EXPLANATORY STATEMENT

Issued by the authority of the Australian Communications and Media Authority

Radiocommunications (Foreign Space Objects) Amendment Determination 2006 (No.2)

Radiocommunications Act 1992

Legislative Provisions

Subsection 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 section 5 of the Legislative Instruments Act 2003.

Purpose

On 30 March 2006 New Skies Satellites B.V., a foreign company specified in the Radiocommunications (Foreign Space Objects) Determination 2000 (the Determination), was acquired by SES Global S.A. As a result of that acquisition, and the subsequent change in company name from New Skies Satellites B.V to SES New Skies, the Determination was amended.

Background

The Determination was made by the Australian Communications Authority, the predecessor to ACMA, on 6 July 2000 following amendment of the Act on 31 May 2000. This amendment removed the concept of ‘Australian satellite’ was from the Act and replaced it with the concept of ‘space object’.

As a result of the 2000 amendment to the Act, ACMA is capable of determining when space objects are considered to be Australian space objects, and the circumstances in which particular foreign space objects are subject to the Act. This alteration 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.

ACMA is empowered to regulate the use of Australian spectrum by foreign space objects. However, this can only be done if the foreign space objects are made subject to the Act. Section 16 of the Act specifies the persons and objects in relation to which the Act applies outside Australia. Subsection 16(1)(ca) specifies that the Act applies to “foreign space objects, in the circumstances specified in a written determination by ACMA”.

In making a determination in accordance with paragraph 16(1)(ca), the objective is 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.

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1 Use of Australian spectrum is the use of spectrum to communicate with places in Australia.
The Determination specifies the foreign companies and networks that operate space objects and use Australian spectrum. Once these companies have been included in the Determination, ACMA can regulate the use of Australian spectrum by those foreign space objects. ACMA is then able to issue 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 can 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.

From time to time the circumstances specified in the Determination change. For example, a company not listed in the Determination may commence operating a foreign space object in Australian spectrum space; a specified company may cease to use Australian spectrum; or a company name may change. Amendments to the Determination are made when considered necessary in order to reflect such changes and maintain the accuracy of the information specified in the Determination.

Details of the Amendment Determination are set out in the notes in Attachment 1. The Office of Best Practice Regulation did not require a Regulation Impact Statement (RIS). The RIS identification number for this issue is 8369.
Notes on the instrument

Section 1 – Name of Determination

Section 1 names the Determination as the Radiocommunications (Foreign Space Objects) Amendment Determination 2006 (No. 2).

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] Schedule 1

Item 1 substitutes the previous name of the company owning, controlling or operating the foreign space object with ‘SES New Skies (incorporated in the Netherlands)’.

Item [2] Schedule 3

Item 2 substitutes the previous name of the entity owning, controlling or operating the foreign space object with ‘SES New Skies (incorporated in the Netherlands)’.