

# EXPLANATORY STATEMENT

Approved by the Australian Communications and Media Authority

*Radiocommunications Act 1992*

## ***Radiocommunications (Foreign Space Objects) Amendment Determination 2017 (No. 1)***

### **Authority**

The Australian Communications and Media Authority (**the ACMA**) has made the *Radiocommunications (Foreign Space Objects) Amendment Determination 2017 (No. 1)* (**the instrument**) under paragraph 16(1)(ca) of the *Radiocommunications Act 1992* (**the Act**) and subsection 33(3) of the *Acts Interpretation Act 1901* (**the AIA**).

Under paragraph 16(1)(ca), the Act applies outside Australia (whether or not in a foreign country), but only in relation to foreign space objects, in the circumstances specified in a determination by the ACMA.

### **Purpose of the instrument**

The purpose of the instrument is to amend the *Radiocommunications (Foreign Space Objects) Determination 2014* (**the FSO Determination**) by inserting “Network Access Associates Ltd (incorporated in the United Kingdom)” into Schedule 1 of that Determination. .

Under subsection 46(1) of the Act, radiocommunications devices that are subject to the Act are required to be licensed. An example of such a radiocommunications device is an earth station receiver.

In certain planned radiofrequency bands, the ACMA supports the operation of ubiquitous earth stations without the requirement for individual licensing of those earth stations. For this to occur, either the operator of an Australian space object needs to be identified in the *Radiocommunications (Australian Space Objects) Determination 2014*, or the owner, controller or operator of a foreign space object needs to be identified in the FSO Determination. Satellite owners, controllers or operators listed in these determinations are able to apply for radiocommunication apparatus licences that authorise communications between space stations and earth stations.

Network Access Associates Ltd (which trades under the name “OneWeb”) is a foreign satellite company proposing a constellation of 648 low-Earth orbit satellites.

It has requested the ACMA to include its satellite system in the FSO Determination. The instrument amends Schedule 1 of the FSO Determination by adding “Network Access Associates Ltd (incorporated in the United Kingdom)” to the FSO Determination.

The inclusion of “Network Access Associates Ltd” in the FSO Determination will enable it to apply for radiocommunication apparatus licences that authorise communications between space stations and ubiquitous earth stations in frequency bands identified in the *Radiocommunications (Communication with Space Object) Class Licence 2015*.

Subsection 33(3) of the AIA 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.

The instrument is a legislative instrument for the purposes of the *Legislation Act 2003* (**the LA**).

*Explanatory Statement to the Radiocommunications (Foreign Space Objects) Amendment Determination 2017 (No. 1)*

## **Provisions of the instrument**

The instrument has one substantive provision.

Section 4 and Schedule 1 of the instrument amend the FSO Determination by inserting “Network Access Associates Ltd (incorporated in the United Kingdom)” into Schedule 1 of the FSO Determination.

## **Consultation**

Before the instrument was made, the ACMA was satisfied that consultation was undertaken to the extent appropriate and reasonably practicable, in accordance with section 17 of the LA.

Between 13 July 2017 and 18 August 2017, the ACMA conducted a formal public consultation process in relation to the instrument. A consultation paper and a draft of the instrument was made available on the ACMA website for comment.

The ACMA received two written submissions in response to the draft instrument. Neither submission objected to the proposed amendment.

## **Regulatory impact assessment**

The Office of Best Practice Regulation (OBPR) has considered the matter and formed the opinion that the proposed variation is minor and machinery in nature. Accordingly, OBPR advised that a Regulation Impact Statement was not required. The OBPR reference ID number is 22362.

## **Statement of compatibility with human rights**

### ***Human rights implications***

The ACMA has assessed whether the instrument is compatible with human rights, being the rights and freedoms recognised or declared by the instruments listed in subsection 3(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011* as they apply to Australia.

Having considered the likely impact of the instrument and the nature of the applicable rights and freedoms, the ACMA has formed the view that the instrument does not engage any of those rights or freedoms.