



Radiocommunications (Trading Rules for Spectrum Licences) Determination 2012

Radiocommunications Act 1992

The AUSTRALIAN COMMUNICATIONS AND MEDIA AUTHORITY makes this Determination under section 88 of the *Radiocommunications Act 1992*.

Dated

15 August 2012

Chris Chapman
[signed]
Member

Richard Bean
[signed]
Member/~~General Manager~~

Australian Communications and Media Authority

Contents

1 Title	3
2 Commencement	3
3 Revocation	3
4 Purpose	3
5 Interpretation	3
6 Approval of form	4
7 What may be traded	4
8 Restrictions on trading	5
9 Information to be given to the ACMA	5
10 Review of decision	5
Schedule 1	6
Minimum contiguous bandwidths	

1 Title

This determination is the *Radiocommunications (Trading Rules for Spectrum Licences) Determination 2012*.

2 Commencement

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

Note All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.frli.gov.au>.

3 Revocation

The *Radiocommunications (Trading Rules for Spectrum Licences) Determination 1998* is revoked.

4 Purpose

This determination sets out the rules for the trading of spectrum licences.

Note Under section 88 of the *Radiocommunications Act 1992*, the ACMA may determine rules for the assignment of spectrum licences and the circumstances in which licences can be varied, issued or cancelled as a result of assignments.

5 Interpretation

In this determination, unless the contrary intention appears:

ACMA means the Australian Communications and Media Authority.

Act means the *Radiocommunications Act 1992*.

Australian Spectrum Map Grid (ASMG) means the map grid known as the *Australian Spectrum Map Grid 2012* published by the ACMA as in force from time to time.

Note The Australian Spectrum Map Grid 2012 is available on the ACMA website.

geographic area, in relation to a licence, means the area within which operation of a radiocommunications device is authorised under the licence.

Hierarchical Cell Identifier Scheme (HCIS) means the cell grouping hierarchy scheme used to describe geographic areas in the *ASMG*.

Level 1 cell means a Level 1 cell of the HCIS.

licence means a spectrum licence.

licensee means the holder of a spectrum licence.

minimum contiguous bandwidth (MCB) means the minimum contiguous bandwidth specified for a frequency band in Schedule 1 of this determination.

Register means the Register of Radiocommunications Licences established under section 143 of the Act.

standard trading unit (STU) in relation to a licence, means a parcel of spectrum space that consists of:

- (a) a geographic area equal to a Level 1 cell; and
- (b) a frequency band where the lower and upper frequency limits of each segment are integers when described in Hertz.

trade, in relation to a licence, means to assign or otherwise deal with the whole or any part of the licence.

Trading Form means the form approved by the ACMA under section 6 of this determination.

Note The following terms, used in this determination, are defined in the Act and have the meaning given to them by the Act:

- device
- frequency band
- spectrum licence

6 Approval of form

The ACMA must approve, in writing, a Trading Form.

7 What may be traded

Subject to section 8, a licensee may:

- (a) trade all or part of their licence to an existing licensee or to another person; and
- (b) trade parts of the licence to different persons.

Note Under subsection 86 (2) of the Act, an assignment covered by subsection 86 (1) cannot take effect before the Register is amended under Part 3.5 of the Act to take it into account.

8 Restrictions on trading

- (1) A licensee must only trade all or part of their licence as:
 - (a) a single whole STU; or
 - (b) a multiple of whole STUs.
- (2) A licensee must not trade a part of their licence if the trade results in a licence with a bandwidth that is less than the MCB for the frequency band in which the licence operates, without obtaining the ACMA's prior written permission.

- (3) A licensee must not transfer their licence for the purpose of providing security for a loan.

Note Section 68 of the Act permits a licensee to authorise other persons to operate devices under the licence.

9 Information to be given to the ACMA

- (1) The information to be given to the ACMA under section 86 of the Act must include:
 - (a) whether the whole or a part of the licence is traded; and
 - (b) the name and postal address of the person to whom the licence or part is traded; and
 - (c) if only part of the licence is traded, a description of the frequency band and geographic area of:
 - (i) the part traded; and
 - (ii) the remaining part of the licence; and
 - (d) the certificate issued under subsection 145 (3) of the Act for each device to be operated:
 - (i) under the licence or part traded; and
 - (ii) if only part of the licence is traded — under the remaining part of the licence;if a new certificate is required as a result of the trading.

Note 1 Section 86 of the Act requires parties to trading to give the ACMA such information about the assignment as the ACMA requires to amend the Register.

Note 2 To give effect to a trade, the ACMA may vary a licence or the conditions of a licence, or issue or cancel licences — see section 87 of the Act.

Note 3 The ACMA must make the changes to the Register that are necessary as a result of trading — see section 146 of the Act.

- (2) The information must be given to the ACMA on the Trading Form.

10 Review of decision

- (1) A licensee whose interests are affected by a refusal by the ACMA to give written permission under subsection 8 (2) of this determination may apply to the Administrative Appeals Tribunal for review of the decision.
- (2) If the ACMA makes a decision mentioned in subsection (1), the ACMA must give notice of the decision to a licensee whose interests it affects.
- (3) The notice must include a statement to the effect that:
 - (a) subject to the *Administrative Appeals Tribunal Act 1975*, a licensee dissatisfied with the decision may apply to the Tribunal for a review of the decision; and
 - (b) the licensee may request a statement under section 28 of that Act in relation to the decision.

Schedule 1

Minimum contiguous bandwidths

(section 5, subsection 8(2))

Item	Band (MHz)	Minimum contiguous bandwidth (MHz)
1	703-748	5
2	758-803	5
3	825-845	1
4	870-890	1
5	1710-1785	5
6	1805-1880	5
7	1900-1980	5
8	2110-2170	5
9	2302-2400	3.5
10	2500-2570	5
11	2620-2690	5
12	3425-3492.5	2.5
13	3542.5-3575	2.5
14	26500-27500	50
15	27500-28350	50
16	31000-31300	50