

15 June 2018

The Manager,
Major Spectrum Allocations Section
Spectrum Management Policy Branch
ACMA
PO Box 78, Belconnen, ACT 2616

BY EMAIL SpectrumAuctions@acma.gov.au

Dear Sir or Madam

Consultation Paper 3.6GHz Draft Allocation Instruments

I refer to the above paper issued in May 2018. TPG responds to certain of the questions asked in the consultation paper.

Licence commencement:

The ACMA seeks stakeholder views on whether spectrum licences for the 3.6 GHz band should commence as soon as possible after the auction, or at the end of the two-year reallocation period in metropolitan areas.

TPG considers that the spectrum licences for the 3.6 GHz band should commence at the end of the two year reallocation period in metropolitan areas. That is more likely to coincide with the wider availability of equipment able to use the 3.6 GHz band.

Successful bidders ought to be given the option of obtaining earlier access on payment of appropriate fees.

The draft marketing plan (3.6 GHz band):

The ACMA seeks stakeholder views on the draft marketing plan, especially geographic lot configurations and multiple lot categories in Perth.

TPG supports the ACMA's proposed geographic lot configurations and the multiple lot categories in Perth.

The draft allocation determination (3.6 GHz band) and auction rules:

The ACMA seeks stakeholder views on the draft allocation determination and the auction rules.

TPG makes the following comments about the allocation determination and the auction rules:

1. TPG notes the advice of the minister that instalment payments will not be permitted for the 3.6 GHz band. Given the inhibitions on using the 3.6 GHz band during the reallocation period, as indicated above, TPG submits that the starting point should be that the licences commence at the end of the metropolitan reallocation period. It follows that TPG believes that payment for the licences should not be required until shortly before the licences commence. The marketing plan contemplates the possibility of the late start point but it is not clear when the ACMA would be proposing to issue the notice under section 59 of the proposed Determination. The timing of payment is an important matter about which bidders need clarity.
2. In prior auctions, TPG has had difficulty securing from the ACMA returns of deeds of financial security in a timely manner where the circumstances seemed to warrant those returns. Section 51 of the draft determination, covering what occurs for unsuccessful bidders, only contemplates the return of an eligibility payment within 6 months but does not deal with the discharge of the deed of financial security. TPG notes that it considers 6 months to be a very long time for the ACMA to hold what may be substantial funds or bank guarantees and that holding such funds has financial cost to bidders. TPG considers that the section should be rewritten to require the ACMA to return as soon as practicable any eligibility payments to unsuccessful bidders and surrender or discharge bank guarantees issued on their request, unless a determination is made under section 68. Similarly, TPG considers that if the amount held by the ACMA (whether by eligibility payment or bank guarantee) exceeds the amount that a bidder could be required to pay following the auction, the ACMA should be required to refund the difference or accept replacement bank guarantee for the lower amount.