



25 October 2001

Dr David Robertson
Presiding Commissioner
Radiocommunications Inquiry
Productivity Commission
PO Box 80
Belconnen ACT 2616

email: radiocomms@pc.gov.au

Dear Dr Robertson

Submission to the Productivity Commission's Review of the Radiocommunications Acts and the Role of the Australian Communications Authority

Thank you for the opportunity to comment on the Productivity Commission's Issues Paper on the Radiocommunications Acts and the Role of the Australian Communications Authority.

Attached is AUSTAR's submission to the Review. The submission does not comment on all of the matters raised in the Issues Paper, but focuses on those relevant to AUSTAR.

Please do not hesitate to contact me on (02) 9394 9845, or by email on jknowler@austar.com.au should you have any further queries.

Yours Sincerely

Jeanette Knowler
Regulatory and Compliance Officer
Austar United Communications



AUSTAR's response to the Issues Paper on the Radiocommunications Acts and the Role of the Australian Communications Authority

Background

Austar United Communications (AUSTAR) is a leading provider of integrated entertainment and communications services in Australia and New Zealand. Since launching operations in 1995, AUSTAR has grown to be the largest digital television operator in Australia and the sole operator in most of its market of regional Australia. AUSTAR was one of the first companies in Australasia to offer broadband internet access and was the first to launch interactive television. AUSTAR also spans the dial-up internet and mobile telephony markets.

AUSTAR provides its services via three platforms: satellite, MMDS and cable.

Satellite is the main delivery platform for pay TV services. Together with Cable & Wireless Optus, AUSTAR owns the only digital satellite pay television platform in Australia using the Optus B3 satellite. This satellite provides coverage of 1.8 million homes out of a potential 2.1 million homes in AUSTAR's market of regional and rural Australia. Currently, AUSTAR provides pay TV services to over 373,000 satellite direct-to-home (DTH) customers.

AUSTAR also provides pay TV services to some customers in regional Tasmania, Victoria, South Australia, New South Wales, the Northern Territory and Queensland via MMDS radiocommunications systems. In 1999 AUSTAR began the process of migrating these customers to satellite pay TV, and is now using part of the radiocommunications infrastructure for the provision of broadband internet services. AUSTAR also owns and operates a cable network in Darwin to provide pay TV services.

AUSTAR continues to develop its integrated communications services. Its primary objective is to provide quality convergent media services, utilising leading edge technology, to the residential and small and medium enterprise (SME) markets of Australia.

Radiocommunications Licences

AUSTAR makes extensive use of radiofrequency spectrum.

The AUSTAR group of companies current holds over 230 licences in the MMDS spectrum. The vast majority of these are apparatus licences in the A Band (2075-2111MHz), with smaller numbers of fixed licences and spectrum licences in the B Band (2302-2400 MHz).

General Comments

AUSTAR has had extensive dealings with the Australian Communications Authority (ACA) and is one of its larger clients. It is our experience that the ACA operates effectively in carrying out its functions. The ACA manages to achieve an appropriate balance between regulatory requirements and commercial imperatives and in general, AUSTAR's relations have been positive.

Licence tenure

AUSTAR strongly supports the idea that licensees are offered greater security of tenure.

The purchase of licences requires a significant capital expenditure at the outset. This was notably the case in relation to spectrum licences acquired through the auction process. In order to justify this initial outlay and to raise capital for the investment, it is crucial to reduce the risk that licences will not be available on expiry.

While in practice licences are likely to be renewed upon expiry, the lack of legal entitlement for the renewal creates significant uncertainty. This means there are reduced incentives to invest in infrastructure, as well as reduced incentives to use such a valuable asset for developing innovative services which may not be profitable in the short-medium term.

In this regard, AUSTAR strongly supports the suggestion of a renewal option, whereby the licence holder gets the first right of refusal to renewal prior to the licence terminating.

Technological convergence

The Issues Paper raises the question of whether there should be a single regulatory framework for managing all communications technologies. AUSTAR has in the past noted the inherent tensions within the current regulatory structure. As a company which provides both broadcasting and telecommunications services, AUSTAR is subject to regulatory requirements spanning broadcasting, telecommunications and radiocommunications legislation administered by a number of Government agencies and industry bodies. The obligations are often confusing and in many cases duplicated. As more organisations offer a variety of services, or convergent services, the argument that a single regulatory body will deliver the most efficient and effective regulatory framework gathers strength.

However, that being said, AUSTAR has found the licensing regime set down in the Radiocommunications Act and administered by the ACA to be an effective regulatory system and cannot see any immediate benefits from changing this arrangement.