



Submission in response to
ACMA Consultation Paper

**Proposed changes to
apparatus licence pricing
structures**

Public Version

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RESPONSE TO CONSULTATION PAPER

1. Optus welcomes the opportunity to provide feedback in response to the ACMA's consultation on *Proposed changes to the apparatus licence pricing structure* (the Consultation Paper). One focus of this consultation is to provide details on the proposed mechanism to update annual apparatus licence tax rates based on population growth specific to density areas, instead of the consumer price index (CPI).
2. In principle, the tax levied on apparatus licences allow the ACMA to create economic incentives for efficient use of the spectrum. It also encourages licensees to use the minimum amount of bandwidth for their needs, to move to less congested bands, and to surrender licences that are no longer needed.
3. Optus considers that the proposed change should help achieve the stated objective of ensuring that the applicable tax will better reflect demand for spectrum in a specific area which ultimately should promote the efficient use of spectrum in affected areas. Further, given that population change in an area tends to be relatively gradual, the amount of tax applicable to the licence should be more consistent than the changes that may flow from CPI fluctuations. Optus also agrees that the proposed change may help avoid any disproportionate increase in licence tax for areas of lower demand that may arise from applying CPI across all licences.
4. Optus also acknowledges the discussion in the Consultation Paper relating to the use of pricing to promote more efficient spectrum use by pricing for varying levels of interference. Optus agrees this is a worthy goal of spectrum management but must be balanced against any increase in interference to existing services that may eventuate.
5. Improving incentives to take up apparatus-licensed spectrum will expand the scope of devices authorised to operate within that band will inevitably add complexity to the task of interference management. From Optus' perspective, this places an unrealistic degree of reliance on existing interference management frameworks and processes as a means of ensuring reliable mobile services to our end-users. Optus notes that class licences already offer users the opportunity to make use of spectrum on a 'no interference no protection basis.' Optus foresees that increased take up of apparatus-licensed frequency bands on a lower protection basis may lead to device proliferation and therefore potential interference, including to existing spectrum-licensed spectrum users.
6. Optus appreciates that the ACMA's consideration of the expansion of pricing mechanisms remains at its early stages, however we emphasise that it is important that any future proposals in this regard reflect careful consideration of the impact that the proliferation of (low power or other) devices may have on existing spectrum-licensed services. This includes consideration of the potential impact of the additional cost on licensees to manage interference.
7. Setting efficient price signals to encourage efficient spectrum deployments should similarly consider both the adjacent and co-located spectrum users. This should also be balanced against the ACMA's role in maintaining oversight, and enforcing interference management breaches when they occur.
8. We further discuss each of these considerations below.

Updating apparatus licence taxes by population

Question 1 - Do you have any comments on the proposed usage of the ABS dataset 'Estimated resident population, Significant Urban Areas' as the basis for the framework to update apparatus licence taxes annually using changes in geography-specific population?

9. Optus welcomes the release of further details of the proposed framework, including reference to the appropriate ABS dataset for indexation and the need to align indexation across each of the relevant divisions in the tax schedule against the same dataset, where possible. This would create greater transparency and certainty for licensees to ensure that apparatus licensing costs avoid being disproportionately increased in areas of lower demand. In turn, this will create greater economic incentives for prospective licensees to ensure efficient use of the spectrum.
10. Optus broadly supports the use of the proposed ABS dataset, over the alternative ACMA derived dataset that risks introducing transparency concerns for apparatus licensees.
11. As acknowledged by the ACMA, *"This particular dataset has been selected as the preferred option as it provides a good balance between transparency, granularity, and accountability for our use-case."*¹
12. Optus understands this granularity makes reference to the ABS definition of significant urban centre (SUC), based on the aggregations of SA2 areas, which can largely be applied to fall within the ACMA's geographic density area construct. While we consider this provides a reasonable approach for categorisation based on existing geographic constructs, we also note that this approach may also provide uncertain outcomes for the estimation of potential future licensing costs.
13. This can be further complicated as the ABS may also rebase their SUC groups from time to time, which can be seen in the update provided for Regional Population for period ended 30 June 2022. For example, the published dataset for 2022 shows there have been several SUCs that have been rebased, including the addition of 4 new SUCs and removal of 3 previous SUCs, since the version referred to in the Consultation Paper.
14. We also note that as with any dataset, there may be instances where the population-based method may result in some density-areas being subject to indexation that is higher than the national increase and even the relevant CPI for that reported period. This is shown in Table 8 in the Consultation Paper, which also indicates that when these occasional instances do occur, they can disproportionately affect the higher density areas. This is similarly observed in the calculation of population change using the rebased SUCs for the same period, which shows an increase in the population attributable to both High and Medium density areas only.
15. On balance, we consider the use of a single dataset for all adjustments to the apparatus licence tax schedule presents a reasonable approach to ensure greater transparency in pricing for licensees to ensure efficient use of the spectrum.

¹ ACMA, Proposed changes to apparatus licence pricing structures, Consultation Paper, March 2023, p.6

Indicative future timing

Question 2 - Do you have any comments on the indicative timing of annual updates to apparatus licence taxes using changes in geography-specific population?

16. In addition to the ABS adjustments that may occur from time to time, Optus would like to seek some clarity on the release schedule and updating process for the relevant apparatus licence tax schedule releases. For example, it is unclear when the anticipated change will take effect – either at the start of the apparatus licence tax schedule for a given year or as a subsequent update.²

Pricing for varying levels of interference

Question 4 - Do you have any suggestions on how the ACMA could introduce additional measures to further the pricing of licences for varying levels of interference or examples of mechanisms that you think the ACMA should consider for implementation?

Question 5 - Do you have any suggestions on which licence types and sub-types should be considered by the ACMA for implementation of mechanisms that price for varying levels of interference?

17. The ACMA already acknowledges that “current structures within the apparatus licensing framework that price for varying levels of interference largely relate to transmitter licences. These are focused predominantly on providing price incentives to minimise the potential interference from transmitter services.”³
18. In addition to encouraging ‘efficient’ spectrum use, any price signalling through apparatus licensing which offers users the ability to opt for lower levels of protection at a reduced price can also increase the complexity of interference management more generally. This issue also does not necessarily address allocation concerns around potential colocation and or synchronisation issues, whether transmit or receive, within the same spectrum range which can lead to inefficient spectrum use.
19. Optus therefore considers caution should be exhibited when considering specific applications, frequencies and licence sub-types for alternative pricing arrangements. Importantly, the need to address short-term demand should be appropriately balanced to ensure that longer-term interference issues do not arise and thereby erode the efficient operation of spectrum deployments already authorised under existing licences.

Low-power and micro-power discounts

Question 6 - Do you have any comments on the potential extension of the low-power and micro-power discounts to additional services?

20. The current low-power and micro-power discounts apply in limited circumstances where licences are issued for areas where there is spectrum denial to other users over a small

² Optus understands that the ACMA publishes its annual Apparatus Licence Tax schedule around April each year, with occasional updates (if any) provided in July or October.

³ ACMA, Proposed changes to apparatus licence pricing structures, Consultation Paper, March 2023, p.21

area. Optus considers that this approach continues to be appropriate, however cautions against the expansion of the use of these discounts more broadly.

Interference protection pricing

Question 7 - Do you have any suggestions on how and where the ACMA could introduce interference protection pricing mechanisms to the apparatus licencing framework?

21. Optus does not have any suggestions at this time but expects the ACMA will carefully weigh any proposals against the potential impact on existing services, including via further consultation.

Work program

Question 8 - Do you have suggestions for any additional pricing measures the ACMA could consider to encourage spectrally efficient technology deployments?

Question 9 - Are there any other comments that you would like to give relating to the proposals in this paper or other aspects of the apparatus licence tax regime?

22. Optus does not have any specific comments to share at this stage.