Commonwealth of Australia

*Australian Communications and Media Authority Act 2005*

Australian Communications and Media Authority (3.5 GHz frequency band) Direction 2014

I, MALCOLM BLIGH TURNBULL, Minister for Communications make the following Direction under section 14 of the *Australian Communications and Media Authority Act 2005*.

Dated 20 October 2014

MALCOLM BLIGH TURNBULL

Minister for Communications

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# Name of Direction

This Direction is the *Australian Communications and Media Authority (3.5 GHz frequency band) Direction 2014*.

# Commencement

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

# Cessation

This Direction ceases to have effect as if repealed by another instrument 12 months after it commences.

# Interpretation

In this Direction:

***ACMA*** means theAustralian Communications and Media Authority.

***Act*** means the *Radiocommunications Act 1992*.

***national broadband network*** has the same meaning as in section 5 of the *National Broadband Network Companies Act 2011*.

***NBN*** means the national broadband network.

***NBN Co*** means NBN Co Limited (ACN 136 533 741) and includes its subsidiary company NBN Co Spectrum Pty Ltd (ACN 094 085 024).

***relevant spectrum*** means the following parts of the spectrum:

* + 1. from 3400 MHz up to and including 3425 MHz; and
    2. from 3492.5 MHz up to and including 3542.5 MHz.

# Direction

1. Subject to consistency with the *Australian Radiofrequency Spectrum Plan 2013* and any other requirements under the Act, I direct the ACMA, by no later than 30 April 2015, to have completed all steps necessary to enable apparatus licences of a type which would be appropriate for use for the NBN, having regard to the matters listed in the Schedule, to be issued in respect of the relevant spectrum in accordance with Part 3.3 of the Act and the *Radiocommunications (Transmitter Licence Tax) Act 1983*.
2. Without limiting the requirements of subsection (1), I direct the ACMA to:
   * 1. consider whether it is satisfied there is a type of transmitter licence determined in accordance with section 98 of the Act which would be appropriate for use for the NBN in the relevant spectrum, having regard to the matters listed in the Schedule, and if not, to determine such a licence in accordance with section 98 of the Act; and
     2. determine in accordance with section 7 of the *Radiocommunications (Transmitter Licence Tax) Act 1983* an amount of tax that reflects a market price in respect of a transmitter licence for the relevant spectrum.
3. In addition to the matters prescribed by subsection 100(4) of the Act in deciding whether to issue an apparatus licence for the relevant spectrum, I direct the ACMA to have regard to the matters listed in the Schedule.

## Schedule

**Matters to which the ACMA must have regard**

1. The NBN is Australia’s first national wholesale-only, open access communications network.
2. The Commonwealth Government’s core communication policy objectives in respect to the NBN are to:
   1. ensure all Australians have access to very fast broadband as soon as possible, at affordable prices, and at least cost to taxpayers;
   2. provide download data rates (and proportionate upload rates) of at least 25 megabits per second to all premises and at least 50 megabits per second to 90 per cent of fixed line premises as soon as possible;
   3. ensure upgrade paths are available as required;
   4. prioritise areas identified as poorly served by the ‘Broadband Availability and Quality Report’ published by the Department of Communications in February 2014 to the extent commercially and operationally feasible;
   5. provide wholesale telecommunication services to retail service providers on non-discriminatory terms and conditions, thereby enabling fairer and effective retail service competition.
3. To achieve these objectives, it is necessary that the NBN be built in a cost-effective way using the technology best matched to each area of Australia, which will include the deployment of fixed wireless and satellite technologies to premises outside the NBN fixed line footprint.
4. Access to radiofrequency spectrum underpins the delivery of broadband services via satellite and fixed wireless technologies.
5. The NBN is an integrated national network deployment and access to radiofrequency spectrum is critical in delivering the Commonwealth Government’s objectives for the NBN in terms of the feasibility, timing and cost of the NBN deployment.
6. NBN Co is the government business enterprise responsible for assisting the Government in achieving the NBN policy objectives.
7. An object of the Act is to provide for the management of the radiofrequency spectrum in order to support the communications policy objectives of the Commonwealth Government.