



Monday 11th February 2013

Review of communication towers on Crown land
Independent Pricing & Regulatory Tribunal of New South Wales
PO Box Q290,
QVB Post Office NSW 1230

Dear Sir

Re- Review of rental arrangements for communications towers on Crown land

ARCIA is the peak national industry body representing the two-way and associated wireless radio communications industry in Australia. ARCIA is a not-for-profit, incorporated Association that seeks to promote issues such as the protection and better utilisation of the radio communications spectrum, increasing the level of training and expertise within the industry as well as promote increased public knowledge of the vital role that the radio communications industry plays in the Australian economy. The association has many members throughout NSW.

Our response to the review focuses on the hardship that has been created by the implementation of this legislation particularly in regional areas. The cost factors alone are making regional sites on crown land unsustainable and leading to the loss of customers for many ARCIA members. The introduction of this policy and framework has done nothing to streamline the paperwork flow for small business. In fact the process is now complex, cumbersome and somewhat over whelming compared with the previous regime.

ARCIA believes that IPART review is an opportunity to correct the current market distortions and complexities of the current system so that all parties involved can obtain a fair and equitable outcome.

The nature of the radio communications industry is that it covers a diverse range of technologies and is used to meet the demand by industry and government to provide critical private communications options.

ARCIA strongly believes that all technologies and user groups are charged a fair market rate for access to infrastructure. However there should be a clear understanding that different technologies are suitable for different markets and that the ability of any service provider to obtain a return on investment directly relates to the potential market size.

There are a number of issues in relation to the pricing model which are questionable. There are far too many categories and the pricing bears no relation to the client base. For instance in the 2005 rental table a Cellular Carrier as a primary user in a high density area is charged \$22,500.00 pa. This is compared to \$7000 for a local service provider. ARCIA estimates there are 2 million radio devices in the market of which 50% require network infrastructure. The cellular carriers have over 32 million devices on networks. Therefore cellular carrier has a market that is estimated to be 32 times that of the radio industry yet our members are expected to pay 25% of what the cellular industry pays.

Based on the above local service providers should pay \$705.00pa not the current fee of \$ 7000. It is simply not economical or sustainable for our industry at current cost levels.

Also the land value which forms the basis for all the costs is arguably inflated under Ipart. Some of our members report instances where the rent collected under Ipart is more per year than the value of the land according to the Valuer General. In one instance the land on a mountaintop has been valued at \$10,000 and yet the government wants \$15,000 pa. rent from the users. How can the government justify such a charge considering the government has made no investment in the site.

Competitive issues are also a concern on some sites. In many locations towers could be on both government and crown land. Anyone unlucky enough to be on crown land is disadvantaged compared to other surrounding sites that are on private land. This is placing owners of infrastructure on crown land at a major competitive disadvantage to their neighbours.

Radio networks are traditionally used by government and small business to run their day to day operations. Typically they cover a small geographic area servicing the local population. The introduction of cellular technology has had a major detrimental effect on the industry and no more so than in regional NSW. The cost of operating radio sites is prohibitive under the current system and there is zero growth which is causing a loss of business within the industry. The flow on effect from this is lost employment opportunities and future uncertainty.

Our response to the issues paper is as follows-

1 What has driven the increase in the number of sites, leases or licences since 2005? Will the demand for sites, leases or licences continue to increase over the next 5 years?

ARCIA believes there are two reasons why the number of leases has grown. The most obvious is that since 2005 the department of lands has been actively pursuing lease agreements.

Secondly there is growth in the cellular industries.

In the case of the radio industry particularly in regional areas under the current arrangements the market is declining. Many of our members have closed sites as they are no longer economic and clients have been lost forever. A number of sites have already been closed down on the North Coast and in the Riverina a dealer who has 8 sites currently is looking to close 5 of them as they are no longer economic.

Over the next 5 years if the current regime is continued then IPART can expect that the current radio industry involvement with crown land sites will continue to decline. Industry is not able to afford to invest in infrastructure or new technology on sites with low or no return on investment potential. In some low density locations this will remove the ONLY local communications option currently available. This has the potential to affect business, public safety and community groups that rely on the service provided. There are numerous sites in NSW where the dominant user type is government funded enterprise and the not for profit sector such as Surf Life Saving, Volunteer Rescue Association and St Johns Ambulance. If the local service provider is unable to achieve a suitable return as commercial customers turn to simpler options to whom will these sectors turn to provide the infrastructure?

Unlike the cellular industry we do not have the client base to spread the substantially increased costs amongst our users; our clients simply cannot afford to pay.

2 Do you agree with IPART's proposed principles for this review? Are there other factors IPART should consider?

ARCIA agrees with the stated principles of the review.

Market rentals for strategic sites

3 Does the current definition of a strategic site adequately identify sites that have strategic value? What are the characteristics of a strategic site that should be included in the definition? Please provide examples of sites that have strategic value but that do not meet the current definition of a strategic site.

ARCIA believes the current definition of strategic sites is correct with exception to the number of users. It is not possible to simply define a strategic site by the number of users. Any review the strategic value should consider that in the radio industry there is a variety of user types, equipment scale and ability to pay for site rental of suitable sites.

It is also difficult to define this term for all sites as there can often be other technical circumstances that dictate the location of key sites. Different technology groups have different requirements and consequently the strategic importance varies. In some cases a broadcast site by its very high power nature will make it more difficult for other technologies to co-exist.

In addition in many key locations multiple towers are available and this could impact on the ability of the site owner to attract users and therefore lowering the strategic value. This would be very difficult to capture in a definition.

4 What are the costs of negotiating rental agreements? Do the benefits of rental rates agreed through a negotiation process outweigh the costs? 16

ARCIA members clearly would prefer a simple system to provide certainty for industry. However under the current pricing members would wish to return to the previous local negotiation with land management agencies. The previous system recognised the different values placed on sites, was less costly to establish and did not expose users to complicated government contracts.

The current regime is a major barrier to the implementation of any new systems. ARCIA members report that wherever possible sites on crown land are avoided as the cost of implementation and then on-going costs are not bearable by common user groups.

5 Should the definition of strategic sites be revisited to reduce the number of sites that would be subject to negotiation? If so, should an additional category be introduced in the fee schedule to capture the majority of strategic sites?

On the basis that the numbers of Strategic sites are low and we believe that the current definition is correct then we do not think this needs to be revisited.

6 What changes, if any, would you suggest to the factors to consider when negotiating strategic sites as recommended by IPART in 2005?

ARCIA has no comment on this question.

Market rentals for standard sites – location categories

7 What is the current market evidence on rentals by location? Does the market evidence still indicate that in general, higher rentals are charged for sites closer to metropolitan areas or population centres than regional and other areas?

ARCIA believes location has an influence on the prices that are paid however the scale of the site is also important. ARCIA members would prefer the ACMA spectrum model outlined below as a starting point. However even in the High Density ACMA defined area very low density sites exist and this needs to be factored in.

8 What are the implementation issues with applying the definition of high, medium and low location categories as per the 2005 Review? What are implementation issues specifically associated with the definition of medium locations applied by Parks and Wildlife and Catchments and Lands?

ARCIA recommends the adoption of a geographic model similar to that used by the ACMA. Users in Sydney/Gosford/Wollongong are deemed High where Newcastle and surrounds is Medium and the rest of NSW Low. This works well for spectrum management and could also apply to land use.

9 Are there alternative definitions for location categories that are better supported by market evidence or are simpler to administer? What would market evidence support as thresholds for high, medium and low location categories?

ARCIA believes there is no justification for the categorisation of sites and the current practice of basing costs on population is unfair. Many regional areas have varied industries that may use more or less communications services than others. The ACMA uses a geographic model which works well. Users in Sydney/Gosford/Wollongong are deemed High where Newcastle and surrounds is Medium and the rest of NSW Low. This works well for spectrum management and could also apply to land use.

Market rentals for standard sites – user categories or occupancies

10 Are there implementation issues with the current categories of users or occupancies in general?

ARCIA believes the current system is confusing and not all users fit into the designated categories. The idea was to simplify the whole process but the industry believes that in some instances user classification is open to speculation.

The requirement to have individual agreements for users on the same infrastructure is also counterproductive. ARCIA believes that for two way radio users a licence should only be held by the

site owner being the primary user. The current system is a major disincentive for actual users of equipment.

11. Can the categories of users be reduced, for example, into the 3 broad categories of commercial enterprises (including government businesses), budget funded sector and community based organisations? What user categories are used by other lessors of communication tower sites?

ARCIA does not support the current number of categories. When you analyse the data the majority of the licences are coming from Cellular and then Government followed by community based organisations. For simplicity all other users should be classed together including local service providers such as our members. Other lessors of communications tower sites do not charge different rates for different users. They base charges on the amount of equipment and number of antennas on a structure.

12. On what basis would we calculate the amount of community service obligation for government businesses or concessions for budget funded and community based organisations?

ARCIA believes that the charging of fees by Government to Government is wasteful and unwarranted. This practice does nothing to bolster the economy and is simply a waste of public monies. Furthermore, community based organisations should be exempt from any Government charges. They are after all generally volunteer organisations working for the public good. In many cases ARCIA members allow use of their towers and buildings by these groups free of charge.

13. What is the relevance of the development of new technologies for the user categories that were defined in the 2005 Review? What changes to user categories would better accommodate changing technologies?

ARCIA's view is that the fees for usage of Crown Land should have no bearing on the technologies employed. Significant capital investments are made by all stakeholders and the price for the ground that they use should in no way be tied to their choice of technology.

14. Should the National Broadband Network be added as an additional user category or can it be accommodated within the current user categories? Why?

ARCIA's view is that the NBN is no different to any other user for the purposes of fees and they should pay accordingly. In many ways the NBN competes with other providers and should bear the same costs of operation.

Market rentals for standard sites – infrastructure providers and co-users

15. What are implementation issues from applying the 2005 fee structure for primary users, infrastructure providers and co-users?

ARCIA again strongly opposes the current system. Our belief is that the site owner should be classed as the Primary user and no other separate categories should exist for either infrastructure providers

or co-users. Under the current system no allowances are made for the amount of equipment or ground space you actually are using. If you fit into a category you are charged one fee regardless. This is uneconomic for our members.

16. What is the current market evidence on discounts being applied to infrastructure providers and co-users?

ARCIA believes that two-way radio co-users should not have to pay the Government for the use of an existing facility. The primary user should be the only one paying a fee. Any other user should be exempt as the government is making zero investment and therefore should not expect a return.

17. What are the reasons for continuing to apply a discount to infrastructure providers and co-users? What would be the consequences of lowering or removing the discount for infrastructure providers and co-users from the current fee schedule?

As previously stated ARCIA believes that the co-user fee should be abolished for two way radio users. Economies of scale will dictate whether a user will co-locate or not. Communications sites are expensive to develop costing upwards of \$100,000 for a small facility. Co-location amongst competitive users is more about having a consensual agreement rather than a desire to develop their own infrastructure. This environment currently exists so a further proliferation of towers on hilltops is unlikely.

Other issues

18. Should rental rates for Small Country Automatic Exchange (SCAX) sites come under the fee schedule for standard sites? If so, on what basis should we determine appropriate rental rates? Should SCAXs be considered as a separate category in the fee schedule?

ARCIA has no comment on this topic.

We commend our response to your earnest consideration and respectfully request that the issues raised by the association receive your favourable response. ARCIA sincerely hopes that IPART is able to provide transparent advice to Government that takes into account the real world experience of our members. ARCIA is happy to participate in any future public forums.

Yours Sincerely



Martin McLeod
Vice President
ARCIA