

EXPLANATORY STATEMENT

Issued by the Australian Communications and Media Authority

1900-1920 MHz Frequency Band Plan 2012

Radiocommunications Act 1992

Purpose

The purpose of *1900-1920 MHz Frequency Band Plan 2012* (the Frequency Band Plan) is to make provisions for the purposes for which the 1900-1920 MHz band may be used.

Legislative Provisions

The Frequency Band Plan is made under section 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 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 into the band 2010-2025 MHz requires the removal of provisions in the *1900-1920 MHz and 2010-2025 MHz Bands Frequency Band Plan 2004* that may limit the operation of TOB services.

Section 7 of *1900-1920 MHz and 2010-2025 MHz Bands Frequency Band Plan 2004*, which sets out the purposes for which the band 2010–2025 MHz may be used, provides that the band may be used for fixed (point-to-multipoint) as primary services and fixed (point-to-point) as secondary services. This section must be removed to support the introduction of television outside broadcast services.

Operation

The Frequency Band Plan provides a set of primary and secondary radiocommunications services for which the frequency bands mentioned in it may be used.

Consultation

To ensure that the requirements of the Act and the LIA were met, the ACMA has undertaken formal consultation in 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. The ACMA made 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 that the new band plan would:

- revoke *the 1900-1920 MHz and 2010-2025 MHz Bands Frequency Band Plan 2004*;
- remove provisions that would otherwise limit the operation of TOB services, while retaining requirements for the frequency band plan 1900-1920 MHz.

On 19 October 2011, a *Gazette* notice was published 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 on 21 November 2011. Twelve responses were received. They 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

No objections to the draft frequency band plan were received.

Regulatory Impact Analysis

A regulatory impact statement (RIS) 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.

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 details of the Frequency Band Plan are provided in the Attachment.

ATTACHMENT

NOTES ON SECTIONS

Section 1 Name of 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 Revocation of Band Plan

Section 3 revokes *the 1900-1920 MHz and 2010-2025 MHz Bands Frequency Band Plan 2004*.

Section 4 Interpretation

Section 4 defines the terms used in the Frequency Band Plan.

The terms “primary service” and “secondary service” have the same meaning as in Part 1 of the *Australian Radiofrequency Spectrum Plan 2009*.

Section 4 defines the term “point-to-multipoint” as transmissions between a specified fixed station and two or more associated fixed stations.

Section 4 defines the term “point-to-point” as transmissions between two specified fixed stations.

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 1900-1920 MHz band may be used.

Section 6 Purpose for which the 1900-1920 MHz frequency band may be used

Section 6 specifies that the 1900-1920 MHz frequency band may be used for fixed point-to-multipoint and mobile primary services and fixed point-to-point secondary services.

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

1900-1920 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 *1900-1920 MHz Frequency Band Plan 2012* ('the Frequency Band Plan') is made under sections 32 and 34 of the *Radiocommunications Act 1992* which provides 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 revoke *the 1900-1920 MHz and 2010-2025 MHz Bands Frequency Band Plan 2004* in order to remove provisions that would otherwise limit the operation of television outside broadcast services and retain relevant provisions from the revoked *1900-1920 MHz and 2010-2025 MHz Bands Frequency Band Plan 2004*. The Frequency Band Plan prescribes how certain radiocommunications services may use certain frequency bands 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