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ACCC submission to *Reconfiguring the 900 MHz band – Options Paper*

The Australian Competition and Consumer Commission (ACCC) welcomes the opportunity to comment on the Australian Communications and Media Authority's (ACMA) consultation on options for reconfiguring the 900 MHz band.

We support the ACMA's approach for the reconfiguration of the 900 MHz band to optimise this valuable spectrum band for 3G and 4G services following the cessation of 2G services.

The ACCC actively promotes competitive markets at the retail and wholesale level. Competition is particularly important in the allocation of spectrum as it is a scarce resource and an essential input in a number of downstream markets, including the mobile services market. As a result, we seek to ensure there is effective competition in the allocation of spectrum as well as in downstream markets that rely on spectrum.

We have provided feedback on some of the issues for comment outlined in the options paper below.

ACCC preferred option

The ACCC's preferred option for allocation of the 900 MHz band is Option 1: The 'encumbered auction'.

In past submissions to the ACMA's consultation on the reconfiguration of the 900 MHz band, we have expressed support for band clearance and price-based allocation via an auction. We consider this will provide an opportunity for existing mobile network operators to address asymmetric spectrum holdings and potentially enable new entrants to acquire spectrum. There are also potential benefits to end-users of more spectrum being available for existing operators, and potential new entrants, such as improved network performance and coverage, and potentially lower prices and more choice.

We agree with the ACMA that the encumbered auction option is the optimal approach to allocate this spectrum. We do not consider the hybrid option (administrative allocation) is

efficient for competition as it embeds the existing market structure and does not provide much opportunity for new entrants to acquire spectrum. As such, we do not consider that the hybrid option will achieve the highest value use of this spectrum.

We also support the ACMA's proposal to allocate the 850 MHz expansion band with the 900 MHz band due to the complementary characteristics of this spectrum.

However, in the event that there are further delays to the allocation of the 850 MHz band due to planning for spectrum to support Public Safety Mobile Broadband (PSMB), we support the approach to progress the 900 MHz allocation separately to the 850 MHz expansion band.

Reform outcomes

We support the reconfiguration of the 900 MHz band and consider the proposed outcomes are appropriate measures of success. However, we consider the reform outcomes could be strengthened by identifying an additional outcome regarding the promotion of competition, in the allocation process and post-allocation in downstream markets.

This reconfiguration is a rare opportunity to promote competition in downstream mobile markets, as this important spectrum band has been locked away since 1991, in effect creating a barrier to entry and embedding the existing market structure. Promoting competition, through appropriate allocation limits and taking account of potential new entrants for example, will contribute to the efficient allocation of spectrum and achieving the highest value use of the spectrum, as well as being in the long-term interests of end-users.

The reform process is an opportunity for the ACMA to test the market's demand for and value of this spectrum band. In returning this spectrum to the market, there is an opportunity to promote downstream competition as a new entrant could acquire spectrum, creating more choice, and potentially lower prices for consumers. Consumers could also benefit from improved network performance and coverage if operators are able to enhance their existing spectrum holdings, particularly in low band spectrum which has excellent propagation characteristics.

Proposed timing for future allocations

We note the proposal to allocate the 900 MHz band and the 850 MHz expansion band concurrently with the 26 GHz band in Q1 2020-21, as indicated in the draft five year spectrum outlook 2019-23.

We are concerned about the potential regulatory and financial burden on potential bidders who wish to participate in both auctions, particularly given the importance of these bands for future 5G mobile network deployment.

While some bidders may be well-placed to participate in both auctions, others may be at a disadvantage and this could have longer term consequences for competition in downstream markets. We appreciate that concurrent allocations have occurred in the past, such as the 'Digital Dividend' allocation of 700 MHz and 2.5 GHz, however, we consider that in order to achieve an allocative, technically and economically efficient allocation, there should be careful consideration of the impact on likely bidders. We consider that separate auctions are more likely to maximise allocative efficiency (no unsold lots), and achieve the highest value for the spectrum.

As a result, we support the accelerated allocation of the 850/900 MHz bands, and a short delay in allocation of 26 GHz (such as to Q2 2020-21). We note that services and applications for 26 GHz spectrum are nascent and 900 MHz spectrum can be put to more immediate use and benefit for consumers, and as such, this allocation should be prioritised.

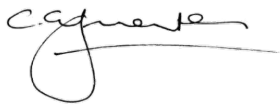
Conclusion

As the national competition regulator, the ACCC considers spectrum allocation should create an environment where the competitive process can develop, which will deliver better outcomes for consumers in downstream markets, such as lower prices, better quality services, greater product differentiation and investment. We consider that a competitive process will also contribute to achieving the highest value use from the spectrum.

Access to spectrum is both an enabler of, and barrier to entry in wireless downstream markets, and as such, it is integral to ensure that all operators have an opportunity to acquire sufficient spectrum to promote downstream competition and positive consumer outcomes.

We look forward to the ACMA's continued work in reconfiguring this band and would be happy to discuss any of the views provided in this submission.

Yours sincerely

A handwritten signature in black ink, appearing to read 'C. Cifuentes', with a long horizontal flourish extending to the right.

Cristina Cifuentes
Commissioner