

## EXPLANATORY STATEMENT

### *Radiocommunications Act 1992*

Issued by the Authority of the Australian Communications Authority

*Radiocommunications Licence Conditions (Fixed Licence) Amendment  
Determination 2005 (No. 2)*

#### **Legislative provisions**

Paragraph 107(1)(f) of the *Radiocommunications Act 1992* (the Act) provides for the ACA to determine, by written instrument, the conditions applicable (if any) to particular types of apparatus licences.

Subsection 107(4) provides that a determination made under paragraph 107(1)(f) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

#### **Purpose of amendment**

This amendment to the *Radiocommunications Licence Conditions (Fixed Licence) Determination No. 1 of 1997* (the Fixed LCD) excludes the frequency bands 1427 – 1535 MHz and 3425 – 3492.5 MHz from Part 3 of the Fixed LCD. Part 3, at present, provides the “Conditions for fixed licences (point to multipoint station) except for stations used to provide distance education or stations that operate in the 1900 – 1920 MHz or 2010 - 2025 MHz frequency band”.

The operational requirements of Broadband Wireless Access (BWA) services operating in these frequency bands are not technically compatible with the conditions set out in Part 3 of the Fixed LCD. BWA services are designed to transmit and receive large amounts of data which in some cases requires there to be continuous transmission of data over a large period of time.

#### **Background**

The operation of radiocommunications equipment authorised by an apparatus licence is subject to:

- conditions specified in the Act, including an obligation to comply with the Act,
- a condition that any radiocommunications device operated under the licence must comply with all the standards applicable to it,
- conditions specified in the *Radiocommunications Licence Conditions (Apparatus Licence) Determination 2003* and any other determinations made by the ACA under paragraph 107(1)(f) of the Act,
- conditions specified in the licence, and
- any further conditions imposed by the ACA under section 111 of the Act.

Under paragraph 107(1)(f) of the Act, the ACA may determine, by written instrument, conditions relating to a particular type of apparatus licence. These instruments are known as Licence Conditions Determinations (LCDs). LCDs contain the generic conditions particular to various radiocommunications licence types and licensing options, including details of any common frequencies or frequency bands, permitted power levels, type of communications permitted, persons with whom the licensee is

permitted to communicate, call sign usage and any other relevant transmission parameters.

The *Radiocommunications Licence Conditions (Apparatus Licence) Determination 2003* and the *Radiocommunications Licence Conditions (Fixed Licence) Determination No. 1 of 1997* specify the conditions applicable to the licences referred to in this explanatory statement.

Any other conditions of operation, which apply to an individual licence but are not included in an LCD, are printed on the apparatus licence under the heading 'Special Conditions'.

### **Discussion of issues**

In April 2005, following an extensive consultation process, the ACA amended the Fixed LCD to allow for the operational and technical specifications of BWA services. To this end, BWA services, operating in the frequency bands 1900 – 1920 MHz and 2010 – 2025 MHz were excluded from the operation conditions specified in Part 3 of the Fixed LCD, and accommodated in a new Part 3D. Part 3D 'Conditions for fixed licences (point to multipoint station) for stations that operate in the 1900 – 1920 MHz or 2010- 2025 MHz frequency band', specifies rollout obligations for BWA services, where an apparatus licence has been issued.

The current amendment excludes the frequency bands 1427 -1535 MHz and 3425 – 3492.5 MHz from the operating conditions specified in Part 3 of the Fixed LCD. The amendment reflects the incompatibility the operation of BWA, in those frequency bands, has with the specified licence conditions.

Conditions specified in the Fixed LCD for point to multipoint stations were developed to restrict the operation of point to multipoint services by specifying, inter alia, that 'the duty cycle of any remote station must not exceed 1 in 30, with the duration of any one transmission not to exceed 2 seconds and the minimum repetition interval of not less than 10 seconds'. Due to the operational requirements of BWA services, compliance with these conditions is not technically possible. BWA services are designed to transmit and receive large amounts of data which in some cases requires there to be continuous transmission of data over a large period of time.

The *Radiocommunications Licence Conditions (Fixed Licence) Amendment Determination 2005 (No. 2)* commences on the day after registration.

### **Consultation**

The Office of Regulation Review (ORR) has been consulted about the proposed amendment. ORR advised that a RIS is not required in this instance, as the amendment is minor and machinery in nature. ORR ID number for this issue is 6680. As the amendment clarifies a technical issue and the right of licence holders were not affected in any way no further consultation was undertaken.

### **Detailed description of the Amendment Determination**

Notes on the amendment are set out in Attachment 1.

# ATTACHMENT 1

## Notes on the instrument

### **Section 1 Name of Determination**

Section 1 provides for the citation of the Determination.

### **Section 2 Commencement**

Section 2 states the day on which the Determination has effect as the day after registration.

### **Section 3 Amendment of the *Radiocommunications Licence Conditions (Fixed Licence) Determination 1997***

Section 3 provides that Schedule 1 amends the *Radiocommunications Licence Conditions (Fixed Licence) Determination 1997* (the Determination)

### **Schedule 1 Amendments**

#### **Item 1 Part 3 Heading**

Item 1 changes the heading to Part 3 to exclude fixed (point to multipoint station) licences in the 1427 – 1535 MHz and 3425 – 3492.5 MHz frequency bands from the requirements of Part 3.

#### **Item 2 Section 6**

Item 2 amends section 6 to exclude fixed (point to multipoint station) licences in the 1427 – 1535 MHz and 3425 – 3492.5 MHz frequency bands from the requirements of Part 3.

#### **Item 3 and 4 Paragraph 11M (b) and Paragraph 11O (2) (b)**

Items 3 and 4 correct minor editorial errors.