

# SUPPLEMENTARY EXPLANATORY STATEMENT

Approved by the Australian Communications and Media Authority

*Radiocommunications Act 1992*

## *Radiocommunications (Spectrum Licence Allocation – 700 MHz Band) Determination 2016*

### **Purpose of supplementary explanatory statement**

This supplementary explanatory statement amends the initial explanatory statement (**the explanatory statement**) for the *Radiocommunications (Spectrum Licence Allocation – 700 MHz Band) Determination 2016* (F2016L01970) (**the Determination**), in accordance with paragraph 15J(1)(c) of the *Legislation Act 2003* (**the LA**).

### **Amendment to explanatory statement for the Determination**

*At the discussion of section 23 in Attachment A to the explanatory statement, omit the paragraph and substitute the paragraphs below:*

This section provides that the ACMA must appoint a person to manage the auction (**the auction manager**). This appointment must be made in writing. The auction manager will facilitate and manage the auction conducted under the Determination.

In conducting auctions under a determination made under section 60 of the Act, it has been a long standing practice of the ACMA (and the Australian Communications Authority before the ACMA) to appoint, as an auction manager or auctioneer, an ACMA staff member holding a particular role within the ACMA. Generally, this has been the manager of the team responsible for spectrum licence allocation, who is employed at Executive Level 2 under the *Public Service Act 1999* (**PSA**).

Accordingly, it is the ACMA's intention that the Manager of the Spectrum Licensing Policy Section, an ACMA employee engaged at the Executive Level 2 under the PSA, be appointed as the auction manager for the auction conducted under the Determination.

*At the discussion of section 91 in Attachment A to the explanatory statement, omit the paragraph and substitute the new paragraphs below:*

This section provides that the auction manager may delegate any of his or her functions and powers under the Determination.

The auction manager is required to exercise the powers and functions conferred on him or her under the Determination, set out below:

	<b>Provision</b>	<b>Power</b>
1.	Subparagraphs 6(2)(b)(i) and (ii)	Approve alternative document formats for the provision of documents that are emailed to the ACMA under the Determination.
2.	Subsection 58(1)	Set the start date and time of the first and second rounds of the auction.

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*Supplementary Explanatory Statement to the Radiocommunications (Spectrum Licence Allocation – 700 MHz Band) Determination 2016*

3.	Subsection 59(1)	Permit a bidder to make a bid using a method other than the auction system during a round, if satisfied a bidder is not able to make a bid using the auction system.
4.	Subsection 59(2)	Permit a bidder to make a bid after the end of a round, if satisfied the bidder could not make the bid during the round because of technical or communication problems.
5.	Subsection 60(1)	Take action (including correcting auction round results, suspending, restarting or cancelling the auction) if satisfied the auction is affected by exceptional circumstances.
6.	Schedule 1, subclause 1(2)	Schedule rounds of the auction.
7.	Schedule 1, subclause 1(5)	Modify the schedule of rounds of the auction.
8.	Schedule 1, subclauses 2(5) and 2(7)	Set the start and end time of each round.
9.	Schedule 1, subclause 3(1)	Declare a recess day.
10.	Schedule 1, subclause 6(1)	Change the bid increment percentage.

These powers are largely procedural and may need to be exercised quickly during the auction in order to ensure the timely, orderly and efficient conduct of the auction of the spectrum licences in the residual 700 MHz band. For this reason, the auction manager may decide to delegate some or all of his or her powers to ACMA members or staff members to ensure that any temporary absence or incapacity to exercise these powers does not affect the smooth running of the auction.

In previous auctions conducted by the ACMA under similar instruments made under section 60 of the Act, auction managers have only delegated their powers to employees and members of the ACMA. It is intended that the auction manager appointed under this Determination will only delegate functions and powers to members of the ACMA, or to members of the ACMA staff at Executive Level 1 (**EL1**), Executive Level 2 or Senior Executive Service officer level employed under the PSA. Enabling delegation of the auction manager's powers to EL1 level allows the auction manager to delegate procedural powers to a subordinate member of the auction team at EL1 level who is also versed in the operation of the auction software.