

8 December 2014

The Project Manager
Spectrum Review
Department of Communications
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CANBERRA ACT 2601
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Dear Sir / Madam,

2014 Spectrum Review - Potential Reform Directions

Thank you for the opportunity to respond to the Department's November 2014 Consultation Paper on proposals for spectrum policy reform directions ('Reform Directions Paper') to support a more efficient, responsive and sustainable spectrum market in Australia.

NBN Co agrees that the Australian spectrum management framework can and should be modernised to address increasing demand and to reflect current and emerging changes in technology, markets and consumer preferences. As noted in the Department's Terms of Reference for the review, aspects to be considered in the review should include:

- **simplification** of the overall framework
- greater **flexibility**, and facilitation of new and emerging services
- effective interference management and incumbent **certainty**
- ensuring spectrum is allocated, used and managed as **efficiently** as possible
- consideration of the **roles** of the Minister, the ACMA and the Department in spectrum management
- improving **consistency**
- consideration of **public interest** spectrum issues.

We note that the proposals in the Reform Directions Paper were developed on the basis that reform should seek to maximise public benefit by improving overall efficiency and effectiveness of spectrum policy and management. The Paper also indicates that the proposals should be in line with specific principles of simplicity, flexibility, certainty, efficiency and transparency that:

- create a framework that is **simpler** and easier to understand using the least cost regulation required to achieve the objective
- ensure arrangements are as **flexible** as possible to promote choice and innovation
- provide **confidence** about arrangements and access terms and promote international harmonisation in Australia's interests
- promote **efficient** allocation and use by preferring market principles and mechanisms and providing licensees with incentives to make optimal choices about their use ; and

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- provide a clear and transparent framework, within which the ACMA would have broad spectrum management discretion and users would have a greater role

NBN Co notes and supports the submission made by the Communications Alliance in respect of the Reform Directions Paper and its proposals, and makes the following additional observations.

Single licensing framework (Proposal 2)

Subject to the consideration of the detail of this proposal, a single licensing framework will likely result in more efficient allocation of licences and remove restrictions that apply between licences of different types, for example between spectrum and apparatus licences. Transition arrangements will be particularly important for the implementation of this proposal to ensure stability for existing licensees so as not to stifle investment during this period and to maximise certainty for incumbent licensees. NBN Co suggests transition timeframes be considered in the context of existing licence durations. i.e. longer transition times may be appropriate for licences valid for > 5 years. Mechanisms for incorporating existing Class Licences, and the potential for permitting any unlicensed activity, under a single licensing framework will also need to be carefully considered..

Allocation and reallocation (Proposal 3)

More flexible allocation and reallocation processes should be adopted in the short term.

Pricing and market information (Proposals 4, 6 and 8)

A more transparent and flexible approach for spectrum pricing should also be adopted in the short term

While there may be opportunities to improve the range, availability and quality of information provided to support an efficient spectrum market, the scope of any authority to the ACMA to collect further information from industry would need to be carefully considered including to ensure it fosters the market, does not impose any unnecessary additional burden on industry and does not have unintended consequences. This is particularly the case in the context of secondary market trading, where issues of commercial confidentiality are likely to arise.

The ACMA should take a phased approach to greater user involvement, with operational aspects such as fee collection, interference management and dispute resolution considered in the first instance. The delegation of activities such as planning and pricing may be longer term considerations.

Please do not hesitate to contact me if you would like to discuss.

Yours sincerely



Duncan Giles

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