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Mr Andrew Maurer
Manager Spectrum Review
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Dear Mr Maurer

VICTORIAN SUBMISSION ON SPECTRUM REVIEW TERMS OF REFERENCE

The Spectrum Review (the Review) announced by the Commonwealth Government is an important initiative to ensure Australia derives maximum economic and social benefit from the management of its spectrum assets.

The Department of State Development, Business and Innovation (the Department) commends the Commonwealth Government on this timely and strategically important review that will greatly impact the lives of Victorians and welcomes the opportunity to contribute to the development of the Review's Terms of Reference (ToR).

The Review provides the opportunity to go back to first principles to reassess the objectives of spectrum management and allocation and how best to translate these objectives into an effective and flexible regulatory and legislative framework.

The spectrum management framework and associated legislation must recognise the different roles and responsibilities of Commonwealth, state and local government in the delivery of public services and in meeting their economic and social objectives.

The Victorian Government is responsible for the delivery of transport, utilities, health, education and emergency services that are increasingly reliant on the use of wireless communications and has broad responsibilities for the economic development of the State. It is extremely important for Victoria that the Commonwealth Government's approach to the management of spectrum is consistent with the economic, social and service delivery responsibilities of the State Governments.

The Department considers that spectrum management and allocation decisions should be driven by a principle of 'value', including both commercial and public interest value, and must be flexible enough to enable effective spectrum management in a rapidly changing technology environment. Spectrum decisions made today may limit options to use spectrum in the future. The preservation of value over time through spectrum management is a key issue for the State.

The Department considers that the Review needs to develop a rigorous framework for the economic analysis of the costs and benefits of spectrum use for its users and citizens. The economic analysis would put a value on the broader economic and social benefits of spectrum use and inform the allocation of spectrum. The Review should:

- provide a means for assessing and comparing the broad economic value of both public and private use of spectrum
- consider the option value of future spectrum use (e.g. the longer term impacts and costs of spectrum decisions today).

A whole of government approach to spectrum policy should encompass the requirements of Commonwealth, state and local governments. The public interest use of spectrum needs to be well integrated into the overall approach and should be explicitly recognised within the ToR (and incorporated specifically in ToR 3).

Spectrum policy must provide states and territories with the means to deliver on their service obligations. This will require a realistic assessment of the impact of spectrum policy on the procurement options and service needs of State spectrum users. The intersection of spectrum ownership, infrastructure availability and market conditions are relevant to this analysis. For example, regional areas tend to have natural monopoly conditions which impact the procurement and investment options for end users, including government agencies.

This Review provides an opportunity to ensure the right parameters for allocating and managing spectrum, which should not focus purely on commercial and market orientated mechanisms.

The Victorian Government has made many spectrum related submissions to the Commonwealth Government and its agencies in the past. The following points are consistent across these submissions:

- a requirement for spectrum to meet current and future state government demand
- the provision of appropriate spectrum allocations, both in quantum and band location, to deliver services and interoperability within and across state and territory boundaries
- the provision of affordable and adequate spectrum to ensure effective service delivery by the State and most importantly the amenity, productivity, safety and security of citizens.

The Department suggests the following comments and amendments (**written in red**) to the Review's ToR,

ToR 1:

*Simplify **and ensure the consistency of** the framework to reduce its complexity and impact on spectrum users and administrators, and eliminate unnecessary and excessive regulatory provisions*

Comments: ToR 1 could incorporate ToR 5. These are not separate considerations and could be rationally brought together under one ToR. A single ToR would focus on reducing complexity of the existing spectrum management arrangements whilst enabling greater consistency and transparency in approach for spectrum users.

ToR 2:

*Improve the flexibility of the framework and its ability to facilitate new and emerging **users and** services including advancements that offer greater potential for efficient spectrum use, while continuing to manage interference*

Comments: The focus and scope of the Review's ToR should consider not only new technologies and services but also consider the requirements of both existing and new users of spectrum including in the areas of transport, utilities, health, education, public safety and defence. The focus of the ToR should not favour incumbent users over the needs of new users of spectrum.

ToR 3:

*Ensure efficient allocation, ongoing use and management of spectrum, and incentivise its efficient use by all commercial, public and community spectrum users **and new applicants, while ensuring adequate and affordable provision of spectrum for use by government agencies involved in the provision of public or community services***

Comments: ToR 3 should acknowledge the need to accommodate new users of spectrum. The Department suggests ToR 3 should recognise responsibilities of government and ensure that decisions on the allocation and management of spectrum are driven by both its commercial and public interest value and not purely on the basis of the spectrum's financial return.

ToR 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. The arrangements should ensure the effective use of spectrum in everyday use and contingent uses during times of excessive demand such as emergency and national security situations

Comments: ToR 4 should acknowledge the requirement to provide spectrum in a timely fashion for times of abnormal or excessive demand as well as day-to-day use. Under this ToR the Review should consider the effectiveness of arrangements and responsibilities for accessing additional spectrum during emergency and national security events.

ToR 5:

Promote consistency across legislation and sectors, including in relation to compliance mechanisms, technical regulation and the planning and licensing of spectrum

Comments: ToR 5 should be incorporated into ToR 1.

ToR 6:

Develop an appropriate framework to consider public interest spectrum issues

Comments: ToR 6 should be incorporated into ToR 3 to ensure there is one consistent principles based framework to allocate spectrum. The 'value' of spectrum should not only consider its commercial value but also its public interest value.

ToR 7:

Develop a whole-of-government approach to spectrum policy

Comments: ToR 7 provides the overarching policy framework (policy principles) that supports a more streamlined, consistent and simple set of spectrum management arrangements. ToR 7 should be the overarching ToR and should precede all other ToRs. This ToR should guide the current purpose, objective and relevance of the spectrum management framework examined under ToR 1.

ToR 8:

Develop a whole-of-economy approach to valuation of spectrum that includes consideration of the broader economic and social benefits.

Comments: ToR 8 should be incorporated into ToR 3 to ensure there is one consistent principles based framework to allocate spectrum. The 'value' of spectrum should not only consider its commercial value, it should also consider its public interest value.

The Department will reflect these issues through the review process and will take a broad approach in responding to the spectrum management framework. The Department expects and looks forward to active engagement throughout the Review.

If you have any queries in relation to this submission please do not hesitate to contact Mr Matthew Dummett, Director, Science and Technology Policy, Victorian Department of Business and Innovation on (03) 9651 9107. This submission may be made publicly available.

I wish you well in your deliberations on this vital area of national telecommunications policy.

Yours sincerely,



Grantly Mailes
Chief Technology Advocate