



The Hon Michelle Rowland MP

**Minister for Communications
Federal Member for Greenway**

MS23-004424

Ms Nerida O'Loughlin PSM
Chair
Australian Communications and Media Authority
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via: OfficeoftheChair@acma.gov.au

Dear Ms O'Loughlin

I am writing regarding the process the Australian Communications and Media Authority (ACMA) is currently undertaking to manage spectrum licences due to expire between 2028 and 2032 (ESLs). I would like to take this opportunity to indicate my support for the comprehensive approach proposed by the ACMA, to set out some of my policy objectives for the ESL process, and to request that, as part of its process, the ACMA explore and advise on the merits of alternative licensing conditions.

I recognise the significance of these licences to incumbents, industry and the broader community. As such, I am pleased that the ACMA is taking a considered and thorough approach to the ESL process. I commend the ACMA's proposed process for being consistent with the object of the *Radiocommunications Act 1992*. I also support the ACMA's proposal to examine use of spectrum in informing options and decisions around renewal, renewal with changes to core conditions or refusal to renew. In this regard, the ESL process presents an opportunity to examine the effectiveness of existing licensing arrangements in promoting efficient use of the spectrum.

The proposed public interest criteria identified by the ACMA provide a sound framework for evaluating options and making decisions to promote the long-term public interest. With regard to the fifth criteria - 'supports relevant policy objectives' - I want to reiterate the policy priorities outlined in my December 2022 Statement of Expectations when considering these expiring spectrum licences. In particular:

- Promoting investment, innovation and the adoption of new and emerging technologies, while continuing to safeguard the interests of consumers and small businesses;
- Supporting government policies related to regional, rural and remote Australia including by having regard to relevant ministerial policy statements in the planning and allocation of spectrum to support innovation and competition in these areas; and
- Promoting the long-term public interest derived from spectrum, including the benefits of technological developments that improve spectrum utilisation and efficiency.

I am considering issuing a Ministerial Policy Statement (MPS) that will apply to the ESL process. The policy priorities that I am proposing the MPS could specify include: supporting service continuity for consumers, particularly where no alternative service is available; opportunities for new entrants and use cases, including for low earth orbit satellites; connectivity and investment in regional areas; competition; and capacity for sustained investment and innovation. I would consult before deciding whether to issue an MPS reflecting these priorities, and would aim to settle any MPS by the end of April 2024. While I appreciate that finding a balance between these priorities will be challenging, this is something I would like the ACMA to actively consider as it takes this work forward.

A number of submissions to the ACMA's consultation process raised alternative licensing conditions that have not previously been used in Australia. Such licence conditions have been adopted in overseas jurisdictions, with the aim of improving, for example, coverage or service choice for consumers. In addition, I note that the House of Representatives Standing Committee on Communications and the Arts recently tabled its report on co-investment in multi-carrier regional mobile infrastructure. The Committee identified access to spectrum as a barrier for connectivity in regional, remote and First Nations Australian communities, and included recommendations regarding the consideration of licensing conditions.

While I recognise that we face unique challenges in Australia because of our vast land mass and dispersed population, which may mean that these alternative licence conditions may not be the most effective mechanism to deliver broader coverage or choice, I consider that the ESL process offers an opportunity to comprehensively consider different licensing arrangements. Therefore, I ask that the ACMA develop a considered view on the use of alternative licensing conditions in the Australian context including, but not limited to: roll-out obligations and their effectiveness in achieving broader coverage; and use-it-or-lose-it and use-it-or-share-it provisions and their effectiveness in achieving more efficient spectrum use. I would also appreciate it if the ACMA could seek feedback from stakeholders on any issues around resilience and temporary disaster responses that arise in the context of spectrum licenses and their renewal.

To avoid doubt, while I am asking that these options be explored by the ACMA, this should not be taken as a directive that they be implemented or proposed for implementation without being subject to the ACMA's usual rigorous processes. I also ask that the ACMA provide advice to me on the outcome of this work.

The *Radiocommunications (Ministerial Policy Statement – 3.4–4.0 GHz) Instrument 2022* is currently in effect and covers frequencies included in the ESL process. I intend to repeal this instrument following the conclusion of the ACMA's current mid-band allocation processes.

I understand the ACMA will publish this letter to help provide transparency to stakeholders about the Government's priorities for the ESL process. Thank you for the ACMA's careful consideration to date. I look forward to engaging with the ACMA as this work continues.

Yours sincerely

A handwritten signature in blue ink that reads "Michelle Rowland". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Michelle Rowland MP

14 / 12 / 2023