

EXPLANATORY STATEMENT

Approved by the Australian Communications and Media Authority

Radiocommunications Act 1992

Radiocommunications (Australian Space Objects) Amendment Determination 2018 (No. 1)

Authority

The Australian Communications and Media Authority (**the ACMA**) has made the *Radiocommunications (Australian Space Objects) Amendment Determination 2018 (No. 1)* (**the instrument**) under section 5 of the *Radiocommunications Act 1992* (**the Act**) and subsection 33(3) of the *Acts Interpretation Act 1901* (**the AIA**).

Section 5 of the Act (see the definition of **Australian space object**) empowers the ACMA to determine, by legislative instrument, an Australian space object for the purposes of the Act.

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 disallowable legislative instrument for the purposes of the *Legislation Act 2003* (**the LA**).

Purpose and operation of the instrument

The purpose of the instrument is to amend the *Radiocommunications (Australian Space Objects) Determination 2014* (**the Australian Space Objects Determination**) so as to determine that a satellite operated by Myriota Pty Ltd (**Myriota**) is an Australian space object for the purposes of the Act.

In certain planned radiofrequency bands, the ACMA supports the operation of ubiquitous earth stations without the requirement for individual licensing of those earth stations. Space stations on Australian space objects may communicate with those earth stations. For this to occur, the operator of an Australian space object needs to be identified in the Australian Space Objects Determination. The owners, controllers or operators of Australian space objects are then able to apply for radiocommunication apparatus licences that authorise communications between space stations on Australian space objects and earth stations.

Inclusion of a space object in the Australian Space Objects Determination also has the effect of extending application of the Act to the specified object, thereby requiring its radio emissions to be authorised by a licence issued in accordance with the Act.

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 process. Myriota is an Australian satellite company that has successfully made such an application in relation to planned satellite services.

The instrument amends section 4 of the Australian Space Objects Determination by adding “a satellite operated by, or for, Myriota Pty Ltd (ACN 609 161 373)”. The inclusion of Myriota in the Australian Space Objects 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*.

A provision-by-provision description of the instrument is set out in the notes at **Attachment A**.

Explanatory Statement to the Radiocommunications (Australian Space Objects) Amendment Determination 2018 (No. 1)

Documents incorporated by reference

The instrument does not incorporate any document by reference.

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 7 June 2018 and 13 July 2018, the ACMA conducted a formal public consultation process in relation to the instrument. A consultation statement and a draft of the instrument were made available on the ACMA website for comment.

The ACMA received four written submissions in response to the draft instrument, none of which 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 23792.

Statement of compatibility with human rights

Subsection 9(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011* requires the rule-maker in relation to a legislative instrument to which section 42 (disallowance) of the LA applies to cause a statement of compatibility with human rights to be prepared in respect of that legislative instrument.

The statement of compatibility set out below has been prepared to meet that requirement.

Overview of the instrument

The *Radiocommunications (Australian Space Objects) Amendment Determination 2018 (No. 1)* (**the instrument**) amends the *Radiocommunications (Australian Space Objects) Determination 2014* to determine that a satellite operated by, or for, Myriota Pty Ltd is an Australian space object for the purposes of the *Radiocommunications Act 1992*. The inclusion of “a satellite operated by, or for Myriota Pty Ltd (ACN 609 161 373)” in the *Radiocommunications (Australian Space Objects) Determination 2014* will enable that company to access more efficient licensing arrangements for the operation of space-based communications systems that communicate with ubiquitous earth stations.

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.

Conclusion

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

Notes to the *Radiocommunications (Australian Space Objects) Amendment Determination 2018 (No. 1)*

Section 1 Name

This section provides for the instrument to be cited as the *Radiocommunications (Australian Space Objects) Amendment Determination 2018 (No. 1)*.

Section 2 Commencement

This section provides for the instrument to commence at the start of the day after it is registered on the Federal Register of Legislation.

Section 3 Authority

This section identifies the provision of the Act that authorises the making of the instrument, namely section 5 of the *Radiocommunications Act 1992*.

Section 4 Amendments

This section provides that the amendments set out in Schedule 1 have effect.

Schedule 1 Amendments

Items 1 and 2 Paragraphs 4(h) and 4(i)

These items amend the list of space objects specified in section 4 of the Australian Space Objects Determination by inserting a new space object into that list being “a satellite operated by, or for, Myriota Pty Ltd (ACN 609 161 373)” thereby determining such a satellite to be an Australian space object for the purposes of the *Radiocommunications Act 1992*.