

**Commonwealth of Australia**

*Radiocommunications Act 1992*

**Radiocommunications (Allocation of Multipoint  
Distribution Station Licences) Determination  
No. 1 of 1994**

I, CHRISTINE MARY GOODE, Acting Spectrum Manager, on behalf of the Spectrum Management Agency, determine the following price-based allocation system under subsection 106 (1) of the *Radiocommunications Act 1992*.

Dated 9 May 1994.

CHRISTINE M. GOODE  
Acting Spectrum Manager

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## **PART 1—PRELIMINARY**

### **Citation**

1. This Determination may be cited as the Radiocommunications (Allocation of Multipoint Distribution Station Licences) Determination No. 1 of 1994.

### **Interpretation**

2. (1) In this Determination, unless the contrary intention appears:

“**additional allocation**” means an additional allocation under clause 21;

“**allocation period**” means the period or periods referred to in a notice published under subclause 4 (1), (2) or (3);

“**Applicant Registration Form**” means the document approved under paragraph 6 (1) (a);

“**area**” means an area described in an item in Schedule 1;

“**bank cheque**” means a bank cheque issued by a bank licensed to operate in Australia;

“**bid co-ordinator**” means a person appointed under clause 7;

“**Bidder Identification Form**” means the document approved under paragraph 6 (1) (c);

“**bid price**” means the amount bid by or on behalf of a nominated applicant;

“**channel**”, in relation to an area, means a frequency sub-band referred to in the item in Schedule 2 that relates to the area;

“**cheque**” means a cheque issued by a bank licensed to operate in Australia;

“**company**” has the same meaning as in the Corporations Law;

“**Contract of Acknowledgment**” means the document approved by the SMA under subclause 6 (2);

“**Deed of Guarantee**” means the document approved under subclause 6 (3);

“**Form of Authority**” means the document approved under paragraph 6 (1) (b);

“**grid reference**” means an Australian Map Grid reference;

“**licence**” means a licence to operate a transmitter on a channel in an area;

“**nominated applicant**” means an applicant referred to in subclause 15 (4);

“**registered applicant**” means an applicant who is registered under clause 10;

“**registered bidder**” means an individual who is registered under clause 13;

“**the Act**” means the *Radiocommunications Act 1992*;

“**transmitter**” means a multipoint distribution station within the meaning of the Radiocommunications Regulations.

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- (2) Unless the contrary intention appears, an expression that is:
- (a) defined in the Radiocommunications Regulations; and
  - (b) used in this Determination;

has the meaning given by those Regulations.

(3) A note that is used in this Determination does not form part of the Determination.

**Application of the Determination**

3. (1) This Determination applies to the allocation and issue of a licence.

(2) This Determination does not apply to an application for the issue or renewal of a licence in relation to a transmitter that the applicant is authorised to operate under:

- (a) a licence that:
  - (i) was issued under the system set out in this Determination, or under the Act; and
  - (ii) is in force on the day on which the application is made; or
- (b) a licence that:
  - (i) was granted under the *Radiocommunications Act 1983*; and
  - (ii) is in force on the day on which the application is made.

**PART 2—PREPARATIONS FOR THE ALLOCATION OF LICENCES**

**Publication of invitation and other information**

4. (1) The SMA must publish, in relation to an allocation, the following information in a newspaper circulating nationally in Australia:

- (a) an invitation to apply for licences by registering as an applicant;
- (b) notice of the last day on which a person may give the SMA an Applicant Registration Form;
- (c) details of how to obtain forms that are necessary for taking part in the allocation process;
- (d) notice of the period or periods in which bids are to be invited for licences;
- (e) a statement that licences will be allocated in accordance with the system set out in this Determination;
- (f) the place at which the allocation will be held;
- (g) the address of the SMA to which documents must be sent.

(2) If the SMA decides to arrange an additional allocation, it must publish the following information in a newspaper circulating nationally in Australia:

- (a) a statement to the effect that only persons who have previously been registered applicants for any of the licences may bid for the licences in the additional allocation;
- (b) an invitation to those persons to bid for the licences included in the additional allocation;
- (c) details of how to obtain forms that are necessary for taking part in the licence allocation process;
- (d) notice of the period or periods in which bids are to be invited for licences;
- (e) a statement that licences will be allocated in accordance with the system set out in this Determination;
- (f) the place at which the allocation will be held;
- (g) the address of the SMA to which documents must be sent.

(3) If a matter referred to in subclause (1) or (2) is changed, the SMA must publish details of the change in a newspaper circulating nationally in Australia.

(4) The SMA may cancel an allocation period, or a part of an allocation period, that it has advertised.

(5) The SMA must not act under subclause (4) if a bid co-ordinator has invited bids for licences in the area to which the allocation relates.

(6) The SMA may:

- (a) publish the material referred to in subclauses (1), (2) and (3) in other places; and
- (b) publish other information relating to the allocation of a licence.

[NOTE: It is the responsibility of an applicant to be familiar with all relevant legislation, including the Act, Regulations under the Act and determinations and guidelines made under the Act.]

### **Reserve prices**

5. The SMA may determine in writing a reserve price for a licence.

### **Approval of forms**

6. (1) The SMA must approve, in writing, the following documents:

- (a) an Applicant Registration Form for the purposes of paragraph 8 (2) (a); and
- (b) a Form of Authority for the purposes of paragraph 8 (2) (b) or 12 (2) (a); and
- (c) a Bidder Identification Form for the purposes of clause 11.

(2) The SMA must approve, in writing, a document to be called the Contract of Acknowledgment that includes statements to the effect that:

- (a) the applicant to whom the Contract of Acknowledgment relates has applied for a licence in reliance on the applicant's judgement and investigations; and
- (b) the applicant acknowledges that the applicant will only be issued with a licence in accordance with this Determination and after payment of the full bid price; and
- (c) the applicant acknowledges that the applicant is subject to this Determination and to the terms and conditions of the Contract of Acknowledgment.

(3) The SMA must approve, in writing, a document, to be called the Deed of Guarantee, that includes a statement to the effect that the guarantor named in the Deed guarantees to pay to the SMA, in the circumstances described in the Deed:

- (a) an amount equal to a deposit that is required to be tendered under clause 16; and
- (b) an amount of damages referred to in subclause 20 (2) or (3).

[NOTE: Clause 9 contains provisions about the persons who may be named as guarantor in a Deed of Guarantee.]

### **Bid co-ordinator**

7. The SMA must appoint in writing one or more persons to manage the making of bids during an allocation period.

## **PART 3—REGISTRATION OF APPLICANTS AND BIDDERS**

### **Applicant registration**

8. (1) A person who wishes to be issued with a licence may not bid for the licence unless the person's name is on a register maintained by the SMA.

- (2) The person may seek registration by giving the SMA:
  - (a) a completed and legible Applicant Registration Form; and
  - (b) a completed and legible Form of Authority for each individual (if any) whom the person wishes to represent the person in the allocation process; and
  - (c) in the case of a company that is required to give the SMA a Deed of Guarantee in accordance with clause 9—a completed and legible Deed of Guarantee.

(3) In complying with subclause (2):

- (a) if the person is an individual—the person must sign each document; and
- (b) if the person is a company—the seal of the company must be duly affixed to each document; and
- (c) if the person is not an individual or a company—the person must duly execute each document; and
- (d) if persons jointly apply—each person must sign or otherwise duly execute each document; and
- (e) a person that is not an individual must give the SMA at least one Form of Authority.

(4) The documents to be given under subclause (2) must be given to the SMA:

- (a) at the SMA's address referred to in a notice published under subclause 4 (1), (2) or (3); and
- (b) no later than 4 p.m. Australian Eastern Standard Time on the last day for submission of an Applicant Registration Form referred to in a notice published under subclause 4 (1), (2) or (3).

(5) For the avoidance of doubt, a document given to the SMA by a person must have on it the person's original signature or other means of execution.

### **Requirements for giving a Deed of Guarantee**

**9. (1)** A company that wishes to be issued with a licence must give the SMA a Deed of Guarantee unless the company satisfies the SMA that the company:

- (a) has a paid-up capital of a value of at least \$5,000,000 in Australian currency; or
- (b) is an authority of the Commonwealth, a State or a Territory; or
- (c) is a subsidiary, within the meaning of the Corporations Law, of an authority of the Commonwealth, a State or a Territory.

(2) If the company satisfies the SMA that it does not carry on business for profit, the SMA may decide that the company is not required to give the SMA a Deed of Guarantee.

(3) A company that gives the SMA a Deed of Guarantee must satisfy the SMA that the guarantor identified in the Deed is:

- (a) a director of the company that wishes to be issued with the licence;
- (b) a company that has a paid-up capital of a value of at least \$5,000,000 in Australian currency; or
- (c) an authority of the Commonwealth, a State or a Territory.

- (4) An authority of the Commonwealth, a State or a Territory is:
- (a) a body corporate established for a public purpose by or under a law of the Commonwealth, the State or the Territory; or
  - (b) a body corporate:
    - (i) incorporated under a law of the Commonwealth, the State or the Territory; and
    - (ii) in which the Commonwealth, a State or a Territory has a controlling interest.

### **Registration of applicant by SMA**

10. (1) The SMA must register a person who seeks registration only if:
- (a) the person complies with clause 8; and
  - (b) the SMA is satisfied that the guarantor named in a Deed of Guarantee (if required) is a person or an authority referred to in paragraph 9 (3) (a), (b) or (c); and
  - (c) the Applicant Registration Form states that, in the period of 2 years immediately before the person gives the SMA the Applicant Registration Form, the person has not held an apparatus licence, issued under the Act or the *Radiocommunications Act 1983*, that has been cancelled otherwise than by the operation of section 307 of the Act (which deals with the surrender of licences).
- (2) If:
- (a) the person who seeks registration:
    - (i) does not comply with clause 8; or
    - (ii) satisfies the SMA, by a false or misleading representation, that it is not required to give the SMA a Deed of Guarantee; or
    - (iii) satisfies the SMA, by a false or misleading representation, that the guarantor named in the Deed of Guarantee (if required) is a person or an authority referred to in paragraph 9 (3) (a), (b) or (c); or
    - (iv) falsely makes the statement referred to in paragraph (1) (c); and
  - (b) the SMA includes the person's name in the register;
- the inclusion of the person's name has no effect.
- (3) The SMA may maintain the register in electronic form.

### **Distribution of Bidder Identification Forms**

**11. (1)** If a registered applicant is an individual, the SMA 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 (other than a Form of Authority that the SMA does not accept under subclause 12 (3)).

**(2)** If a registered applicant is not an individual, the SMA must make available to the applicant a Bidder Identification Form for each individual for whom the applicant provided a Form of Authority (other than a Form of Authority that the SMA does not accept under subclause 12 (3)).

**(3)** The SMA 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 or destroyed.

### **Lodgment of Form of Authority in special circumstances**

**12. (1)** This clause applies if:

- (a) a registered applicant wishes to have an individual represent the applicant in an allocation period; and
- (b) the individual is not a person for whom the applicant has given the SMA a Form of Authority under paragraph 8 (2) (b).

**(2)** The applicant must:

- (a) give the SMA a completed and legible Form of Authority for the individual no later than 4 p.m. Australian Eastern Standard Time 2 business days before the first day of the relevant allocation period; 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; and
- (f) include with the Form of Authority the reason, in writing, for not having given the SMA a Form of Authority for the individual in accordance with subclause 8 (4).

**(3)** The SMA must accept the Form of Authority if it considers that it was not given to the SMA in accordance with subclause 8 (4) because of special circumstances.

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

### **Registration of bidders by SMA**

**13. (1)** If an individual for whom the SMA has issued a Bidder Identification Form for an allocation period wishes to bid for a licence on a particular day in the period, the individual must register as a bidder with the SMA on that day.

[**NOTE:** Under subclause 15 (1), a bid for a licence may only be made by a registered bidder. A registered bidder is also the only person permitted by clause 16 to execute a Contract of Acknowledgment.]

**(2)** The individual must register:

- (a) in the period of 2 hours that ends 30 minutes before bids are expected to be invited for the first licence on the day on which the individual wishes to bid; or
- (b) if the SMA extends that period—before the end of the period set by the SMA.

**(3)** The SMA must enter in a register the names of the individual and the applicant on whose behalf the individual proposes to bid if the individual shows the SMA:

- (a) the Bidder Identification Form issued for the individual; and
- (b) the evidence of the individual's identity referred to in the Bidder Identification Form.

[**NOTE:** Under subclause 11 (3), the SMA 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 or destroyed.]

**(4)** The individual is registered by signing the register as directed by the SMA.

**(5)** If:

- (a) the individual:
  - (i) does not register by the time required under subclause (2); or
  - (ii) does not comply with subclause (3); and
- (b) the individual signs the register;

the individual's signature has no effect.

**(6)** The SMA must give each registered bidder a bidder's paddle for use on a day in the allocation period on which bids for licences will be invited.

**(7)** If the individual shows the SMA more than one Bidder Identification Form issued for the individual, the SMA 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.

## **PART 4—CONDUCT OF THE ALLOCATION SYSTEM**

### **Holding an allocation**

**14. (1)** The SMA must hold an allocation of licences during the period or periods, and at the place, referred to in a notice published under subclause 4 (1), (2) or (3) unless the SMA cancels the allocation period.

[NOTES: Before the bid co-ordinator invites bids, the SMA may cancel part or all of the period: see subclause 4 (4).

A notice under subclause 4 (2) relates to an additional allocation. Under clause 21, an additional allocation will only be held if the SMA considers it necessary.]

**(2)** The allocation of a licence must be carried out in accordance with this Determination.

### **Bidding for a licence**

**15. (1)** Only a registered bidder may bid for a licence.

**(2)** The bid co-ordinator will:

- (a) invite bids for one licence at a time; and
- (b) identify the registered bidder who makes the highest bid for the licence.

**(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)** The registered applicant by whom, or on whose behalf, the highest bid is made is the nominated applicant for the licence.

**(5)** If an unregistered bidder bids for a licence, the making of the bid does not, by itself, affect the validity of:

- (a) the identification of the registered bidder who makes the highest bid for the licence; or
- (b) the allocation of the licence.

### **Execution of the Contract of Acknowledgment and tender of deposit**

**16. (1)** Immediately after being identified as the nominated applicant for a licence, the nominated applicant (if the nominated applicant is a registered bidder), or a registered bidder for whom the applicant has given a Form of Authority under paragraph 8 (2) (b) or 12 (2) (a), must meet with the SMA.

(2) The nominated applicant (if the nominated applicant is a registered bidder), or the registered bidder, must, as directed by the SMA:

- (a) identify himself or herself by:
  - (i) showing the SMA the correct Bidder Identification Form; or
  - (ii) showing the SMA the correct bidder's paddle; or
  - (iii) verifying the bidder's name and signature in the register maintained for the purposes of clause 13; and
- (b) execute the Contract of Acknowledgment; and
- (c) tender a deposit of 10% of the amount of the bid price.

(3) The nominated applicant, or the registered bidder, must tender the deposit in one payment consisting of cash in Australian currency, a cheque in Australian currency, or both.

(4) The nominated applicant, or the registered bidder, 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 May 1994, the amount was \$10,000.]

(5) In addition to any other provision of this Determination, the amount of a deposit that is:

- (a) not tendered under paragraph (2) (c); or
- (b) tendered but not paid;

is a debt due to the Commonwealth, and may be recovered by the Commonwealth in a court of competent jurisdiction.

**Application for a licence ceases to have effect if nominated applicant does not comply with clause 16**

17. (1) Subclauses (2) and (3) apply if a nominated applicant does not execute the Contract of Acknowledgment as directed by the SMA.

- (2) Without affecting the operation of clause 20:
  - (a) the nominated applicant's application for the licence ceases to have effect from the time at which the applicant fails to comply with the SMA's direction to execute the Contract of Acknowledgment; and
  - (b) if the nominated applicant has paid the deposit for the relevant licence—the deposit is forfeited to the Commonwealth; and
  - (c) the bid co-ordinator may invite new bids for the licence during the allocation period; and
  - (d) the SMA may include the licence in an additional allocation.

**(3)** Without affecting the operation of clause 20, if the SMA is not satisfied that the nominated applicant has a reasonable excuse for not executing the Contract of Acknowledgment:

- (a) the applicant is not permitted to bid for that licence or another licence referred to in the Schedule; and
- (b) a registered bidder representing the applicant is not permitted to bid, on behalf of the applicant, for that licence or another licence referred to in the Schedule; and
- (c) the SMA must, as soon as practicable, inform the applicant:
  - (i) that the SMA is not satisfied that the nominated applicant has a reasonable excuse; and
  - (ii) of the reason why the SMA is not satisfied.

**(4)** Subclauses (5) and (6) apply if:

- (a) a nominated applicant does not tender the deposit required by clause 16; or
- (b) a deposit is tendered but not paid.

**(5)** Without affecting the operation of clause 20:

- (a) the nominated applicant's application for the licence ceases to have effect from the time at which the nominated applicant did not tender or pay the deposit as directed; and
- (b) the bid co-ordinator may invite new bids for the licence during the allocation period; and
- (c) the SMA may include the licence in an additional allocation.

**(6)** Without affecting the operation of clause 20, if the SMA is not satisfied that the nominated applicant has a reasonable excuse why the deposit was not tendered or paid:

- (a) the applicant is not permitted to bid for that licence or another licence referred to in the Schedule; and
- (b) a registered bidder representing the applicant is not permitted to bid, on behalf of the applicant, for that licence or another licence referred to in the Schedule; and
- (c) the SMA must, as soon as practicable, inform the applicant:
  - (i) that the SMA is not satisfied that the nominated applicant has a reasonable excuse; and
  - (ii) of the reason why the SMA is not satisfied.

**Payment of balance of the bid price**

**18. (1)** A nominated applicant must pay the bid price (less the amount of the deposit) to the SMA:

- (a) no later than 4 p.m., in the State or Territory in which the relevant allocation is held, on the business day following the day on which the relevant Contract of Acknowledgment is completed; and
- (b) at the office of the SMA nearest to the place at which the relevant allocation is held; and
- (c) in one payment consisting of cash in Australian currency, a bank cheque in Australian currency, or both.

**(2)** The applicant 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 May 1994, the amount was \$10,000.]

**Application for a licence ceases to have effect if nominated applicant does not comply with clause 18**

**19. (1)** Subclauses (2) and (3) apply if a nominated applicant does not comply with clause 18.

**(2)** Without affecting the operation of clause 20:

- (a) the nominated applicant’s application for the licence ceases to have effect from the time by which the applicant is required to comply with clause 18; and
- (b) the deposit paid for the relevant licence is forfeited to the Commonwealth; and
- (c) the bid co-ordinator may invite new bids for the licence during the allocation period; and
- (d) the SMA may include the licence in an additional allocation.

**(3)** Without affecting the operation of clause 20, if the SMA is not satisfied that the nominated applicant has a reasonable excuse for not complying with clause 18:

- (a) the applicant is not permitted to bid for that licence or another licence referred to in the Schedule; and
- (b) a registered bidder representing the applicant is not permitted to bid, on behalf of the applicant, for that licence or another licence referred to in the Schedule; and
- (c) the SMA must, as soon as practicable, inform the applicant:
  - (i) that the SMA is not satisfied that the nominated applicant has a reasonable excuse; and
  - (ii) of the reason why the SMA is not satisfied.

## **PART 5 — CONSEQUENCES OF AN UNSUCCESSFUL APPLICATION**

### **Liability for failure to comply with requirements of this Determination**

**20. (1)** Subclauses (2) and (3) apply if:

- (a) a nominated applicant, or a registered bidder representing the applicant, does not comply with a requirement or a direction under subclause 16 (1) or (2); or
- (b) the nominated applicant does not pay a bid price in accordance with clause 18.

**(2)** This Determination does not affect any right of the Commonwealth to recover an amount of damages (including an amount that is greater than the amount of the highest bid price, but not including an amount paid as, or recovered in relation to, a deposit) from the nominated applicant, or any other person, in relation to the failure to comply with clause 16 or 18.

**(3)** To avoid doubt, this Determination does not affect any existing or future right of the Commonwealth to recover from a nominated applicant, or any other person, an amount of damages equal to the difference between:

- (a) the bid price that relates to the nominated applicant; and
- (b) if another nominated applicant is identified for the licence—the bid price that relates to that applicant.

### **Additional allocation**

**21. (1)** The SMA may arrange for one or more additional allocations to be held in relation to a licence if:

- (a) the bid co-ordinator invites bids for the licence; and
- (b) either:
  - (i) the co-ordinator receives no bids for the licence; or
  - (ii) the application made by the nominated applicant in relation to the licence has no effect or ceases to have effect.

**(2)** The only persons who may bid for the licences in the additional allocation are persons who were, in a previous allocation, registered applicants for any of the licences included in the additional allocation.

## **PART 6—ALLOCATION OF LICENCES**

### **Licence not to be issued in certain circumstances**

**22. (1)** The SMA must not issue a licence to a nominated applicant if, in the 2 years immediately before the application, the applicant held an apparatus licence, issued under the Act or the *Radiocommunications Act 1983*, that has been cancelled otherwise than by the operation of section 307 of the Act (which deals with the surrender of licences).

(2) The SMA must not issue a licence that is inconsistent with:

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

(3) The SMA must not issue a licence if the decision to issue the licence is inconsistent with:

- (a) a direction by the Minister under section 235 of the Act; or
- (b) a policy of the Commonwealth Government notified under section 236 of the Act.

(4) If:

- (a) a person pays a deposit, or a bid price, for a licence in accordance with this Determination; and
- (b) the SMA does not issue the licence because of subclause (1), (2) or (3);

the SMA must repay to the person the amount of the payment.

#### **Statement of class of station**

**23.** A nominated applicant in relation to a licence may, as soon as practicable and no later than 14 days after the day on which the applicant became the nominated applicant, give the SMA a notice in writing stating whether the licence is to be a licence to operate a multipoint distribution station class A or class B.

#### **Issue of a licence**

**24. (1)** The SMA must issue a licence to a nominated applicant if:

- (a) the applicant, or a registered bidder representing the applicant, complies with the requirements in clause 16; and
- (b) the applicant pays the bid price in accordance with clause 18; and
- (c) none of the circumstances in clause 22 exists.

(2) If the SMA is to issue the licence to a nominated applicant who gave it the notice referred to in clause 23 in the period set out in that clause:

- (a) the SMA must issue the licence as soon as practicable after receiving the notice; and
- (b) the SMA must issue the kind of licence referred to in the notice.

(3) If the SMA is to issue the licence to a nominated applicant who did not give it the notice referred to in clause 23 in the period set out in that clause:

- (a) the SMA must issue the licence as soon as practicable after the end of the period; and
- (b) the SMA must issue a licence to operate a multipoint distribution station class B.

- (4) The SMA:
  - (a) must issue the licence by instrument in writing; and
  - (b) may issue more than one licence in one instrument.
- (5) The licence comes into force on the day on which it is issued.
- (6) A licence does not give authority to the licensee to occupy the place at which the licensee proposes to operate the relevant transmitter.

### **Duration of a licence**

25. A licence is in force for a period of 5 years commencing on the day on which it is issued.

## **PART 7—MISCELLANEOUS**

### **Notices**

26. (1) At any time before the SMA issues a licence to a nominated applicant, it may announce, or publish a notice setting out:

- (a) the name of the nominated applicant; and
- (b) the bid price that the applicant bid for the licence.

[NOTE: The SMA is also required to publish a similar notice in the *Gazette* after it has issued the licence: see subsection 106 (3) of the Act.]

(2) The SMA may give any notice for the purposes of this Determination by fax.

(3) For the purposes of this Determination, a notice is taken to have been given to an applicant by the SMA:

- (a) when the SMA delivers the notice to the address nominated by the applicant; or
- (b) if the applicant nominates another address after submitting the application—when the SMA delivers the notice to the other address; or
- (c) if:
  - (i) the applicant is a corporation; and
  - (ii) the SMA is unable to deliver the notice to the address nominated in the application;when the SMA delivers the notice to the applicant's registered business office; or
- (d) if the notice is given by fax—on production by the despatching facsimile machine of a transmission control report showing:
  - (i) the relevant number of pages comprising the document to have been sent to the correct destination; and
  - (ii) that the notice has been transmitted successfully.

**Liability under the allocation system**

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

**Information provided by applicant**

28. (1) A document given to the SMA 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 SMA to establish an individual's identity.

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

**Revocation of Determination**

29. Radiocommunications (Allocation of Multipoint Distribution System Licences) Determination (No. 1 of 1993), notified in the *Gazette* on 20 January 1993, is revoked.

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**SCHEDULE 1**

Subclause 2 (1)

**AREAS**

- | Item no. | Description   |
|----------|---|
| 1.       | The area (called the “Adelaide Area”) within a circular contour:<br>(a) whose centre is grid reference 54 290630 6126350, located at Mount Lofty, Adelaide; and<br>(b) whose radius is 50 kilometres.                                       |
| 2.       | The area (called the “Alice Springs Area”) within a circular contour:<br>(a) whose centre is grid reference 53 383310 7375865, located at West Gap, near Alice Springs in the Northern Territory; and<br>(b) whose radius is 50 kilometres. |
| 3.       | The area (called the “Brisbane Area”) within a circular contour:<br>(a) whose centre is grid reference 56 502560 6961530, located at the Commonwealth Bank Building, Brisbane; and<br>(b) whose radius is 50 kilometres.                    |
| 4.       | The area (called the “Cairns Area”) within a circular contour:<br>(a) whose centre is grid reference 55 365980 8132974, located at Lumley Hill, Cairns in Queensland; and<br>(b) whose radius is 50 kilometres.                             |
| 5.       | The area (called the “Canberra Area”) within a circular contour:<br>(a) whose centre is grid reference 55 690600 6094330, located at Black Mountain, Canberra; and<br>(b) whose radius is 50 kilometres.                                    |
| 6.       | The area (called the “Darwin Area”) within a circular contour:<br>(a) whose centre is grid reference 52 700060 8621625, located at the General Post Office, Darwin; and<br>(b) whose radius is 50 kilometres.                               |
| 7.       | The area (called the “Gold Coast Area”) within a circular contour:<br>(a) whose centre is grid reference 56 542980 6895970, located at the Post Office, Nobby Beach, Queensland; and<br>(b) whose radius is 20 kilometres.                  |

**SCHEDULE 1—continued**

8. The area (called the “Hobart Area”) within a circular contour:
    - (a) whose centre is grid reference 55 519236 5250428, located at Mount Wellington, Hobart; and
    - (b) whose radius is 50 kilometres.
  9. The area (called the “Melbourne Area”) within a circular contour:
    - (a) whose centre is grid reference 55 320800 5812740, located at the Bourke Street Mall, Melbourne; and
    - (b) whose radius is 50 kilometres.
  10. The area (called the “Newcastle Area”) within a circular contour:
    - (a) whose centre is grid reference 56 363158 6359647, located at Mount Sugarloaf, near Newcastle in New South Wales; and
    - (b) whose radius is 50 kilometres.
  11. The area (called the “Perth Area”) within a circular contour:
    - (a) whose centre is grid reference 50 392020 6464140, located at the General Post Office, Perth; and
    - (b) whose radius is 50 kilometres.
  12. The area (called the “Sydney Area”) within a circular contour:
    - (a) whose centre is grid reference 56 334080 6250870, located at the General Post Office, Sydney; and
    - (b) whose radius is 50 kilometres.
  13. The area (called the “Wollongong Area”) within a circular contour:
    - (a) whose centre is grid reference 56 307570 6182100, located at the Southern Copper Chimney, Port Kembla in New South Wales; and
    - (b) whose radius is 20 kilometres.
-

**SCHEDULE 2**

Subclause 2 (1)

**CHANNELS AND FREQUENCIES**

Item. no.	Area	Channel no. (MHz)	Frequency sub-bands		
1.	The Adelaide Area described in item 1 of Schedule 1	1	2076 - 2083		
		2	2083 - 2090		
		4	2097 - 2104		
		6	2302 - 2309		
		7	2309 - 2316		
		8	2316 - 2323		
		9	2323 - 2330		
		10	2330 - 2337		
		11	2337 - 2344		
		12	2344 - 2351		
		13	2351 - 2358		
		14	2358 - 2365		
		15	2365 - 2372		
		16	2372 - 2379		
		17	2379 - 2386		
		18	2386 - 2393		
		19	2393 - 2400		
		2.	The Alice Springs Area described in item 2 of Schedule 1	1	2076 - 2083
				2	2083 - 2090
3	2090 - 2097				
4	2097 - 2104				
6	2302 - 2309				
7	2309 - 2316				
8	2316 - 2323				
9	2323 - 2330				
10	2330 - 2337				
11	2337 - 2344				
12	2344 - 2351				
13	2351 - 2358				
14	2358 - 2365				
15	2365 - 2372				
16	2372 - 2379				
17	2379 - 2386				
18	2386 - 2393				
19	2393 - 2400				

**SCHEDULE 2—continued**

3.	The Brisbane Area described in item 3 of Schedule 1	2	2083 - 2090		
		4	2097 - 2104		
		6	2302 - 2309		
		7	2309 - 2316		
		8	2316 - 2323		
		9	2323 - 2330		
		10	2330 - 2337		
		11	2337 - 2344		
		12	2344 - 2351		
		13	2351 - 2358		
		14	2358 - 2365		
		15	2365 - 2372		
		16	2372 - 2379		
		17	2379 - 2386		
		18	2386 - 2393		
		19	2393 - 2400		
		4.	The Cairns Area described in item 4 of Schedule 1	1	2076 - 2083
				2	2083 - 2090
				3	2090 - 2097
4	2097 - 2104				
5	2104 - 2111				
6	2302 - 2309				
7	2309 - 2316				
8	2316 - 2323				
9	2323 - 2330				
10	2330 - 2337				
11	2337 - 2344				
13	2351 - 2358				
14	2358 - 2365				
15	2365 - 2372				
16	2372 - 2379				
17	2379 - 2386				
18	2386 - 2393				
19	2393 - 2400				

**SCHEDULE 2—continued**

5.	The Canberra Area described in item 5 of Schedule 1	6	2302 - 2309
		7	2309 - 2316
		8	2316 - 2323
		9	2323 - 2330
		10	2330 - 2337
		11	2337 - 2344
		12	2344 - 2351
		13	2351 - 2358
		14	2358 - 2365
		16	2372 - 2379
		18	2386 - 2393
		19	2393 - 2400
		6.	The Darwin Area described in item 6 of Schedule 1
2	2083 - 2090		
3	2090 - 2097		
4	2097 - 2104		
5	2104 - 2111		
6	2302 - 2309		
7	2309 - 2316		
8	2316 - 2323		
9	2323 - 2330		
10	2330 - 2337		
11	2337 - 2344		
12	2344 - 2351		
13	2351 - 2358		
14	2358 - 2365		
15	2365 - 2372		
16	2372 - 2379		
17	2379 - 2386		
18	2386 - 2393		
19	2393 - 2400		

**SCHEDULE 2—continued**

7.	The Gold Coast Area described in item 7 of Schedule 1	1	2076 - 2083
		2	2083 - 2090
		3	2090 - 2097
		4	2097 - 2104
		5	2104 - 2111
		6	2302 - 2309
		7	2309 - 2316
		8	2316 - 2323
		9	2323 - 2330
		10	2330 - 2337
		11	2337 - 2344
		12	2344 - 2351
		13	2351 - 2358
		14	2358 - 2365
		15	2365 - 2372
		16	2372 - 2379
		17	2379 - 2386
		18	2386 - 2393
		19	2393 - 2400
8.	The Hobart Area described in item 8 of Schedule 1	3	2090 - 2097
		4	2097 - 2104
		6	2302 - 2309
		7	2309 - 2316
		8	2316 - 2323
		9	2323 - 2330
		10	2330 - 2337
		11	2337 - 2344
		12	2344 - 2351
		13	2351 - 2358
		14	2358 - 2365
		15	2365 - 2372
		16	2372 - 2379
		17	2379 - 2386
		18	2386 - 2393
		19	2393 - 2400

**SCHEDULE 2—continued**

9.	The Melbourne Area described in item 9 of Schedule 1	6	2302 - 2309
		7	2309 - 2316
		8	2316 - 2323
		9	2323 - 2330
		10	2330 - 2337
		11	2337 - 2344
10.	The Newcastle Area described in item 10 of Schedule 1	2	2083 - 2090
		3	2090 - 2097
		4	2097 - 2104
		6	2302 - 2309
		7	2309 - 2316
		8	2316 - 2323
		9	2323 - 2330
		10	2330 - 2337
		11	2337 - 2344
		12	2344 - 2351
		13	2351 - 2358
		14	2358 - 2365
		15	2365 - 2372
16	2372 - 2379		
17	2379 - 2386		
18	2386 - 2393		
19	2393 - 2400		
11.	The Perth Area described in item 11 of Schedule 1	6	2302 - 2309
		7	2309 - 2316
		8	2316 - 2323
		9	2323 - 2330
		10	2330 - 2337
		11	2337 - 2344
		13	2351 - 2358
		14	2358 - 2365
		15	2365 - 2372
		16	2372 - 2379
		17	2379 - 2386
		18	2386 - 2393
		19	2393 - 2400

**SCHEDULE 2—continued**

12.	The Sydney Area described in item 12 of Schedule 1	6	2302 - 2309
		7	2309 - 2316
		8	2316 - 2323
		9	2323 - 2330
		10	2330 - 2337
		11	2337 - 2344
13.	The Wollongong Area described in item 13 of Schedule 1	1	2076 - 2083
		2	2083 - 2090
		3	2090 - 2097
		4	2097 - 2104
		5	2104 - 2111
		6	2302 - 2309
		7	2309 - 2316
		8	2316 - 2323
		9	2323 - 2330
		10	2330 - 2337
		11	2337 - 2344
		12	2344 - 2351
		13	2351 - 2358
		14	2358 - 2365
		15	2365 - 2372
		16	2372 - 2379
		17	2379 - 2386
		18	2386 - 2393
		19	2393 - 2400

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