EXPLANATORY STATEMENT

Issued by the Australian Communications and Media Authority

Radiocommunications (Allocation of Spectrum Licences by Auction or Pre-determined Price) Amendment Determination 2009 (No. 1)

Radiocommunications Act 1992

Purpose
The purpose of the Radiocommunications (Allocation of Spectrum Licences by Auction or Pre-determined Price) Amendment Determination 2009 (No. 1) (the Determination) is to update the banking details of the Australian Communications and Media Authority (ACMA) contained at subsection 2.5 (5) of the Radiocommunications (Allocation of Spectrum Licences by Auction or Pre-determined Price) Determination 2006.

Legislative Provisions
Subsection 60(1) of the Radiocommunications Act 1992 (the Act) provides that the Australian Communications and Media Authority (ACMA) must determine, in writing, the procedures to be applied in allocating spectrum licences by auction or allocation for a pre-determined price.

A determination made under section 60 of the Act is a legislative instrument for the purposes of the Legislative Instruments Act 2003.

Background
Under subsection 3(a) of the Act, ACMA must maximise, by ensuring the efficient allocation and use of the spectrum, the overall public benefit derived from using the spectrum. The use of a price-based allocation method allows ACMA to efficiently allocate licences to those who place the greatest value on the licence.

Spectrum licences are a tradeable, technology neutral spectrum access right for a fixed non-renewable term.

Operation
The Radiocommunications (Allocation of Spectrum Licences by Auction or Pre-determined Price) Determination 2006 provides ACMA with an efficient method of allocating spectrum licences where the demand for access to the spectrum is uncertain. The determination enables allocation of spectrum by either auction, where ACMA considers there to be high market demand, or a pre-determined price where there may be low demand for spectrum.

The Determination provides an update to ACMA’s banking details.

Consultation
Subsection 60(14) of the Act provides that ACMA must consult with the Australian Competition and Consumer Commission (ACCC) when determining procedures for allocation of spectrum licences under subsection 60(1) of the Act. The nature of this consultation is to consider whether the procedures determined under subsection 60(1) require ACMA to provide specific information to the ACCC in accordance with subsection 60(7).

The ACCC indicated to ACMA that it did not consider there was any need to amend the existing information gathering provisions in the Radiocommunications (Allocation of Spectrum Licences by Auction or Pre-determined Price) Determination 2006 in the current amendment.
After consideration of sections 17 and 18 of the *Legislative Instruments Act 2003*, further consultation was not undertaken as the change to the Determination is minor and machinery in nature and does not substantially alter existing arrangements.

**Regulatory Impact Statement**

ACMA obtained advice from its SES contact officer for the Government’s regulation impact analysis arrangements that the Advisory Guideline has no or low impact. For those reasons under the self assessment regime administered by the Office of Best Practice Regulation (OBPR), 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 079.

**Detailed description of the Instrument**

Details of the instrument are in the attachment.
NOTES ON SECTIONS

Section 1 – Name of Determination
This section gives the citation of the Determination.

Section 2 – Commencement
This section specifies that the Determination takes effect on the day after it is registered.

Section 3 – Amendment of Radiocommunications (Allocation of Spectrum Licences by Auction or Pre-determined Price) Determination 2006
This section states that Schedule 1 provides the amendment to the Radiocommunications (Allocation of Spectrum Licences by Auction or Pre-determined Price) Determination 2006.

Schedule 1 – Amendment
The Schedule sets out the amendment to subsection 2.5(5) of the Radiocommunications (Allocation of Spectrum Licences by Auction or Pre-determined Price) Determination 2006 in relation to ACMA’s banking details.