

Re: ...

Commonwealth of Australia

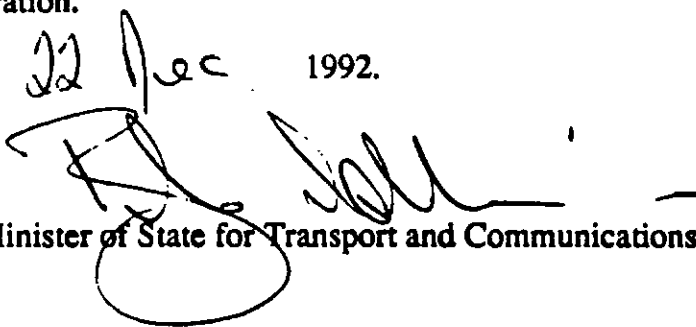
Telecommunications Act 1991

**Telecommunications (Public
Mobile Licences)
Declaration (No. 1) of 1992**

MCL 1/1992

I, ROBERT LINDSAY COLLINS, Minister of State for Transport and Communications, declare under section 64 of the *Telecommunications Act 1991* that all public mobile licences are subject to the conditions specified in this declaration.

Dated 22 Dec 1992.



Minister of State for Transport and Communications

Citation

1.1 This declaration may be cited as the Telecommunications (Public Mobile Licences) Declaration (No. 1) of 1992.

[NOTE: AMPS" and "the Act" are defined in the Telecommunications (Public Mobile Licences) Declaration No. 1 of 1991 for the purposes of all declarations made under section 64 of the Act in relation to public mobile licences. "AUSTEL" and "mobile carrier" are defined in the *Telecommunications Act 1991*.]

Restrictions on the installation and operation of an AMPS network and the supply of AMPS services

2.1 A licensee must not install or operate an AMPS network, after 1 January 2000.

2.2 Between 1 January 1996 and 1 January 2000, a licensee must comply with any plan in writing determined by the Minister in relation to:

- (a) ceasing installation or operation of an AMPS network; or
- (b) ceasing the supply of AMPS services; or

- (c) ceasing to use the radiocommunications spectrum used in relation to AMPS services.

2.3 In spite of subclauses 2.1 and 2.2, a licensee may, subject to any other conditions to which the licence is subject, install or operate an AMPS network in an area:

- (a) contrary to the requirements of a plan of a kind to which subclause 2.2 applies; or
- (b) after 1 January 2000;

when:

- (c) the Minister and all mobile carriers agree in writing; or
- (d) the Minister agrees in writing after:
 - (i) the Minister has consulted with each mobile carrier; and
 - (ii) the Minister has determined that the installation or operation of the AMPS network will not erode unduly the practical value of a mobile carrier's rights.

2.4 A licensee that installs and operates an AMPS network must not use its installation, or operate it, in a way that could unfairly reduce the scope for competition between public mobile carriers.

EXPLANATORY STATEMENT

TELECOMMUNICATIONS (PUBLIC MOBILE LICENCES) DECLARATION (NO.1) OF 1992

TELECOMMUNICATIONS ACT 1991

Issued by the Authority of the Minister for Transport and Communications

Part 5 of the Telecommunications Act 1991 ("the Act") enables the Minister for Transport and Communications to grant licences and to declare licence conditions.

Under section 64, the Minister may make a declaration in writing specifying conditions which apply to all licences, all general telecommunications licences, or all public mobile licences. Section 64 therefore enables the Minister to declare "blanket" or "core" conditions which apply to all licences of a particular type, or all licences in general. The Minister may, by writing, vary or revoke a declaration made under section 64.

The Telecommunications (Public Mobile Licences) Declaration (No. 1) of 1991 and the Telecommunications (Public Mobile Licences) Declaration (No. 2) of 1991, covering a wide range of matters, have been declared.

Section 70 of the Act provides that the Minister, acting on the Commonwealth's behalf, may make a written agreement with a carrier about the exercise of the Minister's licensing powers.

Currently public mobile telecommunications services (PMTS) are supplied using analogue Advanced Mobile Phone System (AMPS) technology. AOTC is the only carrier allowed to install and operate an AMPS network but both it and Optus supply AMPS services. (Clause 3.1 of the public mobile licence held by Optus specifically prohibits it from installing and operating an AMPS network.) Similarly, the third mobile carrier will be able to supply AMPS services but will not be able to install and operate an AMPS network. Public mobile carriers are able to commence mobile services using digital technology from 1 April 1993. GSM has been adopted as the first digital mobile technology.

In February 1992 the 900 MHz Band Plan was made as a regulation under s.19 of the Radiocommunications Act 1983. Amongst other things, the Band Plan provides for the phasing out of mobile telephony in the AMPS spectrum (825-845/870-890 MHz) between 1 January 1996 and 1 January 2000, according to a detailed timetable to be determined in 1995. This process envisages the progressive withdrawal of AMPS services as they are superseded by digital services. This will enable the AMPS spectrum to be recovered for other uses and should help encourage the development of competition in the PMTS market.

Certainty about the withdrawal of AMPS services is fundamental to industry's ability to develop sound business plans. In addition, it is more appropriate that the regulation, where necessary, of particular telecommunications technologies is dealt with under telecommunications, rather than spectrum management law. Accordingly, under s.64(1)(c) of the Act, the Minister decided to declare additional licence conditions, applying to all mobile licences, in relation to the future installation and operation of AMPS facilities and supply of AMPS services.

Notes on the clauses

Clause 1.1 provides for the citation of the Telecommunications (Public Mobile Licences) Declaration (No.1) of 1992.

Clause 2.1 provides that no public mobile carrier is to install or operate an AMPS network after 1 January 2000. (This is subject to the exceptions outlined in clause 2.3.)

This clause gives effect to the outcome provided for in the current 900 MHz Band Plan which requires the total withdrawal by 1 January 2000 of the spectrum used for AMPS services. "AMPS", as defined in cl.2.1 of the Telecommunications (Public Mobile Licences) Declaration (No.1) of 1991, refers to "Advanced Mobile Phone System". AMPS refers solely to the analogue mobile technology introduced by Telecom in 1988. AMPS does not refer to any other mobile technology, including digital developments of AMPS.

Clause 2.2 provides that all public mobile carriers are to comply with a plan to be determined in writing by the Minister about ceasing the installation and operation of an AMPS network, the supply of AMPS services, and the use of spectrum used for AMPS services between 1 January 1996 and 1 January 2000.

To minimise consumer inconvenience, it has always been intended that the withdrawal of AMPS services and the transition to digital services would be planned. Development of a plan is foreshadowed in the 900 MHz Band Plan which provides for a review in 1995. The condition envisages this process continuing, although possibly in a different form. In determining the plan, it is envisaged that the Minister will consult with AUSTEL and the proposed Spectrum Management Authority and other interested parties.

It is possible that the plan could provide for different dates for the cessation of installation of an AMPS network and cessation of operation and supply of AMPS services in certain areas. However, any such dates will be subject to the definitive 1 January 2000 date for total withdrawal of AMPS.

Clause 2.3 provides that, in spite of clauses 2.1 and 2.2, a public mobile licensee can, with the agreement of the Minister, install and operate an AMPS network (unless prohibited by a s.65 condition in its licence). The Minister may only agree if all other public mobile carriers agree; or if the Minister, after having consulted with all public mobile carriers, determines that approval will not erode unduly the practical value of a mobile carrier's rights.

While digital technology will replace AMPS as the main platform for PMTS, it is conceivable that there will be circumstances where the ability to use AMPS may be useful (for example, in rural and remote areas). Clause 2.3, therefore, provides some flexibility in relation to AMPS by enabling the Minister to authorise its continued use, providing the rights of the public mobile carriers are observed. Acquisition of appropriate spectrum in these circumstances would be a matter for the carrier.

Clause 2.4 provides that a licensee which installs and operates an AMPS network (that is, AOTC) must not use its installation, or operate it, in a way that could unfairly reduce the scope for competition between public mobile carriers.

This clause is specifically intended to address any advantages AOTC may have over other mobile carriers in the supply of PMTS by virtue of its sole right to install and operate an AMPS network.
