



Motorola Solutions Australia Pty Ltd

Response to the Department of Communications and the Arts paper

ACMA Review Draft Report

May 2016



Motorola Solutions welcomes the opportunity to comment on the Department of Communications and the Arts' "ACMA Review Draft Report".

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.



Appendix A: Draft proposals

Remit

1. That the ACMA's remit cover all the layers of the communications market, including infrastructure, transport, devices, content and applications.

Motorola Solutions believes this is reasonable.

Functions analysis

2. That the ACMA's cyber-security programmes be transferred, along with staff and funding, to the Attorney-General's Department.

Motorola Solutions believes this is reasonable as it links monitoring with the ability to undertake investigation.

3. That the Bureau of Communications Research assume the lead in taking forward research about the emerging environment and market trends, with ACMA's regulatory research programme focusing on supporting the effectiveness of regulatory functions and harms that are affecting businesses and consumers.

Motorola Solutions sees potential issues here. We don't believe that BCR has the necessary expertise in technology or spectrum issues. Trends for spectrum usage, for example, require an in depth understanding of a variety of radio services, their coexistence and the international radio regulations that govern these services. Further in-depth knowledge of modulation techniques and multiple input – multiple output (MIMO) techniques is critical. This proposal needs further review, it should either be cooperative whereby economics trained engineers are assigned to BCR for each project or the research should remain with ACMA.

4. That the Department of Communications and the Arts be responsible for head of delegation roles to key international policy-setting forums, including the World Radiocommunications Conference, and that clear guidance and negotiating parameters be provided by the Department to heads of delegation.

Motorola Solutions sees potential issues here. The arrangement whereby the head of delegation (HoD) is not a senior representative of ACMA has existed at some APT and ITU meetings over the past several years now. The delegation should provide broad consensus on the directions and requirements for Australian industry and Australian interests. However, the level of cohesive agreement within these delegations has been low. We saw the impacts of this at WRC 2007 when ACMA was prevented from supporting the 700 MHz Digital Dividend.

In order to succeed, the HoD needs to have built up an in depth understanding of the issues during the course of the entire preparatory cycle. In the past, DoCA has not demonstrated it can provide the level of continuity and expertise required for this forum.

The HoD also needs to be independent to avoid lobbying within the Australian market. Without this independence it's possible for strong lobbyists to dominate the agenda at the expense of other equally important parties which may not be able to attend. It is also important that clear guidance and negotiating parameters are provided for those attending the meetings as part of national delegations.



5. That further work be undertaken to determine whether it may be more efficient for another body, such as the Australian Taxation Office, to undertake the revenue collection functions currently performed by the ACMA.

No Comments

6. That, within the next 12 months, the ACMA examine whether some or all of the following functions can be referred to industry for self-regulation, in consultation with relevant industry bodies:
 - technical standards;
 - Integrated Public Number Database;
 - Do Not Call Register;
 - Action on unsolicited communications, including Spam.

Motorola Solutions observes that technical standards are already the purview of Standards Australia. This proposal could lead to the handing over of development and maintenance of Radiocommunications Assignment and Licensing Instructions (RALI's) etc.. Provided this was strongly supported by ACMA it would probably work.

7. That the Department will undertake further work on the potential to expand the ACMA's remit to include the functions of the Classification Board and Classification Review Board Scheme.
8. That the Interactive Gambling Act 2001 be amended to require the ACMA to:
 - Handle all complaints relating to interactive gambling services and advertisements;
 - Conduct the same investigation process irrespective of whether the content is hosted in Australia or overseas; and
 - Enforce civil penalties for breaches of the Act.
9. That the current institutional arrangements for economic regulation of the communications sector be retained.
10. That cross-appointment arrangements between the ACMA and ACCC be strengthened in order to benefit both ACMA and ACCC decision-making.
11. That the current institutional arrangements for communications consumer protections be retained.

No comment.

Objectives

12. That, as a priority as future reform is undertaken, the government provide the ACMA with a clear set of overarching policy objectives to guide its decision-making.



Motorola Solutions observes that there is nothing in the draft new Act that makes provision for adequate spectrum for emergency services or Defence. This objective belongs here or (below) in the new ACMA Act along with guidance as to what is 'sufficient'. This definition or guidance was missing in the old Act which permitted loose interpretations.

Governance

13. That the commission model of decision-making be retained.
14. That the skill set to be covered by Authority members be outlined in legislation to ensure an appropriate and diverse mix of abilities to respond to the future needs of the ACMA.
15. That all members of the Authority be appointed on a full-time basis and that the Authority consist of a Chair, a Deputy Chair and at least three other full-time members.
16. That the existing arrangements are maintained where the Chair is the Accountable Authority with an ability to delegate powers, duties and functions, to the extent permitted by the PGPA Act, to a CEO.
17. That provision be made in the ACMA Act for the Authority to establish sub-boards to manage subject matter not requiring the full commitment of the Authority, or to manage issues that would otherwise diminish the Authority's capacity to focus on its key decision-making or direction setting responsibilities. That the Chair of any such sub-boards be a member of the Authority but not be the Chair of the Authority.

No comment.

Enhancing regulator performance

18. Legislate the following four regulator principles in the ACMA's enabling legislation, proposed draft:
 - *The ACMA have regard that its regulatory settings do not unnecessarily hinder competition, innovation or efficient investment.*
 - *The ACMA should apply a risk-based approach to regulation, compliance and enforcement activities. Regulatory intervention should be targeted, evidence-based and commensurate with risk.*
 - *The ACMA should implement continuous review of regulation to reduce burden and streamline approaches where the benefits exceed the costs.*
 - *The ACMA should be transparent in its actions and clearly indicate the priorities and objectives which inform its decision-making to regulated entities and the broader public.*

Motorola Solutions believes that the following principle should be added.

- *Make adequate spectrum available for emergency services and Defence.*



19. That the Minister provide the ACMA with an annual Statement of Expectations and the ACMA respond by publishing a Statement of Intent outlining how it will seek to deliver on the Government's expectations.

Motorola Solutions observes that this would allow the ACMA, with clear Ministerial expectations and direction, to provide the HoD at international meetings. Noting that this is the preferred approach given the level of expertise held within the ACMA.

20. That the Minister provide the ACCC with an annual Statement of Expectations and the ACCC respond by publishing a Statement of Intent outlining how it will seek to deliver on the Government's expectations.
21. That timeliness of decision-making be established as a key area of focus and accountability for future cycles of the ACMA's regulator performance framework, and Government consider legislative amendment to support more timely decision-making, where necessary.
22. That the ACMA publish information on the steps it takes to ensure stakeholders have a clear understanding of the relationship between its actions and its compliance and enforcement policy.
23. That the ACMA publish a report to the Minister every two years on initiatives undertaken to identify and reduce regulatory burden on industry and individuals.
24. That the ACMA produce a public report on steps taken to improve the transparency and consistency of its decision-making processes, and that implementation and stakeholder satisfaction be independently assessed by the end of 2017.

No comment.

Resources

25. That it would be timely to review the policy objectives of revenue collection from the communications sector and evaluate whether new business models and OTT services are contributing appropriately.
26. That the ACMA should further analyse its cost base, in light of the proposed function changes, to ensure it is efficiently delivering on its responsibilities and minimising costs to industry.

No comment.

Regulatory reform

27. To enable the communications sector to reach its full potential as an enabler of innovation and productivity, the Government commence a coordinated programme of regulatory reform to establish a contemporary communications regulatory framework.



No comment.

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