EXPLANATORY STATEMENT

Issued by the authority of the Australian Communications and Media Authority

Radiocommunications (Foreign Space Objects) Amendment Determination 2006 (No.1)

Radiocommunications Act 1992

Legislative Provisions

Paragraph 16(1)(ca) of the Radiocommunications Act 1992 (the Act) allows the Australian Communications and Media Authority (ACMA) to specify in a written determination the circumstances in which foreign space objects are subject to the Act.

A determination made under paragraph 16(1)(ca) of the Act is a disallowable instrument for the purposes of the Legislative Instruments Act 2003.

Purpose

ACMA received an application from an American company, Connexion by Boeing, to provide in-flight internet services for passengers transiting Australia using a satellite owned by SES Americom Inc (USA).

In order for ACMA to license foreign satellite networks to use Australian spectrum, foreign companies must be included in the Radiocommunications (Foreign Space Objects) Determination 2000 (the Determination).

Background

The Determination was made by ACMA on 6 July 2000 following amendment of the Act on 31 May 2000.

In May 2000 the concept of ‘Australian satellite’ was removed from the Act and the concept of ‘space object’ introduced. Since that time ACMA is able to determine when space objects are Australian space objects and the circumstances in which particular foreign space objects are subject to the Act. This change also allows ACMA to regulate all types of space objects, including satellites and launch vehicles, rather than limiting the regulation of space objects to satellites.

Section 16 of the Act was also amended in 2000 to include a new subparagraph 16(1)(ca). Specifically, section 16 specifies the circumstances in which the Act applies outside Australia. Paragraph 16(1)(ca) specifies that the Act applies to ‘foreign space objects, in the circumstances specified in a written determination by ACMA.’

ACMA is required to regulate the use of Australian spectrum\(^1\) by foreign space objects. However, it can only do this if the foreign space objects are made subject to the Act. Section 16 of the Act provides ACMA with the power to specify the circumstances in which foreign space objects are subject to the Act.

The Determination specifies the foreign companies and networks that operate space objects that use Australian spectrum. Once these companies have been included in the Determination, ACMA can

\(^1\) Use of Australian spectrum is the use of spectrum to communicate with places in Australia.
regulate use of Australian spectrum, by those foreign space objects, by issuing radiocommunications licences that authorise the operation of space stations on those space objects. Once a satellite operator or service provider holds space or space receive licences to authorise operation of the space segment, the operation of earth stations that communicate with those licensed space stations will be authorised by the Radiocommunications (Communication with Space Objects) Class Licence 1998 (the Class Licence), but only on the frequencies mentioned in the Class Licence. In making a determination under paragraph 16(1)(ca) ACMA intends to regulate foreign space objects only to the extent necessary to license use of Australian spectrum by satellite networks on those foreign space objects. The countries that notified the satellite networks on those foreign space objects to the International Telecommunication Union remain responsible to the international community for the administration of all other aspects of those space objects.

After consideration of section 17 of the Legislative Instruments Act 2003, consultation was not undertaken as the change to the Determination is minor and machinery in nature, and does not alter existing arrangements, as per section 18 of the Legislative Instruments Act 2003.

The Office of Regulation Review did not require a Regulation Impact Statement (RIS). The RIS identification number for this issue is 5012.

Details of the Determination are set out in the notes in Attachment 1.
Notes on the instrument

Section 1 – Name of Determination

Section 1 names the Determination as the Radiocommunications (Foreign Space Objects) Amendment Determination 2006 (No. 1).

Section 2 - Commencement

Section 2 provides that the Determination commences on the day after it is registered.

Section 3 – Amendment of the Radiocommunications (Foreign Space Objects) Determination 2000.

Section 3 provides that the Determination is amended through Schedule 1.

Schedule 1 – Amendments

Item 1 includes SES Americom Inc (incorporated in the United States of America) in Schedule 1 of the Determination.