

# ACMA's broadcasting powers strengthened

ACMA will be given new enforcement powers to strengthen its capacity to more effectively regulate the broadcasting industry, following the recent announcement by the Minister for Communications, Information Technology and the Arts, Senator Helen Coonan. In most cases, the new powers are similar to those that ACMA already uses in its role as the regulator of telecommunications services.

The additional powers will include:

- the introduction of civil penalties for breaches where only criminal sanctions are currently available,

giving ACMA greater flexibility to address non-compliance

- enabling ACMA to obtain injunctions where commercial broadcasting services are being provided without an appropriate licence
- allowing ACMA to accept enforceable undertakings from industry in its role in regulating the broadcasting, datacasting and internet content industries, and
- issuing infringement notices for minor breaches of the *Broadcasting Services Act 1992* related to reporting requirements.

These changes will enable ACMA to be more responsive, particularly when it comes to ensuring compliance with broadcasting codes of practice and licensing conditions. They will complement and build on the government's announcement in June this year that content safeguards would be extended to mobile devices and premium internet services.

The changes will give ACMA greater options for more appropriately dealing with breaches of the *Broadcasting Services Act* and the power to negotiate enforceable outcomes that should achieve better long-term compliance.

ACMA's existing broadcasting regulatory powers are generally concentrated at the higher end of the scale, but criminal penalties or cancellation of a broadcasting licence may not be a workable response when incidents are minor or where the offending behaviour is unlikely to be repeated.

The proposed changes to ACMA's powers were identified in a discussion paper released by the Department of Communications, Information Technology and the Arts in November 2005 on how to best equip ACMA to regulate the broadcasting industry.

## New media framework for Australia

Comprehensive reform of the media industry in Australia was announced recently by the Minister for Communications, Information Technology and the Arts, Senator Helen Coonan.

The reforms are an important component of the government initiative intended to allow the Australian media sector to move from the old analog-based regime into the new converging world of digital content, where traditional media co-exist and compete with new delivery platforms. A flexible system is needed to allow media companies to adapt and prosper in the rapidly developing digital environment. The changes should encourage new sources of information and entertainment by allowing new entrants into the Australian media industry.

Legislation to implement the new media framework will be developed this year and is expected to commence in 2007. More information is in the Minister's media release at [www.minister.dcita.gov.au/media/media\\_releases/new\\_media\\_framework\\_for\\_australia](http://www.minister.dcita.gov.au/media/media_releases/new_media_framework_for_australia).

### THE NEW FRAMEWORK INCLUDES:

- development of a Digital Action Plan to drive the take-up of digital television services and help consumers make the transition from analog services to the new digital environment
- opening up two reserved digital channels for new digital services such as mobile television or new in-home services
- permitting commercial free-to-air television stations

- to broadcast one standard definition multichannel from 2009, and to allow full multichannelling no later than the time of digital switchover
- permitting a high definition multichannel by removing the simulcast requirement on high definition television programming
- removing the 'genre' restrictions on the types of programming that can be shown on ABC and SBS multichannels
- reforming the anti-siphoning scheme by introducing a 'use

- it or lose it' system for sporting events on the list to commence on 1 January 2007
- relaxing the current restrictions on cross-media ownership subject to safeguards that will ensure no fewer than five independent 'voices' remain in metropolitan markets and four in regional markets, on proclamation on a date to be determined in 2007
- legislating to retain licence conditions ensuring local content on regional television in Queensland, New South

Wales and Victoria and extend them to Tasmania

- protecting local radio content in regional markets by requiring commercial radio licensees seeking mergers in regional markets to meet minimum standards for local content including news, community service announcements and emergency warnings
- removing the existing foreign ownership restrictions, but retaining the media industry as a 'sensitive sector' under the government's Foreign Investment Policy, on proclamation on a date to be determined in 2007 and
- giving ACMA new powers to regulate broadcasting including power to seek civil penalties and injunctions and accept enforceable undertakings from broadcasters.