Minister's Bidding Limits
Radiocommunications (Spectrum Licence Limits—1.8 GHz Band) Direction 1998

I, RICHARD KENNETH ROBERT ALSTON, Minister for Communications, the Information Economy and the Arts, give the following Direction to the Australian Communications Authority under subsection 60 (10) of the Radiocommunications Act 1992.


Richard Alston
Minister for Communications, the Information Economy and the Arts

Citation

1. This Direction may be cited as the Radiocommunications (Spectrum Licence Limits—1.8 GHz Band) Direction 1998.

Note: This Direction commences on gazetted: see Acts Interpretation Act 1901, ss 46A and 48.

Revocation

2. The Radiocommunications (Spectrum Licence Limits—800 MHz and 1.8 GHz Bands) Direction 1997 is revoked.

Interpretation

3. (1) In this Direction, unless the contrary intention appears:

Act means the Radiocommunications Act 1992;

associate, in relation to a person, means:
(a) for a body corporate:
(i) a director or secretary of the body; or
(ii) a related body corporate; or
(iii) a director or secretary of a related body corporate; or
(iv) a business partner of the body; or
(v) an individual who controls at least 15% of the voting power or holds at least 15% of the issued shares in the body; or
(b) for an individual:
   (i) the individual’s spouse; or
   (ii) another person who, although not legally married to the
        individual, lives with the individual on a genuine domestic
        basis as the spouse of the person; or
   (iii) a business partner of the individual; or
   (iv) a body corporate in which the individual controls at least 15%
        of the voting power or holds at least 15% of the issued shares;
        or
   (v) a body corporate of which the individual is a director or
        secretary; or
   (vi) a body corporate that is related to a body corporate of which
        the individual is a director or secretary; or
(c) for any person—any other person (other than the ACA) who has a
   relevant agreement with the person that:
   (i) entitles 1 of the parties to the agreement to use spectrum
       licensed to another person under a spectrum licence that
       relates to a part of the spectrum referred to in a re-allocation
       declaration; or
   (ii) provides for the acquisition of a spectrum licence that relates
        to a part of the spectrum referred to in a re-allocation
        declaration;

major capital city means a designated area described in the Schedule to the
Spectrum Re-allocation Declaration No. 3 of 1997, to the extent that the area is
within the territorial limits of Australia;

re-allocation declaration means Spectrum Re-allocation Declaration No. 3
of 1997 made under subsection 153B (1) of the Radiocommunications Act 1992;

related body corporate has the meaning given by the Corporations Law;

relevant agreement means an agreement, arrangement or understanding:
   (a) whether formal or informal or partly formal and partly informal; and
   (b) whether written or oral or partly written and partly oral; and
   (c) whether or not having legal or equitable force and whether or not
       based on legal or equitable rights;
other than an agreement between carriers provided for by or under the
Telecommunications Act 1997, Part XIC of the Trade Practices Act 1974 or the
Telecommunications (Transitional Provisions and Consequential Amendments)
Act 1997;

specified group of persons means an applicant for a spectrum licence and all of
the associates of the applicant.

(2) In this Direction, each frequency band includes all frequencies that
are greater than the lower frequency, up to and including the higher frequency.

(3) For this Direction, 2 or more specified groups of persons having
1 member in common are taken to be 1 specified group of persons.
1.8 GHz band

4. The ACA must determine procedures under subsection 60 (1) of the Act that impose limits that ensure that, as a result of the allocation of spectrum licences under Subdivision B of Division 1 of Part 3.2 of the Act, no person or specified group of persons may use more than:
   (a) 15 MHz of spectrum in any major capital city in the frequency band 1710 MHz to 1755 MHz; and
   (b) 15 MHz of spectrum in any major capital city in the frequency band 1805 MHz to 1850 MHz.

Particular procedures

5. Without limiting the power of the ACA to determine procedures, in determining the procedures mentioned in section 4 the ACA must determine procedures that:
   (a) require an applicant for a spectrum licence to notify the ACA of the applicant’s associates; and
   (b) require the ACA to reject bid instructions received from a member of a specified group of persons in a round of an auction if the ACA has already received bid instructions from another member of the specified group of persons in the round; and
   (c) require the ACA to exclude an applicant who has failed to comply with procedures determined under paragraph (a) from taking part or continuing to take part in an auction.