EXPLANATORY STATEMENT

Issued by the Australian Communications and Media Authority

Radiocommunications (Digital Radio Channels – Tasmania) Plan Variation 2015 (No. 1)

Radiocommunications Act 1992

Purpose

Pursuant to section 44A of the *Radiocommunications Act 1992* (the RA), the Australian Communications and Media Authority (the ACMA) prepares digital radio channel plans (DRCPs) that, among other things, allot frequency channels for use by digital radio multiplex transmitter licensees and determine technical specifications of multiplex transmitters operated under digital radio multiplex transmitter licences.

The ACMA may, by legislative instrument, vary a DRCP under subsection 44A(6) of the RA.

The *Radiocommunications (Digital Radio Channels – Tasmania) Plan Variation 2015 (No. 1)* (the Variation) varies the *Radiocommunications (Digital Radio Channels – Tasmania) Plan 2007* (the Tasmania DRCP) by inserting a section that provides that the technical specifications for a co-channel transmitter licensed under a relevant digital radio multiplex transmitter (DRMT) licence are those determined by the technical planning guidelines developed by the ACMA under section 33 of the *Broadcasting Services Act 1992* (the BSA).

The Variation also inserts provisions into the Tasmania DRCP relating to maximum effective radiated power (ERP) limits, the equivalents of which were added by variations made to all other DRCPs in 2008. Additionally, the Variation removes frequency blocks 12B and 12D in Hobart and replaces them with blocks 9A and 9C in order to align the Hobart frequency blocks with those used in other Australian metropolitan areas.

Background and operation

Co-channel transmitters are additional transmitters to main digital radio multiplex transmitters. A co-channel transmitter operates on the same frequency as the main transmitter and transmits an identical data stream. Co-channel transmitters with controlled timing between them form a single frequency network and are able to boost digital radio coverage in dense urban areas, as well as extending coverage in geographically challenging environments and at the boundaries of licence areas.

Paragraph 44(1)(e) of the RA requires that DRCPs prepared by the ACMA determine the technical specifications of multiplex transmitters (which include co-channel transmitters) operated under DRMT licences. The operation of, and technical specifications for, co-channel transmitters are provided for in the technical planning guidelines (TPGs) made by the ACMA under section 33 of the BSA.

In order to give effect to the requirements of paragraph 44(1)(e) of the RA, the Tasmania DRCP has been varied to provide that the technical specifications for co-channel transmitters licensed under the relevant DRMT licence are those determined by the TPGs.

The Variation also removes two frequency blocks allotted for digital radio broadcasting purposes (12B and 12D) and replaces them with frequency blocks 9A and 9C.

Digital radio uses the same frequency band in the broadcasting services bands (VHF Band III) as is used for digital television. After the ACMA made the Tasmania DRCP in 2007, and following public

consultation, the ACMA adopted restack planning principle 2[1] in 2011, to create a digital radio sub-band, comprising VHF television channels 9 and 9A that are clear of digital television in metropolitan and regional licence areas.

The *Television Licence Area Plan (Tasmania) 2012* (the Tasmanian TLAP) allots seven channels for digital television services in Hobart; channels 6, 7, 8, 9, 10, 11 and 12. The Tasmanian TLAP specifies that channel 12 cannot be used for television broadcasting services until frequency blocks 12B and 12D are omitted from the Tasmania DRCP. The TLAP also specifies that channel 9 is only available for television broadcasting services until frequency blocks 12B and 12D are omitted from the Tasmania DRCP.

The Variation removes two frequency blocks in television channel 12 (12B and 12D) allotted for use by DRMTs in the Hobart RA1 licence area and replaces them with frequency blocks 9A and 9C. This partially aligns the Hobart frequency blocks with those used in other metropolitan areas, while also separating the frequency blocks as per the original 12B and 12D allotments. Allotting non-adjacent frequency blocks was intended to make it easier for a DRMT licensee to deploy co-channel transmitters independently of the other DRMT licensee.

To be consistent with other DRCPs, the Variation also inserts provisions relating to maximum ERP limits that were inserted into all other DRCPs in 2008.

Regulatory impact analysis

The Office of Best Practice Regulation (OBPR) has determined that the proposed regulatory changes resulting from the Variation are minor and machinery in nature and that no further regulatory impact analysis is required (OBPR ID: 16851).

Consultation

Subsection 44A(7) of the RA requires that before varying a DRCP, the ACMA must:

- publish a draft of the variation on the ACMA's website; and
- invite members of the public to make submissions to the ACMA about the variation within a specified period of at least 30 days; and
- consider any submissions the ACMA receives from members of the public within that period.

On 19 November 2014, the ACMA published, on its website:

- a draft version of the Variation; and
- a discussion paper concerning the proposed Variation, which invited public comment by 24 December 2014.

On the same day, the ACMA wrote to the relevant commercial and community radio industry associations: Commercial Radio Australia and the Community Broadcasting Association of Australia as well as the national radio broadcasters (ABC and SBS), Broadcast Australia, FreeTV Australia and others, alerting them to the variation proposed and inviting comment.

The ACMA received one submission from Commercial Radio Australia on the draft variation which it considered prior to making the Variation.

Detailed description of the Variation

Details of the Variation are set out in Attachment A.

Documents incorporated in the Variation by reference

The Variation incorporates, by reference, the *Broadcasting Services (Technical Planning) Guidelines 2007*, which can be accessed at www.comlaw.gov.au.

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1 http://www.acma.gov.au/~/media/Broadcasting%20Spectrum%20Planning/Report/pdf/Decision%20Paper%20Clearing%20the%20digital%20dividend.PDF

Statement of Compatibility with Human Rights

In accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*, the ACMA has prepared a Statement of Compatibility with Human Rights to consider the human rights implications of the Variation.

The Statement of Compatibility prepared for the Variation is provided in Attachment B.

ATTACHMENT A

DETAILED DESCRIPTION OF *RADIOCOMMUNICATIONS (DIGITAL RADIO CHANNEL – TASMANIA) PLAN VARIATION 2015 (NO. 1)*

Section 1 Name of Plan Variation

Section 1 names the Variation the *Radiocommunications (Digital Radio Channels – Tasmania) Plan Variation 2015 (No. 1).*

Section 2 Commencement

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

Section 3 Amendment of *Radiocommunications (Digital Radio Channels – Tasmania) Plan Variation 2007.*

Section 3 specifies that Schedule 1 varies the *Radiocommunications (Digital Radio Channels — Tasmania) Plan 2007.*

Schedule 1 Amendments

Item 1

Item 1 inserts, in section 3, a definition of 'ERP' being: effective radiated power.

Item 2

Item 2 inserts new sections 5 and 6. New subsection 5(1) requires that for each digital radio multiplex transmitter, the ERP of that transmitter in any part of a sector or bearing must not exceed the maximum ERP specified in the output radiation pattern table for that sector or bearing (as set out in the Schedule to the Tasmania DRCP). New subsection 5(2) requires licensees of digital radio multiplex transmitters, if requested by the ACMA, to demonstrate, to the satisfaction of the ACMA, that the ERP of a transmitter in any part of a sector or bearing specified by the ACMA complies with subsection 5(1).

New section 6 provides that the technical specifications for a co-channel transmitter licensed under a relevant digital radio multiplex transmitter licence are those determined by technical planning guidelines. At the time of the commencement of new section 6, the technical specifications of a co-channel transmitter are set out in Division 8 of Part 8 of the *Broadcasting Services (Technical Planning) Guidelines 2007*.

Item 3

Item 3 substitutes a revised 'Frequency channels' table into Schedule 1 of the Tasmania DRCP, which specifies new frequency blocks 9A and 9C for DRMTs in Hobart .

Item 4

Item 4 substitutes the centre frequency value for Multiplex Hobart 1 in Attachment 1.1 as 202.928 MHz (Frequency Block 9A).

Item 5

Item substitutes the centre frequency value for Multiplex Hobart 2 in Attachment 1.2 as 206.352 MHz (Frequency Block 9C).

ATTACHMENT B

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

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

RADIOCOMMUNICATIONS (DIGITAL RADIO CHANNELS – TASMANIA) PLAN VARIATION 2015 (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

The *Radiocommunications (Digital Radio Channels – Tasmania) Plan Variation 2015 (No. 1)* varies the *Radiocommunications (Digital Radio Channels – Tasmania) Plan 2007* by adding a provision specifying that the technical specifications for co-channel transmitters licensed under a relevant digital radio multiplex transmitter licence are those determined by the technical planning guidelines prepared by the ACMA under section 33 of the *Broadcasting Services Act 1992*. The instrument also sets maximum effective radiated power limits for digital radio multiplex transmitters and provides for new frequency blocks 9A and 9C to be available for digital radio services.

Human Rights Implications

The ACMA has considered whether the *Radiocommunications (Digital Radio Channels – Tasmania) Plan Variation 2015 (No.1)* engages any applicable human rights or freedoms and has formed the view that it does not.

Conclusion

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