



Police Federation
of Australia

The National Voice of Policing

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8 March 2011

Committee Secretary
Senate Standing Committee on Environment and Communications
PO Box 6100
Parliament House
CANBERRA ACT 2600
ec.sen@aph.gov.au

Dear Committee Members

**Broadcasting Legislation Amendment (Digital Dividend
and Other Measures) Bill 2011**

The Police Federation of Australia (PFA) representing 55,000 police officers around the country makes this submission to your Committee so that critical issues surrounding use of the Digital Dividend are brought to your attention now, before the Government and the Australian Communications and Media Authority embark on the processes leading to auction of the Digital Dividend.

In making this submission, we have the backing of all of Australia's Police Commissioners who have endorsed our pursuing this matter on behalf of police. Other public safety agencies, including emergency services and ambulance and fire authorities at the national level, also support our views.

We would appreciate an opportunity to give evidence to your Committee regarding our submission which is attached.

Yours sincerely

A handwritten signature in blue ink that reads 'Mark Burgess'. The signature is written in a cursive, flowing style.

Mark Burgess
Chief Executive Officer

Police Federation of Australia (PFA) submission to the Senate Standing Committee on Environment and Communications

Inquiry into the Broadcasting Legislation Amendment (Digital Dividend and Other Measures) Bill 2011

Introduction

1. The Broadcasting Legislation Amendment (Digital Dividend and Other Measures) Bill 2011 introduces amendments to the *Radiocommunications Act 1992* (and other Acts) to realize the Digital Dividend. This will make it possible to free-up 126 MHz of broadcasting spectrum to be released as digital dividend in the UHF frequency range 694 to 820 MHz planned for auction in 2012.
2. The interest of the PFA in this matter arises out of the needs of law enforcement and emergency services for communications spectrum in the Digital Dividend band. We are acting in concert with all of Australia's Police Commissioners in calling for an allocation of 20 MHz (10 + 10 MHz paired) of the Digital Dividend for critically important public safety purposes. The peak bodies representing Australia's fire and ambulance authorities also support the proposal.
3. We understand that a related Senate inquiry into the capacity of communications networks and emergency warning systems to deal with emergencies and natural disasters, including digital spectrum, has been established. We note that it is to report by 2 November 2011, by which time ACMA will have proceeded further down its current path towards auction of spectrum to the highest bidders and our concerns will have been sidestepped. We will make a submission to that broader, longer term Senate Committee inquiry, but this particular issue of access to 20 MHz for law enforcement and emergency services cannot be held over until November 2011.

The *Radiocommunications Act 1992*

4. When the Keating Government embarked on radical market-based reform of spectrum allocation in 1992 they foresaw that a problem would arise, namely how to ensure that non-commercial users like police and emergency services had affordable access to spectrum into the future. Recognising that these not-for-profit public safety agencies could not compete in an open market system against the big telecommunications companies for a rare commodity, the Government built a series of safeguards into the *Radiocommunications Act 1992*.
5. The Act specified that the system must make adequate provision of spectrum for law enforcement and emergency services. Charging for spectrum must

also take into account the value of non-commercial use of spectrum. In other words, the public safety agencies should not be expected to pay the commercial rate for their spectrum. Finally, the Act provided for spectrum to be reserved for these essential public purposes so that they would not have to compete at auction for spectrum. These safeguards need to be upheld in 2011 as the big telcos vie for spectrum at the expense of public safety and the public interest.

6. We believe it is the responsibility of the Government and ACMA under the Act to ensure that the spectrum needs of law enforcement and emergency services are directly met, and not to send these public safety agencies to do the best deal they can with one or more of the major telecommunications companies at commercial rates.

Current police and emergency services communications systems

7. Police and emergency services, including the SES, fire and ambulance services, are duty bound to protect the Australian community at times of threat, emergency, natural disaster and crisis and they do an extraordinary job as we have seen in the recent cases of the south east Queensland and Brisbane floods and Cyclone Yasi. Every Member of Parliament and Senator who spoke during the condolence motion on those events was full of praise for the work of police and emergency services.
8. But we know that fire fighters and police were left in an information vacuum during the Victorian Black Saturday bushfires. During Cyclone Yasi telecommunications systems collapsed over a wide area of north Queensland. Thousands of people were without fixed or mobile communications for weeks. The inadequacies of Australia's telecommunications infrastructure to handle large-scale public emergencies are repeatedly exposed. In Christchurch, New Zealand, the NZ 111 service was down in the critical first five hours.
9. These public safety agencies, in each State and Territory and federally, currently communicate largely over the 400 MHz band which is limited to voice communications. These are standalone networks designed and built by the public safety agencies to 'importance level 1' to ensure the necessary reliability, capacity and redundancy. These standards are not applied by the commercial carriers. But for the future, our agencies need the full suite of contemporary communication means.

Digital Dividend needed for public safety

10. With the move in Australia from analogue to digital television, 126 MHz of the 700 MHz band is to become available by 2013. The Gillard Government is considering auctioning this band of radio communications spectrum which the Minister for Broadband, Communications and the Digital Economy, Senator Stephen Conroy calls the 'Digital Dividend'. The Australian Communications and Media Authority is currently planning the allocation of

the 126 MHz of spectrum to take place in the second half of 2012.

11. The 700 MHz band is special. That is why it is sometimes referred to as 'the waterfront property' of spectrum. It is special because communications in this band can carry large amounts of data, at high speed, over long distances, and can penetrate buildings. It is ideal for mobile broadband services and for emergency and policing services at critical times of national emergency when normal radio and telephone communications are pushed to the limit or severely overloaded past breaking point.
12. The systems our public safety agencies have can also become overloaded, in trying to get information to and from the field and command centres during times of emergency, particularly when trying to cope with a natural disaster or a terrorist incident or a New Years' Eve emergency event.
13. After several Royal Commissions and Inquiries following natural disasters and terrorist incidents, the Council of Australian Governments decided in 2009 that police and emergency services must move to seamless communication so that they become 'inter-operable' – so that they can communicate across State and Territory boundaries, and across organisational boundaries. This means moving to a contemporary, 21st century communications system which can handle mobile voice, data, video and broadband communication over a secure, hardened network which has the capacity, reliability and redundancy required.
14. This is not just an issue in Australia. In the USA, President Barack Obama in his 2011 State of the Union address foreshadowed and subsequently announced that he was allocating 20 MHz of the 700 MHz band (which they call D-Block) to the USA's public safety agencies. Members of Congress from both sides of the aisle, Democrat and Republican, are proposing Bills to allocate that 20 MHz for what they call their first responders – the police and emergency services across the USA. The 9/11 Commission, after the World Trade Centre terrorism attacks in the USA, recommended this network to reduce USA vulnerability to further terrorist attacks. Canada is also moving to reserve 20 MHz. The European Union is considering doing likewise.
15. Providing law enforcement and emergency services with dedicated access to a small portion of the Digital Dividend would enable our public safety agencies to:
 - upload streaming video from an emergency scene like a flooding CBD to a command centre;
 - download high resolution maps, images and plans of an approaching bushfire to an emergency scene;
 - upload audio, video and other data from a criminal surveillance operation like a terrorism incident to a police command centre; and

- download plans of a burning city tower into the hands of the fire fighters entering that building to save lives.
16. All of Australia's Police Commissioners from every State and Territory and the AFP have agreed that they need 20 MHz (10 +10 MHz paired) of this newly available 700MHz band to establish a leading edge network for law enforcement and emergency services agencies. Premiers have written to Ministers and the Prime Minister supporting a proposal that the Gillard Government reserve 20 MHz for these vital essential services in the national interest. The Australasian Fire Authorities Council and the Council of Ambulance Authorities are each supporting the proposal. (Copies of letters from Commissioners, Premiers, AFAC and CAA are attached.)
 17. They are all convinced that it is not prudent or feasible to rely on commercial carriers from which they would buy the necessary communications services. They would essentially be at the mercy of a monopoly commercial carrier as far as price and quality of service are concerned. There are also serious concerns surrounding capacity, redundancy, security and reliability needed for such 'mission critical' purposes. Foreign ownership of such a carrier would jeopardize national security of critical information and communications.
 18. Unfortunately, bitter experience has shown that commercial communications services almost always fail the police and emergency services. They are not set up to provide the kind of guaranteed, failsafe, secure system these emergency services must have. Their networks are not built to 'importance level 1' that police require. Outdated, overstretched police and fire service networks also fail.
 19. If it is correct that climate change will cause more serious and more frequent natural disasters, we need to ensure now that our emergency services have the best possible chance of saving lives.
 20. The incredible potential of the Digital Dividend is why all Australia's Police Commissioners, including the AFP, are seeking 20 MHz of the 126 MHz. That is just **16%** of the spectrum that will soon be available, a reasonable position that allows commercial users the majority of the spectrum.
 21. Clearly, the Government wants to achieve for the Australian taxpayer the best return it can from the 'Digital Dividend'. It's a valuable commodity and the proceeds can help to bring the Federal Budget back into surplus by 2012-13 as promised. In addition, there will be fierce competition between carriers for the limited spectrum available – 126 MHz.
 22. The only argument for not agreeing to 20 MHz is to maximize revenue from the auction as a contribution to deficit reduction. This puts profit before public safety and the national interest. But under our plan to reserve 20 MHz, **84%** will still be available for auction.
 23. We understand that there is an Access Economics report commissioned by the Attorney-General's department which says that even if 20 MHz was

reserved for public safety, the revenue raised at auction may not fall. The spectrum is rare and valuable and may become more-so.

The proposal to protect the public interest and public safety

24. We had expected the Gillard Government would make a decision in February 2011 on whether or not to set aside spectrum for public safety agencies and if so, how, because the ACMA needs to press on with its plans for restacking and allocating the Digital Dividend in the second half of 2012. This has not happened.
25. Therefore, we propose that Parliament take this important opportunity to amend the amend Broadcasting Legislation Amendment (Digital Dividend and Other Measures) Bill 2011 by inserting a provision in the *Radiocommunications Act 1992* reserving for agencies involved in law enforcement and emergency services 20 MHz (10 + 10 MHz paired) of the 126 MHz of the 700 MHz band from the time that spectrum becomes available. The reservation:
 - should require the agencies to submit to the Attorney-General, no later than 30 June 2013, a proposal for establishing a communications network or networks to make effective use of the 20 MHz of spectrum; and
 - provide that any charge applying to agencies involved in law enforcement or emergency services for the use of spectrum takes into account their non-commercial use of spectrum for public safety purposes (see *Radiocommunications Act 1992*, Section 3).
26. This is a once in a lifetime opportunity because it is rare for spectrum of this quality and size to become available. By supporting this proposal Senators and Members of Parliament will be putting future public safety front and centre. The Parliament will be setting aside the spectrum necessary for effective 21st century mobile communications for future disasters and other critical incidents like terrorist attacks.
27. The recent natural disasters in Australia and New Zealand over the summer of 2010-2011 should be sufficient wake-up call to all Senators and Members of Parliament to act on the united call of Australia's Police Commissioners to set aside spectrum for their public safety functions.

Senator Stephen Conroy
Minister for Broadband, Communications and the Digital Economy
Parliament House
CANBERRA ACT 2601

Dear Senator Conroy,

The Digital Dividend, which is to become available when the changeover from analog to digital television occurs, is of great importance to Australia.

It is also of major significance to the States and Territories because of the requirement of law enforcement and emergency service agencies to maintain an effective and modern 21st Century communication capacity.

We understand that the Government will soon consider whether or not, and if so, how, the needs of law enforcement and emergency management – the public safety agencies – are to be met in the process of allocating the freed-up 126 MHz of the 700 MHz Digital Dividend.

We note that the *Radiocommunications Act 1992* (Cth) requires the Australia Media and Communications Authority (ACMA) to 'make adequate provision of the spectrum - for use by agencies involved in the defence or national security of Australia, law enforcement or the provision of emergency services'. It also recognises that charging for the use of spectrum should take account of these non-commercial uses.

It is understood that the ACMA and the Department of Broadband, Communications and the Digital Economy are not proposing to reserve any of the 700 MHz Digital Dividend for public safety agencies but are recommending that if public safety agencies require access to the 700 MHz band, that they enter into commercial arrangements with the major carriers of communications services in that band. The ACMA's recent Discussion Paper, *Spectrum reallocation in the 700 MHz digital dividend band*, does not deal with the needs of law enforcement and emergency services but proposes to allocate all the available spectrum to the highest bidders through an auction process in the second half of 2012. Non-commercial public safety agencies could not compete with profit-making commercial entities in bidding for spectrum at auction.

The 700 MHz segment of spectrum has many advantages over other bands; particularly wide area coverage for broadband mobile communications. As a result, it is variously described as the 'waterfront property' or the 'dress circle' spectrum, is

highly valued for a wide range of mobile and fixed communications services, and will be much sought after for uses such as mobile broadband services.

The collective law enforcement and emergency services community, including most recently Police Commissioners, have assessed that 20 MHz of the 700 MHz spectrum (2 x 10 MHz) is needed for mobile broadband communications. It can accommodate our data, video and high-speed broadband communications needs, especially during emergencies, natural disasters and major public events such as New Year's Eve and international events like CHOGM. This is the same amount of 700 MHz spectrum requested for public safety agencies in the USA and Canada, and is also proposed in Europe. It is essential for 'mission-critical' radio-communications during life-threatening events and events where the risk of terrorism is acute.

Police and emergency services have experienced the extreme problems brought about by a lack of suitable and reliable spectrum and priority for public safety purposes. The 2009 Victorian Black Saturday bushfires - in which 173 people lost their lives - highlighted emergency services communication failings and the critical need for interoperability between Emergency Services Organisations plus provision of common voice, data and personnel alerting infrastructure and capability for fully effective state-wide communication.

In addition, the needs of contemporary policing work on the frontline in every Australian city and town increasingly relies on real-time data provision in a mobile setting for which fast, reliable communications and data exchange are essential. For example, frontline police on the road are now accessing data about motor vehicle licence plates, vehicle registrations, and drivers in ways that were not possible a few years ago. Criminal history is accessed remotely. Police pursuits and criminal investigations are also managed remotely by supervisors through the communications system. Security, reliability, redundancy and priority access are essential characteristics for this work and for other 'mission-critical' emergency work by police, emergency services, fire authorities and ambulance services, features which commercial communications carriers do not, as a matter of course, ensure.

The Council of Australian Governments (COAG), through the Inter-operability Framework, has agreed on the need for harmonisation and greater inter-operability between law enforcement and other public safety agencies. Reservation of 20 MHz of spectrum would be a major step towards this COAG commitment, and in Australia's public interest. It is argued that it would not be prudent for the Commonwealth to leave this matter to whatever arrangements can be struck by each public safety agency with a dominant commercial carrier, where the resources and bargaining power of the respective parties are so mismatched.

Ultimately, it is strongly suggested that it would be possible, with the 126 MHz of 700 MHz spectrum available, for the Australian Government to both utilise the proceeds of the Digital Dividend to meet fiscal consolidation targets and provide public safety agencies with the 20 MHz of spectrum required.

It would be appreciated if you could urgently consider the above proposal, prior to any plans for a Digital Dividend auction proceeding.

Yours sincerely,



Andrew Scipione, Commissioner, NSW Police Force



Simon Overland, Chief Commissioner, Victoria Police

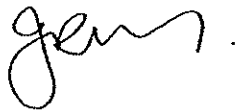
Bob Atkinson, Commissioner, Queensland Police Service



Mal Hyde, Commissioner, South Australia Police



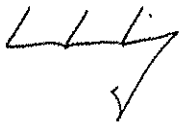
Karl O'Callaghan, Commissioner, Western Australia Police




John McRoberts, Commissioner, Northern Territory Police



Darren Hine, Commissioner, Tasmania Police



Roman Quaadvlieg, Chief Police Officer, ACT Policing



Michael Phelan, Acting Commissioner, Australian Federal Police



Premier of Queensland

For reply please quote: EP/PD TF/10/8237 – DOC/10/47189

18 MAY 2010

Senator the Honourable Stephen Conroy
Minister for Broadband,
Communications and the Digital Economy
Deputy Leader of the Government in the Senate
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CANBERRA ACT 2600

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Dear ~~Senator~~ Conroy

The 'Digital Dividend' resulting from the transition from analog to digital television is of great importance to Australia.

The Queensland Government recognises that the maximum cash dividend might be made by auctioning this spectrum to the highest bidder. Nevertheless, it is considered that a larger and perhaps more significant benefit could be obtained by reserving a portion of the spectrum for the use of law enforcement agencies and emergency services organisations.

Having reviewed the Digital Dividend Green Paper, the key contribution of the Queensland Government to the 'Digital Dividend' debate is on the critical issue of providing spectrum for emergency service organisations and law enforcement agencies. Given the importance of this issue, I felt it necessary to provide the Government's views directly to you separate to the broader Green Paper submission process.

On 7 December 2009, the Council of Australian Governments (COAG), 'agreed to a range of measures to improve Australia's natural disaster arrangements through more efficient and effective funding arrangements for natural disaster mitigation, relief and recovery; strengthened coordination and partnership between the Australian and state governments in preparation for, and in response to; disasters and the introduction of a framework for improving the interoperability of Radiocommunications equipment used by emergency services'. The Queensland Government, through its relevant agencies, is working towards implementing this framework by 2020.

Internationally, the move to digital television and the resultant available spectrum in the 700MHz band is being seen as a critical resource to support the future broadband data needs of law enforcement agencies and emergency services organisations.



Queensland
Government

I understand that harmonisation in the United States of America (Region 2) is complete and two blocks of 12MHz have been specifically allocated for 'public safety' in the 763-775MHz and 793-850MHz section of the band. It is further understood that the European community (Region 1) is still planning their harmonisation but are considering submissions that propose more spectrum for public safety (2 x 15MHz).

The Queensland Government considers that the 'Digital Dividend' spectrum in the 700MHz band:

- offers very favourable propagation characteristics compared to other broadband spectrum options (2.5GHz) and therefore offers a strong economic value proposition
- is well suited in urban areas
- is also efficient in rural areas where fewer sites are required to cover an area, as the signal propagation is superior
- could dramatically reduce costs and the carbon footprint required to provide mobile broadband radio-communication and could significantly accelerate the deployment in underserved areas.

An alignment of Australia's spectrum allocations with the wider international community will have two key benefits:

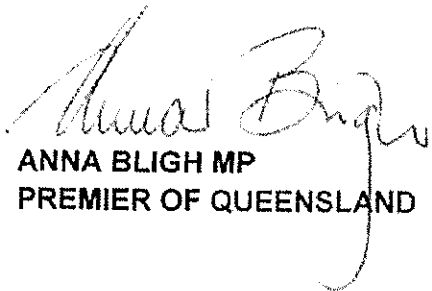
- Australian law enforcement agencies and emergency services organisations will be able to purchase products and services from a larger market place making the Australian interoperability implementation more cost effective and widely supported
- Australian product developers will be able to develop radio based products for the Australian market that will have wider application in the global market.

I suggest that the requirements of law enforcement agencies and emergency services organisations need to be recognised by reserving a portion of the 'Digital Dividend' spectrum for their needs. This alignment would be best achieved in Australia by allocating spectrum in a similar way to that already agreed in the United States of America. Ideally, access to this spectrum should be provided at no cost to expedite the common use across jurisdictions.

COAG's endorsement of the Interoperability Framework provides strong recognition of the need for improved communications between law enforcement agencies and emergency service organisations. Interoperability will have flow-on social and economic benefits that will accrue to both the community and governments.

As governments, we have an obligation to provide the necessary resources for public protection and disaster relief. Spectrum for mission-critical mobile radiocommunications constitutes an important resource for the fulfilment of this obligation. I would appreciate your consideration of the Queensland Government's views when you are making your final decisions on the allocation of the 'Digital Dividend'.

Yours sincerely



ANNA BLIGH MP
PREMIER OF QUEENSLAND

The Honourable Julia Gillard MP
Prime Minister
Parliament House
CANBERRA ACT 2600

Dear Prime Minister *Julia,*

I understand members of your Government have received letters from other jurisdictions regarding the changeover from analogue to digital television in Australia and the opportunity this creates for law enforcement and emergency services to access the freed up 126 MHz of the 700MHz 'Digital Dividend'.

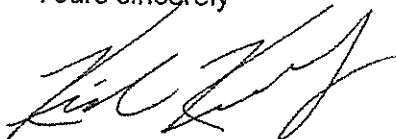
I write to add my support to calls for the Commonwealth Government to make provision for law enforcement and emergency services when considering the future use of this spectrum.

I write to you is because I am advised that Commonwealth Government agencies are not proposing to reserve any of the 700 MHz Digital Dividend for law enforcement and emergency services purposes.

I am further advised that Police and Emergency Service agencies around Australia expect to require 20 MHz of the spectrum for future broadband and other needs.

I would appreciate your consideration of the New South Wales Government's views when you next consider allocation of the Digital Dividend.

Yours sincerely



Kristina Keneally MP
Premier

Cc Senator Stephen Conroy, Minister for Broadband, Communications and the Digital Economy

The Hon Robert McClelland, Attorney-General



7 January 2011

Senator Stephen Conroy
Minister for Broadband, Communications and the Digital Economy
Parliament House
CANBERRA ACT 2601

Dear Senator Conroy,

We are writing to you in the interests of community safety and the safety of the nearly 350,000 ambulance, fire, police and state emergency service personnel across Australia to strongly request that you enable the provision of a dedicated 20 MHz (2x10MHz paired) allocation within the freed-up 126 MHz of the 700 MHz Digital Dividend to public safety agencies.

We are concerned that currently the Australian Media and Communications Authority (ACMA) and the Department of Broadband, Communications and the Digital Economy (DBCDE) are not proposing to reserve any of the 700 MHz Digital Dividend for public safety agencies to ensure sufficient broadband data networks exist to support the critical business needs of emergency services.

In our view, the suggestion that public safety agencies requiring access to the 700 MHz band can enter into commercial arrangements with the major carriers of communications services in that band does not fully recognise how community safety is delivered both during major emergencies (e.g. bushfires, floods, terrorist incidents, etc), major events (e.g. New Years Eve, CHOGM) and on a daily basis. Commercial provision can not and would not be able to account for our needs as they are not dimensioned to meet critical requirements especially during high use periods (e.g. New Years Eve celebrations in capital cities) when their services can congest to the point of failure.

The ACMA Discussion Paper (*Spectrum reallocation in the 700 MHz digital dividend band*) recommends all available spectrum be allocated to the highest bidders through an auction process in the second half of 2012. In our view, this compromises the public interest and community safety for a financial dividend. It has the potential to undermine fully effective communication and interoperability between emergency service agencies at a time when recent Royal Commissions, coronial investigations and other significant public inquiries have examined communication issues within and between emergency services in detail. Aside from the risk to life, we are concerned that this proposal, should it be implemented, will provide fertile ground for future inquiries to criticise emergency service agencies and government at all levels.



European and United States standards agencies are targeting the 790-862MHz band for public safety broadband communications. These two markets will drive equipment research and investment by manufacturers and, for these reasons, it is essential that Australia is aligned with the public safety frequency allocation in these jurisdictions.

We urge you to allocate sufficient 700 MHz spectrum, consistent with the frequency ranges that have been requested in the USA and Canada (and proposed in Europe), to ensure emergency services can deliver their essential services without being beholden to, or compromised by, the vagaries of commercial providers.

Yours sincerely,

Jon White
Chief Executive Officer
Australia New Zealand Policing Advisory Agency

Naomi Brown
Chief Executive Officer
Australian Fire Authorities and Emergency Service Authorities Council

Lyn Pearson
Executive Director
Council of Ambulance Authorities