

30 June 2021

Ms Anna Brakey
Commissioner
Australian Competition and Consumer Commission
GPO Box 3131
Canberra ACT 2601

ACMA2020/161-24

Dear Ms Brakey 

Request for advice under section 60(13A) of the *Radiocommunications Act 1992*

I write to request the Australian Competition and Consumer Commission's (ACCC) advice on competition issues associated with the Australian Communications and Media Authority's (ACMA) 850/900 MHz band spectrum licence auction.

Under subsection 60(13A) of the *Radiocommunications Act* (the Act) as recently amended, the ACMA is required to consult with the ACCC regarding whether the ACMA's allocation procedures should impose spectrum allocation limits, and if so, the nature of those limits.

I note that the ACCC has publicly consulted on allocation limits applicable to the 850/900 MHz band auction, following a request for advice from the Minister for Communications, Cyber Safety and the Arts¹ on 27 October 2020. The ACCC provided its advice to the Minister on 5 March 2021. At that time, the ACCC recommended:²

- > the allocation limit for the 850/900 MHz band auction should take into account existing sub-1 GHz band holdings
- > a 40 per cent limit on all sub-1 GHz band holdings, or a total of 80 MHz of spectrum

¹ Now the Minister for Communications, Urban Infrastructure, Cities and the Arts.

² [Spectrum competition limits](#), published on the ACCC website.

- > a spectrum guarantee for both Singtel Optus (Optus) and TPG Telecom (TPG) may be appropriate to guarantee continuity of services, but no such guarantee is appropriate for Telstra.

Under subsection 60(10) of the Act, the Minister may give written directions to the ACMA in relation to its power to determine procedures imposing an allocation limit (an allocation limits direction).

Following receipt of the ACCC's advice, in April 2021, the Department of Infrastructure, Transport, Regional Development and Communications (the Department) commenced consultation on the exposure draft of an allocation limits direction from the Minister for the 850/900 MHz band spectrum auction.³ Industry stakeholders have made submissions to this consultation process, and the Department is currently considering the responses to draft the final allocation limits direction. I understand the Minister is likely to make the allocation limits direction for the 850/900 MHz band auction.

The ACMA is required to incorporate any direction from the Minister into our allocation procedures for the auction. Although the ACMA expects to receive such a direction from the Minister on allocation limits, the Act requires us to consult with the ACCC.

Since the ACCC provided its advice to the Minister, the ACMA has consulted on draft allocation instruments and is considering an amended approach to product design for the auction, to respond to stakeholder feedback. We are contemplating the following decisions which may be relevant to your considerations:

- > Disaggregation of both the 850 MHz expansion band (frequency ranges 814 MHz to 824 MHz and 859 MHz to 869 MHz) and the 900 MHz band (frequency ranges 890 MHz to 915 MHz and 935 MHz to 960 MHz) into 2 geographic areas, rather than one single national area. The 2 geographic areas consist of a metropolitan area, and a regional area.
- > Disaggregation of the downshift spectrum (frequency ranges 824 MHz to 825 MHz and 869 MHz to 870 MHz) into 2 geographic areas, rather than one single national area. The 2 geographic areas align with the geographic boundaries in the adjacent 850 MHz band (frequency ranges 825 MHz to 845 MHz and 870 MHz to 890 MHz).
- > Defining separate products for the lower 900 MHz band lots (frequency ranges 890 MHz to 895 MHz and 935 MHz to 940 MHz) from the upper 900 MHz band lots (frequency ranges 895 MHz to 915 MHz and 940 MHz to 960 MHz).

³ [850/900 MHz Auction Allocation Limits Exposure Draft](#), published on the Department's website.

To enable us to meet our timeframe for final decisions on product design and support an auction in November 2021, I would appreciate the ACCC's advice as soon as possible and preferably by 15 July 2021. If you would like to discuss this matter, please do not hesitate to contact [REDACTED]
[REDACTED]
[REDACTED]

I look forward to receiving your advice.

Yours sincerely



James Cameron