



nbn's submission on 2020 Radiocommunications Reform consultation paper

17 July 2020



Thank you for the opportunity to comment on the Exposure draft of Radiocommunications Legislation Amendment (Reform and Modernisation) Bill as outlined in the ‘2020 Radiocommunications Reform—consultation paper’, June 2020.

nbn’s view is that it is appropriate that the Australian spectrum management framework be modernised and that the proposed changes are generally beneficial and provide for greater transparency and flexibility. [C-i-C] [C-i-C].

See our comments below and responses to some of the questions in the consultation paper.

- **Object of the Act.** **nbn** submits that **nbn**’s loss-making FW and satellite network be expressly included as an example of the use of spectrum for non-commercial purposes.¹
- **Procedures for allocating spectrum and apparatus licences.** We note that there may be circumstances in which it would be appropriate for the ACMA to set eligibility criteria and provide credits for prospective bidders for allocation of spectrum licences by auction (sub-s.60(2)) and for certain transmitter licences using price-based allocations (sub-s.106(2)). We understand that the ACMA would exercise these powers in a manner that is consistent with the object of the Act (noting **nbn**’s comments above regarding explicitly including the use of spectrum by **nbn**’s networks as examples of non-commercial purposes) and note the potential interaction with the proposed Ministerial guidelines.

Questions

- *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?*

nbn understands that it is proposed to allow for the development and testing of equipment that would otherwise be unlawful, to be undertaken in Australia, where ACMA is satisfied that it is in the public interest (s302).

nbn notes the significant investments in its networks that play a critical role in providing broadband to all Australians and submits that the customer experience be protected from undue interference and disruption. The use of these proposed exemption provisions would need to be informed by consultation with potentially affected spectrum users on a case-by-case basis given the potential to negatively affect the customer experience on critical communication networks. Further, **nbn** would like to highlight the importance of the prohibition framework in protecting network investments and customer experience.

- *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?*

Defragmentation of the 3.4/3.5GHz band. We note the ACMA’s proposed timelines of Q4 2020 – Q2 2021 to conduct activities to convert NBN Co’s apparatus licences to spectrum licences assuming that the Minister makes a decision to designate the relevant spectrum. Further, the proposed transitional provisions to allow any ongoing

¹ The Department of Communication’s Bureau of Communications and Arts Research (BCAR) determined that **nbn**’s FW and Satellite network is loss-making and non-commercial, and estimated that the net present value loss for FW and satellite services to FY2040 is approximately \$9.8 billion. In FY2015 real terms, this loss represented a per-month subsidy of approximately \$105 and \$110 for each FW and Satellite premises activated. See BCAR ‘*NBN non-commercial services funding options, Final report*’ March 2016, p7 at <https://www.communications.gov.au/publications/nbn-non-commercial-services-funding-options-final-report-march-2016>



processes to convert apparatus licences to spectrum licences to continue where an offer of a spectrum licence has been made prior to the commencement of the Bill if enacted. [C-i-C] [C-i-C]