

ACMA RESPONSE TO IMPLEMENTATION OF THE SPECTRUM PRICING REVIEW
CONSULTATION FOLLOW-UP AND CONSIDERATION OF SUBMISSIONS
SUBMISSION BY COMMERCIAL RADIO AUSTRALIA

February 2021

Commercial Radio Australia (**CRA**) is the peak industry body representing the interests of commercial radio broadcasters throughout Australia. CRA has 260 member stations, comprising the entire Australian commercial radio industry.

CRA welcomes this opportunity to respond to the ACMA's *Consultation follow-up and consideration of submissions* (**ACMA Follow-up Paper**).

This submission should be read in conjunction with CRA's submission in June 2020 in response to the ACMA's paper on implementation of the spectrum pricing review, as well as CRA's submission to the ACMA on the *Commercial Broadcasting (Tax) Act 2017*.

1. Summary

Focus Area 3: Taxes and opportunity cost pricing

- CRA's position on the application of opportunity cost pricing to broadcast licensing has not changed. CRA does not accept the ACMA's conclusion that:

Opportunity cost pricing, or incentive pricing in general, is consistent with recognising the public benefit or good of a service.¹

- CRA notes that as part of its work program, the ACMA will be considering the differences in apparatus licence taxes, including for broadcasting, which may mean that users of similar spectrum will not be charged the same rate.² CRA expects that the public good aspects of radio broadcasting will be taken into account in this process and will result in a substantially lower rate for commercial radio licensees.
- CRA welcomes the clarification in the Guidelines that opportunity cost can reflect both the commercial value and the public benefit of services and therefore promote the efficient allocation of spectrum.

¹ Page 8, ACMA Follow-up Paper.

² Page 16, ACMA Follow-up Paper.

- Nevertheless, CRA maintains that opportunity cost pricing is the wrong basis on which to approach spectrum pricing for broadcasters, unless application of the ‘public good’ discount results in a valuation that is no more than the ACMA’s direct and indirect costs of managing the spectrum.
- **CRA cannot support a move to opportunity cost pricing for commercial radio apparatus licences unless it is accompanied by:**
 - (i) **transparency regarding the level of discount for the public benefit aspect of commercial radio broadcasting;**
 - (ii) **detail regarding the ACMA’s administrative costs; and**
 - (iii) **modelling to show that any proposed licence fee does not exceed such administrative costs.**

Focus Area 4: Geographic areas and bands

- CRA agrees that the population density area maps should be reviewed to remove the mismatch between the designated density of the site and the population density of the area being served from that site.
- **CRA further asks the ACMA to confirm that commercial radio licensees will not be charged an additional licence fee for their translators.**

Focus Area 6: Transparency and ease of calculating taxes

- CRA welcomes the ACMA’s acknowledgement that it sees “an opportunity to improve the transparency of its pricing decisions”.³
- **CRA would welcome transparency regarding the cost recovery component of apparatus licences. In particular, CRA would like to see the ACMA’s direct and indirect costs of managing commercial radio broadcast spectrum.**

Further detail is set out below, as well as in CRA’s related submissions.

2. Opportunity Cost Pricing

CRA has significant concerns regarding the application of opportunity cost pricing to commercial radio broadcast licences.

Opportunity cost pricing reflects the value of spectrum to the best alternative use or to alternative users. This is said to mimic the signal that would come from a competitive market allocation. If applied to broadcast spectrum this could see an increase in the spectrum fees to reflect the financial value from other uses.

CRA welcomes the ACMA’s recognition that opportunity cost can reflect the public benefit of services. However, CRA would expect any opportunity cost approach to provide an adequate and transparent ‘public good’ discount for commercial radio broadcasters.

³ Page 17, ACMA Follow-up Paper.

CRA's key concern is that, in seeking to achieve consistency of treatment between spectrum users, the ACMA may not acknowledge the full extent of the broader public benefits delivered by broadcasters' use of public spectrum. These should reflect benefits that flow from advertising based business models and from commercial radio broadcasting services specifically, such as:

- access and inclusion, promotion of community and education through free broadcasting services;
- the benefits that flow to the community and the local creative sector from the production and broadcasting of local content; and
- the continued social importance of free to air services in the community.

These public benefits mean that highly bespoke arrangements are necessary for commercial radio broadcasters.

CRA cannot support a move to opportunity cost pricing for commercial radio apparatus licences unless it is accompanied by:

- (i) **transparency regarding the level of discount for the public benefit aspect of commercial radio broadcasting;**
- (ii) **detail regarding the ACMA's administrative costs; and**
- (iii) **modelling to show that any proposed licence fee does not exceed such administrative costs.**

3. Apparatus licence fee density maps

A critical flaw arises because the reliance on the apparatus licence fee density maps creates a miss-match between the designated density of the site and the population density of the area being served from that site. This means that broadcasters serving lower density areas adjacent to higher density areas may have very high spectrum fees.

This outcome will not promote an efficient use of spectrum, as the spectrum fees that result do not reflect the value of the spectrum in providing services to end-users. For example, it results in a broadcaster serving a smaller population paying the same fee as a broadcaster serving a much larger population. This distribution may lead to inefficiencies, as fees are not reflective of the value of the spectrum to users.

The per transmitter fee formula may also be further improved by applying a reduced licence fee for secondary transmitters, known as 'translators', in licence areas. In many regional licence areas, the licensee broadcasts from a number of different transmitters to serve the full licence area. Without such translators, there would be 'blackspots' in the licence area and people living within those blackspots would not be able to receive the licensee's signal. No fee should apply to these translators to enable licensees to continue to serve as much of their licence areas as possible, to the benefit of the local community.

CRA welcomes the ACMA's proposed revision of the apparatus licence fee density maps. CRA further asks the ACMA to confirm that licensees will not be charged an additional licence fee for their translators.

Please contact Joan Warner, on 02 9281 6577, for clarification on any aspect of this submission.

Commercial Radio Australia