

Commonwealth of Australia

Radiocommunications Act 1992

**Radiocommunications (Spectrum Licence Limits—
2 GHz Band) Direction No. 2 of 2000**

I, RICHARD KENNETH ROBERT ALSTON, Minister for Communications, Information Technology and the Arts, give the following Direction to the Australian Communications Authority under subsection 60 (10) of the *Radiocommunications Act 1992*.

Dated 29 November 2000

Minister for Communications, Information Technology
and the Arts

Citation

1. This Direction may be cited as the *Radiocommunications (Spectrum Licence Limits—2 GHz Band) Direction No. 2 of 2000*.

Commencement

2. This Direction commences on gazettal.

Interpretation

3. (1) In this Direction, unless the contrary intention appears:

Act means the *Radiocommunications Act 1992*.

associate, in relation to a person, means:

- (a) for a body corporate:
 - (i) a director or secretary of the body; or
 - (ii) a related body corporate; or
 - (iii) a director or secretary of a related body corporate; or
 - (iv) a business partner of the body; or

- (v) an individual who controls at least 15 per cent of the voting power or holds at least 15 per cent of the issued shares in the body; or
- (b) for an individual:
 - (i) the individual's spouse; or
 - (ii) another person who, although not legally married to the individual, lives with the individual on a genuine domestic basis as the spouse of the person; or
 - (iii) a business partner of the individual; or
 - (iv) a body corporate in which the individual controls at least 15 per cent of the voting power or holds at least 15 per cent of the issued shares; or
 - (v) a body corporate of which the individual is a director or secretary; or
 - (vi) a body corporate that is related to a body corporate of which the individual is a director or secretary; or
- (c) for any person—any other person (other than the ACA) who has a relevant agreement with the person that:
 - (i) entitles one of the parties to the agreement to use spectrum licensed to another person under a spectrum licence that relates to a part of the spectrum referred to in the re-allocation declaration; or
 - (ii) provides for the acquisition of a spectrum licence that relates to a part of the spectrum referred to in the re-allocation declaration.

re-allocation declaration means the *Radiocommunications (Spectrum Re-allocation) Declaration No. 2 of 2000* made under subsection 153B(1) of the Act.

related body corporate has the meaning given by the Corporations Law.

relevant agreement means an agreement, arrangement or understanding:

- (a) whether formal or informal or partly formal and partly informal; and
- (b) whether written or oral or partly written and partly oral; and
- (c) whether or not having legal or equitable force and whether or not based on legal or equitable rights;

other than an agreement between carriers provided for by or under the *Telecommunications Act 1997*, Part XIC of the *Trade Practices Act 1974* or the *Telecommunications (Transitional Provisions and Consequential Amendments) Act 1997*.

specified group of persons means an applicant for a spectrum licence and all of the associates of the applicant.

(2) In this Direction, each frequency band includes all frequencies that are greater than the lower frequency, up to and including the higher frequency.

(3) For this Direction, 2 or more specified groups of persons having one member in common are taken to be one specified group of persons.

2 GHz band

4. The ACA must determine procedures under subsection 60 (1) of the Act that impose limits that ensure that, as a result of the allocation of spectrum licences under Subdivision B of Division 1 of Part 3.2 of the Act, no person or specified group of persons may use more than:

- (a) 5 MHz of spectrum in any of the designated areas described in Schedules 1 and 2 to the re-allocation declaration in the frequency bands 1900 MHz to 1920 MHz; and
- (b) 15 MHz of spectrum in any of the designated areas described in Schedule 1 to the re-allocation declaration in the frequency bands 1920 MHz to 1980 MHz; and
- (c) 15 MHz of spectrum in any of the designated areas described in Schedule 1 to the re-allocation declaration in the frequency bands 2110 MHz to 2170 MHz; and
- (d) 15 MHz of spectrum in any of the designated areas described in Schedule 2 to the re-allocation declaration in the frequency bands 1935 MHz to 1980 MHz; and
- (e) 15 MHz of spectrum in any of the designated areas described in Schedule 2 to the re-allocation declaration in the frequency bands 2125 MHz to 2170 MHz; and
- (f) 10 MHz of spectrum in any of the designated areas described in Schedule 3 to the re-allocation declaration in the frequency bands 1960 MHz to 1980 MHz; and
- (g) 10 MHz of spectrum in any of the designated areas described in Schedule 3 to the re-allocation declaration in the frequency bands 2150 MHz to 2170 MHz.

Particular procedures

5. Without limiting the power of the ACA to determine procedures, in determining the procedures mentioned in section 4 the ACA must determine procedures that:

- (a) require an applicant for a spectrum licence to notify the ACA of the applicant's associates; and
- (b) require the ACA to reject bid instructions received from a member of a specified group of persons in a round of an auction if the ACA has already received bid instructions from another member of the specified group of persons in the round; and

- (c) require the ACA to exclude an applicant who has failed to comply with procedures determined under paragraph (a) from taking part or continuing to take part in an auction.
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