

30 October 2014

Mr Roger Harrison  
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Dear Mr Harrison

### **Outcome of consultation on future arrangements in the 3.5 GHz band**

I am writing to advise you of the outcome of the recent consultation process on potential future licensing arrangements in the 3400-3600 MHz frequency range ('the 3.5 GHz band'), which included release of the discussion paper 'Transitioning the 3.5 GHz band for future opportunities' ('the discussion paper'). I would like to take this opportunity to thank you for providing a submission in response to matters raised in the discussion paper.

Following consideration of submissions to the discussion paper, and several other issues that are discussed in this letter, the Australian Communications and Media Authority ('the ACMA') has decided to retain the existing mix of apparatus and spectrum licensing arrangements in the 3.5 GHz band. The current embargoes will also remain in place, at least in the short term, although we intend to review those arrangements as use of the band develops.

As explained in the consultation paper, the ACMA initially considered that extending apparatus licensing throughout the 3.5 GHz band might be the most appropriate mechanism to increase the regulatory flexibility applying to the band. We considered there was a lack of certainty about future uses of the band. Flexible regulatory arrangements were therefore desirable because they would facilitate a future review of planning and licensing arrangements when there was more certainty about long-term high-value uses of the band.

Following consideration of submissions to the discussion paper, however, the ACMA no longer considers that increasing the extent of apparatus licensing is appropriate.

## Submissions

The ACMA received 24 submissions to the discussion paper. Copies of submissions are available on the ACMA's website.<sup>1</sup>

Of those submissions that commented on apparatus and spectrum licensing arrangements, a number supported a change in arrangements in the 3.5 GHz band. Other submissions, however, supported retention of existing arrangements. Some submissions also supported any licensing arrangements which would facilitate the deployment of TD-LTE (Time Division – Long Term Evolution). These submissions tended to consider that licences which covered large geographic areas and had long tenures would be most likely to encourage operators to invest capital in network deployment.

One spectrum licensee also noted that the 3.4 GHz band is included in the *Radiocommunications (Class of Services) Determination 2012* ('the COS Determination').<sup>2</sup> In the COS Determination, the Minister for Communications determined that the reissue of spectrum licences used to provide wireless broadband services in the 3.4 GHz band to the same licensees would be in the public interest. In the absence of support from all affected spectrum licensees, the ACMA does not consider that it would be appropriate to recommend to the Minister that he amend the COS Determination.

## Other matters affecting the 3.5 GHz band

In addition to a lack of consensus on the best way forward for the band in submissions received, since the release of the discussion paper there have been some developments relevant to the 3.5 GHz band. These developments have influenced the ACMA's views on preferred future arrangements in the band.

The most significant of these developments has been the making of the *Australian Communications and Media Authority (3.5 GHz frequency band) Direction 2014* ('the Direction').<sup>3</sup> The Direction relates to the use of spectrum in the 3.5 GHz band to address the spectrum gap for the National Broadband Network's ('NBN') fixed wireless access network around major mainland cities. The Direction requires the ACMA to complete, by 30 April 2015, all steps necessary to enable apparatus licences of a type which would be appropriate for use for the NBN to be issued in the frequency ranges 3400-3425 MHz and 3492.5-3542.5 MHz. This spectrum is currently subject to embargo.

Another factor reducing the benefits of replanning the band is the increasing likelihood that TD-LTE will be the preferred International Mobile Telecommunications (IMT) system deployed in the band. The ACMA has already commenced working with interested stakeholders in a Technical Liaison Group ('TLG') to identify changes that will need to be made to the technical frameworks which underpin the 3.4 GHz band spectrum licences. Consistent with views raised in submissions to the discussion paper, the TLG supports the technical framework being optimised for TD-LTE. This is likely to mitigate the inefficiencies associated with the 50 MHz duplex split spectrum licences that were noted in the discussion paper.

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<sup>1</sup> Submissions are at <http://www.acma.gov.au/theACMA/making-the-most-of-the-3dot5-ghz-band-in-future>.

<sup>2</sup> The COS Determination is available at <http://www.comlaw.gov.au/details/f2012l00235>.

<sup>3</sup> The Direction is available at: <http://www.comlaw.gov.au/Details/F2014L01399>.

## Next steps

In line with the ACMA's decision to maintain existing licensing arrangements in the band, the ACMA will soon commence reissue considerations for the 3.4 GHz spectrum licences, which expire on 13 December 2015.

In addition, the ACMA expects to shortly commence consultation on a proposal to recommend to the Minister that he designate for spectrum licensing the "lapsed" sections of the 3.4 GHz band.<sup>4</sup> This is the process that has been undertaken in other spectrum licensed bands.<sup>5</sup> It will enable a future price-based allocation of any spectrum that is not reissued – for example, because a licensee does not seek reissue – and the "lapsed" spectrum if it is designated.

Once again, thank you for your submission to the ACMA's consultation process on the arrangements in the 3.5 GHz band.

Yours sincerely



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<sup>4</sup> Small segments of the 3.4 GHz band, originally reallocated for spectrum in 2000, were not sold during previous market-based allocations. The relevant Reallocation Declaration has lapsed. The unallocated segments are no longer available for spectrum licensing and will need to be designated by the Minister under section 36 of the *Radiocommunications Act 1992*.

<sup>5</sup> Information on this process is available on the ACMA's website at <http://www.acma.gov.au/Industry/Spectrum/Radiocomms-licensing/Spectrum-licences/ifc-72013-proposed-designation-of-spectrum-for-spectrum-licensing800-mhz-1800-mhz-and-2-ghz>.

