

400 MHz transition— Guideline for exceptions to transition milestones 2 and 3

SEPTEMBER 2014

Canberra

Red Building
Benjamin Offices
Chan Street
Belconnen ACT

PO Box 78
Belconnen ACT 2616

T +61 2 6219 5555
F +61 2 6219 5353

Melbourne

Level 32
Melbourne Central Tower
360 Elizabeth Street
Melbourne VIC

PO Box 13112
Law Courts
Melbourne VIC 8010

T +61 3 9963 6800
F +61 3 9963 6899

Sydney

Level 5
The Bay Centre
65 Pirrama Road
Pymont NSW

PO Box Q500
Queen Victoria Building
NSW 1230

T +61 2 9334 7700
1800 226 667
F +61 2 9334 7799

Copyright notice

<http://creativecommons.org/licenses/by/3.0/au/>

With the exception of coats of arms, logos, emblems, images, other third-party material or devices protected by a trademark, this content is licensed under the Creative Commons Australia Attribution 3.0 Licence.

We request attribution as: © Commonwealth of Australia (Australian Communications and Media Authority) 2014.

All other rights are reserved.

The Australian Communications and Media Authority has undertaken reasonable enquiries to identify material owned by third parties and secure permission for its reproduction. Permission may need to be obtained from third parties to re-use their material.

Written enquiries may be sent to:

Manager, Editorial and Design
PO Box 13112
Law Courts
Melbourne VIC 8010
Tel: 03 9963 6968
Email: candinfo@acma.gov.au

Contents

Introduction	1
Background	1
Transition alternatives	1
The exception process	2
Length of an exception	2
Circumstances and factors the ACMA will consider	2
Lodging an exception application	3

Introduction

This guideline provides information on the circumstances and factors under which the ACMA, in exceptional circumstances, will make a temporary exception to 400 MHz Plan milestone 2 and 3 requirements. The ACMA continues to be firmly committed to the 400 MHz Plan but recognises that some licensees may face circumstances that mean they cannot make the required changes in the milestone timeframes.

Milestone 2 involves changes to a 10 MHz duplex frequency split, bandwidth reduction and government spectrum harmonisation within the 450–470 MHz range.

Milestone 3 refers to changes associated with the relocation of services into appropriate government, rail and non-government spectrum in the rest of the band.

The ACMA will manage transition through its apparatus licence renewal process under Division 7 of Part 3.3 of the *Radiocommunications Act 1992*.

Background

The ACMA announced the outcomes of the 400 MHz band review in December 2010 in *The Way Ahead*. The 400 MHz Plan ([MS 22](#)) prescribes that holders of licences in this band will need to transition to [new arrangements](#) in accordance with milestones that started in 2012 and continue until 2018. Implementing the requirements of *The Way Ahead* will:

- > increase spectrum utility in areas of high demand
- > improve the harmonisation of spectrum used by government users and facilitate the development of efficient government networks
- > increase the efficiency of spectrum allocation and use
- > facilitate new technologies and complementary uses.

The ACMA's policy is that it will not renew licences after the transition dates if the conditions on the licence do not meet the requirements of the 400 MHz Plan. To renew such a licence would be inconsistent with the transition timelines set out in the 400 MHz Plan. However, in exceptional circumstances, the ACMA will consider applications for renewal that do not comply with the 400 MHz Plan, if the licensee can demonstrate that compelling circumstances or factors exist, and the available transition options are not suitable to meet their requirements.

Transition alternatives

To facilitate the transition to the new arrangements of the 400 MHz band, the ACMA notes that there is a range of transition alternatives. Licensees should explore the feasibility of these alternatives prior to submitting an exception.

Milestone 2 transition alternatives include:

- > VHF High Band—land mobile segments (148–174 MHz)
- > 440–450 MHz—available on an interim basis (12 months maximum)
- > 450–470 MHz:
 - > Transition to Low Power
 - > Relaxed frequency-distance constraints
- > 470-490 MHz—spectrum set aside for affected MS2 users
- > 490-520 MHz—spectrum available for those with greater equipment tunability.

The exception process

This section outlines the process involved for lodging an exception application.

1. Complete all relevant documentation (refer to page 3: *Lodging an exception application*).
2. Submit the documentation to 400MHzimplementation@acma.gov.au.
3. ACMA staff will acknowledge receipt of the request.
4. Upon assessment, ACMA staff may require additional information from the applicant.
5. ACMA staff will notify the applicant of the outcome.

Length of an exception

Exceptions are normally granted for a period of one year from the licence renewal date. Under normal circumstances only one exception would be granted for a licence or group of licences.

Exceptions for longer periods may occasionally be granted if circumstances are compelling. The period of the final exception is subject to negotiations between the ACMA and the applicant. Applications for exceptions for periods over one year will require a statement of commitment from a person within the licensee's organisation, with the authority and accountability to ensure that the commitment is met.

Where an exception is granted for a period of more than one year, the ACMA may request that subsequent information is provided, as confirmation of progress in accordance with their 400 MHz transition plan.

Depending on the nature of the exception request, the decision on whether to grant or deny the request may be made by the 400 MHz Project Team, the Executive Manager of the Spectrum Operations and Services Branch, the General Manager of the Communications Infrastructure Division or the ACMA Authority. Exceptions of more than one year duration, or that impact on the ability of other licensees to meet milestone requirements, will require compelling circumstances to be granted. Such applications would be considered by the General Manager of the Communications Infrastructure Division or the ACMA Authority.

Circumstances and factors the ACMA will consider

The ACMA will consider the following circumstances and factors when assessing an application for exception to a transition arrangement:

- > where the funds required to make the transition(s) have not been able to be obtained in a timely manner. Evidence supporting the claim must be supplied
- > where it can be demonstrated that there will be significant financial savings by delaying transition (e.g. more than \$1 million)
- > whether the licence renewal is warranted to accommodate a short delay for supply/installation/commissioning/network upgrade
- > whether the licence renewal is warranted to accommodate a short delay on the basis that the required channel(s) may be available shortly (and existing equipment can be reprogrammed), enabling the equipment to remain in the current band
- > whether the consequential impact of the delay (as measured through spectrum denial) is low if the licence is renewed (for example, low power, short duration, remote location, low channel loading)
- > where a move to non-government spectrum would otherwise be required and the non-government user has written agreement from their National Coordinating

Committee for Government Radiocommunications representative that the non-government user can be accommodated in harmonised government spectrum for an extended or indefinite period of time

- > where the licensee can demonstrate that a move to other parts of the spectrum (i.e. 440–450 MHz, 470–490 MHz) is not a viable solution
- > the licensee is willing to forgo protection from interference and undertakes to not cause interference¹
- > for applicants that seek an exception of more than one year, commitment to a 400 MHz transition plan stating how and when the applicant intends to meet the transition arrangements.

A licensee applying for an exception to the transition deadline should address all relevant factors in their exception application including, where relevant, the factors specified above. The application should also provide any other information relevant to the request along with supporting documentation/evidence. In some circumstances, the ACMA may require subsequent changes to the existing licence(s), if they are found to be causing consequential impacts on other users of the band seeking to meet milestone requirements.

Lodging an exception application

The following documentation must be provided to lodge an exception application:

6. [R208 form](#).²
7. List of licence(s) to be considered in the exception application. Licence data can be downloaded in Excel format from the [400MHz online search tool](#).³
8. 400 MHz transition plan (for applicants that seek an exception of more than one year).

¹ Implemented by a licence condition.

² <http://www.acma.gov.au/Industry/Spectrum/Spectrum-projects/400-MHz-band/tech-info>

³ http://web.acma.gov.au/pls/radcom/pkg_400Mhz_search.main_page