EXPLANATORY STATEMENT

Issued by the authority of the Australian Communications and Media Authority

Radiocommunications (Foreign Space Objects) Amendment Determination 2008 (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 section 5 of the Legislative Instruments Act 2003 (the LIA).

Purpose

The Radiocommunications (Foreign Space Objects) Amendment Determination 2008 (No. 1) (the Amendment Determination) was made to the Radiocommunications (Foreign Space Objects) Determination 2000 (the Determination), to include a new foreign company to facilitate the provision of their services to or from places in Australia.

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’ 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. Paragraph 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.

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

1 Use of Australian spectrum is the use of spectrum to communicate with places in Australia.
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 wish to 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.

**Regulation Impact**

ACMA’s preliminary assessment of the Amendment Determination indicates it has no competition impacts on the parties to which it applies, and imposes no consequential compliance costs on the parties to which it applies. For those reasons, under the self-assessment regime administered by the Office of Best Practice Regulation, ACMA has determined there is no need to produce a Business Cost Calculator report or to prepare a Regulation Impact Statement. The ACMA RIS reference number is ACMA 049.

**Consultation**

Section 17 of the LIA, requires ACMA to be satisfied that any consultation that is considered by it to be appropriate and that is reasonably practicable to undertake, has been undertaken before making this amendment. ACMA has made this amendment following requests from satellite operators and considers that further external consultation is unnecessary here, as the amendment is minor and machinery in nature, and will not substantially affect existing arrangements, as prescribed by section 18 of the LIA.

Details of the Amendment 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 2008 (No. 1)*.

Section 2 - Commencement

Section 2 provides that the Amendment 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 17**

Item 1, adds GE International Holdings, Inc. (incorporated in the United States of America) into Schedule 1 of the Determination. This extends the application of the Act to space objects owned, controlled or operated by GE International Holdings, Inc.