

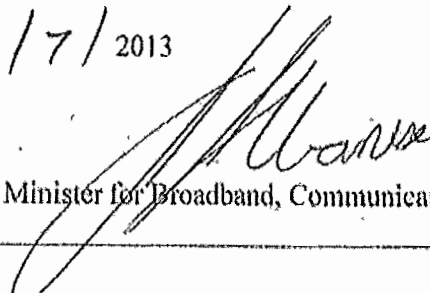
Commonwealth of Australia

Radiocommunications Act 1992

**Radiocommunications (Spectrum Access Charges –
700 MHz Band) Direction No. 1 of 2013**

I, ANTHONY NORMAN ALBANESE, Minister for Broadband, Communications and the Digital Economy make the following Direction under subsection 294(2) of the *Radiocommunications Act 1992*.

Dated 26 / 7 / 2013


Minister for Broadband, Communications and the Digital Economy

1 Name of Direction

This Direction is the *Radiocommunications (Spectrum Access Charges – 700 MHz Band) Direction No. 1 of 2013*.

2 Commencement

This Direction commences on the day it is made.

3 Interpretation

(1) In this Direction:

ACMA means the Australian Communications and Media Authority.

Act means the *Radiocommunications Act 1992*.

licence area means the area or aggregate of areas within which operation of radiocommunications devices is authorised by a spectrum licence.

relevant spectrum means the following parts of the spectrum:

- (a) from 733 MHz up to and including 748 MHz;
- (b) from 788 MHz up to and including 803 MHz.

(2) In this Direction, a figure expressed as \$/MHz/pop means the unit amount to be applied by the ACMA in calculating the spectrum access charges payable by a licensee in relation to a spectrum licence, where:

- (a) \$ = Australian dollars;

- (b) MHz = the bandwidth of spectrum authorised for use in the licence area by the spectrum licence; and
- (c) pop = the population of a licence area, to be determined by the ACMA at the time the ACMA determines the spectrum access charges under subsection 294(1) of the Act having regard to available population data at that time.

4 Direction

- (1) I direct the ACMA that the spectrum access charges fixed by it in any determination made under subsection 294(1) of the Act for the relevant spectrum (a *spectrum access charges determination*) must reflect no less than the amount of \$1.36/MHz/pop, being the amount that I consider to be the minimum value of the relevant spectrum.
- (2) For the avoidance of doubt, nothing in this Direction prevents the ACMA from considering other relevant matters in making a spectrum access charges determination.

EXPLANATORY NOTE

Radiocommunications Act 1992

Radiocommunications (Spectrum Access Charges - 700 MHz Band) Direction No. 1 of 2013

Issued by the authority of the Minister for Broadband, Communications
and the Digital Economy

Authority

The *Radiocommunications (Spectrum Access Charges – 700 MHz Band) Direction No. 1 of 2013* (the Direction) is made by the Minister for Broadband, Communications and the Digital Economy (the Minister) under subsection 294(2) of the *Radiocommunications Act 1992* (the Act).

Subsection 294(2) of the Act allows the Minister to give written directions to the Australian Communications and Media Authority (**the ACMA**) about the matters dealt with in determinations made by the ACMA pursuant to subsection 294(1) of the Act. Such a Direction is not a legislative instrument (subsection 294(5) of the Act refers).

Subsection 294(1) of the Act provides that the ACMA may, by written instrument, make determinations:

- fixing spectrum access charges payable by licensees for issuing spectrum licences; and
- specifying the times when spectrum access charges are payable.

Purpose

The purpose of the Direction is to direct the ACMA that the spectrum access charges for the relevant spectrum fixed by it in a determination made under subsection 294(1) of the Act must not be less than the amount specified by the Minister in this Direction. 'Relevant spectrum' here means those parts of the 700 MHz spectrum unallocated at the digital dividend auction.

Background

On 19 November 2011, the Minister declared spectrum in the 700 MHz band (in the ranges 703 MHz to 748 MHz and 758 MHz to 803 MHz) to be re-allocated by issuing spectrum licences. This spectrum is commonly referred to as the 'digital dividend' spectrum.

From April to September 2012, the ACMA undertook several public consultation rounds on draft instruments relating to the digital dividend spectrum, including marketing plans for

Section 2 provides that the Direction commences on the day after it is made.

Section 3 defines the terms used in the Direction.

The term 'relevant spectrum' is defined to mean the parts of the spectrum from 733 MHz up to and including 748 MHz and from 788 MHz up to and including 803 MHz. This is the 2×15 MHz of spectrum that remains unallocated following the conclusion of the digital dividend auction.

Section 4 specifies the direction. Subsection 4(1) requires that the spectrum access charges fixed by the ACMA for the relevant spectrum must reflect no less than the amount specified by the Minister in the Direction, being the amount the Minister considers to be the minimum value of the relevant spectrum. The amount specified is expressed as a unit amount in \$/MHz/pop, which formula the ACMA will need to apply (based on the size in MHz of each lot and the population of the relevant licence area) when it fixes the spectrum access charges for the relevant spectrum. The explanation of the concept of a figure given in \$/MHz/pop in subsection 3(2) of the Direction is based on the explanation for that concept given in the *Radiocommunications (Spectrum Access Charges) Direction 2012*¹ (the 15-year SAC Direction), in which the Minister directed the ACMA as to the level at which spectrum access charges should be fixed, in the event that certain expiring 15-year spectrum licences were re-issued to the same licensee.

In setting this minimum price, the Minister has been mindful that the relevant spectrum is highly valued spectrum and it is important for the evolution of mobile networks in Australia. The Minister has had particular regard to the prices achieved for the spectrum licences allocated as a result of the auction and has also taken into consideration previous expert advice he received regarding the value of the spectrum, as well as consultations with other relevant agencies, including the ACMA, at the time when he initially directed the ACMA on setting the reserve price for the auction.

The Minister has also been guided by the objects of the Act (in particular the object to maximise the overall public benefit derived from the spectrum by ensuring the efficient allocation and use of the spectrum).

Subsection 4(2) provides that nothing in the Direction prevents the ACMA from considering other matters in making a determination under subsection 294(1) of the Act. For example, this will enable the ACMA to consider when fixing the spectrum access charges whether any adjustment is required should the duration of a licence be less than the maximum period of 15 years (as provided for in section 65 of the Act). This formulation was also used in the 15-year SAC Direction.

¹ Available at: http://www.dbcde.gov.au/radio/radiofrequency_spectrum/spectrumlicences