

Comments from Airservices on the 2020 Radiocommunications Reform – Consultation Paper

Background

Airservices Australia (Airservices) is a government-owned organisation providing safe, secure, efficient and environmentally responsible services to the aviation industry. We safely manage 11 per cent of the world's airspace where there are more than four million aircraft movements carrying more than 160 million passengers annually. Airservices provides the aviation industry with telecommunications, aeronautical data, navigation services and aviation rescue firefighting services.

Airservices is required under the Air Services Act to comply with the Chicago Convention and provides a number of safety of life services needing access to frequency resources. Aeronautical services are recognised internationally to be a prime user of radio frequencies without which aircraft operations would not be capable of meeting the global demand for safe, efficient and cost-effective air transport. Allocations to aeronautical services are made on a global basis. This enables international standardisation of equipment and systems and facilitates both safety and global interoperability of operations.

The International Telecommunication Union (ITU) Radio Regulations (RR) recognise aeronautical mobile and radionavigation services (and their satellite-based equivalent services) as separate services within the mobile and radiodetermination services families. Communication systems fall within the mobile service whilst navigation and surveillance systems fall within the radiodetermination service. These aeronautical mobile and radionavigation services are identified in the Australian radiofrequency spectrum plan (ARSP).

The safety-of-life element for aeronautical mobile and radionavigation services is accorded special treatment internationally and is granted protection from harmful interference through agreed measures. The distress and safety provisions in Chapter VII of the ITU RR (Article 30), and the regulatory and operational aspects of the aeronautical mobile service in Chapter VIII of the ITU RR (dealing with aeronautical services), as well as various other regulations, establish aeronautical services as a distinct and important component within the radio service hierarchy with a high importance being placed on safety aspects.

The RR are used as the framework for relevant ICAO annexes and standards and recommended practices (SARPs). The ICAO SARPs in Annex 10 are developed in accordance with Article 37 of the ICAO Convention for the purpose of ensuring the safety and regularity of air navigation. Australia adopts and implements aeronautical systems that are in accordance with ICAO SARPs. Noting the above, it would be very difficult to share or release spectrum allocated to an aeronautical service unless the changes have been made and agreed in the RR.

Exposure Draft of the Radiocommunications Legislation Amendment (Reform & Modernisation) Bill

General Comment

Airservices supported the previous Government decision to rewrite of the Radiocommunications Act 1992 to seek improvement in the efficiency, effectiveness and transparency of spectrum management and use. We provided comments through the DIRD on the development of the exposure draft of the 2017 Radiocommunications Bill. However the Government decided in October 2019 to pursue targeted amendments rather than completely rewriting the legislation, and the department has developed an exposure draft of the Radiocommunications Legislation Amendment (Reform & Modernisation) Bill.

The Amendment (Reform & Modernisation) Bill focuses on priority reforms that were included in the exposure draft of the 2017 Radiocommunications Bill, but importantly, no longer introduces a single licencing framework. The key strategic policy for Airservices remains the same for the Amendment (Reform & Modernisation) Bill – continuity of access, and protection of spectrum used for aeronautical CNS systems.

The comments below are provided in response to some of the Schedules in the Amendment (Reform & Modernisation) Bill – on the object of the Act, ACMA work programs, licences, equipment rules, accreditation, and compliance & enforcement.

Object of the Act

Airservices supports the primary object of promoting the long-term public interest derived from use of the spectrum. The sub-objects or aims could better specify the importance of Government spectrum holdings supporting “public good” for safety-of-life outcomes. However, we note that the explanatory notes do explain that “non-commercial purposes (including defence, public safety and community purposes)” encompasses the provision of emergency services.

ACMA Work Programs

Airservices supports Part 1.6 of the Amendment (Reform & Modernisation) Bill specifying that the ACMA must, at least once each financial year, prepare a work program for a period of not less than five financial years in relation to its spectrum management functions and its spectrum management powers. The work program should be effective in providing the Minister and radiocommunications stakeholders with an early indication of priorities, spectrum planning issues and anticipated significant decisions.

Airservices notes that the ACMA currently publishes a five-year spectrum outlook (FYSO), which contains information about the ACMA’s work program over a period of five years. The key difference is consultation with the Minister and the inclusion of ministerial policy statements or ministerial directions since the previous financial year’s annual work program.

Airservices sees it important that the Government Spectrum Steering Committee be given opportunity to comment on the annual work program.

Licences (Duration, allocation, re-allocation and renewal)

Airservices generally supports the proposed amendments in Schedule 3 on licences etc. Airservices agrees that the proposal to make ACMA, rather than the Minister, the decision-maker for re-allocation processes will simplify the reallocation process. However, it is important that a clear process is in place for consultation with industry and stakeholders. The opportunity for ACMA to issue apparatus licences in parts of the spectrum subject to a re-allocation declaration is also welcomed. This would allow flexibility for ACMA to issue apparatus licences in areas where the service will not impact the proposed spectrum licence.

Equipment Rules

Airservices notes that the device supply chains have become more complex since 1992, and therefore supports the introduction of equipment rules that will prevent devices entering the market that are likely to cause interference or harm to human health (Schedule 4). A transition period will be required where suppliers are able to choose to comply with either the 1992 Act equipment regulation arrangements or the new equipment rules.

Accreditation

Airservices has an accredited person (APs) that provide frequency assignment certificates (FACs) for CNS systems operating in aeronautical bands. This includes FACs for non-Airservices clients’

frequency assignments in the VHF aeronautical services band. Airservices uses external APs for non-aeronautical service assignments.

Airservices supports provisions in Schedule 5 to expand ACMA's accreditation powers, including: accreditation of companies to undertake frequency coordination activities, and expansion of accreditation arrangements to support other spectrum management activities. However, it should be noted that Airservices may not have resources to execute any additional accreditation arrangements in the management of aeronautical bands.

Compliance and Enforcement

Airservices believes the existing arrangements work reasonably well, and a core function of the ACMA should be to enforce regulations and interference resolution. Airservices supports a process involving an initial step requiring parties to seek to resolve interference issues between themselves in the first instance, however, there needs to be a mechanism that allows for escalation to the ACMA as the regulator to resolve the issue in a timely manner. Provisions in the Amendment (Reform & Modernisation) Bill that simplify the legislative arrangements relating to resolving interference disputes is supported.

Airservices currently logs all reports of interference from air traffic controllers or pilots (specifically associated with VHF communications), undertakes ongoing investigations, and liaises with the ACMA only when further action is required. Providing interference investigators with greater regulatory powers will assist Airservices, although assistance from the ACMA will still be required in a timely manner when called upon.