

Senate Environment and Communications Legislation Committee
**Inquiry into the Communications Legislation Amendment (Regional
Broadcasting Continuity) Bill 2024**

Written question on notice asked by Senator Grogan, Chair, on 23 July 2024

You submitted (*Submission 2*, pp. 1 and 2) that the process to consider making a legislative instrument in relation to a service-deficiency declaration or a variation to a television licence area plan may take three to four months. Could the process be expedited while still ensuring the ACMA complies with its legislative and other obligations?

Australian Communications and Media Authority response

Section 17 of the *Legislation Act 2003* requires that, before making a legislative instrument, the instrument-maker must be satisfied that appropriate consultation, as is reasonably practicable, has been undertaken in relation to a proposed instrument. Where it proposes to make a legislative instrument, and there is no statutory obligation to allow for a specific minimum period of consultation, the ACMA prefers to allow for a six-week consultation period, unless it is appropriate to allow more time (for example, where the six weeks ordinarily allowed for consultation would end on a day in the Christmas/New Year period). This gives stakeholders time to consider the proposal and to draft their submissions. In circumstances where there is an urgency to make the instrument, or where the ACMA considers that the making of a legislative instrument will not raise significant objections, the ACMA may shorten the consultation period. Each circumstance must be considered on a case-by-case basis. The length of time taken to assess submissions received as part of the consultation process will depend upon the nature and number of submissions received. The ACMA endeavours to progress these tasks in a timely fashion and to prioritise those matters where there will be particular impact on the community or on industry.

A service deficiency declaration made under section 130ZH of the *Broadcasting Services Act 1992* (the BSA) and television licence area plans made under section 26(1B) of the BSA are legislative instruments. Viewers in Mildura will not be able to receive the 10 suite of television services (other than through streaming via the 10 Play app) until the ACMA makes a service deficiency declaration with respect to the Mildura licence area under the amendments to the BSA proposed by the Communications Legislation Amendment (Regional Broadcasting Continuity) Bill 2024 (the Bill). The ACMA will take this situation into account when considering its consultation strategy for any service deficiency declarations it makes if the Bill passes. It will also take into account that the ACMA has not previously made a service deficiency declaration under the BSA and has not previously heard from stakeholders on this type of instrument. We remain obligated to undertake appropriate consultation, as is reasonably practical, for each legislative instrument we propose to make.