2.5 GHz band** – ASTRA continues to work with the Government, the ACMA and other stakeholders to ensure a sustainable long term solution for TOB spectrum arrangements. ASTRA’s proposal for equitable TOB spectrum sharing was submitted to the ACMA in June 2012 and is available on the Submissions page of the ASTRA website.
- **Anti-siphoning legislation** – ASTRA members have continued active consultation with relevant stakeholders on aspects of legislation to reform the anti-siphoning scheme, currently before Parliament.
- **ASTRA Codes Review** – ASTRA continues to work with the ACMA on a small number of outstanding issues relating to the current draft Subscription Broadcast Television, Subscription Narrowcast Television and Subscription Narrowcast Radio Codes of Practice.

ASTRA submissions are available on the ASTRA website at:

<http://www.astra.org.au/Menu/Policy/Overview/Submissions>

#### **DISCUSSION PAPERS/REQUESTS FOR COMMENT**

#### **ACMA – Amendment to the Customer Cabling Arrangements – Telecommunications (Types of Cabling Work) Declaration 2013**

The ACMA is seeking public comment on proposed changes to customer cabling regulatory arrangements. The effect of the changes would be to clarify the scope of cabling work covered by Division 9 of Part 21 of the *Telecommunications Act 1997* (the Act) and the ACMA’s Cabling Provider Rules made under that Part of the Act. Comments are sought on the proposal to replace the Telecommunications (Types of Cabling Work) Declaration 1997 (the Declaration) with a new 2013 version. The proposed changes are intended to ensure that the new Declaration facilitates continued effective management of the cabling regulatory arrangements, particularly in light of recent developments in the home entertainment and home theatre environment. The consultation paper is available on the ACMA website at: [http://www.acma.gov.au/WEB/STANDARD/pc=PC\\_600189](http://www.acma.gov.au/WEB/STANDARD/pc=PC_600189). Submissions close **24 May 2013**.