

Senate Standing Committee on Environment and Communications

Answers to Senate Estimates Questions on Notice

Budget Estimates Hearings May 2014

Communications Portfolio

Australian Communications and Media Authority

Question No: 106

Program No. Australian Communications and Media Authority (ACMA)

Hansard Ref: In Writing

Topic: Review of spectrum management

Senator Urquhart asked:

At the hearing Mr Chapman said “That is just one minor example. I am simply saying that we are not being defensive or sensitive to any suggestion that that review is an implicit criticism of the ACMA's performance. I think that the ACMA's performance is internationally recognised as best practice.” If the ACMA's performance is “best practice”, why is there any need for a review of spectrum management?

Answer:

The primary legislation which determines how spectrum is managed and regulated in Australia, the *Radiocommunications Act 1992* (the Act), is over 20 years old. The types of services, devices and technologies that are regulated under the Act have changed dramatically during that time, and are continuing to change at an increasingly rapid rate. While the market for consumer devices that use spectrum continues to grow, the number of industries and sectors of the Australian economy that rely on spectrum to conduct their business similarly expands.

In light of these pressures, the Department of Communications, in conjunction with the Australian Communications and Media Authority (ACMA), will examine the operation of the Act and other radiocommunications legislation with the aim of making regulatory arrangements more efficient, effective and flexible. The ACMA welcomes this legislative review, which follows ACMA research on elements of the regulatory regime that constrain our flexibility to respond to changing technologies and industries.

Working within a rapidly-changing communications landscape, the ACMA has set itself the standard to be, and to be recognised as, the world's best converged communications regulator. In striving towards this standard, the ACMA conducts regulatory best practice research to examine how regulatory arrangements can be optimised to suit the communications needs of industry and consumers.

As part of this ongoing program of research, the ACMA published two research papers in 2011 and 2013 which examined legislative concepts under strain from, amongst other factors, technological and market changes¹. The legislative concepts under strain include the efficient

¹*Broken concepts – The Australian communications legislative landscape.*

http://www.acma.gov.au/~media/Office%20of%20the%20Chair/Information/pdf/ACMA_BrokenConcepts_Final_29Aug1%20pdf.pdf

Broken concepts – A 2013 update on the Australian communications legislative landscape.

<http://www.acma.gov.au/~media/Office%20of%20the%20Chair/Information/pdf/Broken%20Concepts%202013.pdf>

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allocation and use of spectrum, and radiocommunications and broadcasting licensing arrangements.

Similarly, in the *Five-year spectrum outlook 2013-2017 – The ACMA’s spectrum demand analysis and strategic direction for the next five years*, the ACMA recognised that ‘over the next three years, further pressure will be placed on the ACMA’s existing capability to respond flexibly to new spectrum management challenges. The ACMA will continue to investigate and explore options to reform its regulatory toolkit to meet these rising challenges’².

Having recognised these challenges, the ACMA has modified regulatory arrangements where possible, **within the constraints of existing legislation**. For example, in its March 2013 assessment of its performance against the standard of world’s best converged communications regulator³, the ACMA identified the following recent best-practice initiatives:

- legislative changes to facilitate the licensing of devices using emerging technologies, such as dynamic spectrum access and cognitive radio;
- development of coexistence criteria to ensure that emerging technologies can be licensed without impacting on incumbent licensees;
- adoption of measures to improve the efficiency of the secondary market for spectrum; and
- implementation of arrangements in the 400 MHz band to harmonise spectrum use by government, alleviate congestion and facilitate new technologies.

As part of its assessment of its performance against the standard of world’s best converged communications regulator, the ACMA identified a total of 94 areas of activity where it can potentially judge whether it is achieving world’s best practice. Of these 94 areas, 37 were included as case studies demonstrating where the ACMA considers it is meeting or leading world’s best practice.

² <http://www.acma.gov.au/Industry/Spectrum/Five-Year-Spectrum-Outlook/About-the-five-year-outlook/fiveyear-spectrum-outlook-1>, p.17

³ *The ACMA – meeting our standard: To be, and to be recognized as, the world’s best converged communications regulator*, <http://www.acma.gov.au/theACMA/About/Corporate/Accountability/meeting-our-standard-worlds-best-converged-regulator>