

# Spectrum Review

## Terms of Reference

### Context

Wireless services are an integral part of peoples' lives today and these services depend on ready access to spectrum. Spectrum supports a range of information, entertainment, commercial and public interest activities that promote: enhanced choice and opportunity; scientific endeavours; increased safety and protection; improved innovation, productivity and economic growth; higher incomes and living standards; and ultimately greater economic and social wellbeing.

The degree to which these benefits are realised depends in part on the effectiveness of the spectrum management framework. The efficient allocation and use of spectrum maximises the economic and social return from the spectrum resource. Ideally the spectrum management framework should accommodate rapid economic and technological change and the growing demand for spectrum in a responsive, flexible and consistent manner.

The current spectrum management framework has been in place since 1992 and was last reviewed by the Productivity Commission in 2002. Since that time, technological innovation and market and service convergence has placed increasing pressure on the framework in terms of its complexity, cost and responsiveness. There are rigidities in the system that work against flexible and adaptive responses. The current radiocommunications licensing framework is complex and stakeholders find it hard to understand. The Government is implementing a deregulation agenda to reduce the cost, and increase the effectiveness, of regulation for industry, not-for-profits and individuals. Delivering on this agenda for radiocommunications will require a re-examination of the underlying policy and processes embodied in regulation.

This review is an opportunity to undertake micro-economic reforms to 'unchain' the full potential of spectrum as a valuable public resource, enhance the flexibility and adaptability of spectrum regulation, reduce complexity and establish a spectrum policy and management framework better suited to meet the challenges of a complex and rapidly changing communications environment.

### Scope

The Department of Communications in conjunction with the Australian Communications and Media Authority will undertake a comprehensive review of the spectrum management framework. The review will look at the operation of the *Radiocommunications Act 1992* and other radiocommunications primary and subordinate legislation (including regulations and delegated instruments). The review will also consider the interaction of the Radiocommunications Act with other portfolio legislation such as the *Broadcasting Services Act 1992* and the *Australian Communications and Media Authority Act 2005*.

The review will consider the effectiveness of the current framework and identify opportunities to make arrangements more efficient, effective and flexible, while continuing to appropriately manage interference and providing certainty for incumbents. It will also consider opportunities for reducing regulation and non-legislative reform approaches where possible.

The review will look at whether the framework can be improved by adjusting what is currently in place or whether more fundamental changes are required.

### **Terms of reference**

The review will consider ways to:

1. simplify the framework to reduce its complexity and impact on spectrum users and administrators, and eliminate unnecessary and excessive regulatory provisions
2. improve the flexibility of the framework and its ability to facilitate new and emerging services including advancements that offer greater potential for efficient spectrum use, while continuing to manage interference and providing certainty for incumbents
3. ensure efficient allocation, ongoing use and management of spectrum, and incentivise its efficient use by all commercial, public and community spectrum users
4. consider institutional arrangements and ensure an appropriate level of Ministerial oversight of spectrum policy and management, by identifying appropriate roles for the Minister, the Australian Communications and Media Authority, the Department of Communications and others involved in spectrum management
5. promote greater consistency across legislation and sectors, including in relation to compliance mechanisms, technical regulation and the planning and licensing of spectrum
6. develop an appropriate framework to consider public interest spectrum issues
7. develop a whole-of-government approach to spectrum policy
8. develop a whole-of-economy approach to valuation of spectrum that includes consideration of the broader economic and social benefits.

### **Process and timing**

The review will be conducted during 2014 in close consultation with stakeholders. There will be opportunities for stakeholder participation throughout the review process through such means as meetings, workshops, and calls for written comments. Summaries of workshops will also be published on the Department's website.

The review is expected to report to the Minister in 6-9 months from commencement.