Commonwealth of Australia

*Radiocommunications Act 1992*

Radiocommunications (Spectrum Licence Limits) Direction No. 1 of 2012

I, STEPHEN MICHAEL CONROY, Minister for Broadband, Communications and the Digital Economy, give the following Direction to the Australian Communications and Media Authority under subsection 60(10) of the *Radiocommunications Act 1992*.

Dated 2 February 2012

STEPHEN MICHAEL CONROY

Minister for Broadband, Communications and the Digital Economy

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. Name of Direction

This Direction is the *Radiocommunications (Spectrum Licence Limits) Direction No. 1 of 2012*.

1. Commencement

This Direction commences on the day after it is registered on the Federal Register of Legislative Instruments.

3 Interpretation

(1) In this Direction:

***ACMA*** means the Australian Communications and Media Authority.

***Act*** means the *Radiocommunications Act 1992*.

***associate***,in relation to a person, means:

1. for a body corporate:
   * 1. a director or secretary of the body; or
     2. a related body corporate; or
     3. a director or secretary of a related body corporate; or
     4. a business partner of the body; or
     5. an individual who controls at least 15% of the voting power or holds at least 15% of the issued shares in the body; or
2. for an individual:
   * 1. the individual’s spouse; or
     2. the individual’s de facto partner within the meaning given by the *Acts Interpretation Act 1901*; or
     3. a business partner of the individual; or
     4. a body corporate in which the individual controls at least 15% of the voting power or holds at least 15% of the issued shares; or
     5. a body corporate of which the individual is a director or secretary; or
     6. a body corporate that is related to a body corporate of which the individual is a director or secretary; or
3. for any person – any other person (other than the ACMA) who has a relevant agreement with the person that:
   * 1. relates to the use by a party to the agreement of spectrum licensed to either of those parties under a spectrum licence for a part of the spectrum referred to in the re-allocation declaration; or
     2. relates to the acquisition of a spectrum licence for a part of the spectrum referred to in the re-allocation declaration.

***designated area*** means the area to which the re-allocation declaration applies, as described in subsection 4(2) of the re-allocation declaration.

***re-allocation declaration*** means the *Radiocommunications (Spectrum Re-allocation) Declaration No. 1 of 2011*.

***related body corporate*** has the meaning given by the *Corporations Act 2001.*

***relevant agreement*** means an agreement, arrangement or understanding:

1. whether formal or informal or partly formal and partly informal; and
2. whether written or oral or partly written and partly oral; and
3. whether or not having legal or equitable force and whether or not based on legal or equitable rights,

other than an agreement between carriers provided for by or under the *Telecommunications Act 1997* orPart XIC of the *Competition and Consumer Act 2010*.

***specified group of persons*** means an applicant for a spectrum licence and all of the associates of the applicant.

(2) In this Direction, each frequency band includes all frequencies that are greater than the lower frequency, up to and including the higher frequency.

(3) For this Direction, 2 or more specified groups of persons having 1 member in common are taken to be 1 specified group of persons.

**4 Direction – 700MHz band**

(1) I direct that the ACMA must determine procedures under subsection 60(1) of the Act that impose limits that ensure that, as a result of the allocation of spectrum licences under Subdivision B of Division 1 of Part 3.2 of the Act, no person or specified group of persons may use more than:

(a) 20MHz of spectrum available in the designated area in the frequency band 703MHz to 748MHz; and

(b) 20MHz of spectrum available in the designated area in the frequency band 758MHz to 803MHz.