



## **Radiocommunications (Ministerial Policy Statement—Expiring Spectrum Licences) Instrument 2024**

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I, Michelle Rowland, Minister for Communications, make the following notifiable instrument.

Dated [month] 2024

Michelle Rowland  
Minister for Communications

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## Part 1 – Preliminary

### 1 Name

This notifiable instrument is the *Radiocommunications (Ministerial Policy Statement – Expiring Spectrum Licences) Instrument 2024*.

### 2 Commencement

This notifiable instrument commences on the day after this instrument is registered.

### 3 Authority

This notifiable instrument is made under subsection 28B(1) of the *Radiocommunications Act 1992*.

### 4 Definitions

In this notifiable instrument, unless the contrary intention appears:

**ACCC** means the Australian Competition and Consumer Commission.

**ACMA** means the Australian Communications and Media Authority.

**Ministerial policy statement** has the meaning given by section 28B of the *Radiocommunications Act 1992*.

**spectrum licence** means a spectrum licence issued under Part 3.2 of the *Radiocommunications Act 1992*.

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## Part 2 - Ministerial Policy Statement – Expiring Spectrum Licences

### 5 Introduction

#### *Scope of this Ministerial policy statement*

This Ministerial policy statement specifies Commonwealth Government communications policy objectives that apply, and to which the ACMA must have regard, in designing and enacting its process to manage the expiring spectrum licences set out in Table 1 below. The Commonwealth Government communications policy objectives covered by this Ministerial policy statement are set out at section 6 to 10 below.

This Ministerial policy statement is not intended to apply to the expiring spectrum licences currently being used for broadcast services (primarily electronic news gathering) in the 2570-2620 MHz (2.5GHz mid-band gap) band, or to metropolitan rail safety and communications services in the 1800 MHz band. The rationale for this decision is that these licences clearly serve distinctly different use cases compared with the remainder of the expiring spectrum licences and so will have separate considerations which might apply. However, these licences will still be considered as part of the ACMA’s comprehensive expiring spectrum licences process.

**Table 1: Expiring spectrum licences covered by this Ministerial policy statement**

|   | <b>Band</b> | <b>Frequency range</b>        | <b>Expiry date</b> |
|---|-------------|-------------------------------|--------------------|
| 1 | 700 MHz     | 703–748 MHz / 758–803 MHz     | 31 December 2029   |
| 2 | 850 MHz     | 824–845 MHz / 869–890 MHz     | 17 June 2028       |
| 3 | 1800 MHz    | 1710–1785 MHz / 1805–1880 MHz | 17 June 2028       |
| 4 | 2 GHz       | 1920–1980 MHz / 2110–2170 MHz | 11 October 2032    |
| 6 | 2.3 GHz     | 2302–2400 MHz                 | 24 July 2030       |
| 7 | 2.5 GHz     | 2500–2570 MHz / 2620–2690 MHz | 30 September 2029  |
| 8 | 3.4 GHz     | 3400–3700 MHz                 | 13 December 2030   |

#### *Policy context*

The object of the *Radiocommunication Act 1992* (the Act) is “to promote the long-term public interest derived from the use of the spectrum by providing for the management of the spectrum in a manner that:

- a) facilitates the efficient planning, allocation and use of the spectrum; and
- b) facilitates the use of the spectrum for:
  - i. commercial purposes; and
  - ii. defence purposes, national security purposes and other non-commercial purposes (including public safety and community purposes); and
- c) supports the communications policy objectives of the Commonwealth Government.”

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The expiring spectrum licences process is principally concerned with promoting the long-term interest derived from use of spectrum, and how that interest can be realised through decisions made in relation to the licenses specified in Table 1 above, and the spectrum to which they relate.

The Government recognises that the ACMA will need to carefully consider how to balance the policy objectives in this Ministerial policy statement. The order that the policy objectives are listed in this Ministerial policy statement do not denote an order of precedence.

In some circumstances certain objectives may have greater relevance to particular expiring licences, use of the spectrum, or specific use case, than other objectives. The ACMA should actively consider how the objectives can apply to different options for the expiring spectrum licences themselves, and for the underlying spectrum, and how to manage any competing policy priorities.

Where appropriate, in undertaking the expiring spectrum licence process and forming its views on the future use of the spectrum covered by the licences specified above, the ACMA will need to consider the broader communications environment within which these licences exist. This could include consideration of existing spectrum holdings which are otherwise outside the scope of the expiring spectrum licences process.

The Government recognises the expiring spectrum licences process is one of a number of mechanisms that could be used to advance one or more of the objectives identified in this Ministerial policy statement. In this context, the Government welcomes appropriate complementary activities available to ACMA within the current radiocommunications regulatory framework to support these outcomes, which may be a more appropriate means for their advancement.

This Ministerial policy statement is made within the context of the Government's broader communications policy agenda, which includes, but is not limited to, Telecommunications Universal Service Obligation Reform, initiatives to improve digital connectivity for First Nations Australians and communities, the 2024 Regional Telecommunications Review, and activities to support the resilience of telecommunications networks and temporary disaster responses.

Given the complex policy environment in which the expiring spectrum licences operate and the rapid pace of technological developments, I may choose to provide additional or more targeted guidance to the ACMA in the future in relation to these licences or others that are due to expire between 2028 and 2032. Additional or more targeted guidance could be in response to policy change or technological developments, or additional information that arises through the expiring spectrum licenses process. Any additional or more targeted guidance may be in the form of additional Ministerial policy statements or the use of my other powers to direct the ACMA.

## **6 Supporting service continuity for end users, particularly where no alternative service is available**

The Government recognises the important role that spectrum in the 700 MHz, 850 MHz, 1800 MHz, 2 GHz, 2.3 GHz, 2.5 GHz, and 3.4 GHz bands has in mobile and fixed wireless broadband services network operators' existing network coverage, and the importance of these services in the provision of communications services to end users.

The ACMA should consider the potential impact that certain decisions made in relation to applications for renewal may have on end users, particularly where no, or limited, alternative

communications services would be available. Such decisions could include refusal to renew one or more spectrum licence, renewal of one or more spectrum licence with changed conditions (including core conditions), re-allocation of spectrum licences, and re-allocation of spectrum covered by one or more expiring spectrum licence.

## 7 Facilitating opportunities for new entrants and use cases, including for low earth orbit satellites

The Government supports the position expressed in the ACCC's submission in response to the ACMA's May 2023 Approach to expiring spectrum licences consultation, namely, that the ACMA should explore future arrangements that reduce the barriers to entry for new users of spectrum for either new use cases or existing uses, as a dynamic and competitive telecommunications market is most likely to promote the public interest.

The expiring spectrum licence process represents a unique opportunity to re-examine current arrangements to ensure they promote the long-term public interest, and to create entry points for new or emerging users or use cases where appropriate. For example, the ACMA is already actively monitoring and engaging with spectrum matters related to low earth orbit satellites, and it should consider whether these technologies may contribute to maximising the long-term public interest, including how spectrum can support inter-operability between terrestrial services and satellite services.

Recognising the importance of the expiring spectrum licences to continuity of existing service coverage, the ACMA should consider where there may be scope to strengthen service offerings by enabling access for new entrants, smaller providers or innovative applications.

## 8 Connectivity and investment in regional areas to deliver improved services to end users

The Government recognises that mobile and fixed wireless broadband services provide essential connectivity to end users. The ACMA should consider ways to support existing and new investment in regional areas to deliver improved communications services, including but not limited to:

- a) an increased availability and choice of services for end users, in particular for end users with limited options under existing arrangements;
- b) voice and data mobile network coverage; and
- c) access to high-speed data services.

When designing the process to manage expiring spectrum licences, and subsequently setting new licence conditions, the ACMA should have particular regard to identifying potential impacts to regional Australia.

In considering this objective, the ACMA should have regard to wider Government policy priorities, including the National Agreement on Closing the Gap, particularly the Access to Information outcome (Outcome 17).

**Commented [CG1]:** ACCAN supports the inclusion of this consideration in the MPS. Communications connectivity is critical, especially in regional, rural and remote areas of Australia.

**Commented [CG2]:** ACCAN considers that further guidance should be provided to the ACMA in the MPS or through later communications with respect to how the ACMA could best ensure that spectrum licence allocation outcomes have limited negative impacts on end users, particularly in regional, rural and remote areas of Australia.

For example, should a spectrum licence not be renewed and be allocated to another holder, that incoming licence holder should take into account the needs of end users, particularly where no or limited alternative communications services are available.

ACCAN considers that in order to effectively facilitate the reallocation of spectrum, the MPS should encourage the ACMA to develop strategies and processes with respect to supporting reasonable transitory arrangements for spectrum licenses.

**Commented [CG3]:** Addressing the barriers to entry for new spectrum users is an important aspect in improving competition within the spectrum market. ACCAN supports the Department including a reference in the MPS toward facilitating competitiveness in the spectrum market through public interest focussed licence renewal.

**Commented [CG4]:** ACCAN considers that the MPS should contain a recommendation to the ACMA which recommends that the ACMA consider developing public interest criteria for the use of low earth orbit satellites in Australia. Due to the potentially significant benefits of low earth orbit satellites in improving communications reliability, this new technology should be subject to public interest considerations.

**Commented [CG5]:** ACCAN supports this approach to strengthening spectrum competition and would note that this approach should be complemented by processes which ensure that new entrants or smaller markets are adequately facilitated to access spectrum, possibly through sharing arrangements with incumbent license holders.

**Commented [CG6]:** ACCAN considers that this drafting should be amended to better reflect the experiences of regional Australia. ACCAN suggests that the following drafting be considered by the Department:

When designing the process to manage expiring spectrum licences, and subsequently setting new licence conditions, **the ACMA should have particular regard to identifying the potential positive impacts to regional Australia and mitigating the potential negative impacts.**

ACCAN considers that this altered drafting would better ...

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## 9 Promote competition

The Government recognises the importance of strong and competitive communications markets for delivering positive outcomes for Australian consumers.

Competitive markets can facilitate more efficient use of spectrum, by creating incentives for licensees to improve their service quality and range of services, set competitive prices, invest in new technologies and innovations, and to differentiate themselves from competitors. Each of these outcomes contribute to promoting the long-term public interest derived from the use of the spectrum. The ACMA has the option to provide spectrum licences for up to 20 years, and is required to be satisfied that a licence renewed for 10 years or longer is in the public interest. **Given this, it will be important for the ACMA to consider the long-term impacts on competition in the Australian telecommunications market, including the impact of the licence term alongside other licensing factors.**

## 10 Capacity for sustained investment and innovation

The Government recognises that spectrum is one component of reliable communications networks and that significant infrastructure investment is required to deploy and maintain services. The Government also acknowledges the significant investment incumbent licence holders have made to deploy services in the frequencies affected by the expiring spectrum licence process.

**The ACMA should consider existing investment by licensees, as well as known market demand for spectrum and the capacity for other prospective licence holders to make the investment required to deploy and maintain an effective service with the spectrum.**

**As part of the expiring spectrum licence process, the ACMA should consider opportunities to support innovation in the Australian communications market. As new spectrum licences can be issued for a period up to 20 years, licence conditions should enable licence holders to be responsive to new demands, opportunities and technological advancements.**

**Commented [CG7]:** ACCAN considers that the MPS should reflect the ability of information provision requirements as outlined in the Expiring Spectrum Licence Stage 2 consultation to promote competition amongst prospective and incumbent spectrum licence holders in meeting public interest criteria. The Department should give consideration to updating the drafting of this section of the MPS to:

Given this, it will be important for the ACMA to consider the long-term impacts on competition in the Australian telecommunications market, including the impact of the licence term alongside other licensing factors.

**The ACMA should consider information on the utilisation of spectrum to inform its understanding of actual and potential competition amongst incumbent and prospective spectrum licensees to inform it's application of the public interest criteria.**

**Commented [CG8]:** ACCAN supports the MPS prompting the ACMA to consider the existing investment by licensees in its decisions regarding spectrum licence renewal. In considering the existing investment by licensees the ACMA should consider the possible options for spectrum sharing where spectrum licences have not reflected the public interest criteria. To reflect this, ACCAN considers this section of the MPS should be updated to:

The ACMA should consider existing investment by licensees, as well as known market demand for spectrum and the capacity for other prospective licence holders to make the investment required to deploy and maintain an effective service with the spectrum. **The ACMA should balance this consideration by reviewing options for spectrum sharing where possible to facilitate cooperation between incumbent and prospective spectrum licence holders.**

**Commented [CG9]:** ACCAN supports the addition of this consideration in the MPS. ACCAN notes that due to the impact of new technological advancements, spectrum use may alter significantly in the future and ensuring licence conditions reflect this is critical to supporting competition and spectrum sharing.