



any other means or a combination of those means, but does not include:

- (a) a service (including a teletext service) that provides no more than data, or no more than text (with or without associated still images); or
- (b) a service that makes programs available on demand on a point-to-point basis, including a dial-up service; or
- (c) a service, or a class of services, that the Minister determines by notice in the *Gazette*, not to fall within this definition.

While datacasting is, by definition, not broadcasting, it does use the broadcasting services bands. The term applies uniquely to services delivered via the broadcasting services bands, even though similar services may be available by other means, including by the use of other radiofrequency spectrum.

The legislation does not contain any further guidelines for determining the types of services to be considered datacasting and for determining the way in which they are to be distinguished from broadcasting. It does, however, require the Minister to cause to be conducted a review into:

whether any amendments of the laws of the Commonwealth should be made to deal with the scope of services that are categorised as datacasting services (paragraph 59 (1) (dd) of Schedule 4 of the Broadcasting Services Act).

The Department of Communications, Information Technology and the Arts is conducting this review, known as the Review into Scope of Datacasting Services.

Who will be able to provide permanent datacasting services?

There are two groups of potential datacasting service providers—existing free-to-air broadcasters and new entrants.

Taking the new entrants first, channels in the broadcasting services bands not needed for the digital television conversion process will be identified and made available for allocation, on a competitive basis, for datacasting services. Free-to-air broadcasters will not be allowed to bid for these channels.

Free-to-air broadcasters will be allowed to provide datacasting services (including subscription datacasting services) using any residual capacity in their digital television channels, but will have to pay a charge for doing so. The charge to be paid by the broadcasters is the subject of the *Datacasting Charge (Imposition) Act 1998*.

The charge will be determined by the Australian Communications Authority (ACA) and will be linked to the price paid for datacasting channels by other datacasters in a way that promotes competitive neutrality.

Only 4 pay TV meet

Only four of the 16 pay TV drama channels complied with the requirement to spend 10 per cent of their annual program expenditure on new Australian drama in 1997–98.

Performance by individual channels varied considerably. The Disney Channel, Nickelodeon and the comedy-channel exceeded the 10 per cent minimum expenditure required. One channel, Arena, met the requirement. These four accounted for 63 per cent of the expenditure on new Australian drama.

Three channel providers, Arena, The Disney Channel and Nickelodeon also made up the shortfall in their obligation from previous years.

Seven channels spent between 0.4 per cent and 5.5 per cent of their total program expenditure on new Australian drama. No information was provided concerning the sixteenth channel, Hallmark, an overseas drama channel carried by FOXTEL.

The total program expenditure by 15 predominantly drama channels in the year ending 30 June 1998 was \$100 806 940, of which \$8 173 504 was spent on new Australian drama.

'While the amount spent on new Australian drama represents an increase on the previous year's performance, not all channels spent the required 10 per cent and the aggregate industry figures show an underspend for the third year in succession,' said Professor David Flint, ABA Chairman.

Drama on pay TV

The Broadcasting Services Act requires predominantly drama pay TV services to spend 10 per cent of their program budget on new Australian drama. This requirement is currently unenforceable because the legislation did not anticipate the structure of the industry. It is expected that new legislation to correct this situation will be introduced in Parliament in the near future.

'Pay TV is operating as a source of drama funding, with some channels such as The Disney Channel making considerable contributions to new production,' said Professor Flint. 'The ABA is confident that with the introduction of a new enforceable regime and further growth in this developing industry, there will be a continuing trend towards increased spending on Australian drama.'

In 1996–97, a total of

Market	Channel	Channel bandwidth
Brisbane	UHF 38	7 MHz
Canberra	UHF 40	7 MHz
Newcastle	UHF 51	7 MHz
Sydney	UHF 29	7 MHz

Note: The draft technical specifications for these channels are available as attachments to the relevant draft digital channel plans— please note that these are subject to change.



Predominantly drama pay TV channels are required to spend 10 per cent of their annual program expenditure on new Australian drama. In 1997-98 only four pay TV services met the requirement, together accounting for 63 per cent of the expenditure on new Australian drama.

drama channels

Australian content spending requirement

\$3 242 754 was spent on new Australian drama which was 5 per cent of a total program expenditure of \$64 581 955 (for 15 channels).

In the first reporting period, 1995-96, \$1 740 678 was spent on new Australian drama, representing 7.1 per cent of a total program expenditure of \$24 570 420 (based on 11 channels).

'New Australian drama' expenditure requirement

Pay TV Australian content requirements only apply to drama channels. Sixteen of the 56 pay TV channels are drama channels. In 1996-97 there were 15.

Voluntary scheme

Section 102 of the Broadcasting Services Act provides:

Each subscription television broadcasting licence is subject to the condition that, if the licensee provides a service devoted predominantly to drama programs, the licensee will, for each year of operation, ensure that at least 10% of the licensee's program expenditure for that year in relation to that service is spent on new Australian drama programs.

Few, if any, pay TV licensees themselves expend money on programming, making section 102 effectively unenforceable. The ABA therefore encouraged voluntary expenditure on new Australian drama by pay TV broadcasters and pay TV channel providers. The ABA developed guidelines for the implementation of the condition and under this arrangement pay TV broadcasters and pay TV channel providers have been reporting on their new Australian drama expenditure.

ABA investigation

In May 1997 the ABA reported to Senator the Hon. Richard Alston, Minister for Communications, the Information Economy and the Arts, on its investigation into Australian content on pay TV.

In its report, the ABA said that priority should be given to developing an enforceable scheme, if the requirement for expenditure on new Australian programs is to operate effectively. Improvements should also be made to the administration of the regulation, to give greater certainty about what constitutes 'program expenditure', and enhanced reporting requirements.

Pay TV drama channels

This table lists the 16 predominantly drama pay TV channels covered by the ABA guidelines.

Channel	Broadcaster	Channel provider
Arena Austar	FOXTEL	XYZ Entertainment
The Disney Channel	Optus	Disney Channel Australia
FOX	FOXTEL	FOXTEL Management
Fx	FOXTEL	FOXTEL Management
Nickelodeon	FOXTEL Austar	Nickelodeon Australia
TV1	FOXTEL Austar	TV1
Hallmark	FOXTEL	Hallmark
The Cartoon Network TNT	FOXTEL Optus Austar	Turner Entertainment
UKTV	FOXTEL	UKTV
Movie Network Movie One Movie Greats	Optus	MovieVision
Showtime Encore	FOXTEL Austar	The Premium Movie Partnership
Thecomedychannel	FOXTEL Austar	thecomedychannel

Note: the reporting entity is shown in **bold**