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Department of Communications and the Arts



Radiocommunications Bill 2017: a platform for the future

Information paper

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Introduction

The Spectrum Review

The Department of Communications released its Spectrum Review (the review)¹ in March 2015. In August 2015 the Government announced it would implement the recommendations of the review, including agreement to:

1. replace the current legislative arrangements with new legislation that removes prescriptive process and streamlines licensing for a simpler and more flexible framework
2. better integrate the management of public sector and broadcasting spectrum to improve the consistency and integrity of the framework
3. review spectrum pricing to ensure consistent and transparent arrangements to support the efficient use of spectrum and secondary markets.

Purpose and scope

Spectrum is essential to a digitally networked economy and a major contributor to Australia's economic and social wellbeing. It is a resource that supports essential services such as safety-of-life and security and improves the quality of life of users. It is critical infrastructure enabling production for industrial, commercial, educational and other social services. The economic value of Australia's spectrum to the national economy is estimated to be \$177 billion over 15 years².

Technology has changed substantially since 1992 when the current regulatory framework was introduced. The framework has served the nation well and been a source of international competitiveness. However, sector wide changes are challenging the efficiency, productivity and accessibility of the current arrangements for spectrum management. As technology advances, there are increasingly novel ways to use spectrum to communicate and send information. This constant development means there is increasing demand for spectrum arising from an expanding array of uses. In addition, Australians as a whole are early adopters of new technologies, typically leading the world in the uptake of the latest technological products and services.

The extent to which the benefits of spectrum are realised or improved upon will depend in part on the ability of the spectrum management regulatory arrangements to accommodate rapid technological change and respond to increasing demand.

In August 2015, the Government announced it would replace the current legislative arrangements with modern legislation that removes prescriptive process and streamlines licensing and spectrum allocations, consistent with the Spectrum Review. The rewrite of the *Radiocommunications Act 1992* (1992 Act) seeks to improve the efficiency, effectiveness and transparency of spectrum management and use. This will ensure that Australia's regulatory framework remains fit for purpose in an environment of continuing and rapid change.

A partial exposure draft of the Radiocommunications Bill 2017 (Bill) has been drafted to commence a consultation process on detailed provisions of the rewrite of the 1992 Act.

¹ *Spectrum Review 2015*, www.communications.gov.au/publications/spectrum-review-report

² 'The economic value of spectrum' – Research report prepared for the Department of Communications by the Centre for International Economics, January 2015.

This paper outlines the range of tools to make the Minister's policy guidance on spectrum management matters transparent and then provides a high level discussion of the policy intent of the Bill. The Bill provides a statutory framework and removes regulatory barriers to innovation. The extent to which these opportunities are used will depend on the decisions of users in response to market developments.

The Australian Communication and Media Authority (the ACMA) is responsible for designing and developing new spectrum management arrangements in accordance with the Bill.

Consultation process and stakeholder input

The development of new legislation is the most significant change to spectrum management in the last 25 years. To ensure that the new arrangements are practical we need significant input from industry and spectrum users. To that end, there will be a two stage consultation process on the exposure draft of the Radiocommunications Bill. This will enable co-design benefits with the drafting tested by industry experts.

This paper is part of the first stage of consultation. This paper accompanies:

- a partial draft of the Radiocommunications Bill, excluding provisions relating to broadcasting spectrum and transitional and consequential provisions
- consultation papers relating to transition and broadcasting spectrum
- supporting materials provided by the ACMA.

Feedback on these documents will inform the drafting of remaining provisions of the Radiocommunications Bill and other required legislation including transitional, consequential and taxation provisions, which will be the subject of a second round of consultation.

Feedback on consultation papers on the Spectrum Pricing and Commonwealth Held Spectrum reviews will inform a report to Government.

Policy principles

The Spectrum Review took a principles-based approach to the reform with the following five principles guiding the development of its recommendations:

- *transparency*: provide a clear and transparent policy framework and direction to manage the spectrum elements to improve disclosure of decisions, provide regular updates on processes and deliver explanations when things change. The reform also enables the provision of clear guidance on future spectrum policy and management priorities
- *efficiency*: promote efficient allocation and use of spectrum, including by making market principles and mechanisms the preferred approach and providing licensees with the freedom and incentives to make optimal choices about their spectrum uses
- *flexibility*: ensure arrangements are as flexible as possible to promote choice and innovation for both the regulator and spectrum users
- *certainty*: provide confidence about regulatory arrangements and spectrum access terms and conditions and promote international harmonisation in Australia's interests. This could be understood as predictability of process
- *simplicity*: create a framework that is clear and simple, easy to understand and uses the least cost regulation required to achieve the objective. This could be understood as light touch regulation.

In proposing to restructure and rationalise the legislative framework, the review sought to achieve two primary aims to:

- provide for greater market based-activity
- simplify regulatory structures, streamline regulatory processes and clarify the role of Government.

These principles and aims have informed the development of the new Bill. Taking on board feedback from stakeholders to date, the following principle has also been instructive:

- *consistency*: treat spectrum users uniformly and equitably while recognising that some users require access to spectrum to perform important public services, such as defence, national security, law enforcement, emergency services and other public and community services (such as weather forecasting and scientific research).

The Bill has been drafted consistent with contemporary approaches to regulation. Over time ‘command and control’ regulation has been replaced by statutes which are principles-based and outcomes focused. In practice, this means that rather than entrenching overly prescriptive rules into primary legislation, much of the detail is left to subordinate regulations or administrative arrangements. In the context of the Bill, the primary legislation deals with significant matters only – for example, licensing administrative arrangements will be left to subordinate processes and systems to be developed by the regulator.

Role of the Minister in spectrum management

A key feature of the Bill is the removal of the Minister from operational decisions. The Minister’s role under the Bill’s framework is to set strategic priorities to guide the ACMA in the delivery of its spectrum management regulatory functions.

Decisions with significant public policy implications (for example, those involving major government policy initiatives) remain under the Minister’s oversight. The Bill introduces or strengthens a range of tools to make the Minister’s policy guidance transparent and increase the accountability by which the spectrum policy leadership role is undertaken. These tools include:

- maintaining the Minister’s general directions power available under the *Australian Communications and Media Authority Act 2005* (ACMA Act)
- revising the Minister’s current powers in the 1992 Act to direct the ACMA on specific matters
- enabling the Minister to issue policy statements to the ACMA on the Government’s spectrum strategy and priorities, to which the ACMA must have regard in performing its spectrum management functions and exercising its spectrum management powers (Part 2).

Ministerial powers

Section 14 of the ACMA Act provides a broad power that enables the Minister to direct the ACMA in the performance of its functions and exercise of its powers. This includes the spectrum management functions listed in section 9 of the ACMA Act, functions and powers under the Bill relating to licensing and technical regulation, advising the public and assisting the radiocommunications community, managing input into international standard settings as well as monitoring and reporting to the Minister on the operations of radiocommunications.

Under the new arrangements, if there is a need to direct the ACMA on its spectrum management functions, the Minister may continue to rely on the direction power set out in the ACMA Act.

The Bill also provides specific directions powers for specific matters in relation to which the Minister may intervene. Under the Bill, the Minister is able to direct the ACMA, by legislative instrument, to issue a licence to a particular person (clause ^39). This ability is not explicitly available under the 1992 Act.

The Minister may direct the ACMA about matters dealt with in spectrum access charge determinations (such as the value of the spectrum, or payment by instalments) (clause ^194).

In addition, the Minister will also be able to issue guidance in relation to any of the ACMA's spectrum management powers and functions through Ministerial policy statements (Part 2). The ACMA must have regard to these Ministerial policy statements in performing its spectrum management functions and exercising its spectrum management powers.

The following tables provide an outline of the current Ministerial powers under the 1992 Act and outline the proposed changes to each power under the new framework.

Table 1: Current Ministerial 'accountability / strategic policy-directed' powers

Reference	Provision of 1992 Act	Description	Proposed action under the Bill
Allocation limits for spectrum licences	60(10)	The Minister may direct the ACMA to impose limits on the aggregate of the parts of the spectrum that may be allocated to persons or groups of persons.	Remove and rely on s14 ACMA Act if required.
Re-issuing spectrum licences	82(3)	The Minister may determine a class of services for which re-issuing spectrum licences to the same licensees would be in the public interest.	No longer applicable - renewal arrangements now to be specified in the licence.
Resuming spectrum licences by compulsory process	91(2)(a)	ACMA must not resume a spectrum licence without ministerial approval. The Minister may give written approval for the ACMA to resume a licence.	Retain equivalent.
Allocation limits and eligibility requirements for certain transmitter licences	106(9)	The Minister may direct the ACMA to impose competition limits on the number of transmitter licences which may be issued to a person or group of persons.	Remove and rely on s14 ACMA Act if required.
Allocation limits and eligibility requirements for certain transmitter licences	106(14)	The Minister may direct the ACMA to limit the persons eligible to apply for a particular transmitter licence to a certain class of persons if any law requires persons to be within specified class.	Remove and rely on s14 ACMA Act if required.
Restrictive orders	222 and 223	The Minister may make a restrictive order during a period of emergency that prohibits or regulates the use or operation of radiocommunications transmitters within a specified area. The Minister must publish the restrictive order.	Retain ability to create restrictive orders (now emergency orders).
Charges	294(2)	The Minister may direct the ACMA on spectrum access charges.	Retain equivalent.

Table 2: Current Ministerial 'process' powers

Reference	Provision of 1992 Act	Description	Proposed action under the new Radiocommunications Bill
Interpretative provision	10	The Minister may specify bodies or organisations that provide public or community services.	Rely on the ordinary meaning of the term.
Spectrum plans and frequency band plans	Subsections 31(1)-(1D)	The Minister may, after consulting with the ACMA, designate part of the spectrum for broadcasting purposes, and related powers.	Remove. Rely on the ACMA's spectrum planning provisions and Ministerial policy statements. If required, s14 ACMA Act is available.
Conversion plans and marketing plans	36(1)	The Minister may, after consulting with the ACMA, designate part of the spectrum for the issue of spectrum licences.	No longer applicable under the single licensing system.
Reallocation of encumbered spectrum	153B(1)	The Minister may make a declaration that parts of the spectrum are subject to re-allocation.	No longer applicable under the single licensing system.
Reallocation of encumbered spectrum	153J	The Minister may only vary a spectrum re-allocation declaration to extend the re-allocation deadline where there are special circumstances.	No longer applicable under the single licensing system.
Restrictive orders	230(1)	The Minister may make guidelines with respect to exercise of the power to make restrictive orders. The Minister may vary or revoke restrictive order guidelines.	Remove provision for Minister to create guidelines.
Public inquiries	256(1)	The Minister may direct the ACMA to undertake a public inquiry relating to the management of spectrum, or any other radio emission issues.	Remove. This provision has not been used to date.

Overview of Exposure Draft Bill provisions

The following is a 'walkthrough' of the Bill. It identifies those areas where there is a significant change to the current arrangements, such as:

- Ministerial policy statements
- licensing, including:
 - issue process and licence issue schemes
 - conditions of licences
 - designated statements
 - regulatory undertakings

- equipment rules
- delegation, including management rights.

This paper should be read in conjunction with the Bill.

Preliminary (Part 1)

Part 1 of the Bill sets out the objects of the Bill, definitions of terms used in the Bill and the scope of the Bill's application.

Objects

The objects provision sets out the purpose of the legislation and assist the Courts, the regulator and others to interpret the legislation.

The object of the 1992 Act has eight separate elements. This can be confusing as there is no hierarchy for these aims and an assumption that all have equal weighting.

The objects in the Bill have been revised to provide greater clarity, without detracting from the policy objectives of the spectrum reforms.

Definitions

There can be conflicting terminology in radiocommunications where the same terms have different meanings in different circumstances. For example, the use of the terms allocation and assignment have different connotations when used for spectrum planning generally, rather than their use in the 1992 Act. Where possible, definitions have been reviewed and updated to simplify interpretation. Defined terms have also been reviewed to reflect current legislative drafting practice and ensure consistency with other legislation.

Changes include:

- renaming the concept of device to equipment, to avoid confusion with radiocommunications device
- providing that all radiocommunications transmitters and radiocommunications receivers are radiocommunications devices (by contrast, in the 1992 Act radiocommunications receivers had to be determined by instrument to be radiocommunications devices, and radiocommunications transmitters could be determined not to be radiocommunications devices)
- removing the separate definitions of Australian space object and foreign space object, and the ability of the ACMA to determine that specified objects are not space objects
- introducing the concept of designated statements, which are statements in a licence constraining the treatment of the licence by either the ACMA or the licensee
- introducing the concept of general licensing functions or powers, which sets the scope of the delegation powers in Part 12A.

Application

The Bill is generally consistent with the application provisions contained in the 1992 Act.

For ease of interpretation, the Bill simplifies the drafting of provisions relating to application to space objects.

Ministerial policy statements (Part 2)

Part 2 of the Bill empowers the Minister to issue Ministerial policy statements. Ministerial policy statements provide a mechanism for the Minister to provide the ACMA with policy guidance in relation to the exercise of its spectrum management powers and functions. The Bill requires the ACMA to have regard to any relevant Ministerial policy statements.

Consistent with the findings of the review and the ACMA Review, Ministerial policy statements will provide for Ministerial oversight of spectrum policy and management, while reducing the need for the Minister to be actively involved in the day to day administrative processes of the ACMA. In the first instance, the matters likely to be subject of Ministerial policy statements include, but are not limited to:

- the ACMA's annual work program
- the single licensing system, including license issue and conditions and end of licence term processes and renewal rights
- the protection arrangements for the radio quiet zone (RQZ) for the square kilometre array (SKA)
- matters relating to broadcasting spectrum.

It is intended that the majority of the Ministerial policy statements set out above will be developed prior to the commencement of the new legislation.

The Minister will also retain the power to direct the ACMA if required through section 14 of the ACMA Act. The Bill also provides for the Minister to direct the ACMA in relation to particular licence issues and the setting of spectrum access charges.

Ministerial policy statements will be notifiable instruments and will be required to be published on the Federal Register of Legislation (www.legislation.gov.au). The Department will advise the Minister on relevant matters to be contained in Ministerial policy statements. Consultation will be undertaken prior to finalisation of any Ministerial policy statements.

Stakeholders have sought clarification on the interaction between the proposed Statement of Expectations (as recommended by the ACMA Review) and Ministerial policy statements. While a Statement of Expectations is yet to be issued by the Minister, in general terms, the Statement of Expectations would outline the Government's expectations of the ACMA in the performance of all its roles and responsibilities. In response, the ACMA would develop its own publicly available Statement of Intent.

Ministerial policy statements, by contrast, will be specific to the ACMA's spectrum management functions and powers, rather than to the ACMA more generally. The Statement of Expectations and Ministerial policy statements will be prepared so as to be consistent with each other.

ACMA's work program (Part 3)

Part 3 of the Bill introduces a legislative requirement for the ACMA to prepare and publish an annual work program in relation to its spectrum management activities. The work program will have a five year planning horizon, with a detailed annual work program for the immediately forthcoming financial year. Mandatory consultation provisions are included in the Bill, which require the ACMA to consult the Minister, and invite and consider submissions prior to the preparation of the work program.

Building on the ACMA's current process for developing the five year spectrum outlook (FYSO) document, the work program will provide the Minister and stakeholders with an early indication of new and changing priorities, significant spectrum planning and other proposed decisions and emerging

issues. This will improve transparency, enabling improved forward planning for industry and the ACMA. The ACMA will be able to prepare new work programs as priorities or circumstances change.

It is proposed that the ACMA will provide a report on its progress against its current work program in its Annual Report. The ACMA has also prepared a paper with information on how it may develop the annual work program. It can be found on the ACMA website.

It is intended that a Ministerial policy statement will provide guidance on the development of the ACMA's work program.

Radiofrequency plans (Part 4)

Part 4 of the Bill simplifies the radiocommunications planning framework (Part 2.1 of the 1992 Act) by consolidating the separate planning powers for spectrum plans, radiofrequency band plans and broadcasting services band plans into a single power to make radiofrequency plans.

This approach removes the duplication that exists across these separate planning powers, while providing the ACMA with the flexibility to continue to make separate plans with different levels of detail (currently done through spectrum and frequency band plans) as it considers necessary. It is anticipated that the ACMA will continue to use some form of administrative tools to assist the planning process, for example Radiocommunications Assignment and Licensing Instructions (RALIs), embargoes and the work program.

Radiofrequency plans are legislative instruments, but cannot be disallowed by the Parliament. The plans must be published and are subject to consultation in accordance with the *Legislation Act 2003*. This approach maintains transparency of spectrum planning and allows existing and prospective spectrum users to maintain confidence in that planning.

The Bill continues to specify that plans may provide for parts of the spectrum to be reserved for the provision of defence and public and community services.

The Bill requires that the ACMA must not perform its spectrum management functions or exercise its spectrum management powers in a manner that is inconsistent with a radiofrequency plan. However, the Bill allows the ACMA in special circumstances, such as for defence or security, to issue short-term licences which are inconsistent with a radiofrequency plan.

Further information on the proposed approach to planning of broadcasting services bands is provided in the accompanying *Broadcasting Spectrum* consultation paper.

Operation of radiocommunications devices (Part 5)

One of the primary reasons spectrum is regulated is to prevent interference between users of radiocommunications devices. As such, Part 5 of the Bill forms the cornerstone of the spectrum management framework. Given the safety critical nature of some radio operations (for example air navigation, police and emergency services communications and maritime safety), the Bill provides both civil and criminal penalties for unauthorised operation and unlawful possession of radiocommunications transmitters. This enables the regulator to use enforcement tools appropriate to the harm that is caused.

Unauthorised operation and unlawful possession

Under the new framework, a person would only require a licence to operate, or possess for the purposes of operation, a radiocommunications transmitter. Radiocommunications receivers would no longer require a licence as they have no potential to cause interference.

The Bill continues to provide penalties for the unlawful possession of radiocommunications transmitters.

Consistent with the graduated approach to enforcement, a contravention of the Part 5 provisions (with the exception of uncertified operation as described below) may either attract a civil penalty or constitute a criminal offence. This is consistent with stakeholder feedback, which strongly supported inclusion of both civil and criminal penalties.

Uncertified operation

The Bill simplifies the operation of certified operator requirements ('qualified operator' rules under the 1992 Act) by providing a separate civil penalty provision prohibiting operation of prescribed types of radiocommunications device without a certificate of proficiency.

Civil proceedings

Consistent with the uniform treatment of licences under the single licensing system, the Bill broadens the existing provision (currently available only for spectrum licences) allowing civil proceedings to be instituted where unauthorised operation of a transmitter causes interference to radiocommunications carried on by another person under a licence. This right to institute civil proceedings extends to third parties authorised under a licence, but not to spectrum users operating under a spectrum authorisation (see Part 6 below).

Licences (Part 6)

The move to a single licensing system is one of the most significant changes from the 1992 Act to the Bill. The key aim of the reformed licensing framework is to simplify processes and improve timeliness and efficiency by removing unnecessary regulatory barriers.

Part 6 of the Bill introduces a single licensing system for radiocommunications to replace the current system (Chapter 3 of the 1992 Act) which prescribes detailed requirements for the separate licence categories of spectrum, apparatus and class licences. Licences will specify the details of key characteristics, providing licensees greater clarity on the use and terms of their licence. This approach enables licences to be configured administratively and therefore are able to adapt to technological change. It is also intended to improve users' capacity to engage in spectrum sharing and other uses, if desired.

Licences will be issued with conditions of use attached to that licence. The Bill introduces two new concepts into the licensing arrangements:

- designated statements, which either bind the ACMA in how it makes decisions relating to the licence, or limits the licensee in how it deals with (rather than uses, as per a condition) the licence
- regulatory undertakings, which bind the ACMA in how it issues future licences or makes spectrum authorisations in similar parts of the spectrum.

These concepts and relevant provisions are discussed later in this paper.

The design and implementation of the single licensing system is the remit of the ACMA. The ACMA has developed a paper with further information on the possible operation of the single licensing system. It can be found on the ACMA website.

General provisions (Part 6, Division 1)

Division 1 specifies that a licence provides rights to access the spectrum, i.e. to operate a radiocommunications device, but that these rights are subject to obligations, i.e. conditions of the licence.

While a licence is not required to operate a radiocommunications receiver, a person may choose to operate a receiver in accordance with a licence in order to receive interference protection.

Issue of licences (Part 6, Division 2)

Division 2 sets out a framework for the issue of radiocommunications licences under the single licensing system. This enables the ACMA to issue licences on written application or through a licence issue scheme. In addition, the Minister may direct that a licence be issued to a particular person.

The 1992 Act separated licence issue according to type. This included the complex regulatory process related to issuing spectrum licences. The Bill enables a more streamlined approach to the issue (and allocation) of licences. This allows greater flexibility for both existing and future spectrum users and encourages more efficient spectrum use. For example, marketing plans are no longer required by the Bill. Any need for such a plan (also known as a prospectus) would be detailed in administrative documents prepared by the ACMA as part of the licence issue process.

Licence issue schemes

The single licensing system is intended to substantially streamline allocation processes by removing legislative barriers to replanning. This will address stakeholder concerns that the current process to convert and reallocate spectrum between licence types is unnecessarily lengthy and creates uncertainty. The Bill removes the requirement for Ministerial involvement in the routine processes associated with allocation (and reallocation).

The Bill enables the ACMA to issue licences on written application by a prospective licensee, in accordance with a licence issue scheme or as directed by the Minister. The Bill gives the ACMA flexibility to determine licence issue schemes, which can provide for the issue of a licence by conducting market processes (such as auctions or pre-determining prices), or for the issue of a licence in response to an application, or the issue of a licence using any combination of such systems. The Bill includes an illustrative 'list of matters' that may be dealt with by the scheme, for example eligibility requirements and when a process may be terminated, among others. Licence issue scheme determinations are non-disallowable legislative instruments. When making the licence issue scheme, the ACMA would be required to have regard to any relevant Ministerial policy statements.

Developing and implementing a range of licence issue schemes is a matter for the ACMA. It is expected that the number of licence issue schemes employed would be limited. For example, a single 'administrative' licence issue scheme could form the basis of a number of different administrative allocation processes.

It is anticipated that the ACMA would make licence issue scheme determinations to cover the primary methods of allocation. The Bill does not prescribe particular allocation methods, allowing the ACMA to use alternative processes that may emerge over time, such as incentive auctions or spectrum exchanges.

The ACMA is able to specify allocation timing in the procedures it develops for particular allocations. It is intended the ACMA would set and report against a target for the timing of proposed allocations in its annual work program. This provides transparency to spectrum users and the Government on how long these processes are expected to take and accountability if timing diverges from estimates.

In deciding whether to issue a licence, the ACMA would be able to have regard to all matters it considers relevant, which could include the effect on radiocommunications of the proposed operation of the devices that would be authorised under the licence. The ACMA would also have to have regard to any applicable Ministerial policy statements.

If the ACMA were to refuse to issue a person a licence, the ACMA would be required to provide the person with written notice of the refusal and the reasons for its decision. Similar to existing arrangements, such a decision would be reviewable both internally and subsequently by the Administrative Appeal Tribunal.

Ministerial direction to issue licence

The Bill provides the Minister with a specific power to direct the ACMA to offer to issue a licence with specified characteristics to a specified person. The direction would be a legislative instrument.

Licence duration

Under the 1992 Act, maximum licence duration ranges from 5 – 15 years depending on the licence category. Internationally, maximum licence terms vary and can be extended up to 25 years.

The current policy of no perpetual licences will continue, however the Bill provides for licences to be issued for up to 20 years. This approach balances the benefits of longer licence terms (such as providing users of spectrum with greater confidence to innovate and invest) with the need to retain the flexibility for Government to repurpose spectrum as circumstances change.

The ACMA will have the discretion to design and implement licence terms, up to the maximum 20 years. The length of particular licences will be informed by factors such as the licence purpose, technology and investment cycles and long term spectrum planning requirements.

Licence issue limits

The Bill provides for the ACMA to impose licence issue limits (also referred to as allocation limits or competition limits). However, the Minister retains the ability to issue the ACMA with directions on licence issue limits under s14 of the ACMA Act.

Consistent with the 1992 Act, the Bill empowers the ACMA to impose limits on a specified part of the spectrum, a specified area, or a specified population reach. Limits may also apply for a specified period, or to a specified person or to members of a specified group of persons.

The Bill provides that before determining a licence issue limit, the ACMA must be satisfied that it has undertaken any consultation with the Australian Competition and Consumer Commission (ACCC) which it considers appropriate and reasonably practical.

Third party use (Part 6, Division 3)

Division 3 sets out rules for third-party authorisations applicable to all licences under the single licensing system.

The Bill continues the existing arrangement which enables licence holders to authorise third parties to operate radiocommunications devices under that licence, subject to any restrictions contained in the

licence. Such authorisations permit flexibility of the user of the spectrum independent of the identity of the licensee.

The Bill requires licensees to make and retain records of authorisations until at least six months after the end of the authorisation, and notify persons authorised as soon as practicable of matters affecting the licence, including variation, suspension, cancellation, surrender, subdivision or assignment.

Conditions of licences (Part 6, Division 4)

The Bill sets out the broad parameters which will frame the development of licences under the new licensing system. It prescribes a set of 'core' characteristics which must be contained within a licence, including:

- parts of the spectrum in which operation is authorised
- geographic information (area or site at which operation is authorised)
- a condition regarding the operation of registrable devices (see Part 6, Division 15 below)
- a condition requiring payment of applicable charges.

In addition to the conditions required by the Bill, the ACMA is empowered to include other conditions as it considers appropriate. This is similar in nature to the existing arrangements.

Additional constraints on the licence are able to be expressed through designated statements in the licence. Designated statements set out restrictions and limitations for both the licensee and the ACMA and may include any restrictions or limitations relating to:

- third party use
- variations
- assignment (trading/subdivision)
- renewal
- supplementary circumstances in relation to suspending the licence
- supplementary circumstances in relation to cancelling the licence.

For example, a licence may have a designated statement limiting the ability for the ACMA to allow third party use to only a specific user group, such as public safety users.

It is anticipated that the ACMA would develop a number of standard licence options with standard characteristics to provide guidance to spectrum users and consistency of treatment. The ACMA has developed some illustrative 'sample licences' to provide an indication of what licences may look like under the Bill. The ACMA, as the responsible agency, will consult on the design and implementation of the new licensing system.

To facilitate sharing and leasing of spectrum, the Bill authorises the ACMA to issue a licence (or make a spectrum authorisation) within the parts of the spectrum for which the ACMA has already issued a licence or provided an authorisation. Recognising the need to protect against interference and respect the rights of incumbents, the Bill allows the ACMA to include 'regulatory undertakings' (see Part 6, Division 5) in licences. This requires the ACMA to ensure specific steps are undertaken before exercising its ability to issue further licences or authorisations over the same spectrum. Regulatory undertakings are discussed further below.

In order to facilitate enforcement of licence conditions, the Bill provides a civil penalty for breach of licence conditions by licensees and authorised third parties.

Regulatory undertakings (Part 6, Division 5)

As noted, the Bill provides for more than one licence to be issued over the same spectrum frequency or in the same geographic area. For example, this may be useful where users wish to share the same spectrum under specified arrangements.³

To provide incumbent licensees with certainty regarding who is able to access their spectrum, there is scope to include 'regulatory undertakings' in licences. Regulatory undertakings would set out on a licence-by-licence basis the limitations or restrictions included in the licence. A regulatory undertaking imposes requirements on the ACMA to ensure specified steps are undertaken before issuing further licences (or the making of spectrum authorisations) within the spectrum space of the first licence. Specified steps may include:

- consultation with the first licence holder
- assessment of whether the additional licence or authorisation would create excessive interference to the other licence.

This will provide certainty to first licence holders on their rights to exclusive use of the spectrum and gives assurance that the rights attached to certain licences, will not be diminished. This enables prospective licensees to assess the relative value of the licence. For example, high value licences may include a specified step that the ACMA would be required to obtain the approval of the incumbent before issuing any other licence or spectrum authorisation. Regulatory undertakings would also allow for the creation of better sharing arrangements. A regulatory undertaking could be used to ensure that licenses are able to have the same access rights and conditions within the same spectrum space. Factors to be considered regarding spectrum sharing include defining the spectrum space to be covered by a sharing arrangement and identifying the users of the spectrum space. Regulatory undertakings would be able to help define these details so that licensees know what they are able to access, where and when.

Once regulatory undertakings are contained in a licence, the Bill requires the ACMA to comply with the terms set out in the undertaking.

Regulatory undertakings are a new concept in the radiocommunications legislative framework and are being introduced with the aim of facilitating sharing of spectrum. The Department welcomes views from stakeholders on these provisions, including as to whether they impose any unintended consequences or if there are other matters that have not been addressed through current drafting.

Varying licences (Part 6, Division 6)

The Bill continues to enable the ACMA to vary the conditions, designated statements and regulatory undertakings of a licence by written notice to the licensee, subject to any restrictions on variation contained within the licence.

Renewing licences (Part 6, Division 7)

Under the current arrangements, licensees do not have automatic renewal rights. While the process for renewal of apparatus licences is relatively straightforward, the process for spectrum licences is uncertain and time consuming.

³ Private parks allow access to a limited number of users in a common band of spectrum on a shared and, where possible, self-managed basis. Ideally, they encourage efficient use of spectrum, innovation and flexibility and provide for low-cost compliance and administration over time.

Specifically, the 1992 Act creates a default presumption that all spectrum licences will be returned to the market on expiry. However, the Minister can determine (by legislative instrument), a class of service where re-issue to the same licensee would be in the public interest; the ACMA can then re-issue the licence if it is satisfied the licence has been used in the provision of a service included in the class of services. The ACMA is also able to re-issue the licence to the incumbent holder if it is satisfied that special circumstances exist that make it in the public interest for the same person to hold the licence. The criteria for 'use' in the provision of a service and 'special circumstances' are not defined in the 1992 Act. In practice, the lack of clarity around these provisions created delays, with a two year period just to establish a process to assess expiring 15 year spectrum licences. In that re-issue process the Minister was required to make a determination and pricing direction and the ACMA subsequently had to assess whether the relevant licences had been 'used' in accordance with a service specified in the determination. This determination related to re-issuing to incumbent licensees providing services in the following bands:

- mobile voice and data communications services in the 800 MHz, 1800 MHz and 2 GHz bands
- wireless broadband services in the 2.3 GHz, 3.4 GHz bands
- satellite services in the 27 GHz band.

The Bill seeks to provide licensees with greater predictability about the arrangements that will apply at the end of the term of a licence, including renewal. To this end, the Bill requires that a licence must include a statement to the effect that:

- there is a right to renew the licence in specified circumstances
- the licence may be renewed at the discretion of the ACMA, or
- the licence cannot be renewed.

The Bill further requires licences to specify the period during which licensees may apply for renewal, as well as allowing the original licence to include a statement regarding the characteristics of the renewed licence. Licensees will therefore have a clear understanding of the key conditions of the licence, including duration, technical parameters and the process for the end of the licence term.

To provide additional guidance, a Ministerial policy statement on end of term arrangements could be issued. It is expected that the ACMA would develop a number of options which set out processes for end of licence terms and how they would be implemented.

Suspension and cancellation of licences (Part 6, Divisions 8 and 9A & B)

The Bill provides that a licence may be suspended or cancelled for breach of licence conditions. The Bill also allows licences to be suspended or cancelled in supplementary circumstances specified in the licence, which need not involve wrongdoing by the licensee. For example, a licence may specify that it can be suspended or cancelled due to national security issues or if there is a temporary need to restrict access to facilitate a spectrum 're-farming' process.

The Bill includes relevant consultation provisions to afford licence holders procedural fairness prior to any suspension or cancellation. Further, the ACMA must provide the licensee with its reasons for a decision to suspend or cancel a licence.

Where the ACMA cancels a licence, it may disqualify the holder of the licence from holding spectrum licences for a period of up to two years. Where the licensee is a corporation, a disqualification may be made in respect of its executive officers if the ACMA is satisfied that they knew, or were reckless or negligent as to whether, the contravention would occur, were in a position to influence the company's

conduct in relation to the contravention, and failed to take reasonable steps to prevent it. Provisions affording procedural fairness are included in the Bill.

Decisions to suspend or cancel a licence, or disqualify a person are all reviewable.

Surrender of licences (Part 6, Division 10)

The Bill enables licensees to surrender the licence by written notice to the ACMA. A licensee may also surrender a part of a licence with the written consent of the ACMA.

To assist with re-farming of spectrum, the ACMA is enabled to enter into contracts for the making of payments as an incentive for licences to be surrendered.

Subdivision of licences (Part 6, Division 11)

The Bill introduces the concept of licence subdivision in order to consolidate rules about the splitting of licences.

The Bill enables licensees to request that the ACMA subdivide a licence into two or more parts, subject to restrictions contained in designated statements in the licence. The ACMA must subdivide the licence as specified in a valid request.

Assigning and dealing with licences (Part 6, Divisions 12 and 13)

Consistent with enabling greater market-based activity, the Bill enables licensees to assign and otherwise deal with licences, subject to restrictions contained in designated statements in the licence or any disqualification of the assignee under Part 6, Division 9B.

The Bill streamlines assignment by removing the legislative requirement for approval by the ACMA currently applicable to transfer of apparatus licences. Parties to a transfer of a licence under the single licensing system need only notify the ACMA of the transfer and request that the ACMA amend the Register of Radiocommunications Licences.

In order to ensure public confidence in the Register of Radiocommunications Licences, assignments will not be effective until they are reflected on the Register.

Resumption of licences (Part 6, Division 14)

The Bill enables the ACMA to compulsorily resume licences, but only on written approval of the Minister.

The Bill allows the ACMA to make legislative instruments determining the procedures for determining compensation payable in respect of the licence resumption and requires the Commonwealth to pay the compensation determined under those procedures, together with interest. These provisions replace the prescriptive requirements and processes currently contained in Part Two of the Schedule to the 1992 Act.

Register of licences and miscellaneous (Part 6, Division 15 and 16)

As under the 1992 Act, the Bill requires the ACMA to maintain a Register of Radiocommunications Licences. The Register must be kept electronically and be publicly available on the ACMA's website.

The ACMA is enabled to make Register rules, setting out by legislative instrument what information must be included in the Register in relation to each licence. It is anticipated that the Register will continue to include information in regard to licence conditions, technical specifics and authorisations placed upon a licence.

Under Part 6, Divisions 4 and 15, transmitters will also be required to be registered in accordance with the Register rules, unless stated otherwise in the licence or in a legislative instrument determination by the ACMA.

In order to prevent duplication of regulatory provisions, the Bill provides that s 50 of the *Competition and Consumer Act 2010* (prohibiting acquisitions which would result in a substantial lessening of competition) applies to licence issue only in parts of the spectrum which are not covered by a competition limit determination, as well as to licence renewal, third-party authorisation and assignment.

Spectrum authorisations (Part 7)

Currently class licences regulate ‘commons-like’ use of spectrum. These licences authorise users of designated segments of spectrum to operate on a purely shared basis without a requirement to be registered with the ACMA. Class licences cover a wide and diverse range of services, primarily under ‘no interference/no protection’ arrangements. They generally apply to ubiquitously deployed devices, such as Wi-Fi routers and garage door openers.

The commons use of spectrum will now be authorised through a ‘licence-exempt’ mechanism, to be known as a spectrum authorisation. The use of a distinct authorisation rather than a licence type will more clearly demarcate the limited rights and protections provided to licence-exempt devices compared to the rights and interference protection provided to licensees.

Part 7 of the Bill introduces spectrum authorisations to regulate commons-like spectrum currently regulated by class licences under the 1992 Act.

The ACMA is empowered to determine spectrum authorisations by legislative instrument. Spectrum authorisations permit the operation of transmitters of specified kinds or for specified purposes, subject to specified conditions including (but not limited to):

- conditions specifying the frequencies at which operation of a radiocommunications device is authorised
- technical requirements about the operation of the device under the authorisation
- area of operation
- periods of operation.

Under the single licensing system, spectrum authorisations may be granted over parts of the spectrum covered by other authorisations or by licences. As outlined above, this is subject to restrictions contained in regulatory undertakings contained within any pre-existing licences.

Spectrum authorisations are not licences under the single licensing system. Users operating under a spectrum authorisation therefore are not able to bring civil proceedings under Part 5 against unauthorised operation or make complaints under the dispute resolution guidelines in Part 9.

Table 3: Differences between spectrum authorisations and licences under the single licence system

		Spectrum authorisations	Licences (receivers & transmitters)
What rights do users have?	Possession of a device	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
What rights do users have?	Use of a device	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
What rights do users have?	Tradable		<input checked="" type="checkbox"/>
What rights do users have?	Interference protection		<input checked="" type="checkbox"/>
What rights do users have?	Civil proceedings		<input checked="" type="checkbox"/>
What predictability do users have?	Regulatory undertakings		<input checked="" type="checkbox"/>
What predictability do users have?	Right to review decisions		<input checked="" type="checkbox"/>
What predictability do users have?	End of term processes		<input checked="" type="checkbox"/>
What obligations do users have?	Payment required		<input checked="" type="checkbox"/>
What obligations do users have?	Taxable		<input checked="" type="checkbox"/>
What obligations do users have?	Requirement to register device		<input checked="" type="checkbox"/>
What obligations do users have?	Device certification		<input checked="" type="checkbox"/>
What obligations do users have?	Maximum duration		<input checked="" type="checkbox"/>
What obligations do users have?	Designated statements		<input checked="" type="checkbox"/>
What obligations do users have?	Conditions imposed by the ACMA	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Certified operators (Part 8)

The complexity or potential for interference involved in the operation of certain classes of radiocommunications devices makes it necessary to certify their operators.

Part 8 of the Bill provides for the ACMA to establish certification rules, setting out the certification requirements to be satisfied by persons before they may operate prescribed classes of radiocommunications devices. This Part satisfies requirements of the International Telecommunications Union (ITU) Radio Regulations, replacing the Qualified Operator provisions under the 1992 Act.

Consistent with the Government's objective to facilitate user involvement in spectrum management, the Bill continues to enable the ACMA to delegate the issuing of certificates to other bodies, including private entities and authorities of the Commonwealth.

Interference management (Part 9)

Dispute resolution

Part 9 of the Bill introduces more flexible procedures to allow the resolution of interference disputes.

Many disputes may be able to be settled between licensees without the direct involvement of the ACMA. There are, however, currently no established guidelines for licensees to take their own remedial actions. If the interference is not unlawful, the ACMA currently needs to direct parties to conciliation before being able to issue directions. This can result in a lengthy, administratively redundant process. The new arrangements introduce alternative dispute resolution guidelines for disputes between licensees.

The compliance framework set out in the Bill simplifies and streamlines the dispute resolution process so that licensees are encouraged, where possible, to establish dispute resolution mechanisms between themselves. This allows licensees to remedy disputes directly without the need to first complain to the ACMA.

The Bill provides that interference management guidelines are a non-binding administrative document giving guidance on the procedures the ACMA expects licensees to follow before seeking the ACMA's assistance. These guidelines do not diminish the ACMA's role in managing interference nor its role in enforcing unlawful conduct under the Bill.

To maximise the ACMA's ability to match a dispute with a suitable form of alternative dispute resolution, the Bill expressly allows the ACMA to either conduct its own dispute resolution process or to refer the dispute to external providers of alternative dispute resolution services. The ACMA may become involved in the dispute if the mediator believes no resolution is possible, or if the offence is considered especially serious, such as if the interference threatens public safety or causes harm to persons or property.

Causing interference

The Bill provides the option of criminal and civil penalties (depending on the situation) for conduct causing substantial interference, disturbance or disruption to radiocommunications, and for transmitting radio or television programs into Australia from outside Australia without the ACMA's permission.

Directions to licensees and powers of inspectors

To further assist the management of interference, the ACMA is enabled to give written directions to licensees in regard to the installation, maintenance or operation of transmitters. Failure to comply with the direction is an offence of strict liability.

In the most serious circumstances, interference to radiocommunications may endanger safety or human life, or cause substantial damage. In those circumstances, the Bill provides inspectors with the power to enter premises and vehicles and take action necessary to address the interference.

Equipment (Part 10)

The 1992 Act recognised that setting technical standards for equipment was an important tool for achieving efficiency in spectrum use and in minimising interference. Equipment regulation also manages

health and safety risks associated with the supply and operation of equipment. Technical standards applied to devices at the point of supply promote market certainty, while record-keeping and labelling obligations promote user confidence that equipment is compliant with regulations.

The approach to equipment regulation under the 1992 Act, however, has not kept pace with the changes in supply models. As the ACMA's paper on Equipment Rules argues, modern supply chains are more complex and diffuse than they were 25 years ago. As a result, the 1992 Act does not enable the ACMA to target persons responsible for device compliance in a supply chain. In addition, rules regarding standards and labelling are currently enforceable only through criminal sanctions. Consultation to date has reinforced the importance of the ACMA being able to regulate both radiocommunications transmitters and non-radiocommunications transmitters and to monitor electromagnetic emissions.

The Bill consolidates a number of provisions contained in the 1992 Act into what will be termed 'equipment rules'. The Bill gives the ACMA a broad power to make equipment rules, directed towards the achievement of specified objectives including containing interference from transmitters, ensuring electromagnetic compatibility of equipment, protecting health and safety from adverse effects attributable to radio emissions and the provision of information to equipment operators. The Bill gives the ACMA greater flexibility in identifying who is responsible for device compliance. The Bill continues to make provision for fundamental elements of the technical regulation arrangements under the 1992 Act, including standards, testing requirements, labelling and record-keeping.

The Bill provides criminal and civil remedies for breaches of the equipment rules, reducing the evidentiary burden on the ACMA. Other remedies include the ability to issue interim or permanent bans, recall non-compliant devices and issue infringement notices to non-compliant users. These remedies will act as a deterrent to non-compliance, and bring the ACMA into line with other Australian and international regulators.

In addition, enabling the ACMA to make rules and standards specific to the device or across a class of devices increases regulatory flexibility.

Emergency orders (Part 11)

Radiocommunications are of critical importance to response services in times of emergency.

In order to ensure public and environmental safety, Part 11 of the Bill continues to enable the Minister, during times of emergency proclaimed by the Governor General, to make orders prohibiting operation of radiocommunications transmitters in specified areas.

In order to streamline responses, the Bill removes the need (s 222(2) of the 1992 Act) for the Minister to have previously issued guidelines before making emergency orders.

Accreditation (Part 12)

Accreditation schemes such as those for Frequency Assignment Certificates and Interference Impact Certificates currently play an important role in assisting the ACMA to perform its spectrum management activities.

Part 12 of the Bill continues to provide for the ACMA to establish such schemes. The Bill allows the ACMA the flexibility to determine suitable conditions of accreditation, process rules and necessary qualifications to be applied in the granting of different categories of accreditation, and sets out due process requirements for withdrawal of accreditation.

Further provision for the involvement of external persons in the ACMA's spectrum management activities is provided in Part 17 (Delegation).

Industry codes (Part 13)

Submissions to the review suggested industry codes would be useful in spectrum management as a cost effective and flexible alternative to black-letter law. The 1992 Act makes no provision for such codes.

The Bill enables the ACMA to approve codes submitted to it relating to the activities of participants in the radiocommunications industry. Before registering a code, the ACMA must be satisfied that the person submitting it is able to ensure compliance with the code.

Information gathering powers (Part 14)

The ACMA is currently constrained in its spectrum management activities by the limited information available to it.

The Bill gives the AMCA targeted powers to require the production of information or documents about the supply of radiocommunications devices in Australia, specifically in relation to the supply of:

- radiocommunications devices, if the information is relevant to the operation of the Bill or the equipment rules as they relate to interference with radiocommunications
- radiocommunications transmitters, if the information is relevant to the operation of the Bill in relation to radio emissions which would be likely to adversely affect the health or safety of individuals
- radiocommunications transmitters, if the information is relevant to the operation of the equipment rules to the extent they are directed towards protecting health and safety from radio emissions.

Enforcement (Part 15)

The ACMA investigates and acts on regulatory non-compliance and sector specific issues such as interference, non-standard devices and breaches of licences. The review highlighted the need for the ACMA to have an improved and more agile range of tools and powers for compliance and enforcement. Not only would this allow for a more targeted and proportionate enforcement response, it would also better align the ACMA's enforcement capabilities with those of other Australian regulators.

The Bill incorporates the standard investigatory provisions and powers of inspectors found under the *Regulatory Powers (Standard Provisions) Act 2014* along with powers and provisions specific to radiocommunications. This will streamline enforcement of the Bill, clarify the powers granted to the inspectors, and improve consistency with other legislation.

The 1992 Act is reliant on criminal, rather than civil, sanctions. This places a high evidentiary burden of proof on the ACMA in order to investigate and address non-compliance. In the event of breach of licence terms, the ACMA is further limited to the serious sanctions of licence suspension or cancellation.

Stakeholders largely support improved enforcement.

Under the Bill, the ACMA will be able to choose from a range of formal actions. This may include:

- issuing public warnings
- issuing an infringement notice
- accepting an enforceable undertaking

- giving a remedial direction (which may include requiring rectification strategies)
- seeking an injunction or other civil penalties
- imposing or varying licence conditions
- referring the matter for prosecution to seek conviction and criminal penalties
- suspending and/or cancelling licences
- withdrawing accreditation and authorisations.

Other tools, such as written warnings, educational activities and voluntary industry self-regulation will also be available to the ACMA. These are not prescribed in the legislation but would form part of the ACMA's administrative practices.

The Bill reduces reliance on criminal sanctions, introducing civil sanctions for breach of most provisions. Criminal sanctions remain in a limited number of cases where justified by the potential harms and not addressed by other legislation. The ACMA has the power to commence civil proceedings in relation to breach of civil penalty provisions seeking, among other remedies, civil penalty orders, injunctive relief and orders to enforce an enforceable undertaking.

This new set of regulatory tools enables the ACMA to foster industry compliance without imposing undue financial or administrative burden. To further assist stakeholders, the ACMA has developed a paper that provides more detail on possible compliance and enforcement arrangements that could be implemented under the Bill. This paper can be found on the ACMA website.

Spectrum access charges (Part 16)

Part 16 of the Bill authorises the ACMA to determine spectrum access charges. Similar to the existing arrangements, spectrum access charges allow the ACMA to specify an amount payable for the issue of a licence and the time when such charge is payable.

The ACMA may issue spectrum access charges by making determinations. While determinations will not be legislative instruments, for transparency they will be published on the ACMA's website.

The Minister will continue to have the ability to direct the ACMA about the matters dealt with in a determination, such as:

- the level of a charge payable (or exemption) in respect of a specified class of public or community service
- when persons are permitted to pay a spectrum access charge in instalments, or
- whether the spectrum access charge reflects the amount the Minister considers as the value of the spectrum.

The ACMA may enter into arrangements with third parties to receive payments of spectrum access charges on behalf of the Commonwealth, including delegates under Part 17.

Delegation (Part 17)

The 1992 Act provided for the introduction of a market system of spectrum allocation, aimed at achieving greater efficiency in spectrum allocation and use. This included the introduction of a scheme for the accreditation of persons to perform specified functions. Accredited Persons were expected to meet the needs of spectrum users in a responsive and flexible manner.

The 1992 Act requires the ACMA to undertake most spectrum management activities with little opportunity to devolve functions, powers and duties to industry or third parties. Where the ACMA can

devolve responsibilities, the 1992 Act contains limited provisions for the delegation to bodies that are not a Commonwealth authority. The 1992 Act limits the types of work Accredited Persons or bodies can undertake in support of the exercise of specific functions and powers by the ACMA. This leads to an overreliance on the regulator in many areas of spectrum management, inflexible arrangements and a lack of agency for users.

Stakeholders have indicated a preference for greater third party involvement in spectrum management functions but acknowledge the critical role of the ACMA as the regulator, especially in the areas of accreditation, enforcement and interference management.

Existing accreditation arrangements have contributed to an efficient, market-based solution for frequency coordination of apparatus licences and the management of devices registered under spectrum licences. The Bill proposes to increase the delegation ability of the ACMA to allow it to enter into arrangements with other bodies or persons to exercise, administer or contribute to the spectrum management functions, powers and duties of the ACMA. It also proposes to extend the ability of the ACMA to accredit persons or bodies, and increase the scope of work accredited persons or bodies may undertake. This is designed to facilitate more flexible and efficient use of spectrum and allow for more innovative management arrangements. The ACMA has provided a paper outlining potential approaches to accreditation arrangements enabled by the Bill. This paper can be found on the ACMA website.

The ACMA will retain full discretion and control over what roles and functions would be undertaken by third parties and the conditions that would apply. ACMA will be able to revoke any arrangement (subject to any contractual limitations) if it is satisfied the party is not exercising the functions in accordance with the Bill, the conditions of the arrangements or if it is not in the best interests of the general community or the radiocommunications industry.

The ACMA will have some limits on the functions and powers that are able to be delegated to ensure appropriate levels of certainty for government, industry and users. Certain spectrum management functions and powers must be performed by the ACMA in its own standing, including those that determine the application of legislation, and those relating to spectrum planning and enforcement of Bill provisions. Other powers that are excluded from potential delegation are those that must be exercised by the Minister. All delegations will be published on the ACMA website.

Review of decisions (Part 18)

Allowing for the review of administrative decisions is central to procedural fairness.

The Bill allows for the review of certain decisions made by the ACMA. In the first instance, an applicant can request that the ACMA review a decision by submitting this request to the ACMA in an approved form within 28 days after the applicant is informed of a decision.

On receipt of a request for review, the ACMA must review the decision within 90 days. Upon completion of the review the ACMA has 28 days to provide a written notice outlining their decision on the reconsideration.

In cases where, after assessing the application for review, the ACMA has affirmed or varied the original decision, the applicant can ask the Administrative Appeal Tribunal to review that decision.

Provisions extending the concept of radiocommunications (Part 19)

This Part specifically extends the operation of the Bill to include certain processes, such as those where radio transmissions are used for the purposes of measurement, the operation of astronomical and

meteorological observations and the use of radio emissions in connection with the operation of lighthouses.

Exemptions (Part 20)

With the exception of specific interference provisions and Part 15 (Enforcement), and subject to any relevant agreement, treaty or convention relating to radio emissions, the Bill does not apply to:

- space objects, except as determined by the ACMA
- radiocommunications transmitters or receivers on board foreign vessels or aircraft travelling to or from Australia or between points outside of Australia.

In order to facilitate the operations of Australia's defence forces, the Bill also does not apply to actions of a member of the defence force, or an Australian Public Service employee in the Department of Defence, in the performance of their duties, or to anything done by or on behalf of specified intelligence agencies.

The Bill provides further exemptions for the purposes of defence and the ACMA, as well as for defence, law enforcement and emergency personnel.

Miscellaneous (Part 21)

Among other miscellaneous provisions, the Bill continues to enable the ACMA to conduct research and compile and publish information on various matters relating to radiocommunications including spectrum use and allocation, market demand for licences and supply, manufacture and operation of equipment. It also provides for the payment of reasonable compensation by the Commonwealth for the acquisition of property arising from its operation or the operation of an instrument under it.

Conclusion

The revised legislative framework enables the Government and industry to adapt rapidly to Australia's ever changing communications landscape. Establishing a streamlined, principles-based spectrum management framework encourages technological innovation to meet rising demand while providing certainty for existing users. Simplifying the complex, rigid legislation and strengthening the strategic role of the Minister in the management of spectrum increases transparency, empowers licensees and minimises unnecessary Government intervention. The new spectrum management framework will help ensure Australia is able to adapt to the rapidly changing communications environment.

Feedback options

The Government welcomes feedback on the ideas presented in this paper. The easiest way to provide feedback is to visit our website at www.communications.gov.au/what-we-do/spectrum/spectrum-reform.

Alternatively, you can provide written comments to:

- Spectrum Reform
Department of Communications and the Arts
GPO Box 2154
Canberra ACT 2601
- Or by email to spectrumreform@communications.gov.au

Submissions close on 30 June 2017.

Please include:

- contact name
- organisation name, if applicable
- contact details, including telephone number, postal and email addresses
- confirmation whether or not your submission can be made public – published – or kept confidential.

All submissions to be made public need to meet the [Digital Service Standard](#) for accessibility. Any submission that does not meet this standard may be modified before being made public.

If your submission is to be made public, please ensure you do not include any personal information that you don't want to be published.