

EXPLANATORY STATEMENT

Radiocommunications (Transmitter Licence Tax) Amendment Determination 2006 (No. 1)

Made by the Australian Communications and Media Authority under subsection 7(1) of the *Radiocommunications (Transmitter Licence Tax) Act 1983*

Legislative Provisions

The *Radiocommunications (Transmitter Licence Tax) Amendment Determination 2006 (No. 1)* (“the Amendment Determination”) amends the *Radiocommunications (Transmitter Licence Tax) Determination 2003 (No. 2)* (“the Determination”).

Subsection 7 (1) of the *Radiocommunications (Transmitter Licence Tax) Act 1983* (the Act) provides that the Australian Communications and Media Authority (ACMA) may determine the amount of tax in respect of:

- the issue of a transmitter licence;
- the anniversary of a transmitter licence coming into force; and
- the holding of a transmitter licence.

Background

Under the *Radiocommunications Act 1992*, ACMA is responsible for maintaining an efficient, equitable and transparent system of charging for the use of spectrum. The annual tax levied on apparatus licences allows ACMA to create economic incentives for efficient use of the spectrum. It encourages licensees to use the minimum amount of bandwidth for their needs, to move to less congested bands, and to surrender licences no longer needed.

Where frequencies are in very limited supply, ACMA seeks to ensure efficient use of spectrum by allocating channels to licensees with the greatest willingness to pay. If a tax is too low, licensees with more economically efficient uses may be excluded, while those with low-value uses are occupying channels.

In 2003, ACMA’s precursor, the Australian Communications Authority (ACA) increased the tax applied to fixed licence types operating in bands below 960 MHz, in response to increasing congestion in fixed licence segments of these spectrum bands.

In April 2005, the ACA again increased the fixed licence tax, in the first of five planned annual increases designed to bring the fixed licence tax into parity with the land mobile tax¹. It is intended that by 2010 the fixed point to multipoint licence tax will be equal to the land mobile tax, while the fixed point to point licence tax will be one quarter of the land mobile tax. While the amount of spectrum used by point to

¹ The regulation impact statement for this five year plan was tabled with the explanatory statement for changes to the *Radiocommunications (Transmitter Licence Tax) Amendment Determination 2005 (No. 1)* registered on 18 February 2005.

multipoint and land mobile services is similar, point to point services use less spectrum than either as they are more directional.

The land mobile tax is an appropriate reference point for the fixed licence taxes, as they share the same frequency bands and client behaviour indicates that the 'opportunity cost' of fixed licences is at least as high as the land mobile tax. Opportunity cost is the value of spectrum in the best alternative use. The Productivity Commission, in its 2002 report on radiocommunications, recommended that ACA price spectrum on its opportunity cost.

Taxes were increased by 1% in 1995 to provide funding of \$1 million for research into the health effects of electromagnetic energy (EME). The EME levy has been continued in subsequent years. In the 2005-06 budget, research funding of \$1 million was again announced; however, due to an increase in licence revenue, 1% of licence taxes now raises over \$1 million. Following the budget, the Department of Finance and Administration requested that ACMA reduce licence taxes by 0.2% to bring the EME funding level back to \$1 million. Consequently, this year's increase is 2.3% rather than 2.5%, which was the actual change in the CPI between June 2004 and June 2005.

Purpose and Operation

The Amendment Determination amends the taxing regime for radiocommunications transmitter licences to:

- Raise taxes for fixed services in bands below 960 MHz in accordance with ACMA's five year plan.
- Adjust all taxes by a 2.3% adjustment based on the annual CPI movement to June 2005 less a 0.2% reduction requested by the Department of Finance and Administration.

Impact and Effect

The Amendment Determination will enhance the efficiency and equity of the taxing regime by further aligning the taxes for fixed and land mobile licences in the same bands. As a result of the changes, licensees with fixed licences in bands below 960 MHz will face higher taxes. This is a necessary consequence of the realignment to improve the equity and efficiency of the fee model.

Consultation

When fees for fixed licences in bands below 960 MHz were increased in 2003, the ACA wrote to all affected licensees stating the reason for the increase and advising that further increases would be implemented.

Since April 2005, fixed licensees have been informed in renewal notices of the second increase, together with information that their licence tax will increase each year until 2010, until the point to multipoint tax is equal to the land mobile tax, and the point to point tax is one-quarter of the land mobile tax.

The Office of Regulation Review advised that the RIS prepared for the first increase in the five year plan would apply to all five tax increases and that consultation is not required for CPI adjustments.

Legal and other requirements

The Amendment Determination is a legislative instrument. All legal and other requirements for the making of the Amendment Determination have been met.

Detailed description of the Amendment Determination

Details of the Amendment Determination are in Attachment 1.

Notes on the instrument

Section 1 Name of Determination

Section 1 provides the citation of the Amendment Determination.

Section 2 Commencement

Section 2 provides for the commencement of the Amendment Determination.

Section 3 Amendment of Radiocommunications (Transmitter Licence Tax) Determination 2003 (No. 2)

Section 3 provides that Schedule 1 of the Amendment Determination amends the *Radiocommunications (Transmitter Licence Tax) Determination 2003 (No. 2)*.

Schedule 1 Amendments

Item 1

Item 1 sets out the transitional arrangements for the Amendment Determination. Although the Amendment Determination commences on the day after registration, in some instances where the tax is payable after this date, the amount of tax will continue to be based on the *Radiocommunications (Transmitter Licence Tax) Determination 2003 (No. 2)* as in force immediately before the commencement of the Amendment Determination. The purpose of these transitional arrangements is to allow the amount of tax shown on renewal notices and instalment notices sent out prior to the commencement of the Amendment Determination, but payable after the commencement of the Amendment Determination, to continue to be valid.

Item 2

Item 2 sets out the amount of tax for each kHz of bandwidth for the licensing options specified in Part 2 of Schedule 2 (assigned licences). The amount of tax varies with frequency range and location of the spectrum access. All amounts have been raised by the adjustment of 2.3%.

Item 3

Item 3 sets out the amount of tax for each kHz of bandwidth for the licensing options specified in Part 3 of Schedule 2 (assigned licences in high demand frequency bands). The amount of tax varies with frequency range and density of the spectrum access. All amounts have been raised by the adjustment of 2.3%.

Item 4

Item 4 sets out the amount of tax for each kHz of bandwidth for the licensing options specified in Part 4 of Schedule 2 (assigned fixed point to point licences). The amount

of tax varies with frequency range and location of the spectrum access. All amounts have been raised by the adjustment of 2.3%, and amounts in frequency bands below 960 MHz have been raised in the second increment of a program to align fixed licence taxes with land mobile licence taxes.

Item 5

Item 5 sets out the amount of tax for each kHz of bandwidth for the licensing options specified in Part 5 of Schedule 2 (assigned fixed point to multipoint licences). The amount of tax varies with frequency range and location of the spectrum access. All amounts have been raised by the adjustment of 2.3%, and amounts in frequency bands below 960 MHz have been raised in the second increment of a program to align fixed licence taxes with land mobile licence taxes.

Item 6

Item 6 sets out the amount of tax for each kHz of bandwidth for the licensing option specified in Part 6 of Schedule 2 (fixed television outside broadcast station). The amount of tax varies with frequency range and location of the spectrum access. All amounts have been raised by the adjustment of 2.3%,

Item 7

Item 7 sets out the amount of tax for the licensing options specified in Part 7 of Schedule 2 (assigned licences subject to a fixed annual tax). All amounts have been raised by the adjustment of 2.3%.

Item 8

Item 8 sets out the amount of tax for certain high power open narrowcasting licences. All amounts have been raised by the adjustment of 2.3%.

Item 9

Item 9 sets out the amount of tax for certain high power open narrowcasting licences. All amounts have been raised by the adjustment of 2.3%.

Item 10

Item 10 changes the minimum amount of tax for high power open narrowcasting licences (adjustment of 2.3%).

Item 11

Item 11 sets out the amount of tax for the licensing options specified in Part 10 of Schedule 2 (non-assigned licences). All amounts have been raised by the adjustment of 2.3%.

Item 12

Item 12 changes the minimum annual amount of tax from \$29.39 to \$30.07 (adjustment of 2.3%).