

NEWS

Anti-siphoning legislation

The Senate Environment and Communications Legislation Committee's Inquiry into the Broadcasting Services Amendment (Anti-Siphoning) Bill 2012 ('the Bill') is due to report on 4 May 2012. The Bill would implement the Government's reforms to the anti-siphoning scheme, as announced in November 2010. Further information on the Committee Inquiry and the Bill is available on the Parliament of Australia website at:

http://www.aph.gov.au/Parliamentary_Business/Committees/Senate_Committees?url=ec_ctte/anti_siphoning_2012/index.htm

Convergence Review

The Final Report of the Convergence Review Committee was released on 30 April 2012. The Report's recommendations are largely consistent with the recommendations foreshadowed in the Interim Report released in December 2011.

The Minister for Broadband, Communications and the Digital Economy, Senator the Hon Stephen Conroy, has previously stated that the Government will formally respond to the Review later in 2012 and will seek to begin delivering reforms during the course of 2012. Further information on the Convergence Review is available on the DBCDE website at:

http://www.dbcde.gov.au/digital_economy/convergence_review

iiNet – High Court

On 20 April 2012, Content owners lost their appeal to the High Court in relation to liability of internet service provider iiNet for the unauthorised distribution of copyright material by its customers. The High Court found that iiNet had no direct technical power to prevent its customers from using the BitTorrent system to infringe copyright in the appellants' films; rather the extent of iiNet's power to prevent its customers from infringing the appellants' copyright was limited to an indirect power to terminate its contractual relationship with its customers. The full judgement is available at:

<http://www.austlii.edu.au/au/cases/cth/HCA/2012/16.html>

Optus TV Now – Federal Court

On 27 April 2012, the Full Court of the Federal Court dismissed orders made in February protecting Optus from copyright infringement claims in relation to its TV Now service. The Full Bench found that both Optus and the user were responsible for making recordings, and that Optus was not protected by exceptions for copying for personal or private use. Optus has 21 days from the decision to appeal to the High Court. The full judgement is available here:

<http://www.austlii.edu.au/au/cases/cth/FCAFC/2012/59.html>

Olympic Games 3D TV Trials

On 20 April 2012, the Australian Communications and Media Authority (ACMA) announced that it has agreed to issue licences to Nine Network Australia, provided certain conditions are met, to conduct trials of 3D TV featuring daily highlights of the 2012 Olympic Games. The ACMA has permitted Nine to use unassigned TV channels for 3D TV trials in Adelaide, Brisbane, the Gold Coast, Melbourne, Perth and Sydney. Further information on the ACMA website at:

http://www.acma.gov.au/WEB/STANDARD/pc=PC_410348

Privacy Law Reform

On 2 May 2012, the Federal Attorney-General announced reforms to Federal Privacy Law, intended to: clarify and tighten regulation of the use of personal information for direct marketing; improve mechanisms for consumers to access and correct information held about them; tighten rules on sending personal information outside Australia; and enhance the powers of the Privacy Commissioner to improve the Commissioner's ability to resolve complaints, conduct investigations and promote privacy compliance. Amendments to the *Privacy Act 1988* (Cth) to implement the reforms will be introduced into the Parliament in the winter sitting period. Further information is available from

www.ag.gov.au/Privacy/Pages/Privacy-Reforms.aspx

Australian National Audit Office Report: Administration of the Australia Network Tender Process

On 3 April 2012, the ANAO released its report into the Australia Network Tender Process. The audit objective was to report on the administration of the tender process and to identify lessons learned from the conduct of the process to inform future procurement activities. The report is available on the ANAO website at: <http://www.anao.gov.au/Publications/Audit-Reports>

FOXTEL acquisition of AUSTAR

On 10 April 2012, the Australian Competition and Consumer Commission (ACCC) announced that it will not oppose the proposed acquisition of AUSTAR United Communications Limited by FOXTEL Management Pty Limited after accepting court-enforceable undertakings from FOXTEL. The undertakings will prevent FOXTEL from acquiring exclusive internet protocol television (IPTV) rights for a range of television program and movie content. The undertaking further prohibits FOXTEL from exclusively acquiring any movie delivered on a Transactional Video on Demand (TVOD) basis. The undertaking also prevents FOXTEL from acquiring exclusive mobile rights to the content referred to above where those rights are sought by competitors to combine with IPTV rights. Further information is available on the ACCC website at:

<http://www.accc.gov.au/content/index.phtml/itemId/1044888/fromItemId/142>

CONFERENCES & EVENTS

6-7 June 2012: The *ACMA Radcomms Conference 2012* will be held at the Sofitel Melbourne on Collins. See the ACMA website for more details: <http://engage.acma.gov.au/radcomms/>

7-8 June 2012: Media Regulation in Australia Forum, to be held at the Radisson Blu Hotel Sydney. For more information see:

<http://www.informa.com.au/conferences/business/media/media-regulation-forum>

21 June 2012: The 10th Annual ASTRA Awards will be held at Sydney Theatre, Walsh Bay. For more information see: <http://www.astra.org.au/Astra-Awards/Home>

ASTRA ACTIVITY

- **Anti-siphoning legislation** – ASTRA, with FOXTEL and FOX SPORTS, made submissions to the Senate Environment and Communications Legislation Committee’s Inquiry into the Broadcasting Services Amendment (Anti-Siphoning) Bill 2012 and appeared before the Committee in public hearings held on 13 April 2012. Further information on the Committee Inquiry and the Bill is available on the Parliament of Australia website at: http://www.aph.gov.au/Parliamentary_Business/Committees/Senate_Committees?url=ec_ctte/anti_siphoning_2012/index.htm
- **Australian Law Reform Commission draft Terms of Reference** – On 27 April 2012, ASTRA made a submission to the draft terms of reference for the upcoming ALRC Copyright Review. Further information is available on the Attorney-General’s Department website at: <http://www.ag.gov.au/Consultationsreformsandreviews/Pages/Draft-Terms-of-Reference-for-the-Australian-Law-Reform-Commission-Reference-on-Copyright.aspx>
- **Long term arrangements for Electronic News Gathering (ENG) in alternative bands to the 2.5 GHz band** – ASTRA has been in active consultation with the ACMA regarding its ongoing process for determining long term arrangements for alternative spectrum bands for ENG and TV outside broadcast activities.
- **Live odds in sports broadcasts** – ASTRA is in ongoing discussions with DBCDE regarding measures to address live odds promotion in sports broadcasts.
- **Captioning legislation** – ASTRA has been in continuing consultations with DBCDE regarding the detail of proposed legislation for captioning requirements on subscription television. An exposure draft of the legislation was made available to stakeholders on 1 May 2012, with legislation expected to be introduced in the coming weeks.
- **ASTRA Codes Review** – Public consultation on draft revised Subscription Broadcast Television, Subscription Narrowcast Television and Subscription Narrowcast Radio codes of practice closed on 27 April 2012. ASTRA is currently considering submissions made during the consultation process.

ASTRA submissions are available on the ASTRA website at:

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

DISCUSSION PAPERS/REQUESTS FOR COMMENT

ACMA seeks comment on draft legislative instruments for the digital dividend auction

The Australian Communications and Media Authority (ACMA) is inviting comments on its draft legislative instruments for the digital dividend auction. The ACMA is preparing to hold the digital dividend auction in 2012-13, where it will reallocate parts of the 700 MHz and 2.5 GHz bands by issuing spectrum licences. Submissions are due **9 May 2012**. Further information is available on the ACMA website at: http://www.acma.gov.au/WEB/STANDARD/pc=PC_410319

ACMA Proposed updates to the spectrum licence framework

In anticipation of the forthcoming spectrum allocations and the expiring spectrum licence process, the ACMA has reviewed the spectrum licence regulatory and technical frameworks. The paper outlines a number of minor, incremental changes to the spectrum licence regulatory framework. The proposed changes will support all spectrum licences issued from 2012, and are intended to provide increased flexibility and offering greater spectrum utility as a result. The closing date for submissions is **Tuesday 15 May 2012**. Further information on the ACMA website at: http://www.acma.gov.au/WEB/STANDARD/pc=PC_410314

ACMA Introduction of television outside broadcast services into the bands 1980-2110 MHz and 2170-2300 MHz

As an outcome of the ACMA's 2010 review of the 2.5 GHz band the ACMA is developing arrangements to support the introduction of television outside broadcast (TOB) services into the 1980-2110 MHz and 2170-2300 MHz bands (known as the alternative bands). As a part of that work the ACMA is seeking comment on proposals for supporting different types of TOB applications, such as coverage of news events (also known as electronic news gathering) and coverage of planned events (such as sporting events), within the alternative bands. The closing date for submissions is **Wednesday 30 May 2012**. Further information is available on the ACMA website at: http://www.acma.gov.au/WEB/STANDARD/pc=PC_410340