



Telstra submission

ACMA consultation:

Updates to ACMA procedures to account for merger reform

Public submission

28 November 2025

We provide this brief public submission in response to the consultation by the Australian Communications and Media Authority (ACMA) regarding updates to account for merger reform.¹

We appreciate that that ACMA's role in the current merger reform process (which has introduced a mandatory and suspensory notification requirement for a vast range of commercial transactions²) is limited to making the relevant technical changes to relevant ACMA instruments and processes.

We have reviewed the proposed changes to *the Radiocommunications (Trading Rules for Spectrum Licences) Determination 2023*,³ as well as the trading forms, and we agree they achieve the intended goals. However, we consider that these changes, which impose further mandatory requirements in respect of secondary market spectrum trading, should be cause for reflection by the ACMA on the unnecessary existing disincentives to these transactions which are otherwise overwhelmingly pro-competitive.

Despite the long track record of pro-competitive secondary market trading of spectrum licences in Australia, the imposition of state and territory stamp duty on these trades in some cases remains a significant disincentive to trading. Industry now faces the additional cost of high notification fees under the new merger reforms, if spectrum trading or authorisation transactions exceed the applicable thresholds,⁴ potentially creating an economic deadweight that discourages otherwise efficient secondary market activity.

While we appreciate that the ACMA has no power of its own to reduce or remove either stamp duty or notification fees, we suggest the ACMA should play a role in highlighting the benefit of secondary market trading.

The Australian *Radiocommunications Act 1992 (Cth)* (Act) was an international pioneer in enabling secondary market trading of spectrum. As far back as 2002, the Productivity Commission observed that our legislation, "put Australia at the forefront of spectrum regulation worldwide."⁵

We have engaged in numerous spectrum and apparatus licence trades and authorisations using the secondary market trading mechanisms available in the Act. In many cases, these were trades conducted with other licence holders in bands useful for mobile networks, for the purpose of defragmenting spectrum. These defragmentation initiatives are inherently pro-competitive by enabling greater utility for each participating licensee but using the same finite amount of spectrum.

We acknowledge the facilitation role which the ACMA plays in helping industry achieve defragmentation of spectrum. As Telstra has recently recommended in our submission to the ACMA on Stage 3 of the Expiring Spectrum Licence process, there are further significant opportunities available to better structure spectrum in several bands by way of defragmentation.⁶

Defragmentation initiatives are in addition to the general community benefit of secondary market trading, which is to enable the use of spectrum that may otherwise lie fallow.⁷

¹ ACMA, *Updates to ACMA merger procedures to account for merger reform*, 14 November 2025, <https://www.acma.gov.au/consultations/2025-11/merger-reforms-proposed-changes-spectrum-trading-rules-and-licence-trade-and-transfer-forms>.

² *Treasury Laws Amendment (Mergers and Acquisitions Reform) Act 2024*, [Treasury Laws Amendment \(Mergers and Acquisitions Reform\) Act 2024 - Federal Register of Legislation](https://www.legislation.gov.au/Details/F2024L00118).

³ F2023L00118, <https://www.legislation.gov.au/F2023L00118/asmade/text>

⁴ Competition and Consumer (Notification of Acquisitions) Determination 2025, <https://www.legislation.gov.au/F2025L00753/asmade/text>.

⁵ Productivity Commission, *Radiocommunications – Inquiry Report No. 22* (1 July 2002), page XXXIII.

⁶ Telstra, "Expiring Spectrum Licences: Stage 3 submission", 25 June 2025, para 6.3 on page 48, available at <https://www.acma.gov.au/consultations/2025-04/expiring-spectrum-licences-stage-3-preliminary-views>.

⁷ See for example, the detailed comments by Telstra in its submission to the Department of Communications and the Arts (as it was then known), "Radiocommunications Bill 2017", 28 July 2017, section 04 at page 78.