EXPLANATORY STATEMENT

Issued by the Authority of the Australian Communications and Media Authority

*Radiocommunications (Issue of Broadcasting (Narrowcasting) Transmitter Licences) Determination No. 1 of 1996 (Amendment No. 13)*

*Radiocommunications Act 1992*

Legislative Provisions

Section 106 of the *Radiocommunications Act 1992* (the Act) allows the Australian Communications and Media Authority (ACMA) to determine in writing a price-based allocation system for allocating and/or issuing specified transmitter licences.

Purpose of Amendment

An amendment to the *Radiocommunications (Issue of Broadcasting (Narrowcasting) Transmitter Licences) Determination No. 1 of 1996* is made to specify the transmitter licences proposed to be offered by ACMA for allocation. The Determination has been drafted so that each time it is used for a new licence allocation round, the only change necessary is to amend it by adding the details of new apparatus licences to be offered including the locations and frequencies.

Background

The *Radiocommunications (Issue of Broadcasting (Narrowcasting) Transmitter Licences) Determination No. 1 of 1996* governs the price-based allocation system under which open narrowcasting broadcasting transmitter licences will be allocated and issued and is made under section 106 of the Act.

Each time ACMA offers for sale transmitter licences to operate open narrowcasting radio services planned in Licence Area Plans, it must make an amendment to the Determination specifying the new licences to be allocated.

Discussion of Issues

ACMA has completed planning a Licence Area Plan (LAP) for the Canberra region of Australia in which a new open narrowcasting radio service has been identified as being available for allocation.

Providers of open narrowcasting services do not require an individual service licence under the *Broadcasting Services Act 1992* (the BS Act), however they do need to obtain a transmitter licence, which is issued under the Act. Due to the level of interest in, and potential value of, transmitter licences for service providers, ACMA has decided that in the interests of equity that transmitter licences to be issued to provide open narrowcasting services available in LAPs, will be allocated and issued using a price-based allocation system, determined under s106 of the Act.
The Determination has been drafted so that each time it is to be used the only change necessary is to amend it by adding the details of the new location and frequencies to the existing Schedule to specify the transmitter licences to which the particular amendment will apply, and a new signature page for the amendment.

Consultation

The Office of Regulation Review (ORR) has previously advised the former ABA that a Regulation Impact Statement (RIS) was not required for the amendment to the Determination, as the major issues are decided in the relevant LAP prepared by ACMA, for which a RIS must be submitted, unless an exemption exists. Consultation to amend the Determination is unnecessary and inappropriate. The proposed amendment is minor and purely machinery flowing from a LAP.

At the time that ACMA prepares or varies a LAP, it is required under section 27 of the BS Act to consult widely with the public. It does this by way of public notice in relevant newspapers and by inviting written submissions on proposed changes. All submissions received are considered by ACMA before determining the final LAP or LAP variation.

Further, external consultation is not considered necessary, given ACMA will advertise for applications for the available licences in a national newspaper. A public auction will be conducted in instances where more than one application is received. All successful applicants will be noted in a media release and on ACMA’s website.

Other Documents Incorporated in this Instrument by Reference

Section 34 of the BS Act states, amongst other things, that if broadcasting services bands spectrum is available in a licence area but has not been made available for a commercial radio broadcasting licence, then ACMA may, by written instrument, determine that part of the radiofrequency spectrum concerned is available for allocation for a period specified by ACMA to (amongst others) providers of open narrowcasting services.

Attachments

Details of the Amendment Determination are at Appendix 1
APPENDIX 1

Notes about instrument

Section 1 Amendment

This section provides for the amendment of the Radiocommunications (Issue of Broadcasting (Narrowcasting) Transmitter Licences) Determination No.1 of 1996.

Section 2 Schedule (Available transmitter areas and ranges of frequencies)

This schedule provides for:

(a) the date of the decision made by ACMA under section 34 of the Broadcasting Services Act 1992; and
(b) the list of available transmitter areas and ranges of frequencies.

Commencement

The Amendment Determination commences the day after it is registered.