

Australian Rail Industry

Submission to the Australian Communications and Media Authority

Introduction of opportunity cost prices in the high density areas of the 400 MHz Spectrum band

8 May 2012

Rail Industry Response to the introduction of opportunity cost prices in the high density areas of the 400 MHz Spectrum band

On behalf of the Australian Rail Industry, the Australasian Railway Association wishes to thank the Australian Communication and Media Authority (ACMA) for the opportunity to provide comment in regard to the introduction of opportunity cost (OC) pricing in the high density areas of the 400 MHz Spectrum band.

The need for the introduction of OC pricing as a mechanism to facilitate the efficient allocation and use of spectrum in the absence of a market is understood. The Australian Rail Industry does however, have a concern with the delay in OC pricing in remote areas. The introduction of OC pricing in remote areas should see a drop in the cost of licences and as such act as a buffer for those entities that hold apparatus licences in both high and remote areas.

The lack of congestion in remote areas does not reflect supply and demand balance but possible lack of demand.

In addition to raising this concern, the Australian Rail Industry provides the following responses to the specific questions posed in the consultation document.

Question 1

The ACMA's preference is to increase taxes in the 400 MHz band in equal percentages as it allows licensees to further plan their investment decisions. As the equivalent dollar increases are lower in the early years, it also allows the ACMA to take a conservative approach to the introduction of opportunity cost pricing.

Do stakeholders agree with this method?

Yes, the Australian Rail Industry supports the phasing in of price increases in equal percentages. Phasing in of prices should facilitate an orderly market adjustment, allow the correct pricing structure to emerge and ensure that the spectrum moves to its highest value use.

The Australian Rail Industry agrees with a conservative approach to pricing and that overpricing would lead to a misallocation of resources and a loss of efficiency and productivity.

Question 2

The ACMA plans to use the apparatus licence tax formula given that the 400 MHz band is the first band in which OC pricing is to be implemented. As the ACMA moves to implement OC pricing in other bands, it may become more challenging to keep the tax formula as it is.

The ACMA invites comments on the use of the apparatus licence tax formula:

> in this context

> on future OC pricing implementation in other bands.

The Australian Rail Industry supports using the apparatus licence tax formula for the 400 MHz band in the first instance for high density areas. However, this methodology should be reviewed by the ACMA in consultation with the Industry to ensure its continued appropriateness for the high density areas of the 400 MHz band.

The Australian Rail Industry cannot comment on the further use of the apparatus licence tax formula at this time. The Industry would prefer to review the effectiveness of the proposed methodology in the 400 MHz band before supporting its use in other bands.

Question 3

Do stakeholders agree that OC pricing should be applied across all services in the 400 MHz band in high-density areas, with the exception of amateur licences?

If not, please explain your reasoning.

The Australian Rail Industry has no objection to OC pricing being applied across all services in the 400 MHz band in high-density areas, with the exception of amateur licences. The Australian Rail Industry seeks clarification in regards to the application of OC pricing on wider area ambulatory licences such as state wide and Australia wide.

Question 4

The ACMA seeks feedback on:

- *Which frequency bands and/or geographic areas should be prioritised for OC pricing and if there is merit in considering whether to introduce OC pricing into remote areas.*

Apart from the equity issues around the pricing of medium, low and remote density areas for 400 MHz, the Australian Rail Industry does not have any priority for OC pricing in other frequency bands.

The Australian Rail Industry does consider there is merit in the introduction of OC pricing in remote areas. This should be the next priority as the introduction of OC pricing in remote areas should see a drop in the cost of licences and as such act as a buffer for those entities that hold apparatus licences in both high and remote areas.

- *The effect or risks of applying OC principles and setting apparatus licence taxes at or close to the minimum amount (\$36.17 as of April 2012) in remote areas.*

It is the Australian Rail Industry's belief that the lack of congestion in remote areas does not reflect supply and demand balance but possible lack of demand. Therefore, there is no risk as a result of applying OC principles and setting apparatus licence taxes at or close to the minimum amount.

- *Under what, if any, circumstances it would be preferable not to apply OC principles but to class-license the service instead.*

The Australian Rail Industry believes that in circumstances where the service is providing a high level of "public benefit" then it may not be appropriate to apply OC pricing or a market price.

- *The degree to which some services, which are in remote areas, deny spectrum to more highly populated areas.*

The Australian Rail Industry is not aware of any situations where this would occur.