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10 March 2017

Chris Hose
General Manager
Spectrum Planning and Engineering Branch
Australia Communications and Media Authority
PO Box 78
BELCONNEN ACT 2616

Dear Mr Hose

Re: Reconfiguring the 890-915/935-960 MHz band

The Australian Competition and Consumer Commission (ACCC) welcomes the opportunity to comment on the Australian Communications and Media Authority's (ACMA's) consultation paper on reconfiguring the 890-915/935-960 MHz band (900 MHz band).

The ACCC supports the ACMA's plan to reform the current 900 MHz band and reconfigure the band into 5 x 5 MHz frequency division duplex (FDD) pairs. We consider this is the optimal band configuration for supporting LTE 4G technology.

The ACCC's preferred option for reconfiguration is option 3: band clearance and price-based allocation through auction.

ACCC's role in spectrum and related markets

The ACCC actively promotes competitive markets and therefore seeks to ensure that markets in which radiofrequency spectrum is an input are as competitive as possible.

Radiofrequency spectrum is an essential input to the mobiles industry. Because facilities-based competition is a key characteristic of the mobiles sector, the ACCC has generally taken a lighter approach to regulation, in comparison to its approach to fixed line services, and wholesale services to be supplied by the National Broadband Network (NBN). Essentially the ACCC's direct regulatory role in the mobile industry has been limited to the declaration and pricing of an essential wholesale input, the Mobile Terminating Access Service (MTAS), which covers mobile voice and SMS termination services.

As the ACMA is aware, the ACCC is currently conducting an inquiry into whether to declare a domestic mobile roaming service. The ACCC is conducting this inquiry to determine whether the difference in geographic coverage provided by the three mobile networks is impacting competitive and efficient outcomes in mobile markets, and whether declaring a mobile roaming service would be in the long-term interest of end-users.

The ACCC also has a role under the *Competition and Consumer Act 2010* (CCA) where there is a transfer of a spectrum asset that could have the effect of substantially lessening

competition in a market. In addition, the ACCC may be asked to provide advice to the Minister as to whether competition limits should be imposed on the spectrum to be allocated by way of spectrum licences.

Current 900 MHz configuration

The current 900 MHz configuration was implemented in 1992 to facilitate the introduction of public mobile telecommunications competition in Australia and provide for the transition from the analogue Advanced Mobile Phone System (AMPS) to digital cellular mobile telephone services using 2G Global System for Mobile (GSM) technology.

Three mobile network operators (MNOs) were given a near three-way split of the 900 MHz spectrum to encourage GSM digital network infrastructure development and competition in the mobile telecommunications market.

ACCC prefers option 3

The ACCC supports reforming the current 900 MHz band and reconfiguring the band into 5 x 5 MHz FDD pairs. We consider this enables optimal use of the band using 4G LTE technology.

The ACCC's preferred option for reform is option 3: band clearance and price-based allocation. An auction is more likely to achieve the optimal band configuration in the most efficient manner. This is because it will enable access to spectrum by those who value it the most and therefore put it to its highest value use, subject to any allocation limits that may be necessary to encourage competition in downstream markets. Importantly, this option also ensures that any potential new entrant has an opportunity to enter the market through the acquisition of spectrum.

We note concerns that this option may result in a lack of regulatory certainty for current licensees which has the potential to impact investment in mobile network infrastructure using the band. There is always a tension between encouraging investment by providing licence holders' regulatory certainty and achieving efficient and competitive outcomes through a price-based allocation. However, we consider that the competitive process promotes the efficient use of, and investment in, radiofrequency spectrum to the benefit of end users.

Auction encourages new market entry

Acquiring sufficient spectrum holdings can be a challenge for any potential new entrants. Spectrum is a scarce and finite resource, and there are infrequent opportunities to purchase large blocks suitable for mobile services.

Band clearance and auction will provide any potential new entrant a clear opportunity to enter the market through the acquisition of spectrum. We consider that new market entry should be encouraged as it increases competition in the downstream market and is therefore in the long-term interests of end users.

Secondary trading

The ACCC supports efforts to encourage secondary trading in the spectrum market. Secondary trading of spectrum licences can potentially improve allocative and dynamic efficiency as technology and consumer preferences change. The length of a spectrum licence tenure means that encouraging secondary trading will most likely promote competition and efficiencies.

However, for the reallocation of the 900 MHz spectrum band, we consider the interests of consumers are better served by an auction with appropriate allocation limits. While

establishing mechanisms to support secondary trading will encourage trading among the incumbents, potential new entrants will have a clearer opportunity to acquire spectrum, a scarce and finite resource and an essential input into the mobiles telecommunications industry, through auction. Appropriate allocation limits will also increase competition in downstream markets and therefore benefit consumers.

If you have any questions about any of the issues raised in this letter, please contact me on (02) 9230 3854 or clare.o'reilly@acc.gov.au.

Yours sincerely

Clare O'Reilly
General Manager
Mobiles, Transmission and Consumer Branch