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Mr Lawrence McDonald
Review of Radiocommunications Acts
Productivity Commission
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Collins St East
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By Facsimile: (03) 9653 2305



Dear Mr McDonald

Draft Report on the Radiocommunications Acts

Please find below comments from the Australian Electrical and Electronic Manufacturers' Association (AEEMA) on the draft report released by the Productivity Commission on the Radiocommunication Acts. On reviewing the report we believe that the Productivity Commission has achieved a commendable result in a complex technical area. We caution against relying too much on the recent experience with spectrum actions and the explosion in demand for spectrum for mobile telecommunications as the justification for a future ways of managing spectrum. Australia, via the ACA, has released more spectrum for mobile telecommunications than most other countries, so the need for future releases may be limited. In particular, because new technologies are far more spectrally efficient, and because of the pressures on spectrum, existing bands will be reused.

In respect of some of the key recommendations picked up in the report we wish to make the following observations:

Chapter 5 Spectrum Allocation

AEEMA believes that in framing the draft findings contained within Chapter 5, the Commission has underestimated the risks of departing from international practice in spectrum allocation. To some extent geographic isolation may allow a theoretical degree of latitude in applying region 3 planning recommendations. However, in practical terms this is something that offers no significant benefits.

Australian departure from agreed conventions will undermine the economies of scale achieved through regional planning. There is then the consequent risk that an affected technology is not sustainable in Australia without the aggregate economies of linking major international markets. Australia would face additional costs from either supporting uneconomic systems or changing to an internationally supported technology. While business may choose to take these risks, we do not believe they should be forced by spectrum management decisions.

Chapter 6 Licensing

We believe that there is an erroneous assumption underlying Draft finding 6.1 that apparatus licences are somehow inherently inferior. Not all services are suited to delivery through spectrum licensing arrangements – certain features based on supply of and demand for competitive consumer oriented services create the dynamics that make spectrum licensing a highly appropriate tool in these areas.

Equally valid however is the role of apparatus licensing in areas where technology is not subject to the same intense dynamics. In these circumstances the description of 'highly prescriptive' and 'inflexible' is not entirely reasonable. Apparatus licensing and the 'intervention' of the ACA on a centrally planned basis in these cases is highly appropriate.

AEEMA has offered support to the use of spectrum licensing to the services where it has been applied to date. But we remain unconvinced about the total viability of market management of spectrum - this will be driven by commercial consideration, and wider public interest issues associated with spectrum will not be considered. Decisions based solely on commercial criteria will not be capable of implementation without considerable public cost. Spectrum licensing must be seen as one of several approaches to be considered in any allocation decision.

Different approaches to allocation are appropriate for different types of technologies and services. It is important that each approach be examined to determine the best option for use of a particular segment of spectrum and the expected types of users.

Draft recommendation 6.1

With regard to Draft recommendation 6.1 we can offer only qualified support. We believe that it is critical that the ACA determines levels of demand for spectrum and seek expressions of interest for its usage. The ACA must also have regard for international planning allocation decisions. Even when this is done, it does not follow that spectrum licensing will always be the most appropriate vehicle for allocation. This, too, to some extent must be subject to public comment.

Draft finding 6.3

We support the draft finding 6.3 that there are few advantages and likely disadvantages from introducing a single licence type provided a presumption of renewal is implemented (Draft recommendation 6.5).

Draft recommendation 6.3

We agree that competition limits in the Radiocommunications Act 1992 (ss60&106) should be repealed.

Draft recommendation 6.5

We support Draft recommendation 6.5 that Apparatus licences should operate with some presumption of renewal in some form. While we remain unconvinced about the merits of indefinite licence terms in the real market place, other options should be given more consideration if indefinite terms are considered in the future. Some limitation on licence terms should apply, with no apparatus licence terms being longer than 5 years.

Requests for Information

The Commission invited comments on a suggestion for holding auctions a specified period (3 years) before spectrum licenses expire.

While AEEMA acknowledges that the ACA needs to find a better way of renewing spectrum licences, It is clear that when we enter the area of renewal we are in an area where neither the ACA nor industry has any experience or precedent. At this stage we would contend that 3 years before renewal may be too short a period for some licences. We recommend that the RCC Working Group approach to improving spectrum tenure without introducing longer licence terms be followed.

Yours sincerely

James Galloway
Director Technical & Regulatory