



Options for Structural Reform in Spectrum Management

Discussion Paper

AIIA Response

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Prepared By: Australian Information Industry Association

1 Executive Summary

The Australian Information Industry Association (AIIA) is the leading national body representing suppliers and developers of information and communication technology (ICT) goods and services. AIIA has over 370 member companies that generate combined annual revenues of more than \$50 billion, employ over 100,000 Australians and have exports exceeding \$2 billion per annum.

It is from this position of expertise that AIIA is an active participant in the public policy debate surrounding issues such as converging technologies, telecommunications, digital broadcasting, datacasting and spectrum allocation.

AIIA welcomes the opportunity of providing a response to the *Options for Structural Reform in Spectrum Management Discussion Paper*, which seeks industry comments on possible changes to the respective roles and responsibilities of the Australian Broadcasting Authority (ABA) and the Australia Communications Authority (ACA).

AIIA has been of the view for some time that the roles of the ACA and ABA need to be reviewed. In 2000 we called for a review to embrace both the ABA and ACA spectrum management powers, with a view to aligning spectrum management across all radiocommunications bands. The Association considered that this would be more appropriate in an environment of increasing technological convergence.¹

AIIA has reviewed the *Issues Paper on Options for Structural Reform in Spectrum Management Discussion Paper*, and is pleased to provide the industry response to the matters raised therein. In summary:

- AIIA believes that with significant industry convergence across the broader ICT and broadcasting industries, a similar merging of some regulatory responsibilities is required.
- AIIA understands that the United Kingdom and the European Union are already either examining or implementing new regulatory structures recognising the implications of industry convergence. We believe Australia needs to be internationally competitive and encompass a regulatory environment, which will supports the take-up of new convergent technologies and services;
- AIIA believes it is important from a regulatory perspective that the principles of technology neutrality, flexibility, competitive neutrality, certainty, transparency and the minimisation of costs are adopted by the Government; and
- AIIA would want assurances from the Government that any potential changes to the ACA and ABA would be non-disruptive to industry and that existing planning and licensing timetables are upheld.

¹ AIIA Submission to DCITA Discussion Paper: Review Of The Spectrum Allocation Powers Of The Australian Broadcasting Authority, October 2000.

2 Convergence

With advances in digital technology and the convergence of telecommunication, media, internet and the information technology an imminent reality there is a need to reform regulatory policy.

These technologies are being redefined in terms of what they are, who provides the service, and how they are produced and delivered. This will offer consumers and producers of services enormous opportunities. It is not possible to predict and describe what direction the digital revolution will take. The directions and speed of convergence are unclear, but the inevitability of continuing change in the media, broadcasting and telecommunications industries is certain.

The spread of telecommunications services and infrastructure has also occurred alongside the deregulation of broadcasting, with the rapid cabling of populous areas for pay-TV. Fibre optic cable carries Internet at higher speeds than the conventional copper wire delivery, the digitisation of TV, video over the Internet will all provide further competition and diversification of services on offer.

The convergence in telecommunications and broadcasting is occurring at both the technological and the industry levels, and spectacular mergers and amalgamations are prevalent both nationally and internationally. Internet via mobile phones and other wireless communication devices are already in the market place, and these developments are possibly pointing to other substantial changes in the communications industry over the next decade.

AIIA supports the view adopted in the Productivity Commission's Report, *The Role of ICT in Australia's Economic Performance 2001*, which stated that in regard to the growing convergent environment:

"Regulation must be flexible enough to deal with uncertainty and change. And it should not advantage some technologies or producers at the expense of others. An important implication of convergence is that regulatory regimes that could once remain relatively distinct now need to be coordinated. The convergence of telecommunications and broadcasting accentuates the pro-competitive emphasis of policy towards the former and the protective pall of regulation that shrouds the latter. Whether this can be sustained seems doubtful, but it was clear to the Commission in its recent inquiry into Broadcasting that attempting to do so could prove costly to the Australian community."

AIIA strongly agrees with comments in the discussion paper stating that a key issue reviewing the roles of the ACA and ABA is the need to develop flexible regulatory schemes that can deal with an unpredictable and increasingly convergent technological and business environment. To support convergence AIIA believes that Australia's regulatory structures need to be flexible enough to meet the changing nature of increasingly "global" industries.

3 Role of the ABA and ACA

The discussion paper identifies a number of opportunities for streamlining operations in response to industry convergence. AIIA believes that the industry will benefit in having a single, strategic approach to the management of spectrum in Australia and that this could be gained by combining the spectrum management responsibilities of the ABA and ACA into a single organisation.

The issue of spectrum, as a precious physical resource, is of major significance to the ICT industry. Over the past decade, the growth of the wireless industry has in turn led to a significant demand for radiocommunications spectrum. There have also been significant changes in the broadcasting industry with the advent of pay TV, and the introduction of digital TV. It is AIIA's view that notwithstanding current industry conditions, the demand for spectrum will increase.

The challenge for the Government is to provide a reasonable and robust framework for the allocation of spectrum and then allow commercial and market processes to deliver value to end-users. Market-based allocation ensures "best price" outcomes; does not limit the end use of spectrum, which encourages innovation; and ensures, again, that industry specific regulation does not unfairly burden service providers.

It is AIIA's view that spectrum allocation should be carried out in a competitive environment. The market is best placed to make decisions on spectrum use, particularly in circumstances where there is rapid technological change and untapped demand for solutions.

4 Discussion Paper Options

AIIA supports Option B in the discussion paper, namely this would transfer the planning, licence allocation and enforcement functions from the ABA to the ACA. Under this option, the ACA would have all spectrum management responsibilities, whilst the ABA would act as a regulator of broadcasting and online content and media ownership and control provisions.

AIIA understands that there is a range of regulatory and organisational differences between the two organisations and that legislative change would need to occur. In regard to the different statutory obligations of spectrum management that apply to both the ABA and ACA, namely coverage versus efficiency of spectrum usage, we believe these differences can be merged with appropriate planning and drafting.

Although this Option may have an impact on the ABA in terms of size and staff numbers it nonetheless retains the important function of content regulation. Option B is also supported in the recommendations of the Productivity Commission's March 2000 Broadcasting Report on spectrum management, namely: that the ABA should retain responsibility for regulating content, enforcing codes of practice and monitoring ownership.