

## **EXPLANATORY STATEMENT**

**Issued by the Australian Communications and Media Authority**

***Radiocommunications (Transmitter Licences – Auction) Amendment Determination 2010 (No. 1)***

***Radiocommunications Act 1992***

### **Purpose**

The purpose of the *Radiocommunications (Transmitter Licences – Auction) Amendment Determination 2010 (No. 1)* (the Determination) is to remove the frequency range 1900-1920 MHz (the 1.9 GHz band) from the scope of the Determination.

This amendment also updates the relevant banking details for the Australian Communications and Media Authority (the ACMA).

### **Legislative Provisions**

Section 106 of the *Radiocommunications Act 1992* (the Act) provides that the ACMA may determine in writing a price-based allocation (PBA) system for allocating and/or issuing specified transmitter licences. The PBA system may apply in respect of a particular area; for a specified frequency range; and may require the payment of an application fee.

The Determination is a legislative instrument for the purposes of the *Legislative Instruments Act 2003* (the LIA).

Subsection 33(3) of the *Acts Interpretation Act 1901* provides that where an Act confers a power to make an instrument, that power shall, unless the contrary intention appears, be construed as including a power exercisable in a like manner and subject to like conditions, to amend that instrument.

### **Background**

The *Radiocommunications (Transmitter Licences – Auction) Determination 2006* (the Auction Determination) provides an equitable and transparent allocation process for apparatus licences in frequency bands released to support the roll out of wireless access services (WAS). The two frequency bands that the Auction Determination applies to are the 1.9 GHz and 2010-2025 MHz bands. Although developed for the issue of point-to-multipoint apparatus licences in these bands, the Auction Determination provides for other licence types and frequency bands to be included by amendment.

The 1.9 GHz band was included in the Auction Determination as a result of the high level of demand for access to the band in regional areas. The number of apparatus licences issued in the 1.9 GHz band, and the demand for access to this band by regional operators, has decreased over time. As a result, the ACMA has reviewed the method of allocation for the 1.9 GHz band and no longer considers use of a PBA system necessary.

The ACMA intends to retain the frequency band 2010-2025 MHz in the Auction Determination at this time and will evaluate the allocation approach for other frequency bands as they are released for wireless access services (WAS) into the future.

### **Operation**

The amendment will remove the 1.9 GHz band from the scope of the Determination, resulting in point-to-multipoint apparatus licences in the band being available for issue via an administrative allocation method..

The Determination also updates the ACMA's banking details.

### **Consultation**

Section 17 of *Legislative Instruments Act 2003* requires the ACMA to be satisfied that any consultation it considers to be appropriate and that is reasonably practicable to undertake has been undertaken. The proposed amendments to the Auction Determination, along with a number of other legislative instruments, were included for consultation in a package of regulatory proposals to support wireless access services (WAS) arrangements for the 3.6 GHz band.

The package was released on the ACMA website for consultation for the period 1 April to 15 May 2009 and was accompanied by a media release. 21 submissions were received in relation to the package. Respondents to the 3.6 GHz consultation process were supportive of the proposed amendments to the Auction Determination, particularly regarding the proposed removal of the 1.9 GHz band from the scope of the Auction Determination

### **Regulatory Impact Statement**

The ACMA obtained advice from its SES contact officer for the Government's regulation impact analysis arrangements that the Determination has no or low impact. For those reasons under the self-assessment regime administered by the Office of Best Practice Regulation (OBPR), the ACMA has determined that there is no need to produce a Business Cost Calculator report or to prepare a Regulation Impact Statement. The ACMA RIS exemption reference number is ACMA 109.

### **Detailed Description of the Instrument**

Details of the Determination are set out in the Attachment.

## NOTES ON SECTIONS

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

This section provides for the name of the Determination.

### **Section 2 – Commencement**

This section provides that the Determination commences on the day after it is registered.

### **Section 3 – Amendment to the *Radiocommunications (Transmitter Licences – Auction) Determination 2006***

This section provides that Schedule 1 amends the *Radiocommunications (Transmitter Licences – Auction) Determination 2006*.

### **Schedule 1 Amendments**

#### **Item [1] Subsection 1.4 (1)**

This section limits the scope of the Determination to the frequency range 2010-2025 MHz only.

#### **Item [2] Subsection 1.5 (1), definition of *bank transfer***

This section updates the definition of bank transfer by referring to the ACMA's new bank account with the Australia and New Zealand Banking Group Limited.

#### **Item [3] Subsection 2.5 (5)**

This section provides updated bank account details of the ACMA, including branch location, account name and number, and BSB details.