



SENATOR THE HON MITCH FIFIELD
MINISTER FOR COMMUNICATIONS
MINISTER FOR THE ARTS
MANAGER OF GOVERNMENT BUSINESS IN THE SENATE

Mr Rod Sims
Chairman
Australian Competition and Consumer Commission
GPO Box 3131
Canberra ACT 2601

Request for advice – allocation limits for an auction of unsold spectrum for ‘omnibus’ auction

Dear Mr Sims,

Rcd

I write to request advice from the Australian Competition and Consumer Commission (ACCC) to assist me to make a direction to the Australian Consumer and Media Authority (ACMA) regarding appropriate allocation limits for an auction of unsold spectrum in the 1800 MHz, 2 GHz, 2.3 GHz and 3.4 GHz bands (the omnibus spectrum).

The omnibus spectrum is dispersed, meaning the bands are available in limited geographic locations and would not be available for a full 15 year term. Given the dispersed nature of the unallocated omnibus spectrum, the ACMA intends to auction the unallocated spectrum using a simplified auction process called a simple clock auction. This is the same process the ACMA used to auction two lots in the 700 MHz band in April. More information on the specific bands proposed for auction can be found at **Attachment A**.

Under section 60(10) of the *Radiocommunications Act 1992* (Cth), I have the power to direct the ACMA to develop procedures to impose allocation limits on the sale of spectrum. A decision on allocation limits will have consequences for competition in the mobile market. In deciding how to exercise this power I wish to seek the advice of the ACCC.

The amount of spectrum is not significant. However, the ACMA considers there is sufficient commercial interest to warrant an auction. The auction is unlikely to generate as much revenue as the 1800 MHz auction, which took place from late 2015, or the 700 MHz auction, which took place in April 2017. The ACCC has previously provided advice on competition limits for the 700 MHz auction and recommended a limit of 2 x 20 MHz per bidder.

Competition limits are likely to be most relevant to the unsold spectrum in the 1800 MHz and 2 GHz bands, given the dispersed nature of the spectrum being offered in the 2.3 GHz and 3.4 GHz bands. Competition limits of 2 x 25 MHz are in place in the 1800 MHz band and I believe these could stand for the omnibus spectrum auction. However I would appreciate the ACCC’s advice on this matter. I also understand there are competition limits in force for the 2 GHz band, which were imposed in 2000 through a direction from then Minister Alston. Given the time that has elapsed, I would expect to repeal these limits and replace them with a new direction based on your advice. In the present case, I request the ACCC recommend appropriate allocation limits for an auction of the omnibus spectrum bands, having regard to the long term interests of end users. If the ACCC believes that consultation is necessary, I ask that the ACCC consult with carriers and the ACMA directly.

In order to commence an auction of the omnibus spectrum as soon as possible, I would like to issue any necessary directions to the ACMA in late August 2017. To meet this timeframe, I request that the ACCC's advice be provided to me by 11 August 2017. This will allow me sufficient time to consider the ACCC's advice and decide whether to direct the ACMA to impose allocation limits for the auction.

The contact officer for spectrum issues within my Department is Dr Kate Feros, acting Assistant Secretary, Spectrum and Security Branch. Dr Feros can be contacted by email at

[REDACTED]
I look forward to receiving your advice in due course.

Yours sincerely



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4/7/17

Spectrum bands that form the omnibus spectrum

1800 MHz band

In February 2016, Optus, Telstra, TPG and Vodafone all secured spectrum in an 1800 MHz band auction, resulting in total revenues of approximately \$543.5 million. For the 2015/16 auction, the Minister for Communications and the Arts made a direction imposing a competition limit of 25 MHz.

Prior to the auction, 1800 MHz spectrum was already being used extensively in Australia's major cities, mainly to provide 4G telecommunications. The auction enabled improvements to the availability and performance of 4G telecommunications services across regional Australia.

The omnibus spectrum proposed for auction includes spectrum from the 1800 MHz band that was not sold at the 2015/16 auction.

2 GHz band

Portions of spectrum in the 2 GHz band remain unallocated since they were passed in at auction in 2001. Additionally, there is a portion of spectrum in the Canberra area which was not previously allocated due to potential interference with space research activities.

In February 2017, the ACMA recommended that the unallocated portions be designated for spectrum licences, consistent with the rest of the 2 GHz band in metropolitan Australia. The ACMA also proposed arrangements for spectrum licenses issued in the Canberra area to mitigate interference with space research activities.

The ACMA also recommended that the broader 2 GHz band be captured in the Designation Notice so that any existing spectrum licences that are not to be re-issued to the same licensee can be included in the allocation process. In May 2017, the designation of spectrum licences to the broader 2 GHz band was registered on the Federal Register of Legislation with an expiry date of 11 October 2032, consistent with the rest of the 2 GHz band.

There are licenses in the 2 GHz band which expire in October 2017. Designating the broader 2 GHz band will not affect the ACMA's process for the reissue of 2 GHz spectrum licences and all three mobile carriers have indicated that they would like to renew all of their expiring 2 GHz spectrum licences (payment was received by 16 June 2017).

The portions of unallocated spectrum in the 2 GHz band will be included in the proposed omnibus spectrum auction.

2.3 GHz Band

In 2000, the Minister for Communications, Information Technology and the Arts designated the 2.3 GHz band throughout Australia as a part of the spectrum to be allocated by issuing spectrum licences. In July 2000, the majority of the spectrum in the 2.3 GHz band was converted to 15 year spectrum licences. Residual spectrum in the 2.3 GHz band was auctioned in 2011 for approximately \$1.7 million. Spectrum licences in the 2.3 GHz band expired on the 24 July 2015, however most licences were re-issued.

The auction of the omnibus spectrum includes spectrum from the 2.3 GHz band that was not re-issued in 2015.

3.4 GHz Band

Portions of spectrum in the 3.4 GHz band remain unallocated since they were passed in at auction in 2000. Additionally, there are portions which remain unallocated following the expiry of spectrum licences in 2015.

In February 2017, the ACMA recommended that these unallocated portions be designated for spectrum licences. In May 2017, the designation of spectrum licences to unallocated spectrum in the 3.4 GHz band was registered on the Federal Register of Legislation with an expiry date of 13 December 2030, consistent with the rest of the 3.4 GHz band.

The portions of unallocated spectrum in the 3.4 GHz band will be included in the proposed omnibus spectrum auction.