

## EXPLANATORY STATEMENT

Issued by the Australian Communications and Media Authority

### *Radiocommunications (Digital Radio Channels – Western Australia) 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 – Western Australia) Plan Variation 2015 (No. 1)* (the Variation) varies the *Radiocommunications (Digital Radio Channels – Western Australia) Plan 2007* (the Western Australia 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).

#### **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 Western Australia 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.

#### **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](http://www.comlaw.gov.au).

### **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.

**DETAILED DESCRIPTION OF RADIOCOMMUNICATIONS (DIGITAL RADIO CHANNELS – WESTERN AUSTRALIA) PLAN VARIATION 2015 (NO. 1)**

**Section 1 Name of Plan Variation**

Section 1 names the Variation the *Radiocommunications (Digital Radio Channels – Western Australia) 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 – Western Australia) Plan 2007*.**

Section 3 provides that Schedule 1 to the Variation amends the *Radiocommunications (Digital Radio Channels – Western Australia) Plan 2007*.

**Schedule 1 Amendment**

**Item 1**

Item 1 of Schedule 1 to the Variation inserts a new section 6 into the *Radiocommunications (Digital Radio Channels – Western Australia) Plan 2007* which 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*.

**STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS**

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

**RADIOCOMMUNICATIONS (DIGITAL RADIO CHANNELS – WESTERN AUSTRALIA) 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 – Western Australia) Plan Variation 2015 (No.1)* varies the *Radiocommunications (Digital Radio Channels – Western Australia) 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*.

**Human Rights Implications**

The ACMA has considered whether the *Radiocommunications (Digital Radio Channels – Western Australia) 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.