

Wireless Internet Service Provider Association of Australia

Response to ACMA request for consultation:

IFC: 28/2017 Spectrum Allocation for the 3.6 Ghz band

Closing 27th November 2017

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The Wireless Internet Service Providers Association of Australia, (WiSP-AU - www.wispau.org) appreciates the opportunity to respond to the ACMA request for feedback on the discussion paper 'Spectrum Allocation for the 3.6 Ghz band'.

The WISP-AU condemns the actions of the ACMA to dispose of this spectrum in a fire sale. The WISP industry provides reliable, enterprise grade, internet services to parts of regional Australia that require a better alternative to the government owned services. As we have explained previously, we believe that this action will damage regional industries and small businesses and strip opportunity from Regional Australia for the next decade. It has negative unintended consequences for national security, economic returns and "smart" innovation.

WISP Au is an industry association representing Telecommunications wireless providers in regional Australia. With a membership of 40 independent Carrier and network providers focussed on delivering services to regional business and communities, our membership offers a breadth of experience in demonstrating what can be achieved with country ingenuity and passion.

Our organisation represents a broad range of providers currently delivering for regional Australia via innovative business models, new technology and tailoring services to fit business and community needs.

We have offered our expertise and constructive feedback from a regional context and perspective – we considered our knowledge could assist ACMA in assessing the implications of proposed changes relating to spectrum allocation and management. Our policy positions are based on world models and determined within a context which seeks to avoid the potential pitfalls which might occur from considering changes solely with a traditional population based or metropolitan focus.

As a group we are seriously disappointed and concerned about both the recommendations that the ACMA has arrived relating to 3.6 GHz and the process it has taken to get there. We believe that this action will damage regional industries and small businesses and strip opportunity from Regional Australia for the next decade. The 700Mhz, 2.1Ghz, 2.3Ghz 2.5Ghz auctions provide historical verification of this failed policy.

The WiSP network providers entered the market when the 3.6 GHz band was wanted by no-one, less than a decade ago. Along with our customers, we invested millions in good faith. This was accomplished without public funds and infrastructure. Many of us have worked in our own back yard of regional Australia in response to community need and for the benefit of the community, supplying services and tariffs that we know the tier one carriers cannot and will not match, due to the population based business models not working for regional communities.

During the consultation process we were repeatedly assured that an alternative band would be made available for the WiSP incumbents to move to. This has not been made available. Not only are we having an asset cancelled, there is no alternative band on offer nor any

methodology provided as to how incumbents can be compensated for the cancellation of their licenses. One or other must be provided before these proposals proceed.

Despite the Minister's office advising us to meet with and continue dialogue with ACMA this has been rejected.

We disagree with the ACMA's assessment of highest value use for this spectrum in regional areas. We have not been supplied with the modelling used to arrive at the ACMA's conclusion that auctioning it off is the best value option. **We hereby formally request to be supplied a copy of the modelling used by ACMA to arrive at its assessment of highest value use for regional areas.** Serious questions of administrative process arise if the modelling is not supplied to regional operators - who know their patch best – for critique and discussion.

We disagree with the geographic area delineated as metropolitan. How are the small coastal communities between Sydney and Newcastle metropolitan? Why is Newcastle now classified as metropolitan Sydney? It appears the classification has been arrived at independently of an objective assessment of what Sydney and regional areas actually comprise. Similarly Sydney metropolitan area southern areas impinge onto clearly regional locations. No justification has been produced to explain this.

Whilst we note a seven year transition period has been allocated, this is simply a postponement of the closure of the regional enterprises, if there is no alternative band to move to. We are also advised that no compensatory funds are available to reimburse these industries.

The WiSPau Association members are understandably seeking other support for closer attention to the regional issues, given ACMA has vacated the field. As a group we believe we have no option but to make our concerns known to the broader community and to prosecute fully our concerns as to the lack of process and lack of recognition our issues have been afforded.

We put on notice our intention to, as a group, explore the following remedies:

1. Pursuing the ACMA recommendation to the Minister regarding the process followed to arrive at the regional re-allocation and auction of the 3.6 GHz band via a reference to the Administrative Appeals Tribunal. We will be citing unfair process, particularly as it relates to the highest value use assessment, the modelling for which has not been made available for review or comment.
2. Utilising the relevant freedom of information provisions to access the high value modelling relied upon by ACMA, if it is not provided by the regulator.
3. Jointly fund a media campaign to draw regional community's attention to yet more corporatisation and sell off of regional assets, the stripping of jobs and the reduction of competition in the telecommunications market.
4. Jointly fund an injunction against the auction process.

5. Prosecute a delay or hold on the process until at least the new Spectrum legislation is promulgated – there is no rush for the regional areas, as indicated by the seven year transition period.

We respectfully request that the ACMA cease this regulatory action, return to the table and conduct trade studies identifying security, economic, social and political criteria. We ask that the ACMA seriously revisit the sharing options that we have proposed. The world is moving to DSLM, and given spectrum is a finite resource there is no choice but for Australia to adopt similar strategies. There is a world forum on spectrum sharing in London in three months' time. We strongly suggest that representatives of the decision making cohort, either regulatory or political, attend this conference with an open mind and good intent to seek ideas on spectrum sharing and secure the WiSPs future in the bush.

If further information or clarification is required regarding the WiSP AU response, or any other aspect relating to spectrum management, please do not hesitate to contact us.

Yours sincerely,

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