



Motorola Solutions Australia Pty Ltd
Response to the Department of Communications paper

Review of the Australian Communications and Media Authority

Issues Paper

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Motorola Solutions welcomes the Department of Communications' Review of the Australian Communications and Media Authority (ACMA).

Motorola Solutions has designed and delivered technology solutions for some of Australia's most critical public safety and enterprise communication networks for more than four decades.

Within Australia and internationally, Motorola Solutions is a major supplier of radiocommunications equipment and services to governments, emergency services organisations, the mining and energy industries, manufacturing sectors, transportation, tourism, telecommunications carriers and telecommunications service providers.

Today, we're applying our strong heritage, technical capabilities and innovation leadership to help our customers move into new areas including 4G LTE mobile broadband and sophisticated data based solutions so they can get more out of their technology investments, increase their productivity and effectiveness and reach higher standards of safety.

Motorola Solutions excels in research and development, production, marketing and efficient operation of communications equipment and systems all over the world and our brand is synonymous with high quality communication products and services. As a global organisation with close operator and customer links, our deep experience qualifies us to provide relevant and informed comment on this discussion paper. Motorola Solutions is therefore pleased to have the opportunity to comment on the Department of Communications' Review of the ACMA.

QUESTION 1: Are there unique characteristics of the communications sector that require a particular style of regulation and regulator?

In recent years, the increase in the power and clout of mobile players, regulation and regulators around the world have become more prone to regulatory capture. Communications sector regulators, being responsible for spectrum management for all sectors of the economy- be it mobile services, defence, public safety, disaster management, aeronautical services, maritime services, aviation management, meteorology, space research, satellite services, radio astronomy- have to act in the public interest at all times, instead of just advancing the commercial or special concerns of stakeholders and/or interest groups that dominate the industry. Such a scenario could possibly facilitate stakeholders behaving in ways injurious to the public interest.

Communications benefits from harmonised spectrum and users can gain from resulting economies of scale for rapidly rolling out new equipment to operate in many different countries. These key focus areas, especially in the transition to public safety mobile broadband, are integral to effective industry regulation.



QUESTION 2: Do the characteristics of the communications sector mean that a sector-specific regulator should be responsible for all aspects of industry regulation including economic regulation? Would switching models enable the regulator to strike the optimal balance between investment and consumer outcomes?

The ubiquity of telecommunications services makes them essential drivers of economic growth. The current regulatory model, established as a result of the 1997 introduction of a completely liberalised telecommunications market, whereby the Australian Competition and Consumer Commission (ACCC) became responsible for the economic regulation of the telecommunications industry has served Australia well.

The now repealed Telecommunications Act 1997 and related legislation brought regulation of the telecommunications industry more closely into line with general competition law as governed by the Trade Practices Act 1974. Parts XIB and XIC of the Trade Practices Act provide for a telecommunications specific regime dealing with anti-competitive conduct and regulated access to carriage services. The ACCC has been able to apply its experience in regulating other sectors of the economy to the telecommunications industry for the benefit of consumers and the Australian public in general.

QUESTION 3: What developments in the communications sector over the next 5-10 years are likely to affect the role of the regulator? In what ways will that role be affected?

The Department's Consultation Paper on the Spectrum Review in late 2014 recognised that there will be an increasing need for international harmonisation of spectrum and provided examples of the continuing benefits of such harmonisation in a time of rapid global adoption of advanced mobile communication technologies. Motorola Solutions' response to that Review noted that Australia's participation in the work of the International Telecommunications Union (ITU) and, to a lesser extent, the Asia Pacific Telecommunity (APT), enables Australia to participate in the global economy by supporting the efficient operation of a myriad of international activities dependent on communications such as international travel and international banking.

Australia's positions on international radiocommunication, radiofrequency spectrum management issues and ITU World Radio Conference (WRC) agenda items need to be arrived through an open and constructive consultation process with stakeholders. These processes need to be strengthened. More often than not, industry contributes the majority of Australian Delegation members attending regional and international meetings providing an essential resource that assists and reinforces the ACMA's participation in such meetings.

This formal process of active industry consultation should ensure that interested stakeholders can help shape Australia's international profile. These



processes must be preserved and further strengthened as an essential part of Australia's management of the spectrum in any Government actions arising from this Review. Motorola Solutions would prefer that the ACMA's current "Guidelines for participation in international and regional radiocommunications forums and meetings" were suitably updated and explicitly referenced in the ACMA's enabling legislation and legislation covering the management of spectrum in Australia such as the Radiocommunications Act. Such explicit recognition would ensure that industry would be better placed to make the significant resource decisions required to support such activity to support harmonisation of spectrum use both regionally and globally.

QUESTION 4: What should be the unifying objective and purpose of the communications regulator—is there a succinct way to describe what the regulator should achieve?

The unifying objective and purpose of the communications regulator should be to ensure that the necessary communications resources are available at lowest possible cost, to all sectors of the Australian community and economy. In particular, we feel that the regulator should not only focus on the needs of telecom operators but should have a clearly defined objective of providing for the spectrum resources needed by all users, particularly public safety agencies and other government users.

QUESTION 5: Looking at both national and international trends, what are considered the optimal objectives, functions and structures for a best practice regulator in the Australian communications sector?

Any changes to the regulatory framework need to emphasise policy accountability and delineate clearly between the roles of the Minister, the Department and the regulators, assuming the ACCC continues its role as the economic regulator of the industry, whereby the Minister acting on advice received from the Department makes policy and the regulator implements that policy.

The regulatory framework should also seek to identify clearly the role and opportunities that industry will be given to participate in policy making and in how the policy is implemented.

The regulator needs to be an independent statutory authority reporting directly to the Minister with responsibilities for managing the radio-frequency spectrum and regulating:

- Telecommunications and Radiocommunications sectors, including the needs of government users;
- broadcasting sector; and
- the Internet.

QUESTION 6: What functions are unique to the ACMA (that is, not present or relevant to other regulators or industry sectors) and will these remain relevant in the future?



The key differentiating factor between the telecommunications industry and other networked industries such as power is the need to provide “any to any” connectivity not only within Australia but to connected users globally. Telecommunications users, private or commercial, have high expectations about their ability to connect whether at home, in the office or on the move. The relevance of this very high expectation is likely to continue rising as more products and services become available that rely on the assumption of “anytime/anywhere” connectivity. This proposition has never been more important than it currently is for Australia’s public safety sector which is seeking greater connectivity and interoperability within, and between, multiple agencies as communications technology continues to evolve.

QUESTION 7: Are new functions likely to emerge over time?

The increasing demand for services based on wireless applications is likely to take the regulator’s spectrum management function to the forefront of its activities. As a consequence the regulator’s role in regional and global fora like the APT and ITU will need to increase commensurately as the global industry determines how a finite resource like the radiofrequency spectrum can be managed to cope with such relentless growth in demand.

QUESTION 8: When should the Minister be able to give directions to the ACMA in relation to the performance of its functions?

Motorola Solutions considers that the regulator should be an independent statutory authority, carrying out its functions autonomously from the political process, but reporting to the Minister to ensure accountability to the Australian Parliament and through the Parliament, the Australian public.

As stated earlier in the submission, if the Department of Communications is given the responsibility of policy making on all aspects of communications policy and the regulator is accountable for policy implementation only it should not be necessary to enable the Minister to give directions to the regulator other than in rare circumstances such as in cases of national emergencies, disasters, wars or to provide for requirements of Government agencies and maintenance of law and order.

QUESTION 9: What are the optimal structure and governance arrangements for the Authority and Executive?

Motorola Solutions’ responses to questions 5 and 8 above address this question.

QUESTION 10: What are the optimal arrangements to support good decision-making and maintain trust (including for managing conflicts of interest for decision makers and delegating decision-making)?



It is essential that the regulator be mandated to consult with industry when making decisions that impact the ability of industry to deliver services to the public. Such a mandate could easily be included in the enabling legislation to foster “good decision-making” and maintain trust.

Major regulatory decisions should be subject to a review and appeal process independent of the regulator, Department and Minister as an essential aid in avoiding, and being seen to be avoiding, conflicts of interest.

QUESTION 11: How does the ACMA perform against the Regulator Performance Framework KPIs? Please provide examples.

As Motorola Solutions is not a regulated entity as envisaged by this question it has no comment.

QUESTION 12: Has the ACMA been effective in progressing or influencing regulatory reform initiatives where there has been a change in risk or market characteristics to warrant change?

In a rapidly changing technological landscape it is difficult for regulators like the ACMA to stay at the forefront of such changes. Regulators are captives of their enabling legislation that, by definition is an historical document that fails to anticipate technological change and the consequential regulatory changes and resources that may be necessary to adequately cope with such change. For example, the increasing demand on spectrum mentioned earlier in the submission has meant that the ACMA has needed to devote more resources to its spectrum management function in a time of diminishing budgets and resource allocation from Government. This lack of resources has meant that its ability to progress or influence regulatory reform initiatives has been limited and will continue to be limited until such time as it gains more autonomy and flexibility in determining the resources it needs to fulfill its mandate.

QUESTION 13: What are the forward-looking risk characteristics of the communications landscape? In this environment what is the optimal mix of capabilities and cultural attributes for a high performance communications regulator? Are these characteristics unique to communications?

The single most important future risk characteristic facing the communications sector is the need for more spectrum driven by the explosion in wireless hand held devices globally as well for the growing number of applications which consume larger amounts of bandwidth. As spectrum is a finite resource regulators will need to drive more spectrum sharing across industry that, in turn, will mean that the resources dedicated to monitoring and policing interference will also need to increase. The regulator will need to increase its spectrum management capabilities and have the autonomy and flexibility to switch resources between functions as required.



QUESTION 14: What functions currently undertaken by the ACMA could be more efficiently or effectively delivered by someone else?

QUESTION 15: What functions currently undertaken by other organisations could be more efficiently or effectively delivered by the ACMA?

As stated earlier, Motorola Solutions considers it appropriate that economic regulation of the telecommunications industry continues to reside with the ACCC. Motorola Solutions has also stated in its submission to the Department's Spectrum Review that the Government should move cautiously should it decide to proceed with outsourcing any aspect of spectrum management.

QUESTION 16: Would additional quality assurance arrangements be required where a function is provided by another party?

If one or more of the ACMA's current functions be devolved to another party, Motorola Solutions' view is that the only measure of success would be the cost impacts. Any cost increases that follow would mean that the change of responsibility has failed and there have been no gains to the efficiency and economy of regulating the industry.

QUESTION 17: What system improvements should be made to the ACMA? System improvements include structural changes, process changes, requirements changes, and products or services changes.

QUESTION 18: What engagement improvements should be made to the ACMA? Engagement improvements include stakeholder engagement, contractual practices, behavioural and policy incentives to promote compliance or take up of government initiatives.

QUESTION 19: What market improvements should be made to the ACMA? Market improvements include partnering with others and outsourcing.

Motorola Solutions' submission to the Department's Spectrum Review observed that Australia's positions on international radiocommunication, radiofrequency spectrum management issues and ITU World Radio Conference (WRC) agenda items are arrived at through a process of active ongoing consultation with stakeholders on a number of domestic bodies including the Australian Radio Study Groups (ARSGs) and the ACMA Preparatory Group for the WRC (PG WRC). The ARSGs mirror the ITU-R Study Groups and their Working Parties and make recommendations to the ACMA to be considered at regional and international meetings. More often than not, industry contributes the majority of Australian Delegation members attending regional and international meetings providing an essential resource that assists and reinforces the ACMA's participation in such meetings.

This formal process of active ongoing industry consultation ensures that interested stakeholders can help shape Australia's international



radiocommunication profile and must be preserved as an essential part of Australia's management of the spectrum in any government actions arising from this Review. Motorola Solutions would prefer that the ACMA's current "Guidelines for participation in international and regional radiocommunications forums and meetings" were explicitly referenced in the ACMA's enabling legislation and legislation covering the management of spectrum in Australia such as the current Radiocommunications Act. Such explicit recognition would increase industry awareness and ensure that industry would be better placed to make the significant resource decisions required to support such activity.

QUESTION 20: What funding model would best resource an Australian communications regulator, now and in the future?

The regulator should not only be fair and neutral but should also be seen to be so. For this to happen, it is imperative that the majority of the regulator's funding is from the Federal Government through an appropriation.

The telecommunications revolution of the last two decades has made the world "smaller" and regulators globally constantly have to be cognisant of what regulators in other parts of the world are doing.

Spectrum harmonisation is one such goal that is driving regulators around the world to collaborate and consult widely before taking action. As noted above, this culminates in the WRC every three or four years. Preparation for the WRC and its multiple agendas is a lengthy and complex process that the regulator needs to be committed throughout the preparatory process.. If due to funding shortages in the Regulator, one sector of the industry is asked to lead the WRC process, it would be unfair to other sectors of the industry, particularly when there are conflicting interests between the sectors. Such situations should at best be avoided.

QUESTION 21: What activities should be cost recovered from industry? Are user charges administered by the ACMA cost effective and efficient?

Any regulatory activity that directly benefits an end-user such as licensing should be cost recovered from industry. Similarly, resource allocation where the resource is finite such as spectrum should also involve cost recovery from industry. Cost recovery should demonstrably reflect the true cost of providing the service rather than being opaque, as many of the ACMA's fees are currently.

QUESTION 22: What should guide the ACMA in its allocation of resources between functions?

Resource allocation by the ACMA should be guided by Government policy that it should, in turn, be developed in consultation with the industry and interested stakeholders.



QUESTION 23: How are the ACMA’s functions likely to change as a result of reforms to the communications regulatory framework?

QUESTION 24: Does the list of ‘enduring concepts’ capture the policy concepts that are likely to continue to be central to the communications regulatory regime in the future? What are the most important communications sector public policy aims that are likely to require regulation?

The list of “enduring concepts” is appropriately named as these concepts have been the enduring themes of the telecommunications sector for some years. These concepts are more than likely to continue being central to regulation in the future. It is the changes to society and business practices that the communications sector has brought and will continue to bring that may need to be continually monitored to ensure that the end products and services continue to be of benefit to Australian business and the community at large. Regulation is, however, best to be considered and, if necessary, implemented by other Government portfolios as communications in such cases is merely a delivery mechanism.

QUESTION 25: What combination of regulatory interventions might be needed in the future? How much discretion should be provided to the regulator in their application?

“Light touch” regulation is preferable to banning in all enforcement action the regulator can take for any instance of regulatory non-compliance.

The regulator should be given some leeway for its own decision-making and remedy by being given the ability to decide, on a case-by-case basis, how to deal with regulatory non-compliance within clearly articulated parameters.

QUESTION 26: How should a contemporary communications regulator retain flexibility to adapt its style of regulatory intervention to reflect the changing regulatory regime?

It is essential that the regulator’s enabling legislation and consequential regulations are technology, product and service neutral. This will ensure the regulator has the needed flexibility to be able to adapt regulatory interventions to reflect changes in the industry. This will, however, may not be possible or readily achieved, if the Government’s policy making does not also display neutrality and flexibility.