

700 MHz spectrum – unsold lots auction, April 2017

Auction guide

JANUARY 2017

Canberra

Red Building
Benjamin Offices
Chan Street
Belconnen ACT

PO Box 78
Belconnen ACT 2616

T +61 2 6219 5555
F +61 2 6219 5353

Melbourne

Level 32
Melbourne Central Tower
360 Elizabeth Street
Melbourne VIC

PO Box 13112
Law Courts
Melbourne VIC 8010

T +61 3 9963 6800
F +61 3 9963 6899

Sydney

Level 5
The Bay Centre
65 Pirrama Road
Pyrmont NSW

PO Box Q500
Queen Victoria Building
NSW 1230

T +61 2 9334 7700 or 1800 226 667
F +61 2 9334 7799

Copyright notice

<http://creativecommons.org/licenses/by/3.0/au/>

With the exception of coats of arms, logos, emblems, images, other third-party material or devices protected by a trademark, this content is licensed under the Creative Commons Australia Attribution 3.0 Licence.

We request attribution as: © Commonwealth of Australia (Australian Communications and Media Authority) 2017.

All other rights are reserved.

The Australian Communications and Media Authority has undertaken reasonable enquiries to identify material owned by third parties and secure permission for its reproduction. Permission may need to be obtained from third parties to re-use their material.

Written enquiries may be sent to:

Manager, Editorial and Design
PO Box 13112
Law Courts
Melbourne VIC 8010
Tel: 03 9963 6968
Email: candinfo@acma.gov.au

Contents

Important notice and disclaimer	1
At a glance—Auction Q&A	5
Key dates	7
Part one—Understanding the auction process	9
1. What is the 700 MHz spectrum—unsold lots auction?	10
1.1 Overview	11
1.2 Reallocation of 700 MHz unsold lots	12
1.2.1 Ministerial spectrum Reallocation Declaration	13
1.3 Legislative framework	13
1.3.1 Allocation Determination	13
1.3.2 Marketing plan	13
1.3.3 Technical framework	14
1.4 Stakeholder consultation	15
2. What is being offered in the auction?	16
2.1 Available spectrum	17
2.2 700 MHz unsold spectrum lots	17
2.2.1 Lot configuration	17
2.2.2 Geographic areas	17
2.3 Key issues affecting the use of the spectrum	18
2.3.1 Spectrum to be allocated as spectrum licences	18
2.3.2 Licence commencement and expiry	19
2.3.3 Potential access to the unsold lots prior to licence commencement (early access)	19
Part two—Participating in the auction	20
3. How will the auction be conducted?	21
3.1 The simple clock auction (SCA) auction format	22
3.1.1 Auction rounds	22
3.1.2 SCA auction training and bidding strategies	23

Contents (Continued)

3.2	Key auction procedures	23
3.2.1	Application	23
3.2.2	Starting prices and preference nomination stage	23
3.2.3	Withdrawal from the auction	24
3.2.4	Bidder registration	24
3.2.5	Allocation limits	25
3.2.6	Affiliations	25
3.2.7	Confidentiality	26
3.2.8	Breaches of the auction procedures	27
3.2.9	Allocation of spectrum licences without an auction (pre-determined price)	27
3.2.10	Publication of auction results—winning bidders	28
3.2.11	Payment of winning prices and issue of licences	28
3.2.12	Upfront payment	28
3.2.13	Delayed payment	28
3.2.14	Security for delayed payment	29
3.2.15	Default	29
3.2.16	Unallocated lots to be offered via a secondary allocation process	30
3.2.17	Refund of payments and cancellation of deeds of financial security	30
3.2.18	Auction manager	31
3.2.19	Communicating with the auction manager	32
3.3	Online auction system	32
3.3.1	Accessing and using the auction system	32
3.3.2	User system requirements	33
3.4	Bidder support and the mock auction	33
4.	How do I participate in the auction?	35
4.1	Step 1—Consider the AIP and monitor developments	36
4.2	Step 2—Register as a bidder	37
4.2.1	Lodge an application	37
4.2.2	Provide statutory declaration about affiliations with other applicants and previous successful bidders	38
4.2.3	Preference nomination	39
4.2.4	ACMA confirms registration and provides information	40
4.3	Step 3—Accessing mock auction and bidder support	40

Contents (Continued)

4.4	Step 4—Bid in the auction	40
4.4.1	Auction rounds—Scheduling	41
4.4.2	Bidding in the auction	42
4.5	Step 5—Publication of auction results	44
4.6	Step 6—Post-auction procedures	45
4.6.1	Winning bidders	45
4.6.2	Unsuccessful bidders and withdrawn applicants	47
Part three—Understanding spectrum licences		48
5.	Spectrum licensing and technical framework	49
5.1	Spectrum licensing	50
5.2	The technical framework	51
5.3	Core conditions	52
5.3.1	Area of operation	52
5.3.2	Frequency band of operation	52
5.3.3	Outside-the-area emission limits	52
5.3.4	Outside-the-band emission limits	53
5.4	The unacceptable levels of interference determination (subsection 145(4))	53
5.4.1	Registration of devices	54
5.4.2	Deployment constraints	55
5.4.3	Core condition agreements	55
5.4.4	Registering groups of transmitters and receivers	55
5.4.5	Registration exemptions	55
5.5	Radiocommunications advisory guidelines	55
5.5.1	Managing interference to spectrum-licensed receivers	56
5.5.2	Managing interference from spectrum-licensed transmitters to other services	56
5.6	Statutory licence conditions	57
5.6.1	Payment of charges	57
5.6.2	Authorisation of third parties	57
5.6.3	Registration of radiocommunications transmitters	57
5.6.4	Residency	57

Contents (Continued)

5.7	Licence conditions included by the ACMA	58
5.7.1	Information for the RRL	58
5.7.2	International coordination	58
5.7.3	Electromagnetic energy requirements	58
5.7.4	Protection of the Mid-west RQZ	58
5.7.5	Obligation to provide the delayed winning (or pre-determined) price bank guarantee	58
5.8	Other information	59
5.8.1	Flexibility of a spectrum licence	59
5.8.2	Spectrum trading	59
5.8.3	Suspension and cancellation of spectrum licences	59
5.8.4	Interference that the technical framework does not prevent	60
5.8.5	International coordination	60
5.8.6	Health and safety	60
5.8.7	Environmental and other considerations	60
Part four—Communicating with the ACMA		61
6.	Updates, queries, lodgements and payments	62
6.1	Updates and announcements	63
6.2	Queries	63
6.3	Lodging documents	63
6.4	Making payments	64
Auction documents—Attachments A to H		66
Allocation Determination		66
Marketing plan and technical framework instruments		66
Spectrum Reallocation Declaration		66
Ministerial direction		66
Auction forms		67
Glossary		68

Important notice and disclaimer

The *Applicant information package* (AIP) has been prepared by the ACMA in connection with the proposed allocation of spectrum in the 700 MHz band that remained unsold following the 2013 Digital dividend auction.¹ The AIP comprises this Auction guide, legislative instruments, accompanying explanatory statements and other material provided as attachments to the Auction guide, as well as the *Auction forms* booklet. Material that must be included in the AIP is set out in section 27 of the Radiocommunications (Spectrum Licence Allocation – 700 MHz Band) Determination 2016 (the Allocation Determination).

The ACMA must perform its spectrum allocation and management functions in accordance with relevant legislation, in particular, the Radiocommunications Act 1992 (the Act). An auction process will be conducted in accordance with the rules and procedures made by the ACMA, pursuant to powers under sections 39A, 60 and 294 of the Act. Any subsequent issue of spectrum licences will be made under section 62 of the Act.

The rules and procedures made by the ACMA for the auction process are set out in the:

- > Radiocommunications (Spectrum Licence Allocation – 700 MHz Band) Determination 2016 (the Allocation Determination)
- > Radiocommunications Spectrum Marketing Plan (700 MHz unallocated lots band) 2016 (the unallocated lots marketing plan).

These are collectively known as the allocation instruments. Links to each instrument are included as attachments to this Auction guide. Interested persons should note that the allocation instruments have legal effect and are registered as legislative instruments on the Federal Register of Legislation. In the event of any difference between the provisions of the allocation instruments and any other written or oral information made available, the allocation instruments prevail.

The material contained in the AIP, including the Auction guide, is for information only and should not be used as a substitute for independent advice on participating in the auction or other allocation process, or the rights or regulatory responsibilities that attach to any spectrum licences that may be obtained. The AIP does not, and does not purport to, contain all the information that may be required to evaluate any allocation process or spectrum licence, or rights and obligations under the associated legislative instruments or applicable regulatory framework.

Nothing in this Auction guide should be taken to bind the ACMA to any particular course of action in the allocation of spectrum licences in the 700 MHz band. The ACMA may vary or revoke a legislative instrument at any time, as permitted by law. The auction manager has the power under the Allocation Determination to stop a round of the auction, cancel the result of a round of the auction, restart the auction or stop the entire auction if he or she is satisfied that the auction is affected by exceptional circumstances.

The AIP and its contents do not constitute or form part of any offer, contract, agreement or other legal obligation. The AIP is not intended to form any part of the

¹ The [Digital Dividend auction](#) offered for reallocation radiofrequency spectrum in both the 700 MHz and 2.5 GHz bands through a single auction process.

basis of any investment decision or other evaluation by any person, and should not be considered as a recommendation by the ACMA to participate in the auction or other allocation process. It is the responsibility of each person referencing the AIP to make their own independent investigation, review and assessment of:

- > the proposed allocation of spectrum licences and the auction process
- > rights and responsibilities under spectrum licences issued as a result of the auction or other allocation process
- > the potential cost and value of a licence
- > whether to participate in the auction or other allocation process.

By virtue of clause 19 of the deed of acknowledgment form executed by applicants, the liability of the ACMA, the auction manager, the Commonwealth, and their officers, employees, agents, contractors, subcontractors, associates and delegates in connection with the allocation process is excluded. Completion of the deed of acknowledgement is a requirement for anyone wishing to participate in the allocation process. Please refer to 3.2.1 and 3.2.4 of this Auction guide for further information about application and registration requirements.

The information contained in the AIP is presented in good faith and is believed to be accurate at the time of publication. However, all such information is subject to amendment. It is the responsibility of any interested person, at its own cost, to verify to its own satisfaction the accuracy, currency, reliability and completeness of any of the information contained in or any matter referred to in the AIP, and obtain independent advice from appropriate experts. The ACMA has not authorised any person to make any statements or representations on its behalf that are not expressly contained in or contemplated by the AIP.

Interested persons should not rely solely on any statement, opinion or information set out in the AIP, including any statements about the policies that may be followed by other authorities, nor about the effect of any legislation, but should take steps they consider necessary to inform themselves on those matters independently of the ACMA. The comments made in the AIP about the ACMA's functions and powers reflect the present policies of the ACMA, which may be subject to change.

Prospective applicants should, on their own responsibility, take whatever steps they consider necessary to obtain access to appropriate technical or other specialist advice independently of the ACMA concerning their application, the regulation and operation of radiocommunications devices and services, or any other matters relevant to the proposed spectrum licence allocation process. Applicants are also advised to seek advice independently of the ACMA on the treatment of spectrum licences and other investments under Australian taxation laws, and on the operation of foreign investment laws and policies on a proposed investment in communications in Australia.

Prospective applicants are urged to familiarise themselves with all the provisions of the Act, not just those pertaining to spectrum licensing, and should be aware that activities associated with radiocommunications may also be regulated by the *Competition and Consumer Act 2010* (the Competition and Consumer Act), the *Broadcasting Services Act 1992* (the Broadcasting Services Act) and the *Telecommunications Act 1997* (the Telecommunications Act). Depending on the activity undertaken when using spectrum under a licence, other Commonwealth, state and territory laws may apply.

The ACMA is a statutory authority established under the *Australian Communications and Media Authority Act 2005* (the ACMA Act) to administer the Act, among other things. The ACMA is also required by subsection 14(4) of the ACMA Act to perform its

functions in a manner consistent with any directions given to the ACMA by the minister administering that Act. The policies of the government may change from time to time.

In exercising its powers and functions, including those conferred on the ACMA by the Act, the Broadcasting Services Act, the Telecommunications Act and the *Telecommunications (Consumer Protection and Service Standards) Act 1999*, the ACMA may also take into account its own policies, which may change from time-to-time.

The ACMA is also required under the *Public Governance, Performance and Accountability Act 2013* to manage its affairs in a way that promotes the efficient, effective, economical and ethical use of public resources, and must act in accordance with any rules and guidelines made under that Act.

Australia is a signatory to the International Telecommunication Union Constitution and Convention, and to other international instruments relating to communications. The administration of communications by the ACMA is undertaken having regard to these instruments.

The ACMA may change its process

The ACMA may in certain circumstances, under the Act and the allocation instruments, vary the processes that apply to the allocation process, including the processes that apply to the auction, or terminate the allocation process. The ACMA reserves the right, in its sole and absolute discretion, but without being under any obligation to do so, to add to, vary, amend, update or supplement the information, terms and procedures set out in the AIP and correct any inaccuracies.

Other ACMA rights

Subject to the Act and the Allocation Determination, the ACMA reserves the right, in its sole and absolute discretion, at any stage of the auction process to do all or any of the following:

- > require additional information from any applicant or bidder
- > change the structure and timing or any other element of the auction process as permitted from time-to-time.

The ACMA makes no representation as to the utility or otherwise of the spectrum.

The ACMA reserves the right to allocate further spectrum (that is, spectrum other than that on offer in the auction process) by issuing spectrum licences in the future.

Applicants and bidders to meet own costs

Each applicant's and bidder's participation in any stage of the allocation process shall be at their sole risk, cost and expense.

Applications may be used, disclosed and retained by the Commonwealth

All application documents submitted in connection with the auction process may be used and disclosed by the ACMA for the purposes of the Allocation Determination and in relation to spectrum licences issued, and may be retained by the ACMA for as long as necessary for the performance of the ACMA's functions and exercise of its powers under the Allocation Determination or the Act.

Release of information and documents by the ACMA

Information and documents obtained by the ACMA in the performance of its functions under the Allocation Determination may be released under the *Freedom of Information Act 1992* (unless an exemption applies) or disclosed to other parties under Part 7A of the ACMA Act. The ACMA may also release information and documents for other

reasons including for the purpose of parliamentary processes or where otherwise required or authorised by law (for example, under a court subpoena). While the ACMA seeks to consult submitters of confidential information before that information is provided to another party, the ACMA cannot guarantee that confidential information will not be released through these or other legal means.

Collusive bidding

Applicants and their officers, employees, agents and advisers must not engage in any collusive bidding, anti-competitive conduct or any other similar conduct with any other registered applicants or any other person in breach of applicable laws (including but not limited to the Competition and Consumer Act) when preparing or lodging applications or bidding instructions for a spectrum licence under the allocation process. Applicants must not be affiliated (as described in the Allocation Determination) with another bidder during the auction period and must comply with the requirements of the Allocation Determination concerning affiliates.

Confidential information

Applicants and their officers, employees, agents and advisers must not take steps to obtain, or use, confidential information of the ACMA relating to its spectrum allocation functions or the auction process, other than in accordance with the confidentiality requirements of the Allocation Determination and the deed of confidentiality form executed by applicants and related persons.

Return of information to the ACMA

Applicants must, under the deed of acknowledgment form executed by applicants, at their sole expense, upon request by the ACMA in its absolute discretion, return to the ACMA any items or written information provided to the applicant (and copies of the information) at any stage.

Application of laws

The laws of the Australian Capital Territory and the Commonwealth of Australia apply to the allocation process pursuant to the deed of acknowledgment form executed by applicants.

At a glance—Auction Q&A

Table 1: Auction questions and more information

			More information
1.	What spectrum is available?	<p>Following the 2013 Digital Dividend Auction of 700 MHz and 2.5 GHz spectrum, 2 x 15 MHz lots of 700 MHz spectrum remained unallocated (733–748 MHz paired with 788–803 MHz). This spectrum, referred to as the 700 MHz unsold lots, will again be offered for allocation via auction in 2017 through the 700 MHz spectrum—unsold lots auction. The spectrum will be slightly reconfigured for the unsold lots auction as follows:</p> <ul style="list-style-type: none"> > Lot one: 2 x 10 MHz lot comprising the frequency ranges 738–748 MHz paired with 793–803 MHz > Lot two: 2 x 5 MHz lot comprising the frequency ranges 733–738 MHz paired with 788–793 MHz. <p>Prior to the auction commencing, the ACMA may decide to allocate spectrum licences in relation to the lots for a pre-determined price in certain circumstances.</p>	2.1, 2.2, 3.2.9
2.	How will the spectrum be licensed?	<p>Spectrum lots won at auction or allocated for a pre-determined price will be authorised for use by winning bidders as spectrum licences issued under section 62 of the Act.</p> <p>Spectrum licences authorise a licensee to operate radiocommunications devices for a fixed period, within a particular frequency range, within a particular geographic area. Spectrum licensing offers a technology-flexible, market-oriented approach to managing the radiofrequency spectrum.</p> <p>Spectrum licensees must comply with a series of licence conditions and a technical framework developed for the 700 MHz band by the ACMA in consultation with industry.</p>	1.3.3, 2.3.1, 2.3.2, 5
3.	When will spectrum licences commence and expire?	<p>Spectrum licences for the 700 MHz unsold lots will commence on 1 April 2018 and expire on 31 December 2029. The expiry date aligns with spectrum licences currently issued in the 700 MHz band.</p>	2.3.2
4.	Will I be able to access the spectrum that I win before April 2018	<p>Spectrum licensees awaiting the issue of their spectrum licence may apply for 'early access' apparatus licences in order to access unencumbered spectrum acquired through the 700 MHz unsold lots auction for a period until the spectrum licence commences on 1 April 2018.</p>	2.3.3

			More information
5.	I don't wish to use all the spectrum I purchase through the allocation process—what options are available?	Spectrum licence-holders can trade part or all of the spectrum space covered by their licence, once issued, in accordance with relevant legislation. They can also authorise third parties to use the licensed spectrum.	2.3.1, 5.1, 5.8.2
6.	How will the auction work?	<p>The auction will be conducted online using a simple clock auction (SCA) design.</p> <p>The SCA auction methodology incorporates elements of both the English open outcry (EOO) auction format as well as more complex auction methodologies previously used by the ACMA to allocate spectrum, such as the combinatorial clock auction format.</p> <p>The SCA combines the advantages of the EOO auction with additional capabilities enabled by an electronic implementation, particularly reduction in the risk of bidders signalling their intentions during the auction. The SCA is a simple ascending-bid process, much like the EOO. It formalises the process by which prices increase and how much time bidders are given to think about and place their bids.</p>	3, 4.4.2
7.	I want to participate in the auction—what do I need to do?	<p>Chapter 4 of this Auction guide provides a step-by-step guide to participating in the auction.</p> <p>It guides prospective bidders through auction-related activities, from the opening of applications to the issuing of licences—including an explanation of the forms, payments and deadlines associated with the bidder registration process. It also provides references to more detailed information and instructions, as appropriate.</p>	3.2.1, 3.2.2, 3.2.4, 3.2.7, 4
8.	I want to participate in the auction—what amounts will I need to pay?	<p>To apply to be registered as a bidder in the auction, you will need to pay a non-refundable application fee of \$10,000.</p> <p>To complete the bidder registration process, applicants will need to pay a deposit or give a deed of financial security—or a combination of both. (A deed of financial security is an alternative to a deposit.)</p> <p>No GST is payable on the application fee or the deposit.</p>	3.2.1, 3.2.2, 3.2.12, 3.2.13, 3.2.14

Key dates

Table 2: Important events and dates

	Event	Date
1	The ACMA advertises auction, publishes the applicant information package and applications open.	16 January 2016
2	<p>Application deadline</p> <p>By this date and time, any person wishing to be an applicant will need to:</p> <ul style="list-style-type: none"> > submit a completed application form > submit a completed deed of acknowledgement form > submit a completed deed of confidentiality form > pay the application fee to the ACMA on behalf of the Commonwealth. 	11.59 pm on Monday 13 February 2017
3	The ACMA gives each applicant details about the identity of all other applicants and their associates, and all previous successful bidders and asks each applicant to make a statutory declaration about whether they are affiliated with another applicant or a previous successful bidder.	After the application deadline
4	Deadline for statutory declarations requested under event #3.	At least five working days after the request in event #3
5	Deadline for any new applications submitted by applicants which the ACMA has notified that it is satisfied are affiliated.	Not more than 10 working days after notification
6	<p>Preference deadline</p> <p>By this date and time, each applicant will need to:</p> <ul style="list-style-type: none"> > lodge a completed preference nomination form > pay a deposit, or give a deed of financial security, to the ACMA on behalf of the Commonwealth, or do both. 	11.59 pm on 16 March 2017
7	The ACMA tells registered bidders that they have been registered and may participate in the auction, and gives them information to enable their participation (e.g. information about how to access and use the online auction system).	After the preference deadline
8	Mock auction held to familiarise prospective bidders with the auction system.	To be announced
9	The ACMA notifies registered bidders about the start date and time of the first and second rounds of the auction.	At least 10 working days before the start date of the first round of the auction

	Event	Date
10	Auction begins.	To be announced (expected to be 4 April 2017)

Note: The above timetable is subject to change. Any changes made to the timetable will be announced through the sources listed under heading in Chapter 6.

Part one—Understanding the auction process

1. What is the 700 MHz spectrum—unsold lots auction?

This chapter provides information about the:

- > **purpose and structure of the Auction guide, and the other elements of the applicant information package**
- > **background to the reallocation of the 700 MHz spectrum to be auctioned**
- > **instruments that provide the legal basis for the auction**
- > **consultative processes by which the auction instruments were developed.**

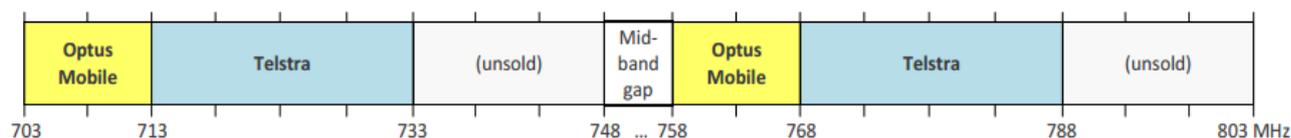
1.1 Overview

The ACMA's original auction of 700 MHz digital dividend spectrum in 2013 was part of a worldwide trend of releasing spectrum freed up by the switchover to digital television to allow greater use of this valuable public resource. In Australia, a large contiguous block of spectrum was freed up as a result of the switchover to digital television and the subsequent restack of digital television transmissions to channels below 694 MHz. This switchover was completed by December 2013.

The initial allocation of the 700 MHz band was undertaken by way of an auction conducted under the Radiocommunications (Spectrum Licence Allocation – Combinatorial Clock Auction) Determination 2012, which concluded on 7 May 2013.² The 700 MHz band was configured in nine nationwide lots, each of 2 x 5 MHz. Telstra acquired 2 x 20 MHz in the band, and Optus acquired 2 x 10 MHz. A further 2 x 15 MHz remained unallocated at the end of the auction (733–748 MHz paired with 788–803 MHz) (the 700 MHz unsold lots). These arrangements are shown in Figure 1.

Figure 1: Location of digital dividend spectrum and unsold lots

700 MHz band (703-803 MHz): 9 national lots of 2x5 MHz



The 700 MHz band—unsold lots spectrum auction

The ACMA has begun preparing to allocate the 700 MHz band unsold lots through a second auction—the unsold lots auction.

The unsold lots auction will be run online using a simple clock auction (SCA) format. An SCA is like an English open outcry auction (EOO), where all lots may be open for bidding in a simple on-line ascending-bid process at the same time, or they may be allocated sequentially. The SCA methodology combines the simplicity of the EOO auction format with additional functionality enabled by an electronic platform. An SCA format formalises the process by which prices increase and how much time bidders are given to place bids.

This Auction guide is designed to give prospective bidders information to help them decide whether to apply to take part in the auction—and, if they wish to take part, how to do so. The Auction guide is structured as follows:

Chapter 1: What is the 700 MHz spectrum—unsold lots auction?—provides information about the background to the auction, the decisions to reallocate 700 MHz spectrum via auction, and the instruments that provide the legal basis for the auction.

Chapter 2: What is being offered in the auction?—provides information about the spectrum available, how the spectrum is configured as auction lots, and key issues that will affect how winning bidders can use the spectrum.

Chapter 3: How will the auction be conducted?—provides information about the auction format and procedures, the online auction system, as well as support and training opportunities for prospective bidders.

² View [results of the auction](#).

Chapter 4: How do I participate in the auction?—provides a practical step-by-step guide to participating in the auction, from the commencement of the application period to the issuing of licences.

Chapter 5: Spectrum licensing and technical framework—provides information about the spectrum licensing and technical frameworks applicable to the spectrum on offer.

Chapter 6: Updates, queries, lodgements and payments—provides information about how the ACMA will keep stakeholders informed about developments leading up to the auction, and how stakeholders can submit queries, lodge auction documents and make payments to the ACMA.

Attachments—include:

- > the instruments that provide the legal basis for the auction
- > forms that auction participants may be required to complete.

Together, the Auction guide and its attachments form the *Applicant information package* for the 700 MHz unsold lots auction.

1.2 Reallocation of 700 MHz unsold lots

Following the 2013 digital dividend auction, 2 x 15 MHz of 700 MHz spectrum remained unsold (700 MHz unsold lots). The ACMA's allocation instruments for the digital dividend auction provided that any unsold 700 MHz spectrum lots might later be offered for allocation by a procedure, and at a time, to be determined by the ACMA.

On 7 October 2016, the Minister for Communications, Senator the Hon. Mitch Fifield, issued a [media release](#) announcing that the unsold 700 MHz lots will be auctioned by the ACMA. On 11 December 2016 the minister made the [Radiocommunications \(Spectrum Licence Allocation – Residual 700 MHz Spectrum\) Direction 2016](#) (the minister's 2016 direction).

The minister's 2016 direction addresses the following matters:

- > allocation limits
- > lot configuration and order of allocation
- > method of allocations
- > duration of spectrum licences
- > spectrum access charges (reserve price or pre-determined price)
- > payment of spectrum access charges by instalment
- > a secondary allocation process for any lot(s) that remain unsold following the auction

The minister's 2016 direction also repeals previous ministerial directions made in relation to the 700 MHz band.

Should either of the unsold 700 MHz lots remain unsold at the end of the initial allocation procedure, section 10 of the minister's 2016 direction provides for the ACMA to be directed to allocate the unsold 700 MHz lots through a secondary allocation process. If this direction is required, it will commence upon a date to be fixed by the minister in a notifiable instrument.

Further information around these matters is provided below in relevant parts of this Auction guide.

1.2.1 Ministerial spectrum Reallocation Declaration

On 1 November 2011, the then Minister for Broadband, Communications and the Digital Economy, having considered recommendations made by the Australian Communications and Media Authority (the ACMA), made the [Radiocommunications \(Spectrum Reallocation\) Declaration No.1 of 2011](#) (the Reallocation Declaration). The Reallocation Declaration provided that 2 x 45 MHz of spectrum in the 700 MHz band was to be subject to 'reallocation' by issuing spectrum licences. The 700 MHz unsold lots will be offered for allocation in accordance with the same Reallocation Declaration.

The Reallocation Declaration provides that the spectrum in the 700 MHz band should be reallocated on a national basis, excluding the Mid-West Radio Quiet Zone (RQZ). The ACMA endeavours to maintain low levels of radiofrequency emissions in the RQZ area (near Boolardy Station, approximately 200 kilometres west of Meekatharra in remote Western Australia) to facilitate the development and use of radioastronomy technologies at the Murchison Radio-astronomy Observatory.

1.3 Legislative framework

The Act provides the legislative framework for allocating spectrum licences. Provided below is a brief overview of the legislative instruments associated with the allocation of spectrum licences.

1.3.1 Allocation Determination

Section 60 of the Act requires the ACMA to determine written procedures to apply to the allocation of spectrum licences by auction, by tender or for a pre-determined price.

Section 294 of the Act allows the ACMA to fix the spectrum access charges payable by licensees for issuing spectrum licences, which may be won through an allocation process, such as an auction or the pre-determined price process. It also allows the ACMA to specify when the charges are payable.

An allocation determination made under sections 60 and 294 of the Act essentially sets out the allocation rules for allocation by auction or, in some circumstances, for issuing spectrum licences for a pre-determined price. This includes procedures for determining the spectrum access charges payable, based on the starting prices for each lot. For the 700 MHz unsold lots auction, the ACMA has made the [Radiocommunications \(Spectrum Licence Allocation – 700 MHz Band\) Determination 2016](#).

Broadly speaking, the Allocation Determination specifies, among other things:

- > that the auction will be conducted using a simple clock auction (SCA) and the procedures for the auction
- > the allocation limits (also referred to as 'competition limits' or 'spectrum caps') on the amount of spectrum a person will be permitted to purchase in the auction—see 3.2.5
- > administrative matters such as the bidder registration process and the different payments auction participants may be required to make.

Further information about the procedures set out in the Allocation Determination is provided in Chapter 3.

1.3.2 Marketing plan

Where a relevant reallocation declaration has been made, section 39A of the Act requires the ACMA to prepare a marketing plan for issuing spectrum licences within

the specified parts of the spectrum. A marketing plan made under section 39A essentially sets out the product offering and may specify matters, including:

- > the procedures to be followed for issuing spectrum licences
- > how the spectrum is to be apportioned among the spectrum licences to be issued
- > the conditions, or types of conditions, that may be included in spectrum licences to be issued.³

A marketing plan can also specify other matters.

The [Radiocommunications Spectrum Marketing Plan \(700 MHz unallocated lots band\) 2016](#) for the unsold lots specifies the spectrum product that will be available, the method by which the product will be allocated, and the conditions that will or may apply to the spectrum licences issued. Key aspects of the draft marketing plan are discussed in Chapter 3.

In order for the marketing plan for the unsold lots to be made, an amending instrument, the Radiocommunications Spectrum Marketing Plan (700 MHz Band) Variation 2016 (No. 1), was also made to excise the unsold 700 MHz lots from the previous marketing plan, the Radiocommunications Spectrum Marketing Plan (700 MHz Band) 2012, which applied to the digital dividend auction.

1.3.3 Technical framework

The technical framework for a spectrum licensed band is a set of technical rules made by the ACMA for operation within a band. Under the Act, the framework consists of three interlocking regulatory elements:

- > conditions on the licence (including licence core conditions)
- > a determination of unacceptable interference for the purpose of device registration
- > radiocommunications advisory guidelines.

Technical instruments constitute the technical framework of the spectrum licences and are made under subsection 145(4) and 262 of the Act. Subsection 145(4) provides that the ACMA may determine what constitutes an ‘unacceptable level of interference’ for a spectrum-licensed band. The ACMA may refuse to include a transmitter on the RRL if it is satisfied that operation of the transmitter could cause an unacceptable level of interference to the operation of another radiocommunications device. Each spectrum licence must include a condition such that if the transmitter is not included on the RRL, the licensee must not operate the transmitter under the licence.⁴ A subsection 145(4) determination effectively, therefore, sets out the circumstances in which the ACMA may refuse to register a device under the spectrum licence on the basis of unacceptable levels of interference. Generally, unacceptable interference will occur where:

- > any part of the device boundary falls outside the geographic area of the spectrum licence
- > the operation of the transmitter will breach a core condition of the spectrum licence
- > the device will exceed any specified deployment constraints.

Section 262 of the Act provides that the ACMA may make advisory guidelines about any aspect of radiocommunications or radio emissions. Generally, the radiocommunications advisory guidelines include provisions to assist in the

³ Subsection 39A of the Act.

⁴ Section 69 of the Act.

assessment of the risk of interference between spectrum-licensed devices and services operating under apparatus or class licences.

In the case of the 700 MHz band, the technical framework was made prior to the digital dividend auction and remains unchanged. It is made up of the following instruments:

- > [Radiocommunications \(Unacceptable Levels of Interference – 700 MHz Band\) Determination 2012](#)
- > [Radiocommunications Advisory Guidelines \(Managing Interference from Transmitters – 700 MHz Band\) 2012](#)
- > [Radiocommunications Advisory Guidelines \(Managing Interference to Receivers – 700 MHz Band\) 2012](#).

1.4 Stakeholder consultation

The ACMA has been working with relevant stakeholders on how best to allocate the 700 MHz unsold lots. This has included developing arrangements with appropriate regard to stakeholder views. Accordingly, the ACMA developed the allocation instruments and allocation processes in consultation with stakeholders, particularly prospective participants.

A [summary of the stakeholder consultation](#) undertaken in preparation for the auction, including links to all relevant information and documents, is available on the ACMA's website.

2. What is being offered in the auction?

This chapter provides information about:

- > **available 700 MHz spectrum**
- > **how the spectrum will be configured as auction lots**
- > **key matters affecting how winning bidders can use the spectrum.**

2.1 Available spectrum

The 700 MHz spectrum—unsold lots auction is being held to allocate spectrum licences in the following frequency ranges:

- > 733–748 MHz paired with 788–803 MHz

2.2 700 MHz unsold spectrum lots

To be allocated efficiently, spectrum needs to be appropriately configured before it is offered to the market. This process is referred to as lot configuration. Where appropriate, spectrum is divided into smaller units, referred to as spectrum lots. There are two dimensions to lot configuration—bandwidth and geography. In deciding lot configuration for any allocation, the ACMA considers a range of factors, including the source of demand and the technical characteristics of the spectrum. In the case of the unsold 700 MHz lots, the ACMA anticipates that the spectrum will be used for the deployment of mobile telecommunications services, particularly Long Term Evolution (LTE) networks.

2.2.1 Lot configuration

In accordance with the [minister's 2016 direction](#), the unsold 700 MHz lots have been packaged into two lots and will be offered sequentially in the 700 MHz unsold lots auction as follows:

- > Lot one: 2 x 10 MHz lot comprising the frequency ranges 738–748 MHz paired with 793–803 MHz
- > Lot two: 2 x 5 MHz lot comprising the frequency ranges 733–738 MHz paired with 788–793 MHz

2.2.2 Geographic areas

In the initial 700 MHz auction, spectrum was offered in national lots (excluding the Mid-west RQZ).⁵ Following the ACMA's consideration of stakeholder submissions to consultation on both the initial 700 MHz auction and the 700 MHz unsold lots auction, and consistent with the [minister's 2016 direction](#), the unsold lots will be offered as nationwide lots (excluding the RQZ).

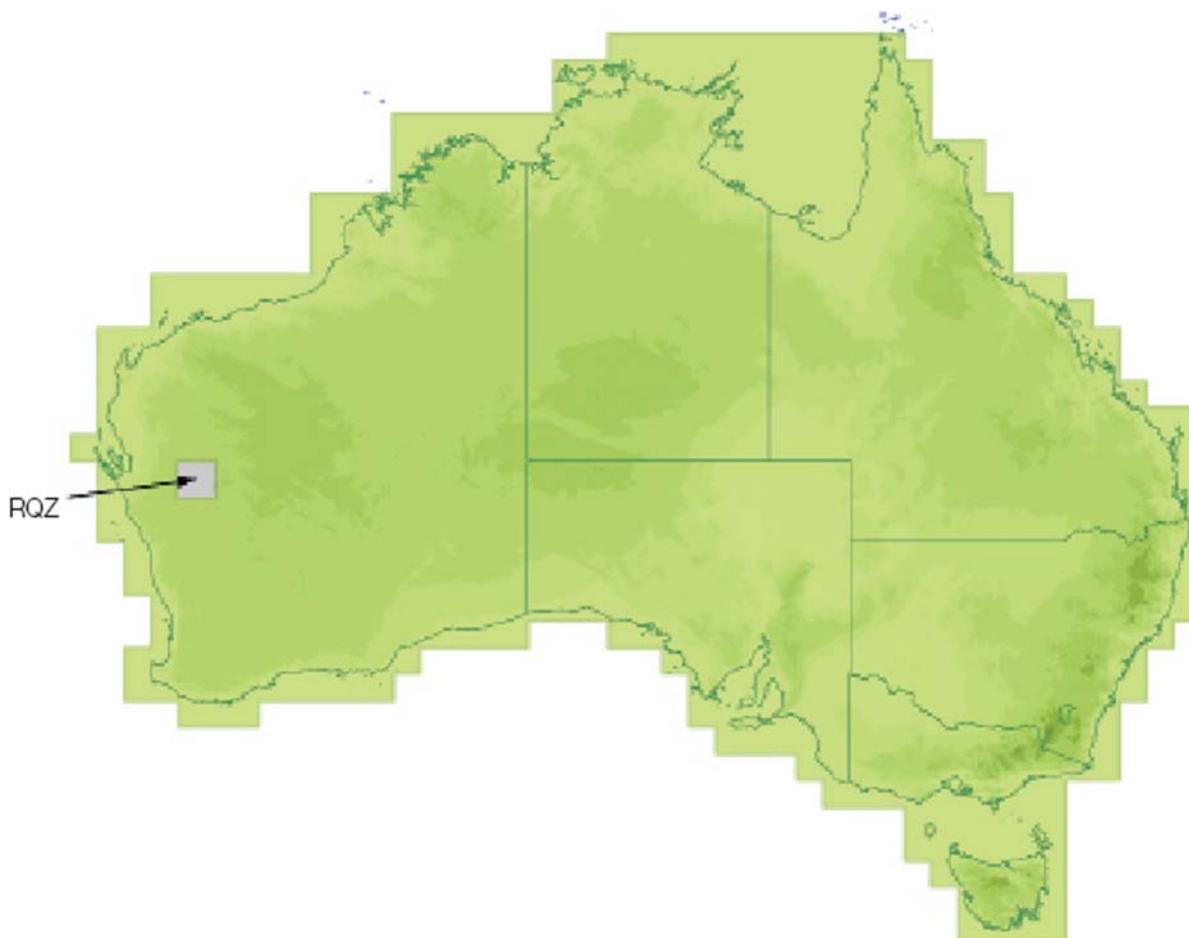
The geographic areas for the 700 MHz unsold lots spectrum are defined utilising a hierarchical cell identification scheme (HCIS).⁶ The HCIS is a naming convention developed by the ACMA that applies unique labels to each square cell in the Australian Spectrum Map Grid⁷, derived from the cell's position in a hierarchically arranged group of cells. Schedule 2 to the marketing plan reflects these geographic boundaries.

⁵ The Mid-west RQZ is an area in remote Western Australia that was excluded from the 'National Area' defined in the minister's spectrum Reallocation Declaration for the 700 MHz band.

⁶ HCIS coordinates can be converted into a Placemark file (viewable in Google Earth or other GIS tools) through a facility on the ACMA website: www.acma.gov.au/theACMA/convert-hcis-area-description-to-a-placemark.

⁷ Access the [Australian spectrum map grid 2012](#).

Figure 2: Map of defined geographical areas



**Not to scale.*

2.3 Key issues affecting the use of the spectrum

2.3.1 Spectrum to be allocated as spectrum licences

Spectrum lots won at auction, or allocated for a pre-determined price, will be allocated as spectrum licences issued under section 62 of the Act.

Spectrum licences authorise licensees to operate radiocommunications devices for a fixed period, within a parcel of spectrum space—that is, within a particular frequency range and within a particular geographic area. Spectrum licensing offers a technology-flexible, market-oriented approach to managing the radiofrequency spectrum in that licensees may:

- > subdivide and trade their spectrum space
- > change their services over time in response to the changing market environment and new technologies.

Spectrum licensees must comply with:

- > the Act
- > a set of core licence conditions
- > statutory licence conditions
- > other licence conditions.

Detailed information about spectrum licensing and the technical frameworks applicable to the 700 MHz band, and other important matters for spectrum licensees to be aware of, is provided in Chapter 5 of this Auction guide. Information specific to the spectrum licences to be issued for the lots on offer in the auction is available in the unallocated lots marketing plan. This includes, at Schedule 5, a sample licence containing the conditions that may be included in a spectrum licence to be allocated.

Following is information about a number of key issues affecting use of the spectrum on offer that may be of particular interest to prospective auction participants.

2.3.2 Licence commencement and expiry

In accordance with the minister's 2016 direction, spectrum licences for the unsold lots allocated as a result of the unsold lots auction (or for a pre-determined price) will commence on 1 April 2018 and expire on 31 December 2029. This is the same expiry date that applies to spectrum licences currently issued in the 700 MHz band.

There is no right of renewal for spectrum licences. Rules for the re-issuing of spectrum licences are set out in Division 4 of Part 3.2 of the Act.

2.3.3 Potential access to the unsold lots prior to licence commencement (early access)

There are currently no apparatus licences issued in the unsold 700 MHz lots. Therefore spectrum licensees awaiting the issue or commencement of their spectrum licence may apply for 'early access' apparatus licences in order to access unencumbered spectrum for a period until the spectrum licence commences on 1 April 2018.

The ACMA will consider applications from winning bidders for an early access apparatus licence on a case-by-case basis. This will include a consideration of the legislative requirement that the 'special circumstances' of the case justify issuing an apparatus licence in spectrum that is the subject of a spectrum reallocation declaration.⁸ In general, the ACMA considers that it is desirable that unencumbered spectrum should be utilised where possible. In the case of the spectrum covered by the unsold 700 MHz lots, the ACMA expects to adopt a similar approach to 'early access' employed after the digital dividend auction. In that case, the ACMA found that an application to use vacant spectrum by the future owner of the relevant spectrum licence was generally recognised to satisfy the special circumstances criteria.

Any apparatus licence issued in such cases would be on an interim basis only, and would expire in alignment with the commencement of the winning bidder's spectrum licence.

The ACMA amended Part 7A of the [Radiocommunications \(Transmitter Licence Tax\) Determination 2015](#) (the Tax Determination) in December 2016 to incorporate base rates of tax for a PMTS Class B licence authorising the operation of a transmitter in the frequency range 788–803 MHz. The relevant annual licence tax rate is \$0.07/MHz (paired)/pop with population, based on the relevant hierarchical cell identification scheme (HCIS) applying population estimates from the 2011 Census. This is consistent with the tax rate applied for 'early access' apparatus licences after the digital dividend auction.

⁸ See section 153P of the Act. Paragraph 153P(3)(d) allows the ACMA to consider, on a case-by-case basis, whether there are special circumstances that justify the issuing of an apparatus licence notwithstanding the general prohibition under subsection 153P(3).

Part two—Participating in the auction

3. How will the auction be conducted?

This chapter provides information about:

- > **simple clock auction (SCA) auction format**
- > **the SCA procedures**
- > **other key auction procedures**
- > **the online auction system**
- > **mock auction and support for bidders.**

Important warning: The information in this chapter is intended to provide only a general overview of the procedures contained in the Radiocommunications (Spectrum Licence Allocation — 700 MHz Band) Determination 2016. Potential applicants should *not* rely on this information, but should instead carefully review and understand the content of the Allocation Determination itself.

3.1 The simple clock auction (SCA) auction format

The 700 MHz unsold lots auction will be conducted online using a sequential SCA format according to the procedures set out in the Allocation Determination. A practical step-by-step guide to registering as a bidder and participating in the auction is provided in Chapter 4.

This chapter provides general information about the auction system and information about how the auction process works. In this auction, bidders will compete for spectrum licences. Broadly speaking, instead of authorising the operation of a specific device or type of device, a spectrum licence authorises the use of ‘spectrum space’ within a geographic area and frequency band, provided that the device operating in that space complies with the technical framework for spectrum licensing in the band.

This chapter explains how the ACMA will use the SCA auction format to allocate spectrum lots to winning bidders. Lots are like ‘building blocks’ of spectrum space. The auction process allocates lots to the applicants who value them most highly and bid accordingly to win those lots. Lots which are sold to the one bidder are combined after the auction by the ACMA to form a spectrum licence.⁹ The spectrum lots on offer in the auction are defined in the marketing plan.

3.1.1 Auction rounds

The SCA format uses a simple ascending-bid method, formalising the process by which prices increase from round to round, and how much time bidders are given to think about their bids in between rounds.

Before each round, the auction manager nominates a price (the specified price) that the bidder must meet in the upcoming round to be eligible to place a bid in the subsequent round. The bidder can make a bid at or above the specified price (a continue bid) or place a lower bid (an exit bid). An exit bid must be equal to or greater than the specified price for the previous round of the auction. If a bid for a lot is for lower than the specified price of the current round—that is, if it is an exit bid—then it is the bidder’s final bid for that lot. Once a bidder has made an exit bid, the bidder cannot resume bidding on that lot in future rounds.

The bidder can also place a continue bid above the specified price for the round using the ‘advance price’ feature. The system automatically accepts that ‘advance price’ as the bidder’s bid in subsequent rounds until either the advance price falls below the specified price for a round (and hence becomes an exit bid), or the bidder makes a new, replacement bid in a subsequent round (whichever occurs first).

A bidder will only win if no other bidder places a higher bid, such as when there is only one bidder who bids at least the specified price in the final round, or a bidder who places the highest exit bid in the final round. The highest bidder in the final round wins and pays the amount of the second-highest bid (this is the defining feature of a

⁹ All spectrum licences will be issued in the single licence format. That is, for each licensee, spectrum will be issued on one licence.

‘second-price auction’). This ensures that the winner never pays more than necessary to win, which encourages ‘true value’ bidding.

In the case of tied exit bids (either due to identical exit bids being made in the final round by two or more bidders, or where two tied exit bids are deemed to be made by bidders who bid at the specified price from the previous round), the winning bidder will be chosen by pseudorandom selection. The winning bidder will pay the amount of the last bid made by the winning bidder (that is, the amount of the tied exit bid).

The already very low likelihood of tied bids occurring can be further reduced if bidders avoid round numbers as their exit bids. For example, if a bidder’s maximum valuation of a lot is around \$500,000,000, bidders could consider making their exit bid around this figure, for example \$501,385,000. Bidders should obtain their own advice about their valuation of lots and about bidding strategies,

3.1.2 SCA auction training and bidding strategies

The ACMA will arrange for registered bidders to be provided with an opportunity to trial the auction system prior to the auction commencing. In addition, registered bidders will be provided with a user guide for the auction system.

Importantly, registered bidders should not rely solely on the instruction material provided by the ACMA on the auction system. Instructions will be concerned only with the ‘mechanics’ of bidding and how to operate the online auction system. The ACMA will not provide instruction or advice on bidding strategies, or on all the possible effects of the actions of bidders during the auction process. Applicants should seek such legal and other expert advice as they consider necessary in relation to the auction system.

3.2 Key auction procedures

The following information provides an overview of the main auction procedures. More detailed information on the bidding process and actions associated with this are provided in Chapter 4.

3.2.1 Application

Before the application deadline on **13 February 2017 (at or before 11.59 pm)**, applicants are required to:

- > give the ACMA a completed application form including information about the applicants associates
- > give the ACMA a deed of acknowledgement
- > give the ACMA a deed of confidentiality executed by the applicant
- > pay the application fee of \$10,000.

3.2.2 Starting prices and preference nomination stage

Following receipt of the [minister’s 2016 direction](#), the ACMA has set starting prices for the two lots on offer, as follows:

- > Lot one: 2 x 10 MHz lot comprising the frequency ranges 738–748 MHz paired with 793–803 MHz—\$571,814,000.
- > Lot two: 2 x 5 MHz lot comprising the frequency ranges 733–738 MHz paired with 788–793 MHz—\$285,907,000.

Before the preference deadline on 16 March 2017 (at or before 11.59 pm), applicants are required to submit a completed preference nomination form setting out which lot or lots they intend to bid on. Applicants will be able to nominate both lots, even if the allocation limits would only allow them to win one or other of the lots, but not both. This

is to enable an applicant who may be unsuccessful in obtaining lot one to still be able to bid for lot two. Applicants are also required to pay a deposit or give a deed of financial security for the amount of 10 per cent of the starting price for their preferred lots, by the preference deadline, as follows:

- > If a bidder nominates to bid on Lot one only (2 x 10 MHz)—\$57,181,400 (10 per cent of starting price of Lot one)
- > if a bidder nominates to bid on Lot one and Lot two—\$57,181,400 (10 per cent of starting price of Lot one only; the bidder is not required to pay a higher deposit to nominate Lot two in addition to Lot one), or
- > if a bidder nominates to bid on Lot two only (2 x 5 MHz)—\$28,590,700 (10 per cent of starting price of Lot two).

During the auction, bidders will only be able to bid on, and access pricing information on those lots nominated in the preference nomination stage. If a bidder is the highest bidder on Lot one and by virtue of allocation limits is therefore ineligible to bid on Lot two, then that bidder will be unable to access pricing information on Lot two.

3.2.3 Withdrawal from the auction

A person who has applied for registration as a bidder may only withdraw from the auction *before* the preference deadline by written notice given to the ACMA. An applicant may not withdraw after the preference deadline. An applicant who has withdrawn will not be readmitted to the auction. In some circumstances, the Allocation Determination provides that an applicant may be taken to have withdrawn its application.

Applicants who withdraw from the auction will remain subject to the confidentiality provisions in the Allocation Determination until after the end of the auction period (see 3.2.7). The ACMA will notify withdrawn applicants as soon as practicable after the end of the auction period that their confidentiality obligations have ended. As previously outlined, withdrawn applicants will not be refunded their application fee, but will, subject to any decision by the ACMA to retain the deposit in accordance with section 85 of the allocation declaration, be refunded any deposit they have made to the ACMA.

3.2.4 Bidder registration

Parties wishing to participate in the auction will need to be registered as a bidder. The ACMA will only register an applicant as a bidder if:

- > a valid application has been received by the ACMA by the application deadline
- > the preference deadline has passed
- > a completed preference nomination form has been submitted to the ACMA by the preference deadline
- > a deposit has been paid to, or a deed of financial security has been received (or a combination of both), by the ACMA by the preference deadline.

Details about the procedures involved at each stage of the registration process (including information about the relevant payments, forms and deadlines) are provided in the step-by-step guide in Chapter 4.

Only parties who have fulfilled all requirements in each of these stages (including the completion and lodgement of all relevant deeds and other forms) within the applicable deadlines will be entitled to participate in the auction.

Subject to the requirements of each stage being met, the ACMA will contact registered bidders after the preference deadline¹⁰ (**16 March 2017**) to confirm their registration and provide them with relevant material (including information about how to access and use the online auction system) to enable them to participate in the auction. Bidders will be required to keep secure any material provided to them during the auction period and to notify the ACMA immediately of any relevant disclosure, loss or theft.¹¹ If the ACMA is satisfied that a bidder breached these requirements, and that the breach affected or may have affected the auction outcome, it may take action under the breach provisions discussed at 3.2.8.

3.2.5 Allocation limits

Allocation limits (also referred to as spectrum caps or competition limits) have the effect of capping the total amount of spectrum that a single bidder can acquire as a result of the allocation of spectrum licences by any allocation process under section 60 of the Act.

The minister's 2016 direction, directs the ACMA to ensure that no person or specified group of persons¹² is allocated more than 2 x 20 MHz of spectrum in the 700 MHz band. The ACMA must ensure that the Allocation Determination specifies processes that ensure allocation limits are observed.

3.2.6 Affiliations

Applicants and bidders who are 'affiliated' will not be permitted to participate in the auction as separate bidding entities. The affiliated applicant rules in the Allocation Determination are in place to:

- > ensure compliance with the allocation limits
- > prevent (in conjunction with the confidentiality provisions discussed below) the disclosure of confidential information between bidders
- > deliver a fair and competitive auction.

Two applicants or bidders will be considered affiliated if one is an 'associate' of the other, or if they have an associate in common.¹³ There are rules in place to identify and respond to affiliations formed before, during, and after the auction.

When lodging an application, applicants will be required to provide information about the identity of their associates, following which, the ACMA will give each applicant details about the identity of all other applicants, their associates and all previous successful bidders in the 700 MHz band (referred to as previous successful bidders). Applicants will then be required to provide a statutory declaration stating whether they are affiliated with another applicant or previous successful bidder—and, if so, providing details of the affiliation. If an affiliation is identified at this stage between two or more applicants, the affiliated applicants will have the option of withdrawing all of their

¹⁰ 'Preference deadline' is the date and time before which completed preference nomination forms and deposits or deeds of financial security must be given to the ACMA.

¹¹ 'Auction period' is defined in subsection 4(1) of the Allocation Determination, and means the period from the preference deadline to the close of the auction under clause 14 of Schedule 1 to the Allocation Determination.

¹² The minister's 2016 direction defines 'specified group of persons' as 'an applicant for a spectrum licence and all associates of the applicant, or any 2 or more such groups of persons that have at least 1 member in common'.

¹³ 'Associate' is defined in section 11 of the Allocation Determination.

applications and submitting a new application as a single applicant, or withdrawing all but one of their applications.

A bidder must not be affiliated with another bidder during the auction period. If during the auction period a bidder believes it may be affiliated with another bidder or previous successful bidder, the bidder must immediately report the matter to the ACMA. If the ACMA is satisfied that one bidder was affiliated with another bidder or previous successful bidder during the auction period, and the affiliation affected or may have affected the auction outcome, it may take action under the breach provisions discussed at 3.2.8.

As soon as practicable after the end of the auction period, the ACMA will give each winning bidder details about the identity of all other winning bidders. Each winning bidder will then be required to provide to the ACMA a statement about whether they are affiliated with another winning bidder or previous successful bidder—and, if so, provide details of the affiliation. If an affiliation commences at this stage, the allocation limits will cap the amount of spectrum that can be issued to the affiliated bidders, which may result in the winning bidders being issued licences for fewer lots than they won in the auction. Regardless of this, the winning bidder will remain liable to pay the full balance of the winning price for all of the lots they won.

3.2.7 Confidentiality

Applicants, bidders and ‘related persons’¹⁴ who have knowledge of an applicant’s or bidder’s confidential information will be prohibited from disclosing confidential information about the allocation process to any person, except in specified circumstances. The confidentiality rules, in conjunction with the affiliation provisions discussed above, are in place to protect the integrity of the allocation process by prohibiting communications that could influence the allocation outcome. The rules are intended to guard against anti-competitive behaviour in the auction or other allocation processes and to complement the prohibition on cartel conduct contained in the Competition and Consumer Act.

The general prohibition on disclosing confidential information does not apply where the disclosure is made either:

- > to obtain advice on the auction from a person in their professional capacity
- > to obtain finance to purchase spectrum licences in the auction
- > to the ACMA
- > to another related person of that applicant or bidder; or
- > as authorised by the Allocation Determination or otherwise required by law.

Disclosure of confidential information is also not prohibited if the information is publicly available and was not made available because of a breach of the confidentiality rules.

Confidential information is defined in the Allocation Determination and includes any information that, if disclosed, could be reasonably expected to affect another applicant’s or bidder’s behaviour in the auction, or the auction outcome. This includes information about an applicant’s or a bidder’s bids or proposed bids, bidding strategy or lot valuations.¹⁵

Applicants are required to complete a deed of confidentiality as part of the bidder registration process. Each ‘related person’ who has knowledge of the applicant’s or

¹⁴ ‘Related person’ is defined in section 4 of the Allocation Determination.

¹⁵ ‘Confidential information’ is defined in section 16 of the Allocation Determination.

bidder's confidential information will (if they are an employee of the applicant or bidder, or of a related body corporate of the applicant or bidder that provides services to the applicant or bidder) also be required to complete a deed of confidentiality. By completing the deed, applicants and their related persons will be agreeing not to disclose confidential information before their confidentiality obligations have ceased to apply. The precise point at which the rules cease to apply to an applicant, bidder or their related persons will depend on whether the applicant or bidder is a winning bidder, is not a winning bidder, or withdraws from the auction.

Applicants, bidders and their 'related persons' are required to notify the ACMA in writing about any breach of the confidentiality rules of which they become aware. The notification must be made as soon as possible, and no later than two working days after they become aware the breach has occurred. If the auction manager is satisfied that the auction has been affected by a breach of the confidentiality rules, they may take steps to, among other options, stop the auction, or wind the auction back to an earlier point (see 3.2.18). Applicants or bidders who breach the confidentiality rules will be subject to the breach provisions discussed at 3.2.8.

3.2.8 Breaches of the auction procedures

Section 85 of the Allocation Determination will apply in cases where the ACMA is satisfied that an applicant or bidder (or, where applicable, a related person) has breached a provision of the Allocation Determination. If the ACMA makes such a decision:

- > the ACMA may retain a deposit paid, or enforce a deed of financial security given by the applicant or bidder
- > in accordance with sections 86 and 87, a winning bidder may not, regardless of whether they have paid the applicable winning price or pre-determined price, be issued a licence for any spectrum they won in the auction.

For example, the ACMA may apply these sanctions if it is satisfied that an applicant or bidder (or one of an applicant's related persons) breached the confidentiality rules or was affiliated with another bidder, during the auction period in a way that affected the outcome of the auction. Sanctions may also be applied if, after the end of the auction period, a winning bidder (or one of their related persons) breaches the confidentiality rules before their confidentiality obligations come to an end, or fails to provide a statement about whether they are affiliated with another winning bidder. These examples do not limit the circumstances in which the ACMA may take enforcement action.

Section 88 of the Allocation Determination provides that, where the ACMA acts under section 85, the affected applicant or bidder may, within a year of being notified by the ACMA about the breach, apply to the Federal Court for the return of all or part of any amount retained by the ACMA.

3.2.9 Allocation of spectrum licences without an auction (pre-determined price)

Part 5 of the Allocation Determination deals with the possibility of the ACMA offering to issue spectrum licences for the 700 MHz unsold lots for a pre-determined price as opposed to via an auction process. In considering such an option, the ACMA would have regard to:

- > the information provided by applicants in relation to their preferred lots
- > any other information about each applicant's preferred the lots provided to the ACMA.

The ACMA may decide to offer to allocate a spectrum licence or licences for a pre-determined price if it considers that it is able to identify the person willing to make the highest value payment for the allocation of the spectrum licence for the relevant lot. In such a circumstance, the ACMA will write to the relevant applicant or applicants, setting out the offer of a spectrum licence. Such an offer would include a draft copy of the licence and relevant pricing information. An applicant wishing to accept the offer must do so in writing, in accordance with requirements set out in the Allocation Determination.

If an applicant does not accept a spectrum licence offered to it, the ACMA may:

- > allocate the lots for that spectrum licence by auction under the Allocation Determination
- > remove the lots from the allocation process

This Auction guide is focused on providing potential applicants and registered bidders with information about the allocation of the 700 MHz unsold lots via an auction process. Should a situation where the allocation of spectrum licences for a pre-determined price be considered by the ACMA, further information will be provided to relevant applicants at that time.

3.2.10 Publication of auction results—winning bidders

If a bidder is successful at auction, the ACMA will publish the following information on its website:

- > the names of winning bidders
- > the spectrum allocated to each winning bidder
- > the winning price for each spectrum lot won by each winning bidder.

3.2.11 Payment of winning prices and issue of licences

The Allocation Determination sets out the financial obligations to be met by successful bidders before the ACMA can issue spectrum licences.

A winning bidder may pay the winning bid price in one of two ways—upfront or via a delayed payment method (in three annual instalments).

Following the close of the auction, the ACMA will advise a winning bidder of the balance of the upfront winning price, the delayed winning price (that is, the winning price that would be payable if the winning bidder takes the delayed payment option), and the amount and payment date of each instalment of the delayed winning price. The winning bidder must then advise the ACMA in writing, within 10 working days of the ACMA's advice, of how it elects to pay the winning price.

3.2.12 Upfront payment

Under this payment arrangement, the balance of the upfront winning price (that is, the upfront winning price, less any deposit paid) must be paid to the ACMA no later than 31 January 2018. It is expected that the licence would be issued shortly thereafter, close to the commencement of the spectrum licence on 1 April 2018.

3.2.13 Delayed payment

The minister's 2016 direction sets out that the ACMA must allow the winning price to be paid in instalments, provided those instalments meet the conditions specified in the direction. The ACMA has allowed for payments by instalments in accordance with this

direction in Division 4 of Part 7 of the Allocation Determination (delayed payment arrangement).

Under the delayed payment arrangement, the ACMA will advise the winning bidder that the delayed winning price must be paid to the ACMA as follows:

- > an instalment of 48.0051 per cent of the gross auction price (being the sum of winning prices for all lots won by a bidder), less any deposit paid, by no later than 31 January 2018
- > an instalment of 26.6315 per cent of the gross auction price multiplied by 1.05, by no later than 31 January 2019
- > an instalment of 25.3634 per cent of the gross auction price multiplied by 1.1025, by no later than 31 January 2020.

All instalment amounts will be rounded up to the next dollar.

The delayed winning price (the total amount paid by the winning bidder who chooses the delayed payment option) is a sum of the deposit and the three instalments paid by the winning bidder.

The ACMA will issue the winning bidder's spectrum licence on receipt of the first instalment, subject to receiving security for the delayed payments (see below).

3.2.14 Security for delayed payment

A winning bidder who elects to use the delayed payment option is not entitled to be issued a spectrum licence in relation to the lots they have won unless the winning bidder does both of the following:

- a) pay the first instalment in accordance with the requirements of the Allocation Determination
- b) provide the ACMA with an irrevocable bank guarantee for five per cent of the outstanding amount (that is, five per cent of the sum of the second and third instalments) in a form approved by the ACMA, with the amount secured to be reduced after the second instalment is paid.

The prescribed form of the bank guarantee is attached to this Auction guide. The form gives more information on the mechanism by which the secured amount is reduced after each instalment is paid.

3.2.15 Default

If a winning bidder:

- > elects to pay the balance of the upfront winning price to the ACMA and does not do so on or before 31 January 2018; or
- > elects to pay the delayed winning price and does not pay the first instalment in accordance with the Allocation Determination and/or does not provide the required bank guarantee as mentioned above;

then:

- > the spectrum licence will not be allocated to the winning bidder;
- > the issue of a spectrum licence to other winning bidders will not be affected.

If either or both of the second or third instalments is not paid by the relevant due date, a licensee may be in breach of the licence condition requiring the licensee to meet all obligations to pay spectrum access charges, required to be included in the licence by section 67 of the Act. If a licensee contravenes a condition of its licence, the ACMA

may suspend or cancel the licence. The ACMA may also enforce the delayed winning price bank guarantee if the second or third instalment is not paid by the relevant date.

3.2.16 Unallocated lots to be offered via a secondary allocation process

In the event that either or both of the unsold 700 MHz lots are not allocated as a result of the unsold 700 MHz lots auction, the ACMA may be directed in accordance with section 10 of the [minister's 2016 direction](#) (the secondary allocation direction) to commence a secondary allocation process. The direction contained in section 10 of the minister's 2016 direction will come into effect if the minister makes a notifiable instrument, fixing a single date for sections 9 and 10 of the direction to commence.

Sections 7 and 10 of the minister's 2016 direction, if section 10 commences, will have the effect of directing the ACMA in relation to:

- > allocation and issue of spectrum licences
- > lot configuration
- > method of allocation
- > duration of spectrum licences
- > spectrum access charges payable for the spectrum licences
- > bank guarantee arrangement should the successful applicant elect to pay the spectrum access charge in instalments.

In broad terms, if either or both of the 700 MHz unsold lots remains unsold after the 700 MHz unsold lots auction, the unsold spectrum is likely to be allocated for a pre-determined price or by way of tender.

The secondary allocation direction, if it commences, will require the ACMA to make or amend such legislative instruments (that is, allocation determinations and marketing plans) to give effect to the requirements of the secondary allocation direction. If this eventuates, the ACMA will provide further advice to potential applicants and will consult on the allocation instruments/marketing plan.

The secondary allocation direction would require the ACMA to publish an offer seeking expressions of interest (EOI) in the allocation of unallocated spectrum via a tender process. If the ACMA receives a valid expression of interest within six months of publishing its offer, the ACMA will conduct a tender process.

If the ACMA does not receive any EOIs for the allocation of the spectrum licence via a tender process, the relevant spectrum will remain available indefinitely for allocation at a pre-determined price fixed in accordance with the secondary allocation direction.

3.2.17 Refund of payments and cancellation of deeds of financial security

An application fee will not be refunded in any circumstances, including if an applicant or bidder withdraws before the auction, or is excluded from the auction.

A deposit paid by an applicant will be refunded:

- > to applicants who withdraw from the auction before the preference deadline; or
- > to bidders who do not win any spectrum in the auction.

A deed of financial security provided to the ACMA under section 38 of the Allocation Determination will be cancelled, according to the terms of the deed, either:

- > upon payment by the promisor of the amount secured by the deed; or
- > if the promisor receives written notice from the Chair of the ACMA.

The Chair of the ACMA intends to give such written notice shortly after:

- > payment of the balance of the payment of the winning price or the pre-determined price; or
- > payment of the first instalment of the winning price or pre-determined price, and the provision of a bank guarantee required in accordance with the delayed payment arrangements (see 3.2.14).

If a winning price is to be paid by instalments and a spectrum licence is issued:

- > to a winning bidder after the first auction instalment is paid; or
 - > to a successful applicant (for pre-determined price) after the first instalment is paid;
- that instalment, and any subsequent instalment, is not refundable under any circumstances.

3.2.18 Auction manager

Pursuant to section 23 of the Allocation Determination, the ACMA has appointed the Manager of the Spectrum Licensing Policy Section of the ACMA as the auction manager for the 700 MHz unsold lots auction.

The auction manager has a number of specific responsibilities and discretionary powers under the Allocation Determination. These include:

- > notifying bidders of the start date and time of the first round
- > scheduling the rounds of the auction
- > setting the bid increments that determine the specified prices that will apply to the lots in each round
- > announcing the conclusion of the rounds.

The auction manager's discretionary powers under sections 59 and 60 of the Allocation Determination include:

- > permitting a bidder to submit a bid by a method other than the auction system, if he or she is satisfied that the bidder is unable to submit a bid using the auction system
- > permitting a bidder to submit a bid for a round after the end time of the round (but not after information about the outcome of the round has been given to bidders), if he or she is satisfied that the bidder could not submit the bid during the round because of technical or communication problems
- > taking any of the following actions if he or she is satisfied that the auction is affected by exceptional circumstances (for example, a significant technical difficulty with the auction system or a breach of the confidentiality rules):
 - > make corrections to:
 - > the results of the current round of the auction; and
 - > information received by a bidder after that round; or
 - > stop the current round of the auction and restart the round, for example when the circumstances are resolved
 - > cancel the results of one or more rounds and restart the auction from the point before those rounds
 - > restart the auction from the first round
 - > stop the auction.

The auction manager may delegate any of his or her powers and functions under the Allocation Determination to another person.

3.2.19 Communicating with the auction manager

Prior to the start of the auction period (that is, prior to the preference deadline), all contact with the auction manager should, in the first instance, occur using the contact details/methods provided at 6.2.

During the auction period, contact with the auction manager would preferably occur through the electronic messaging facility within the auction system. Alternatively, if this is not appropriate to the particular query or situation, contact should occur through the email address, telephone number or fax number set out in 6.2. The ACMA considers that the electronic messaging facility within the auction system would be the primary and default form of contact with the auction manager. Other forms would only be used in those circumstances where the auction system was unable to be utilised (for example, if there was an electrical blackout).

3.3 Online auction system

The auction will be conducted over the internet (online) using auction system software developed for the ACMA by [Power Auctions LLC](#). Subject to the user system requirements discussed below, the online auction system is designed to allow bidders to participate in the auction from their normal office locations, or any other location of their choice.

Bidders will use the auction system to bid in all rounds of the auction. As noted, the auction system will also be the primary mode of communication between the ACMA and bidders during the auction period.

The ACMA will endeavour to provide emergency backup bidding, and communication arrangements will be in place in the event that technical or other problems prevent use of the auction system for a period.

Procedures conducted before the beginning of the auction period will be performed independently of the auction system, in accordance with the processes set out in Chapter 3.2.19.

3.3.1 Accessing and using the auction system

Bidders will use the auction system from their own computers connected to the internet, by accessing the auction system internet site. The system has been designed to minimise the requirements on bidders' equipment and to make the bid submission process as straightforward as possible. The auction system internet site will use secure sockets layer (SSL) technology to ensure all transmissions are secure.

The auction system will employ two-factor authentication, using Time-based One-Time Password Algorithm (TOTP). To access the auction system, in addition to entering their username and password, users will need to enter a validation code generated using a smartphone app and the TOTP algorithm. This additional method of verifying the user's identity will add an extra layer of security to the conduct of the auction.

After the preference deadline, the ACMA will give registered bidders further information to explain how they can participate in the auction. This will include the following material about how to access and use the auction system:

- > The Auction System Bidders' User Guide (User Guide)—providing instructions about how to access and log-in to the auction system internet site, how to place bids, how to view round schedules and results, how to download bidder files, and how to communicate with the auction manager using the auction system.
- > Each of the 'authorised persons' identified on the bidder's application form as requiring access to the auction system will separately receive a username and set

up a password to login to the auction system, as well as the information necessary to set-up TOTP apps on their smartphones to generate verification codes for two-factor authentication.

- > Instructions about how to use the emergency backup bidding arrangements that will apply in the event that a bidder is unable to submit a bid using the auction system.

Bidders may access and use the auction system only in accordance with the applicable rules in the Allocation Determination. They must not attempt to interfere with the auction system or use it in an unlawful way. The information mentioned in the previous paragraphs is confidential information within the meaning of the Allocation Determination. Bidders are also required by section 56 of the Allocation Determination to keep the items mentioned in the previous paragraph secure during the auction period, and to notify the ACMA immediately of any unauthorised disclosure, loss or theft. If the ACMA is satisfied that a bidder has breached these requirements, and that the breach affected or may have affected the auction outcome, the ACMA may take action under the breach provisions discussed at 3.2.8.

3.3.2 User system requirements

The auction system will be accessible using a standard, internet-connected personal computer (PC) with an internet browser with a minimum of TLS 1.2 security, such as Internet Explorer 11 or above, or the latest version of Google Chrome. The User Guide will contain details of the recommended configuration for user equipment.

The auction system may run on PC configurations other than the one recommended in the User Guide. However, it is the bidder's responsibility to check they can use the system on another configuration—preferably by testing the other configuration during the mock auction discussed at 3.4. It is recommended that bidders use the same configuration for the mock auction as they intend to use for the live auction. Bidders are encouraged to install the latest updates for their operating system and browser to maximise protection against potential security vulnerabilities.

Bidders are discouraged from using web browsers containing third-party modifications such as search bars, tool bars or other third-party browser extensions. Third-party browser extensions may cause problems for users of interactive websites—such as the auction system—and in principle, may render bidders' computers more vulnerable to hacker attacks. If in doubt, bidders should seek their own expert advice to disable third-party browser extensions or, if necessary, obtain clean installations of a recommended web browser.

Bidders are encouraged to establish a backup means of connecting to the internet for use during the auction in the event that their primary internet connection fails. For example, bidders could arrange to have a mobile internet service available for use if their normal cable or ADSL broadband service is disrupted; or a backup bid team, with its own power and communications services and authorisation to access the auction system, at a separate location from the primary bid team.

3.4 Bidder support and the mock auction

In addition to this Auction guide, and the instruments and explanatory statements attached, the ACMA will make available further information in the lead-up to the auction. This will include:

- > **Auction System Bidders' User Guide**—to be made available to registered bidders.
- > **Mock auction**—Following the registration process (see 3.2.4), the ACMA will provide details to registered bidders about the date of the proposed mock (trial)

auction and provide any relevant material and information required to participate. It is expected the mock auction will be held in March 2017. The mock auction will give prospective bidders the opportunity to practise using the auction system, from their own location, in a simulated auction environment. The mock auction will use the same lot configuration and starting prices as the live auction, and bidders will be free to bid as they wish. However, the ACMA may (for example, as a clearly identified participating bidder) intervene as appropriate to ensure the mock auction progresses in a timely and comprehensive manner. It is expected that the mock auction will span approximately half a business day. Depending on the number of registered bidders, and the available time between the preference deadline and the auction commencement, the ACMA will endeavour to hold a second mock auction, if possible.

Announcements about the release of this and other relevant information, including the final date for the mock auction, will be made during the lead-up to the auction through the sources listed at 6.1. It is the responsibility of applicants and registered bidders to ensure that they review those sources regularly in order to receive all such information for the purposes of preparing for the auction.

4. How do I participate in the auction?

On the basis of the auction procedures discussed in Chapter 3, this chapter provides practical information to guide participants through the auction process. It includes information about:

- > steps that should be taken before applying to register as a bidder**
- > the bidder registration process—including relevant forms, payments and deadlines**
- > material the ACMA will provide to registered bidders after the preference deadline to help them access and use the auction system**
- > the announcement of round schedules and results during the auction**
- > post-auction processes.**

Important warning: The information in this chapter is intended to provide a guide only to the steps required to participate in the auction process in accordance with the procedures contained in the Radiocommunications (Spectrum Licence Allocation — 700 MHz Band) Determination 2016.

A potential applicant should *not* rely on this information, but should instead carefully review and understand the content of the Allocation Determination itself.

This chapter provides practical information to guide participants through the key steps in the auction process. Several of these steps require auction participants to lodge forms with the ACMA. All forms are available in the *Auction forms* booklet.

Where an auction participant is required to lodge a form with, or make a payment to, the ACMA, they must do so in accordance with the relevant procedures in the Allocation Determination.¹⁶ A summary of the lodgement and payment procedures is provided at 6.3 and 6.4, respectively, and in the *Auction forms* booklet.

Several of the steps require the ACMA to provide auction participants with information or material.

Prior to the start of the auction period, and after the end of the auction period, the ACMA will direct all such communication to the 'contact person' nominated by the auction participant in their application form, using the nominated contact details.

During the auction period, the ACMA will, where practicable, direct communications to the 'authorised persons' nominated by the auction participant in their application form, using the electronic messaging facility in the auction system. Where an alternative mode of communication is required (for example, during the period before the authorised persons have access to the auction system, or if the ACMA is unable to communicate reliably using the auction system), the ACMA will direct communications to the contact person nominated by the auction participant in their application form, using the nominated contact details.

In addition to the information and material, the ACMA will provide to auction participants under the steps below, updates about auction developments and events from time-to-time through the sources listed at 6.1. It is the responsibility of prospective applicants, applicants and registered bidders to ensure that they review these sources in order to receive all updated information.

4.1 Step 1—Consider the AIP and monitor developments

Before applying to participate in the auction, prospective bidders should read and understand all of the material in the AIP, including this Auction guide and the instruments and explanatory statements provided as attachments to this guide. Applicants should also seek their own expert advice on regulatory and other matters.

¹⁶ Procedures for 'giving documents to the ACMA' and 'payment of amounts' are set out in sections 6 and 7 of the Allocation Determination, respectively. There are additional lodgement requirements in relation to deeds of financial security and bank guarantees in respect of instalment payments (see subsections 38(3), 44(8) and 75(9) of the Allocation Determination.

During the lead-up to the auction, prospective bidders should also regularly monitor the sources listed at 6.1 to remain informed about auction-related developments and events.

4.2 Step 2—Register as a bidder

As outlined in 3.2.4, people wishing to participate in the auction are required to register as a bidder. The registration process involves three stages:

- A. Lodging an application
- B. Providing relevant details for assessment of affiliations
- C. Submitting a preference nomination form and paying a deposit or giving a deed of financial security.

Only parties who have fulfilled all requirements in each of the three stages (including the completion and lodgement of all relevant deeds and other forms) within the applicable deadlines, will be entitled to participate in the auction.

4.2.1 Lodge an application

Prospective bidders will need to lodge an application by:

- > Paying the non-refundable application fee of \$10,000.¹⁷
- > Lodging a completed application form (Form 1)—providing information about:
 - > the applicant and any associates of the applicant (information about the applicant's associates is required for the purposes of the allocation limits discussed at 3.2.5)
 - > up to three 'authorised persons' (for example, individual staff of the applicant) who require login details for the auction system.¹⁸
- > Lodging a completed deed of acknowledgement form (Form 2)—containing, among other things, provisions to the effect that:
 - > the applicant understands and agrees to be bound by the provisions of the Allocation Determination
 - > the applicant agrees to indemnify the ACMA and the Commonwealth against any liability, damages, losses, costs or expenses arising from the actions of the applicant or its associates in relation to the auction, or from any breach by the applicant of the Allocation Determination or deed of acknowledgement.
- > Lodging a completed deed of confidentiality form (Form 3)—containing provisions to the effect that:
 - > the applicant agrees not to disclose confidential information before their confidentiality obligations cease to apply (see 'confidentiality rules' discussed at 3.2.7).

¹⁷ Section 24 of the Allocation Determination provides that before the ACMA publishes a notice inviting applications for the auction, it must set the amount of the application fee. GST is not payable on the application fee.

¹⁸ In the interests of operational efficiency and security, applicants are encouraged to nominate no more than three authorised persons. However, applicants can nominate an additional two authorised persons (that is, a total of up to five persons) if they wish. Instructions for nominating authorised persons are provided in the application form. Applicants are also encouraged to nominate at least one authorised person who is in a different physical location to his or her colleagues. This will reduce the risk of complete bidder system failure—for example, because of a power outage—during the auction.

Applications must be lodged by the application deadline of **13 February 2017 (at or before 11.59 pm)**.

Under the confidentiality rules in Part 3 of the Allocation Determination, a 'related person' of an applicant or bidder who has knowledge of the applicant's or bidder's 'confidential information' must also lodge a completed deed of confidentiality form (see 3.2.7). Where the related person receives knowledge of the applicant's confidential information *before* the application deadline, the person must lodge a completed deed before the application deadline. Otherwise, they must lodge a completed deed as soon as reasonably practicable after receiving knowledge of an applicant's or bidder's confidential information.

The ACMA will contact applicants as soon as practicable after receiving the material above to confirm receipt and, if necessary and possible, resolve cases where an element of the application is missing, incomplete or unclear. Prospective applicants are encouraged to lodge their applications as early as possible. This will enable the ACMA to resolve such cases, and applicants to update their application if they wish, *before* the application deadline.

4.2.2 Provide statutory declaration about affiliations with other applicants and previous successful bidders

After the application deadline, the ACMA will:

- > give each applicant details about the identity of all other applicants, the persons identified by each applicant in their application form as the associates of the other applicants, and all previous successful bidders
- > ask each applicant to make a statutory declaration for the purposes of section 31 of the Allocation Determination (Form 4) stating whether the applicant is affiliated with another applicant or previous successful bidder and, if so, identifying the other applicant or previous successful bidder and giving details of the affiliation.

Statutory declarations made for the purposes of section 31 of the Allocation Determination must be lodged by the deadline stated in the ACMA's request. The deadline will be at least five working days after the date of the request.

If an applicant does not give the ACMA a statutory declaration as requested, they will be taken to have withdrawn their application. The implications of this are discussed at 3.2.3.

If the ACMA is satisfied that two or more applicants are affiliated it will, in writing:

- > notify the applicants and tell them the basis on which it is satisfied they are affiliated
- > notify the affiliated applicants that to participate in the auction they must either:
 - (a) withdraw all of their applications and submit a new application as a single applicant
 - (b) withdraw all but one of their applications.

Within 10 working days of being notified about the affiliation, the affiliated applicants must notify the ACMA in writing about which of the two options they wish to take. If they do not do so, they will be taken to have withdrawn their applications. If some of the affiliated applicants withdraw their applications, but more than one of them does not, *all* of the affiliated applicants will be taken to have withdrawn their applications. Where an applicant is taken to have withdrawn its application in such circumstances, the ACMA will tell it in writing that this is the case.

A new application submitted under option (a) above, must comply with the procedures set out in section 34 of the Allocation Determination. Among other things, section 34 requires that the new applicant must:

- > be a body corporate whose only members are one or more of the affiliated applicants
- > within 10 working days of being notified about the affiliation, lodge a completed application form (Form 1) and pay the application fee of \$10,000
- > within three working days of the ACMA providing updated details about the identity of all other applicants and their associates—including any new applicants arising from option (a)—lodge:
 - > a completed deed of acknowledgement form executed by the new applicant (Form 2)
 - > a completed deed of confidentiality form executed by the new applicant (Form 3)
 - > a statutory declaration for the purposes of subsection 34(5) of the Allocation Determination that the new applicant is not affiliated with any other applicant in the updated list (Form 5).

The ACMA will not accept a new application under section 34 unless it is satisfied that the new applicant is not affiliated with any applicant who has not withdrawn, including another new applicant.

If the ACMA is satisfied that an applicant is affiliated with a previous successful bidder, and the previous successful bidder is not also an applicant, the ACMA will notify the applicant and tell the applicant of the basis on which it is satisfied that they are affiliated with a previous successful bidder. Notification will enable the applicant to consider whether the allocation limits will prevent it from nominating or bidding on its preferred lots.

4.2.3 Preference nomination

Prior to the preference deadline on **16 March 2017 (at or before 11.59 pm)**, applicants will need to do the following in order to be registered as a bidder in the auction:

- > lodge a completed preference nomination form (Form 8)—nominating which spectrum lots they intend to bid on
- > pay a deposit or give a deed of financial security (Form 6) (or a combination of both) for the following amount:
 - > if a bidder nominates to bid on Lot one only (2 x 10 MHz)—\$57,181,400 (10 per cent of starting price of Lot one)
 - > if a bidder nominates to bid on Lot one and Lot two—\$57,181,400 (10 per cent of starting price of Lot one only—the bidder is not required to pay a higher deposit to nominate Lot two in addition to Lot one); or
 - > if a bidder nominates to bid on Lot two only (2 x 5 MHz)—\$28,590,700 (10 per cent of starting price of Lot two).

It should be noted that if the applicant is, or is affiliated with, a previous successful bidder, they may not be permitted to nominate their preferred lots if the allocation of those lots would cause the applicant, or the specified group of persons that includes the applicant, to exceed the allocation limits. See subsections 37(3) and (4) of the Allocation Determination.

The preference nomination form is included in the *Auction forms* booklet provided in this AIP. The form, among other things, contains information about:

- > the lots offered for allocation
- > nominating for either or both lots
- > the amount of deposit and/deed of financial security required.

GST is not payable on a deposit.

The completed preference nomination form, and deposit and/or deed of financial security, must be given to the ACMA by the preference deadline of **16 March 2017**. If an applicant provides a deposit or deed of financial security for an amount less than the amount required above for the lots nominated in the applicant's preference nomination form, subsection 38(3) of the Allocation Determination allows the applicant an opportunity to 'top up' its deposit or deed of financial security. If the applicant does not take that opportunity, it may be prevented from nominating particular lots, or may be taken to have withdrawn its application (subsection 38(4)).

4.2.4 ACMA confirms registration and provides information

Subject to the requirements of the registration process having been met, the ACMA will contact registered bidders after the preference deadline to confirm that they have been registered to participate in the auction, and provide them with the following:

- > a copy of the information about the bidder recorded on the register of bidders maintained by the ACMA under section 52 of the Allocation Determination
- > the ACMA's email address and telephone and fax numbers available for registered bidders to use
- > information about accessing and using the auction system—for example, a user manual for the auction system; the URL for accessing the auction system internet site; and login credentials for each of the 'authorised persons' nominated in the bidder's application form
- > information about how to bid by alternative means if the bidder is unable to submit a bid using the auction system.

The ACMA will give a set of this material to each authorised person nominated in the bidder's application form.

4.3 Step 3—Accessing mock auction and bidder support

Registered bidders will be encouraged to take part in a mock auction that will be held prior to commencement of the auction. During the lead-up to the auction, announcements about the mock auction and bidder support will be made through the sources listed at 6.1.

4.4 Step 4—Bid in the auction

This section of the Auction guide outlines how the auction rounds will be scheduled, and how the schedules and other relevant information (for example, round results and the conclusion of the rounds) will be announced to bidders during the auction period.

Unless the ACMA has offered and bidders have accepted a spectrum licence in a pre-determined price process under Part 5 of the Allocation Determination, the auction will be conducted over the internet using auction system software. Information about how to access and use the auction system, including the User Guide, will be provided to registered bidders after the preference deadline of 16 March 2017. That information

will be supplemented by the opportunity for applicants to participate in a mock auction (see 4.3).

During the auction period, bidders and their 'related persons' should remain aware of their reporting obligations under the Allocation Determination. Under these obligations:

- > if at any time during the auction period, a bidder believes they may be an affiliate of another bidder, or a previous successful bidder, they must immediately tell the ACMA in writing the identity of the other bidder or previous successful bidder and give details of the affiliation
- > a bidder, or a related person of a bidder, who discloses confidential information, or who receives the confidential information of another applicant or bidder must report the matter to the ACMA in writing as soon as possible, but no later than two working days after becoming aware the disclosure or receipt has occurred¹⁹
- > if any item provided by the ACMA to a bidder for the purpose of accessing the auction system is lost or stolen during the auction period, the bidder must notify the ACMA immediately.

4.4.1 Auction rounds—Scheduling

The first round of the auction is scheduled to commence in early April 2017. The auction manager will contact registered bidders after the preference deadline, and at least 10 working days before the day of the first round, to confirm the starting date and time for the first and second rounds. Acknowledging that this auction is much simpler technically than other auctions conducted by the ACMA in recent years, and having only one lot auctioned in a given round, it is expected that there may be more rounds in a day than in the other recent auctions. The auction manager intends to consult with the registered bidders after the preference deadline on the scheduling of the rounds, including anticipated recess days over the April public holidays, if relevant.

The Allocation Determination provides that rounds of the auction must start and end between 9.00 am and 5.00 pm (Canberra time) on working days.²⁰ However, prospective applicants should note that the scheduling of rounds is at the discretion of the auction manager in accordance with the Allocation Determination. As such, the auction manager will consider relevant circumstances when scheduling rounds for any given day, and bidders are strongly advised to always be prepared for the prospect of a round commencing at 9.00 am.

The Allocation Determination provides that at least one hour before the start time of the first round of the day, the auction system will indicate the anticipated schedule of rounds for that day. However, where practical and possible to do so, the auction manager will endeavour to post the schedule of rounds for the following day before 5.00 pm each day. It is the responsibility of bidders to ensure that they monitor the auction system as necessary, to ensure they are aware of all announcements.

The auction manager may vary the schedule of rounds at any time. Any variations to the schedule will be announced to bidders via the auction system as soon as practicable.

¹⁹ As well as applying to bidders and their related persons during the auction period, this obligation also applies to applicants, bidders, and the related persons of applicants and bidders, *before and after* the auction period (see 3.2.7).

²⁰ Working days are defined in the Allocation Determination as a day which is not a Saturday, a Sunday or a public holiday in the Australian Capital Territory, New South Wales or Victoria.

Before the start of each round (for both the 10 MHz and 5 MHz lots), the auction manager will indicate to each bidder via the auction system:

- > the start and end time for the round
- > the start and end time for recess periods
- > the specified price that will apply to the lot in the round
- > for each round other than the first round, the specified prices that applied in the previous round
- > the total number of bidders that have nominated the lot as a preferred lot
- > the total number of bidders remaining in the auction for the lot after the end of the previous round
- > any other information the ACMA considers necessary or convenient to conduct the auction.

4.4.2 Bidding in the auction

Starting prices

In accordance with section 28 of the Allocation Determination, the ACMA has specified a starting price or reserve price for the 10 MHz and 5 MHz lots on offer:

- > the starting price for the 10 MHz lot is \$571,814,000
- > the starting price for the 5 MHz lot is \$285,907,000.

If there is excess demand for a particular lot at a specified price, then the price for that lot will increase as the auction progresses, thereby increasing the winning price to be paid by the winning bidder (see Part 7 of, and Schedule 1 to, the Allocation Determination). If only one bidder expresses demand for a particular lot at the beginning of the auction, then this particular lot may be sold at its starting price to that particular bidder (see Part 5 of the Allocation Determination).

Specified prices

Before each round, the auction manager will inform the bidders of the specified price that the bidder must meet to be eligible to place a bid in the next round. The bidder can make a bid at or above the specified price if they wish to continue bidding in the next round (a continue bid), or place a lower bid should they not wish to continue bidding in subsequent rounds (an exit bid). An exit bid must be equal to or greater than the specified price for the previous round, or, if it is the first round for that lot, equal to or greater than the starting price (a bid below the starting price will not be accepted).

If a bid on a lot is lower than the specified price in the current round—that is, if it is an exit bid—then it is the bidder's final bid on that lot. Once a bidder has made an exit bid, the bidder cannot resume bidding on that lot in future rounds. An exit bid may still be a winning bid, however, if no continue bids are made in the same round and the exit bid is the highest exit bid made in that round.²¹ The specified price for the first round for a lot will be the starting price plus the bid increment (see below for outline of bid increments).

The bidder can also place a continue bid above the specified price for the round using the 'advance price' feature. The system automatically accepts that 'advance price' as the bidder's bid in subsequent rounds until either the advance price falls below the

²¹ In the situation where no continue bids are made but two or more equal exit bids have been made and are the highest exit bids for the lot, the winning bidder will be chosen by pseudorandom selection (see 3.1.1 above).

specified price for a round (and hence becomes an exit bid), or the bidder makes a new, replacement bid in a subsequent round (whichever occurs first).

All relevant prices and bids in the auction (including starting prices, specified prices, advance prices, continue bids and exit bids) must be multiples of one thousand dollars.

Bid increment percentage

After the application deadline, the ACMA will set the bid increment percentage for each lot. The bid increment percentage determines the dollar amount by which the prices will go up between rounds. The bid increment percentage will be set as a percentage of the starting price for the lot in the first round, and of the specified price for the lot in any subsequent round. In accordance with Schedule 1 to the Allocation Determination, the auction manager may, after consulting with the bidders, at any time during the auction change the bid increment percentage, effectively to vary the specified prices for a lot in future rounds.

The ACMA intends to consult with the registered bidders after the preference deadline on bid increment percentages for the auction.

Bidding—general

The 10 and 5 MHz lots will be offered sequentially, with the 10 MHz lot auctioned first. There will be at least one recess day between the last round of bidding for 2 x 10 MHz lot and the first round of bidding for 2 x 5 MHz lot. Registered bidders will place bids using a secure online system using the SCA methodology. Detailed information on accessing the system and user requirements is available at 3.3.

During the auction, registered bidders will only be able to bid, and access pricing information on those lots nominated during the preference nomination stage. If a bidder is the highest bidder on the 10 MHz lot, and by virtue of allocation limits is therefore ineligible to bid on Lot two, then that bidder will be unable to access pricing information during the Lot two allocation.

Before the start time of each round, the auction manager will provide bidders with the following via the online auction system:

- (a) the start time of the round
- (b) the end time of the round
- (c) the specified price that will apply to the lot in the round
- (d) for each round other than the first round, the specified prices that applied to the lot in the previous round
- (e) the total number of bidders that have nominated the lot as a preferred lot
- (f) the number of bidders remaining in the auction still eligible to bid on the lot after the end of the previous round
- (g) any other information the ACMA considers necessary or convenient to conduct the auction.

A bidder may change, delete or replace a bid in the auction system as often as desired during a round. The bid that will be treated as binding for a bidder, and that will be taken to be the bid made by the bidder in the round, is the bid in the auction system at the end time of the round.

As outlined above, before each round, the auction manager will announce the specified price for that round. This is the minimum price point to which the bidder must bid in the round if they wish to continue bidding in subsequent rounds. If a bidder does

not wish to place further bids in subsequent rounds, they can place an exit bid; that is, a bid below the specified price for the current round, but equal to or greater than the specified price for the previous round. If a bidder wishes to place an exit bid in the first round for either lot, they can place a bid less than the specified price for the first round, but greater than the starting price for the lot.

The bidder can also place a bid above the specified price for a round using the 'advance price' feature. The system automatically accepts that 'advance price' as the bidder's bid in subsequent rounds. This continues until either the advance price falls below the specified price for a round (and hence becomes an exit bid), or the bidder makes a new, replacement bid in a subsequent round (whichever occurs first).

Round results

After each round, the auction manager will provide the following information to each individual bidder:

- (a) the bid made by that bidder during the round
- (b) for each round other than the final round for each lot, the number of bidders remaining in the auction for that lot after the round
- (c) if the bidder wins the lot, the winning price for that lot
- (d) any other information that the ACMA considers necessary or convenient to conduct the auction.

Determining winning bidders

A bidder will only win if no other bidder places a higher bid for that lot. The lot on offer closes when there is only one bidder who bids at least the specified price (continue bid), or no bidder makes a continue bid, and at least one bidder places an exit bid that is higher than all other exit bids. The highest bidder wins and pays the amount of the second-highest bid. This ensures that the winner never pays more than necessary to win, which encourages 'true value' bidding.

The winning bidder for Lot one, the 2 x 10 MHz lot comprising the frequency ranges 738–748 MHz paired with 793–803 MHz, will not be publicly announced until after the auction has concluded; that is, until Lot 2, the 2 x 5 MHz lot comprising the frequency ranges 733–738 MHz paired with 788–793 MHz, has been offered for allocation and the auction is closed by the auction manager.

In the case of tied exit bids (either due to identical exit bids being made in the last round by two or more bidders, or due to no bidding in the last round where two or more bidders had made tied continue bids in the previous round), the winning bidder will be chosen by pseudorandom selection.

The already very low likelihood of tied bids occurring can be further reduced if bidders avoid round numbers as their exit bids (for example, if a bidder's maximum valuation for a lot is around \$500,000,000, bidders could consider making their exit bid around this figure, for example \$501,385,000. Bidders should obtain their own advice about their valuation of lots and about bidding strategies,

4.5 Step 5—Publication of auction results

Before announcing or publishing the results of the auction publicly, or issuing invoices to winning bidders, the ACMA will ask winning bidders to make a statement about affiliations according to section 68 of the Allocation Determination.

Following completion of the affiliation process, and after the end of the auction period, the ACMA will announce or publish:

- > the names of winning bidders

- > the spectrum allocated to each winning bidder
- > the winning price for each lot won by each winning bidder.

4.6 Step 6—Post-auction procedures

The steps to be followed after the end of the auction period will be different for:

- > bidders who won lots in the auction
- > bidders who did not win lots in the auction
- > applicants who withdrew from the auction before the preference deadline.

4.6.1 Winning bidders

Following the auction, but prior to publicly announcing the auction results, the ACMA will:

- > give each winning bidder details about the identity of all other winning bidders
- > ask the bidder to make a statement for the purposes of section 68 of the Allocation Determination (Form 7), stating whether the bidder is an affiliate of another winning bidder and, if so, identifying the other bidder and giving details of the affiliation.

Statements for the purposes of section 68 of the Allocation Determination must be lodged by the deadline stated in the ACMA's request. The deadline will be at least 10 working days after the date of the request. A winning bidder's confidentiality obligations (see 3.2.7) will end when they give the statement to the ACMA. Winning bidders who fail to give the ACMA a statement as requested will be subject to the breach provisions discussed at 3.2.8.

Affiliations

Where the ACMA is satisfied that two or more winning bidders have become affiliated after, but were not affiliated *during*, the auction period; or that a winning bidder has become affiliated with a previous successful bidder, it will notify the relevant bidder or bidders in writing and tell them the reasons why it is satisfied that this is the case.

In the case of affiliated winning bidders, if the issue of spectrum licences to the affiliated bidders for all the lots of a product the bidders won at auction would exceed the allocation limits (see 3.2.5), the bidders may jointly give the ACMA a direction, within five working days of receiving the notification from the ACMA, specifying which bidder is to be allocated a lot. If the ACMA does not receive a direction within five working days, it may choose at its discretion which bidder will be allocated a lot. Which lot will be allocated depends on the application of the allocation limits (see section 70 of the Allocation Determination). For example, in case where two affiliated bidders between them won both lots, if allocating the 10 MHz lot to one of the bidders would exceed the allocation limits, the bidders can only direct the ACMA as to which of them will receive the 5 MHz lot.

If a winning bidder wins both the 10 MHz and 5 MHz lot, and is affiliated with a previous successful bidder such that issuing the spectrum licences for both lots would exceed the allocation limit, the winning bidder may give a direction to the ACMA specifying that it wishes to be allocated either the 10 MHz lot or the 5 MHz lot. If the ACMA does not receive such a direction, the ACMA will issue a spectrum licence for the 10 MHz lot.

If the winning bidder wins both the 10 MHz lot and the 5 MHz lot, and due to the affiliation with a previous successful bidder, issuing the 10 MHz lot would exceed the allocation limits, the ACMA will issue a spectrum licence for the 5 MHz lot only.

However, if issuing either the 10 MHz lot or the 5 MHz lot would, due to affiliation with another winning bidder or a previous successful bidder, exceed the allocation limits, the ACMA must not issue a spectrum licence for either lot to the winning bidder.

Payments by winning bidders

As outlined in 3.2.12 and 3.2.13, a winning bidder may pay the winning price for a lot in one of two ways—upfront or via instalments (delayed payment method).

The **upfront winning price** for a winning bidder is the sum of the winning prices for the lots won at auction. The **balance of the upfront winning price** is the upfront winning price, less any deposit paid by a winning bidder.

The **delayed winning price** (the total amount to be paid by the winning bidder who chooses the delayed payment option) is a sum of the deposit paid (if any) and the three instalments paid by the winning bidder as follows:

- > an instalment (the first instalment) of 48.0051 per cent of the **gross auction price** (being the sum of winning prices for all lots won by a bidder), less any deposit paid, paid by no later than 31 January 2018
- > an instalment (the second instalment) of 26.6315 per cent of the gross auction price multiplied by 1.05, paid by no later than 31 January 2019
- > an instalment (the third instalment) of 25.3634 per cent of the gross auction price multiplied by 1.1025, paid by no later than 31 January 2020.

All instalment amounts will be rounded up to the next dollar.

If, for a winning bidder, the balance of the upfront winning price is greater than zero, the ACMA will notify the winning via registered mail of:

- > the balance of the upfront winning price
- > the delayed winning price
- > the dates on which the three instalments for the delayed winning price must be paid and the amounts of the instalments, allowing for any deposits paid under section 38 of the allocation direction
- > a date by which the winning bidder must provide written advice to the ACMA about whether it elects to pay the upfront winning price or the delayed winning price.

If a winning bidder elects to pay the balance of the upfront winning price, it must pay the balance no later than 31 January 2018.

Security for delayed payment

Winning bidders who elect to use the delayed payment option are not entitled to be issued a spectrum licence in relation to the lots they have won unless the winning bidder:

- a) pays the first instalment in accordance with the requirements of the Allocation Determination
- b) provides the ACMA with an irrevocable bank guarantee for five per cent of the outstanding amount (that is, five per cent of the total of the second and third instalments) in a form approved by the ACMA, with the amount secured to be reduced after each instalment is paid.

The prescribed form of the bank guarantee is attached to this Auction guide. The form gives more information on the mechanism by which the secured amount is reduced after each instalment is paid.

4.6.2 Unsuccessful bidders and withdrawn applicants

As soon as practicable after the end of the auction period, the ACMA will notify each bidder that did not win lots in the auction that:

- > the bidder was unsuccessful in the auction
- > the bidder's confidentiality obligations have ended.

Subject to any decision by the ACMA to retain the bidder's deposit, the unsuccessful bidder will be refunded any deposit paid.

As soon as practicable after the end of the auction period, the ACMA will notify each withdrawn applicant that their confidentiality obligations have ended. Subject to any decision by the ACMA to retain the deposit paid by the withdrawn applicant under section 85, the withdrawn applicant will be refunded any deposit paid.

Part three—Understanding spectrum licences

5. Spectrum licensing and technical framework

This chapter provides information about:

- > **spectrum licensing**
- > **the technical framework applicable to spectrum licences for the 700 MHz band**
- > **other important issues affecting spectrum licences.**

Important warning: The information in this chapter is intended to provide a general overview of, and does not purport to contain all information regarding, rights and obligations in respect of spectrum licences issued under the Act and associated legislative instruments. Potential applicants should *not* rely on this information, but should instead make their own investigation.

This chapter provides a brief introduction to spectrum licensing and the technical framework applicable to the spectrum licences to be allocated in the 700 MHz unallocated lots band. It provides:

- > an overview of spectrum licensing—more detailed information about the key obligations placed on spectrum licensees is available in the ACMA publication [Know your obligations—Spectrum licensees](#)
- > an explanation of the technical framework underpinning spectrum licensing in the 700 MHz band—more detailed information on the development of the technical framework for the band can be found on the [spectrum licence technical liaison groups](#) page on the ACMA website
- > other important information.

Legislative instruments referred to in this chapter that comprise the technical framework for the 700 MHz band are:

- > [Radiocommunications \(Unacceptable Levels of Interference – 700 MHz Band\) Determination 2012](#)
- > [Radiocommunications Advisory Guidelines \(Managing Interference from Transmitters – 700 MHz Band\) 2012](#)
- > [Radiocommunications Advisory Guidelines \(Managing Interference to Receivers – 700 MHz Band\) 2012](#).

Copies of the legislative instruments referred to in this chapter are available as attachments to the Auction guide, in particular:

- > the marketing plan and legislative instruments implementing the technical framework for the 700 MHz band are available at attachments B through F.

5.1 Spectrum licensing

A spectrum licence authorises the operation of radiocommunications devices for a fixed period of up to 15 years²², within a specified frequency band, within a particular geographic area. Licensees choose how they deploy devices within their spectrum space, the nature of the services they wish to deliver and the technology they use—as long as the operation of devices is within the parameters of the conditions of the spectrum licence.

A licensee's use of spectrum allocated to it under a spectrum licence is subject to several constraints, including:

- > compliance with the Act
- > compliance with a set of core licence conditions required under subsection 66(1) of the Act
- > compliance with statutory licence conditions required under sections 67, 68, 69 and 69A of the Act

²² The spectrum licences issued as a result of the Allocation Determination will be for a shorter period (see 2.3.2).

- > compliance with other conditions that the ACMA may include under section 71 of the Act
- > management of interference issues with reference to technical instruments established for the band under subsection 145(4) and section 262 of the Act.

Licensees may be permitted to make agreements with affected adjacent licensees to change emission limits within the parameters of the technical framework. The agreed limit cannot exceed any absolute limit specified in the technical framework, in limits outside the designated spectrum space or at the boundary of other licensees not subject to the agreement.

The spectrum licensing arrangement is a technology-flexible, market-oriented approach to managing the radiofrequency spectrum. The spectrum space may be subdivided and traded in standard trading units (STUs). The ability to trade and the flexibility of the technology that may be used in accordance with the technical framework, allows licensees to change their service over time in response to commercial realities, and respond to technological innovation within the flexibility of the framework.

Information specific to the spectrum licences on offer for the 700 MHz band is available in Part 3 of the marketing plan. This includes, at Schedule 5 to the marketing plan, a sample licence containing the conditions that may be included in a spectrum licence for the band.

5.2 The technical framework

The technical framework for a spectrum-licensed band is the set of technical rules and guidelines, made by the ACMA in consultation with industry, applicable to the operation of radiocommunications devices within the given band. The primary purpose of the technical framework is to specify the relevant technical conditions that licensees should comply with to effectively manage interference between users of the spectrum.

The technical framework is crafted using three interlocking regulatory elements:

- > the core conditions of the licence, which are mandatory requirements included pursuant to section 66 of the Act
- > a determination of unacceptable levels of interference for the purposes of device registration, made under subsection 145(4) of the Act (the subsection 145(4) determination)
- > radiocommunications advisory guidelines, made under section 262 of the Act, and conditions specified in the licence relating to the advisory guidelines.

Information on each of the regulatory elements and how a technical framework is developed is provided in [Know your obligations](#).

The technical framework for the 700 MHz band seeks to minimise the potential for interference caused by:

- > unwanted in-band emissions
- > unwanted emissions falling outside the frequency band of the licence
- > transient emissions such as those caused by switching a transmitter on and off
- > intermodulation effects.

All four of these mechanisms are dealt with by a combination of the core licence conditions relating to outside-the-area and outside-the-band emissions, and the licence condition requiring registration of devices before operation under the licence,

which gives effect to the unacceptable interference requirements. The device registration process is discussed at 5.4.1.

The 700 MHz spectrum licence technical framework has been developed by the ACMA with industry, in parallel with the ACMA's involvement in developing internationally harmonised band planning arrangements in the Asia–Pacific region to support fixed and mobile broadband in the band. The 700 MHz band previously supported television broadcasting services.

While the technical framework for the 700 MHz band has been designed to support FDD mobile broadband services, this does not explicitly exclude other uses. For example, the spectrum may be deployed to provide a wide range of services including broadband wireless access (BWA) services, data transfer, machine-to-machine (M2M) remote control links between plant and equipment, or video surveillance.

5.3 Core conditions

The core conditions of a spectrum licence are mandatory technical requirements that form the basis of the licence, as required under section 66 of the Act. The core conditions specify the geographic area and frequency range of the licence, as well as the maximum permitted emission levels at the frequency and geographic boundaries of the licence. The core conditions of a spectrum licence include:

- > the area of operation
- > the frequency bandwidth of operation
- > the permissible outside-the-area emission limits
- > the permissible outside-the-band emission limits.

Further information and explanation on each of these core conditions is available in [Know your obligations](#). The following information refers specifically to how each of the core conditions is applied in the context of the 700 MHz band.

5.3.1 Area of operation

The geographic areas subject to allocation via the issue of a spectrum licence in the 700 MHz band are described in Schedule 2 of the marketing plan.

The geographic area within which the operation of radiocommunications devices is authorised by the spectrum licence is described in Part 2 of Licence Schedule 1 to the sample spectrum licence at Schedule 5 of the marketing plan, in the form of HCIS identifiers. Access the [link to the Google Earth Placemark file](#) for the geographic area to which the 700 MHz band relates.

5.3.2 Frequency band of operation

Spectrum in the 700 MHz band is being offered in the auction on a paired basis to support FDD operation. The frequency band segments available for operation of devices are described in Schedule 1 of the marketing plan.

An example of a paired frequency segment within the 700 MHz band can be found in Part 2 of Licence Schedule 1, in the sample spectrum licence available in Schedule 5 of the marketing plan.

5.3.3 Outside-the-area emission limits

This limit is listed in Schedule 3 of the marketing plan, and is set out in Licence Schedule 2 in the sample licence provided in Schedule 5 of the marketing plan.

The definition of the core condition outside the area limit for terrestrial transmitters effectively places a cap on the horizontally radiated power of transmitters anywhere in the area of the licence.²³

An additional layer of outside-the-area emission management is imposed at the point of registration of devices, as the ACMA may refuse to register devices that do not meet the requirements under the determination of unacceptable levels of interference, made under subsection 145(4) of the Act. This point is discussed in detail at 5.4.

5.3.4 Outside-the-band emission limits

The outside-the-band emission limits, sometimes referred to as emission masks, for the 700 MHz band are listed in Schedule 4 of the marketing plan.

Outside-the-band emission limits have been expressed in the form of absolute levels, rather than levels relative to the transmitter output power, to allow licensees to operate transmitters with an optimised balance between transmit power and outside-the-band emission suppression. The emission limits specific to licences for the 700 MHz band are set out in Licence Schedule 2 in the sample licence provided at Schedule 5 of the marketing plan. These levels may be varied through negotiated agreement with affected adjacent licensees (see 5.4.3).

5.4 The unacceptable levels of interference determination (subsection 145(4))

Before a transmitter can be operated under a spectrum licence, its details must be recorded in the Register of Radiocommunications Licences (RRL), unless it is exempted from registration. Subsection 145(1) of the Act gives the ACMA the power to refuse to register a device that could cause an unacceptable level of interference to the operation of other radiocommunications devices when operated. The ACMA has determined under subsection 145(4) of the Act what constitutes unacceptable interference in the 700 MHz band.

The subsection 145(4) determination that defines what will be taken to be unacceptable levels of interference for spectrum licences in the 700 MHz band is the Radiocommunications (Unacceptable Interference – 700 MHz Band) Determination 2012.

The subsection 145(4) determination sets out the following basic requirements that must be met in order for the ACMA to be satisfied that interference is not unacceptable:

- > that the core conditions of the licence relating to emissions are met (see 5.3)
- > that full location details of the transmitter are provided for inclusion in the RRL (see 5.4.1)
- > that specified device boundary criteria are met (see 5.4.1)
- > that deployment constraints applicable to the band are adhered to (see 5.4.2).

More information about device registration options and procedures is available on the [ACMA website](#).

²³ Horizontal radiated power is the power limit radiated from an antenna in the horizontal plane. A full description can be found in the sample licence provided at Schedule 5 in the marketing plan for each band.

5.4.1 Registration of devices

It is a condition of all spectrum licences issued in the 700 MHz band that licensees must not operate transmitters under those licences unless they are registered on the RLL, or are exempt from the registration requirements (see 5.4.5).

Before a device is registered for use under a licence, licensees need to ensure that it will not cause unacceptable interference to other spectrum users. This is achieved by obtaining an interference impact certificate (IIC) under subsection 145(3) of the Act by an accredited person.²⁴

The ACMA has made a determination pursuant to section 266A of the Act, which relevantly states conditions that must be satisfied before an accredited person may issue a certificate for the purposes of subsection 145(3). The conditions require that before issuing a certificate, the accredited person must be satisfied that either:

- > the operation of the radiocommunications transmitter will not cause an unacceptable level of interference as set out in the determination under subsection 145(4) for the frequency band
- > the use of guard space is sufficient to mitigate potential interference from the radiocommunications transmitter, or
- > consent in writing to interference from the radiocommunications transmitter has been given by all licensees who, in the opinion of the accredited person, may be affected by the interference.

Additional information on the registration of radiocommunications devices under a spectrum licence is available in the ACMA publication [Registration of radiocommunications devices under spectrum licences](#).

In addition, before issuing a certificate for the purposes of subsection 145(3) of the Act, an accredited person may need to calculate the device boundary of the transmitter to ensure that an unacceptable level of interference does not occur. This ensures that the core conditions set out in the marketing plan, and in the relevant spectrum licence, are maintained, and that the level of interference is not unacceptable within the meaning of the relevant subsection 145(4) determination.

Calculating a device boundary involves mathematical calculations to determine whether the device boundary is contained within the geographic boundary of the spectrum licence.

If the device boundary falls outside the geographic area of the relevant spectrum licence, the ACMA will generally refuse to register the device. This is because such device would cause levels of emission outside the licence area that would be considered 'unacceptable interference' within the meaning of a relevant determination made under subsection 145(4) of the Act. An exception to this is where the part of the device boundary that exceeds the geographic area of the spectrum licence meets the criteria in subsection 8(2) of the subsection 145(4) determination for the 700 MHz band—for example, the part of the device boundary lies outside the boundary of the Australian spectrum map grid.²⁵ An exception can also be made where there is an agreement of the type discussed at 5.4.3. In these circumstances, the agreement provides that a device boundary may exceed the geographic area of licence because

²⁴ The [Radiocommunications \(section 145\(3\) Certificates\) Determination 2012](#) sets out the conditions that apply to accredited persons when issuing IICs. Contact details for all current accredited persons who have consented to the release of those details are on the ACMA [website](#).

²⁵ 'Australian spectrum map grid' is defined in section 4 of the subsection 145(4) determination.

the relevant adjacent licensee has specifically agreed to that and accepts any interference caused to its use of the spectrum.

Under the subsection 145(4) determination, if the device boundary of a fixed transmitter cannot be calculated in accordance with Part 1 of Schedule 2 of the subsection 145(4) determination, the transmitter is taken to cause unacceptable interference.

5.4.2 Deployment constraints

Deployment constraints in the subsection 145(4) determination deem any transmitter with antenna heights greater than 10 metres to cause unacceptable interference, meaning that such transmitters cannot be registered or used under the licence. There are similar constraints on receiver antenna heights in the radiocommunications advisory guidelines, dealing with the notional receiver developed as part of the technical framework. The advisory guidelines are discussed at 5.5.

5.4.3 Core condition agreements

Spectrum licensees can agree to accept emissions that would, in the absence of an agreement, exceed the core conditions of their spectrum licences, provided all affected licensees are in agreement. For example, several spectrum licensees might agree to higher levels of emissions outside the band of an individual licence (but within the band of the licensees making the agreement) than would have otherwise been allowed.

5.4.4 Registering groups of transmitters and receivers

Unless exempted, transmitters must always be registered as either an individual transmitter or as part of a group of transmitters. If two or more transmitters are operated for the purpose of communicating with the same receiver, or same group of receivers, and they have identical emission characteristics, then they may be treated as a group in order to simplify the registration process.

The subsection 145(4) determination for the 700 MHz band sets out the definition of a 'group of radiocommunications transmitters' and a 'group of radiocommunications receivers' for the purpose of simplifying determination of whether the devices cause unacceptable interference for the purpose of registration of those devices. Groups are defined to help minimise the work associated with the registration process of similar transmitters. They specify how the location details for a group of transmitters and receivers must be calculated in order to determine whether they meet the unacceptable levels of interference requirements.

Licensees may decide whether to register receivers based on a risk assessment of any benefits that may be achieved through coordination of registered receivers to manage outside-the-band interference.

5.4.5 Registration exemptions

Certain kinds of low-power transmitters are exempt from registration. The conditions these devices need to meet to be exempt from registration will be specified in the spectrum licences issued as a result of the auction. Typical devices that are exempt from registration are cellular mobile telephone handsets, wireless modems, subscriber terminals and smart repeaters.

5.5 Radiocommunications advisory guidelines

Further guidance on device deployment and coordination is provided in radiocommunications advisory guidelines made under section 262 of the Act (the advisory guidelines). While the use and compliance methods set out in the advisory

guidelines are not of themselves mandatory, they set out the ACMA's policy approach, and in certain instances, will be made entirely or partly mandatory by licence conditions or other instruments under the Act that bind spectrum licensees. This is the case for spectrum licences to be issued for the 700 MHz band. For further details, see the marketing plan and sample spectrum licence conditions in attachment B. The advisory guidelines include provisions to assist interference assessments between spectrum-licensed devices and services operating under apparatus or other licences. The ACMA will consider the advisory guidelines when assessing interference and managing interference disputes.

The advisory guidelines for the 700 MHz band contain information for spectrum licensees on managing interference from frequency adjacent apparatus, class and spectrum licensed services. The advisory guidelines also contain information for spectrum licensees on managing interference to non-spectrum licensed receivers.

There are two band-specific advisory guidelines made under section 262 of the Act that are associated with spectrum licensing in the 700 MHz band. They are:

- the Radiocommunications Advisory Guidelines (Managing Interference from Transmitters – 700 MHz Band) 2012
- > the Radiocommunications Advisory Guidelines (Managing Interference to Receivers – 700 MHz Band) 2012.

Further information on the radiocommunications advisory guidelines is available in [Know your obligations](#).

5.5.1 Managing interference to spectrum-licensed receivers

The advisory guidelines set out a minimum performance level for receivers in the 700 MHz band. These criteria provide a basis from which licensees are able to develop procedures for managing interference between receivers and transmitters in adjacent frequency bands. When planning services and resolving interference cases, licensees (and accredited persons) should follow the advisory guidelines. The guidelines only apply to registered fixed receivers—they do not apply to receivers that are not registered on the RRL. This includes mobile or nomadic receivers operated under a spectrum licence.

While the minimum level of receiver performance specified in the guidelines are not mandatory, receivers will be assumed to meet these minimum levels for the purpose of resolving interference disputes.

Licensees will need to take account of the emission limits permitted under the technical framework when deciding the level of performance they require for their receivers. It is for licensees to balance the cost of receiver performance against the risk of interference.

The framework provides for the operation of receivers that have interference susceptibility commensurate with that achieved by current technology, and for this level of performance to guide the interference settlement process. Receivers with poor interference susceptibility performance can be used, but in those cases, licensees may have to use more of their own spectrum space as guard space to limit the risk of interference.

5.5.2 Managing interference from spectrum-licensed transmitters to other services

The advisory guidelines contain information for spectrum licensees about protection to be provided to receivers of services operating in or adjacent to the 700 MHz band.

5.6 Statutory licence conditions

Along with the core conditions of a licence, there are other conditions that the ACMA must include in a spectrum licence, in accordance with the requirements of the Act. These conditions are referred to as 'statutory conditions' and a brief summary of the requirements of each is outlined below. Further information on each of the statutory conditions is available in [Know your obligations](#).

5.6.1 Payment of charges

Under section 67 of the Act, the ACMA must include a condition that the spectrum licensee meets all obligations to pay:

- > charges fixed by the ACMA under section 60 of the ACMA Act
- > any spectrum access charges fixed by a determination made under section 294 of the Act
- > amounts of spectrum licence tax.

In accordance with section 67 of the Act, a spectrum licence will include a condition to comply with obligations to pay the spectrum access charge (the winning price for the lots allocated by auction, or the starting price for lots allocated for a pre-determined price), amounts of spectrum licence tax and any other charges fixed by the ACMA under section 60 of the Act.

Under the Allocation Determination, where the successful applicant or winning bidder has chosen to pay in instalments, there is an obligation to pay the second and third instalments. Failure to pay these instalments is a failure to comply with the obligation to pay the spectrum access charge, and therefore may amount to a contravention of the licence condition required to be included by section 67 of the Act. If a licensee contravenes a condition of its licence, the ACMA may suspend or cancel the licence (see Division 3 of Part 3.2 of the Act). The ACMA may also enforce the bank guarantee required to be provided (see 3.2.14 and 3.2.15). The spectrum access charge may be recovered as a debt due to the Commonwealth (section 298 of the Act).

5.6.2 Authorisation of third parties

Spectrum licensees may authorise third parties to use the licensed spectrum by negotiating a private agreement that allows a 'third-party user' to operate a radiocommunications device under the licensee's licence.

Under section 68 of the Act, the ACMA must include a condition about third-party use of the spectrum licence. This condition is that the operation of devices by people other than the licensee must comply with any rules made by the ACMA about third-party use under paragraph 68(2)(a) of the Act. The licensee must notify any third-party user of their obligations under the Act.

5.6.3 Registration of radiocommunications transmitters

Under section 69 of the Act, the ACMA must include a condition that radiocommunications transmitters must not be operated under the licence unless the relevant requirements under Part 3.5 of the Act for registration of transmitters are met (see 5.4).

5.6.4 Residency

Under section 69A, the ACMA must include a condition that at all times when the licensee derives income, profits or gains from operating a radiocommunications device under the spectrum licence (or from authorising others to do so), the licensee must be

an Australian resident or the income, profits or gains are to be attributable to a permanent business establishment in Australia.

5.7 Licence conditions included by the ACMA

Under section 71 of the Act, the ACMA may include other licence conditions on spectrum licences. The ACMA has included further licence conditions in Licence Schedule 4 of the sample licence provided at Schedule 5 of the marketing plan. These conditions are sample conditions only and the conditions contained in actual spectrum licences issued by the ACMA may vary.

5.7.1 Information for the RRL

The licensee must give the ACMA all information as required by the ACMA from time-to-time for inclusion in the RRL.

5.7.2 International coordination

A licensee must ensure that operation of a radiocommunications device under the licence does not cause harmful interference to a receiver that operates in accordance with International Telecommunication Union Radio Regulations and is located in a country other than Australia.

5.7.3 Electromagnetic energy requirements

A licensee must comply with parts 2, 3 and 4 of the Radiocommunications Licence Conditions (Apparatus Licence) Determination 2003, as in force from time-to-time, as if each reference to a licence in that determination were a reference to a spectrum licence.

5.7.4 Protection of the Mid-west RQZ

The ACMA established Australia's first radio quiet zone on 11 April 2005. The Mid-west RQZ aims to maintain the current 'radio-quietness' of a site in remote Western Australia. The area has very low levels of radiofrequency energy because of its low population and lack of industrial development. The Mid-west RQZ is intended to facilitate the development and use of new radioastronomy technologies at that location.

Before seeking to register a radiocommunications transmitter for use in or around the Mid-west RQZ, as defined by the [Radiocommunications \(Mid-West Radio Quiet Zone\) Frequency Band Plan 2011](#), the licensee must follow the procedures set out in Radiocommunications Assignment and Licensing Instruction (RALI) MS 32 (MS 32) as in force from time-to-time. While the relevant part of RALI MS 32, [Coordination of Apparatus Licences within the Mid-West Radio Quiet Zone](#), applies directly to apparatus-licensed devices, the methods and procedures are also applicable to spectrum-licensed devices.

The band plan defines the RQZ and auxiliary RQZ zones for coordination purposes.

5.7.5 Obligation to provide the delayed winning (or pre-determined) price bank guarantee

A licensee who elects to pay spectrum access charges by instalments must ensure that the delayed winning price bank guarantee (or the delayed pre-determined price bank guarantee as the case may be) is in force from the day the licence commences until the day the third instalment is paid, and that the ACMA and the Commonwealth have the benefit of the relevant bank guarantee. The requirements in relation to the delayed winning price bank guarantee and the delayed pre-determined price bank guarantee are explained in more detail at 3.2.14.

5.8 Other information

There are a range of other important matters affecting spectrum licensees. This section outlines these matters for prospective auction participants. Further information about each issue is available in [Know your obligations](#).

5.8.1 Flexibility of a spectrum licence

The inherent flexibility of the spectrum licence technical framework allows winning bidders to choose how they deploy services in the spectrum they win, the nature of the services they deliver, and the technology they employ. However, these decisions should be based on a careful technical and commercial assessment; taking into account the harmonised generic emission limits, as well as the amount of spectrum available and purchased, for the performance of the equipment the bidder desires to operate.

The spectrum-licensed bands have a recommended minimum contiguous bandwidth (MCB) to minimise fragmentation of the band during spectrum trading. The MCB is the minimum bandwidth holding in a given area for issue of a licence. However, the ACMA will consider allowing licensees to hold smaller bandwidths, where good reasons can be shown to exist in a particular case for holding the smaller bandwidth. The relevant applicable rules are in the Radiocommunications (Trading Rules for Spectrum Licences) Determination 2012 (the trading rules).

The spectrum lots and subsequently issued spectrum licences are not pre-designed to accommodate any particular equipment standard. However, they may accommodate the operation of a particular standard (or even non-standard equipment) at a particular location and frequency, depending on the bandwidth and area of the spectrum licence that a bidder has acquired.

5.8.2 Spectrum trading

Current and prospective spectrum licensees are permitted to negotiate purchases of spectrum licences, subject to trading rules determined by the ACMA. The rules allow spectrum licensees to subdivide and sell part of their licences to prospective licensees—or alternatively, to acquire additional spectrum licences to increase the size of the geographic space, or increase the bandwidth within which the licensee is authorised to operate devices.

Pursuant to section 86 of the Act, where trading of licences takes place, both parties to the trade must notify and provide relevant information to the ACMA as soon as practicable after the trade has been agreed, so the ACMA can amend the RRL and vary, issue or cancel licences as appropriate to give effect to the trade.

5.8.3 Suspension and cancellation of spectrum licences

Division 3 of Part 3.2 of the Act provides that the ACMA may, by written notice giving the reasons, suspend or cancel a spectrum licence if it is satisfied that a licensee or authorised third party has either:

- > breached a licence condition or the Act
- > operated a radiocommunications device under the licence, or purportedly under the licence, either:
 - > in contravention of any other law (whether written or unwritten) of the Commonwealth, a state or a territory
 - > in the course of contravening such a law.

5.8.4 Interference that the technical framework does not prevent

No matter how rigorous the engineering analysis of a device, there is always a possibility of actual interference when devices are deployed in the field. Under the framework described in this chapter, assuming compliance with licence conditions and relevant obligations, it is anticipated that the risk of interference between spectrum-licensed devices is low. Such interference may be caused by emissions at frequencies either inside or outside the licensees' spectrum space.

Before making an interference complaint, licensees are strongly advised to check the RRL in an attempt to locate the source of any interference. This may reveal the cause of the interference and it may be possible to settle the problem without the ACMA's intervention. If the ACMA becomes involved, licensees may be charged for any work undertaken by or on behalf of the ACMA.

5.8.5 International coordination

Potential spectrum licensees should note that the ACMA will impose such additional licence conditions on spectrum licences as may be necessary to meet its international obligations in accordance with the International Telecommunication Union Radio Regulations.

5.8.6 Health and safety

There are some regulatory arrangements relevant to the occupational health and safety, electromagnetic exposure and the supply of equipment under a spectrum licence. Prospective bidders should ensure that they inform themselves about, and are familiar with, any relevant regulations.

5.8.7 Environmental and other considerations

Antenna siting, height and construction may be regulated by state, territory or local government legislation. Prospective bidders should ensure that they inform themselves about, and are familiar with, any relevant regulations.

Part four—Communicating with the ACMA

6. Updates, queries, lodgements and payments

This chapter provides information about how:

- > the ACMA will release updates and announcements about the auction**
- > to submit queries about the auction to the ACMA**
- > to lodge auction documents with the ACMA**
- > to make auction payments to the ACMA.**

6.1 Updates and announcements

The ACMA will post updates and announcements about the auction on the ACMA's [dedicated 700 MHz webpage](#). Potential applicants, applicants and registered bidders are responsible for monitoring the webpage for all current information on the auction and associated matters.

If need be, the ACMA will contact applicants and registered bidders directly on the contact details provided on the application form. Where, and when appropriate, the auction manager will contact registered bidders using the electronic messaging facility within the auction system.

6.2 Queries

Queries about the auction process may be directed to the auction manager, by:

Email: 700MHzauctionmanager@acma.gov.au

Telephone: (02) 6219 5151

Fax: (02) 6219 5353

Post: The 700 MHz unsold lots Auction manager
Spectrum Licensing Section
Australian Communications and Media Authority
Red Building, Benjamin Offices, Chan St
Belconnen ACT 2617

6.3 Lodging documents

Auction documents (for example, application forms, deeds, statutory declarations, statements) may be given to the ACMA by:

Email: 700MHzauctionmanager@acma.gov.au

Fax: (02) 6219 5353

Delivery to: The 700MHz unsold lots Auction Manager
Spectrum Licensing Policy Section
Australian Communications and Media Authority
Red Building, Benjamin Offices, Chan St
Belconnen ACT 2617

Section 6 of the Allocation Determination sets out procedures for lodging documents by email, fax or via delivery of documents to the physical address listed above.

If a document is **emailed**:

- > the document must be included as an attachment
- > the document must be:
 - > if it is a statutory declaration, statement under section 68 of the Allocation Determination, a deed or bank guarantee—in PDF format or another format approved by the auction manager; or
 - > if it is not a document mentioned above—in Word, RTF or PDF format or another format approved by the auction manager.

If a document is **faxed**, it must be accompanied by a cover sheet that states:

- > the sender's name, postal address, telephone number and fax number
- > the number of pages transmitted, including the cover sheet.

If a faxed document is a deed of financial security or a bank guarantee, the cover sheet must also state the type of document.

Subsections 38(8), 44(8) and 75(9) of the Allocation Determination set out additional requirements for certain documents lodged by email or fax:

- > if a deed of financial security is given to the ACMA by fax or email, the original deed must be received by the ACMA no later than three working days after the preference deadline (or if the ACMA agrees to a later time, the agreed time)
- > if a delayed pre-determined price bank guarantee is given to the ACMA by email or fax, the original guarantee must be received by the ACMA no later than three working days after the preference deadline (or if the ACMA agrees to a later time, the agreed time)
- > if a delayed winning price bank guarantee is given to the ACMA by email or fax, the original guarantee must be received by the ACMA no later than three working days after the preference deadline (or if the ACMA agrees to a later time, the agreed time).

6.4 Making payments

All amounts payable to the ACMA for the auction (for example, application fees, deposits and winning bid payments or pre-determined price payments) must be paid in Australian currency by one of the two following methods:

1) EFT

Bank:	ANZ Bank
Branch:	Belconnen
BSB:	012-951
Account no.:	8379 24272
Account name:	ACMA Official Administered Receipts
Transfers should be labelled:	'700/purpose of payment/name applicant'. Note: Because transfer labels are limited to 15 characters, abbreviations must be used. For example: '700appfee/XCo' '700/nompref/XCo' '700/win/XCo' '700/pdp/XCo'.

Evidence of the electronic transfer (for example, a transfer receipt) should be emailed to 700MHzauctionmanager@acma.gov.au as soon as practicable after the transfer is made.

2) Bank cheque (crossed 'not negotiable')

Made payable to:	Australian Communications and Media Authority on behalf of the Commonwealth
Delivered to:	The 700 MHz unsold lots Auction Manager Spectrum Licensing Policy Section Australian Communications and Media Authority

Red Building, Benjamin Offices, Chan St
Belconnen ACT 2617

Subsection 7(4) of the Allocation Determination sets out rules about when an amount is taken to have been paid by a relevant deadline. Under these rules, an amount is taken to have been paid by a deadline if:

- > the ACMA receives a bank cheque for the full amount on or before the deadline; or
- > the ACMA receives evidence that an electronic transfer of the full amount was made on or before the deadline (for example, a transfer receipt) and the amount is received in the ACMA's bank account no later than three working days after the deadline; or
- > the ACMA receives other evidence that satisfies it that the person making the payment has taken all reasonable steps to pay the amount on or before the deadline.

An amount due under the Allocation Determination is not paid in full if bank charges or government duties imposed on a payment reduce the net payment to less than the amount payable. An applicant or bidder must add the value of any bank charge or government duty to the amount of the payment.

GST is not payable on the application fee or the deposit.

Auction documents— Attachments A to H

Click to download

Allocation Determination

Attachment A—[Radiocommunications \(Spectrum Licence Allocation – 700 MHz Band\) Determination 2016, and explanatory Statement](#)

Marketing plan and technical framework instruments

Attachment B—[Radiocommunications Spectrum Marketing Plan \(700 MHz unallocated lots band\) 2016, and explanatory statement](#)

Attachment C—[Radiocommunications Spectrum Marketing Plan \(700 MHz Band\) Variation 2016 \(No.1\), and explanatory statement](#)

Attachment D—[Radiocommunications \(Unacceptable Levels of Interference – 700 MHz Band\) Determination 2012, and explanatory statement](#)

Attachment E—[Radiocommunications Advisory Guidelines \(Managing Interference from Transmitters – 700 MHz Band\) 2012, and explanatory statement](#)

Attachment F—[Radiocommunications Advisory Guidelines \(Managing Interference to Receivers – 700 MHz Band\) 2012, and explanatory statement](#)

Spectrum Reallocation Declaration

Attachment G—[Radiocommunications \(Spectrum Reallocation\) Declaration No. 1 of 2011, and explanatory statement](#)

Ministerial direction

Attachment H—[Radiocommunications \(Spectrum Licence Allocation – Residual 700 MHz spectrum\) Direction 2016](#)

Auction forms

There are 12 forms for the 700 MHz unsold lots auction:

- > Form 1—Application form
- > Form 2—Deed of acknowledgement form
- > Form 3—Deed of confidentiality form
- > Form 4—Statutory declaration form for the purposes of section 31 of the Allocation Determination
- > Form 5—Statutory declaration form for the purposes of subsection 34(5) of the Allocation Determination
- > Form 6—Deed of financial security form
- > Form 7—Form for statement about affiliations for the purposes of section 68 of the Allocation Determination
- > Form 8—Preference nomination form
- > Form 9—Associates form—body corporate
- > Form 10—Associates form—individuals
- > Form 11—Delayed winning price bank guarantee form
- > Form 12—Delayed pre-determined price bank guarantee form

Instructions on who needs to complete the forms, and when to do so, are provided in the step-by-step guide in Chapter 4 and at the start of each form.

Forms 1–12 are available in the *Auction forms* booklet in the [Applicant information package](#) on the ACMA's website.

Glossary

Word/phrase	Definition
ACMA	Australian Communications and Media Authority
ACMA Act	Australian Communications and Media Authority Act 2005
Act	Radiocommunications Act 1992
AIP	Application information package
Allocation Determination	Radiocommunications (Spectrum Licence Allocation – 700 MHz Band) Determination 2016
allocation instruments	Radiocommunications (Spectrum Licence Allocation – 700 MHz Band) Determination 2016 and Radiocommunications Spectrum Marketing Plan (700 MHz Unallocated lots band) 2016
allocation limits	Limits on the aggregate amount of spectrum that can be used by a bidder. The allocation limits have the effect of capping the total amount of spectrum that a single bidder can acquire in the auction (see 3.2.5).
auction period	Defined in subsection 4(1) of the Allocation Determination as: the period commencing on the preference deadline and ending at the close of the auction under clause 14 in Schedule 1 to the Allocation Determination.
Broadcasting Services Act	Broadcasting Services Act 1992
Competition and Consumer Act	Competition and Consumer Act 2010
FDD	Frequency Division Duplex
HCIS	Hierarchical cell identification scheme (see 2.2.1 and 2.2.2)
lot	Defined in subsection 4(2) of the Allocation Determination as the 10 MHz lot and the 5 MHz lot.
LTE	Long Term Evolution technology
marketing plan	Radiocommunications Spectrum Marketing Plan (700 MHz Band) 2016
PDP	Pre-determined price
radiocommunications advisory guidelines (RAGs)	Radiocommunications advisory guidelines made under section 262 of the Act, which can refer to any aspect of radiocommunications or radio emissions. Generally, RAGs include provisions to assist interference assessments between spectrum-licensed devices and services operating under spectrum, apparatus or class licences. Potentially affected adjacent band services are identified in the guidelines, which enables licensees to assess the risk of interference between the services and to make arrangements to mitigate this risk.
Reallocation Declaration	Radiocommunications (Spectrum Reallocation) Declaration No.1 of 2011

Word/phrase	Definition
700 MHz unsold lots	<ul style="list-style-type: none"> <li data-bbox="523 331 1414 398">> Lot one: 2 x 10 MHz lot comprising the frequency ranges 738–748 MHz paired with 793–803 MHz <li data-bbox="523 405 1414 472">> Lot two: 2 x 5 MHz lot comprising the frequency ranges 733–738 MHz paired with 788–793 MHz
SCA	Simple clock auction—the auction format being employed for the 700 MHz unsold lots auction.
technical instruments	<ul style="list-style-type: none"> <li data-bbox="523 593 1414 660">> Radiocommunications (Unacceptable Levels of Interference – 700 MHz Band) Determination 2012 <li data-bbox="523 667 1414 734">> Radiocommunications Advisory Guidelines (Managing Interference from Transmitters – 700 MHz Band) 2012 <li data-bbox="523 741 1414 808">> Radiocommunications Advisory Guidelines (Managing Interference to Receivers – 700 MHz Band) 2012.
Telecommunications Act	Telecommunications Act 1997
TLG	Technical Liaison Group for the 700 MHz band

Canberra

Red Building
Benjamin Offices
Chan Street
Belconnen ACT

PO Box 78
Belconnen ACT 2616

T +61 2 6219 5555
F +61 2 6219 5353

Melbourne

Level 32
Melbourne Central Tower
360 Elizabeth Street
Melbourne VIC

PO Box 13112
Law Courts
Melbourne VIC 8010

T +61 3 9963 6800
F +61 3 9963 6899

Sydney

Level 5
The Bay Centre
65 Pirrama Road
Pyrmont NSW

PO Box Q500
Queen Victoria Building
NSW 1230

T +61 2 9334 7700
1800 226 667
F +61 2 9334 7799

theacma