

EXPLANATORY STATEMENT

Issued by the Australian Communications and Media Authority

Radiocommunications Advisory Guidelines (Managing Interference to Spectrum Licensed Receivers—800 MHz Band) Amendment 2013 (No. 1)

Radiocommunications Act 1992

Purpose

The purpose of the *Radiocommunications Advisory Guidelines (Managing Interference to Spectrum Licensed Receivers—800 MHz Band) Amendment 2013 (No. 1)* (“the Amendment”) is to correct typographical errors in clause (1) of Schedule 2 *Radiocommunications Advisory Guidelines (Managing Interference to Spectrum Licensed Receivers—800 MHz Band) 2012* (the Guidelines).

Legislative Provisions

Under section 262 of the *Radiocommunications Act 1992* (the Act), the Australian Communications and Media Authority (the ACMA) may make written advisory guidelines about any aspect of radiocommunications or radio emissions.

Subsection 262(2) of the Act provides a non-exhaustive list of examples of the matters about which advisory guidelines may be made, one of which is ‘interference with radiocommunications’.

The Amendment is a legislative instrument under the *Legislative Instruments Act 2003*.

Background

The Act provides a number of means by which the ACMA may manage interference resulting from operation of a transmitter under a spectrum licence. These tools include the core conditions applied to all spectrum licences pursuant to section 66 of the Act; other conditions that may be applied under section 71 of the Act; the determination made under section 145 of the Act about what constitutes unacceptable interference; and advisory guidelines made under section 262 of the Act about managing interference in specific circumstances.

The Guidelines were made by the ACMA for the management and settlement of out-of-band interference into receivers operating under an 800 MHz spectrum licence by transmitters operating under an apparatus licence in adjacent geographic areas, or adjacent frequency bands.

Operation

The Amendment will correct typographical errors identified in Schedule 2 of the Guidelines. The amended text matches what was publically consulted on for the Guidelines in June 2012.

Consultation

The Guidelines were publically consulted on in June 2012. They were made on 15 of August 2012 but do not commence until 18 June 2013 – the day after existing 800 MHz spectrum licences expire.

In accordance with paragraph 18(2)(a) of the *Legislative Instruments Act 2003* consultation on the Amendment is considered unnecessary. The Amendment is considered minor in nature and has no impact on existing arrangements as the Guidelines being amended have not yet come into effect and the Amendment will commence on the same day as, and immediately after, the Guidelines.

Regulatory Impact Statement

The ACMA obtained advice from the Office of Best Practice Regulation (OBPR) that the Amendment is minor or machinery in nature and therefore no further regulatory impact analysis is required. The OBPR reference number ID 14725.

Detailed Description of the Instrument

Details of the Amendment are set out in Attachment A.

DETAILS OF THE *RADIOCOMMUNICATIONS ADVISORY GUIDELINES (MANAGING INTERFERENCE TO SPECTRUM LICENSED RECEIVERS – 800 MHZ BAND) AMENDMENT 2013 (NO.1)*

NOTES ON SECTIONS

Section 1 Name of Advisory Guidelines

Section 1 provides for the citation of the Amendment.

Section 2 Commencement

This section provides that the Amendment commences on the 18 June 2013, immediately after the Guideline commence.

Section 3 Amendment of *Radiocommunications Advisory Guidelines (Managing Interference to Spectrum Licensed Receivers – 800 MHz Band) 2012*

Schedule 1 Amendments

[1] Schedule 2, clause (1)

This amendment omits the subclauses (1)(a) and (b) and substitutes new subclause (1)(a) and (b). Subclause (1)(a) details the wanted to unwanted ratio and annual availability of the compatibility requirement. The compatibility requirement in Schedule 2 helps to define the protection a receiver operated under a spectrum licence is afforded from transmitters operated under apparatus licences.

Subclause (1)(b) details the minimum wanted signal level and corresponding bit error rate of the compatibility requirement. The compatibility requirement in Schedule 2 helps to define the protection a receiver operated under a spectrum licence is afforded from transmitters operated under apparatus licences.

This item amends typographical errors in the Guidelines in the subclauses to match what was publically consulted on for this instrument in June 2012.

Statement of compatibility with human rights

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

Radiocommunications Advisory Guidelines (Managing Interference to Spectrum Licensed Receivers – 800 MHz Band) Amendment 2013 (No. 1)

This legislative instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

Section 262 of the *Radiocommunications Act 1992* (the Act) provides that the Australian Communications and Media Authority (the ACMA) may make advisory guidelines about any aspect of radiocommunications or radio emissions.

The purpose of the *Radiocommunications Advisory Guidelines (Managing Interference to Spectrum Licensed Receivers – 800 MHz Band) Amendment 2013 (No. 1)* (the Amendment) is to correct typographical errors identified in Schedule 2 of the *Radiocommunications Advisory Guidelines (Managing Interference to Spectrum Licensed Receivers—800 MHz Band) 2012* (the Guidelines).

Subsection 9 (1) of the *Human Rights (Parliamentary Scrutiny) Act 2011* requires the rule-maker in relation to a legislative instrument to which section 42 (disallowance) of the *Legislative Instruments Act 2003* applies to cause a statement of compatibility to be prepared in respect of that legislative instrument.

The Amendment is a legislative instrument that is subject to disallowance under section 42 of the *Legislative Instruments Act 2003*.

Human Rights Implications

The Amendment does not engage any of the applicable rights or freedoms.

Conclusion

The Amendment is compatible with human rights as they do not raise any human rights issues.