# ACT Emergency Services Agency Submission on Australian Government Spectrum Review: Potential Reform Directions Consultation paper November 2014

## Response from ACT Emergency Services Agency

An overarching requirement of the Australian Capital Territory is to ensure the safety of Emergency Services personnel, volunteers, the public and community through the availability of government and public safety radio and broadband spectrum and services across the Territory, and capital region.

## Questions for Stakeholders

1. What changes should be made to the proposals outlined in this paper to make them work more effectively?
   * Refer to below for individual responses against the proposals
2. What additional proposals should be considered?
   * No comment.
3. What timeframes (short-term and longer-term) should apply to implementation of the reform proposals?
   * Any proposals which require changes in tower infrastructure and radio terminal equipment will required 3-4 years to implement.
4. What transitional arrangements should be put in place?
   * Any changes to Band Management functions to the ACT would require a lead time of 2-3 years to build capacity within ACT given the current lack of capability and capacity within existing resources.

## Reponses on individual proposals

**Proposal 1: Implement a clear and simplified framework of policy accountability**

* *Minister for Communications to publicly issue over-arching policy statements, against which the ACMA must act consistently.*
* *Minister for Communications to have direction powers in the Radiocommunications Act to enable Ministerial intervention for specific purposes such as to reserve spectrum in a plan, allocate or reallocate spectrum.*
* *The ACMA to be required to notify the Minister for Communications of certain decisions and provide an annual work program and key priorities over a three-five year timeframe.*

**Response:**

**Supported**

**Proposal 2: Establish a single licensing framework**

* *Establish a single licensing framework by consolidating the three licence categories (apparatus, class and spectrum) and provide the ACMA with flexibility to set licence parameters, for example, to include band frequency, payment, sharing and trading arrangements.*
* *Tenure of licences to be a parameter, with a maximum term of 15 years to be specified in the legislation.*
* *Renewal of licences to also be a parameter. If the licence provides for a presumption of renewal, the legislation would specify the circumstances under which the ACMA is not required to renew.*

**Response:**

**Supported, with further consultation requested on how all existing and any future services will be accommodated within a single licence framework.**

**Proposal 3: More flexible allocation and reallocation processes**

* *Provide the ACMA with greater flexibility to determine the most appropriate allocation process and method.*
* *The ACMA’s annual work program to specify timing of allocation processes and the ACMA to report against these.*
* *Allow the ACMA to reallocate spectrum without the need for a Ministerial determination.*
* *Manage changes of use by setting appropriate licence terms that allow for replanning.*
* *Authorise the ACMA to allocate encumbered spectrum enabling incumbent users to continue operating in the band following reallocation.*

**Response:**

**Noted**

**Proposal 4: Establish a more transparent and flexible approach for spectrum pricing to promote efficient use and re-use of spectrum**

* *Prices for spectrum to be market-based, with the ability for Ministerial intervention to determine otherwise on an exception basis.*
* *Pricing for administrative allocations of spectrum to be reviewed, simplified and made consistent and transparent.*

**Response:**

**Supported in part, on the condition that ACMA and the Minister for Communications consider socioeconomic value and public good above simple market value.**

**Proposal 5: Structuring payment schedules for licences**

* *Provide flexibility in the timing and approach for payment of licence fees.*

**Response:**

**Supported**

**Proposal 6: The ACMA to take an open data approach to substantially improve the range, availability and quality of information provided to support an efficient spectrum market**

* *The ACMA to report to the Minister for Communications through its annual work program on its efforts to improve and maintain the range, availability and quality of information to support the spectrum market.*
* *Provide the ACMA with authority to collect information from industry relevant to the performance of its functions and exercise of its powers.*

**Response:**

**Supported**

**Proposal 7: Payment of compensation for resuming all or part of a licence**

* *Provide for common compensation provisions for resumption of licences.*
* *Whether compensation is payable in event of resumption to be a licence parameter.*

**Response:**

**Supported**

**Proposal 8: Facilitate greater user involvement in spectrum management**

* *Allow the ACMA to delegate spectrum management functions to other entities.*

**Response:**

**Support in part with respect to band management of HGS by jurisdictions.**

**The ACT has no existing capacity to fund or perform these new roles in band management. It is also unlikely the revenue generated by charging users within ACT could cover even the employment of one full time equivalent officer. However, if NSW were to adopt band management functions, there will need to be effective policies and governance in place to ensure near border and regional spectrum assignment proposals are consulted and planned with ACT interests to ensure cross border compatibility. Further consultation will be required on alternate proposals for support ACT and smaller jurisdictions band management.**

**Proposal 9: Develop more principles-based device supply regulation**

* *Provide the ACMA with increased flexibility to construct device supply schemes appropriate to specific circumstances.*
* *Increase incentives for users and suppliers to manage risk and resolve interference and disputes in the market.*
* *ACMA to develop and publish guidelines as to its dispute management process.*
* *Minimise to the extent appropriate existing record-keeping and labelling requirements having regard to risk factors.*
* *Reform the definitions relating to supply to oblige all persons in the supply chain to take reasonable steps to ensure that compliant devices are supplied to the Australian market.*

**Response:**

**Supported**

**Interference in government radio networks by non-compliant devices is a current issue that the ACT does not have existing tools to trace and remediate.**

**Proposal 10: Improve regulation by extending the suite of enforcement measures available to the ACMA**

* *Substitute civil penalties for the existing criminal offences, where appropriate.*
* *Enable the ACMA to impose civil penalties, issue remedial directions and formal warnings for the purposes of managing and controlling interference or a breach of licence conditions.*
* *Apply strict liability provisions and infringement notices to a broader range of offences where appropriate, for example, operation of prohibited devices and interference endangering safety.*
* *Provide the ACMA with powers to issue recalls, interim bans formal warnings and public warnings to manage the supply of non-compliant devices.*

**Response:**

**Supported**

**Proposal 11: The ACMA to continually review options for allocating spectrum to alternative / higher value uses and to ensure that barriers to achieving this are reviewed and removed where appropriate**

**Response:**

**Supported**

**The ACT Emergency Services Agency is still interested in pursuing the use of bands within this range for Public Safety Mobile Broadband. The ACT is willing to participate in any discussion and consultation with Department of Communications, ACMA and/or the Productivity Commission about the socio-economic benefits of having discrete bands for government and public safety.**

Excerpt:  
*Radio Communications Act 1992*

Act No. 174 of 1992 as amended

Part 1.2—Object of this Act

3 The object of this Act

The object of this Act is to provide for management of the radiofrequency spectrum in order to:

(a) maximise, by ensuring the efficient allocation and use of the spectrum, the overall public benefit derived from using the radiofrequency spectrum;

(b) make adequate provision of the spectrum:

(i) for use by agencies involved in the defence or national security of Australia, law enforcement or the provision of emergency services; and

(ii) for use by other public or community services;

(c) provide a responsive and flexible approach to meeting the needs of users of the spectrum;

(d) encourage the use of efficient radio communication technologies so that a wide range of services of an adequate quality can be provided;

(e) provide an efficient, equitable and transparent system of charging for the use of spectrum, taking account of the value of both commercial and non‑commercial use of spectrum;

(f) support the communications policy objectives of the Commonwealth Government;

(g) provide a regulatory environment that maximises opportunities for the Australian communications industry in domestic and international markets;

(h) promote Australia’s interests concerning international agreements, treaties and conventions relating to radiocommunications or the radiofrequency spectrum.