

Commonwealth of Australia

Radiocommunications Act 1992

Radiocommunications (Spectrum Licence Limits—Regional 1800 MHz Band) Direction 2015

I, MALCOLM BLIGH TURNBULL, Minister for Communications, give the following direction to the Australian Communications and Media Authority under subsection 60(10) of the *Radiocommunications Act 1992*.

Dated 26 May 2015

MALCOLM TURNBULL
Minister for Communications

1 Name of direction

This direction is the *Radiocommunications (Spectrum Licence Limits—Regional 1800 MHz Band) Direction 2015*.

2 Commencement

This direction commences on the later of:

- (a) immediately after the commencement of the re-allocation declaration; and
- (b) the start of the day after this direction is registered on the Federal Register of Legislative Instruments.

3 Interpretation

(1) In this direction:

Act means the *Radiocommunications Act 1992*.

associate, in relation to a person, means:

- (a) if the person is a body corporate:
 - (i) a director or secretary of the body; or
 - (ii) a related body corporate; or
 - (iii) a director or secretary of a related body corporate; or
 - (iv) an individual who controls at least 15% of the voting power or holds at least 15% of the issued shares in the body; or
- (b) if the person is an individual:
 - (i) the individual's spouse; or
 - (ii) the individual's de facto partner within the meaning of the *Acts Interpretation Act 1901*; or
 - (iii) 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
 - (iv) a body corporate of which the individual is a director or secretary; or
 - (v) a body corporate that is a related body corporate in relation to a body corporate of which the individual is a director or secretary; or
- (c) in all cases—any other person (other than the Commonwealth when represented by the ACMA) who has a relevant agreement with the person that:
 - (i) is for 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
 - (ii) relates to the acquisition of a spectrum licence for a part of the spectrum referred to in the re-allocation declaration.

carrier has the same meaning as in the *Telecommunications Act 1997*.

public mobile telecommunications service has the same meaning as in the *Telecommunications Act 1997*.

re-allocation declaration means the *Radiocommunications (Spectrum Re-allocation—Regional 1800 MHz Band) Declaration 2015*.

related body corporate has the same meaning as in the *Corporations Act 2001*.

relevant agreement means an agreement, arrangement or understanding:

- (a) whether formal or informal or partly formal and partly informal; and
- (b) whether written or oral or partly written and partly oral; and
- (c) whether or not having legal or equitable force and whether or not based on legal or equitable rights,

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

roaming services agreement means an agreement between carriers for the principal purpose of enabling end-users of public mobile telecommunications services supplied by another carrier, in geographic locations where the first-mentioned carrier's public mobile telecommunications services are not available.

regional Australia has the same meaning as in the re-allocation declaration.

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

Note: A number of expressions used in this instrument are defined in the Act, including the following:

- (a) spectrum;
- (b) spectrum licence.

Clause 4

- (2) In this direction, a reference to a part of the spectrum includes all frequencies that are greater than the lower frequency, up to and including the higher frequency.

Note: This means the lower number in the reference to a part of the spectrum is not included in the part of the spectrum.

- (3) In 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

I direct the ACMA to 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 in accordance with the re-allocation declaration, no person or specified group of persons may use more than 25 MHz of each of the following parts of the spectrum available in regional Australia:

- (a) 1725 MHz to 1785 MHz; and
- (b) 1820 MHz to 1880 MHz.