

Our approach to radiocommunications licensing and allocation

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Executive summary

Our overall approach to management of the radiofrequency spectrum focuses on promoting the long-term public interest derived from the use of spectrum.

We aim to facilitate efficient spectrum planning, allocation and licensing arrangements in frequency bands for the use or uses that best promote the long-term public interest. Our allocation program and licensing processes are intended to support a wide range of spectrum use-cases and a diverse set of spectrum users.

This information paper outlines our approach to:

- selecting spectrum, apparatus and class licensing for different use scenarios, including the matters we consider when assessing each licensing category's potential suitability
- radiocommunications licensing and spectrum allocation, specifically around licence duration, payment arrangements, renewal statements, and allocation and re-allocation processes.

When determining our licensing and allocation arrangements, we take into consideration the object of the *Radiocommunications Act 1992* and relevant government policy and provide opportunities for feedback through public consultations.

Background

The Australian Communications and Media Authority (ACMA) is Australia's spectrum regulator, responsible for managing the radiofrequency spectrum to promote the long-term public interest derived from its use.

Our responsibilities to manage the radiofrequency spectrum are set out in the [Radiocommunications Act 1992](#) (the Act) and in the [Australian Communications and Media Authority Act 2005](#) (the ACMA Act). Under the Act and the ACMA Act, both the ACMA and the Minister for Communications have roles and responsibilities in how licences are allocated and in promoting the long-term public interest derived from the use of the spectrum.

In June 2021, the [Radiocommunications Legislation Amendment \(Reform and Modernisation\) Act 2020](#) (the Modernisation Act) took effect. The Modernisation Act amended the Act to implement changes identified by the government as priority spectrum management issues.

The Modernisation Act also amended the spectrum management roles of the ACMA and the minister by simplifying and streamlining critical allocation and re-allocation processes. In addition, it provided the ACMA increased flexibility in managing the spectrum.¹

Noting that certain transmitter licences issued under section 101A (temporary community broadcasting transmitter licences) and section 102 (commercial and long-term community broadcasting transmitter licences) of the Act are linked to the related licences issued under the *Broadcasting Services Act 1992* (the BSA), there was no intent in the Modernisation Act to change the arrangements for licensing broadcasting services.

This paper updates our 2021 paper that provided an overview of our approach to implementing the changes to the licensing and allocation arrangements introduced by the Modernisation Act. We have revised the paper so it continues to provide a fit-for-purpose, up-to-date and clear overview of our approach to radiocommunications licensing and allocation. The paper includes examples of recent licensing and allocation decisions.

¹ The Modernisation Act also included legislative changes to the object of the Act, to the ACMA's compliance and enforcement powers, and to the banned equipment and exemptions framework.

Our approach to decision-making

Summary

When making licensing and allocation decisions, we are guided by:

- the relevant matters the ACMA must consider under the Act, which include the object of the Act and specific provisions that guide decisions on particular matters
- ministerial policy statements and other government policy
- transparency and accountability obligations, particularly for the ACMA's [five-year spectrum outlook](#) (FYSO) work program, which outlines spectrum management work priorities and planned consultations²
- consultation obligations under the [Legislation Act 2003](#), and consultation provisions under the Act, which inform decision-making.

Guidance and obligations for our decisions

Object of the Act

Our decisions under the Act are guided by the object of the Act. The object of the Act is to promote the long-term public interest derived from the use of the spectrum by providing for the management of spectrum in a manner that:

- (a) facilitates the efficient planning allocation and use of the spectrum
- (b) facilitates the use of the spectrum for:
 - (i) commercial purposes
 - (ii) defence purposes, national security purposes and other non-commercial purposes (including public safety and community purposes)
- (c) supports the communications policy objectives of the Australian Government.

Government policy

Under the Act and the ACMA Act, the minister may direct us in relation to the performance of our functions and the exercise of our powers. Compliance with a ministerial direction is mandatory.

Additional guidance can be provided through ministerial policy statements (MPS) under section 28C of the Act. An MPS is a formal way of communicating the government's policy objectives. The power to make an MPS is intended to enable the minister to provide policy guidance to the ACMA about the government's policies for spectrum management. We must have regard to an MPS when exercising our powers. Under section 57 of the ACMA Act, we must provide a summary outline of the operation of any MPS in our annual report. Most recently, the minister issued a MPS in April 2024 covering expiring spectrum licences.

The minister may provide a Statement of Expectations (SoE) outlining the Australian Government's expectations for the ACMA. We acknowledge these expectations in a Statement of Intent and outline what steps we plan to take to enact the given

² The [FYSO](#) work program, released each year, provides an outline of our broad approach to spectrum management.

expectations. Most recently, the minister issued an [ACMA SoE](#) in December 2022. The ACMA issued a [Statement of Intent](#) in February 2023.

Section 28F of the Act requires that the ACMA must consult with the minister on the FYSO work program.

FYSO work program

Section 28E of the Act requires the ACMA to determine a work program with a 5-year outlook at least once each financial year. The ACMA complies with this requirement by publishing the FYSO work program. The FYSO work program is a key transparency and accountability mechanism. Before settling the final FYSO work program for a financial year, we generally undertake public consultation as per section 28F of the Act. Under paragraph 57(h) of the ACMA Act, the ACMA annual report must include a report on the extent to which the ACMA's activities gave effect to the work program.

The FYSO work program is a mechanism through which we encourage all spectrum users to provide feedback and suggest ideas for new or modified licensing options or regulatory arrangements to account for new and emerging technologies. Following the consultation process, we update our FYSO work program to incorporate stakeholder feedback.

Specific consultations

When developing planning arrangements for a particular frequency band, we consult on matters such as which types of licences to make available (that is, whether to issue spectrum licences, apparatus licences, class licences or a mixture of licences) and/or the proposed maximum licence term available within the relevant band where appropriate. Other common consultation points include during allocation and re-allocation processes, as well as for variations to existing class licences and licence conditions determinations. We will reference relevant government policies applicable to processes when we consult.

Long-term public interest

Our decisions are guided by the principle of promoting the long-term public interest derived from the use of the spectrum. Consistent with the object of the Act, we aim to facilitate efficient spectrum planning, allocation and licensing arrangements in each band for the use or uses that best promote the long-term public interest derived from the use of that spectrum.³ We promote the object of the Act and relevant government policy through a balanced application of market and regulatory mechanisms.

In assessing the impact that a regulatory proposal has on the public interest, we consider the overall effects on individuals, businesses, government users of spectrum and community organisations, as well as the broader economic, social and competition impacts.

This approach aligns with the government's [Policy Impact Analysis Framework](#) that ensures that policy options are well-designed, well targeted- and fit-for-purpose. We consider:

- what is the issue we are trying to solve and what data is available?
- what are the objectives, why is government intervention needed to achieve them, and how will success be measured?
- what policy options are we considering?

³ 'Use' refers both to the general types of use such as a service (for example, the mobile service) and more specific applications within a service (for example, wireless broadband within the mobile service).

- what is the likely net benefit of each option?
- who should we consult, and how?
- what is the best option of those considered and how will we implement it?
- how will we evaluate our chosen option against the success metrics?

In responding to these questions, we draw on a variety of evidence, including technical studies, stakeholder views and quantitative data, where available.

In addition to the broad object to promote the long-term public interest derived from the use of the spectrum, the Act also obliges us to undertake (in specified circumstances) a public interest evaluation before renewing a licence. See '[Long-term public interest and renewal](#)'.

In developing public interest criteria for a particular band (including for a licence renewal process), we do not consider it practical to apply measurements to the criteria. Instead of pre-determined weightings for the public interest criteria, we will explain how relevant inputs were evaluated and seek views from stakeholders through a public consultation process.

Licence categories

Summary

We develop licensing arrangements to optimise and encourage the efficient allocation and use of the spectrum, promoting the long-term public interest.

There are 3 licensing categories – spectrum, apparatus and class. As different licensing categories and associated planning, allocation and pricing elements produce key differences that affect their suitability for different scenarios, the Act allows us to decide what licences to issue.

We can determine the types of apparatus licences we make. We can also issue an apparatus licence not of a determined type.

In deciding whether a band or use-case should be spectrum, apparatus or class licensed, we consider several key factors. A table comparing the core characteristics of each licensing category is provided at [Appendix A](#).

Legislative provisions

Spectrum licences

- Section 62 of the Act enables the ACMA to issue a spectrum licence allocated in accordance with procedures determined under section 60 of the Act, including by auction, by tender, for a pre-determined or negotiated price, or by direct allocation.

Apparatus licences

- Section 100 of the Act enables the ACMA to issue an apparatus licence on application.
- Subsection 98(1) of the Act enables the ACMA to, by legislative instrument, determine the types of transmitter licences and the types of receiver licences (that is, apparatus licences) that it may issue.
- Subsection 98(2) of the Act enables the ACMA to issue an apparatus licence of a non-specified type.
- Section 106 of the Act enables the ACMA to, by legislative instrument, determine a price-based allocation system for allocating and/or issuing specified transmitter licences.

Class licences

- Section 132 of the Act enables the ACMA, by legislative instrument, to issue a class licence.

Available licences

We issue 3 categories of licence – spectrum, apparatus and class. Each of these licence categories are suited to different use-cases.

Spectrum licences

A spectrum licence permits the operation of a range of radiocommunications devices in a specific geographic area and frequency band. Operation is only allowed in the area and band that the licence specifies. Spectrum licences may be issued for up to 20 years.

Apparatus licences

An apparatus licence permits the operation of:

- specified radiocommunications transmitters or receivers
- radiocommunications transmitters or receivers of a specified kind, usually at the place or in the area that we specify on the licence
- radiocommunications transmitters or receivers of any kind, usually at the place or in the area that we specify on the licence.

We issue most apparatus licences for one year, but we may issue an apparatus licence for up to 20 years. The type of apparatus licence we issue depends on the equipment the user wants to use and the reason for using it.

Class licences

A class licence permits the operation of common radio equipment on shared frequencies. A user does not need to apply for a class licence or pay any licence fees. Each class licence specifies what radiocommunications devices can be used, the frequency range, and the rules for using them.

A table comparing the core characteristics of each licensing category is in [Appendix A](#). Further features of each licence category are discussed in the sections below.

How we identify appropriate licensing arrangements

In identifying the most appropriate licensing arrangements for spectrum use, we seek to balance predictability for users for their proposed or ongoing use of the spectrum, with flexibility for the ACMA to change how spectrum is used over time. For this reason, it is important that the choice of licensing arrangements is considered in the context of the contemporary technology uses and spectrum band characteristics.

When deciding whether a band or use-case should be spectrum, apparatus or class licensed, we consider several factors, including:

- **Nature of user/s** – the type of use expected, such as ubiquitous use by ‘unaware’ users (for example, wi-fi) versus ‘aware’ users/licensees (for example, pilots).
- **Expected use-cases** – the scale of expected deployment and associated investment decisions.
- **Technical coexistence and interference management** – how technical coexistence is achieved, for example, via conditions on the characteristics and operation of devices, coordination of devices and services, and licence boundary conditions.
- **Predictability and level of exclusivity of access** – the different licensee investment timeframes (influenced by geographic coverage and technological development) that guide the level of exclusivity and type of licensing/regulatory predictability sought by licensees.
- **Allocation** – the suitability of different allocation methods, including consideration of price-based and administrative allocation.
- **Flexibility and spectral efficiency** – consideration of the appropriate level of flexibility for users and the overall spectral efficiency desired by industry and the ACMA.
- **Government policy objectives** – whether any broader policy objectives, including those in MPSs or SOEs, can be facilitated through frameworks, allocations, or licensing categories.

In some bands, it may be appropriate to use a mixture of spectrum, apparatus and class licensing to support multiple uses by a range of different users and optimise the use of the spectrum across the band and in different geographical regions.

When spectrum licensing is appropriate

Spectrum licensing is broadly used to authorise the use of high-demand spectrum over large geographic areas to support services such as wireless broadband.

Spectrum licences support long-term investment certainty to licensees through:

- **Licence duration** – licences may be issued for up to 20 years, with compensation or an agreement required to resume a spectrum licence before it expires.⁴ This licence type supports scenarios where licensees have long-term investment requirements.
- **Protection from some licence variations** – we may only modify a spectrum licence's core conditions, such as the frequencies and geographic areas in which operation of radiocommunications is authorised, and generally may only modify a spectrum licence's renewal statement, with the licensee's agreement.
- **Limitations on subsequent licences** – we are generally restricted from issuing subsequent spectrum, apparatus or class licences that would overlap with the frequency and geography covered by an existing spectrum licence, or where a marketing plan is in force for that part of the spectrum, unless specified circumstances and requirements are met.⁵
- **Renewal statements** – spectrum licences must (subject to exceptions discussed in the 'Renewal statements' chapter) include statements that set out whether, and under what circumstances, we may renew a spectrum licence. Renewal statements provide long-term transparency and predictability around timeframes and prospect of renewal.
- **Technology-flexible frameworks** – spectrum licences are commonly subject to technology-flexible frameworks, enabling multiple generations of technology to be deployed under a single licence. This allows licensees to repurpose spectrum and encourages the promotion of the long-term public interest derived from its use.
- **Secondary trading and leasing** – spectrum licences permit secondary trading and licensees can authorise third parties to operate devices under the licence (this could be described as 'leasing'), which provide a mechanism by which the public interest of the licensed spectrum can be promoted over the long term.

While some of these features of spectrum licences provide certainty and flexibility to licensees, they can also restrict our flexibility to substantively change the use of spectrum during the licence's duration. Consequently, we must have a high degree of confidence that the use of the spectrum will promote the long-term public interest

⁴ Pursuant to section 89 of the Act, the ACMA may resume (that is, effectively reclaim) a spectrum licence, or part of a spectrum licence under an agreement entered into with the licensee. Pursuant to section 91 of the Act, the ACMA may resume a spectrum licence, or part of a spectrum licence, by compulsory process, subject to written approval from the minister and in accordance with the resumption procedures set out in Part 1 of the Schedule to the Act.

⁵ Pursuant to section 60B of the Act, the ACMA must not allocate a spectrum licence that authorises the operation of radiocommunications devices on frequencies and within areas that are already the subject of an existing spectrum licence. Pursuant to section 105 of the Act, the ACMA may only issue an apparatus licence that overlaps with a spectrum licence, or where a marketing plan is in force, to specified law enforcement and investigative bodies or persons for the purposes of the operations conducted by those bodies, or if the ACMA is satisfied that the special circumstances of the particular case justify the issuing of the licence. Pursuant to section 138 of the Act, the ACMA may only issue a class licence that overlaps with a spectrum licence, or where a marketing plan is in force, if the ACMA is satisfied that issuing the class licence would not result in unacceptable levels of interference to devices operated or likely to be operated under the spectrum licence, and that issuing the class licence would be in the public interest, and where mandatory consultation with affected spectrum licensees is undertaken.

throughout the licence's duration. We must also have a high degree of confidence that arrangements to enable the licensee to continually optimise the use of the relevant spectrum, such as through technology-flexible frameworks and secondary trading, will do so in the longer term.

We generally initially issue spectrum licences through a price-based allocation process so that the allocation is conducted at a point in time (as opposed to ongoing availability of licences within a band). Due to high competing demand for the spectrum, we consider a market-based allocation may increase the likelihood that spectrum will be allocated to a licensee that will use it in a manner that promotes the long-term public interest.

We can also directly allocate spectrum licences. We have previously directly allocated spectrum licences where the available spectrum was of low utility and low demand but could supplement other spectrum allocated through a price-based process. We expect to use our direct allocation powers in a similar manner in the future. We note there may be scenarios, such as non-commercial and public good use-cases, where direct allocation may be preferred to a market-based allocation. We will consider the context of the direct allocation, including but not limited to the potential use-case for the spectrum and whether the direct allocation is linked to a price-based allocation, when setting prices for directly allocated licences.

When apparatus licensing is appropriate

Apparatus licensing is typically used to create 'over-the-counter' (that is, administratively allocated) licensing products for authorising radiocommunications devices used as part of specific kinds of radiocommunications services and use-cases, such as land mobile, fixed, satellite and maritime.⁶

Apparatus licences are generally suitable for situations where moderate to high predictability is required by the licensee to support long-term investments, but the licensee also requires greater flexibility with the licence duration (compared to spectrum licences).

Apparatus licensing balances flexibility and predictability for licensees through:

- **Licence duration** – licences may be issued for up to 20 years; however, the large majority of apparatus licences are issued for a period of one year.
- **Geographic flexibility** – apparatus licences may authorise site-based, area-based or mobile access to spectrum, depending on the use-case. Areas are generally determined by licensee choice, coordination requirements and planning models.
- **Allocation flexibility** – apparatus licences may be issued by administrative or price-based allocation. Generally, most apparatus licences can be applied for at any time. We consider applications on their merit, taking into account the requirements of the Act, and usually in the order in which they were received. In certain circumstances, we may use an application or allocation window for apparatus licence applications. Price-based allocations have been used for certain high-demand licences such as transmitter licences for low- and high-power open narrowcasting services.
- **Renewal flexibility** – most apparatus licences are generally renewed unless an alternative use for that part of the spectrum has been identified. Most apparatus licences do not include renewal statements. However, the ability to include renewal statements to indicate either that the licence may not be renewed, or will be renewed only if specified circumstances exist, can provide licensees with

⁶ A radiocommunication service involves the transmission, emission and/or reception of radio waves for specific purposes.

enhanced clarity over the potential renewal of their licence. A decision to renew an apparatus licence for 10 years or longer (including if the licence includes a public interest statement) is subject to a public interest consideration.

- **Pricing certainty** – because apparatus licences are usually allocated via an administrative process rather than through auctions, prospective licensees have more certainty when calculating the potential applicable taxes and administrative charges.
- **Payment flexibility** – for apparatus licences of one year’s duration or more, most apparatus licensees request to pay the applicable licence tax either upfront for the life of the licence, or by annual instalment, providing business planning flexibility to users. In some circumstances, we may determine the payment arrangements for apparatus licences.
- **Planning flexibility** – apparatus licences provide us with planning flexibility and can be suitable in scenarios where we expect to change the use of the band in the near term. We can vary or refuse to renew apparatus licences or make a re-allocation declaration for a band, cancelling all the apparatus licences in the band. This flexibility, however, is balanced by our broader approach to spectrum management, as well as our disposition towards undertaking public consultation processes when substantive changes are proposed, thereby providing licensees with a degree of clarity about their ongoing use of the spectrum.
- **Interference protection** – apparatus licences can be provided a high level of interference protection through our policies and planning decisions. Coexistence is achievable through licence conditions and associated planning frameworks.

Service-specific apparatus licences

Service-specific apparatus licences (those linked to a particular radiocommunication service) are generally suitable for scenarios where licensees have defined needs or where there are planning or policy objectives that make service restrictions appropriate.

In these scenarios, we are able to promote efficient use of the spectrum by optimising the technical planning and coordination frameworks and licence conditions associated with the apparatus licence types. We do this through policies such as [radiocommunication assignment and licensing instructions](#) (RALIs) or legislative instruments such as licence conditions determinations. This can limit flexibility of use under the licence type.

We issue both assigned (coordinated) and non-assigned (non-coordinated) service-specific apparatus licences.

Assigned licences have an assigned frequency and our practice is to provide low to moderate exclusivity with spectrum bands shared on a coordinated basis. The band is generally shared with other services of the same type. Some parts of the spectrum may also be available to multiple services on a primary and secondary basis, as identified in the [Australian Radiofrequency Spectrum Plan 2021](#).

Non-assigned licences share frequencies on an uncoordinated basis, with limited or no exclusivity; the frequencies are generally shared with other users of the same service, but also potentially other services. Non-assigned licences are suitable for providing roaming use and greater areas of operation while still retaining a record of licensees where it is appropriate to do so, such as with some maritime radio users.⁷

⁷ The [Register of Radiocommunications Licences \(RRL\)](#) contains the details of all licences issued in Australia, though some details may not be publicly available.

In selecting service-specific apparatus licensing arrangements, we require a moderate level of confidence that the use of the spectrum (specifically the identified service) will continue to promote the long-term public interest throughout the term of the licence, as apparatus licensing arrangements do provide some flexibility to substantively change the use of the spectrum during a licence's term (compared to spectrum licences). While licence transfer can change the user, it cannot change the overall use of the spectrum, which is set through the broader licensing framework.

Area-wide licences (AWLs)

AWLs are a type of transmitter licence introduced in 2020 and first used in the 26 GHz and 28 GHz bands, supporting the deployment of wireless broadband and fixed satellite services. AWLs differ from other transmitter licence types in that they are service-agnostic and provide an aggregable area-based authorisation to use parts of the spectrum. They are intended to provide considerable deployment flexibility. We developed AWLs to accommodate emerging use-cases such as private wireless networks.

The AWL framework is highly flexible and developed on a band-by-band basis where we have decided to make AWLs available. This facilitates the optimisation of the licence type's use in particular bands through different approaches to licence duration, renewal policy, pricing and technical arrangements.

AWLs have the same characteristics as other apparatus licences but share some characteristics with spectrum licences in that they are not site specific but require registration of devices used under the licence. As they are apparatus licences, there are fewer legislative impediments (compared to spectrum licences) to our ability to re-allocate the spectrum used by AWLs, to vary AWLs or to issue subsequent licences to other users. This may make AWLs suitable in scenarios where the adaptability of spectrum licences is desired, while still retaining the broader planning flexibility of apparatus licensing arrangements.

While AWLs may be suited to our standard approach to apparatus licence issue, we have used application-window approaches to their allocation and issue, and will likely continue to do so. Due to the potential level of geographic granularity open to be included in an AWL in some bands (for example, singular 500 m x 500 m cells), AWLs may not necessarily be suited to market allocation in all bands, as a resulting Australia-wide auction would be inherently complex. However, this varies on a band-by-band basis and decisions related to the potential geographic size and availability of AWLs.

Similar to service-specific apparatus licensing, in selecting AWL arrangements for a band, we require a degree of confidence that the selected arrangements will continue to promote the long-term public interest throughout the licence's term. Unlike service-specific apparatus licences, transfer of AWLs can result in changes of both user and use and thus provides more utility in ensuring spectrum continues to promote the long-term public interest.

Broadcasting transmitter licences

Broadcasting transmitter licences are apparatus licences that authorise the operation of transmitters to provide broadcasting services. They include licences issued under section 101A (to holders of temporary community broadcasting licences), section 102 (to holders of commercial and long-term community broadcasting licences) and section 100 (National Broadcasting Service (NBS) transmitter licences and licences used to provide open narrowcasting services (narrowcasting transmitter licences)).

Under the Act and the BSA, the licensing arrangements for commercial and community broadcasting services effectively limit the duration of the transmitter licences to 5 years. The Act allows us to issue NBS transmitter and narrowcasting licences for up to 20 years. Narrowcasting licence terms are constrained by the period determined under section 34 of the BSA, which is usually 5 years.⁸

We generally issue NBS transmitter licences and narrowcasting transmitter licences for up to 5 years, not exceeding the periods determined under section 34 of the BSA. This approach for NBS and narrowcasting transmitter licences aligns with the licensing arrangements for commercial and community broadcasting services. It preserves planning flexibility to continue the process of AM to FM conversions and allows the technical specification of licences to change when necessary due to, for example, changes in transmitter site location or broadcasting site infrastructure affecting a number of co-sited services.

The Act also allows us to include renewal and public interest statements in NBS and narrowcasting transmitter licences. Consistent with other apparatus licences, these renewal statements may either indicate that a licence must not be renewed or can be renewed at our discretion so long as specified circumstances exist. Public interest statements may only be included in apparatus licences that include such a renewal statement.

The Act also requires us to apply a public interest evaluation when considering renewing a NBS or narrowcasting transmitter licence with a new licence term of 10 years or longer, regardless of whether the licence includes a public interest statement. In applying a public interest evaluation, we would consider the matters described in the 'Long-term public interest and renewal' section later in this paper. Noting that we do not intend to issue NBS or narrowcasting transmitter licences for longer than 5 years, we will generally not be required to undertake a public interest evaluation when considering whether to renew either kind of licence.

Consistent with the intent to not alter the licensing and allocation arrangements that apply to broadcasting transmitter licences, we generally do not intend to include a renewal statement in NBS or narrowcasting transmitter licences.

Apparatus licences of a non-specified type

We may determine, via legislative instrument, the types of transmitter licences and the types of receiver licences that we may issue.

Subsection 98(2) of the Act provides that we may issue an apparatus licence that is not of a type specified in such a determination.

We rely principally on the existing apparatus licence types as these are useful in creating familiar licensing products for a wide market, along with standardised pricing arrangements. However, the power to issue an apparatus licence of a non-specified type provides flexibility to license devices that may not otherwise neatly fit into the existing service-specific apparatus licensing frameworks.

We only intend to issue apparatus licences of a non-specified type on a limited basis, such as one-off use-cases that cannot be licensed under the existing service types.

⁸ Additionally, the [Australian Communications Authority \(HPON Transmitter Licences\) Direction No. 1 of 2001](#) requires that, where the ACMA decides to renew a HPON licence, it must specify a licence term that ends at the same time as the period specified under the relevant section 34 determination, or the relevant part of that determination. This direction also requires that the ACMA must not refuse to renew the licence because of a policy to allocate HPONs via a price-based allocation process.

While general taxation and charging arrangements are currently available for unspecified apparatus licence types, we will consider the applicable apparatus licence taxes and any administrative charges reflecting the particular circumstances of the requested spectrum use and will consult with prospective licensees.

When class licensing is appropriate

Class licences provide for shared use of the spectrum, with minimal to no licensing hurdles and no associated licensing fees for users. In other jurisdictions, this kind of licence is sometimes referred to as 'unlicensed use' or a 'general authorisation'.

As the general authorisation means that users do not need to acquire individual licences to operate a device, class licensing is useful in authorising the use of spectrum by users of ubiquitous devices and technologies (for example, wi-fi).

Coexistence between devices authorised under a class licence is generally based on the device characteristics and is managed in the class licence conditions. Although a device operated under a class licence is generally not expected to experience interference, we generally have a 'no protection' policy for class licensing.

It is uncommon for us to clear established users from class-licensed spectrum. However, we have previously varied class licences to reflect changes in the environment or developments in technology by providing additional uses or varied operating conditions.

Consulting about the form of licence category

We conduct extensive consultation to inform the design of planning, licensing and allocation arrangements that will support the deployment of new communications technologies and meet the needs of spectrum users. Our FYSO work program identifies relevant planning and licensing consultation opportunities.

Licence tenure

Summary

We can issue spectrum and apparatus licences for up to 20 years.

We tailor licensing arrangements depending on the investment security requirements of licensees and current and planned use/s of spectrum.

Use-cases inform 3 licence term arrangements:

- > long term (10 to 20 years)
- > medium term (one year to less than 10 years)
- > short term (up to one year).

Legislative provisions

Subsection 65(3) of the Act enables the ACMA to issue spectrum licences with a licence term of up to 20 years.

Subsection 103(3) of the Act enables the ACMA to issue most apparatus licences with a licence term of up to 20 years.

Licence tenure – duration and renewal arrangements – is a key tool in our ability to balance the provision of investment and service predictability to licensees, with our ability to efficiently manage the spectrum through replanning, allocation and re-allocation to promote the long-term public interest.

As a general consideration, in making decisions on licence duration and renewal arrangements, we are seeking to balance both support for changes in spectrum use and changes in spectrum users over time. This is achieved by replanning spectrum for new uses and enabling changes in licence holdings. Predictability of regulatory decision-making supports confidence in investment by spectrum users.

We can issue both spectrum and apparatus licences for up to 20 years. The flexibility to issue licences with longer terms balances the benefits that longer licence durations can provide in some cases (such as greater investment confidence) with the need to retain the flexibility in spectrum management and planning processes that is more readily provided by shorter licence durations.

We facilitate use-cases through 3 licence term arrangements:

- > long term (10 to 20 years)
- > medium term (one year to less than 10 years)
- > short term (up to one year).

Long-term licence duration (10 to 20 years)

Long-term licensing provides significant investment security to licensees and the ability to amortise major investments in spectrum and infrastructure.

When considering whether a long-term licence duration is appropriate, we balance the following factors:

- whether the maximum licence term supports security for a return on investment for a licensee

- if there is a high degree of international harmonisation in the band
- if it is unlikely that the spectrum will need to be replanned for an alternative use.

These factors may contribute towards a higher degree of confidence that the use of the band will promote the long-term public interest derived from the use of the spectrum and will not substantively change during the term of the licence. We usually issue spectrum licences for the full 20-year period if we decide long-term licensing is appropriate. We allocated spectrum licences for the maximum permitted under the Act in the 850/900 MHz and 26 GHz bands in 2021, and in the 3.7 GHz band in 2023.

However, we may issue licences with shorter terms when shorter durations provide planning and policy utility by aligning expiry dates of multiple licences across a band or adjacent bands, or otherwise facilitating processes such as re-allocation or restacking. For example, licences allocated in the 3.4–3.575 GHz frequency range as a result of the 3.4/3.7 GHz band allocation process in 2023 are for a period ending on 13 December 2030 to align with licences in the adjacent band.

We note that in the Australian context, long-term apparatus licensing is a novel concept and, for many existing apparatus licensees, may not suit their business needs. However, subject to the factors outlined, we are open to considering the suitability of long-term licence duration for apparatus licences.

Renewal

Licence renewal also provides an opportunity for existing licensees to request a long-term licence.

For existing spectrum licences that are due to expire between 2028 and 2032, we will seek stakeholder views on the appropriate licence duration as part of stage 3 of the expiring spectrum licence process.⁹ For spectrum licences that expire in the future, we will consider licence duration as part of their expiring spectrum licence processes.

For existing apparatus licences, we send a validation notice to licensees 90 days before the licence expires to ensure licensee and licence details are correct. It would be open to licensees to apply for renewal of their licence with a long duration as part of this process. However, noting the range of considerations involved in a decision to issue a long-term apparatus licence, we prefer that licensees apply to renew their long-duration licence 6 months before the licence expires, or at the start of the renewal application period (if the licence has one).

There may be cases where the spectrum management implications of long-duration licences are such that the timeline may not be achievable. For example, we may need to research the extent to which long-duration licensing is suitable in the context of band planning arrangements. In this case, we will consult publicly, enabling the views of all relevant stakeholders to inform our approach.

We note that renewal of any existing spectrum or apparatus licence resulting in a new licence with a licence term of 10 years or longer would be subject to a public interest evaluation.

⁹ [Expiring spectrum licences | ACMA](#).

Medium-term licence duration (one to less than 10 years)

We define medium-term licensing arrangements as those involving a period from one year up to (but not including) 10 years.

Medium-term licensing is suitable for a wide range of spectrum use-cases, investment cycles and budget conditions. Many apparatus licensees benefit from the flexibility provided by annual licensing. The large majority of medium-term apparatus licences are issued for one year.

In issuing licences for longer periods, we need a certain level of confidence that the licensed use of the spectrum will continue to promote the long-term public interest derived from the spectrum.

When making medium-term licensing available in bands, we consider the following factors:

- whether there is a high degree of international harmonisation
- whether there is low likelihood of spectrum moving to an alternative use
- whether the process is a new allocation of licences where licensees would be seeking an appropriate licence duration to maximise investment confidence, but where concerns about licence under-use might restrict our willingness to issue licences of long-term duration.

We may, in certain circumstances, manage the duration of licences in the band to ensure licences terminate at a common point to facilitate planning decisions, such as re-allocation. For example, as potential replanning activity may occur at the expiry of spectrum licences in 3.4 GHz and 3.6 GHz bands in 2030, we have decided generally to limit the tenure of AWLs in the 3.4–4.0 GHz band in remote areas to align with the expiry of spectrum licences within the band and provide greater flexibility in replanning activities affecting the band. Aligning the expiry of AWLs with the expiry of spectrum licences in the same band supports the efficient future allocation of spectrum.

Renewal

Licence renewal also provides an opportunity for existing licensees to apply for renewal of their licence with a longer term. For existing apparatus licences, we send a validation notice to licensees 90 days before licence expiry to ensure all details are correct and to enable the licensee to request to vary any licence conditions. We then send a renewal notice 40 days before the licence is due to expire. Licensees can apply for a renewed licence with a longer duration as part of this process.

Short-term licence duration (up to one year)

Short-term licences are suitable to authorise use-cases that are anticipated to be temporary or short term (for example, special events and technology trials).

We consider short-term apparatus licences on request to provide flexibility for licensees.

Some licensees require the flexibility of very short-term licences. In these cases, the ACMA will generally renew such licences for no less than 3 months.

Renewal

We send a validation notice 90 days before licence expiry to ensure all details are correct and enable the licensee to request to vary any licence conditions. We then send a renewal notice 40 days before the licence is due to expire.

Consulting about licence tenure

Long-term and /or medium-term licensing options and availability in a particular band for new licences will be considered as part of specific band consultations. Spectrum planning activities that may affect the conditions of significant numbers of licensees in a band, as well as proposed allocation processes, will be identified in the FYSO work program, noting the relevant planning and licensing activity.

Payment arrangements

Summary

The aligned maximum durations for spectrum and apparatus licences and their differing payment arrangements may create inefficiencies in the spectrum management framework by distorting demand between licence categories.

Apparatus licensees can typically elect to pay apparatus licence taxes upfront or by instalment, whereas spectrum licensees are typically expected to pay spectrum access charges upfront, and an annual spectrum licence tax.

We may determine, by legislative instrument, whether an apparatus licensee must pay by instalments or upfront, which can support equalisation of payment arrangements for different licence types.

Legislative provisions

Subsection 6(1C) of the *Radiocommunications (Transmitter Licence Tax) Act 1983* (the Transmitter Licence Tax Act) and subsection 6(1B) of the *Radiocommunications (Receiver Licence Tax) Act 1983* (the Receiver Licence Tax Act) enable the ACMA to determine one or more classes of transmitter or receiver licence for the purposes of imposing tax at licence issue for the duration of the licence's term (that is, full payment upfront) via a legislative instrument.

Subsection 6(1E) of the Transmitter Licence Tax Act and subsection 6(1D) of the Receiver Licence Tax Act enable the ACMA to determine one or more classes of transmitter or receiver licence for the purposes of imposing tax at licence issue and on the anniversary of the day the licence came into force for the duration of the licence's term (that is, payment by annual instalment) via a legislative instrument.

Subsection 6(4) of the Transmitter Licence Tax Act and subsection 6(4) of the Receiver Licence Tax Act, enable apparatus licensees to nominate whether to pay tax by instalment or entirely upfront if the relevant transmitter or receiver licence is not covered by any of the determinations mentioned above. If the apparatus licensee nominates to pay tax by instalment, subsection 5(5) of the Transmitter Licence Tax Act and subsection 6(5) of the Receiver Licence Tax Act enable apparatus licensees to change their nomination and pay the remaining amount of tax in one lump sum.

Section 294 of the Act enables the ACMA to determine spectrum access charges for spectrum licences, and the times when they are payable, such as specific timings for instalment payments.

The *Radiocommunications (Spectrum Licence Tax) Act 1997* imposes annual tax on the holder of a spectrum licence.

Equal maximum durations for different licence categories

Apparatus licensees have typically been able to elect to pay apparatus licence taxes for multi-year licences either entirely upfront or by annual instalments, while spectrum licensees have typically been required to pay their spectrum access charge upfront and must pay their spectrum licence tax annually.

With the alignment of the maximum duration of spectrum licences and apparatus licences (that is, up to 20 years), different timing (upfront versus instalments) for the applicable charges and taxes has the potential to introduce inefficiencies in the

spectrum management framework. The flexibility to pay apparatus licence taxes upfront or by instalments could distort demand between apparatus licences and spectrum licences, as we have a strong preference for upfront payment of spectrum access charges for spectrum licences (as per Recommendation 6 of the [Spectrum Pricing Review](#) regarding payment of spectrum access charges determined by auction).

Payment arrangements for apparatus licences

The Transmitter Licence Tax Act and Receiver Licence Tax Act enable us to determine classes of transmitter or receiver licences for which the relevant taxes across multi-year licence durations are required to be paid entirely upfront or by annual instalments.

Making such determinations can provide some parity in the administration of pricing between spectrum and apparatus licences. We are inclined to consider applying upfront payment arrangements for longer-duration apparatus licences, particularly where it fits within our broader planning decisions affecting a band, such as to facilitate a new major allocation within a band. This type of treatment of apparatus licence taxes aligns with our strong preference for upfront payment of spectrum access charges for spectrum licences.

To date, we have not made such determinations for apparatus licence taxes, so licensees can continue to elect to pay apparatus licence taxes upfront or by instalments.

Consulting about payment arrangements

Making a determination specifying types of transmitter or receiver licences for which the relevant taxes must be paid either upfront or by instalment would be subject to our normal consultation processes and identified in the FYSO work program.

Renewal statements

Summary

Under the Act, all spectrum licences, and apparatus licences decided by the ACMA, include a renewal statement that sets out whether, and under what circumstances, a licence can be renewed.

Renewal statements are intended to provide greater transparency and predictability for licensees around timeframes and the prospect of renewal of their licence. Renewal statements also help us communicate our expectations or requirements for the renewal of licences.

A renewal statement provides certainty to the licensee that:

- the licence cannot be renewed, or
- for **spectrum licences only**, the licence can be renewed at the discretion of the ACMA,¹⁰ or
- the licence can be renewed at the discretion of the ACMA so long as specified circumstances exist.

We may include a statement in a licence stating that we will not renew a licence unless we are satisfied that it is in the public interest to do so:

- > for spectrum licences – we may include a public interest statement when a licence has been issued with a renewal statement stating that the licence may be renewed either at our discretion or at our discretion when specified circumstances exist
- > for apparatus licences – we may only include a public interest statement for licences with a renewal statement stating that we may renew at our discretion as long as specified circumstances exist.

Legislative provisions

Spectrum licences

Subsections 65A(1) and (2) of the Act provide that spectrum licences must include a renewal statement to the effect that the licence:

- cannot be renewed
- can be renewed at the discretion of the ACMA
- can be renewed at the discretion of the ACMA so long as specified circumstances exist.

Subsection 65A(5) of the Act allows the ACMA to make a legislative instrument to determine that a specified class of spectrum licences is taken to include a renewal statement to the effect that the licence:

- cannot be renewed
- can be renewed at the discretion of the ACMA
- can be renewed at the discretion of the ACMA so long as specified circumstances exist.

¹⁰ Per section 103A of the Act, where a renewal statement is included in an apparatus licence that states that renewal is at the ACMA's discretion, we must specify the circumstances that must exist for renewal to be considered. If no renewal statement is included in an apparatus licence, renewal is at the ACMA's discretion.

Subsection 65A(10) of the Act provides that if a renewal statement allows a spectrum licence to be renewed, the licence must also include a statement that specifies when an application to renew the licence must be submitted. This statement is known as a renewal application period statement.

Subsection 65A(12) of the Act allows the ACMA to make a legislative instrument to determine that a specified renewal application period applies to every licence belonging to a specified class of spectrum licences.

Subsection 65A(17) of the Act provides that the ACMA may include a statement in a spectrum licence stating that it will not renew a licence unless it is satisfied that it is in the public interest to do so. This statement is known as a public interest statement.

Subsection 65A(19) of the Act allows the ACMA to make a legislative instrument to determine that a public interest statement is taken to be included in every licence belonging to a specified class of spectrum licences.

Subsection 72(3) of the Act provides that the ACMA may, with the written agreement of the spectrum licensee vary the licence by:

- varying the renewal statement included in the licence; or
- omitting the renewal statement and substituting it with another renewal statement; or
- varying the renewal application period statement included in the licence; or
- omitting the public interest statement included in the licence; or
- omitting the renewal decision-making period statement included in the licence; or
- varying the renewal decision-making period statement included in the licence.

Subsection 73(3) of the Act provides that if a spectrum licence includes a renewal statement that the licence may be renewed at the discretion of the ACMA so long as specified circumstances exist, the ACMA may, without the licensee's agreement, vary the licence by:

- varying those circumstances; or
- omitting the renewal statement and substituting another statement that the licence may be renewed at the discretion of the ACMA so long as specified circumstances exist.

However, subsection 73(4) provides the ACMA may only do so if it is satisfied that exceptional circumstances exist that warrant the variation.

Subsection 77A(3) of the Act provides that if there is no renewal application period for the licence, the renewal application must be made within the 2-year period ending when the licence is due to expire.

Apparatus licences

Subsection 103A(1) of the Act provides that apparatus licences may include a renewal statement to the effect that the licence:

- cannot be renewed
- may be renewed at the discretion of the ACMA so long as specified circumstances exist.

Subsection 103A(5) of the Act allows the ACMA to make a legislative instrument to determine that a specified class of apparatus licences is taken to include a renewal statement to the effect that the licence:

- cannot be renewed
- can be renewed at the discretion of the ACMA so long as specified circumstances exist.

Subsection 103A(10) of the Act provides that if a renewal statement allows an apparatus licence to be renewed, the licence must also include a statement which specifies when an application to renew the licence must be submitted. This statement is known as a renewal application period statement.

Subsection 103A(12) of the Act allows the ACMA to make a legislative instrument to determine that a renewal application period is taken to be included in every licence belonging to a specified class of apparatus licences.

Subsection 103A(15) of the Act provides that the ACMA may include a statement in an apparatus licence stating that it will not renew a licence unless it is satisfied that it is in the public interest to do so. This statement is known as a public interest statement.

Subsection 103A(17) of the Act allows the ACMA to make a legislative instrument to determine that a public interest statement is taken to be included in every licence belonging to a specified class of apparatus licences.

Subsection 103A(19) of the Act provides that section 103A does not apply to a transmitter licence issued under section 101A or 102 of the Act or a digital radio multiplex transmitter licence.

Subsection 103A(20) of the Act provides that subsections 103A(5) and (17) do not apply to apparatus licences issued before the commencement of this section.

Subsections 129(1), (2) and (3) of the Act allow an apparatus licensee to apply to have their licence renewed within the specified renewal application period. If there is no renewal application period specified in the licence, then the application must be made in the period beginning 6 months before the licence is due to expire and ending 60 days after the licence expires.

Issuing non-renewable licences

We can issue a spectrum or apparatus licence with a renewal statement to the effect that the licence cannot be renewed. We can also make a legislative instrument to determine that a specified class of spectrum or apparatus licence must be issued with a renewal statement that precludes the licence from being renewed.

Determining that a licence is non-renewable

Circumstances in which a licence is deemed non-renewable from the outset will generally arise when an alternative future use for the relevant spectrum has already been established by our spectrum planning process. Non-renewable licences may also be issued for a specified short-term purpose such as a special event.

Setting specified circumstances for renewal decision

We can issue spectrum or apparatus licences with a renewal statement to the effect that the licence can only be renewed at our discretion so long as specified circumstances exist. We can also make a legislative instrument to determine that a specified class of spectrum or apparatus licences must be issued with a renewal

statement that sets out specified circumstances that must exist before we can exercise our discretion to renew the licence.

If the specified circumstances exist at the time of renewal, renewal of the licence is at our discretion (that is, meeting the specified circumstances for renewal does not guarantee renewal). In this sense, the circumstances specified on a renewal statement serve as qualifying conditions that must be fulfilled before we can consider whether to renew a licence.

By communicating these circumstances from the outset, a renewal statement offers licensees more transparency and better predictability about the long-term prospects of their spectrum holdings.

Specified circumstances require an objective set of circumstances to be outlined at the time a licence is issued. If a licence includes a renewal statement setting out that renewal is at our discretion, subject to specified circumstances existing, we must be satisfied that the specified circumstances have been met before renewing the relevant licence.

The relevant circumstances are likely to be both spectrum band use and licence-specific, and will be informed by relevant policy objectives, including MPSs that are applicable to the initial licence issue. As such circumstances are highly specific, we expect that specified circumstances on a renewal statement will be rarely used.

Additionally, section 77C of the Act sets out matters that we may have regard to as well as matters we must consider when deciding to renew a spectrum licence. Renewal in specified circumstances will also need to be considered in the context of any public interest evaluation, which applies to licences where the renewal period contemplated is 10 years or longer, or if the licence also includes a public interest statement.

Including renewal statements in spectrum licences

Under section 65A of the Act, every spectrum licence must be issued with a renewal statement to the effect that the licence cannot be renewed, can be renewed at our discretion, or can be renewed at our discretion so long as specified circumstances exist. We have the power to make a legislative instrument to determine that a specified class of spectrum licences are taken to include a common renewal statement. If a spectrum licence has been issued with an individual renewal statement, that statement will override any other statement that would apply under a legislative instrument made for that class of spectrum licences.

We will undertake both targeted and public consultation before making a legislative instrument to determine that a common renewal statement applies to a specified class of spectrum licences.

However, we are required to include renewal statements in any spectrum licence that is renewed after the commencement of the relevant sections of the Modernisation Act.

We generally adopt the default position to include renewal statements in spectrum licences that they will be renewable at our discretion. This arrangement takes into account the anticipated long tenures of spectrum licences and the prospect that technological advancements and market evolutions may influence changes in spectrum demand and efficiency across the licence tenure.

Discretion to renew spectrum licences grants us the flexibility near the end of a licence term to assess the long-term public interest use of the spectrum to determine whether

it is most beneficial to renew the licence, return the spectrum to the market or reserve the spectrum for future use (or to manage interference issues). For example, we may decide not to renew a spectrum licence so we can reconfigure or restack a band, or to test the market to ensure that use of the spectrum continues to promote the long-term public interest derived from the spectrum.

In some rare instances, it may be appropriate to specify circumstances that must be met for renewal to be considered. For example, we may only consider renewing a licence if the licensee has met a specified obligation during the licence tenure. By communicating the circumstances that must exist for renewal to be considered, we can provide additional transparency around our decision-making process, and give licensees the tools to assess the likelihood of a future renewal.

Including renewal statements in apparatus licences

Under section 103A of the Act, we have the power to issue apparatus licences with a renewal statement to the effect that the licence cannot be renewed or that it can be renewed at our discretion under specified circumstances. We also have the power to make a legislative instrument to determine that a specified class of apparatus licences is taken to be issued with a certain renewal statement. However, if an individual apparatus licence has been issued with a bespoke renewal statement, that statement will override any other renewal statements that might have applied under a legislative instrument made for that class of apparatus licences.

We do not include renewal statements in most apparatus licences. Our practice is to generally renew licences unless there are particular circumstances that makes renewal inappropriate, such as replanning activities.

We may include renewal statements in some licences to the effect that the licence may not be renewed so as to facilitate spectrum planning processes, or for licences for specified short-term purposes where renewal is inappropriate.

In some rare instances, it may be appropriate to specify circumstances that must be met for renewal to be considered. We expect this to be limited to certain long-term apparatus licences. For example, we may only consider whether to renew a licence if the licensee has met a specified obligation during the licence tenure. By communicating the circumstances that must exist for renewal to be considered, we can provide additional transparency around our decision-making process, and give licensees the information to assess the likelihood of a future renewal.

Varying a renewal statement

We can vary a renewal statement.¹¹ For spectrum licences, we must generally obtain the licensee's agreement before varying a renewal statement.¹² For apparatus licences, we may add, remove (without necessarily replacing), or vary a renewal statement included in a licence with or without the consent of the licensee.¹³

A decision to vary a renewal statement in an apparatus licence or, where permitted, in a spectrum licence, without the agreement of the licensee is a reviewable decision under the Act.¹⁴

¹¹ See sections 72 and 73 of the Act about varying renewal statements included in spectrum licences, and sections 103B and 103C of the Act about varying renewal statements included in apparatus licences.

¹² See subsection 72(3) of the Act.

¹³ See subsections 103B(1) and 103C(1) of the Act.

¹⁴ See paragraphs 285(a) and (ec) of the Act.

Generally, variations to apparatus licence renewal statements would occur as part of a broader update to the planning and technical arrangements for a part of the spectrum, as set out in a RALI.¹⁵ Changes to RALIs are usually the subject of consultation, thus providing apparatus licensees greater transparency in the reasons for the change, as well as an opportunity for affected licensees to inform consideration of any change.

Including public interest statements

We can include a statement in a licence stating that we will not renew a licence unless we are satisfied that it is in the public interest to do so. This statement is known as a public interest statement.

For spectrum licences, we may include a public interest statement when a licence has been issued with a renewal statement that the licence may be renewed either at our discretion or at our discretion when specified circumstances exist.¹⁶

For apparatus licences, we may include a public interest statement for licences with a renewal statement that we may renew at our discretion as long as specified circumstances exist.¹⁷

Long-term public interest and renewal

To promote the long-term public interest derived from the use of spectrum, we must be satisfied that it is in the public interest to renew certain licences, including:

- if the licence term for the renewed spectrum or apparatus licence is to be 10 years or longer;¹⁸ or
- if the relevant licence includes a public interest statement.

If a licensee applies for renewal of a spectrum licence for 10 years or longer that does not include a public interest statement (for example, spectrum licences issued before the relevant parts of the Modernisation Act came into effect), we will have to determine whether renewal of that licence for that period is in the long-term public interest.

If a licence includes a public interest statement and is to be renewed for less than 10 years, we will also have to determine whether renewal of that licence is in the long-term public interest.

We have broad discretion to renew licences and, in some circumstances, even where no public interest statement applies to the licence, it may be appropriate to seek the views of parties other than the licensee to assist in determining whether renewal of a licence is appropriate and in the public interest.

It is essential that we have access to the right information to inform our decision-making. To that end, we can request information under subsection 77A(4), subsection 129(4) and Part 5.5A of the Act from licensees about their current and planned future uses of the spectrum,¹⁹ and gather information needed as part of the licence renewal process through application forms.

¹⁵ Radiocommunications assignment and licensing instructions (RALIs) contain the ACMA's policies on licence and frequency coordination between services in a band.

¹⁶ See section 65A of the Act.

¹⁷ See section 103A of the Act.

¹⁸ See subsection 77C(5) of the Act in relation to spectrum licences and subsection 130(2E) of the Act in relation to apparatus licences.

¹⁹ The Act enables the ACMA to make instruments specifying such information (if any) that must accompany an application to renew an apparatus or spectrum licence (for example, see section 77A and section 129 of

The public interest evaluation is designed to determine whether renewal of a licence will promote the long-term public interest. It is a tool for us to analyse the potential benefits that renewal of a licence may offer.

It is our intent that the public interest process would generally begin 5 years before licence expiry for long-term licences, and 2 years before for medium-term licences, although it may occur earlier for some licences if a joint consultation process across one or more bands is appropriate. In such cases, we will highlight our proposed approach in our FYSO work program.

If public interest evaluations are required (that is, licences that include public interest statements and licences to be renewed for 10 years or longer), we may undertake a public consultation process inviting stakeholders to make submissions on matters we should consider in evaluating whether the renewal of the relevant licences is in the public interest.

For example, following public consultation in 2023, we identified 5 public interest criteria that will be used to inform our consideration for spectrum licences due to expire between 2028 and 2032. We subsequently sought submissions in March 2024 from incumbent and prospective licensees about how their current and future use of the spectrum promoted the long-term public interest with reference to the criteria. Information gathered through that process will be used to inform our preliminary views on arrangements that promote the long-term public interest for the relevant frequency bands, such as whether renewal of licences within a band is within the public interest, noting that any decisions about renewal will be made on their merits. We intend to consult on these preliminary views of the public interest to provide stakeholders an opportunity to make further submissions.²⁰

Renewal application period and renewal decision-making period

Renewal application periods must be set for every licence with a renewal statement to the effect that a licence may be renewed. This is called the renewal application period statement.

For spectrum licences with a renewal statement to the effect that the licence may be renewed, we may also include a renewal decision-making period statement, which sets a different period within which we may decide whether to renew the licence.²¹

Default periods

For licences without a renewal statement, there are default renewal application periods. For spectrum licences without a renewal application period statement (those licences issued before the commencement of the relevant provisions of the Modernisation Act or issued in accordance with a marketing plan prepared before the commencement), the default renewal application period is 2 years before the licence expires. For apparatus licences without a renewal application period statement, the application for renewal must be made within 6 months before expiry and 60 days after the licence expires.

the Act). The Act also enables the ACMA to seek further information from applicants in connection with their application to renew an apparatus or spectrum licence (for example, see section 77B and section 129A of the Act). Part 5.5A of the Act sets out broader information gathering powers of the ACMA.

²⁰ [Expiring spectrum licences | ACMA](#).

²¹ See subsection 65A(15) of the Act.

The Act generally specifies the period in which to decide to renew a licence. This is called the renewal decision-making period.

For spectrum licences, we must decide whether to renew a licence within 6 months of receiving an application.²² If we seek additional information from the licensee within the initial 6 month period, we must decide on renewal within 6 months of receiving the additional information.²³ If a decision is not made within the timeframes specified in the legislation, we will be taken to have made a decision to refuse the application, which is a reviewable decision.

For apparatus licences, we must decide whether to renew a licence within 90 days of receiving an application.²⁴ If we seek additional information from the licensee within the initial 90-day period, we must decide on renewal within 90 days of receiving the additional information.²⁵ If a decision is not made within the timeframes specified in the legislation, we will be taken to have decided to refuse the application, which is a reviewable decision.

Our approach

We expect to undertake the activity associated with consideration of licence renewal well in advance of the renewal decision-making period, particularly for long-term licences. This may even be before the time when the licensee can apply for renewal.

In the case of long-term licences, we expect that we would begin public and direct consultation processes for renewal 5 years before the licence expires. Broadly, these processes include determining the matters we would consider in assessing whether renewal is in the public interest, and determining the likely duration, renewal statements and conditions of any renewed licence, and the taxes and charges payable. There may also be instances when, due to licences expiring in consecutive years, we may undertake joint consideration processes that would begin 5 years from the earliest expiry date of the licences considered. These processes would be identified in our FYSO work program.

In all cases, we would expect holders of long- and medium-term licences would apply for renewal at the beginning of the renewal application period. Subject to any renewal decision-making period statement in the licence, this would enable us to decide on renewal well ahead of expiry, providing clarity to licensees over their future arrangements.

For long-term apparatus licences, as most apparatus licences do not include renewal statements, the default renewal application period as specified in the Act applies. However, we would still begin considering renewal well ahead of expiry, conducting a similar process to that for spectrum licences. We expect that we would also begin this process 5 years from expiry.

For apparatus licences of less than 10 years, including shorter duration licences of up to one year and medium-term licences of one to 10 years, the default renewal period will apply, unless the licence contains a renewal statement to the effect that the licence may be renewed in specified circumstances.

²² See subsection 286(6) of the Act.

²³ See paragraph 286(6)(b) of the Act.

²⁴ See paragraph 286(1)(a) of the Act.

²⁵ See paragraph 286(1)(aa) of the Act.

Consulting about renewal statements and public interest statements

We consult with stakeholders about the collective inclusion and content of renewal statements, renewal application period statements, renewal decision-making statements and public interest statements at different times, depending on the relevant scenario.

For parts of the spectrum where we intend a large group of licences to have common statements, such as a statement setting out that a licence may not be renewed to facilitate a planning activity or to otherwise ensure consistent conditions across licensees, we would consider making a legislative instrument requiring specified licences to include that statement. Making such an instrument would generally require public consultation with stakeholders and would likely occur in connection with a consultation for the planning arrangements for a band.

For new spectrum licence allocations, we will consult with stakeholders about the details of renewal statements when we consult on allocation instruments (that is, the marketing plan, which generally includes a draft spectrum licence for the relevant band).

In designing renewal statements, we would consider the appropriate amount of time for the overall renewal process to be completed (for example, public and direct consultation) and to facilitate options should licences not be renewed, but also balance against providing clarity on renewal well ahead of licence expiry.

For existing spectrum licences, we will undertake consultation about including the statements as part of the renewal process.

For existing apparatus licences where including the statements is appropriate, we may also undertake consultation concerning renewal statements at renewal.

For decisions on renewal of licences in a particular band, we expect to undertake a public consultation process on matters we should consider in evaluating whether the renewal of the relevant licences is in the public interest.

We may also consult directly with licensees on an ad-hoc basis as required.

Spectrum allocation and re-allocation

Summary

The Act provides the ACMA with powers to decide on allocation and re-allocation processes:

- **Unencumbered spectrum** – we may make unencumbered spectrum available for spectrum licensing.
- **Direct allocation** – we may directly allocate a spectrum licence.
- **Re-allocating encumbered spectrum** – we may re-allocate parts of the spectrum, by issuing spectrum or apparatus licences (or both), or by using renewal statements and licence terms to manage changes in band use or licensees.
- **Allocation limits** – we may determine aggregate limits on parts of the spectrum that may be used by a person (or group of persons) as a result of an allocation process.

Legislative provisions

Sections 39 and 39A of the Act enable the ACMA to make a marketing plan for issuing spectrum licences, in both unencumbered and encumbered spectrum.

For encumbered spectrum, Part 3.6 of the Act enables the ACMA to clear the spectrum and issue spectrum licences, apparatus licences, or a combination of both, in a re-allocation process.

Division 1 of Part 3.2 of the Act governs the issuing of spectrum licences. This includes the ACMA's power to determine procedures to allocate spectrum licences, including setting allocation limits.

Division 2 of Part 3.3 of the Act governs the issuing of apparatus licences. The ACMA may issue apparatus licences under section 100 or conduct a price-based allocation of transmitter licences under section 106.

Allocating spectrum licences in unencumbered spectrum

We may prepare a marketing plan for any part of the spectrum where no apparatus licence or spectrum licence is in effect (or where an apparatus licence is in effect and the marketing plan provides for direct allocation of a spectrum licence to the apparatus licensee), and issue spectrum licences via various allocation methods. If we decide to allocate spectrum licences, we must make an allocation determination outlining the procedures that the ACMA will follow to issue the licences.

Once a marketing plan is made, no apparatus licences can be issued in the same spectrum as the spectrum identified for spectrum licensing in the marketing plan, unless an exception under subsection 105(3) of the Act applies.

Allocating apparatus and/or spectrum licences in encumbered spectrum

The ACMA has the power to declare a spectrum band for re-allocation by issuing spectrum licences, apparatus licences, or a combination of both. This means that the band is cleared of incumbent apparatus licensees at a set date (the end of the re-allocation period). The ACMA must also allocate at least one new licence before a set date (the re-allocation deadline).

The power to re-allocate spectrum provides flexibility to our planning processes. We may use this power when we are re-evaluating the planning arrangements in the band. Declaring a band for re-allocation enables us to facilitate a change in the use of the spectrum, where we assess that it is in the long-term public interest to do so. Further information about how we identify the appropriate licensing arrangements within a band is earlier in this paper.

Once a band has been declared for re-allocation, no apparatus licences can be issued in the declared parts of the spectrum, unless an exception under section 153P of the Act applies.

A spectrum re-allocation declaration must set out:

- the re-allocation period
- the re-allocation deadline
- the parts of the spectrum to be re-allocated and the areas in which it is to be re-allocated
- whether the spectrum will be re-allocated by the issue of spectrum licences or apparatus licences.

The minimum re-allocation period is one year.

When setting a re-allocation period, we consider the degree of incumbency in the band. For example, if there are incumbent licensees with extensively deployed infrastructure, or if there are few alternatives to the spectrum in question, a short re-allocation period may not be appropriate. Given the impacts that re-allocation has on incumbent licensees, we consult with incumbent licensees if we are considering a re-allocation process.

We also expect, where possible, to work with incumbent licensees whose apparatus licences will be cancelled at the end of a re-allocation period to identify alternative spectrum arrangements. Noting potential long duration apparatus licences, licensees whose licences are cancelled prior to their expiration date may be entitled to a pro-rata refund of the tax paid on the licence.²⁶

Licence allocation procedures

The ACMA has a range of powers under the Act to set procedures for allocating spectrum. We aim to design allocation settings to promote the long-term public interest derived from the use of the spectrum.

Spectrum licence allocations

If the ACMA is issuing spectrum licences, then the ACMA must determine procedures in accordance with section 60 of the Act. We may only issue spectrum licences by

²⁶ Pursuant to subsection 6(4) of the Radiocommunications Taxes Collection Regulations 2023, if the amount to be refunded on cancellation of a licence is less than \$41, the amount is not payable.

auction, tender, allocation for a pre-determined or negotiated price, or by conducting a direct allocation.

If an auction is to be held, the ACMA may set procedures to advertise the auction, an entry fee for prospective participants, eligibility requirements, credits for prospective participants, the reserve price, and payment methods.

Credits for prospective bidders

Under the Act, credits are an additional tool that may be used in an allocation of spectrum by auction or by tender.

In the context of spectrum licensing, credits are intended to provide participants or specified classes of participants (if any) with an advantage that is consistent with the object of the Act, by deeming their bids to be increased by a specified amount. Credits may be useful to make participation by users with non-commercial interest more competitive. We note that under the Act, in considering allocation design settings there are various options to promote the use of spectrum by different parties. We expect also to analyse those options and the use of credits to consider the most appropriate allocation design.

Apparatus licence allocations

Under section 100 of the Act, the ACMA may issue apparatus licences. This is the power under which we conduct administrative, 'over-the-counter' allocations of spectrum. Generally, we process apparatus licence applications in the order in which they are received (that is, on a first-in-time basis). Recently, we have also adopted the use of an application or allocation window to process apparatus licence applications. Under this approach, applications are called for during an 'application window' and all applications made during that period are assessed against decision-making principles after the end of the application window. We have employed this method where demand may exceed supply but the processes around a price-based allocation may be too onerous for prospective applicants to navigate, deterring participation.

Under section 106 of the Act, the ACMA can conduct a price-based allocation of transmitter licences.

Allocation limits

The ACMA is able to limit the amount of spectrum that an applicant or participant in an allocation process may acquire. We refer to this mechanism as an 'allocation limit'. Allocation limits are an important tool to help promote competition and allocative efficiency in markets that rely on spectrum, which in turn can help promote the long-term public interest derived from the use of the spectrum. We may set allocation limits on a part or the aggregate of parts of the spectrum that may be used by a person (or group of persons) as a result of an allocation process, taking into account the whole of a potential licensee's spectrum holdings across spectrum licences and/or transmitter licences. This applies for price-based allocation of spectrum licences, price-based allocation of transmitter licences, and the issue of transmitter licences under section 100 of the Act.

The need for, and type of, allocation limits to apply in any allocation will depend on the individual circumstances of that allocation. Under the Act, we must consult with the ACCC if we are considering imposing allocation limits. In seeking that advice, we may also seek advice on related matters. In developing allocation limits, and considering ACCC advice, we consider matters such as relevant market conditions and the technical properties of the frequency bands under consideration. The allocation limits must align with our objectives, such as the object of the Act and government communications policy objectives (including those outlined in an MPS).

At the time of publishing this paper, we have exercised our allocations limits powers on 2 occasions (3.4/3.7 GHz spectrum auction and 3.8 GHz AWL allocation) independently of any ministerial direction, both of which were informed by ACCC advice.

For the 3.4/3.7 spectrum licence auction, the ACMA determined allocation limits for the metropolitan areas to be 140 MHz, while the allocation limit for the regional areas was 160 MHz of spectrum. In coming to this decision, we noted that 'it enhances the likelihood of an efficient allocation, while also promoting competition in downstream markets and supporting digital connectivity and investment in regional Australia'.²⁷

For the 3.8 GHz allocation of AWLs, the ACMA determined allocation limits involving:

- an initial nil allocation limit for NBN Co, Optus, Telstra, TPG and their 'associates' (as defined) for a period of approximately 6 months, up to 30 September 2024
- following the cessation of the nil limit, cross-band limits of 140 MHz in metropolitan areas and 160 MHz in regional and rural areas in the 3.4–3.95 GHz frequency range.

As we noted for the 3.8 GHz allocation:

Given the ACMA has already conducted the 3.4/3.7 GHz band auction, the ACMA considers that the relevant AWLs should principally be allocated and issued to support other use cases and users, such as local area wireless broadband use. As such, the ACMA has made the (allocations limits) instrument to give a limited priority in the 3.8 GHz allocation process to persons who do not hold spectrum licences in the 3.4 GHz band.²⁸

We may also have regard to aggregate spectrum holdings when deciding whether to issue or renew an apparatus licence under subsection 100(4C) and subsection 130(3) of the Act. In some instances, we have referred to this approach as an 'allocation quantum policy' (AQP). For example, in addition to allocation limits, for the 3.8 GHz allocation we have adopted an AQP to guide our consideration of the maximum aggregate amount of spectrum that may be used by a licensee, particularly where there is competing demand.²⁹

Different types of limits can be used to address different competition concerns that may be relevant to the particular allocation. For example, in recent allocations we have used:

- in-band limits, which may be useful to prevent monopolisation in a band, particularly for greenfield spectrum where there are limited available substitutes
- cross-band limits, which limit aggregate holdings across a range of substitutable bands and may address asymmetries in spectrum-licensed holdings across those bands.

²⁷ [Explanatory Statement to Radiocommunications \(Spectrum Licence Allocation—3.4/3.7 GHz Bands\) Determination 2023](#); Detailed analysis concerning the application of allocation limits, the calculation of those limits and related issues including, but not limited to, the definition of affiliates and insignificant holdings can be found in the [Allocation and technical instruments for the 3.4/3.7 GHz bands allocation process outcomes paper](#).

²⁸ Explanatory Statement to [Radiocommunications \(Area-Wide Licences – Limits, Authorisations and Transfers\) Determination 2024](#); Detailed analysis concerning the application of allocation limits, the calculation of those limits and related issues including, but not limited to, an associates test and insignificant holdings, can be found in [Allocation of area-wide apparatus licences in the 3.8 GHz band outcomes paper 2](#) (Outcomes paper 2).

²⁹ Along with the detailed analysis of the allocation quantum policy, Outcomes paper 2 also notes that the ACMA will need to consider whether the AQP, like the allocation or decision-making principles, ought to be followed on a case-by-case basis.

For spectrum licences, we set allocation limits at the same time as making the procedures for allocating spectrum licences, so that the overall allocation design settings work together to best meet our objectives and promote the long-term public interest. For price-based allocations of apparatus licences, we set the allocation limits when we settle other elements of the apparatus licence allocation process.

Consulting about allocation and re-allocation

Making unencumbered and encumbered spectrum available

The 4 stages of band planning (monitoring, initial investigation, preliminary replanning and implementation) allow several consultation opportunities.³⁰ This enables stakeholders to keep us apprised of developments and issues in various bands and inform us of their views and the effects of different options on incumbent and potential new services. The consultation processes allow us to be transparent about our approach to planning, licensing and allocation arrangements in each band.

The FYSO work program will provide advance notice to interested parties on those bands that have been identified for allocation by spectrum licensing or new apparatus licence allocations and provide information about the process and timing for issuing licences. This process follows consultation on band planning to identify the relevant bands and frequencies proposed for licensing and allocation.

Once the assessment of spectrum uses has been considered, we may consult on a re-allocation declaration. In this step, we set out the frequency ranges and geographic areas for the spectrum that should be re-allocated. We also propose a re-allocation period and re-allocation deadline. To meet our forward allocation workplan (as outlined in the FYSO work program), and capture and consider as many stakeholder views as we can, we conduct preliminary consultation on policy settings for the proposed allocation. This may include lot configuration, licence term and commencement, and allocation methodology.

Allocation procedures

As outlined above, we aim to develop allocation settings that strike the best balance between our identified objectives for a particular allocation (including the object of the Act, government communications policy objectives and any relevant MPS), and thereby promote the long-term public interest. We will consult on proposed allocation settings such as marketing plans, relevant technical instruments and allocation limit determinations and draft allocation procedures, such as draft allocation determinations, to consider all stakeholder views before finalising the auction settings and procedures.

We will also work closely with the ACCC to consider opportunities to streamline consultation on allocation settings including proposed allocation limits where appropriate.

³⁰ More information about the 4 stages of band-planning can be found in the [FYSO](#) work program.

Appendix A: Licence category characteristics

Table 1: Comparison of characteristics of different licensing categories provided for under the Act

Characteristics	Spectrum licence	Apparatus licence	Class licence
What is authorised	The licensee to use any radiocommunications transmitter or receiver in specified parts of the spectrum, in specified areas as long as operation of the device meets the conditions on the licence	The licensee to operate a specified radiocommunications device, or a specified class of radiocommunications device, at a specified location or area/s, as long as operation of the device meets the conditions on the licence and in applicable instruments	Any person, or class of person, to operate a radiocommunications device of a specified kind or for a specified purpose as long as operation of the device meets the conditions in the class licence
Frequency	In a frequency range specified in licence	Assigned: On a frequency or in a frequency range specified in the licence Non-assigned: Shared frequencies specified in a licence condition determination	Shared frequencies specified in the class licence
Geography	Within a defined area specified in the licence	Assigned: At a location or within a defined area specified in the licence Non-assigned: At a location or within a defined area specified in the licence, or at locations or in areas specified in a licence condition determination	As set out in the class licence, but in many cases Australia-wide
Licence duration	Up to 20 years	Up to 20 years	Standing authorisation unless class licence sunsets, is revoked or otherwise varied to change what the licence authorises
Conditions of use (exclusivity and technical coexistence)	Core conditions (for example, parts of the spectrum authorised) cannot be changed without licensee's consent Generally, exclusive use within defined area and	Policies for coordinating devices Licence condition determinations and licence conditions	Shared use of the frequency Generally, no interference protection from operation in accordance with a licence

Characteristics	Spectrum licence	Apparatus licence	Class licence
	<p>frequency range, however class and apparatus licences may be authorised to co-exist under specified circumstances</p> <p>Interference management in accordance with legislative instruments and ACMA policies</p>	<p>ACMA policies in relation to primary or secondary use³¹</p> <p>Class licences and other apparatus licences may co-exist</p> <p>Interference management in accordance with ACMA policies</p>	
Change of licensee	<p>May be traded in part or in full</p> <p>Restrictions on trading may be set in a legislative instrument</p>	<p>May be transferred in full, if approved by the ACMA</p> <p>May be limitations on transfers, set by legislative instrument</p>	Not applicable
Third-party use	May authorise third-party device use	May authorise third-party user (subject to some restrictions)	Not applicable
Allocation mechanism	<p>Generally, price-based but direct allocation is permitted</p> <p>ACMA may impose limits on aggregate spectrum holdings (spectrum and transmitter licences)</p>	<p>Generally administrative and first in time, but price-based allocation is permitted</p> <p>ACMA may impose limits on aggregate spectrum holdings (spectrum and transmitter licences) – for both administrative and price-based allocations</p>	Not applicable
Renewal	<p>Mandatory renewal statements on new licences</p> <p>Public interest evaluation if licence is to be renewed for 10+ years</p>	<p>Discretion to include renewal statement</p> <p>Public interest evaluation if licence is to be renewed for 10+ years</p>	Not applicable

³¹ Primary services in a band are generally afforded interference protection from secondary services, while secondary services are not generally afforded protection from harmful interference from a primary service.