



Motorola Solutions Australia Pty Ltd

Response to the Department of Communications and the Arts paper

Legislative Proposals Consultation Paper Radiocommunications Bill 2016

March 2016

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Motorola Solutions welcomes the opportunity to comment on the Department of Communications and the Arts' "Legislative Proposals Consultation Paper - Radiocommunications Bill 2016".

Motorola Solutions has designed and delivered technology solutions for some of Australia's most critical public safety and enterprise communication networks for more than four decades.

Within Australia and internationally, Motorola Solutions is a major supplier of radiocommunications equipment and services to governments, emergency services organisations, the mining and energy industries, manufacturing sectors, transportation, tourism, telecommunications carriers and telecommunications service providers.

Today, we're applying our strong heritage, technical capabilities and innovation leadership to help our customers move into new areas including 4G LTE mobile broadband and sophisticated data based solutions so they can get more out of their technology investments, increase their productivity and effectiveness and reach higher standards of safety.

Motorola Solutions excels in research and development, production, marketing and efficient operation of communications equipment and systems all over the world and our brand is synonymous with high quality communication products and services. As a global organisation with close operator and customer links, our deep experience qualifies us to provide relevant and informed comment on this discussion paper.



The Legislative Proposals Consultation Paper, Radiocommunications Bill 2016, outlines issues reported by the Spectrum Review report (the Review) which was prepared by the then Department of Communications and was released in May 2015.

*The Review found that the current spectrum management arrangements are slow, rigid and administratively cumbersome, and unnecessarily costly for users. Simpler, more flexible spectrum management arrangements are required to efficiently accommodate new technologies and to enable the regulatory arrangements to better respond to increasing demand for spectrum. Without significant reform, Australia will not be able to realise the full economic potential of spectrum.*¹

The consultation paper goes on to state:

The proposed approach in preparing draft new legislation is to:

- *simplify regulatory structures for planning, licensing and equipment regulation;*
- *streamline regulatory processes, particularly for allocating licences;*
- *clarify the role for Government, the Australian Communications and Media Authority (ACMA) and spectrum users;*
- *bring broadcasting spectrum into the general spectrum framework while also providing certainty for the broadcasting sector; and*
- *provide for graduated and proportionate enforcement and compliance tools.*²

In most cases the proposed approach to creating a new Bill may well achieve these stated goals. Particularly if it is written with the clear objective of supporting the spectrum users rather than benefiting the ACMA and the Government.

In some cases, (12) Interference management and (16) User involvement: accreditation, delegation, industry codes for example, it would be very easy for the new Bill to be written with main benefits going to the ACMA and the Government rather than the spectrum users.

The proposed approach for (12) Interference management is:

In order to simplify the legislative regime, it is proposed that the conciliation process will not be included in the Bill however the Bill would provide enhanced scope for licensees to resolve interference and disputes, without recourse to the ACMA in the first instance.

It is proposed:

- *to extend eligibility to take civil action in relation to interference to all impacted licensees*

¹ Legislative Proposals Consultation Paper, Radiocommunications Bill 2016, p2

² Legislative Proposals Consultation Paper, Radiocommunications Bill 2016, p2



- *the ACMA may develop non-legislative interference management guidelines to assist stakeholders in their resolution of interference disputes. The guidelines would encourage stakeholders to directly implement dispute resolution options without involving the regulator; and, if suitable, the ACMA may provide alternative dispute resolution services to assist in resolving interference disputes; and*
- *the Bill will continue to provide the ACMA with the discretion and power to investigate and take action against interference, particularly where the interference is most serious (e.g. it relates to safety of life).*

*Efficient planning of the spectrum (section 5 of this paper) will continue to be a key tool for the ACMA in its interference management.*³

The proposed approach for (16) User involvement: accreditation, delegation, industry codes is:

To encourage greater user involvement in spectrum management it is proposed to include the following in the Bill:

- *continue to enable the ACMA to accredit other persons to issue certificates, such as frequency assignment certificates;*
- *provide scope for industry to be able to develop codes, limiting the ACMA's role to code approval; and*
- *enable the ACMA to delegate spectrum management functions to facilitate private band management and to deliver certain functions more efficiently (the ACMA will be able to designate what roles and functions are to be delegated to a person, the conditions which will apply and they will be empowered to revoke any delegation and direct a delegate in the exercise of the delegated powers where appropriate).*⁴

Together, sections 12 and 16 could easily result in at least two undesirable outcomes.

1. Increased use of civil action to settle interference disputes, thereby increasing user costs and problem resolution time; and
2. The introduction of profit making organisations to manage segments, or bands, of radiofrequency spectrum, thereby increasing spectrum user costs.

Looking at several of the points made in the proposed approaches for sections 12 and 16 ...

- If the ACMA **may** develop non-legislative interference management guidelines the ACMA could also choose not to develop these guidelines. This would likely have the effect of reducing the confidence of industry and spectrum users in the consistency of rules-based outcomes.
- *[T]he Bill will continue to provide the ACMA with the **discretion** and power to investigate and take action against interference, particularly*

³ Legislative Proposals Consultation Paper, Radiocommunications Bill 2016, p14

⁴ Legislative Proposals Consultation Paper, Radiocommunications Bill 2016, p17



where the interference is most serious (e.g. it relates to safety of life). This also gives the ACMA the discretion to not investigate. Again, reducing the confidence of industry and spectrum users in the consistency of rules-based outcomes. Additionally, if the ACMA chose to not retain an investigative capability, or only conduct investigations in serious or exceptional cases such that this becomes at best a 'part-time' activity, you would have to question how the ACMA would justify retaining the skilled resources required to conduct such investigations. The ACMA may well be unable to respond to future needs even if it wanted to.

The creation of organisations to investigate interference issues where profit is a key goal and where these organisations would be unlikely to have the power of the ACMA to turn off or seize interference source equipment may lead to increased user costs and increased problem resolution time. How would an incident of intentional interference be handled?

If this system is to be relied on consideration should be given to a qualifications and registration scheme for an Accredited Person (AP). For example: an AP should be required to be included in the National Professional Engineering Register (NPER) with the qualifications and experience requirements set by Engineers Australia. Further the new Bill should direct the ACMA to develop standards and to determine which bands would be industry managed. It is debateable whether this concept will work at all in multi-user bands, like land mobile, especially on shared facilities where the cause of intermodulation interference problems can be multiple pieces of equipment operating simultaneously at random times.

- *To provide scope for industry to be able to develop codes, limiting the ACMA's role to code approval ...*

The development of binding industry codes is a relatively simple exercise when the number of participants is small, for example in the Telecommunications Carrier industry. It is not so easy when the number of participating businesses is large, as it is in the Radiocommunications industry.

- *[E]nable the ACMA to delegate spectrum management functions to facilitate private band management and to deliver certain functions more efficiently.*

The efficiencies delivered by this proposal would benefit the ACMA, as stated by the discussion paper's assertion that: *Where the ACMA can devolve functions to industry, this has proven effective in reducing the regulator's workload.*⁵ It would not necessarily provide any benefit for the spectrum users.

The licensing of commercial organisations to manage uses of a band, where profit is a key organisational goal, may not be in the best interest of the spectrum users.

⁵ Legislative Proposals Consultation Paper, Radiocommunications Bill 2016, p17



To avoid these undesirable outcomes those drafting the new Bill should advertise their proposals extensively and consult widely with industry and spectrum users of all sizes across the country. Industry and spectrum users need to be satisfied that costs will be contained and that outcomes are rules-based and consistent.