

Commonwealth of Australia

Australian Communications and Media Authority Act 2005

**Australian Communications and Media Authority
(Modifications to Apparatus and Spectrum Licences
Taxes) Direction 2020**

I, PAUL FLETCHER, Minister for Communications, Cyber Safety and the Arts,
make the following Direction.

Dated: 15 May 2020

PAUL FLETCHER
Minister for Communications, Cyber Safety and the Arts

1 Name of Direction

This Direction is the *Australian Communications and Media Authority
(Modifications to Apparatus and Spectrum Licences Taxes) Direction 2020*.

2 Commencement

This Direction commences on the day after it is registered.

3 Authority

This Direction is made under section 14 of the *Australian Communications
and Media Authority Act 2005*.

4 Interpretation

(1) In this Direction:

ACMA means the Australian Communications and Media Authority.

Designated Spectrum Licence means a spectrum licence issued under Part
3.2 of the *Radiocommunications Act 1992*, other than the following:

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- (a) a spectrum licence issued to:
 - i. a Department of State of the Commonwealth of Australia; or
 - ii. an Executive Agency established under section 65 of the *Public Service Act 1999*; or
 - iii. a Statutory Agency within the meaning of section 7 of the *Public Service Act 1999*;
- (b) a spectrum licence issued with one or more conditions that require the licensed spectrum to be used only for the provision of a television outside broadcast service; and
- (c) a spectrum licence issued with one or more conditions that require the licensed spectrum to be used only for the provision of rail safety, rail operations or rail control.

Historical EME Component refers to the 0.8% annual component of the Transmitter Licence Tax and the Receiver Licence Tax, which historically was used to offset expenditure by the Australian Government for research, information provision and engagement activities into the health effects of electromagnetic energy.

New EME Component refers to a component of the Spectrum Licence Tax that will be used to offset expenditure by the Australian Government for research, information provision and engagement activities into the health effects of electromagnetic energy.

Receiver Determination means the *Radiocommunications (Receiver Licence Tax) Determination 2015* as in force as at 30 June 2020.

Receiver Holding Date, in respect of a receiver licence, means any time during the financial year commencing 1 July 2020 and each subsequent financial year.

receiver licence has the same meaning as in the *Radiocommunications Act 1992*.

Receiver Licence Tax means the tax imposed by the *Radiocommunications (Receiver Licence Tax) Act 1983*.

spectrum has the same meaning as in the *Radiocommunications Act 1992*.

Spectrum Determination means the *Radiocommunications (Spectrum Licence Tax) Determination 2014* as in force as at 30 June 2020.

Spectrum Holding Date, in respect of a spectrum licence, means 11 October 2020, and 11 October occurring in each subsequent financial year.

spectrum licence has the same meaning as in the *Radiocommunications Act 1992*.

Spectrum Licence Tax means the tax imposed by the *Radiocommunications (Spectrum Licence Tax) Act 1997*.

Transmitter Determination means the *Radiocommunications (Transmitter Licence Tax) Determination 2015* as in force as at 30 June 2020.

Transmitter Holding Date, in respect of a transmitter licence, means any time during the financial year commencing 1 July 2020 and each subsequent financial year.

transmitter licence has the same meaning as in the *Radiocommunications Act 1992*.

Transmitter Licence Tax means the tax imposed by the *Radiocommunications (Transmitter Licence Tax) Act 1983*.

- (2) For the avoidance of doubt, apart from the directions given in sections 5 and 6 of this Direction, nothing in this Direction is intended to limit or prevent the ACMA from exercising its powers under the *Radiocommunications (Receiver Licence Tax) Act 1983*, the *Radiocommunications (Spectrum Licence Tax) Act 1997* or the *Radiocommunications (Transmitter Licence Tax) Act 1983* to vary the amount of the Receiver Licence Tax, Spectrum Licence Tax or Transmitter Licence Tax to be imposed on relevant licences for any purpose at any other time.

5 Direction – Transmitter and Receiver Licence Taxes – Adjustment

- (1) I direct the ACMA to amend the Transmitter Determination to have the effect of removing the Historical EME Component where relevant from the Transmitter Licence Tax payable by each holder of a transmitter licence to the greatest extent practicable.
- (2) Subsection (1) does not apply if the ACMA is satisfied that, in relation to Transmitter Licence Tax payable by a holder of a transmitter licence, the Historical EME Component was never, or has ceased to be, included in the Transmitter Licence Tax.
- (3) If amendments to the Transmitter Determination are required to be made in accordance with subsection (1), the amendments must be made before 1 July 2020 and must apply to all transmitter licences held by a person on a Transmitter Holding Date.
- (4) I direct the ACMA to amend the Receiver Determination to have the effect of removing the Historical EME Component where relevant, from the Receiver Licence Tax payable by each holder of a receiver licence to the greatest extent practicable.
- (5) Subsection (4) does not apply if the ACMA is satisfied that, in relation to Receiver Licence Tax payable by a holder of a receiver licence, the Historical EME Component was never, or has ceased to be, included in the Receiver Licence Tax.
- (6) If amendments to the Receiver Determination are required to be made in accordance with subsection (4), the amendments must be made before 1 July 2020 and must apply to all receiver licences held by a person on a Receiver Holding Date.

6 Direction – Spectrum Licence Tax - Adjustment

- (1) I direct the ACMA to amend the Spectrum Determination to have the effect that the total amount of Spectrum Licence Tax imposed in respect of all Designated Spectrum Licences on each Spectrum Holding Date includes an amount that is attributable to the New EME Component of no more than:
 - (a) for the Spectrum Holding Date occurring in the 2020-2021 financial year—\$2.6 million;
 - (b) for the Spectrum Holding Date occurring in the 2021-2022 financial year—\$2.6 million;
 - (c) for the Spectrum Holding Date occurring in the 2022-2023 financial year—\$2.6 million; and
 - (d) for the Spectrum Holding Dates occurring in the 2023-2024 financial year, and each subsequent financial year—\$1.9 million;(each a “Combined Spectrum Tax EME Component” for the relevant financial year).
- (2) The Combined Spectrum Tax EME Component for the 2023-24 financial year and each subsequent year must be increased annually by a factor determined by the ACMA, and that factor must not exceed the factor published by the Australian Statistician for the ‘Consumer Price Index’ for the reference period of June for the applicable year.
- (3) In determining the apportionment of the Combined Spectrum Tax EME Component to be imposed in respect of all Designated Spectrum Licences on each Spectrum Holding Date occurring in each of the financial years mentioned in paragraphs (1)(a)-(d), I direct the ACMA to:
 - (a) adopt objective and equitable criteria; and
 - (b) have regard to:
 - (i) the total amount of spectrum each holder of a Designated Spectrum Licence may use under its Designated Spectrum Licences; and
 - (ii) any other matter which the ACMA considers relevant.
- (4) The amendments to the Spectrum Determination made in accordance with paragraphs (1)(a)-(c) must:
 - (a) be made within 5 months of the commencement of this Direction and have effect on and from 11 October 2020; and
 - (b) discretely designate, in a clear and unambiguous way, the component of the Spectrum Licence Tax which represents the increase in that tax arising from the implementation of this Direction, and label the component “EME Component”.
- (5) The amendments to the Spectrum Determination made in accordance with paragraph (1)(d) and subsection (2) must:
 - (a) be made no later than 20 days before each Spectrum Holding Date for the applicable financial year; and

- (b) discretely designate, in a clear and unambiguous way, the component of the Spectrum Licence Tax which represents the increase in that tax arising from the implementation of this Direction, and label the component “EME Component”.