**EXPLANATORY STATEMENT**

*Australian Communications and Media Authority Act 2005*

*Broadcasting Services Act 1992*

*Radiocommunications Act 1992*

*Acts Interpretation Act 1901*

**Communications Legislation (Spent and Redundant Instruments) Instrument of Repeal (No. 1) 2014**

Issued by the authority of the Minister for Communications

**Purpose**

During a stocktake of portfolio regulation undertaken as part of the Government’s deregulation agenda, a number of instruments administered by the Minister for Communications have been identified as spent or otherwise redundant. These instruments are being revoked.

Removing spent or unnecessary instruments reduces costs incurred by business in understanding and complying with outdated regulatory requirements and is part of a range of better regulation initiatives being taken forward by the Government to improve the quality of regulatory stock and ensure regulation does not impose unnecessary costs and inefficiencies on business.

Details of the redundant instruments are set out below.

**Australian Communications and Media Authority Act 2005**

* *Australian Communications and Media Authority (Annual Carrier Licence Charge) Direction 2011*

This Direction was made by the Minister for Broadband, Communications and the Digital Economy under subsection 14(1) of the *Australian Communications and Media Authority Act 2005*. The Direction required the Australian Communications and Media Authority (ACMA) to make determinations under subsection 14(1) of the *Telecommunications (Carrier Licence Charges) Act 1997*. The effect of the determination was the removal of the annual carrier licence charge for a licence held by a carrier that was a ‘Universal Service Obligation non-participating person’ pursuant to the *Telecommunications (Participating Persons) Determination 2011 (No.1)* for the eligible revenue period immediately preceding that financial year. This Direction is now redundant and has been superseded by the *Australian Communication and Media Authority (Annual Carrier Licence Charge) Direction 2013*.

* *Protecting Australian Families Online Direction No. 1 of 2007*

This Direction was made by the Minister for Communications, Information Technology and the Arts under subsection 14(1) of the *Australian Communications and Media Authority Act 2005*. The purpose of the direction was to allow the ACMA to conduct a trial of commercial Internet Service Provider (ISP) products in order to research the capacity of available technology to filter illegal or inappropriate internet content at the ISP level and the advances made since previous trials of filter technology were carried out. The ACMA was required to deliver a report on the findings of the trial to the Minister for Communications, Information Technology and the Arts by no later than 30 June 2008. The Direction is now spent because the report was completed by the ACMA and provided to the Government in June 2008.

**Broadcasting Services Act 1992**

* *Protecting Australian Families Online Direction No. 2 of 2007*

This Direction was made by the Minister for Communications, Information Technology and the Arts under section 171 of the *Broadcasting Services Act 1992*. The Direction required the ACMA to investigate developments in Internet content filtering technologies and other safety initiatives for the internet. The ACMA was required to report its findings to the Minister for Communications, Information Technology and the Arts by 31 December 2007, and by the anniversary of that date in each subsequent year until 31 December 2009. The Direction is now spent given that the final date for reporting in the Direction has expired.

**Radiocommunications Act 1992**

* *Radiocommunications (Datacasting Transmitter Licence Limits) Direction No. 1 of 2007*

This Direction was made by the Minister for Communications, Information Technology and the Arts acting under subsection 106(9) of the *Radiocommunications Act 1992*. The Direction revoked the *Radiocommunications (Datacasting Transmitter Licence Limits) Direction No. 1 of 2001* and also directed the ACMA to revoke the *Radiocommunications (Datacasting Transmitter Licence Allocation) Determination 2001*. The Direction is now spent because the ACMA has complied with its terms and its function has been fulfilled.

* *Radiocommunications (Spectrum Re-allocation) Declaration No. 1 of 2005*

This Declaration was made by the Minister for Communications, Information Technology and the Arts under subsection 153B (1) of the *Radiocommunications Act 1992*. Under that subsection, the Minister may issue a spectrum reallocation declaration in order to determine parts of the spectrum that are subject to re-allocation, which may be re-allocated by issuing spectrum or apparatus licences. The Declaration specified a spectrum reallocation period for spectrum ranging from 2100 MHz to 2025 MHz. This Declaration was automatically revoked on 1 January 2007 due to the operation of section 153K of the *Radiocommunications Act*,as no licences were allocated before the re-allocation deadline expired. It is to be repealed for the avoidance of doubt.

**Authority**

The instrument of revocation is made in accordance with subsection 33(3) of the *Acts Interpretation Act 1901,* under the provisions of the Acts that are specified in Columns 1 and 2 of the Table in the Schedule to the instrument.

**Consultation**

The Department of Communications consulted with the ACMA on repealing the spent and redundant instruments.

**Statement of Compatibility with Human Rights**

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

**Communications Legislation (Spent and Redundant Instruments) Instrument of Repeal (No. 1) 2014**

Overview of the Instrument

The purpose of the Legislative Instrument is to repeal spent and redundant instruments administered by the Minister for Communications. These instruments are being repealed as part of the Government’s deregulation agenda to improve the quality of regulatory stock and ensure regulation does not impose unnecessary costs and inefficiencies on business.

Human rights implications

This 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*.

It does not engage any of the applicable rights or freedoms and does not raise any human rights issues.

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**Notes on clauses**

**Clause 1 – Name of instrument**

Clause 1 provides that the name of the instrument is *Communications Legislation (Spent and Redundant Instruments) Instrument of Repeal (No.1) 2014.*

**Clause 2 - Commencement**

Clause 2 provides that the revocation instrument commences on the day after it is registered on the Federal Register of Legislative Instruments.

**Clause 3 - Definitions**

Clause 3 provides definitions for the terms that are relied on in the Schedule to the instruments.

**Clause 4 – Repeal**

Clause 4 provides for the repeal of the instruments specified in Column 3 of the Table in the Schedule to the instrument.

**Clause 5 – Expiry**

Clause 5 provides that the revocation instrument expires on the day after it commences.

**Schedule**

The Table in the Schedule lists the provisions (Column 1) of the Acts (Column 2) under which each instrument (Column 3) is revoked.