EXPLANATORY STATEMENT

Issued by the Australian Communications and Media Authority

Radiocommunications (Cordless Telecommunications Devices) Class Licence Variation 2008 (No.1)

Radiocommunications Act 1992

Purpose

The purpose of the Radiocommunications (Cordless Telecommunications Devices) Class Licence Variation 2008 (No.1) (the Variation) is to extend existing arrangements in the Radiocommunications (Cordless Telecommunications Devices) Class Licence 2001 (the Class Licence) to allow for the introduction and use of new technology and to consolidate a number of existing class licences.

Legislative Provisions

The Australian Communications Authority (ACA) made the Class Licence in 2001 under section 132 of the Radiocommunications Act 1992 (the Act). In accordance with the Australian Communications and Media Authority (Consequential and Transitional Provisions) Act 2005, the Australian Communications and Media Authority (ACMA) is taken to have made the Class Licence under the Act as previously made by the ACA.

Section 134 of the Act allows ACMA, by notice published in the Commonwealth Gazette, to vary a class licence.

As a class licence variation is a legislative instrument for the purposes of the Legislative Instruments Act 2003 (the LIA), subsection 56(1) of the LIA ensures that the requirement in the Act for publication in the Commonwealth Gazette is satisfied by registration of the instrument on the Federal Register of Legislative Instruments (FRLI).

Background

It is generally a requirement of the Act that the operation of all radiocommunications devices within Australia be authorised by a radiocommunications licence.

A class licence is one type of licence available to authorise the operation of radiocommunications devices. It is an effective and efficient means of spectrum management for services where a limited set of common frequencies is employed, and equipment is operated under a common set of conditions. A class licence sets out the conditions under which any person is permitted to operate any device to which the class licence is applicable; it is not issued to an individual user, and does not involve the payment of licence fees. The licences are issued by ACMA as legislative instruments and are registered on FRLI. They involve minimal licence administration by ACMA.

Radiocommunications devices authorised under a class licence are typically low power transmitters providing short range communications that do no require individual frequency coordination for interference management purposes. Examples of equipment covered by class licences include garage door openers, remote control models (ships, aircrafts, and cars), and mobile and cellular telephone handsets.

The Class Licence currently authorises a person to operate a land station or handset on a carrier frequency:

a. greater than 857 MHz and not greater than 861 MHz; and

b. greater than 1880 MHz and not greater than 1900 MHz.

Operation

The Variation:

• Incorporates two new standards in relation to DECT and PHS devices, allowing for the grandfathering of the two superseded standards:
New Standards:
Radiocommunications (Digital Cordless Communications Devices – DECT Devices) Standard 2007; and

Old Standards:
Radio equipment and Systems Cordless Telecommunications Devices – DECT TS 028-1997; and

- Inserts cordless telecommunications devices (previously covered under the Radiocommunications (861-865 MHz Land Stations and Handsets) Class Licence 1996 and the Radiocommunications Miscellaneous Devices Class Licence 1999) into the radiocommunications regulatory framework;
- Consolidates and authorises the use of current standards in relation to cordless telecommunications devices in a single licence;
- Where permissible, allows for the use of devices that meet the standards but are not specifically or technically part of a cordless telephone service; and
- Increases the flexibility of the Class Licence in allowing for the use of emerging technologies.

Some structural changes have been made to the Class Licence.

Consultation
To ensure ACMA met the requirements of the LIA and section 136 of the Act, ACMA undertook two rounds of consultation in the Commonwealth Gazette and on ACMA’s website. The Variation was made available from these sources for public comment from 25 June - 18 July and 20 August – 22 September 2008. The second round of consultation (20 August – 22 September 2008) was undertaken to ensure that the requirement for a period of consultation of at least one month in section 136 of the Act was satisfied, as this was not achieved in the first round of consultation due to the late publication of the Commonwealth Gazette notice.

ACMA received one submission from a specialist audio, lighting and staging company. The submission supported the proposed changes to the Class Licence but raised a concern that the variations limited devices that could be licensed in Australia because of a need to provide access to 000. ACMA staff have clarified with the company that the requirement that devices be capable of providing access to 000 relates only to telecommunications devices.

No other submissions were received.

Regulatory Impact Statement
ACMA obtained advice from its SES contact officer for the Government’s regulation impact analysis arrangements that the Variation has no or low impact. For those reasons under the self-assessment regime administered by the Office of Best Practice Regulation, ACMA has determined that there is no need to produce a Business Cost Calculator report or to prepare a Regulation Impact Statement. The ACMA RIS exemption reference number is ACMA 058.

Detailed description of the instrument
Details of the Variation are set out in the Attachment.
NOTES ON SECTIONS

Section 1 – Name of Instrument
This section provides for the name of the instrument.

Section 2 – Commencement
This section provides that the Instrument commences on the day after it is registered.

Section 3 – Variation of the Radiocommunications (Cordless Telecommunications Devices) Class Licence 2001
This section provides that Schedule 1 varies the Radiocommunications (Cordless Telecommunications Devices) Class Licence 2001.

Schedule 1

Item [1] Section 1
Item [1] varies the name of the Class Licence.

Item [2] Definitions
Item [2] provides a new definition of ‘cordless communications device’ which enables the inclusion of devices under the Class Licence that are not intended to be used as part of a cordless telephone service.

Item [3] Section 4, definition of device compliance day
Item [3] replaces the terms ‘handset’ and ‘land station’ in the definition of device compliance day with ‘cordless communications device’ to ensure that all devices covered by that definition are attributed a device compliance day.

Item [4] Section 4, note

Item [5] Section 5
Item [5] authorises persons to operate a cordless communications device under the Class Licence, subject to the conditions in the Class Licence.

Item [6] Section 6
Item [6] applies general and specific conditions on devices authorised under the Class Licence. The sections described below (as per the instrument) replace the current Class Licence sections 6, 7, 8, 9 and 10.

Section 7 provides general usage conditions on all cordless communications devices authorised under the class licence;
Section 8 provides specific conditions for devices operating in the 1880-1900 MHz band;
Section 8A provides specific conditions for devices operating in the 861-865 MHz band;
Section 9 provides specific conditions for devices using PHS technology;
Section 9A provides specific conditions for cordless telephone devices operating on the bands listed in the variation instrument; and
Section 10 provides general conditions for all devices on compliance with relevant standards.
Item [7] Schedule 2  Technical Standards

Item [7] incorporates the new PHS and DECT standards into Schedule 2 of the Class Licence as well as technical standards from the *Radiocommunications (861-865 MHz Land Stations and Handsets) Class Licence 1996* (as that class licence is being revoked as part of this variation process) and the *Radiocommunications Miscellaneous Devices Class Licence 1999*. 