



Police Federation
of Australia

The National Voice of Policing

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POLICE FEDERATION OF AUSTRALIA: SUBMISSION TO THE SPECTRUM REVIEW

Introduction

The Police Federation of Australia (PFA), representing the nation's 58,000 police officers and approximately 200,000 first responders across the country, makes this submission on the Federal Government's Spectrum Review:

- to emphasise the critical importance of spectrum to non-commercial users like police and emergency services; and
- because of our continuing concern that the Minister for Communications and the ACMA are failing to implement the statutory obligation under the ***Radiocommunications Act 1992*** to provide adequate spectrum for law enforcement and emergency services.

Without broadband spectrum it is not possible for Australia's public safety agencies to have inter-operable, dedicated mobile broadband communications for their day-to-day and life-saving national security, disaster and emergency operations.

The PFA regrets to say that this is the latest in more than a dozen submissions we have had to make on spectrum since our first submission on the subject four years ago. Those submissions to Prime Ministers, Ministers for Communications, numerous submissions to the ACMA and the department, and to two Parliamentary inquiries (both of which unanimously recommended dedicated mobile broadband spectrum for public safety agencies) and Australia is still in the situation where Australia's public safety agencies lack adequate mobile broadband spectrum.

Cutting “red tape”, the latest fashion, does not seem to have affected the steady stream of discussion papers, inquiries and reviews on the subject of spectrum and spectrum management which have consumed inordinate resources of government and interested parties alike.

We are of course aware of the Minister for Communications, Malcolm Turnbull’s recently announced Productivity Commission cost/benefit analysis into spectrum for public safety agencies, but we maintain a keen interest in ensuring that the legislative framework for spectrum management in this country continues to cater for the needs of vital non-commercial services provided by defence, national security, law enforcement and emergency service agencies in the national interest.

The cost/benefit analysis to be undertaken by the Productivity Commission is something no other sector of spectrum users have had to face. Indeed as recently as October this year the ACMA announced new spectrum allocations to Telstra, Optus, Vodafone, infrastructure providers in mining and smart infrastructure and to railway operators, all without a formal cost/benefit analyses.

To the PFA it appears that important public safety priorities are overlooked and the national interest is being neglected.

In this submission the PFA will concentrate on:

- the framework for spectrum management (Proposal 1);
- a single licensing framework (Proposal 2);
- spectrum pricing (Proposal 4); and
- privatising spectrum management (Proposal 8).

The framework for spectrum management

We support the proposals for Ministerial policy statements and powers of direction to the ACMA as important mechanisms for the Government of the day to express its policy intentions and to intervene where necessary. These powers enable major government policy initiatives and spectrum allocations to be implemented.

However, those Ministerial powers are no substitute for the overarching policy parameters set by the Parliament in the ***Radiocommunications Act 1992*** itself. A standout example of this is the objects section of the Act which sets out the obligation under the ***Radiocommunications Act 1992*** to provide adequate spectrum for Australian defence, national security, law enforcement and emergency services.

The PFA is firmly of the view that that overarching policy position in the Act should not be replaced by powers vested in the Minister.

When the Keating Government first introduced a market-based system for Australia spectrum management in 1992, it included in the Radiocommunications Act a provision in Section 3(b) “to avoid any disadvantage to public and community services arising from the implementation of market-based reforms¹”.

In 2003 the Howard Government amended and strengthened Section 3(b) to “expressly provide that making adequate spectrum available for defence, national security, law enforcement and emergency services is an object of the Radcom Act”². “The purpose is to address concerns of defence, national security, law enforcement and emergency services agencies regarding adequate and assured future access to appropriate segments of the radiofrequency spectrum..... (This) will strengthen the existing provisions by providing an express acknowledgement of the importance of adequate access to radiofrequency spectrum by these agencies”³.

The assurance in the Act of adequate spectrum for law enforcement and emergency services is more important now than it has ever been. This is because of the insatiable demand for broadband spectrum by Australia’s major telecommunications companies and the effect this is having on other sectors and users.

This is clearly demonstrated by the fact that following the auction of Digital Dividend spectrum (in the 700 MHz band), 30 MHz of that spectrum remained unsold. None of the major telecommunications companies bid for that spectrum, yet they remained opposed to 20 MHz being set aside for law enforcement and emergency services as recommended unanimously by two recent Parliamentary inquiries:

- The Senate Environment and Communications References Committee report, ***The capacity of communications networks and emergency warning systems to deal with emergencies and natural disasters***, November 2011; and
- The Parliamentary Joint Committee on Law Enforcement report, ***Spectrum for public safety mobile broadband***. July 2013.

Furthermore, some major telecommunications companies also opposed law enforcement and emergency services having 20 MHz of spectrum in the 800 MHz band, although 10 MHz in that band was proposed by the ACMA in 2013, with the possibility of 20 MHz left open by the ACMA. (We should acknowledge that as we understand it, Telstra supports law enforcement and emergency services having dedicated mobile broadband spectrum.)

Instead, some in the telecommunications industry want Australia’s police services and emergency services to have to source their broadband communications capability from the telecommunications companies and pay them for that capability in perpetuity. This would put police and emergency services in a position of having a monopoly supplier in a position

¹ *Objects of the Radiocommunications Act 1992*, Sept 2012 DBCDE.

² *Ibid*, section 2.

³ *Communications Legislation Amendment Bill (No. 1) 2002*, Explanatory Memorandum, Senator the Hon. Richard Alston.

to dictate to them the price, quality, security and terms of a capability essential to their public safety functions in the 21st century. The only way to avoid this is for public safety to have dedicated spectrum. Some telecommunications companies seem to be advocating, contrary to the Act, that law enforcement and emergency services should have zero broadband spectrum.

Such a stance is clearly not in the public interest. Everything established by the two Parliamentary Committees listed above supports this view.

Introducing a pure market-based system for spectrum management would lead to a situation where important public responsibilities which lie exclusively with governments, Federal and State, are priced out of the use of an essential resource for their sensitive and life-saving communications.

We note that Treasury, in its submission on your Terms of Reference, does not advocate a purely market system and recognizes the need for government intervention and a system which deals effectively with non-commercial users of spectrum. The Department of Infrastructure and Regional Development takes a similar view, cautioning that spectrum needed for public safety must be treated differently to spectrum used for commercial purposes or else safety-of-life functions will be compromised. It cites “public good” uses for safety and security and operational effectiveness including aviation, maritime, and rail.

A single licensing framework

We do not object to a single licensing framework or flexible licensing parameters but we do have concerns about some users being singled out for less than 15 year licensing terms, for example non-commercial users who need certainty about their investments in network infrastructure just as commercial users do.

Spectrum pricing

The consultation paper proposes that prices for spectrum be market-based with the ability for Ministerial intervention to determine otherwise on an exception basis. It also proposes that pricing for administrative allocations be reviewed, simplified and made consistent and transparent. It is not clear what this means for non-commercial users of spectrum who will never be in a position to compete with commercial users on price for spectrum.

The paper canvasses making exceptions to the market-based approach on a case by case basis where there is a sound public interest rationale, but this provides little comfort to Federal public sector users like defence and national rail providers, State and Territory governments, their police forces and emergency services.

The earlier *Spectrum Review Issues Paper* canvassed the use of opportunity cost pricing and proposed to re-examine concessional charging arrangements for various users. Elsewhere it suggested treating users and sectors consistently and applying market-based principles to public interest services.

The current Act provides for differential access charges for spectrum for good reason – in recognition that spectrum is a public resource and that different categories of users have vastly different capacities to pay for spectrum. Those differentials range from profit-making telecommunications companies like Telstra, Optus and Vodafone, to taxpayer funded non-profit organisations like police and emergency services. Spectrum is no less vital to the latter than it is to the former and yet public safety agencies will never be able to compete with telecommunications companies financially for spectrum. We believe that the provisions of the Act relating to differential charges should remain.

It is worth recalling that the very use of spectrum by public safety agencies (and various other public service users) results in huge benefits to the public, society in general and governments as four cost/benefit studies by reputable institutions and economists demonstrate:

- [HK University PPDR Report May 2013](#)
- [LSE Broadband spectrum for emergency services out ways the opportunity cost 1 \(EU\)](#)
- [LSE Broadband spectrum for emergency services out ways the opportunity cost UK](#)
- [Land Mobile Radio spectrum valuation report.](#)

The Hong Kong report looks at eight Asia Pacific economies, including Australia. It concludes that 20 MHz or more of dedicated mobile broadband spectrum is warranted on a cost/benefit basis (that is the benefit far outweighs the opportunity cost of assigning that spectrum to commercial users like the telcos). The London School of Economics reports on the UK and the EU respectively find that on a cost benefit basis at least 20 MHz of spectrum is necessary for public safety.

The ARCIA sponsored report undertaken by Windsor Place Consulting deals with current narrowband use by a variety of mission critical users, including police and emergency services. It finds that the value of that land mobile radio spectrum in Australia is ten times greater than the next best alternative use.

All these cost/benefit studies confirm the significant return on investment to society from the allocation of the necessary spectrum for these “public good” purposes.

Privatising spectrum regulation and management

We have serious reservations about the proposal to privatize spectrum management which we believe is an important regulatory and planning function of the Federal Government, the custodian of an important public asset which needs to be managed effectively in the public interest. It would be like privatizing the air and rain, or ocean resources to which we all need fair and equitable access.

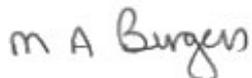
Conclusion

As the PFA told the Prime Minister Tony Abbott in a letter to him in September 2014,

“If there is one further measure your Government could take to materially improve the capability and effectiveness of law enforcement and emergency services in this country, it is to urgently provide 20 MHz of the 700 or 800 band spectrum so that our forces can deploy dedicated, inter-operable mobile broadband communications nation-wide. This would be deployed for counter-terrorism investigations, in the event of a terrorist incident, and for natural disasters and other emergencies, as well as for more effective and efficient every-day policing.

This capability (was) in place for the G20 Leaders Summit in Brisbane in November by special arrangement with Telstra, but if the capability is essential for that important meeting of world leaders, it is also essential for Australian security, law enforcement and emergency services and for counter-terrorism, such as in other Australian capital cities.”

Australia needs a spectrum management framework which can deal with such essential services promptly without endless analyses and inquiries and deferrals which put public safety at unnecessary and avoidable risk.

A handwritten signature in blue ink that reads "m A Burgess". The signature is written in a cursive, slightly slanted style.

Mark Burgess
Chief Executive Officer

2 December 2014