

## Fairfax Media undertakes to divest Ipswich radio station

**ACMA has accepted an enforceable undertaking from Fairfax Media Limited (Fairfax) to divest its commercial radio licence in Ipswich, River 94.9, and to appoint an independent manager to operate the business during the divestment period.**

On 4 October 2007, Fairfax and its directors applied to ACMA for prior approval of temporary breaches of certain media control rules under the *Broadcasting Services Act 1992* (BSA).

The statutory control rules are the limitations on control and directorships set out in Divisions 2 and 3 of Part 5 of the BSA. Section 54 states that a person can control a maximum of two commercial radio licences in a licence area.

A person may commit an offence by being in breach of a limitation on control or directorships. There will be no offence where ACMA has approved the breach in advance of the transaction by which it arose.

The original breaches arose through the operation of a charge to be granted to Fairfax over the shares held by Macquarie Media Group in Southern Cross Broadcasting (Australia) Limited (SCB). The charge was associated with

Fairfax's acquisition of commercial radio licences formerly owned by SCB. The charge was released on 9 November 2007, causing all breaches to cease except for those in the Brisbane/Ipswich radio licence area.

Before coming into a position to exercise control of SCB, Fairfax was in a position to exercise control of a commercial radio licence in the combined Brisbane/Ipswich licence area (River 94.9). SCB controlled two commercial radio licences in Brisbane/Ipswich (4BC and 4BH).

The charge over the SCB shares granted to Fairfax resulted in breaches of the statutory control rules for this licence area (sections 54 and 56 of the BSA) because the acquisition gave Fairfax control of radio licences 4BC and 4BH in Brisbane at the same time as it controlled River 94.9.

On 17 October 2007, ACMA gave approval for

the breaches by Fairfax and its directors. In support of its application for prior approval of the breaches, Fairfax offered ACMA an enforceable undertaking under Part 5 and Part 14D of the BSA, which was accepted.

ACMA is now satisfied that the enforceable undertaking offered by Fairfax should be sufficient to ensure—as required by the Act—that necessary actions will be taken to remedy the relevant breaches within the appropriate time. This period cannot be more than two years.

The undertaking has been published on ACMA's website at <[www.acma.gov.au](http://www.acma.gov.au)> (go to For licensees & industry: Licensing & regulation > Broadcasting: Broadcasting ownership & control > Limitations on control > Control requirements > Prior approval for temporary breach or transaction > ACMA's enforceable undertakings). Details of temporary breaches approved by ACMA are provided in the Register of Notices and Approvals under Part 5 of the BSA.

Further information on media groups and media operations, and their controllers, in each licence area in Australia is available by consulting the Register of Controlled Media Groups and the Media Diversity Report on ACMA's website.

## ACMA grants provisional authorisation to use IPND data for public number directory

**ACMA has granted a provisional authorisation to Australian Local Directories Pty Ltd to use and disclose data from the Integrated Public Number Database (the IPND) as a public number directory publisher.**

The IPND is an industry-wide database of all listed and unlisted public telephone numbers. It was established in 1998 and is managed by Telstra under the *Carrier Licence Condition (Telstra Corporation Limited) Declaration 1997*. Part 13 of the *Telecommunications Act 1997* governs who can access and use data from the IPND.

This is the first authorisation to be granted under the *Telecommunications Integrated Public Number Database Scheme 2007* (the IPND Scheme), which commenced on 15 May 2007. The scheme established a 'gatekeeper' role for ACMA in granting authorisations to use and

disclose IPND data for approved purposes connected with the publication and maintenance of public number directories or with research.

Australian Local Directories was able to demonstrate that its directory products will comply with the requirements of the IPND Scheme. ACMA determined that the proposed purpose for use and disclosure of IPND data was legitimate and that the applicant demonstrated the capacity to handle the data securely.

Provisional authorisation entitles Australian Local Directories to access a subset of IPND data in order to produce a sample public number

directory. ACMA will assess this as an application for final authorisation under the IPND Scheme. If this is granted, Australian Local Directories will be allowed to publish public number directories using IPND data.

The IPND Scheme also provides for the assessment of applications, the period for which authorisations will be in force, the notification of decisions under the scheme and the imposition of conditions on the granting of authorisations, and it outlines the process for when such authorisations end.

Distinct but similar processes are in place for both public number directory publishers and researchers.

Prior to the commencement of the IPND Scheme, the Australian Communications Authority (ACMA's predecessor organisation) found that in a number of cases information from the IPND was being used inappropriately by registered IPND data users. The reasonable expectation that a certain level of protection be afforded to customer information was therefore repeatedly not being met.