

EXPLANATORY STATEMENT

Issued by the Australian Communications and Media Authority

Television Outside Broadcast Service (1980-2110 MHz and 2170-2300 MHz)

Frequency Band Plan 2012

Radiocommunications Act 1992

Purpose

The purpose of *Television Outside Broadcast (1980-2110 MHz and 2170-2300 MHz) Frequency Band Plan 2012* (the Frequency Band Plan) is to make provisions for the purposes for which the 1980-2110 MHz and 2170-2300 MHz frequency bands may be used.

Legislative Provisions

The Frequency Band Plan is made under sections 32 and 34 of the *Radiocommunications Act 1992* (the Act) which provide that the Australian Communications and Media Authority (ACMA) may, by written instrument, prepare, revoke or vary frequency band plans, each relating to one or more frequency bands.

A frequency band plan is a legislative instrument for the purposes of the *Legislative Instruments Act 2003* (the LIA).

Background

As an outcome of the ACMA's 2010 review of the 2.5 GHz band, the ACMA is developing arrangements to support the introduction of television outside broadcast (TOB) services into the bands 1980-2110 MHz and 2170-2300 MHz. See the ACMA paper *Review of the 2.5 GHz band and long-term arrangements for ENG—Response to submissions paper*, available on the ACMA website, for information about the 2.5 GHz review.

The introduction of TOB services in the 1980-2110 MHz and 2170-2300 MHz frequency bands requires that:

- existing fixed point-to-point links in areas of high or frequent TOB usage cease operation after 1 November 2013;
- earth station operations in the 2025–2110 MHz and 2200–2300 MHz bands in the Perth area (Landsdale/Gnangara) cease operating after 31 December 2015;
- conflicting provisions in existing frequency band plans that would otherwise limit the operation of TOB services in the 1980–2010 MHz, 2076–2111 MHz and 2170–2200 MHz frequency bands are removed.

Operation

The Frequency Band Plan provides a set of primary and secondary radiocommunications services and conditions on how the frequency bands mentioned in it may be used. The Frequency Band Plan introduces the TOB service as a primary service in the 1980-2110 MHz and 2170-2300 MHz bands. The Frequency Band Plan also identifies the bands and areas for the closure of existing fixed point-to-point links by no later than 1 November 2013. In addition, the Frequency Band Plan supports the end of earth station operation in the 2025-2110 MHz and 2200-2300 MHz bands in Perth by no later than 31 December 2015.

Finally, the Frequency Band Plan revokes two existing frequency band plans to remove conflicting provisions that would otherwise limit the operation of TOB services in the 1980-2010 MHz, 2076-2111 MHz and 2170-2200 MHz frequency bands.

Consultation

To ensure that section 33 of the Act and the consultation requirements of the LIA were met, the ACMA undertook formal public consultation through the Commonwealth Gazette and via the ACMA's website.

On 6 October 2011, the ACMA commenced a public consultation process with regard to the draft frequency band plan to facilitate television outside broadcast access to 1980-2100 MHz and 2170-2300 MHz bands. The ACMA issued a media release and published a page on its website describing the issues for comment, setting out the process for making a submission, and providing a copy of a discussion paper.

The discussion paper proposed the introduction of a new frequency band plan to be made under the Act.

On 19 October 2011, a *Gazette* notice was published under section 33 of the Act setting out the ACMA's intention to make a new frequency band plan, as per its proposal in the discussion paper and seeking public comments about the proposal.

Submissions to the consultation were due by 21 November 2011. Twelve responses were received. The submissions are available on the ACMA website and listed below.

- Australian Subscription and Television & Radio Association (ASTRA)
- CSIRO
- Department of Defence
- Esso Australia
- European Space Agency
- FOXTEL
- Free TV Australia
- Global VSAT Forum
- Inmarsat
- Sirion Global Pty Ltd
- Telstra
- Thuraya Telecommunications Company

Issues raised in submissions on the draft frequency band plan included:

- the impact of the introduction of TOB services on possible future mobile satellite services in bands 1980-2010 MHz and 2170-2200 MHz;
- the ability of fixed point-to-point licensees to meet clearance timelines and concerns about operation of fixed point-to-point links on a secondary basis.

The ACMA has had regard to the comments received above in finalising the Frequency Band Plan.

Regulatory Impact Analysis

A regulatory impact statement entitled "Future arrangements for the 2.5 GHz radiofrequency spectrum band and long-term arrangements for electronic news gathering Regulation Impact Statement – Australian Communications and Media Authority (ACMA)" has been prepared and approved by the Office of Best Practice Regulation (OBPR). The OBPR reference number is 11300.

Statement of Compatibility with Human Rights

The Statement of Compatibility with Human Rights has been prepared in accordance with Part 3 of *the Human Rights (Parliamentary Scrutiny) Act 2011*. This Frequency Band Plan is compatible with human rights and it does not raise any human rights issues.

Band Plan Details

Further and more specific details of the provisions of the Frequency Band Plan are provided in the Schedule.

SCHEDULE

NOTES ON SECTIONS

Section 1 Name of Frequency Band Plan

Section 1 provides the name of the Frequency Band Plan.

Section 2 Commencement

Section 2 provides that the Frequency Band Plan commences on the day after it is registered.

Section 3 Revocations

Section 3 revokes the *Mobile-Satellite Service (2 GHz) Frequency Band Plan 2002* and the *2.1 GHz Band Frequency Band Plan 2002*.

Section 4 Interpretation

Section 4 defines terms used in the Frequency Band Plan.

The terms “earth receive station”, “earth station” and “television outside broadcast station” have the same meaning as in the *Radiocommunications (Interpretation) Determination 2000*.

Section 4 also provides definitions for “airborne television outside broadcast station”, “television outside broadcast services” and “Perth area”.

An airborne television outside broadcast station is defined as a television outside broadcast station which is fixed onboard an aircraft.

A television outside broadcast service is defined as a radiocommunications service that is provided by the operation of a television outside broadcast station.

The Perth area is defined as the geographic area described by a circle with a radius of 15 kilometers whose centre is located at latitude 31.802522 South and longitude 115.885160 East.

The section also explains how the definitions in the *Radiocommunications (Interpretation) Determination 2000*, *Radiocommunications Regulations 1993* and the *Australian Radiofrequency Spectrum Plan 2009* apply to the Frequency Band Plan, and deals with other minor matters of interpretation.

Section 5 Purpose of Frequency Band Plan

Section 5 states that the Frequency Band Plan makes provision for the purposes for which the 1980-2110 MHz and 2170-2300 MHz bands may be used.

Section 6 Purpose for which the 1980-2010 MHz frequency band may be used – mobile satellite services (Earth-to-space)

Section 6 specifies that the 1980-2010 frequency band may be used for mobile-satellite services (Earth-to-space).

Section 7 Purpose for which the 2170-2200 MHz frequency band may be used – mobile satellite services (space-to-Earth)

Section 7 specifies that the 2170-2200 MHz frequency band may be used for mobile-satellite services (space-to-Earth).

Section 8 Purpose for which the 1980-2010 MHz and 2170-2200 MHz frequency band may be used – fixed services

Section 8 sets out the circumstances in which fixed services can be operated in the relevant frequency bands:

- (a) if an apparatus licence was held by the licensee before the commencement of the Frequency Band Plan, the fixed service to which it applies may continue to be operated by that licensee under the Frequency Band Plan; or
- (b) if the fixed service is a TOB service.

Section 9 Purpose for which the 2010-2110 MHz and 2200-2300 MHz frequency band may be used

Section 9 specifies that the 2010-2110 MHz and 2200-2300 MHz frequency bands may be used for

- a TOB service;
- a fixed service (point-to-point);
- any service authorized by the spectrum plan to operate in the 2010-2110 MHz and 2200-2300 MHz bands.

Section 9 also clarifies that the purposes for which applicable bands might be used are subject to the additional conditions defined in section 10, 11 and 12.

Section 10 Purpose for which the 2010-2110 MHz and 2200-2300 MHz frequency band may be used – fixed services (point-to-point) in specified areas

Section 10 provides for the circumstances in which fixed services (point-to-point) can use the applicable frequency bands after 1 November 2013:

- (a) A fixed service (point-to-point) may operate in the 2010-2110 MHz and 2200-2300 MHz frequency bands but only outside the area described in Schedule 1.
- (b) If an apparatus licence was issued before the commencement of the Frequency Band Plan, the fixed service (point-to-point) may only continue to operate in the 2010-2110 MHz frequency band if it operates outside the area described in Schedule 2.
- (c) A fixed service (point-to-point) may only operate in the 2010-2110 MHz in the area described in Schedule 2 on a secondary basis. Essentially, secondary services have lower priority than primary services. Secondary services must not cause harmful interference to primary services and cannot claim protection from harmful interference from primary services.

Section 11 Purpose for which the 2025-2110 MHz and 2200-2300 MHz frequency band may be used – earth stations and earth receive stations in the Perth area

Paragraph 11(a) provides that an earth station cannot operate in the 2025-2110 MHz frequency band on the primary basis after 31 December 2015 within the Perth area.

Paragraph 11(b) provides that an earth receive station cannot operate in the 2200-2300 MHz frequency band on the primary basis after 31 December 2015 within the Perth area.

Section 12 Purpose for which the 2200-2300 MHz frequency band may be used – airborne television outside broadcast station

Section 12 states that an airborne television outside broadcast station must not be operated in the 2200-2300 MHz frequency band.

Schedule 1 Description of fixed service (point-to-point) areas

Schedule 1 provides a description of two parts of the fixed service (point-to-point) areas.

Part 1 defines relevant areas for the 2010-2110 MHz band, and Part 2 defines relevant areas for the 2200-2300 MHz band.

Part 1 and Part 2 areas are defined as geographic areas described by a circle with a radius of 150 kilometres whose centre is located at a point specified in Table 1 and Table 2 respectively.

Schedule 2 Description of fixed service (point-to-point) secondary areas

Schedule 2 provides a description of the fixed service (point-to-point) secondary areas.

The fixed service (point-to-point) secondary areas are determined for the frequency band 2010-2110 MHz. The area is defined by the coordinates provided in Table 3 but excluding the geographic areas defined by Table 4.

STATEMENT OF COMPATIBILITY FOR A LEGISLATIVE INSTRUMENT THAT DOES NOT RAISE ANY HUMAN RIGHTS ISSUES

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Television Outside Broadcast Service (1980-2110 MHz and 2170-2300 MHz) Frequency Band Plan 2012

This Legislative Instrument made by the Australian Communications and Media Authority (ACMA) is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

A frequency band plan is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*. The *Television Outside Broadcast Service (1980-2110 MHz and 2170-2300 MHz) Frequency Band Plan 2012* ('the Frequency Band Plan') is made under sections 32 and 34 of the *Radiocommunications Act 1992* which provide that the ACMA may, by written instruments, prepare frequency band plans, each relating to one or more frequency bands.

The purpose of the Frequency Band Plan is to:

- identify the 1980-2110 MHz and 2170-2300 MHz frequency bands as bands available for use by television outside broadcast (TOB) services;
- support the closure of existing point-to-point links in bands and area to be frequently used by TOB services by 1 November 2013;
- support the end of earth station operations in the 2025-2110 MHz and 2200-2300 MHz bands in Perth (Lansdale/Gnangara) by 1 January 2016;
- revoke two existing frequency band plans to remove provisions that would otherwise limit the operation of TOB services in the 1980-2010 MHz, 2076-2111 MHz and 2170-2200 MHz frequency bands.

The Frequency Band Plan prescribes how certain frequency bands may be used by a set of primary and secondary services and does not affect the rights or freedoms of any individual.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

The Australian Communication and Media Authority