



Draft Ministerial Policy Statement – Expiring spectrum licences

ACCC submission

April 2024

ACCC's role

The Australian Competition and Consumer Commission (ACCC) welcomes the opportunity to provide a submission to the Department of Infrastructure, Transport, Regional Development, Communications and the Arts' (Department) consultation on a draft ministerial policy statement that the Australian Communications and Media Authority (ACMA) must have regard to in making decisions relating to certain spectrum licences due to expire between 2028 and 2032.

The ACCC is the economy-wide competition regulator responsible for enforcing the *Competition and Consumer Act 2010* (Cth) (CCA). We protect Australian consumers by fostering competitive, efficient, fair and informed Australian markets, including telecommunications markets.

The ACCC is responsible for the economic regulation of certain telecommunications services under Part XIC of the CCA. The ACCC also has a statutory role in providing advice on allocation limits to the ACMA upon request under the *Radiocommunications Act 1992*. To this end, the ACCC works closely with the ACMA to ensure that allocations of spectrum promote competition in relevant downstream markets that rely on spectrum as an essential input.

ACCC supports the draft ministerial policy statement

The majority of the spectrum licences currently held by the mobile network operators are due to expire between 2028 and 2032. The ACMA's expiring spectrum license process is therefore an important opportunity to assess what future arrangements will best promote the benefit that end-users derive from the use of the spectrum to provide mobile services.

The ACCC supports the Minister's intention to issue a specific ministerial policy statement on the expiring spectrum licences process. The ACCC considers this will provide clarity on the relevant policy objectives applicable to the ACMA's consideration when making decisions regarding the expiring spectrum licenses.

The ACCC supports the policy objectives proposed in the draft ministerial policy statement. In particular, the ACCC welcomes the inclusion of the objectives of facilitating opportunities for new entrants and use cases, and promotion of competition.

As noted in the ACCC's submission to the ACMA's consultation on its approach to expiring spectrum licences,¹ the mobile services market is concentrated and characterised by high barriers to entry, with the most critical barrier being access to spectrum. Opportunities to acquire suitable spectrum are usually few and far between. The expiring spectrum licences process provides a unique opportunity for prospective new entrants, including those with alternative business models and focus on specific segments of the market, to potentially access up to 7 bands of spectrum within a relatively short period of time. As such, the ACCC considers there is potential for the ACMA to use the expiring spectrum licences process to investigate the possibility of new entry and reduce barriers to entry.

¹ See ACCC, *ACMA's approach to expiring spectrum licences: ACCC submission*, August 2023, available on the [ACMA website](#).

In addition, the ACCC's Regional Mobile Infrastructure Inquiry 2022–23 heard concerns that smaller regional-based wireless operators do not have access to valuable spectrum in regional areas, in particularly low-band spectrum which are said to be under-utilised by the incumbent mobile network operators. The final report of the Regional Mobile Infrastructure Inquiry found that to the extent that regional-focused operators can develop alternative means of providing coverage in regional areas, there may be benefits in providing these players access to such spectrum, particularly where the spectrum is not currently used.²

The ACCC supports the inclusion of facilitating opportunities for new entry and use cases as an explicit policy objective as this will ensure that these issues are explored during the ACMA's decision-making process. The ACCC recognises that opportunities for new entry and use cases will need to be facilitated without compromising the objective of supporting the continuity of existing service coverage provided by the incumbent licensees, as indicated in the draft ministerial policy statement.

The ACCC also supports the articulation of the policy objective of promoting competition in the draft ministerial policy statement, which recognises that competitive markets can facilitate more efficient use of spectrum, consistent with the object of the *Radiocommunications Act 1992*. The ACCC also agrees with the observation in the draft ministerial policy statement that since spectrum licences can be issued for up to 20 years, it would be particularly important to consider the impact of the licence term on competition in Australian telecommunications market in the long term.

² ACCC, [Regional Mobile Infrastructure Inquiry: Final Report](#), July 2023, pp. 80–81.