

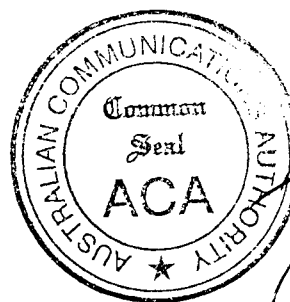
AUSTRALIAN COMMUNICATIONS AUTHORITY

Radiocommunications Act 1992

Radiocommunications (Apparatus Licence—Open Outcry Auction) Determination 1999

The Australian Communications Authority, under subsection 106(1) of the *Radiocommunications Act 1992*, determines the following procedures to be applied in allocating apparatus licences by a price-based allocation system.

Dated *26 February 1999*



A. Shaw
Chairman

R. Horton

Deputy Chairman

Australian Communications Authority

PART 1—PRELIMINARY

Name of Determination

1. This Determination is the *Radiocommunications (Apparatus Licence—Open Outcry Auction) Determination 1999*.

Commencement

2. This Determination commences on 26 February 1999.

Definitions

3. (1) In this Determination:

applicant means a person who applies to take part in an auction for the allocation of an apparatus licence under this Determination.

auction centre means the auction centre located at the Canberra central office of the ACA.

balance of bid price means the total of all the highest bids made at the auction for lots by the nominated applicant, less the total of all deposits (if any) given for those lots.

bank cheque means a bank cheque issued by a bank licensed to operate in Australia.

bid co-ordinator means a person appointed under clause 21.

Bidder Identification Form means the document approved by the ACA under paragraph 8 (1) (d).

Bidder's Acknowledgment means the document approved by the ACA under paragraph 8 (1) (e).

bid price means the amount bid by or on behalf of a nominated applicant for the purposes of subclause 24 (4).

class of lot means a group of lots of the same kind and set out in the Schedule.

closing date means the day advertised in the notice published by the ACA under clause 6 as the last day on which a person may give the ACA an application form.

company means:

- (a) a company within the meaning of the Corporations Law; or
- (b) a foreign corporation within the meaning of the Commonwealth Constitution.

Deed of Acknowledgment means the document approved by the ACA under paragraph 8 (1) (b).

Deed of Financial Security means the document approved by the ACA under subclause 8 (2).

entry fee means a non-refundable amount set under paragraph 5 (a).

financial security amount means the amount required by a Deed of Financial Security or a performance payment for the class or classes of lot for which the applicant nominates to bid.

Form of Authority means the document approved by the ACA under paragraph 8 (1) (c).

lot means an apparatus licence for allocation by auction in accordance with this Determination.

nominated applicant means an applicant referred to in subclause 24 (4).

performance payment means a payment made to the ACA under clause 15.

RALI LM-8 means the ACA document entitled “Frequency Assignment Requirements for the Land Mobile Service” with the sequence number “129” and made by the ACA on 6 April 1998.

registered applicant means an applicant who is registered under clause 17.

registered bidder means an individual who is registered under clause 23.

reserve price, in relation to a lot, means the price set for the lot by the ACA under clause 20.

the Act means the *Radiocommunications Act 1992*.

Note The following expressions used in this Determination are defined in the Act:

- ACA
- frequency band

(2) A note used in this Determination does not form part of the Determination.

Application of the Determination

4. This Determination applies to the allocation of lots for which the ACA may issue apparatus licences.

PART 2—PREPARING FOR THE AUCTION

Entry fee and financial security amount

5. Before the ACA publishes a notice inviting applications for an auction, it must, by writing, set:

- (a) the amount of the entry fee for participating in the auction; and
- (b) the financial security amount for each class of lot;
- (c) the closing date and time for applications.

Note For paragraph (b), this would be the value of the Deed of Financial Security or performance payment to be provided based on the class or classes of lot the applicant nominates to bid on.

Publication of notice by ACA

6. (1) Before holding an auction, the ACA must publish a notice in a newspaper circulating nationally in Australia:

- (a) describing the lots to be auctioned; and
- (b) giving a brief description of the way the auction will be conducted; and
- (c) inviting people to apply to the ACA to take part in the auction; and
- (d) stating the closing date and time for applications; and
- (e) stating that lots will be auctioned in accordance with this Determination; and
- (f) stating that further information (the *Applicant Information Package*) can be obtained from the ACA at the address given in the notice.

(2) If there is a change in a matter mentioned in the notice, the ACA must publish another notice giving details of the change in a newspaper circulating nationally in Australia.

(3) The ACA may publish other information about auctions and may publish that information, and the notices mentioned in subclauses (1) and (2), in other ways.

Applicant Information Package

7. (1) The Applicant Information Package must contain the following information and documents:

- (a) a guide to the auction process;
- (b) this Determination;
- (c) a description of the lot or lots to be auctioned;

- (d) if the lots are defined in different classes of lots, a description of the classes of lots;
- (e) the application form, with instructions for completing and lodging the form;
- (f) the Deed of Financial Security;
- (g) information about the performance payment as an alternative to providing a Deed of Financial Security;
- (h) the Deed of Acknowledgment;
- (i) the Form of Authority;
- (j) the amount of the entry fee for the auction set by the ACA under paragraph 5 (a);
- (k) the financial security amounts for different classes of lot set by the ACA under paragraph 5 (b);
- (l) any allocation limits imposed on the number of licences that may be issued to a person or members of a group of persons as part of the system of allocation;
- (m) the closing time and date for applications;
- (n) the address of the auction centre;
- (o) the fax number of the auction centre for notifying payment of monies made by electronic funds transfer.

(2) The Applicant Information Package may also contain other information about the auction.

Approval of forms and notices

8. (1) The ACA must, in writing, approve the following documents:

- (a) an application form for paragraph 10 (2) (a);
- (b) a Deed of Acknowledgment for paragraph 10 (2) (c);
- (c) a Form of Authority for paragraph 10 (2) (d);
- (d) a Bidder Identification Form for clause 19;
- (e) a Bidder's Acknowledgment for clause 23.

(2) The ACA must, in writing, approve the form of a Deed of Financial Security which must include a statement to the effect that the person giving the Deed will, on demand, pay to the ACA the financial security amount set out in the Deed.

Note Subclause 13 (4) mentions who may give the Deed of Financial Security.

Payments of monies due to ACA

9. (1) All payments to the ACA must be made in Australian currency.

(2) Payment of monies for an entry fee and for a performance payment (if paid as an alternative to a Deed of Financial Security) to the ACA must be made in full:

- (a) by a single bank cheque; or
- (b) by telegraphic transfer; or
- (c) subject to subclause (5)—by electronic funds transfer.

(3) A nominated applicant must pay the balance of bid price to the ACA for all lots for which the applicant is the nominated applicant within 15 working days after the end of the auction.

(4) Payment of the balance of the bid price must be made in full:

- (a) by a single bank cheque lodged at:
 - (i) the auction centre; or
 - (ii) the Sydney Area Office of the ACA; or
 - (iii) the Melbourne Area Office of the ACA; or
- (b) by telegraphic transfer; or
- (c) subject to subclause (5)—by electronic funds transfer.

(5) If a payment is made by electronic funds transfer, the applicant must notify the auction centre by fax of the proposed payment before making the transfer.

Note See paragraph 7 (1) (o) for notification of relevant fax numbers.

(6) A payment by electronic funds transfer is not effective unless the funds have been paid into the ACA's bank account by the due date in accordance with this Determination.

(7) For subclause (5), each notification must include the following details:

- (a) the name and address of the applicant;
- (b) if the applicant is an Australian registered company—the ACN or ARBN of the applicant;
- (c) the ACA client number of the applicant (if available);
- (d) the name, address, telephone and fax numbers of the contact person regarding the funds transfer;
- (e) the amount of the payment being transferred in Australian currency;
- (f) the purpose for which the payment is being made.

Note ACN and ARBN are the relevant *registration numbers* for a company or body under the Corporations Law.

(8) A payment by electronic funds transfer must be paid into the ACA's bank account, details of which are as follows:

- (a) Bank—Reserve Bank of Australia;
- (b) Branch—Canberra City;

- (c) BSB number—092-009;
- (d) Account number—92276-5;
- (e) Account name—Australian Communications Authority Clearing Account.

PART 3—REGISTRATION OF APPLICANTS

Applications

10. (1) A person who wants to obtain a lot under this Determination must apply to the ACA for registration.

(2) The person must give the ACA the following documents (the *application documents*):

- (a) a completed application form; and
- (b) a completed Deed of Financial Security, if required under clause 13, or notification in writing that the person has lodged a performance payment; and
- (c) a completed Deed of Acknowledgment; and
- (d) a completed Form of Authority for each person authorised by the applicant to bid in the auction.

(3) The application documents must be accompanied by the entry fee and performance payment (if applicable) if not already paid into the ACA's bank account.

Note A payment by electronic funds transfer for an entry fee and a performance payment (if applicable) must have been credited to the ACA's bank account by the time the application documents are lodged.

Lodging of applications

11. (1) The application documents, entry fee and performance payment (tendered by the applicant as an alternative to a Deed of Financial Security), if paid by bank cheque, must be lodged with the ACA at the auction centre by the closing time on the advertised closing date.

(2) As soon as practicable after receiving the application documents, the ACA must confirm receipt by fax or by letter (if the ACA does not know the applicant's fax number) noting particulars of the applicant's name, address, ACN or ARBN and the class or classes of lot for which the applicant will be able to bid.

(3) If the applicant wishes to change any of the details in subclause (2), the applicant must give written notice to the ACA, accompanied by a further Deed of

Financial Security and a Deed of Acknowledgment, if required, within 5 working days of the date of receiving confirmation from the ACA.

Eligibility to bid

12. (1) When completing the application form, an applicant must nominate the class of lot the applicant wishes to bid on.

(2) The applicant can nominate to bid on any of the classes of lot set by the ACA in the Schedule.

(3) During the auction process, an applicant cannot bid for lots of a class having a higher financial security amount than the class or classes of lot nominated by the applicant on the application form.

Deed of Financial Security or performance payment

13. (1) A person who wishes to be registered as an applicant must give the ACA a Deed of Financial Security or a performance payment unless:

- (a) the applicant satisfies the ACA that it is an authority of the Commonwealth, a State or a Territory; or
- (b) the applicant satisfies the ACA that it is a subsidiary, within the meaning of the Corporations Law, of an authority of the Commonwealth, a State or a Territory; or
- (c) the ACA decides, under subclause (2), that the applicant need not give the ACA a Deed or a performance payment.

(2) If a company (other than a company which is incorporated outside of Australia) satisfies the ACA that it does not carry on business for profit, the ACA:

- (a) may decide that the company need not give the ACA a Deed of Financial Security or a performance payment; and
- (b) must notify the company in writing of the decision as soon as practicable after making the decision.

(3) The financial security amount of the Deed of Financial Security or performance payment required is the amount set by the ACA under paragraph 5 (b) for the class or classes of lot.

(4) A Deed of Financial Security must be made by:

- (a) a bank licensed to operate in Australia; or
- (b) a person authorised to carry on business in Australia as an insurer under the *Insurance Act 1973*; or
- (c) if Part VII of that Act has not ceased to have effect—a Lloyd's underwriter.

- (5) For this clause, a company makes a Deed of Financial Security by:
- (a) affixing the corporation's common or official seal to the Deed in accordance with the corporation's constitution; or
 - (b) a person signing the Deed under a power of attorney given by the corporation and registered in a State or Territory.

Failure to lodge Deed of Financial Security or performance payment

14. (1) This clause applies if:

- (a) an applicant who is required to lodge a Deed of Financial Security or performance payment does not comply with subclauses 10 (2) and (3); or
- (b) the ACA is not satisfied that the person who made the Deed of Financial Security is a person who complies with subclause 13 (4) or (5).

(2) The applicant's registration is of no effect.

(3) The applicant is excluded from taking part (or any further part) in the auction and from obtaining a licence.

Performance payment

15. (1) This clause applies if an applicant gives the ACA a performance payment instead of a Deed of Financial Security.

(2) The amount of a performance payment is equal to the financial security amount required for a Deed of Financial Security and is payable to the ACA as provided by clause 9.

Forfeiture and refund of secured monies

15A. (1) In the event of any undischarged liability owed by the applicant to the ACA for the matters mentioned in subclause (2), monies will be forfeited to the ACA, to the extent of the obligation, that:

- (a) are secured by the performance payment; or
- (b) are secured by, and paid to the ACA under, the Deed of Financial Security; or
- (c) have been paid by the promisor to the ACA under clause 1.4 of the Deed of Financial Security.

(2) For subclause (1), the matters include:

- (a) any act or omission by the applicant, its officers, employees, agents, volunteers, subcontractors or associates in connection with the applicant's participation in an allocation system conducted under this Determination; or

- (b) any breach or default by the applicant of its obligations or warranties under the Deed of Acknowledgment, this Determination, or both.

(3) Following the allocation system conducted under this Determination, the ACA must, in the case of an unsuccessful applicant, refund the performance payment or any monies paid to the ACA under subclause (1).

Register of applicants

16. (1) The ACA must maintain a register of applicants.

Note The register may be in electronic form.

- (2) For each applicant, the register must contain details of:
 - (a) the name and address of the applicant; and
 - (b) the applicant's telephone and fax numbers; and
 - (c) the class or classes of lot on which the applicant has nominated to bid; and
 - (d) if the applicant is a company or a registrable body—the applicant's ACN or ARBN.

(3) The register may also contain any other information that the ACA considers necessary for the running of the auction.

(4) The ACA must make the changes to the register that the ACA considers necessary or convenient as soon as practicable after:

- (a) an applicant tells the ACA of any change of name, address, or telephone or fax numbers; or
- (b) the ACA becomes aware that any information on the register is not correct.

Registration of applicants

17. (1) The ACA must register an applicant only if:
- (a) the applicant has:
 - (i) lodged completed application documents; and
 - (ii) paid the entry fee in accordance with clause 9; and
 - (b) if a Deed of Financial Security is required—the ACA is satisfied that the person who made the Deed is a person who complies with subclauses 13 (4) and (5); and
 - (c) if a performance payment is given instead of a Deed of Financial Security—the ACA is satisfied that the payment meets the ACA's requirements for the purposes of this Determination.

(2) At least 5 working days before the start of the auction, the ACA must, in writing, tell each registered applicant:

- (a) that the applicant has been registered; and
- (b) the class or classes of lot for which the applicant can bid; and
- (c) the starting date and time of the auction; and
- (d) the place of the auction;
- (e) the amount of the reserve price for each lot set under clause 20.

(3) The ACA:

- (a) may change the details of information mentioned in subclause (2); and
- (b) if any change is made—must tell all registered applicants of the change, in writing, as soon as practicable after making the change.

(4) For subclause (2), if the ACA wishes to change the day on which the auction commences, the ACA must not change the day to a day earlier than the day notified to registered applicants under paragraph (2) (c).

Lodgment of Form of Authority in special circumstances

18. (1) This clause applies if:

- (a) a registered applicant wishes to have an individual represent the applicant at an auction; and
- (b) the individual is not a person for whom the applicant has given the ACA a Form of Authority under paragraph 10 (2) (d).

(2) The applicant must:

- (a) give the ACA a completed and legible Form of Authority for the individual no later than 4 pm Australian Eastern Standard Time 2 business days before the auction; and
- (b) if the applicant is an individual—sign the form; and
- (c) if the applicant is a company—duly affix the seal of the company on the form; and
- (d) if the applicant is not an individual or a company—duly execute the form; and
- (e) if applicants jointly apply—sign or otherwise duly execute the form as joint applicants; and
- (f) include with the Form of Authority the reason, in writing, for not having given the ACA a Form of Authority for the individual in accordance with paragraph 10 (2) (d).

(3) The ACA must accept the Form of Authority if it is satisfied that it was not given to the ACA in accordance with paragraph 10 (2) (d) because of special circumstances.

(4) For the avoidance of doubt, a Form of Authority given to the ACA by a registered applicant must have on it the applicant's original signature or other means of execution.

Distribution of Bidder Identification Forms

19. (1) If a registered applicant is an individual, the ACA must make available to the applicant:

- (a) a Bidder Identification Form for the applicant; and
- (b) a Bidder Identification Form for each individual (if any) for whom the applicant provided a Form of Authority.

(2) If a registered applicant is not an individual, the ACA must make available to the applicant a Bidder Identification Form for each individual for whom the applicant provided a Form of Authority.

(3) The ACA may, at any time, replace a Bidder Identification Form that it has issued if it is satisfied that the form issued has been lost, destroyed or cannot reasonably be made available to the ACA.

Reserve Prices

20. After the closing date for applications, the ACA must set the reserve price for each lot put up for auction.

PART 4—CONDUCT OF THE ALLOCATION SYSTEM

Appointment of bid co-ordinator

21. The ACA must appoint 1 or more persons to conduct an auction for the allocation of lots.

Holding an allocation

22. The ACA must hold an auction for allocation of lots as indicated to each registered applicant in accordance with this Determination.

Registration of bidders by ACA

23. (1) If an individual for whom the ACA has issued a Bidder Identification Form wishes to bid in the auction, the individual must register as a bidder in relation to a class or classes of lot.

Note Under subclause 24 (1), a bid for a lot may only be made by a registered bidder.

- (2) The individual must register:
 - (a) in the period of 1 hour that ends 30 minutes before bids are expected to be invited for the first lot on the first day of the auction period; or
 - (b) if the ACA extends that period—before the end of the period set by the ACA.
- (3) When registering, the individual must:
 - (a) either:
 - (i) show the ACA the Bidder Identification Form issued for the individual; or
 - (ii) satisfy the ACA that the Bidder Identification Form issued for the individual has been lost, destroyed or cannot reasonably be made available to the ACA; and
 - (b) show the ACA the evidence of the individual's identity referred to in the Bidder Identification Form; and
 - (c) complete and sign the Bidder's Acknowledgment given to the individual by the ACA.

Note Under subclause 19 (3), the ACA may, at any time, replace a Bidder Identification Form that it has issued if it is satisfied that the form it issued has been lost, destroyed or cannot reasonably be made available to the ACA.

(4) If the individual signs a Bidder's Acknowledgment and has not otherwise complied with subclause (3), the Bidder's Acknowledgment is of no effect.

(5) On registering an individual as a bidder, the ACA must give each registered bidder:

- (a) a bidder's paddle in relation to the class or classes of lot for which the bidder is registered to bid; or
- (b) if the bidder is registered in relation to more than 1 class of lot—a different bidder's paddle for use for each class of lots.

(6) If an individual shows the ACA more than 1 Bidder Identification Form issued for the individual, or satisfies the ACA that the ACA has issued more than 1 Bidder Identification Form for the individual, the ACA must:

- (a) register the individual separately for each Bidder Identification Form; and
- (b) give the individual a different bidder's paddle for each Bidder Identification Form for each class of lot for which the applicant is registered to bid.

Bidding for a licence

- 24. (1)** Only a registered bidder may bid for a lot.
- (2)** The bid co-ordinator will:
- (a)** invite bids for 1 lot at a time; and
 - (b)** identify the registered bidder who makes the highest bid for the lot.
- (3)** In the event of a disputed bid:
- (a)** the bid co-ordinator is the sole arbiter; and
 - (b)** the bid co-ordinator's decision is final.
- (4)** If the highest bid made for a lot is at least equal to the reserve price for the lot, the registered applicant by whom, or on whose behalf, the highest bid is made is the nominated applicant (the *nominated applicant*) for the lot.
- (5)** If an unregistered bidder bids for a lot, the making of the bid does not, by itself, affect:
- (a)** the identification of the registered bidder who makes the highest bid for the lot; or
 - (b)** the validity of the allocation of the lot.

Meeting with ACA and tender of deposit

- 25. (1)** Immediately after an applicant is identified as the nominated applicant for a lot:
- (a)** if the nominated applicant is a registered bidder—the nominated applicant must meet with the ACA; or
 - (b)** if the nominated applicant is not a registered bidder—a registered bidder who has signed a Bidder's Acknowledgment in relation to the nominated applicant must meet with the ACA.
- (2)** The person who meets with the ACA must, as directed by the ACA:
- (a)** identify himself or herself by:
 - (i)** showing the ACA the correct Bidder Identification Form; or
 - (ii)** showing the ACA the correct bidder's paddle; or
 - (iii)** verifying the bidder's name and signature as they appear on the relevant Bidder's Acknowledgment; and
 - (b)** tender a deposit of 10% of the amount of the bid price in full by a single payment consisting of cash, or a personal or company cheque, or a combination of those modes of payment.

Note Subclause 9 (1) provides that all payments must be made in Australian currency.

(3) The person who meets with the ACA must not pay an amount of cash that is equal to or greater than the amount referred to in the definition of “significant cash transaction” in subsection 4 (1) of the *Financial Transaction Reports Act 1988*.

Note At 1 July 1998, the amount was \$10,000.

Applicant not entitled to a lot if deposit not paid

26. If the nominated applicant does not pay the deposit in accordance with paragraph 25 (2) (b) for a lot:

- (a) the applicant is not entitled to be allocated the lot that was bid for; and
- (b) the lot may be re-offered at the auction by the bid co-ordinator; and
- (c) if the lot is re-offered—the applicant is not entitled to bid again for that lot; and
- (d) the allocation of lots under this Determination to other applicants is not affected.

Allocation of lot to nominated applicant

27. The nominated applicant is entitled to be allocated a lot if the applicant pays the balance of the bid price for all lots for which the applicant was the nominated applicant in accordance with subclause 9 (3).

PART 5—CONSEQUENCES OF DEFAULT

Liability for failure to comply with requirements of this Determination

28. (1) If a nominated applicant does not pay the balance of the bid price in accordance with this Determination:

- (a) the applicant ceases to be entitled to be allocated the lots that were bid for; and
- (b) any amount paid by the applicant under paragraph 25 (2) (b) is forfeited to the ACA; and
- (c) the applicant is taken to be in default of its financial obligations to the ACA under this Determination; and
- (d) the performance payment (if any) held by the ACA is forfeited to the ACA to meet any undischarged liability; and
- (e) the affected lots may be re-allocated at the same auction or treated as unsold lots under clause 29.

(2) If a nominated applicant is in default of its financial obligations to the ACA, the amount payable to the ACA, worked out under subclauses (3) or (4), as the

case requires, is a debt due to the ACA and is recoverable by the ACA from the nominated applicant in any court of competent jurisdiction.

(3) The amount recoverable under subclause (2) is the balance of the bid price, allowing for the following deductions, as the case requires:

- (a) any amounts (other than the entry fee and the deposit) paid to the ACA by the nominated applicant in accordance with this Determination;
- (b) if the affected lots are resold at the same auction—the bid price received by the ACA on the resale of the lots;
- (c) any amount otherwise forfeited to the ACA under this Determination;
- (d) any amount received by the ACA under a Deed of Financial Security or the Deed of Acknowledgment.

(4) If the affected lots are treated as unsold lots and subsequently allocated in accordance with clause 29, the amount recoverable under subclause (2) is:

- (a) if the amount obtained for the lots in a subsequent allocation is less than the balance of the bid price worked out under subclause (3)—the difference between those amounts; and
- (b) the costs (if any) reasonably incurred by the ACA in allocating the lots in a subsequent allocation.

Lots offered at auction but not sold

29. (1) A lot offered at auction but not sold for any reason may be allocated by the ACA:

- (a) as the ACA decides under subsection 100 (1) of the Act; or
- (b) as the ACA determines under subsection 106 (1) of the Act.

(2) The ACA may arrange for 1 or more additional allocations to be made in relation to the lot.

PART 6—ISSUE OF LICENCES

Licence not to be issued in certain circumstances

30. The ACA must not issue a licence that is inconsistent with:

- (a) the Australian Spectrum Plan; or
- (b) a relevant frequency band plan.

Issue of licence to nominated applicant

- 31. (1)** The ACA must issue a licence to a nominated applicant if:
- (a) the ACA complies with its obligations under:
 - (i) the Act; and
 - (ii) this Determination; and
 - (b) the nominated applicant:
 - (i) complies with the requirements in clause 9 that apply to the applicant; and
 - (ii) lodges an application for the licence under section 99 of the Act within 6 months of being identified as the nominated applicant under subclause 24(4); and
 - (c) the ACA is satisfied, having regard to subsections 100 (4), (4A), (5) and (6) of the Act, RALI LM-8, and any other relevant factors, that there are no reasonable grounds for refusing to issue the licence; and
 - (d) none of the circumstances in clause 30 exist.
- (2)** The licence comes into force on the day on which it is made.
- (3)** A licence is in force for a period of 5 years commencing on the day on which it is issued.

PART 7—MISCELLANEOUS

ACA not liable under the allocation system

32. The ACA is not liable to pay damages or costs arising from an act or omission of any person in relation to the allocation procedures set out in this Determination.

Information provided by applicant

33. (1) A document given to the ACA by a person for the purposes of the allocation system set out in this Determination (including a document that contains intellectual property) becomes the property of the Commonwealth.

(2) Subclause (1) does not apply to a document that is given to the ACA to establish an individual's identity.

(3) The Commonwealth may use information provided by an applicant for the purposes of the Commonwealth.

Recovery of damages by ACA

34. This Determination is without prejudice to any right of action or remedy that the ACA has or may have against any person which arose or arises under the Deed of Acknowledgment, Deed of Financial Security, statute, common law, equity or otherwise.

Giving of information by ACA

35. Before the ACA issues a licence, it may announce, or publish a notice of:
- (a) the name of the person to whom the licence is to be issued; and
 - (b) the highest final price bid for the lots included in the licence.
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SCHEDULE

subclauses 3(1) and 12(2)

1. For this Determination, the class of lot that is available for allocation is:

Apparatus licences that authorise the holder to operate devices in the 800 MHz frequency band for a trunked land mobile service at sites within a geographic area described by a circle with a radius of 100 kilometres whose centre is located at the Melbourne GPO.
2. The 2 lots to be allocated in accordance with this Determination are apparatus licences within the class of lot set out in clause 1 of this Schedule that may be operated on a frequency channel set out in:
 - (a) a row in Block 7, Group 2 of Table B4.1 of RALI LM-8 with Channel Numbers 27, 67, 107, 147 and 187 ('Lot A'); and
 - (b) a row in Block 7, Group 4 of Table B4.1 of RALI LM-8 with Channel Numbers 37, 77, 117, 157 and 197 ('Lot B').

Note Refer to the frequency ranges for the channels in Table B4.2 of RALI LM-8.
