

EXPLANATORY STATEMENT

Issued by the Australian Communications and Media Authority *Radiocommunications (Australian Space Objects) Determination 2014*

Radiocommunications Act 1992

Purpose

The Australian Communications and Media Authority (the ACMA) has made the *Radiocommunications (Australian Space Objects) Determination 2014* (the 2014 Determination) to revoke and replace the *Radiocommunications (Australian Space Objects) Determination 2000* (the 2000 Determination) without making any significant changes to the regulatory arrangements created by the 2000 Determination.

The ACMA has made the 2014 Determination as the 2000 Determination was due to be automatically repealed on 1 April 2015, in accordance with Part 6 of the *Legislative Instruments Act 2003* (the LIA).

Legislative Provisions

Section 5 of the *Radiocommunications Act 1992* (the Act) gives the ACMA the power to determine an Australian space object for the purposes of the Act.

A determination made under section 5 of the Act is a legislative instrument and may be subject to disallowance in accordance with section 42 of the LIA.

Subsection 33(3) of the *Acts Interpretation Act 1901* provides that where an Act confers a power to make a legislative instrument, the power shall be construed to include a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend or vary any such instrument.

Background

Under section 5 of the Act, an Australian space object is 'a space object that the ACMA, by legislative instrument, determines to be an Australian space object for the purposes of this Act.' Paragraph 16(1)(c) provides that the Act applies outside Australia to Australian space objects; consequently the 2014 Determination extends application of the Act to the space objects listed in the 2014 Determination.

In making the 2014 Determination, the objective is to regulate Australian space objects to the extent necessary to licence communications to and from Australia. Extending the application of the Act allows satellite operators to apply to the ACMA for space and/or space receive apparatus licences in relation to the space objects listed in the 2014 Determination.

The ACMA considers Australian space objects to be those associated with satellite operators who have successfully applied to the ACMA seeking to achieve access to frequencies through the International Telecommunication Union (ITU) process.

From time to time, the circumstances of a satellite operator may change. Amendments to the 2014 Determination will be made when considered necessary in order to reflect such changes and maintain the accuracy of the information specified in the 2014 Determination.

Following review and consultation, the ACMA formed the view that the 2000 Determination was operating effectively and efficiently, and continued to form a necessary part of the legislative framework. Accordingly, the ACMA decided to make the 2014 Determination to replace the 2000

Determination without making any significant changes to the regulatory arrangements created by the 2000 Determination so that its ongoing effect is preserved.

Consultation

Subsection 17(1) of the LIA requires that, before the ACMA makes a legislative instrument, it must be satisfied that any consultation that the ACMA considers is appropriate and reasonably practicable to undertake, has been undertaken.

Between 28 July 2014 and 8 September 2014, the ACMA conducted a formal public consultation process in relation to the Determination. A consultation paper was made available on the ACMA website. The consultation paper explained the sunseting (automatic repeal) process and the ACMA's preliminary view that the existing arrangements should be saved from automatic repeal and remade without any significant changes. Interested parties were notified of the release of the consultation paper and invited to comment.

The ACMA received 13 written submissions in response to the consultation paper and all submissions were considered when making the 2014 Determination.

Regulation Impact

The Office of Best Practice Regulation (**OBPR**) has considered the matter and formed the opinion that the proposed updates did not have more than minor regulatory impact. Accordingly, OBPR advised that a Regulation Impact Statement was not required. The OBPR exemption number is ID 17009.

Detailed description of the 2014 Determination

Details of the 2014 Determination are set out in **Attachment A**.

Documents incorporated by reference

The 2014 Determination does not incorporate any documents by reference.

Statement of Compatibility with Human Rights

As required under the *Human Rights (Parliamentary Scrutiny) Act 2011*, a Statement of Compatibility with Human Rights has been prepared by the ACMA and is at **Attachment B**.

Attachment A

Details of the *Radiocommunications (Australian Space Objects) Determination 2014*

Section 1 Name of Determination

Section 1 provides that the 2014 Determination is the *Radiocommunications (Australian Space Objects) Determination 2014*.

Section 2 Commencement

Section 2 provides that the 2014 Determination commences on the day after it is registered on the Federal Register of Legislative Instruments.

Section 3 Definitions

Section 3 defines various terms used in the 2014 Determination.

Section 4 Australian space objects

Section 4 lists the space objects that are determined by the ACMA to be Australian space objects for the purposes of the Act.

The intended effect of section 4 is for the Act to apply outside Australia to a space station on an Australian space object operated to transmit radio emissions to, or receive radio emissions from, a station inside Australia.

Section 5 Revocation of previous Determination

Section 5 revokes the *Radiocommunications (Australian Space Objects) Determination 2000*.

Attachment B

Statement of Compatibility with Human Rights

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

Radiocommunications (Australian Space Objects) Determination 2014

The 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

The *Radiocommunications (Australian Space Objects) Determination 2014* revokes and replaces the *Radiocommunications (Australian Space Objects) Determination 2000* without making any significant changes to the regulatory arrangements created by that instrument.

The *Radiocommunications (Australian Space Objects) Determination 2014* lists the space objects that are determined by the ACMA to be Australian space objects for the purposes of the *Radiocommunications Act 1992*.

Human Rights Implications

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

Conclusion

The legislative instrument is compatible with human rights as it does not raise any human rights issues.