

Mr Paul Belin
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Productivity Commission

ADDITIONAL SUBMISSION IN RESPONSE TO DRAFT REPORT INTO RADIOCOMMUNICATIONS

In addition to the points made in my submission of 3 May 2002 (DR332), I would make the following points for consideration by the Productivity Commission in its review of radiocommunications legislation:

1. Any scheme for regularly reviewing spectrum licences with indefinite tenure could perhaps be embedded within the general Radcom Act framework for compulsory resumption of spectrum licences. The scheme could represent a minimum requirement, with the current general resumption powers remaining in the Act.
2. **In** any case, there may be the need, in relation to certain matters*, for action to achieve consistency between any scheme for reviewing spectrum licences with indefinite tenure (and possibly the section 82 scheme) and the general resumption scheme, at least to the extent necessary to avoid any significant anomalies. In this regard, the scheme for reviewing and possibly canceling spectrum licences with indefinite tenure presented for discussion in DR 332 has certain differences from the current scheme for compulsorily resuming spectrum licences.

* For example, concerning ministerial power to approve resumption, consultation on resumption, reporting, review and public interest criteria for resumption. (I am not necessarily wedded to the scheme set out in DR 332.)

- 3 In regard to the differences referred to in point 2 and by way of example:
 - compulsory resumption by the ACA requires ministerial approval (paragraph 91(2)(a) of the Radcom Act);
 - the making of a pre-acquisition declaration under Part 1 of the Schedule to the Radcom Act (Resuming Spectrum Licences by Compulsory process) is a reviewable decision (paragraph 285(x) of the Radcom Act); and
 - while a pre-acquisition declaration must contain a statement of the ACA's reasons for the resumption (paragraph 1(2)(b) of the Schedule), there does not appear to any specific mention of the "public interest" or matters relevant to a resumption decision in the provisions of the Radcom Act dealing specifically with resumption. (Should there be?)

Thank you again for the opportunity to comment on the draft report.

Denis McNeill
ACT

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