



TELSTRA CORPORATION LIMITED

Telstra submission to ACMA consultation:

Radcomms licensing and allocation reform – *The ACMA’s approach to changes introduced by the Modernisation Act*

- **Information Paper**
- **Changes to Radiocommunications Equipment Rules**
- **Proposed changes to Class Licences**
- **Accredited Persons Scheme**

Public Submission

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01 Introduction

The ACMA's role in implementing the *Radiocommunications Legislation Amendment (Reform and Modernisation) Act 2020 (Modernisation Act)* requires the ACMA to make consequential changes to several subordinate instruments to give effect to the Modernisation Act. The ACMA is consulting on these changes through its **Radcomms Licensing and Allocation Reforms** consultation, and we thank the ACMA for the opportunity to provide our views.

Our submission is structured as follows:

- Section 02 contains our comments on the Licensing and Allocation Information Paper;
- Section 03 contains our comments on the Changes to Radiocommunications Equipment Rules;
- Section 04 contains our comments on the Changes to Class Licences;
- Section 05 contains our comments on the Accredited Person Scheme;
- Appendix A contains a list of typographical errors in the draft *Radiocommunications Equipment (General) Rules 2021 (Proposed Equipment Rules)*; and
- Appendix B contains our proposed additions to Part 6 of the Proposed Equipment Rules to address supply of authorised cellular mobile phone repeaters.

02 Comments on the Licensing and Allocation Information Paper

We appreciate the detailed guidance provided by the ACMA in this paper on its intended approach to implementation of the Modernisation Act reforms. The ACMA's guidance is a welcome start to fleshing out the manner in which the reforms will be applied in respect of licensees. In particular, we appreciate the ACMA's intent to:

- begin the renewal processes for long-term licences (i.e., licences with a duration between 10 years and 20 years) up to 5 years before the licences will expire; and
- consult with licensees and the public (where appropriate) when exercising its powers, in line with established practices and even if not explicitly required by legislation. For example, the ACMA states that it expects to undertake a public consultation process when considering whether the renewal of licences is in the public interest.

We do wish to raise two concerns, in the following subsections.

2.1. Process for renewal of existing spectrum licences without a renewal application period, should enable completion of the ACMA's decision-making well before licence expiry

For spectrum licences that do not have a renewal application period (at the commencement of the Modernisation Act provisions, this refers to spectrum licences issued before its commencement), new s77A(3) of the Act specifies that a renewal application can only be made at earliest within 2 years of licence expiry. The ACMA notes that it expects to undertake work in relation to the renewal process prior to this 2-year default renewal application period. However, any decision on renewal may only be given 6 months after the application is received, and this period can be even further extended by the ACMA under new s77B(1) if more information is required.

As noted in previous Telstra and AMTA submissions in regard to these provisions, including our submission to the Senate Environment and Communications Legislation Committee Inquiry into the



Radiocommunications Bills 2020 (**Senate Committee Inquiry**), the default renewal application period of 2 years and the risk of that decision-making process becoming drawn out, means that a licensee may only receive notification that a spectrum licence will not be renewed with less than 1 year remaining on its licence term. This is insufficient notice for licensees holding long term licences, especially mobile network operators with tens of millions of subscribers who may be reliant on the relevant spectrum. Lack of certainty regarding renewal until so close to the licence expiry date also affects potential future investment decisions by incumbent licensees and may cause costs to be driven up for mobile network operators considering future technology generation investments, and hence delay in access to that technology and passing on of increased costs to consumers. As the ACMA is aware, there are a limited number of equipment vendors available to mobile network operators in the Australian market, with consequent impact on our bargaining power. Timely renewal decisions for spectrum licences assists mobile network operators in addressing these “technology-taker” disadvantages.

Given that our recommendation of entrenching a default renewal application period of 5 years in the legislation was not accepted, we consider that it would be appropriate for the ACMA to act consistently with its previous statements and commit to engaging with licensees a number of years before the commencement of the 2-year default renewal application period, by either:

- making a determination under subsection 65A(12) to deem a longer renewal application period for spectrum licences issued before the commencement of the Modernisation Act; or
- engaging with spectrum licensees commencing from 5 years in advance of the licence expiry date to enable all steps that may reasonably be taken in the renewal process, to occur *prior* to the commencement of the 2-year default renewal application period. This includes gathering of all information that is required by the ACMA to enable it to make a considered but rapid decision on renewal so that the risk of an elongated decision-making process due to further information requests under new s77B(1) of the Act is avoided. Even if a licensee is forced to wait until 2 years prior to the licence expiry date to lodge its renewal application, our view is by undertaking comprehensive anticipatory work as we propose, the ACMA would place itself in a position to make a decision on renewal within 30 calendar days of receiving the licensee’s renewal application, or even more rapidly. This would enable about 23 months of notice to be given to a licensee of any non-renewal which, while still less than best practice regulation, is nonetheless a great deal better than such notice being given a few months prior to licence expiry.

In summary, we believe that the ACMA’s Licensing and Allocation Information Paper is the appropriate place for this commitment to be given by the ACMA, and that the paper should be revised and re-issued to make it clear that:

- renewal consideration for existing spectrum licensees will commence approximately 5 years prior to licence expiry;
- the ACMA’s objective is that any renewal decision on a long-term spectrum licence should ideally be finalised at least 3 years prior to licence expiry but no later than 23 months prior to licence expiry; and
- In all events, to prevent adverse discrimination against holders of existing long-term spectrum licences the relevant periods for the renewal application period and the renewal decision-making period will not be less than those anticipated in licence renewal statements for similar long-term spectrum licences issued after the Modernisation Act comes into effect.



2.2. Public interest test for licences renewed for a period of less than 10 years

We believe there is an inadvertent error in the following statement in the Licensing and Allocation Information Paper at page 25:

*Alternatively, if a licence includes a **renewal statement** and is to be renewed for a period of less than 10 years, we will also have to determine whether renewal of that licence is in the public interest. (our emphasis by highlight)*

This statement is incorrect as sections 77C(6) and 130(2F) of the Modernisation Act have the effect of stating that the public interest test will only apply to licences renewed for a period of less than 10 years if they included a public interest statement (not a renewal statement). We think the intention was to refer to a “public interest statement” in place of the highlighted words.

03 Comments on Changes to Radiocommunications Equipment Rules

This section contains our comments on the changes to the Radiocommunications Equipment Rules.

3.1. Proposed amendments to the regime regulating supply of devices to unlicensed persons

The draft Part 6 duplicates the existing restricted supply regulations in respect of mobile repeaters which date back to 2013, when the first such “smart repeater” devices were introduced to the Australian market by Telstra. At the time the regulations reflected the requirements of the old s.301 of the Act (to be repealed) which itself dated back to 1992 and was a poor fit with supply of mass market devices. We strongly urge the ACMA to take the opportunity to update the restricted supply scheme to remove unnecessary red tape on record-keeping for supply of “smart repeater” devices that are authorised by mobile network operators for use on their networks. We note that many thousands of these authorised “smart repeaters” have been supplied to mobile users and have been in operation without causing any adverse interference events over the past 8 years.

We propose changes to Part 6 in order to include the concept of a “**carrier authorised repeater**”, for which streamlined record-keeping compliance will be available by way of publication by mobile network operators of relevant information on their websites instead of collection of this information from individual authorised persons. This eliminates an unnecessary and circular step in record collection in the case of carrier authorised repeaters as the individual authorised persons would need to obtain the information from the mobile network operator holding the relevant licence(s) under which use of the repeater is being authorised. In other words, under the legacy approach the mobile network operator / licensee is, in respect of an authorised repeater, having to notionally advise each individual authorised third party of information (such as repeater device model and relevant licence number/s) which it then, in turn, collects back from each individual authorised person. It would be more sensible for the mobile network operator / licensee to be required to publish the relevant information regarding the carrier authorised repeater in a manner which is publicly accessible (such as on the carrier’s website) and for that information to be “retrievable” rather than specifically “recorded” in respect of each carrier authorised repeater device which is supplied.

Our approach would also remove the need for competitive independent distributors of carrier authorised repeaters in Australia to collect the same information set out in subsection 33(3)(a) repetitively (such as licence numbers and licensee information), and instead only require that they collect or have the ability



to retrieve already collected information unique to each specific supply they are making, such as the details of the purchaser, date of supply and the unique serial number of each carrier authorised repeater. As a practical matter this unique information is entered by the purchaser into the user interface application of the carrier authorised repeater to enable activation of the device. The information is retained for, and available to, the supplier and the authorising licensee for the purpose of regulatory compliance and hence is readily “retrievable”.

The proposed amendments are additional to, and do not disturb, the existing text enabling supply of a cellular mobile repeater using the legacy restricted supply approach where the end user first seeks authorisation from the licensee and then provides evidence to the supplier that authorisation has been provided, following which supply is made. That approach reflected the process under section 301 of the Act which is being repealed. While that series of events is rare in practice, it should be retained for the instances when it may possibly still arise.

See Appendix B for a proposed mark-up of Part 6.

3.2. Modernisation of the provisions dealing with a presumption of possession for the purpose of operation

We suggest that the opportunity should be taken to modernise the presumption that applies to the possession of a device that does not comply with certain standards, which determines when this possession is presumed to be for the purpose of operation of the non-compliant device.¹ We propose that the ACMA should align the presumption as set out in these subsections of the Proposed Equipment Rules, with similar provisions in the Modernisation Act that deal with the presumption of possession for the purpose of operation. We acknowledge that the subsections in the proposed Equipment Rules reflect the current wording of the presumption in subsections 159(1) and 159(2) of the Act, which in turn are consistent with the current wording of section 48. However, subsections 159(1) and 159(2) of the Act are being repealed and replaced by the new Part 4.1, and section 48 of the Act is being amended by the Modernisation Act to reflect that some of the current wording is anachronistic, for example in the reference to “dials” in subsection (e), with its analogue connotations. We are also concerned that the presumption as currently drafted is too easily rebutted, as “any evidence to the contrary” will be sufficient to ensure that the presumption will not apply.²

The Government recognised these concerns during the consultation process for the Modernisation Act and introduced amendments to section 48 of the Act to align it with new sections 178(2)–(4). Those amendments were intended to update references in subsection 48(1) and 48(2) so that they no longer describe steps that can be taken by reference to analogue equipment, and maintain the ability of a defendant to adduce evidence to rebut the presumption.³

We suggest that each pair of subsections 11(2) and 11(3), 16(2) and 16(3) and 21(2) and 21(3) in the Proposed Equipment Rules be replaced with the updated wording of subsections 48(1) and 48(2) in the Modernisation Act. In addition to resolving the issues identified above, our proposal also has the added benefit of ensuring that a consistent approach is taken when determining whether a person is possessing a device for the purpose of operation.

¹ Subsections 11(2) and 11(3), subsections 16(2) and 16(3), and subsections 21(2) and 21(3) of the Proposed Equipment Rules.

² See Radiocommunications Act 1992 (Cth) s 159(2), Exposure Draft of the Radiocommunications Equipment (General) Rules 2021 ss 11(3), 16(3) and 21(3).

³ Explanatory Memorandum, Radiocommunications Legislation Amendment (Reform and Modernisation) Bill 2020 (Cth), 29.



3.3. Purpose for which permit is sought

Under the existing provisions of the Act, the ACMA may consider whether the purpose for which a permit is sought is a purpose related to:

- education or research;
- testing of devices; or
- demonstration of devices.⁴

The Proposed Equipment Rules do not explicitly state that the ACMA may consider the purpose of use. We consider it would be helpful to be clear that, at a minimum, the ACMA *may* have regard to whether the purpose for which the permit is sought fits into one of these categories.

3.4. No mandatory considerations when issuing permits

Under the existing provisions of the Act, the ACMA is required to consider the protection of the health or safety of persons who operate or work on devices, use services supplied by means of devices or are otherwise reasonably likely to be affected by the operation of devices.⁵ The Proposed Equipment Rules do not require the ACMA to have regard to any specific considerations, and there is no explanation as to why the mandatory considerations have been removed. The considerations in the existing Act appear appropriate to us and give a level of protection to entities that would be impacted by permits, particularly since there remains no obligation to consult with impacted licensees. We propose the ACMA should include the considerations it was previously required to have regard to, into the Proposed Equipment Rules.

3.5. No public consultation or notification when permits are issued

We suggest the ACMA should include guidance as to when it will consult potentially impacted licensees. For example, the ACMA should always consult a spectrum or AWL licensee if a permit is to be issued for a device that it is aware will be operated in that licensee's spectrum space.

3.6. ACMA power to suspend a permit

The Proposed Equipment Rules grant the ACMA the option of suspending a permit for up to 3 months if the permitholder has contravened a condition of the permit.⁶ As with cancellation, the ACMA must have regard to the permitholder's submissions when deciding whether to suspend a permit,⁷ however, the Proposed Equipment Rules do not specify any other matters that the ACMA may or must consider in deciding whether to suspend a permit, in contrast to cancellation of a permit. In addition, the ACMA may suspend a permit without giving reasons for the suspension. We support the addition of a suspension option (under the Act to date, outright cancellation was the only option available to the ACMA in such a situation) but suspension could also have a very significant impact on the person relying on the permit. We appreciate that a suspension decision may need to be made as a matter of urgency and that it is temporary and easily reversible, unlike cancellation. Nonetheless, our view is that guidance should be provided on when the ACMA may consider suspending a permit, instead of cancelling the permit.

⁴ See s167(3) of the Act.

⁵ See s167(3A) of the Act.

⁶ See s44(3) of the Proposed Equipment Rules.

⁷ See s44(8) of the Proposed Equipment Rules.



3.7. Possible gap due to repeal of section 157 of the Act

We note that subsection 157(1) of the Act, which is being repealed as part of the general replacement of Part 4.1 of the Act, states:

*Subject to Divisions 4 and 5, a person must not cause a radio emission to be made by a **transmitter** that the person knows is a non-standard transmitter. (our emphasis in bold)*

As the ACMA is aware the definition of “transmitter” in section 8(2) of the Act is distinct from that of a “radiocommunications transmitter” defined in section 7(2). A “transmitter” is:

- anything designed or intended for radio emission; or
- any other thing, irrespective of its use or function or the purpose of its design, that is capable of radio emission.

In the proposed equipment rules, the use of the terms “transmitter” and “radiocommunications transmitters” depends on the standard being referred to (bold font in the table below is our emphasis):

<i>Part 2—Prohibitions and obligations relating to general standards</i>	<i>Part 3—Prohibitions and obligations relating to EMC standard</i>	<i>Part 4—Prohibitions and obligations relating to EME standard</i>
A person must not, for the purposes of or in connection with radiocommunications, cause a radio emission to be made by a radiocommunications transmitter that does not comply with each general standard that is applicable to it.	A person must not cause a radio emission to be made by a transmitter that does not comply with the EMC standard.	A person must not, for the purposes of or in connection with radiocommunications, cause a radio emission to be made by a radiocommunications transmitter that does not comply with the EME standard.

It seems that Part 3 has picked up the reference to “transmitter” whereas Parts 2 and 4 have adopted the narrower definition of “radiocommunications transmitter”. This seems at first glance to leave a gap compared to the old section 157, in relation to a “transmitter” which does not comply with general standards or the EME standard and is not a “radiocommunications transmitter”. We recognise that interference or any other harm caused by such a “transmitter” would likely be caught by either the EMC standard or other provisions of the Act, but we would welcome further clarification from the ACMA regarding the distinction in terminology identified in the table above.

04 Comments on selected class licences

This section contains our comments on the proposed changes to fourteen class licences as set out in the Radiocommunications (Class Licence) Amendment Instrument 2021 (No. 1) (**Class Licence Amendment Omnibus**).

The ACMA’s proposal to amend the fourteen class licences is for one or both of two objectives:

1. to introduce the concept of equipment rules (as created by the Modernisation Act) such that compliance will be against either applicable standards or applicable equipment rules as appropriate; and/or



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2. to update the reference for the general public exposure limits for EME to the new 2021 *ARPANSA Standard* as specified by the Australian Radiation and Nuclear Protection Safety Agency (ARPANSA) (or any instrument that replaces that standard).

We fully support these two objectives. We have, however, identified some other aspects contained within the Class Licence Amendment Omnibus in respect of which we consider more clarity could be provided by the ACMA. Our submission focuses on those aspects.

4.1. Radiocommunications (Communication with Space Object) Class Licence 2015

We request that the ACMA clarify an aspect of the proposed amendments to the Radiocommunications (Communication with Space Object) Class Licence 2015. Schedule 5 of the Class Licence Amendment Omnibus repeals s.4(2) without any explanation. The existing section 4(2) says: “A reference in this class licence to (a) an instrument made under the Act; or (b) a Resolution adopted by the IMO; is a reference to the instrument or Resolution as in force from time to time.” The reference to IMO is to the International Maritime Organisation. The ACMA’s proposal to repeal section 4(2) appears to have nothing to do with either of the ACMA’s two objectives for the amendments, namely transitioning to equipment rules and/or harmonising EME references. We appreciate that the new section 4A is intended to replace the repealed section 4(2), however, the new section 4A does not specifically reference IMO Resolutions. We are interested to understand why the ACMA is dropping the specific reference to the IMO.

4.2. Radiocommunications (Cellular Mobile Telecommunications Devices) Class Licence 2014

We observe that in Schedule 3 of the Class Licence Amendment Omnibus, the new section 9 sets the first compliance day as 1 March 2003 in respect of the ACMA EME Standard (which imports the ARPANSA standard). However, the existing CMTD class licence included two earlier versions of the ARPANSA standard linked to equipment first commissioned prior to 1 March 2003, thus:

- clause 9(1) covers devices whose compliance date is on or after 15 December 1999 and on or before 31 December 2001 and references the *Radiocommunications (Electromagnetic Radiation — Human Exposure) Standard 1999*; and
- clause 9(2) covers devices whose compliance date is on or after 1 January 2002 and on or before 28 February 2003 and references the *Radiocommunications (Electromagnetic Radiation — Human Exposure) Standard 2001*.

We are not overly concerned with the removal of these two clauses *per se*, because any device sold prior to 2003 would have complied with the relevant version of the ARPANSA standard at that time, and even if the ARPANSA standard has tightened EME compliance in respect of these devices, it is unfair to apply the new standard retrospectively. Our concern is that this change was not flagged in the consultation paper. We consider it important that if the content of the class licence is materially changed (and removing the need for devices of a certain time period to comply with the ARPANSA standard is potentially a material change), then the rationale for making that change should be explained in the consultation paper. This is particularly important in the context of consumer equipment and EME in which there is a high degree of public interest. Any absence of explanatory information – even if wholly unintended and without any negative consequence – may be misunderstood.

4.3. Radiocommunications (Cordless Communications Devices) Class Licence 2014

As with the CMTD class licence in section 4.2, here we observe a similar change in Schedule 6 of the Class Licence Amendment Omnibus where the new section 10 sets the first compliance day as 1 July



2001 in respect of the ACMA EME Standard. The existing CMTD class licence includes one earlier version of the ARPANSA standard linked to equipment first commissioned prior to 1 July 2001, thus:

- clause 10(1)(a) covers handsets whose compliance date is on or after 15 December 1999 and before 1 July 2001 and references the *Radiocommunications (Electromagnetic Radiation — Human Exposure) Standard 1999*; and
- clause 10(1)(b) covers land stations whose compliance date is on or after 1 February 1999 and before 1 July 2001 and also references the *Radiocommunications (Electromagnetic Radiation — Human Exposure) Standard 1999*.

Again, we are not overly concerned with the removal of these two clauses *per se*, but we nevertheless consider it important that if the content of the class licence is materially changed, then the rationale for making that change should be explained in the consultation paper.

4.4. Radiocommunications (Low Interference Potential Device) Class Licence 2015

We have one minor recommendation to improve the Radiocommunications (Low Interference Potential Device) Class Licence 2015. We observe that in all other amendments proposed for class licences, the ACMA has simplified the requirement to comply with the ARPANSA standard to the following text:

A person must not operate a station/transmitter, or a group of stations/transmitters, to which this class licence applies if the electromagnetic energy emitted by the station/transmitter, or group of stations/transmitters, exceeds the general public exposure limits specified in the ARPANSA Standard in a place accessible by the public.

However, in the LIPD Class Licence 2015, because Clause 5(4) already contained that sentence, the ACMA has not taken the opportunity to remove the four notes associated with Clause 5(4). We consider that ARPANSA standard is sufficiently self-explanatory to cover aspects such as integrated antennas, dedicated antennas, and the effect of one or multiple transmitters operating on multiple frequencies, such that these notes can be removed from the LIPD class licence. We recommend Notes 1 to 4 are repealed from the LIPD Class Licence.

05 Comments on changes to the Accredited Persons Scheme

This section contains our comments on the changes to the Accredited Persons (**AP**) Scheme.

5.1. Interference Impact Certificates

We observe the Interference Impact Certificate (IIC) Determination 2021 still only allows IICs to be issued in relation to spectrum licenses (not apparatus licences), and hence applies only between spectrum licensees. There is no ability for IICs to be issued between a spectrum licensee and an apparatus licensee or between apparatus licensees. With the introduction of Area-Wide Licences (AWLs), we consider this is a missed opportunity to incorporate the ability for IICs to be issued in relation to AWLs. While AWLs are an over-the-counter licence, many other aspects of AWLs are more akin to spectrum licences. AWLs allow for a spectrum space (combination of frequency and geography) to be licensed, as well as having a device boundary and device boundary conditions (DBC) like spectrum licences. The inability for an IIC to be issued between a spectrum licensee and an AWL licensee will mean that if the spectrum licensee needs to 'spill-over' into a co-channel geographically adjacent AWL,



they will not be able to do so without breaching the spectrum licence DBCs, even if the spectrum licensee and the AWL licensee are the same person/entity.

A related topic is the scenario where there are no licences of any type (spectrum or apparatus) on the other side of a geographic border of a spectrum licence. This vacant spectrum space is akin to 'crown land' where the government effectively holds the 'title' for that spectrum space, waiting to sell apparatus licences for that spectrum space. Often this 'crown land' has low population density (such as forest or sparsely populated farmland), with little chance of a WISP or other service provider suddenly springing up and applying for an apparatus licence (e.g. point-to-multipoint). While the Radiocommunications (subsection 145(3) Certificates) Determination 2012⁸ does allow an AP to issue a certificate under subsection 145(3) of the Act, it is our view that this does not provide certainty to the spectrum licensee (or in the future, the AWL licensee) as while unlikely that a service provider suddenly appears, it is not zero probability. Should it occur, the spectrum licensee would be forced to comply with the DBCs, which could result in having to relocate or close the base station. We consider a better approach is for the ACMA to introduce a mechanism for IICs to be agreed with the government, which would provide a first-in-time status to a transmitter registered on the Register of Radiocommunications Licences (RRL) that exceeds the DBCs in the section 145 determination.

5.2. Introduction of a 'Specific Licensing Accreditation'

The ACMA's proposed Specific Licensing Accreditation would allow the ACMA to accredit a person to issue Frequency Assignment Certificates (FACs) for a single, specified licence type, such as assigned amateur licences (beacon and repeater). While we have no objection to the concept of a Specific Licensing Accreditation *per se*, we are potentially concerned where the issuance of a FAC requires coordination with other technology types outside the speciality the Specific Licensing Accreditation authorises the AP to operate in. RALIs and RAGs are designed as a guide to minimise, but not eliminate the potential for interference between geographic or frequency adjacent licensees. As such, following a RALI or RAG as a 'recipe' is often insufficient, and experience with other technology types is often required.

We consider that the potential for an AP holding a Specific Licensing Accreditation to issue a FAC that would result in harmful interference could be resolved by a requirement imposed on specialist APs to contact the licensee of adjacent services to have that licensee's AP confirm the coordination has been done correctly. This would minimise the risk of interference accidentally being introduced by a specialist AP unfamiliar with alternate technologies.

5.3. Consolidation of FAC only and IIC only accreditations into the General Accreditation

We support the ACMA's proposal to remove the FAC only accreditation (paragraph 5(a) under the General Licensing Accreditation) and IIC only accreditation (paragraph 5(b) under the General Licensing Accreditation) in favour of a single General Licensing Accreditation.

5.4. Removal of the requirement for AP applicants to sign a Deed of Indemnity

We support the ACMA's proposal to remove the Deed of Indemnity and we agree with the ACMA that requiring a Deed may act as a disincentive to potential applicants wishing to become Accredited Persons.

⁸ <https://www.legislation.gov.au/Details/F2012L01719>



5.5. Accreditation of companies

We do not support the ACMA's proposal to accredit a company. We consider that accreditation must be tied back to individuals with the appropriate skill set to perform the technical assessment, interference assessment, coordination and assignment required for the issue of assigned apparatus licences and device registrations required under spectrum licences.



Appendix A: Typographical and other minor errors in the Proposed Equipment Rules

No.	Pinpoint	Description
1	Subsection 7(2)(a)	For consistency with the other subsections in section 7, subsection 7(2)(a) should state: <i>where the device has not been altered or modified in a material respect after it was imported – the device does not comply with a standard that was applicable to it when it was imported;</i>
2	Subsections 11(2), 21(2)	Subsections 11(2) and 21(2) are identical in all material respects but are formatted differently (e.g. the phrase “it is in the person’s possession, otherwise than for the purpose of supply to another person” is located in subsection 11(2)(a), but in the main body of subsection 21(2)). For consistency, these two subsections should be formatted in the same way.
3	Subsection 12(2)(b)	For consistency with subsections 10(2)(b) and 11(5)(b), subsection 12(2)(b) should state: <i>the permit specifies a general standard; and</i>
4	Subsection 12(3)(b)	For consistency, each of the limbs of subsection 12(3)(b) (other than subsection 12(3)(b)(xii)) should end with the word “or”.
5	Subsection 15(1)	For consistency with subsections 10(1) and 20(1), replace “transmitter” with “radiocommunications transmitter”.
6	Subsections 15(3)(b), 15(3)(c), 16(6)(b), 16(6)(c)	For consistency, each of the limbs of subsections 15(3)(b), 15(3)(c), 16(6)(b) and 16(6)(c) should end with the word “or”.
7	Subsection 17(2)(b)	For consistency with subsections 15(2)(b) and 16(5)(b), subsection 17(2)(b) should state: <i>the permit specifies the EMC standard; and</i>
8	Subsection 17(3)(b)	For consistency, each of the limbs of subsection 17(3)(b) (other than subsection 17(3)(b)(xii)) should end with the word “or”.
9	Subsection 22(2)(b)	For consistency with subsections 20(2)(b) and 21(5)(b), subsection 22(2)(b) should state: <i>the permit specifies the EME standard; and</i>
10	Subsection 22(3)(b)	For consistency, each of the limbs of subsection 22(3)(b) (other than subsection 22(3)(b)(xii)) should end with the word “or”.
11	Subsection 26(3)(b)	For consistency, each of the limbs of subsection 26(3)(b) (other than subsection 26(3)(b)(xii)) should end with the word “or”.
12	Subsection 28(1)(b)	For consistency, each of the limbs of subsection 28(1)(b) (other than subsection 28(1)(b)(xii)) should end with the word “or”.



13	Subsection 29(2)(b)	For consistency, each of the limbs of subsection 29(2)(b) (other than subsection 29(2)(b)(xii)) should end with the word “or”.
14	Part 6	This Part substantially replicates section 301 of the Act, and regulations 38A and 38B of the <i>Radiocommunications Regulations 1993</i> (Cth). To avoid any duplication / confusion, regulations 38A and 38B should be repealed when the Proposed Equipment Rules commence. For completeness, we note that section 301 will already be repealed by the Modernisation Act.
15	Section 31	This section should be amended as follows: <i>“The object of this Part is <u>to</u> ensure that...”</i>
16	Subsection 33(3)(b)	Replace “the full name of person” with “the full name of <u>the</u> person”.
17	Subsection 39(6)(a)	This subsection should be amended as follows: <i>“issue a permit that authorises an act specified in an act <u>specified</u> in paragraph 3(a), (b) or (c); but”</i>
18	Subsection 42(6)	The defined terms “original date” and “new date” are not used again in the Equipment Rules, and are therefore unnecessary.
19	Subsection 44(11)	This subsection should be amended as follows: <i>“If the ACMA makes a decision <u>to</u> suspend a permit...”</i>
20	Subsection 49(d)(i)	For consistency with the other subsections in subsection 49(d), subsection 49(d)(i) should state: <i>securing the safety of a vessel, aircraft or space object that was in danger; <u>or</u></i>
21	Subsection 50(3)	This subsection substantially replicates regulation 33 of the <i>Radiocommunications Regulations 1993</i> (Cth). To avoid any duplication / confusion, regulation 33 should be repealed when the Proposed Equipment Rules commence.



Appendix B: Mark-up of Part 6 of the Proposed Equipment Rules

See separate document.