
Access Undertaking pursuant to Part 3.3, Division 4B, Subdivision B of the Radiocommunications Act 1992 (Cth)

23 January 2009

Digital Radio Broadcasting Adelaide Pty Ltd (ACN 128 742 772) – Foundation Category 1
Digital Radio Multiplex Transmitter Licence Number 1901330

Digital Radio Broadcasting Brisbane Pty Ltd (ACN 128 742 950) – Foundation Category 1
Digital Radio Multiplex Transmitter Licence Number 1901423

Digital Radio Broadcasting Brisbane Pty Ltd (ACN 128 742 950) – Foundation Category 1
Digital Radio Multiplex Transmitter Licence Number 1901424

Digital Radio Broadcasting Melbourne Pty Ltd (ACN 128 742 898) – Foundation Category
1 Digital Radio Multiplex Transmitter Licence Number 1901421

Digital Radio Broadcasting Melbourne Pty Ltd (ACN 128 742 898) – Foundation Category
1 Digital Radio Multiplex Transmitter Licence Number 1901422

Digital Radio Broadcasting Perth Pty Ltd (ACN 128 742 638) – Foundation Category 1
Digital Radio Multiplex Transmitter Licence Number 1901331

Digital Radio Broadcasting Sydney Pty Ltd (ACN 128 742 978) – Foundation Category 1
Digital Radio Multiplex Transmitter Licence Number 1901419

Digital Radio Broadcasting Sydney Pty Ltd (ACN 128 742 978) – Foundation Category 1
Digital Radio Multiplex Transmitter Licence Number 1901420

Gilbert + Tobin

2 Park Street
Sydney NSW 2000
Australia

GPO Box 3810
Sydney NSW 2001

T +61 2 9263 4000
F +61 2 9263 4111

DX 10348 SSE

www.gtlaw.com.au

Contents

	Page
Background	1
1 Dictionary	1
1.1 Defined terms	1
1.2 Interpretation	3
2 Term	3
2.1 Commencement	3
2.2 Continuation	3
2.3 Suspension	3
3 Undertaking	3
3.1 General	3
3.2 Access Agreement	4
4 Withdrawal, Replacement and Variation	4
4.1 General	4
4.2 Effect of replacement or variation	4
Attachment A – Service description	
Attachment B – Access Agreement	

Access Undertaking to the Australian Competition and Consumer Commission pursuant to Part 3.3, Division 4B, Subdivision B of the Radiocommunications Act

Background

- A **Digital Radio Broadcasting Adelaide Pty Ltd (ACN 128 742 772), Digital Radio Broadcasting Brisbane Pty Ltd (ACN 128 742 950), Digital Radio Broadcasting Melbourne Pty Ltd (ACN 128 742 898), Digital Radio Broadcasting Perth Pty Ltd (ACN 128 742 638) and Digital Radio Broadcasting Sydney Pty Ltd (ACN 128 742 978)**, each with the address of Level 5, 88 Foveaux Street, Surry Hills NSW 2010, are the holders of Foundation Category 1 Digital Radio Multiplex Transmitter Licences under the Radiocommunications Act (**Multiplex Licensee**).
- B This access undertaking sets out the terms and conditions on which the Multiplex Licensee is to supply Multiplex Capacity to obtain the Standard Access Entitlements and Excess-Capacity Access Entitlements to which they are entitled.
-

1 Dictionary

1.1 Defined terms

In this undertaking:

ACCC means the Australian Competition and Consumer Commission.

Access Agreement means the access agreement, including the main body and all schedules, attachments and annexures, set out in Attachment B (**Access Agreement**) of this access undertaking.

Access Seeker means an access seeker under an Access Agreement and may include:

- (a) an Incumbent Commercial Broadcaster;
- (b) the Digital Community Radio Broadcasting Representative Company (acting on behalf of Digital Community Broadcasters); and
- (c) a Restricted Datacaster.

Broadcasting Services Act means the *Broadcasting Services Act 1992 (Cth)*, as amended from time to time.

Commencement Date has the meaning given to it in clause 2.1 of this access undertaking.

Content Service has the meaning given to it in section 118NB of the Radiocommunications Act.

Designated BSA Radio Area has the meaning given to it in section 5 of the Radiocommunications Act.

Digital Channel means a digital stream of programming corresponding to the equivalent of a single (or part thereof) analogue radio broadcasting service or other content service which is permitted to be provided in the Designated BSA Radio Area.

Digital Community Broadcaster means the holder of a Digital Community Radio Broadcasting Licence.

Digital Community Radio Broadcasting Licence has the meaning given to it in section 5 of the Radiocommunications Act.

Digital Community Radio Broadcasting Representative Company has the meaning given to it in section 9C of the Radiocommunications Act.

Digital Radio Multiplex Transmitter Licence has the meaning given to it in section 5 of the Radiocommunications Act.

Excess-Capacity Access Entitlement has the meaning given to it in section 118NB of the Radiocommunications Act.

Excess-Capacity Access Obligations has the meaning given to it in section 118NB of the Radiocommunications Act.

Foundation Category 1 Digital Radio Multiplex Transmitter Licence has the meaning given to it in section 98C of the Radiocommunications Act.

Incumbent Commercial Broadcaster means an Incumbent Digital Commercial Radio Broadcasting Licensee.

Incumbent Digital Commercial Radio Broadcasting Licensee has the meaning given to it in section 5 of the Radiocommunications Act.

Multiplex Capacity has the meaning given to it in clause 118NB of the Radiocommunications Act.

Multiplex Transmission Service has the meaning given to it in Attachment A (**Service description**).

OFDM means orthogonal frequency division multiplex.

Qualified Content Service Provider means:

- (a) an Incumbent Commercial Broadcaster;
- (b) a Digital Community Broadcaster; and
- (c) a Restricted Datacaster.

Radiocommunications Act means the *Radiocommunications Act 1992 (Cth)*, as amended from time to time.

Restricted Datacaster means a holder of a Restricted Datacasting Licence.

Restricted Datacasting Licence has the meaning given to it in the Broadcasting Services Act.

Standard Access Entitlement has the meaning given to it in section 118NB of the Radiocommunications Act.

Standard Access Obligations has the meaning given to it in section 118NB of the Radiocommunications Act.

1.2 Interpretation

In this access undertaking:

- (a) the singular includes the plural and vice versa;
- (b) a reference to a party includes its agents, successors and permitted assigns; and
- (c) a reference to the Access Agreement includes the Access Agreement as varied from time to time in accordance with this access undertaking.

2 Term

2.1 Commencement

This access undertaking commences on the date that the ACCC gives the Multiplex Licensee a written notice pursuant to section 118NF(7) of the Radiocommunications Act stating that this access undertaking has been accepted (**Commencement Date**).

2.2 Continuation

- (a) This access undertaking continues in full force and effect from the Commencement Date for such period of time as the Multiplex Licensee continues to hold a Digital Radio Multiplex Transmitter Licence.
- (b) If a Digital Radio Multiplex Transmitter Licence held by the Multiplex Licensee is renewed and this access undertaking is in force immediately before the expiry of such licence, this access undertaking will remain in force for the duration of the new licence.

2.3 Suspension

If the Digital Radio Multiplex Transmitter Licence held by the Multiplex Licensee is subject to suspension, this access undertaking is also suspended for the duration of the suspension of the Digital Radio Multiplex Transmitter Licence in accordance with sections 118NG(1)(e), 118NG(2)(c) or 118NG(5)(d) of the Radiocommunications Act (as the case may be).

3 Undertaking

3.1 General

- (a) The Multiplex Licensee undertakes to be bound by the obligations set out in Part 3.3, Division 4B of the Radiocommunications Act.
- (b) The Multiplex Licensee undertakes to supply the Multiplex Transmission Service in accordance with the applicable provisions of the Radiocommunications Act, including but not limited to the obligation of non-discrimination in section 118NP of the Radiocommunications Act in relation to:
 - (i) the technical and operational quality of the services supplied to the content service providers; and
 - (ii) the technical and operational quality and timing of the fault detection, handling and rectification supplied to the content service providers.

3.2 Access Agreement

- (a) The Multiplex Licensee undertakes to provide the Multiplex Transmission Service to Access Seekers on the terms and conditions specified in the Access Agreement to enable:
 - (i) an Incumbent Commercial Broadcaster to obtain the Standard Access Entitlement to which it is entitled;
 - (ii) a Digital Community Broadcaster to obtain, through the Digital Community Radio Broadcasting Representative Company, the Standard Access Entitlement nominated for allocation to that Digital Community Broadcaster by the Digital Community Radio Broadcasting Representative Company; and
 - (iii) a Qualified Content Service Provider to obtain an Excess-Capacity Access Entitlement that it may acquire pursuant to the access agreement.
- (b) The Multiplex Licensee has no obligation to enter into an Access Agreement, except:
 - (i) with:
 - (A) an Incumbent Commercial Broadcaster;
 - (B) the Digital Community Radio Broadcasting Representative Company representing all Digital Community Broadcasters; and
 - (C) a Restricted Datacaster;
 - (ii) where there is sufficient Multiplex Capacity to accommodate the Access Seeker, as ascertained in accordance with the Radiocommunications Act; and
 - (iii) where the Access Seeker has satisfied the conditions precedent set out in the Access Agreement.
- (c) The Access Agreement forms part of this access undertaking.

4 Withdrawal, Replacement and Variation

4.1 General

Nothing in this access undertaking limits the Multiplex Licensee's rights to amend, replace or vary this access undertaking in accordance with the Radiocommunications Act ~~or otherwise~~.

4.2 Effect of replacement or variation

Any replacement of, or variation to, this access undertaking will, ~~unless agreed otherwise between the Multiplex Licensee and an Access Seeker~~, automatically form part of an Access Agreement that has been entered into between those parties.

Attachment A — Service description

1 Multiplex Transmission Service

1.1 Service description

- (a) The Multiplex Transmission Service is a service provided by the Multiplex Licensee to Access Seekers who have access to Multiplex Capacity, for the transmission over that Multiplex Capacity of Digital Channels supplied by Access Seekers to the Multiplex Licensee.
- (b) The Multiplex Transmission Service has three bundled components:
 - (i) multiplexing Digital Channels from more than one Access Seeker into a single Transport Stream (**Multiplexing Service**);
 - (ii) modulating that Transport Stream using OFDM in preparation for radio frequency transmission (**Modulation Service**); and
 - (iii) radio frequency transmission of the OFDM modulated Transport Stream (**RF Service**).

1.2 Multiplexing Service

- (a) In order for the Multiplex Licensee to provide the Multiplexing Service, each Access Seeker must supply its Digital Channel to the Multiplex Licensee as a data stream where the Audio Coding is compliant with European Telecommunications Standards Institute (**ETSI**) technical specification ETS 300 401 and into which is multiplexed Program Associated Data (**PAD**) for that Digital Channel. The PAD may include PAD-X information. Each Access Seeker may also provide, as a separate data stream, auxiliary information such as Traffic Message Channel (**TMC**) or Emergency Warning System (**EWS**).
- (b) The Multiplex Licensee combines the Digital Channels by multiplexing and coding them in accordance with ETSI technical specification ETS 300 401 to produce the Main Service Channel which will be in Stream Mode. In addition, the Multiplex Licensee adds Multiplex Configuration Information, Service Information and other relevant information to produce the Fast Information Channel.
- (c) The Multiplex Licensee adds a Synchronisation Channel based on frame timing and the other two channels.

1.3 Modulation Service

The Multiplex Licensee combines the Main Service Channel, Fast Information Channel and Synchronisation Channel in accordance with ETSI technical specification ETS 300 401 to produce OFDM symbols.

1.4 RF Service

The Multiplex Licensee modulates a transmitter using the OFDM symbols produced using the Modulation Service. The transmitter characteristics conform to the radiocommunications apparatus licence held by the Multiplex Licensee.

2 Definitions

Capitalised terms in this service description have the meaning given in ETSI technical specification ETS 300 401 or the Radiocommunications Act, unless they are defined in section 1 of this access undertaking.

**Attachment B —
Access Agreement**