

Submission to Commonwealth  
Department of Communications

Comments on the Spectrum Review  
Potential Reform Directions Paper

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# Executive Summary

## Introduction

On 11/11/2014 Mr. Roger Harrison, VK2ZRH released a statement on the Wireless Institute of Australia (WIA) Website titled "Government's Spectrum Review proposes a single licensing framework"<sup>1</sup>. In this statement Mr. Harrison, a director of the WIA, provided a link to the page "Consultations open on future directions for spectrum in Australia"<sup>2</sup>. This in turn led to the Minister's invitation to comment on proposals arising from the actual discussion paper "Spectrum Review Potential Reform Directions - Consultation Paper"<sup>3</sup>.

As background I am a licenced Advanced-Class Amateur Radio Operator holding callsigns VK3VM and VK3SIR. Professionally I am a qualified and practising Trainer with in excess of 25 years of experience within the Victorian TAFE Sector. I work primarily with people and technologies within the Communications and Information Technology sector. I am also a qualified and active Assessor for Amateur Radio Licenses (Number: 3-072) through the WIA "Amateur Radio Services" Contract with the ACMA to issue Amateur Radio Licenses<sup>4</sup>.

It is my intention in my position as an operator, trainer of candidates and assessor of candidates for radio licenses, to provide constructive comment on issues that arise from this consultation process that I feel may aid the Amateur Radio Community. I recognise that the WIA is the primary representative body for Australian Amateurs. I am not wanting to put down the great work that the organisation undertakes in representing Amateurs, but often there is a perception at grass-roots level that contributory ideas are not making it to those that need to hear what Amateurs feel.

I am therefore exercising my right to comment under the regulatory framework so that views that may not otherwise be heard may be put forward.

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<sup>1</sup> <http://www.wia.org.au/newsevents/news/2014/20141111-1/index.php>

<sup>2</sup> [http://www.minister.communications.gov.au/malcolm\\_turnbull/news/consultations\\_open\\_on\\_future\\_directions\\_for\\_spectrum\\_in\\_australia#.VGMvdBEcS71](http://www.minister.communications.gov.au/malcolm_turnbull/news/consultations_open_on_future_directions_for_spectrum_in_australia#.VGMvdBEcS71)

<sup>3</sup> [http://www.communications.gov.au/consultation\\_and\\_submissions/spectrum\\_review](http://www.communications.gov.au/consultation_and_submissions/spectrum_review) and [http://www.communications.gov.au/\\_data/assets/word\\_doc/0005/243707/Spectrum\\_Review\\_Potential\\_Reform\\_Directions\\_paper.docx](http://www.communications.gov.au/_data/assets/word_doc/0005/243707/Spectrum_Review_Potential_Reform_Directions_paper.docx)

<sup>4</sup> <http://www.acma.gov.au/theACMA/contract-with-wireless-institute-of-australia> and [http://acma.gov.au/webwr/aba/licplan/broadcasting/types/documents/wia\\_contract\\_business\\_rules-july2011.doc](http://acma.gov.au/webwr/aba/licplan/broadcasting/types/documents/wia_contract_business_rules-july2011.doc)

## Summary

The Government must adhere to internationally recognised band plans as a failure to do so may put the people of Australia at risk.

A single spectrum-based licensing framework that is not apparatus dependent is supported.

Advanced, Standard and Foundation Amateur Licenses should be for life and have a charge only at establishment.

Stopping the supply of non-compliant equipment should be prioritised and enforcement processes to stop such equipment from being operated should be enhanced.

The supply and sale of equipment to non-licensed entities should cease, and this should be heavily enforced.

Regulators should have the power and authority to stamp out constant bad behaviours with the application of on the spot fines.

Amateur TV Broadcasting should continue to be supported.

Community TV should also be supported utilising ABC and SBS sub channels at regional broadcast boundary levels.

## Comments

### Page 4: International Context

I am concerned that the language in this section and especially the statement “Australia’s relative remoteness provides some discretion on international harmonisation and coordination decisions” as this indicates that The Minister is attempting to downplay the significance of International agreements and obligations.

In the field of Amateur Radio making contacts with entities external-to-our-borders is a primary goal for many Amateur licensees. Therefore a recognition of international obligations is essential with regards to a maintenance of the whole constructs of Amateur Radio.

As radio signals propagate signals, at various wavelengths, can leave our borders; likewise signals can enter into our borders. The ACMA currently has spectrum allocated to non-Amateur entities, especially in the 160m and 80m band regions, that are not harmonised with International Telecommunications Union (ITU) Region 3 recommended spectrum allocations. In the region 3700 KHz – 3776 KHz as an example there are spectrum allocations to emergency, para-emergency and government (predominantly state and local) that could be subject to interference from signals propagating into our nation from our near neighbours (predominantly Indonesia) that have their spectrum allocations conforming to ITU Region 3 recommendations. Some of these allocations especially around 3730 KHz are used extensively for digital and facsimile transmission, thus further contributing to the unreliability of communications for emergency, para-emergency and government entities.

Propagation conditions are typically optimal for communication disruption at times when segments of the Australian landmass can experience natural phenomenon, such as storms and fire.

This places the Australian community as a whole at risk as the Government through the ACMA has allocated spectrum that does not adhere to recommended ITU band plans.

I recognise that spectrum is finite. I feel that the risk of resources not being available or being deliberately interfered with outweigh economic factors especially when it comes to public safety and the security of the Australian people.

### Proposal 2: Establish a single licensing framework

I would be in full agreement for this framework and with the intention as expressed.

Amateur Licensees should be licensed to operate within spectrum; the current situation under an Apparatus licence is cumbersome.

Operational conditions should be specified for each class of Amateur radio licence and operation must be within these specified conditions (i.e. bands, bandwidths, power, interference and Electromagnetic Energy [EME] Interference immunity and standards). The current “Apparatus Licence” model fails as the definition of “Apparatus” has evolved considerably. As an example, self-constructed computer-driven software defined radios provide anomalies that the current licensing provision cannot cater for. This is the base technology today behind most radio transceivers.

Some elements of the community have expressed a desire for certain classes of Amateur Radio Licence to be maintained by third-party entities such as the WIA (i.e. Foundation-Class Amateur Radio Licenses all held by the WIA and be “sub-let” to individuals). I would not be in favour of this option and I feel these views would be representative of the vast majority of the Amateur Radio Community. My primary reasons for this relate to regulation and ownership. If there are violations of operation then the Government must have full power to act; if licenses were sub-let then the action would be against the primary licence holder (such as the WIA) which would not be the primary intention. Other reasons also relate to the general psyche of the Australian Community. I feel that in the main that holders of this class of licence would not feel comfortable having their rights of ownership transferred to an entity that is not governmental nor subject to direct government oversight.

My final comment on this recommendation relates to duration of licences. I feel that Amateur Licenses in the Advanced, Standard and Foundation classes only should be issued once and be for life. Many nations have found that it is not economic to annually collect fees for Amateur licenses. It is my informed belief that if similar studies to that taken by overseas regulators (such as the UK’s OFCOM) were undertaken within the ACMA that similar conclusions would be reached.

It is my belief that an initial licence fee should be set for initiating the licence (set under similar cost recovery parameters to that used today) and kept as low as possible. Amateurs should be required every 5 years to make contact with the ACMA (or its successor) to determine if they want to retain their license. The UK’s OFCOM Agency operates such a scheme quite successfully<sup>5</sup>; I believe that such a scheme would be cost-effective here and lead to less red-tape and administrative overhead.

### Proposal 3: More flexible allocation and reallocation processes

I need to reiterate my first point regarding International Contexts. Flexibility should not be at the expense of ignoring ITU and other international obligations.

### Section: Pricing and Market Information (Proposals 4, 5)

With regards to this entire section I feel that my comments made under “Proposal 2” are relevant.

Summarising this position, I feel that a study needs to be conducted into the feasibility and desirability of maintaining annual renewal fees for Individual-held Amateur Licenses. It needs to be determined whether moving to a UK-style model as implemented by OFCOM would serve the Government and the Australian community best.

The current situation of calling for and dealing with ongoing fees builds unnecessary bureaucracy, which is contrary to efficient and lean Governmental business practises.

Dropping fees will also contribute heavily to the growth of Amateur Radio.

The costs of Regulating Amateur Radio should be recovered through a tougher series of regulation and fines for non-compliant operations. This is indicated in the framework provided under proposal 10.

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<sup>5</sup> <http://licensing.ofcom.org.uk/radiocommunication-licences/amateur-radio/> - Refer to the Options for validating licenses

## Proposal 9: Develop more principles-based device supply regulation

I am in full support for this framework and with the intention as expressed in the directions paper.

The current framework has allowed a considerable number of con-complaint devices to escape into the Australian marketplace. This has led to a considerable increase in the amount of noise pollution to the RF spectrum.

Classic examples of this include Plasma Televisions. It is widely known that Field Operations staff within the ACMA have been sent to investigate interference claims emanating from such devices but have been unable to act as the devices have valid certifications. The regulatory power must exist for action to be taken against manufacturers and suppliers of such devices to rectify issues when they arise – even if it is of considerable time after initial certification was made.

This power could also be combined with consumer laws and perhaps assisted in regulation and enforcement by the Australian Competition and Consumer Commission (ACCC).

The regulatory and enforcement framework must be clear, simple and immune to expensive legal challenge – yet clear, simple and inexpensive to consumer (especially Amateurs) appeal provisions must also be put into place. I realise that this is difficult but not insurmountable to achieve.

Unsafe devices or emitters that clearly are outside of acceptable frameworks should be prevented from entering the borders without permit and valid justification. Yet frameworks should also be flexible to allow for new technologies also to enter the marketplace. I fully agree with the concept to move to a principles based approach as detailed. I also concur with the assessment that costs of an investigation into interference/technical disputes from an offending party should be worn by the offending party if it is determined that the party is clearly in breach of their obligations.

Again the issue here is “clearly” in breach...

I also agree with the concept of ensuring that all persons in the supply chain are responsible for compliance. Yet I feel that this concept should go further than this – If an entity does not hold a valid licence or a valid permit from the ACMA or other approved agency to purchase and possess equipment then Consumer Law and Radio Communications Law should be combined (and enhanced) to prevent sale to that entity. This would help to prevent unlicensed entities from obtaining equipment that could potentially interfere with other licensees.

Likewise possession of equipment that one does not have license(s) for should also continue to be outlawed.

From the perspective of the Amateur Radio Operator this would mean that it would be illegal to sell Amateur equipment to non-licensed entities. Likewise it would be illegal for non-licensed entities to possess unlicensed equipment. This again is another argument for lifetime licensing options. Amateur Radio is a hobby – and Amateur Operators can have periods of activity and lapses in activity. Having lifetime licenses allows for the operator to legitimately possess stored equipment even if they are not currently active.

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

I would be in favour of issuing fines for repeated non-compliant actions. I stress the word repeated as we should not go down a “nit-picking” pathway where every minor infraction or minor accident is reported and dealt with.

In the case of Amateur Radio I feel that constant offenders should be issued with on the spot fines from investigating agents. These on-the-spot fines should not be of a trivial nature but should only be issued when there are constant patterns or serious individual breaches observed.

Developing enforceable but reasonable guidelines and “Codes of Conduct” that govern when to act (i.e. swearing, bad conduct, bullying, pornography, and deliberate interference with other Amateur’s transmissions) could be an area where the WIA could be involved – perhaps assisting on a cost recovery basis itself?

Again international obligations are important. It needs to be recognised that any potential “bad behaviour” of Amateurs here in Australia could potentially affect another person outside of our borders that are not subject to the same liberties that we entertain.

Therefore stamping out bad behaviours is, I feel, a mandatory power.

## Proposal 11: The ACMA to continually review options for allocating spectrum to alternative / higher value uses and to ensure that barriers to achieving this are reviewed and removed where appropriate

Again I must reiterate that The Government must comply with ITU recommendations. Any deviation from this may put Australians at risk when communications spectrum is needed.

Television is one of the most popular activities where it is available – and is currently maintained within Amateur spectrum. Amateur TV is a growing aspect of AR and it has been implemented in a very innovative and cost effective way. This facility to undertake this activity within the Amateur bands must be maintained to allow further development and innovation.

The focus of this submission is Amateur Radio, but I would be remiss if I did not make comment on proposals to cease spectrum allocation for a related activity – Community Television. Community Television must be supported and allowed to continue in some shape or form as it has contributed heavily to the cultural diversity of this great nation.

Perhaps with large cuts to public broadcaster budgets ABC and SBS sub channels, on regional broadcast region zone boundaries, could be freed-up and utilised for public broadcasting?

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