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20th July 2017

Spectrum Reform,
Department of Communications and the Arts,
GPO Box 2154,
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Reference – Discussion paper on transition to new Radiocommunications Bill.

On behalf of the Australian Radio Communications Industry Association (ARCIA) Inc. we are pleased to present our response to this paper and trust that the information contained will help in the defining of the new Bill and the planning of the transition process. Our Association has been a keen contributor to the review process as we recognise the importance of the changes and the impact of new technologies in the modern world. Our industry has seen many changes since the introduction of the present Radiocommunications Act in 1992 and so can appreciate some of the demands that will be presented during the coming years.

Our Association represents the bulk of the users of the Land Mobile Radio spectrum and we believe that we can present views that are both representative of the users as well as being cognisant of the competing demands for spectrum access. In our many and varied dealings with the Australian Communications & Media Authority (ACMA) we try to be respectful of the needs of other users and the regulator, whilst still representing the requirements of our members and LMR users. We have welcomed the opportunity to be involved in discussions with both the Department and the regulator as future needs have been explored.

We commend our response to your earnest consideration, rather than just respond to the questions raised in the discussion paper, we have also addressed the outline of the various sections of the new Bill and how these might affect our industry sector. In general terms we agree with the changes proposed and the transition plans included, however, we have also suggested some minor adjustments to further clarify some areas of concern. As always, we welcome the opportunity to be involved in discussions on the points raised and we look forward to being involved as the ACMA move towards further defining the requirements of the Bill and associated regulations.

Yours sincerely,
Australian Radio Communications Industry Association (ARCIA) Inc.

Ian Miller – Executive Officer.



ARCIA comments on the ‘Overview of Exposure Draft Bill Provisions paper.

Preliminary (Part 1)

We are comfortable with the outlined details and see no issues in this section.

Ministerial Policy statements (Part 2)

We endorse the proposals and see them as resulting in an easier method for managing the spectrum

ACMA’s work program (Part 3)

The aims as outlined meet with our approval, however, there has to be a better defined method of accountability and for proper and accurate reporting back to stakeholders. The reporting should be more than an annual report to the Minister.

Radiofrequency plans (Part 4)

This will be an area that will come under increasing scrutiny as technology develops, things like ‘software defined’ and ‘cognitive’ radio devices will move beyond present understanding of spectrum use (or misuse) and so radiofrequency plans may have to be more flexible and easily adjusted. With this in mind there needs to be consideration now as to how these changes can be adapted without having recourse to Ministerial statements or Legislation in the future.

Operation of Radiocommunications devices (Part 5)

Again we see n issues with the proposals, although the management of issue of personal licences as required might become a resource issue for the ACMA. The move towards civil penalties rather than criminal offences is seen by our Association as a step in the right direction which will lead potentially to easier resolution of interference issues.

Licences (Part 6)

We support the principles as outlined in the preface to this section of the reference document and believe that the aims will support better spectrum management.

General Provisions (Part 6 – Division 1)

Whilst we agree in principle with the outline, we would point out that licensing should certainly relate to transmitting devices in general, however, where such a device has a partner receiver on a separate frequency such as LMR repeater services, the partner receive frequency must also be listed on the transmitter licence. This is essential for frequency assignment to avoid interference issues.

Issue of Licences (Part 6 – Division 2)

Whilst we are supportive of the intent of the provision, we would raise the issue of the implementation of embargo conditions onto licences or frequency assignments where there is no consultation with industry. For example at present Embargo 71 has been put in place with regard to the Commonwealth Games on the Gold Coast next year, and this basically means that any user of a licence issued between now and the actual games events could be told they are not permitted to use the licence for the period of the games which is not a desirable situation for businesses.

We support the Licence duration provisions outlined.

Third part use (Part 6 – Division 3)

Whilst we understand the intent of the section and support its use for interference resolution, the definition needs to be sufficiently flexible to recognise commercial sensitivities. At present the authorisation must be from the licence holder to the actual end user, yet in many cases the licence holder may sub-lease the service to another company who in turn offers it on to users. The TPA has to recognise these situations and simply insist on a proper and transparent system where users can be tracked through more than one level if necessary.



Conditions of licences (Part 6 – Division 4)

We support this proposal with the proviso that the licence must explain fully what is required and not refer off to other documents or use technical terms that might confuse the licence holder and so lead to inadvertent incorrect conditions or operation.

Regulatory undertakings (Part 6 – Division 5)

Although we support the underlying intent of this section, the implementation and management of the process could become unworkable in the worst instances. Our Association is concerned that some of the aspects of the new Act could end up with litigation as the only outcome and this could lead to many areas becoming open to litigation as a result. The changes in technology referred to above will possibly lead to situations where potential users seeking to implement new technology could try to use this section as a means to gaining access and then simply take over the spectrum. As a result we believe that this section will require careful consideration ahead of any implementation.

Varying licences (Part 6 – Division 6)

We see no concerns in this section.

Renewing licences (Part 6 – Division 7)

We see that the problems associated with Spectrum licences or long-term auctions of licences has raised issues. In the recent history the carriers were able to claim that their licences should be renewed due to the amount of infrastructure they had invested in that spectrum, yet apparatus licence holders had no similar recourse. Although the LMR industry might not have the total amount of investment in economic terms, relative to the use and requirements it has been just as high. For this reason we recognise that there should be some statement of intent that a licence will be renewed and that conditions outlining otherwise must be notified well in advance.

Suspension and cancellation of licences (Part 6 – Divisions 8, 9a & 9b)

We see no concerns in this section.

Surrender of Licences (Part 6 – Division 10)

We see no concerns with this section

Sub-division of Licences (Part 6 – Division 11)

We see no concerns with this section

Assigning and dealing with licences (Part 6 – Divisions 12 & 13)

We see no problems with the intent of this section, however, we endorse that the underlying basis for operation of any system will rely totally on the Register of Radiocommunications Licences.

Resumption of licences (Part 6 – Division 14)

We see no concerns with this section.

Register of licences and miscellaneous (Part 6 – Divisions 15 & 16)

We support the intent of this section, however, it is essential that the register also makes note of receiver frequencies where they are an integral part of any Radiocommunications network such as repeater or fixed link services. Point-to-point fixed link services must have both transmitter and receiver details registered for both ends, whereas point- to-multipoint services should be treated similarly to repeaters with receiver details still be noted on the register.

Spectrum Authorisations (Part 7)

We support the intent of this section and see no areas for concern at present.

Certified operators (Part 8)

This is an area that can become vexed in some segments, for instance –



- a) With marine radio equipment, the use of VHF radios by the small craft market tends to cut across any specified requirement for having licenced operators, this may be better defined under other legislation, and
- b) With commercial pressure on airlines in the modern world there are often occasions where dedicated radio operators are simply not viable for low-cost airline operators, especially when the communications will not be on 'aircraft operations' frequencies and are used for ground based communications only.

It may be that wording within the section may need to reflect the commercial realities in place and differentiate between the relevant user applications.

[Interference management \(Part 9\)](#)

[Dispute resolution](#)

We see the proposed format as being positive and the inclusion of mediation as a strong point. We would however point out that the mediation should be possible by external mediators under the direction of the ACMA, with some form of accreditation similar to the AP's for frequency assignment

[Causing interference](#)

We recognise and support the intent of this section

[Directions to licensees and powers of inspectors](#)

We support the intent of this section.

[Equipment \(Part 10\)](#)

We are strong supporters of this section and would point out that even under the existing Act the ACMA have not always been committed to the intent of the Act. Our industry recognises that for the spectrum to remain 'fit for use' it must be protected from interference, both from direct sources and also from problems being caused by poor quality equipment. With this in mind we strongly support the continuance of minimum equipment standards and the equipment labelling system supported by a supplier code for equipment above compliance level 1, this enables users to quickly determine whether a device is suited for purpose. We also believe that industry has a role to play in assisting the ACMA with definition and implementation of equipment rules, although this should not be assumed to be a delegated voluntary role accepted by industry.

[Emergency orders \(Part 11\)](#)

We have no concerns with this section

[Accreditation \(Part 12\)](#)

We support this section and foresee that other functions could also be handled by accredited persons or organisations.

[Industry codes \(Part 13\)](#)

We strongly support this section and see it as being complementary to the role of the ACMA in many ways.

[Information gathering powers \(Part 14\)](#)

Whilst we support the intent of this section, we have concerns that it could involve industry in having to collate and submit data that is of little real use to industry, yet would take up valuable resources in the collection and collation of it. There should be recognition that the regulator must not demand details where there is no compensation and industry sees no relevant benefits.

[Enforcement \(Part 15\)](#)

We support the intent of this section, especially with regard to the introduction of civil penalties. We believe that access to civil penalties must be available to licence holders as well as the regulator.



[Spectrum access charges \(Part 16\)](#)

Whilst we support the content in principle, we do have concerns that any review of spectrum access charges by the ACMA must have some consideration of the commercial implications. The present process of Opportunity Cost Pricing in the 400MHz band is an instance where there has been little transparency and often the reference devices used to justify the increases have been questioned. There needs to be a much higher level of accountability and transparency in this section.

[Delegation \(Part 17\)](#)

We support the intent of this section. We also believe that there might be further opportunities for delegation of responsibilities where an organisation is either the exclusive or predominant holder of licences at any transmission site with multiple services. Perhaps there is room within the delegation powers for the present issues regarding third-party authorisations for some 'arms-length' agreements to be recognised and record keeping for such sites simplified, yet still meet the intent and requirements of the regulator.

[Review of decisions \(Part 18\)](#)

We support then intent of this section

[Provisions extending the concept of Radiocommunications \(Part 19\)](#)

Whilst we recognise the intent of this section, developments in technology are going to push the boundaries of Radiocommunications in many different ways. This section needs to be quite flexible to cater for these developments. With development of wireless power transfer systems to devices and vehicles there is likely to be increased interference to communications services by systems not meeting the definition of Radiocommunications device, yet clearly needing to be managed for technologies to coexist. (AI controlled vehicles still need communications for navigation, anti-collision and interaction with the local environment).

[Exemptions \(Part 20\)](#)

We have no concerns with this section.

[Miscellaneous \(Part 21\)](#)

We have no concerns with this section.



ARCIA response to questions Raised in the 'Approach to transition' consultation paper

Proposed approach

1. What are the major issues to be addressed in designing the transitional arrangements?

From the perspective of the LMR industry with the bulk of our licences being under the present 'Apparatus Licence' classification, our primary concern is that any changes should not involve additional costs (either for licencing or capital costs) on the present users, plus that there should be a high degree of coordination between transition of licences where there are more than one service involved in an overall network solution for the end users of the equipment. This is particularly important where there may be fixed link services operating as part of a standard LMR service.

2. Are there other approaches to transition that could be considered?

We agree in principle with the proposed transition plan, and in some ways believe that many of the LMR licences could be transitioned ahead of the plan outlined as long as there is consideration given to the external factors that may be involved. It would be our suggestion that rather than setting determined timelines for the change this should be negotiated with industry bodies in order for the speediest transition for as many licences as possible and then leaving time to address the more difficult transitions at a later stage. With most of the LMR apparatus licences we would believe that there will be minimal change and in most cases it will simply be a case of educating the existing licensees of the changes to their licence and any ramifications that may be involved, there should be little or no technical or operational changes involved.

3. Are there other measures that would reduce complexity during transition?

As indicated above we would highlight those cases where there is an interconnection between licences in different sections of the spectrum that form an operational network. Systems such as these will need to be explored with licensees and/or equipment suppliers to ensure that operational risks are minimised.

The biggest challenge to transition is going to be education of the licensees/users so that they understand the changes being made and any transfer of risk to licence renewal or operational characteristics ahead of the actual transition process.

We would suggest that engagement with industry and users is going to be an essential factor in the transition process, in many industry segments this will not be an easy task, somewhat akin to herding cats. Many licensees have little knowledge of radio licencing or contact with the supplier once they have established their services, as is evidenced by the 400MHz band replan process.



Proposed implementation

4. Should the Australian Radiofrequency Spectrum Plan be revised at commencement, or should it be considered “to be made” under the new arrangements/Bill?

We do not have any firm ideas in this regard, we would suggest that at the outset it should be subject to any reviews as deemed necessary, but then a second review be undertaken as the actual issues of implementation and transition progress. There will no doubt be some factors that are not anticipated and these will need to be addressed during the process.

5. Are there any existing legislative band plans that should be remade at commencement?

We are not able to provide information in response to this question.

6. How should the transition to equipment rules occur? Should equipment rules start at commencement or should they be staged over time? Why?

We would believe that with respect to LMR services that existing equipment standards should be immediately transitioned to new ‘Equipment rules’ and these would need little or no change. However, there are some aspects that will need attention as there is presently no Australian standard for digital radio transmitters in the LMR bands or requirements for supply of these devices, this will require development of a suitable equipment rule. Our suggestion would be that where possible existing standards should be transitioned to the new format early in the process, with those rules being subject to update or modification to suit market requirements as the transition progresses.

The concern in waiting for some time for the transition could mean that equipment could be licenced without any actual equipment rule in place and then subject to retrospective restrictions when the rules are developed?

7. Are there other elements of the new legislation that should start at commencement?

We are not able to provide information in response to this question.

8. Are there any elements proposed to start at commencement that should be staged over time? Why?

We are not able to provide information in response to this question at this stage.



Licensing

9. When should the work program for transition be available? What criteria should be used to determine which licences should transition when and in what order?

We would suggest that the work program should be amongst the first items to be determined as this will then allow for stakeholders to be ready and to raise any issues that might impact on the transition. Development of the work program will need to look at many factors including the resources required, both from within Government as well as from industry.

10. Is 12 months notification for licence transition sufficient?

This will depend on the work program and the level of education being utilised for licensees. Given the changes involved might appear to be relatively benign as far as licensees are involved, the deeper responsibilities and changes within the regulations will mean that there has to be an ongoing educational program to ensure that no licensee is disadvantaged at any stage, including into the future.

Class licences

11. Should class licences become spectrum authorisations at commencement? Why/why not?

With regard to the UHF CB service we would suggest that this should be the case, however, it will require some research with respect to the existing regulations and present usage to ensure that the changes can be made with little or no impact on users.

12. Are there any existing class licences that should not transition to spectrum authorisations upon commencement because of interdependencies with existing apparatus licences?

From the UHF CB segment we would not expect any concerns, the associated apparatus licenced repeater services will transition with time but the actual terminal users will not be operationally affected by the change.

13. Should any interdependent class licences become spectrum authorisations as at commencement or remade as spectrum authorisations when the related apparatus licences are transitioned to the new licence system?

As indicated above, we do not see any cause for concern with regard to the UHF CB market and the repeater services they operate on.



Spectrum licences

14. If considered a licence under the new Act, are there any elements of an existing spectrum licence that would be adversely affected?

We are not familiar with the spectrum licence requirements to any depth, however, from our limited knowledge we would not expect any concerns provided the conditions of the existing licence are transitioned to the new service in general terms. The licensing of UWB systems over the top of spectrum licenced bands could be seen as diminishing spectrum value. Providing that any UWB services now licensed are demonstrated to not devalue the spectrum they cohabitate, there should be no issue.

Transition of existing licence types

15. Should licences be grouped to transition? If so, how (e.g. by category/band/combination)?

We would suggest that the bulk of LMR apparatus licences could be transitioned as a group to ensure that multi-channel or major system operations are not compromised in any way.

16. What is the appropriate duration of licence replacement windows?

This will depend on the level of impact on the licensee, for most LMR apparatus licences there would not need to be any lengthy period as there should be minimal impact involved and it then comes back to the degree of education involved.

17. Do you have any other comments regarding transitional arrangements?

In general terms we are comfortable with the proposed transition arrangements, and it may well be that LMR apparatus licences could be transitioned at an earlier period subject to educational programs.