



**Frankston and Mornington Peninsula Amateur Radio Club  
Est.: 1975**

**Po Box 65, Patterson Lakes Victoria 3197.**

**www.vk3frc.org.au**

**Located in the Cornish College Patterson Lakes**

Date: 17-02-2021

**The Manager**

**Spectrum Licensing Policy Section**

**Australian Communications and Media Authority**

**PO Box 13112**

**Law Courts**

**Melbourne VIC 8010**

Mr. SR. Subramani VK3SRS. Famparc president

Address:

PO Box 65,

patterson Lakes,

Victoria 3197

Subject: Proposed ACMA changes in Amateur Radio Service.

Dear Sir/Madam

I write on behalf of 60+ members of the above radio club. All members have received a copy of the enclosed and following various conversation and discussions a vote was taken. **The members of FAMPARC vote for the current system to be retained, as it offers total protection and recourse under the Radio Communications act of 1992.**

This in reference to the ACMA paper from the AMCA web site

<https://www.acma.gov.au/consultations/2021-01/review-non-assigned-amateur-and-outpost-regulatory-arrangements-consultation-012021>

Herewith are what we consider relevant to the Amateur Radio Service, along with our observations regarding the proposed changes as well those recently introduced.

**1. Amateur Radio Service:**

Firstly the ACMA refers the Amateur Radio Service as a "Hobby" in this paper. It's not a hobby it's a SERVICE. The Amateur Radio Service is a national asset being undervalued by the ACMA, this is most acutely felt as an experience of those submitting complaints of interference to ACMA, are met with a standard response dismissing the complaint "Low

priority no investigation will take place" With the present undertaking to further divest of any responsibilities of ACMA under the act the proposed deregulation, shows a general dismissive attitude of the ACMA, towards the Amateur Radio Service. The ITU treaty rules and regulations (2016) signed by the Australian Government refers to Amateur Radio as a Service.

The Amateur Radio Service has been in place for a very long time, has remained relatively static in its intended legislative protective structure, with only minor changes to bands and frequencies having taken place mostly as a result of ITU resolutions. A further reason for this is this service and Amateur Radio Operators cater to and underpin many and varied activities of national and global emergency and civil defense where common carrier communications services have failed or lack the ability to meet the demands of the crisis.

## **2. ACMA Failure to canvass a true sample of licensed Amateur radio Operators opinion:**

The ACMA failed in the recent changes to obtain the true feeling of its clients, instead relied on the services of two minority representatives that don't statistically represent the at large views of the Amateur fraternity.

The WIA with approx. 3000 financial members is no longer representative of the fraternity's views with only approx. 20% membership of the total license holders in Australia, along with the RASA organization having a smaller representation, why does the ACMA consider advice from these organizations to the exclusion of the others?

The ACMA should have conducted polls / canvassing using an independent organization not that of two representative bodies holding biased outlooks that favored particular outcomes. As such the process results are questionable, when you compare the RASA poll result was the complete opposite of the WIA poll. The ACMA chose the result that conformed to the ACMA agenda and not to the majority of clients, that being the abolition of the descriptive elements of the call sign. With the original long standing callsign system, there was no need for special call signs or even special state specific numbering to be used in contests, the station identifier was all inclusive of the information required.

## **3. C Tick (RCM / EMC):**

The ACMA failure of past administrations regarding the "C Tick"

The lack of past and present enforcement and investigation, presently plagues every user of the radio spectrum, by the amount of EMI suffered and in some cases a total denial of use of a particular parts of the spectrum.

The ACMA regards "C Tick" complaints as low priority refusing to investigate instead advises clients to address the matter with the importer/manufacture, taking no responsibility or blame for the breach of the act and the noncompliance of those devices that the original legislation was to protect the public from. The ACMA divesting from the enforcement of the act in response to deregulation is to blame for this outcome.

## **4. Conclusion of our response to the paper preamble:**

The ACMA with its past and present actions has only considered any policy that is convenient to the agenda of the ACMA, forgoing those administrative elements that the ACMA deemed not necessary in the administration of Amateur Radio Service, in doing so has afforded no regard or consideration to the vast majority of licensed Australian Amateur Operators as to the resulting turmoil and international confusion it would cause with the implementation of the changes.

The ACMA continues to validate those organisations that no longer have a major representation of the service fraternity (WIA, RASA) these provide advice to ACMA, doing so with more to do with their survival in the hope that they can retain recognition of the ACMA, not necessarily in the interest of the majority or the license holders, forgoing the diligent canvassing of opinions on the part of ACMA. Other users when a major policy review is undertaken don't just consult a peak body but also canvass every user directly at the very least directly.

The appointment of the AMC under a deed of understanding to administer exams and call signs, has resulted in a significantly higher cost burden to be placed upon Amateur Radio Service users, that under the deed held with the WIA, the money paid was at least returned to fund other activities in the interest of Amateur Radio. It's perplexing to the fraternity the action taken by the ACMA in awarding to the AMC a private enterprise body the task to administer call signs and license exams, a function that was working well under the stewardship of the WIA in conformance to the Australian Qualifications Framework.

The WIA was fulfilling its education role, along with self-governance, yet these terms are now used by the ACMA when it aligns with the policy agenda of the ACMA, a definite double standard having taken away self-governance from the Amateur Radio Service in the first place.

The cost recovery argument that justifies the AMC increase in charges is just a present fog that will change its nature under further deregulation. One has to wonder is the agenda of the ACMA to provide the AMC with further commercial interest in the administration of the Amateur Radio service?

#### **5. Comments on the executive summary:**

In the Executive summary, the ACMA chooses to use language and references that the average person will not understand. Instead the ACMA should have used language consistent with the government policy that plain language be utilised when communicating with the public and creating and or amending legislation.

In not doing so the ACMA is excluding from proper consultation those people that have just as much right to offer an opinion with a clear understanding. It's disappointing that the ACMA engages in this kind of practices, the lack of transparency in the processes undertaken by ACMA are questionable, requiring the policy division not to engage in practices that are designed to deceive.

#### **6. Re: Issues for Comments**

Here again the ACMA engages in language that purposely does not provide the full context of the implications that the different options offer. Deregulation is not an issue or in the best interests to the Amateur Radio Service, but only to the ACMA and or large organisations as it wishes to divest its responsibility and accountability and make it easier to take away the privileges this service enjoys.

In doing this the ACMA wishes to establish a frame work that is not necessarily in the best interest of the Amateur Radio Service.

The ACMA is bound by the regulation of the ITU hence the statement under Issues for Comment is made:



(sic) "6 Any comments, including alternative proposals, relating to the ACMA's current policy on reciprocal arrangements for recognition of overseas qualified amateurs."  
This is governed by the ITU articles."

We are glad to see that in this case the ACMA is willing to abide by the ITU conditions. From our experiences in dealing with the ACMA, it seems that compliance to ITU mandates are highly selective by the ACMA providing an excuse when excluding certain conditions to Amateur Radio Operators.

## **7. Licensing of radio communication devices**

The ACMA quotes section 46 and 47 with some interpretive licence.

Quote from the 1992 Radio Communication act 2021 amended.

(sic) "3.1.46& 47 Unlicensed operation of radiocommunications devices

### **46 Unlicensed operation of radiocommunications devices**

(1) Subject to section 49, a person must not operate a radiocommunications device otherwise than as authorised by:

- (a) a spectrum licence; or
- (b) an apparatus licence; or
- (c) a class licence.

Penalty:

(a) if the radiocommunications device is a radiocommunications transmitter:

- (i) if the offender is an individual—imprisonment for 2 years; or
- (ii) otherwise—1,500 penalty units; or

(b) if the radiocommunications device is not a radiocommunications transmitter—20 penalty units.

(2) Subsection (1) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2) (see subsection 13.3(3) of the Criminal Code).

### **47 Unlawful possession of radiocommunications devices**

(1) Subject to section 49, a person must not have a radiocommunications device in his or her possession for the purpose of operating the device otherwise than as authorised by:

- (a) a spectrum licence; or
- (b) an apparatus licence; or
- (c) a class licence."

The ACMA interpretation of the legislation are incorrect and misleading. If this was to be tested in a court of law the ACMA would find it hard to justify their interpretations within the wording or spirit of the legislation. Possession is not intent or operation.

A business selling communication equipment could have several transceivers in stock, with the ACMA interpretation that retailer would be in breach of the legislation requiring special dispensation to be obtained.

Then we have the case of a licence holder that for any kind of reason lets the licence expire, under the ACMA interpretation that person would be in breach of the legislation by retaining his equipment.

This is plain nonsense on the part of the policy division with the stated interpretations.

If the intent is to be as interpreted as the ACMA does presently, then appropriate changes to the wording to article 46 & 47 are required. Possession has nothing to do with intent.

The ACMA is using these two clauses as the excuse towards a class licence. I also note that the ACMA has failed to advise the recent changes to the Radio Communication act, more reason for the ACMA to quote the relevant sections of the act providing more details insuring that the correct position is understood by those evaluating the proposed changes.

#### **8. The amateur service**

(sic) *"The amateur service is a longstanding use of the radiofrequency spectrum, with a range of bands available for qualified amateur operators. It is designed primarily to facilitate hobby radio communications and technical experimentation. When required, amateur radio operators also provide a substitute form of communication in civil emergencies. Anyone can listen to transmissions made on the amateur bands using a receiver"*

Once again the ACMA policy branch does not understand the extent of the activities that the service undertakes as this statement shows *"It is designed primarily to facilitate hobby radio"* is a very indicative statement of the misunderstanding that exists within the division of the ACMA, in fact I wonder if it's so purposely designed to undervalue the service to politicians in justification of a class licence. Most of the secondary service allocations the Amateur Radio Service enjoys the privilege in using the primary service users are predominantly military, so interception of signals on amateur radio allocations can and does include interception of military communications. As such protections not enforced actually are supposed to include the signing of Operators to the Secrecy of Communications Act.

The Amateur Radio Service has many roles, to some it's a communication tool with social implications to some is an experimental platform that can as it has done in the past having provided technological innovations, and to some is a vehicle to provide a service to the community. In times of global conflict it is a ready reserve of skilled Radio Operators quickly drafted into military service.

It's absolutely wrong for the ACMA to label the service as a HOBBY.

#### **9. International Telecommunications Union (ITU) Radio Regulations (ITU RR)**

The ACMA references to Articles 19, 25, expecting the person submitting a response to be acquainted with the ITU articles, fails to provide a link, abandoning the reader to research completely to his own means to understand the empowerment to the ACMA that such articles provides. Once more the ACMA sets a scenario that can only be deemed as a lack in the duty of care.

The ACMA is here to serve ALL Australians without favour, not just business or political whim of the day, it must carry out it's duties and all activities with all due diligence, any

deviation is a dereliction of duty by those concerned. It appears that the ACMA selectively abides by the ITU articles, taking advantage of the afforded flexibility of the treaty.

The lack of response in the mitigation of interference to the Amateur Radio Service stands as indefensible example of how the ACMA abides to the (ITU) charter.

#### **10. Amateur Licensing**

The ACMA in years gone has allowed the "dumbing down" of the entry level technical requirements, this today is acting to the detriment of the service, I understand that the WIA had a lot to do with this and have a lot to answer for the situation we have today, the demise in member numbers threatening their existence led to several changes. The introduction of the then called Novice Licence, later the introduction of the foundation licence further aggravated to what we have today. The lowering of the technical standard, with badly thought out policies, presents many challenges today.

The foundation grade should have been introduced with a time limited licence, requiring re-examination, if an upgrade did not take place within a defined period, the licensee would then be required to sit for another examination, the only exception to be to those with a learning disability, that would be advanced on application with practical consideration with a medical certificate to the grade of Standard.

Recently foundation licence holders gained more privileges, allowing them on the digital modes, this should have never have been allowed to happen. Little thought was given to the consequences, having created immense turmoil and damage.

The Amateur Radio Service is an incentive driven education system that as it stands has worked well for almost 100 years, providing economic, education, along with community service in peace and war.

All of this is getting totally destroyed by those with poor understanding of the service and it's relevance.

I don't support any more changes to the current licencing provisions that dilute protection of the privileges and negate the responsibilities of the ACMA in the protection of the radio communications spectrum and specifically that are clearly already demonstrable as adversely impacting on the Amateur Radio Service. I totally reject the class licence model. It will worsen the current legislative protections afforded to Amateur Radio Service to do with interference, (Not that the ACMA does anything about that) Along with the consultation process afforded under the current legislation and ITU articles.

A class licence gives the ACMA total power under ministerial directive to change any condition without providing reason, an unacceptable condition.

The other options offer no advantages to the Amateur radio service, in fact further confuse the situation.

The ACMA should change its method of addressing interference especially in those areas that have been neglected for so long, these are impacting operators with the result in a total denial of access to the service because of their geographic location.



The proper addressing of complaints, its offensive to go through the process of lodgement to then be greeted with a response stating "*your complaint has low priority, will not be acted upon*"

The duties of the ACMA are to serve with no favour. All parts of the legislation are there to protect those benefits afforded to the public, favouring some over others, making sweetheart deals with commercial entities is not the way to serve, in fact a dereliction of duties.

Kind Regards



SR. Subramani VK3SRS.

FAMPARC president

Copy to Mr. P. Fletcher M.P.

Copy to Ms. Nerida O'Loughlin P.S.M.