

Commonwealth of Australia

Radiocommunications Act 1992

**Radiocommunications (Spectrum Licence Limits)
Direction No. 2 of 2012**

I, STEPHEN MICHAEL CONROY, Minister for Broadband, Communications and the Digital Economy, give the following Direction to the Australian Communications and Media Authority under subsection 60(10) of the *Radiocommunications Act 1992*.

Dated 2 February 2012

STEPHEN MICHAEL CONROY
Minister for Broadband, Communications and the Digital Economy

1 Name of Direction

This Direction is the *Radiocommunications (Spectrum Licence Limits) Direction No. 2 of 2012*.

2 Commencement

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

3 Interpretation

(1) In this Direction:

ACMA means the Australian Communications and Media Authority.

Act means the *Radiocommunications Act 1992*.

associate, in relation to a person, means:

(a) for 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) a business partner of the body; or
- (v) 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) for an individual:
 - (i) the individual's spouse; or
 - (ii) the individual's de facto partner within the meaning given by the *Acts Interpretation Act 1901*; or
 - (iii) a business partner of the individual; or
 - (iv) 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
 - (v) a body corporate of which the individual is a director or secretary; or
 - (vi) a body corporate that is related to a body corporate of which the individual is a director or secretary; or
- (c) for any person – any other person (other than the ACMA) who has a relevant agreement with the person that:
 - (i) relates to 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.

designated area means the area to which the re-allocation declaration applies, as described in subsection 4(2) of the re-allocation declaration.

re-allocation declaration means the *Radiocommunications (Spectrum Re-allocation) Declaration No. 2 of 2011*.

related body corporate has the meaning given by 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 an agreement between carriers provided for by or under the *Telecommunications Act 1997* or Part XIC of the *Competition and Consumer Act 2010*.

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

- (2) In this Direction, each frequency band includes all frequencies that are greater than the lower frequency, up to and including the higher frequency.
- (3) For 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 – 2.5GHz band

- (1) I direct that the ACMA must 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, no person or specified group of persons may use more than:
 - (a) 40MHz of spectrum available in the designated areas in the frequency band 2500MHz to 2570MHz; and
 - (b) 40MHz of spectrum available in the designated areas in the frequency band 2620MHz to 2690MHz.