

Explanatory Statement

Issued by the authority of the Australian Communications and Media Authority

RADIOCOMMUNICATIONS (INTERPRETATION) AMENDMENT DETERMINATION 2007 (NO. 2)

Australian Communications and Media Authority Act 2005

Background, purpose and legislative basis

This document provides an explanation of the *Radiocommunications (Interpretation) Amendment Determination 2007 (No. 2)* (the Amendment Determination), made under subsection 64 (1) of the *Australian Communications and Media Authority Act 2005* (the Act).

Subsection 64 (1) of the Act states that the Australian Communications and Media Authority (ACMA) may make a written determination defining one or more expressions used in specified instruments, being instruments that are made by ACMA under one or more specified laws of the Commonwealth. Definitions for the licence options that ACMA may issue in accordance with the Act are currently set out in the *Radiocommunications (Interpretation) Determination 2000*. The Amendment Determination seeks to amend the Schedule 1 (Dictionary) of the Principal Determination in order to create a new fixed licence option.

Section 46 of the *Radiocommunications Act 1992* (the Radiocommunications Act) states that, otherwise than in an 'emergency' (section 49, Radiocommunications Act), a radiocommunications device may only be used in Australia when it is authorised by a class, apparatus or spectrum licence. A new licence option is required in order to enable deployment of a new high-capacity broadband wireless technology known as millimetre wave. This technology operates in the 71-76 GHz and 81-86 GHz frequency ranges.

The licensing regime required to support stations operating in the 71-76 and 81-86 GHz frequency ranges is identical to that currently in place for point to point (58 GHz band) stations. The *Radiocommunications (Interpretation) Amendment Determination 2007 (No. x)* therefore seeks to remove the (narrow) definition of 'point to point (58 GHz band) station' and create a single new licence option that efficiently absorbs both the 58 GHz and the 71-76 and 81-86 GHz frequency ranges. The definitional name for this licence option is 'point to point (self coordinated) station.'

Millimetre wave technology employs antennas that produce very narrow beamwidth (or 'pencil beam') emissions. This means that stations operating in the 71 to 76 and 81 to 86 GHz frequency ranges interfere with other stations only where the antennas of the two stations are pointing towards one another and/or are in very close proximity. The need for conventional coordination is therefore significantly reduced.

Consultation

In accordance with section 17 of the *Legislative Instruments Act 2003*, ACMA conducted targeted consultation with industry in regard to the changes. The discussion paper *Planning of the 71-76 and 81-86 GHz bands for millimetre wave high capacity link technology* was released by ACMA on 11 December 2006. The comment period closed on 28 February 2007. Five submissions were received from industry and all were in agreement with the proposals outlined in the paper.

To provide maximum benefit to industry and to minimise costs to government, a self coordinated approach based on the apparatus licence register was proposed by ACMA. Full details can be found in the discussion paper *Planning of the 71-76 and 81-86 GHz bands for millimeter wave high capacity link technology* (SPP 2006-11) released by ACMA on 11 December 2006. This paper proposed the introduction of a licensing regime and fee structure for millimetre wave services similar to that already in place for fixed point to point (58 GHz band) services.

The *Radiocommunications (Interpretation) Amendment Determination 2007 (No. 2)* has no effect on competition. Rather, the changes open up new spectrum for use by industry under a fixed and inexpensive tax regime.

Due to the facilitative rather than prohibitive nature of the amendments, there is no compliance cost to industry. For this reason ACMA's Best Practice Regulation Coordinator decided that the determination was minor and machinery in nature and a Regulation Impact Statement (RIS) and Business Cost Calculator (BCC) Report were not required. The Office of Best Practice Regulation (OBPR) was consulted as a part of this process (ACMA Reference: 024).

The proposed changes do not substantially affect existing 58 GHz licences. There are currently 13 existing licences in the 58 GHz band.

Notes on the Instrument

Section 1 – Name of Determination

Section 1 provides that the Amendment Determination is the *Radiocommunications (Interpretation) Amendment Determination 2007 (No. 2)*.

Section 2 – Commencement

Section 2 provides that the Amendment Determination commences on the day after it is registered on the Federal Register of Legislative Instruments.

Section 3 – Amendment of the *Radiocommunications (Interpretation) Determination 2000*

Section 3 provides that Schedule 1 amends the Principal Determination.

Schedule 1 – Amendments

[1] Section 3

Item 1 amends Schedule 1 of the Principal Determination. Schedule 1 of the Principal Determination sets out a Dictionary of terms and expressions. Item 1 removes the definition for ‘point to point (58 GHz band) station’. This provision is no longer necessary because it is too narrowly defined, covering only the 58 GHz frequency range, and is not capable of capturing the 71-76 and 81-86 frequency ranges.

[2] Section 3

Item 2 amends Schedule 1 of the Principal Determination. Item 2 inserts a new definition for the new licence option, called a ‘point to point (self-coordinated) station’, to replace the definition for ‘point to point (58 GHz band) station’. The definition covers a broader frequency range than the ‘point to point (58 GHz band) station’ by expanding the frequency ranges. The definition now includes the 58 GHz, as well as the new 71-76 and 81-86 GHz frequency ranges.

The effect of the definition is that a point to point (self-coordinated) station is a self-coordinated point to point station that is operated only within one of the following frequency ranges:

- (a) *greater than 57.2 GHz and less than or equal to 58.2 GHz;*
- (b) *greater than 71 GHz and less than or equal to 76 GHz;*
- (c) *greater than 81 GHz and less than or equal to 86 GHz.’*

The term ‘point to point station’ is defined in section 3 of the Principal Determination to mean:

‘a station that:

- (a) is operated under a fixed licence; and*
- (b) is operated principally for communication with 1 other fixed station; and*
- (c) is operated on frequencies specified in the transmitter licence that relates to the station.’*

The term ‘self-coordinated’ has two meanings in industry parlance. First, a self-coordinated station is a station that, for the purpose of minimising interference, automatically selects and transmits only on an unused frequency band within one of the applicable frequency ranges. Second, a self-coordinated station is a station for which ACMA, or a person accredited under section 263 of the Radiocommunications Act, undertakes coordination procedures for the purpose of minimising interference.