



**CDPP**

*Australia's Federal Prosecution Service*

Commonwealth Director  
of Public Prosecutions

GPO Box 3104  
Canberra ACT 2601  
4 Marcus Clarke Street  
Canberra City ACT 2600

Telephone **02 6206 5666**  
Facsimile 02 6257 5709  
[www.cdpp.gov.au](http://www.cdpp.gov.au)

12 April 2016

The Project Manager  
Spectrum Reform  
Department of Communications and the Arts  
GPO Box 2154  
CANBERRA ACT 2601

Your Reference:

Our Reference:

21/04/16

Attention: Ms Pauline Sullivan

Dear Sir/Madam

**Spectrum Reform Legislative Proposals Consultation Paper**

I refer to the Legislative Proposals Consultation Paper distributed by the Department in March 2016.

This Office does not have any comment in relation to the policy issue concerning the enforcement and compliance tools discussed in the paper.

I however did want to raise with you the paragraph on page 15 of the paper which states:

“Criminal sanctions require a higher standard of proof than for civil actions. Further, the Director of Public Prosecutions, rather than the ACMA, is required to initiate legal action for breaches of criminal offence provisions. This should not be necessary in most spectrum cases and in practice means prosecutions do not often occur.”

The CDPP undertakes prosecutions of breaches of criminal offence provisions on the basis of briefs of evidence referred to it by the ACMA. The number of prosecutions is determined by the number of referrals by the ACMA. On the referral of a brief of evidence the CDPP assesses the brief in accordance with the *Prosecution Policy of the Commonwealth* and then provides advice to the ACMA who then commence a prosecution by taking out an Information and Summons. The CDPP then carries on that prosecution on behalf of the ACMA.

Since 2010 the ACMA has referred ten matters to the CDPP for prosecution, for all of those matters a prosecution has been commenced. Eight of the matters have been completed, one is pending as a result of the defendant having fled the jurisdiction and one matter has only recently been commenced.

In our view the paragraph referred to may be interpreted by some to suggest that the CDPP is hindering the taking of enforcement action, which the CDPP does not agree with.

Please do not hesitate to call me [REDACTED] if you wish to discuss this issue further.

Yours faithfully

[REDACTED]

Mark de Crespigny  
Assistant Director  
International Assistance and Specialist Agencies