

Annual work program

Supporting material for the Exposure Draft of the Radiocommunications Bill 2017

MAY 2017

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Contents

| | |
|--|----------|
| Purpose of the ACMA supporting material | 1 |
| Radiocommunications Bill 2017 | 2 |
| Proposed approach | 3 |
| Existing arrangements | 3 |
| Future arrangements | 3 |

Purpose of the ACMA supporting material

The ACMA will be responsible for designing and developing new spectrum management arrangements in accordance with the Exposure Draft of the Radiocommunications Bill 2017 (the exposure draft of the Bill), should the Bill be enacted in its current form.

The ACMA's supporting material is intended to provide stakeholders with a greater understanding of how the ACMA envisages key aspects of the Bill may operate, should the Bill be enacted, in order to facilitate consideration of the exposure draft of the Bill.

The ACMA has a particular interest in the views of stakeholders that could inform its approach to transitioning to and implementing the reformed legislation. While the exposure draft of the Bill is available for consultation, the ACMA will join the Department of Communications and the Arts (DoCA) in its stakeholder engagement activities so that the ACMA can benefit from those discussions. However, stakeholders should direct submissions on the package to DoCA as it is the agency responsible for this process.

The ACMA intends to undertake further substantial stakeholder consultation as it designs and then settles on its approach to giving practical effect to the new legislative and policy framework, should the Bill be enacted in its current form.

All views expressed in the ACMA supporting material are preliminary observations only, and have been developed to assist stakeholders in considering and responding to the exposure draft of the Bill. **The supporting material cannot and does not fetter the Authority's discretion in the making of future decisions about the matters discussed in this material or any other matter.** The ACMA will assess each decision it makes under the *Radiocommunications Act 1992*, and under any future legislation, on its merits and in accordance with the requirements of any applicable legislation and administrative law.

No person should rely on statements made in the ACMA supporting material as an indication or explanation of future or present rights and obligations. Neither the ACMA nor the Commonwealth accepts any responsibility or liability for any damage, loss or expense incurred as a result of reliance on any part of the ACMA supporting material. Any person reading this supporting material is advised to also consult the exposure draft of the Bill and DoCA's explanatory materials.

Radiocommunications Bill 2017

Part 3 of the exposure draft of the Bill specifies that the ACMA must, at least once each financial year, prepare a work program in relation to its spectrum management functions and its spectrum management powers. A work program must be for a period of not less than five financial years and must be published on the ACMA's website.

The Bill sets out a consultation process for the work program. Before making a work program, the ACMA is to:

- > consult with the Minister for Communications
- > publish a notice on the ACMA's website setting out a draft work program and inviting interested people to make a submission about it within a period not less than 14 days
- > consider any submissions received during that period.

The Bill, if passed, also allows the ACMA to make minor variations to the work program without a further consultation process.

Proposed approach

If the Bill is passed by Parliament, the ACMA expects that in developing its work program, it will take careful account of the contents of any related ministerial policy statement that may be given under Part 2 of the Bill.

Existing arrangements

Prior to the passage of the Bill, the ACMA expects to continue to publish its *Five-year spectrum outlook* (FYSO), which contains information about the ACMA's work program over a period of five years. The FYSO provides an overview of the ACMA's spectrum management priorities over the short to medium term, and the ACMA's plans to address them. It also provides visibility to stakeholders about how the ACMA is directing its resources and which spectrum projects it considers a higher priority.

The FYSO establishes the ACMA's spectrum management priorities on an annual basis, while allowing some latitude for changes in priority or approach due to the unpredictable nature of some of the ACMA's spectrum challenges. This includes shifts in the external environment, such as changes in technology, markets or consumer preferences.

The 2016–20 FYSO contains a greater focus on the work the ACMA expects to undertake in the next 12 months. The future of the FYSO will be considered as part of the implementation of the reporting arrangements arising from the Bill, if passed.

Future arrangements

Following the passage of the Bill, the ACMA anticipates that it would seek to align its annual work program with its corporate reporting cycle. A draft annual work program would be published for submissions in accordance with the requirement in the Bill in the final quarter of a financial year. Publication of the work program would follow consultation with the minister as required in the Bill, and would be informed by submissions from stakeholders. The final published work program would take account of submissions and any ministerial views.

An annual work program would be expected to provide information about the anticipated activities of the ACMA over the following financial year and would also include:

- > a clear articulation of the planned spectrum related priorities and activities over the next five financial years
- > information about any relevant ministerial policy statements or ministerial directions since the previous financial year's annual work program and how the ACMA planned to give effect to these
- > details of any changes to ACMA priorities since the previous financial year's annual work program.

During the Bill implementation period, the ACMA expects that an annual work program would also reflect the ACMA's implementation activities. The ACMA will report on its progress on its annual work program in its Annual Report.

The ACMA expects that the process for consultation on its work program specified in the Bill will allow it to respond flexibly to the need for consultation on its proposed activities outside an annual cycle, should the need arise. The ACMA would look to

maximise the notice it gave the minister and spectrum stakeholders about any key changes.

Experience shows that priorities in spectrum work may change in the course of a 12-month work program. A recent example is the decision in late 2014 to move several years earlier than previously expected to auction 1800 MHz spectrum in regional areas. For these reasons, the ACMA's preference, rather than inflexible adherence to a work program, would be to offer transparency around any changes that emerge. To be useful, this would need to occur during the life of the work program. Depending on the ultimate form of the Bill and the content of ministerial policy statements, the ACMA would work with the minister and industry on the most appropriate way to provide transparency around the nature and reasons for any changes in the work program.

As the annual work program requirements are settled, the ACMA expects to consult with stakeholders on its content, timing and appropriate consultation and feedback mechanisms.