EXPLANATORY STATEMENT

Issued by the authority of the Australian Communications and Media Authority

Radiocommunications (Foreign Space Objects) Amendment Determination 2008 (No. 2)

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. 2) (the Amendment Determination), was made in order to reflect a change of name of a corporate entity appearing in both schedules 1 and 3 of the Radiocommunications (Foreign Space Objects) Determination 2000 (the Determination).

Background

ACMA is empowered to regulate the use of Australian spectrum1 by foreign space objects provided that 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”. The Determination was made by the Australian Communications Authority on 6 July 2000.

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 using 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 wish to commence operating a foreign space object in

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1 Use of Australian spectrum is the use of spectrum to communicate with places in Australia.
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 concluded that 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, ACMA determined (under the self-assessment regime administered by the Office of Best Practice Regulation), that 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 069.

**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 amending the Determination. ACMA made this Amendment Determination following a request from a satellite operator 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. 2).

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 amends the Radiocommunications (Foreign Space Objects) Determination 2000.

Schedule 1 – Amendments

Item 1  Schedule 1, item 14

Item 1 substitutes SES New Skies (incorporated in the Netherlands) with New Skies Satellites B.V. (incorporated in the Netherlands) in Schedule 1 of the Determination.

Item 2 Schedule 3, item 4