



Motorola Solutions' response to the Department of Communications paper:

Spectrum Review

Potential Reform Directions

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Department of Communications –

Spectrum Review

Potential Reform Directions

Motorola Solutions' Response

Motorola Solutions (Motorola) welcomes the Department of Communications' review of spectrum policy arrangements. Motorola has been a leader in the field of two-way radiocommunications for 85 years, excelling in the research and development, production, marketing and efficient operation of radiocommunications equipment and systems all over the world. Motorola's brand is synonymous with high quality radiocommunication products and services. As a global operation with close operator links Motorola believes that its accumulated experience qualifies us to comment on this review.

The primary commercial interest of Motorola has been, and continues to be, in the provision of solutions encompassing the design, manufacture and supply of communications equipment, systems and services. Motorola knows that issues relating to the allocation of radiofrequency spectrum impact directly on the demand for its communications products and the issues discussed here are particularly relevant.

Motorola is therefore pleased to have the opportunity to comment on the issues raised by the Department of Communications' Spectrum Review and looks forward to the next phase of public consultation once the proposals for change are more fully developed and the intended consequences of the proposals are more easily understood. Motorola notes that the proposals in this Consultation Paper provide high level concepts meaning its comments, by necessity, also provide high level responses noting desirable and undesirable directions in any proposed change process. It is essential therefore that the Department uses the comments received in this round of consultation to prepare a more defined set of proposals that industry and other interested parties can provide feedback on before any action to amend, repeal or issue drafting instructions for possible future legislation is undertaken.

GENERAL COMMENTS

The Consultation Paper identifies the need to maximise the economic and social return from spectrum thereby promoting national wellbeing. The objects of the current Act, Radiocommunications Act 1992 (Part 1.2 clause 3(b)), support the promotion of national wellbeing by identifying the special spectrum needs of agencies involved in the defence or national security of Australia, law enforcement or the provision of emergency services. Motorola



considers that any legislative amendments arising from this Review need to remain cognisant of the important function that the current legislative objects play in the promotion of national wellbeing and preserve them in any future amendments or new legislation.

Within the international context, the Consultation Paper recognises the need for international harmonisation of spectrum and provides examples of the continuing benefits of such harmonisation in a time of rapid global adoption of advanced mobile communication technologies. Australia's participation in the work of the International Telecommunications Union (ITU) and, to a lesser extent, the Asia Pacific Telecommunity (APT), enables Australia to participate in the global economy by supporting the efficient operation of a myriad of international activities dependent on communications such as international travel and international banking.

Australia's positions on international radiocommunication, radiofrequency spectrum management issues and ITU World Radio Conference (WRC) agenda items are arrived at through a process of active ongoing consultation with stakeholders on a number of domestic bodies including the Australian Radio Study Groups (ARSGs) and the ACMA Preparatory Group for the WRC (PG WRC). The ARSGs mirror the ITU-R Study Groups and their Working Parties and make recommendations to the ACMA to be considered at regional and international meetings. More often than not, industry contributes the majority of Australian Delegation members attending regional and international meetings providing an essential resource that assists and reinforces the ACMA's participation in such meetings.

This formal process of active ongoing industry consultation ensures that interested stakeholders can help shape Australia's international radiocommunication profile and must be preserved as an essential part of Australia's management of the spectrum in any government actions arising from this Review. Motorola would prefer that the ACMA's current "Guidelines for participation in international and regional radiocommunications forums and meetings" were explicitly referenced in the ACMA's enabling legislation and legislation covering the management of spectrum in Australia such as the current Radiocommunications Act. Such explicit recognition would increase industry awareness and ensure that industry would be better placed to make the significant resource decisions required to support such activity.

PROPOSAL 1: Implement a clear and simplified framework of policy accountability

Any simplified framework of policy accountability needs to clearly delineate between the roles of the Minister, the Department and the ACMA whereby the Minister acting on advice received from the Department makes policy and the ACMA implements that policy.



The simplified framework should seek to clearly identify the role that industry will be given in participating in policy making and in how the policy is implemented including the role that industry will play in forming Australian positions to be debated in international and regional fora such as the APT and ITU and World Radio Conferences (WRCs).

It would be useful for the Department to identify how the proposed annual work programme would differ from the current ACMA Five Year Spectrum Outlook and the ACMA's Annual Report.

PROPOSAL 2: Establish a single licensing framework

As the Consultation Paper does not provide enough detail to understand truly what is intended in establishing a single licensing framework it is difficult to provide meaningful comment. It would be useful for the Department to provide an additional case study outlining how any such new licensing framework would work in practice and outline the objectives of such a change.

Motorola recommends that any such changes are only be made in consultation with industry. For industry to participate in framing such a change it would need to better understand what the Department wants to achieve through establishing a single licensing framework. It may therefore be worth considering delaying the process until the Department is ready for a second round of public consultation on the specifics of a single licensing framework and how it would work in practice.

PROPOSAL 3: More flexible allocation and reallocation process

While Motorola is in favour of a more flexible spectrum allocation and reallocation process it is not in a position to provide more substantive comment as the Department is yet to clarify its intentions in this regard. Any changes to spectrum allocation and reallocation processes will need to establish clear lines of demarcation between actions that the ACMA is able to take and the pre-existing circumstances needed before the Minister could make a determination.

PROPOSAL 4: Establish a more transparent and flexible approach for spectrum pricing

The pricing of spectrum in Australia is currently not transparent nor is it flexible. Australia appears to have one of the most expensive spectrum pricing regimes in the world, yet the reasons for this are not at all clear.



The Review needs to engage with industry in establishing transparent and flexible pricing principles. At a minimum, these principles need to clearly identify how prices are set and by whom, removing the current impression that prices are set in order to meet revenue targets instead of controlling access to a scarce, non-renewable resource.

Therefore it may be worth delaying discussion on this topic until the Department is ready for a second round of public consultation on specifics for an improved, transparent and flexible pricing regime.

PROPOSAL 5: Structuring payment schedules for licences

Motorola cannot provide any comprehensive commentary without further specifics on structured payment schedules for licenses in the current Consultation Paper. However, we do believe that any payment schedule needs to better define the “use it or lose it principle” in general terms. Motorola seeks to provide certainty to industry including defining the circumstances under which exclusivity would apply.

Similar to Proposal 4, Motorola believes this may also be a topic where consideration would be better delayed until the Department is ready for a second round of public consultation on the specifics of structured payment schedules for licences.

PROPOSAL 6: Open data approach

While Motorola supports an open data approach it is concerned that the Consultation Paper does not provide any specific guidance on what information might be sought by ACMA or other Government agencies. Without these specifics Motorola is concerned the proposed requirement for data collection would be onerous for industry. This would make industry very hesitant about granting unfettered data collection powers to ACMA or other Government agencies.

Any such requirement would need to be cognisant of the potential commercial nature of the data collected and would require robust mechanisms to protect it.

PROPOSAL 7: Payment of compensation for resuming all or part of a licence

Motorola agrees with the concept of a clearly articulated compensation



scheme for spectrum users who have part or all of their licensed spectrum assets resumed. The overriding objective of any such action must be to encourage users to agree to “move on” in the national interest where necessary. This should only occur due to changed or unforeseen circumstances and should provide protection from spectrum users with “deep pockets” and a rapacious appetite for “collecting” and “hoarding” spectrum assets.

PROPOSAL 8: Facilitate greater user involvement in spectrum management

The ability to comment on this proposal other than at a level providing top line detail is hampered by the lack of a clearly articulated explanation of intentions. The Department needs to establish a clear framework for spectrum management before any such exercise can be attempted in any meaningful way. Consideration of any such proposal is most probably worthy of dedicated consultation to ensure industry support.

For example, the Consultation Paper does not adequately explain whether the Department wants a management regime similar to those in the UK or New Zealand. Regardless of the model chosen, agreement with industry needs to be reached beforehand on how the success or failure of such a scheme would be measured. Motorola considers that the only measure of success is the extent that spectrum prices fall as the result of implementing the scheme. Only falling prices would justify the potential dislocation and confusion that might be caused by the implementation of a spectrum management scheme that, in essence, introduces an additional layer of management. Any price rises that follow from the introduction of such a scheme would mean that the scheme has failed and there have been no gains to the efficiency and economy of spectrum management.

In view of this, Motorola encourages the Department to move cautiously should it decide to proceed and perhaps introduce a trial scheme over a limited number of bands and set a timeframe. This will help to gauge whether the price being paid for spectrum access has moved down or up.

PROPOSAL 9: Develop more principles-based device supply regulation

Motorola agrees that device registration can be simplified. Nevertheless any simplification needs to provide the carriers and network operators with assurances that agreed minimum technical and compliance standards will continue to be applied and complied with.

It would be helpful if the Department could identify how this proposal would impact the current Mutual Recognition Agreements (MRA's) with countries



such as New Zealand.

“The last recommendation in respect to this proposal is to ensure all persons in the supply chain are responsible for compliance.” It would be useful for the Department to provide an additional case study outlining how this regime would work in practice and outline the objectives of such a change.

For example, does this change envisage a requirement for all persons in the supply chain to create and maintain compliance data for products they provide?

PROPOSAL 10: Improve regulation by extending the suite of enforcement measures available to the ACMA

Motorola supports a switch from criminal to civil penalties in the legislation as this will lower the burden of proof, hence encouraging a more robust enforcement approach from the ACMA in pursuing spectrum users failing to “play” by the rules.

PROPOSAL 11: Continual review of spectrum allocation to alternative/high value uses

While Motorola views the principle of continual review as sound, it is concerned that such an approach provides a minimum level of comfort to industry by making it clear that spectrum resources will not be able to be resumed simply because an alternate user has made a case for “higher value” use. If allowed, such uncertainty will have an adverse impact on investment as spectrum users will have no certainty of tenure over their resource, regardless of the longevity of their licence.

End of Response