

# Important Notice

The allocation of spectrum licences is provided for by the *Radiocommunications Act 1992* ('the Act'). The Act provides for the sale of spectrum while encumbered; that is, while apparatus licensees are operating in the band. Clearance of these existing licensees will take place after sale, during a re-allocation period.

Persons wishing to apply are urged to familiarise themselves with all the provisions of the Act, not just those pertaining to spectrum licensing, and should be aware that any activities associated with radiocommunications may also be regulated by the *Trade Practices Act 1974*, the *Broadcasting Services Act 1992*, and the *Telecommunications Act 1997*. Depending on the activity undertaken using the spectrum under a licence, other Commonwealth, State and Territory laws may apply.

The Australian Communications Authority ('the ACA') is a statutory authority established under the *Australian Communications Authority Act 1997* ('the ACA Act') to, amongst other things, administer the *Radiocommunications Act 1992*. The ACA is required by section 12 of the ACA Act to perform its functions in a manner consistent with any directions given to the ACA 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 ACA by the *Radiocommunications Act 1992* and the *Telecommunications (Consumer Protection and Service Standards) Act 1999*, the ACA may also apply its own policies which may change from time to time. The ACA is also required by section 28 of the *Commonwealth Authorities and Companies Act 1997* to carry out the general policies of the Commonwealth Government that apply to the ACA.

This paper provides advice on how the ACA proposes to allocate spectrum licences. Nothing in this paper should be taken to bind the ACA to any particular course of action in relation to the allocation of licences in the spectrum under discussion. Interested persons should not rely on statements made in this document about the policies that may be followed by other authorities, nor about the effect of any legislation, but should take what steps they consider necessary to inform themselves on those matters independently of the ACA. The comments made in this paper about the *Radiocommunications Act 1992* and the *Telecommunications Act 1997* reflect the present policies of the ACA.

Australia is a signatory to the International Telecommunication Constitution and Convention and to other international treaties relating to communications. The administration of radiocommunications by the ACA is undertaken with respect to these conventions and treaties.

Prospective applicants should, on their own responsibility, take whatever steps they consider necessary to ensure they have access to appropriate technical or other specialist advice independently of the ACA concerning their application, operation of radiocommunications equipment and services, or other matters relevant to the proposed licence allocation system and operation of transmitters and services under the licences. Applicants are also advised to seek advice independently of the ACA on the treatment of spectrum licences and other investments under Australian taxation laws, and on the

operation of foreign investment laws and policy on proposed investment in communications in Australia.