EXPLANATORY STATEMENT

Issued by the authority of the Australian Communications and Media Authority

Australian Radiofrequency Spectrum Plan Variation 2006 (No.1)

Radiocommunications Act 1992

Legislative Provisions

Section 30 of the Radiocommunications Act 1992 (the Act) allows the Australian Communications and Media Authority (ACMA) to prepare, by written instrument a spectrum plan. Section 34 of the Act allows ACMA to revoke or vary a spectrum plan at any time.

A spectrum plan made under paragraph 30 of the Act is a disallowable instrument for the purposes of the Legislative Instruments Act 2003.

Purpose

The Federal Chamber of Automotive Industries has indicated an intention, by overseas vehicle manufacturers, to release vehicles featuring Ultra-wideband (UWB) vehicle radar transmitters in Australia early 2006.

The Australian Radiofrequency Spectrum Plan (the Spectrum Plan) has been varied to support ACMA’s decision to licence 24 GHz UWB short-range radar (SRR) equipment, in the 22 – 26.5 GHz frequency band.

Background

24 GHz UWB SRR systems are designed to operate in the 22 -26.5 GHz frequency band. The frequency band 23.6 – 24 GHz is, among others, subject to International Footnote 340 in the Spectrum Plan. International Footnote 340 reproduces footnote 5.340 of the International Telecommunication Union (ITU) Radio Regulations, which prohibits emissions in a number of bands. For ACMA to licence 24 GHz UWB SRR systems, in the 22 – 26.5 GHz frequency band, it was necessary to amend the Spectrum Plan to allow ACMA to invoke provisions of ITU Radio Regulations Article 4.4, as applicable to all international footnotes.

ITU Radio Regulations Article 4.4 provides that administrations of the Member States shall not assign to a station any frequency in derogation of either the Table of Frequency Allocations or other provisions of the Regulations, except on the express condition that such a station, when using such a frequency assignment, shall not cause harmful interference to, and shall not claim protection from harmful interference caused by, a station operating in accordance with the provisions of the Constitution, the Convention and the Regulations.

By invoking the provisions of Article 4.4, ACMA will gain greater flexibility in its allocation and planning process for Australian radiofrequency spectrum.

After consideration of section 17 of the Legislative Instruments Act 2003, consultation was undertaken and consideration was given to all the representations received. Eleven representations were received, with three indicating unreserved supportive for the proposed variation. The main concern, expressed in the submissions opposed to the variation, focused on the possibility of interference to existing services. ACMA investigated the interference risks involved in the implementation of 24 GHz UWB SRR systems in Australia and considers the interference risk to be
minimal and precautions have been taken to protect the more sensitive radioastronomy sites at Parks and Tidbinbilla.

The European Space Agency (ESA) submitted a collaborative response with the European Organisation for the exploitation of Meteorological Satellites. The submission raised a concern about the proposal to specify ITU Article 4.4 in the Spectrum Plan as a denial of the ITU Rules of Procedure concerning the use of Article 4. A primary focus of the ESA’s concern is the possibility of 24 GHz UWB SRR systems causing harmful interference to Earth Exploration Satellites and Radio Astronomy services. ACMA investigated the ESA’s claims and are confident that 24 GHz UWB SRR systems can operate in the 23.6 GHz – 24 GHz on a sharing basis, with Earth Exploration Satellites and Radio Astronomy services, without causing harmful interference to existing services, as specified in the Rules of Procedure.

The Office of Regulation Review did not require a Regulation Impact Statement (RIS). The RIS identification number for this issue is 7951.

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 *Australian Radiofrequency Spectrum Plan Variation 2006 (No.1)*

Section 2 - Commencement

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

Section 3 – Variation of the *Australian Radiofrequency Spectrum Plan*

Section 3 provides that the *Australian Radiofrequency Spectrum Plan*, made 10 November 2004, is varied through Schedule 1.

Schedule 1 – Variation

Item 1 inserts after subsection 13(6)

(7) Despite subsections (5) and (6), if an international footnote reference appears in a cell in any position:
(a) the international footnote is taken to be subject to Article 4.4 of the Radio Regulations; and
(b) if there is an inconsistency between Article 4.4 and the corresponding condition or restriction set out in Part 4 in relation to the international footnote, Article 4.4 prevails to the extent of the inconsistency.