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**COMMUNICATIONS ALLIANCE
SATELLITE SERVICES WORKING GROUP (SSWG)**

SUBMISSION

to the

Australian Competition and Consumer
Commission's (ACCC)

Allocation limits advice for the 26 GHz
spectrum allocation

27 March 2020

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EXECUTIVE SUMMARY

The Communications Alliance Satellite Services Working Group (SSWG) welcomes the opportunity to provide comments to the ACCC *Allocation limits advice for the 26 GHz spectrum allocation* Consultation Paper.

In reviewing the Consultation paper, the SSWG understands that the ACCC's primary interest is in advising the Minister in developing procedures to impose competition limits on the sale of spectrum licences for the 26 GHz band (25.1 to 27.5 GHz). In addition, the issue of potential competition issues associated with the apparatus licensing regime has also been raised in relation to the 28 GHz band (27.5 to 29.5 GHz).

The SSWG wishes draw to the ACCC's attention the review and consultation process that has already been carried out over the last two years by the ACMA in the replanning of the 28 GHz band, with the ACMA taking planning decisions to use the 28 GHz band for Fixed Satellite Services (FSS) and Fixed Wireless Access (FWA). Planning decisions are currently under way with advice being provided by industry on the implementation through an ACMA Technical Liaison Group.

The SSWG notes that the 26 GHz band offers a suitable use for IMT, whereas the 28 GHz band does not support terrestrial mobile 5G deployment. The SSWG has a particular interest in the 28 GHz band and the future development of FSS in that band in Australia. Given the diverse nature of the intended services, the differing licensing frameworks associated with these bands, we believe any allocation limit should only apply to holdings of spectrum licensed 26 GHz spectrum and not holdings of apparatus licensed 26 GHz or 28 GHz spectrum.

About Communications Alliance

Communications Alliance is the primary telecommunications industry body in Australia. Its membership is drawn from a wide cross-section of the communications industry, including carriers, carriage and internet service providers, content providers, equipment vendors, IT companies, consultants and business groups.

Its vision is to provide a unified voice for the telecommunications industry and to lead it into the next generation of converging networks, technologies and services. The prime mission of Communications Alliance is to promote the growth of the Australian communications industry and the protection of consumer interests by fostering the highest standards of business ethics and behaviour through industry self-governance. For more details about Communications Alliance, see <http://www.commsalliance.com.au>.

1. Introduction

The Communications Alliance SSWG notes that the prime emphasis of the ACCC Consultation Paper is on the intended 26 GHz auction and allocation limits that should apply. However, the Minister has also asked that the ACCC consider whether there are any potential competition issues associated with the apparatus licensing regime across the entire 26 GHz and 28 GHz bands.

As an advocate for interests of the satellite industry, the SSWG has a particular and vested interest in the 28 GHz band and the future development of services in that band in Australia for the Fixed Satellite Service (FSS).

Significant growth and investment focus on 28 GHz is occurring within the satellite industry. New and innovative services are coming to market presently and in the near future and they depend critically on this particular band. The services bring high capacity operations and mobility, which requires ubiquitous terminal support.

Terrestrial mobile communications (IMT/5G) is also by nature ubiquitous and this clashes with satellite terminal ubiquity. The two cannot co-exist in the same spectrum, as has been determined by intensive ITU studies in the last four-year study period. The World Radiocommunication Conference 2019 (WRC-19), the culmination of these studies, identified IMT spectrum for global use and confirmed the 26 GHz band (24.25 to 27.5 GHz) and other mmWave bands for IMT implementation providing a total of a further 33 GHz of spectrum available for IMT development. The 28 GHz band was not identified for IMT, but for the FSS and other compatible services.

In Australia, the ACMA has now taken planning decisions to use the 28 GHz band for the FSS and partly for fixed wireless access. Whilst exclusive use of the 28 GHz band for the FSS was the preference of the satellite industry, the solutions proposed by the ACMA seem practicable. Implementation of the ACMA planning decisions is currently under way through its consultation processes and the ACMA 26/28 GHz Technical Liaison Group (TLG) set up to advise on technicalities of implementation. Much of this effort will stretch throughout 2020 culminating in a comprehensive regulatory framework by end 2020 for the 28 GHz band (and some associated bands).

These efforts are summarised in the ACMA 28 GHz consultation and planning documents^{1 2}. These developments and decisions for the licensing arrangements for the 28 GHz band have been reproduced in the Consultation Paper. Figure 1 in the ACMA *Future use of the 28 GHz band - Planning decisions and preliminary views* paper provides a summary of planning arrangements for the 26 GHz and 28 GHz bands and has been reproduced in this submission on the following page.

¹ ACMA *Future use of the 28 GHz band Planning decisions and preliminary views* – SEP 2019. Website: <https://www.acma.gov.au/consultations/2019-08/planning-options-28-ghz-band-consultation-092019>

² ACMA Implementing outcomes of the 11 GHz and 28 GHz reviews Consultation paper – DEC 2019. Website: <https://www.acma.gov.au/consultations/2019-12/improved-spectrum-access-and-pricing-satellite-services-consultation-402019>

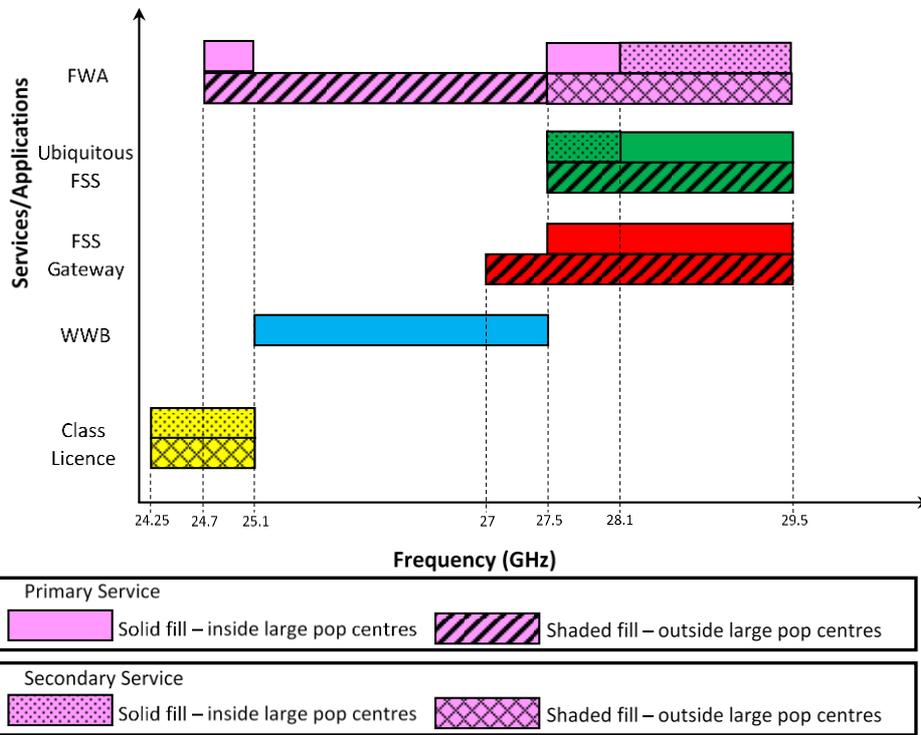


Figure 1: Summary of planning arrangements for the 26 GHz and 28 GHz bands
 Source: ACMA Future use of the 28 GHz band - Planning decisions and preliminary views

The SSWG has some concerns that the ACCC is contemplating advising the Minister on the allocation limits across the entire 26 GHz and 28 GHz range when these bands are not even a direct substitute for the 26 GHz spectrum licenses. Apparatus licence conditions in the 28 GHz band limit its use to FWA and FSS (no terrestrial IMT). These restrictions mean that these bands are of very different utility for mobile use and FSS and FWA, hence they serve different markets. A combined limit could therefore distort or limit competition in the supply of these services in downstream markets.

The SSWG has little comment on the 26 GHz band and supports an independent approach to the 26 and 28 GHz bands. Presenting the 26 to 28 GHz considerations as being a composite scenario is questionable, given the diverse nature of the services intended and the differing licensing frameworks associated with the two bands.

2. Issues for comment

The following responses are to the itemised questions posed by the ACCC in the Consultation Paper. The answers that have been provided are from the perspective of SSWG member interests in the 28 GHz band.

Question 1

Do you have any competition concerns about the allocation of spectrum licences in the 26 GHz band? If so, how do you think these concerns should be addressed?

No comment.

Question 2

Does this allocation impact your ability to compete effectively in relevant markets in the short and/or long-term? If so, please provide examples.

No comment with regard to the 26 GHz band.

Question 3

Do you have any competition concerns about the relationship between spectrum and apparatus licences in the 26 GHz and 28 GHz bands? If so, how do you think these concerns should be addressed?

Spectrum licences would not be appropriate to the satellite industry, whilst constructs involving Apparatus Licensing as proposed by the ACMA (and currently under consideration) are relevant.

Question 4

Do you view the apparatus licences as complements or substitutes for the 26 GHz spectrum licences?

No comment if substitution refers only to the 26 GHz band.

Question 5

What are the likely intended uses of 26 GHz and/or 28 GHz spectrum in Australia? Do you expect these intended uses to change over the term of the licence/s?

The 26 GHz band offers a suitable use for IMT. The 28 GHz band would best be used for exclusive FSS use, but the inclusion of Fixed Wireless Access (FWA) would be acceptable. Uses will mature and evolve through innovative satellite applications and technology.

Question 6

What do you consider is the optimal allocation of 26 GHz and/or 28 GHz spectrum to support your likely intended uses? What is the minimum allocation necessary?

In the 28 GHz band, the maximum acceptable use for FWA and the minimum acceptable use for FSS are summarised in Figure 1.

Question 7

How does this spectrum support the technical requirements for the deployment of 5G services?

The 28 GHz spectrum does not support terrestrial mobile 5G deployment. There may be auxiliary or complementary 5G services provided or supported by satellite services.

Question 8

Does your demand for spectrum differ across geographic areas, such as metropolitan and regional areas? If so, please provide examples.

By the nature of how satellite services are provided by satellites in orbit, the geographical area coverage in the 28 GHz band is total, whilst demand will have a different genesis in metropolitan and regional areas.

Question 9

What, if any, additional investment is required to deploy this spectrum for your likely intended uses? Please provide examples.

Additional investment in the 28 GHz band is largely dependent on individual interests in industry and government. Indicative interest and investment plans have been conveyed to the ACMA.

Question 10

What are the relevant downstream markets for the purpose of advice on allocation limits for spectrum licences, noting that markets may have particular geographic dimensions? Please provide reasons for your view.

No comment, as it is relevant only to the 26 GHz band.

Question 11.

What are the relevant downstream markets for the purpose of considering competition issues associated with apparatus licences, noting that markets may have geographic dimensions? Please provide reasons for your view.

No comment with respect to the 26 GHz band.

Question 12

Are there likely to be future relevant markets that have not been identified?

No comment with respect to the 26 GHz band.

Question 13

Do you have any views on the state of competition in the relevant markets?

No comment.

Question 14

Do you have any concerns about future competition in the relevant markets as a result of the allocation of spectrum and/or apparatus licences?

No comment.

Question 15

Do you consider that substitutable spectrum exists for the likely intended uses of the 26 and 28 GHz spectrum? To what extent are these fully effective substitutes?

Substitutability between 26 and 28 GHz spectrum is not available for reasons of service uses and technical incompatibilities.

Communications Alliance Satellite Services Working Group membership

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Foxtel
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