The Project Manager

Spectrum Review

Department of Communications

GPO Box 2154

CANBERRA ACT 2601

Dear Sir,

Thank you for allowing me to comment further on your spectrum review. I note that some of my earlier comments have been adopted in the current consultation: I hope you find the following comments both thought inspiring, challenging the status quo and most of all, providing a catalyst for your ongoing review into spectrum.

As an independent ACMA Accredited Person, I am particularly pleased to see the focus on greater private sector involvement in the technical management of spectrum: I would welcome any opportunity to take on a role of a band (spectrum) manager, should the proposal be adopted.

Response to your “questions for stakeholders”:

1. What changes should be made to the proposals outlined in this paper to make them work more effectively?

***Comment: P1***

***The whole purpose of the 92’ Act was inter-alia to give the regulator “ACMA” independence from the Department/Minister. In this proposal, would the ACMA still be needed or would it become a part of the Department as it was in the early nineties?***

## ***Comment:P2***

***Why limit a licence period to 15 years? Some services -like RAS with its spectrum defined by the laws of nature-presumably would desire a perpetual licence period. As noted in your proposal 2, the spectrum could be licensed for a longer period: current Commonwealth leaseholds are typically up to 99 years- why should spectrum be treated differently?***

***Comment:P3***

***The review should look at the dichotomy of spectrum service type (per the Australian Spectrum Plan) and licensee end use (eg a licensee using mobile services spectrum allocations for broadcasting purposes). It would appear that this section of the review is concerned with licensee end use, rather than spectrum per se.***

***Would the proposed band manager be responsible for only the spectrum management (engineering) aspects or the use to which spectrum is made? Or both? Is the proposed band manager to hold “property rights” over the spectrum?***

***The review should consider the nexus between spectrum use for a particular ITU service type (P-MP.FS, MSS etc) and licence holder end use (applications/media etc) noting that the ITU WRC will address this issue in 2015. The Department’s Convergence review highlighted the trend towards a given transport mechanism (cable, FO, wireless spectrum etc) being used to serve many end user applications- often simultaneously. Is there a case to merge the radiocommunications, telecommunication and broadcasting Acts into a single Act?***

***Comment:P4***

 ***It seems that, by focussing on the price of spectrum, that we loose sight of the fact that the licensee who uses spectrum for the “highest value” would then pay more company tax due to higher profits etc. The review should look more holistically on the need to recover tax/revenue for economic activity (noted in the preface to be in the “billions”) from the need to tax economic resource inputs to vital infrastructure ie spectrum.***

***Comment: P6***

***ACMA should provide access not only to the data but the tools needed to access and process it. The ACMA spectrum management tool-set is not available for use by spectrum professionals eg Accredited Persons***.

***Comment:P7***

***Even where no license fee is payable, the user will have invested in receivers, transmitters etc- surely these assets- that could end up being made worthless- would require compliance with Sect 51(Cth).***

***Comment:P8***

***ACMA is currently doing this “band management” as contestable work in competition with the “private sector Accredited Persons” industry. Should this continue in the new regulatory arrangement ? Accredited Persons should be given the full range of measures currently available to ACMA. Competency of “band managers” should be determined by independent Professional body such as Engineers Australia.***

***Comment:P9***

***As we have little or non existent manufacturing capacity/capability and most (all?) standards are adopted from overseas, is there a case to just accept the products, the interference framework to which they comply and their manufacturers compliance certification.***

***Comment:P10***

***Could enforcement/compliance be harmonised with that used under the Telecommunications Act?***

***With most(all?) supplies coming from abroad, would an Australian user be able to seek remedy from defective (interference producing equipment) from the overseas manufacturer? eg under WTO?***

***Comment: P11***

***The current competitive market should automatically reach this goal. We have seen how innovative new systems have worked their way up through the regulatory systems (including ITU) to achieve new spectrum allocations- but it does take time and effort! It would appear that it is not ACMA who should be doing work on higher value use, but rather the market. ACMA ( or the Department ) would still perform a role of consensus building, harmonisation and development and/or approval of technical frameworks*.**

1. What additional proposals should be considered?

**Consider the strategic value of :**

**-Combining/ harmonising Telecommunications, Radiocommunication and Broadcasting Acts into a fully converged Single Act.**

**-Possibility of incorporating ACMA back into the Department**

**-Consider making all spectrum licence free (where feasible), or at least for all transmitters of low power (or where the interference boundary is contained within a users premises) ie an “all-band LIPD”.**

1. What timeframes (short-term and longer-term) should apply to implementation of the reform proposals?

**Privatisation of some of the ACMA function (eg the “band manager”) could be done first – under regulation.**

**Changing the Act(s) for greater Ministerial oversight or merging of Act(s) will take time and this must be considered a long term, carefully managed process.**

1. What transitional arrangements should be put in place?

**An embargo could be placed on most spectrum and licences to prevent blatant profiteering, hoarding etc. New licence applications during the embargo period be required to pass a due diligence test.**

**Sincerely,**

**P McGill**