EXPLANATORY STATEMENT
Issued by the Australian Communications and Media Authority

Radiocommunications (Transmitter Licence Tax) Amendment Determination 2010 (No. 3)
Radiocommunications (Transmitter Licence Tax) Act 1983

Legislative Basis
The Radiocommunications (Transmitter Licence Tax) Amendment Determination 2010 (No. 3) (the Amendment Determination No. 3) amends the Radiocommunications (Transmitter Licence Tax) Determination 2003 (No. 2) (the Transmitter Licence Tax Determination).

Subsection 7 (1) of the Radiocommunications (Transmitter Licence Tax) Act 1983 provides that the Australian Communications and Media Authority (the ACMA) may determine an amount of tax to be applied at the time of issue or renewal of a transmitter licence.

Subsection 33 (3) of the Acts Interpretation Act 1901 provides that where an Act confers a power to make an instrument, that power shall, unless the contrary intention appears, be construed as including a power exercisable in a like manner and subject to like conditions, to amend that instrument.

The Amendment Determination No. 3 is a legislative instrument for the purposes of the Legislative Instruments Act 2003 (the LIA).

Purpose
The purpose of the Amendment Determination No. 3 is to change the amount of tax charged for a PMTS Class B\(^1\) licence operated in the frequency range 935-960 MHz. The new price is $2,761,519 for each paired MHz.

Background
On 29 January 2010, the ACMA made the Radiocommunications (Transmitter Licence Tax) Amendment Determination 2010 (No. 1) (the Licence Fee Update Determination), with a commencement date of 6 February 2010. The purpose of the Licence Fee Update Determination was to raise apparatus licence fees by a factor corresponding to the Consumer Price Index (CPI). This increase was to apply to licences issued or renewed after 5 April 2010. The price for PMTS Class B operated in the frequency range 935-960 MHz was to increase from $2,720,709 to $2,761,519 for each paired MHz.

The ACMA made the Radiocommunications (Transmitter Licence Tax) Amendment Determination 2010 (No. 2) (the Amendment Determination No. 2) on 31 March 2010, with a commencement date of 10 April 2010. In error, the price for the relevant spectrum included in the Amendment Determination No. 2 did not include the CPI adjustment made in the Licence Fee Update Determination. The effect was to undo the CPI increase that had been put in place by the earlier Licence Fee Update Determination.

The effect of the Amendment Determination No. 3 is to correct the error and restore the CPI increase.

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\(^1\) ‘PMTS Class B’ is defined in the Dictionary at Schedule 1 to the Radiocommunications (Interpretation) Determination 2000.
Consultation
Pursuant to section 18 of the LIA the ACMA is satisfied that external consultation is unnecessary on the basis that CPI increases are routine and machinery in nature. In addition, the Amendment Determination No. 3 merely corrects the error noted in the background section of this Explanatory Statement.

Regulation Impact Statement
The ACMA obtained advice from its SES contact officer for the Government’s regulation impact analysis arrangements that the Amendment Determination No. 3 has no or low impact on businesses or the economy. For those reasons, under the self-assessment regime administered by the Office of Best Practice Regulation (OBPR), the 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 123.

Detailed Description of the Instrument
Details of the Amendment Determination No. 3 are set out in Attachment 1.
NOTES ON THE INSTRUMENT

Section 1- Name of Determination
Section 1 provides that the Amendment Determination is the Radiocommunications (Transmitter Licence Tax) Amendment Determination 2010 (No. 3).

Section 2- Commencement
Section 2 provides that the Amendment Determination commences on the day it is registered on the Federal Register of Legislative Instruments (FRLI).

Section 3 – Amendment of Radiocommunications (Transmitter Licence Tax) Determination 2003 (No.2)
Section 3 provides that Schedule 1 amends the Radiocommunications (Transmitter Licence Tax) Determination 2003 (No. 2).

Schedule 1- Amendment

Item [1] Schedule 2, Table 702, item 16
Item [1] substitutes item 16 of Table 702 of Schedule 2 to provide that the amount of tax charged for a PMTS Class B licence operated in the frequency range 935-960 MHz is $2,761,519 for each paired MHz.