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A/g Assistant Secretary
Spectrum & Telecommunication Deployment Policy Branch
Department of Infrastructure, Transport, Regional Development and Communications

2020 RADIOCOMMUNICATIONS REFORM

Consultation paper

BAI Communications Australia (BAI) welcomes the opportunity to provide input on the proposed 2020 Radiocommunications reform.

BAI Communications is a neutral host communications service provider in Australia, USA and Canada, and provider of communications services in Hong Kong. In Australia, BAI provides managed services and portal services to broadcasters as well as site access arrangements to telecommunications and radiocommunications operators. In the USA and Canada, BAI Communications companies provide neutral host communications services within the New York City and Toronto subway systems as well as telecommunications, Wi-Fi, and emergency services communications. As an operator in both the broadcast and telecommunication markets BAI Communications has a view across a very broad range of spectrum bands managed and regulated by ACMA.

BAI Communications is very supportive of the proposed reforms and the general principle of ensuring ACMA has the powers to manage spectrum effectively and efficiently. BAI also welcomes the proposed measures to increase certainty for investors through extended spectrum licence terms and transparent, streamlined spectrum renewal processes.

We strongly support the suggested reform where ACMA refers spectrum allocation limits to the ACCC. This allows non-commercial and competition issues to be evaluated alongside normal commercial considerations when caps on spectrum allocations are being considered. The ACCC has the expertise and mandate to examine these issues.

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BAI would suggest a similar referral process, but to a different organisation, for the allocation of spectrum for non-commercial purposes such as emergency services communications. In these cases, the use of the spectrum is not for commercial reasons and the public good needs to be taken into account when considering the amount, price, and funding of spectrum to be allocated. In addition, many of these services are operated by State and Territory governments, whilst the spectrum is allocated at a Federal Government level. BAI suggests that a potential spectrum allocation for a non-commercial, non-Federal service (e.g. State emergency services) should be referred to the proposed National Cabinet Reform Committee, Infrastructure and Transport, for consideration and guidance. We submit that this committee will have the appropriate State and Federal membership to consider the allocation issues and arrive at a balanced recommendation on the spectrum allocation specifics for these type of non-commercial spectrum uses. BAI believes this would be a superior process to the current process.

Kind regards



Stephen Farrugia
Chief Technology Officer
BAI Communications Australia

APPENDIX

Below are BAI Communication's comments on the specific questions set out in the consultation paper:

Question 1:

Given the established administrative practice of ACMA preparing the Five-Year Spectrum Outlook on an annual basis, does the proposed legislative ACMA annual work program provide stakeholders any additional benefit in terms of certainty and transparency?

Given the current level of transparency the ACMA provides when consulting on their Five Year Spectrum Outlook and related annual work plans, it is unclear whether making this a legislative requirement will improve either certainty or transparency of the process.

Question 2:

Under the reforms, there will be several legislative mechanisms to provide transparency, clarity and, potentially, review rights to existing licence holders where ACMA is seeking to re-allocate spectrum (such as the annual work program and licence renewal statements). In these circumstances, does the spectrum re-allocation declaration process continue to be of use to stakeholders?

BAI believes that there is value in retaining the spectrum re-allocation declaration process.

Question 3:

The reforms are intended to permit ACMA to facilitate the development and testing of banned devices in Australia through the exemptions framework provided for in relation to the revised Part 4.1 of the Act, while still protecting existing licence holders from interference. Do the proposed exemption provisions achieve this aim?

BAI supports the principle that greater flexibility should be provided to allow for the development and testing of new equipment.

Question 4:

The reforms introduce graduated compliance mechanisms for ACMA to regulate and enforce the provisions of the Act. Are ACMA's proposed powers appropriate and are there any additional regulatory tools that stakeholders would like to see be made available to ACMA to perform its spectrum management functions?

BAI agrees with the principle of modernising the compliance and enforcement tools available to the ACMA, particularly the ability to have more proportionate responses available.

Question 5:

Are there any additional transitional matters or grandfathering of processes that should be considered? For example, do you consider that any additional existing processes or provisions should be retained for current licences, with the new provisions only applying to licences issued after the reforms commence?

BAI has no comment on this matter.

Question 6:

Are there any additional reforms the Department should consider as part of the proposed amendments to the Act, or that should be considered further as part of future reforms to the spectrum management framework?

We strongly support the suggested reform where ACMA refers spectrum allocation limits to the ACCC. This allows non-commercial and competition issues to be evaluated alongside normal commercial considerations when caps on allocations are being considered. The ACCC has the expertise and mandate to examine these issues in total.

BAI would like to suggest an additional proposal that the Department could consider as part of reforms to the allocation process, particularly with respect to non-commercial public services.

We propose a similar referral process by ACMA to that proposed for commercial services, but to a different body, for the allocation of spectrum for non-commercial purposes such as emergency services. In these cases, the use of the spectrum is not for commercial reasons and the public good needs to be taken into account when considering the amount and price of spectrum to be allocated. In addition, there is the added complexity that many of these services are operated by State and Territory governments, whilst the spectrum is allocated at a Federal Government level.

BAI suggests that a potential spectrum allocation for a non-commercial, non-Federal service (e.g. emergency services) should be referred to the proposed National Cabinet Reform Committee, Infrastructure and Transport, for consideration and guidance. It is believed this committee will have the appropriate State and Federal membership to consider the allocation issues and arrive at a balanced recommendation on the spectrum allocation specifics for these type of non-commercial spectrum uses. BAI also believes this would be a superior process to the current process for the discussion of these type of spectrum issues.

BAI believes that these are just the type of important, long-term, public good issues that requires Federal and State coordination and that the National Cabinet will address.