



ACMA approach to radiocommunications licensing and allocation

Public submission

5 September 2024

Telstra appreciates the opportunity to comment on the revised information paper: *Our approach to radiocommunications licensing and allocation*. The information paper provides a good summary of the legislative provisions that govern the Australian Communications and Media Authority's (ACMA) radiocommunications licensing and allocation decision making.

The information paper could be further improved by providing specific guidance on how the ACMA will apply the discretion it is granted under the *Radiocommunications Act 1992* (the Act). It would also be useful for the ACMA to provide additional guidance on how it intends to treat the provision of Satellite Direct-to-Mobile (Satellite DTM) services.

Additional guidance on the application of discretion

The revised Information Paper does not clarify the circumstances and factors relevant to the ACMA's discretion in making decisions about spectrum licensing and allocations. The information paper could be amended to provide more detail about how the ACMA will approach issues within its discretion. For example:

- What factors will the ACMA take into consideration when determining the long-term public interest?
 - When considering multiple use cases (or technologies) in a particular band (or bands), how will the ACMA approach maximising the public benefit from the spectrum?
- If multiple use cases exist, how will the ACMA facilitate efficient use of the spectrum band(s)?

The information paper could be improved by providing case studies of how the ACMA has exercised its discretion, given it is now three years since the of the reforms introduced by the *Radiocommunications Legislation Amendment (Reform and Modernisation) Act 2020* have been in place.

Additional guidance on the treatment of Satellite DTM services

Updating the information paper to provide clarity about the ACMA's intended approach to licensing arrangements for Satellite DTM services would assist in facilitating expeditious introduction of these service in Australia. We have set out our views on how this can be best achieved in in detail in a previous submission.¹ These views are summarised below.

We support the ACMA's view that the spectrum licensing technical framework, coupled with using Article 4.4 of the ITU-R Radio Regulations (RR4.4), is an expeditious means to introduce Satellite DTM into Australia. However, we consider it is also necessary for the ACMA to issue s.195 written permission to the satellite operators for compliance with the Act. This permission is also a convenient mechanism through which the ACMA can insist that an inter-operator agreement be established between the satellite operator and the terrestrial mobile network operator (MNO) to prevent harmful interference. This will not impose any undue additional burden on the ACMA, satellite operators or MNOs and will not delay the introduction of Satellite DTM services in Australia.

For the long-term, we believe it is necessary for industry to transition to a licensing framework which is more fit-for-purpose. We are concerned the initial approach of using RR4.4 to permit satellites to operate in IMT bands, coupled with the absence of an established domestic licensing regime for them, leaves Satellite DTM services at risk of interruption – either due to interference from other operators of services under RR4.4 or claims for protection from interference by operators of services that conform with the Radio Regulations. There will be greater vulnerability to these claims for so long as Satellite DTM services are not assigned through the ITU-R and remain unlicensed under our domestic regulatory

¹ Telstra, **Submission to ACMA Consultation: Satellite Direct-to-Mobile Services – Regulatory Issues**, 7 February 2024.

arrangements. Any claim of harmful interference to existing terrestrial or satellite services will require the satellite operator to reduce, or even cease operation. This would be an entirely unacceptable outcome for Australians who we expect will benefit greatly from Satellite DTM services and increasingly rely on them. In short, while RR4.4 facilitates an expedited path for satellite operators to bring services to market, it does not provide sufficient longer-term regulatory certainty for Satellite DTM services.

During the current World Radiocommunications Conference cycle (WRC-27), coexistence studies between the Mobile Satellite Service (MSS) and other services in bands used for International Mobile Telecommunications (IMT) are being conducted under Agenda Item 1.13 (AI1.13). If the studies show a feasible outcome, it is expected that WRC-27 will identify appropriate arrangements for MSS to operate in IMT bands which Australia can leverage. Any such arrangements must not undermine the rights of mobile spectrum licence holders to determine how the spectrum they have acquired at substantial cost is best used. We consider the ACMA and Department of Communications have a significant advocacy role in shaping the outcomes of the ITU-R work to help create a robust allocation framework. In section 4 of our previous submission, we set out some objectives we consider should guide Australia's advocacy at the ITU-R working groups associated with AI1.13 to develop a more robust licensing framework which creates increased certainty for service continuity and investment by the Satellite DTM industry.

Once there is greater certainty for Satellite DTM services in the ITU-R Radio Regulations, a complementary domestic licensing regime can be introduced for these services. At this point the need for s.195 written permission falls away, as the s.195 written permission will be replaced by the licensing regime. However, we expect the need for an inter-operator agreement between the MNO and the satellite operator will remain, and depending on the future licensing framework, there may still be a need for the ACMA to publish summary details of such agreements on its website.