EXPLANATORY STATEMENT

Issued by the Australian Communications and Media Authority

Radiocommunications (Charges) Amendment Determination 2010 (No. 2)

Australian Communications and Media Authority Act 2005

Legislative Basis

Subsection 60 (1) of the Australian Communications and Media Authority Act 2005 provides that the Australian Communications and Media Authority (the ACMA) may make determinations fixing charges for services provided by the ACMA and expenses incurred by the ACMA under the Radiocommunications Act 1992.

The Radiocommunications (Charges) Amendment Determination 2010 (No. 2) (Amendment Determination) is a legislative instrument for the purposes of the Legislative Instruments Act 2003 (the LIA).

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.

Purpose

The purpose of the Amendment Determination is to insert in the Radiocommunications (Charges) Determination 2007 (the Charges Determination) the charge that will apply to a new apparatus licence option (the PMTS Class C licence option) that is intended to facilitate the provision of mobile communication services on aircraft.

The Amendment Determination is one of a number of amending legislative instruments forming part of the radiocommunications regulatory framework that seeks to facilitate the provision of mobile communication services on aircraft.

The other amending legislative instruments are the:

- Radiocommunications (Interpretation) Amendment Determination 2010 (No.2);
- Radiocommunications (Transmitter Licence Tax) Amendment Determination 2010 (No. 4);
- Radiocommunications (Cellular Mobile Telecommunications Devices) Class Licence Variation 2010 (No. 1); and
- Radiocommunications Licence Conditions (PTS Licence) Amendment Determination 2010 (No. 2).

Background

Administrative charges apply to the issue, renewal and coordination of apparatus licences. The ACMA sets out the amount of the administrative charge for each apparatus licence type in the Charges Determination.
The ACMA proposes to establish a new PMTS Class C apparatus licence option specifically for mobile communication services on aircraft. The PMTS Class C licence will incur an issue charge charged at an hourly rate of $164.00 per hour and a flat renewal charge of $3.00 per PMTS Class C licence.

Consultation

Section 17 of the LIA requires the ACMA to be satisfied that any consultation it considers to be appropriate and that is reasonably practicable to undertake has been undertaken in relation to this amendment.

Notice of the proposed amendment and an invitation for public submissions was provided on the ACMA’s internet site from 8 December 2009 through to 29 January 2010. The ACMA received 12 submissions in response to its invitation for comment.

A majority of the submissions were opposed to the amount of the issue charge. Discussions with stakeholders highlighted the possibility of more than one licensee and that a lower fee would reduce barriers to entry and encourage competition, innovation and consumer choice. The ACMA also noted that the issue charge was high when benchmarked against charges imposed by overseas jurisdictions.

After considering the matters raised by the respondents and holding follow-up consultation with several respondents the ACMA will calculate the PMTS Class C licence issue charge or the charge for considering the issue of the licence without proceeding to issue it at the hourly rate (presently $164 per hour), consistent with charges that apply to other PMTS apparatus licences. The charge for renewing a PMTS Class C licence or considering the renewal of the licence without proceeding to renew it will be set at $3, which is consistent with the changes applied to other apparatus licences which do not require complex computations on renewal. The Charges Determination has been amended to reflect these amounts.

Regulation Impact Statement

The ACMA obtained advice from its SES contact officer for the Government’s regulation impact analysis arrangements that the Amendment Determination 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 155.

Detailed Description of the Instrument

Details of the Amendment Determination are set out in Attachment 1.
NOTES ON THE INSTRUMENT

Section 1 - Name of Determination

Section 1 provides that the name of the Amendment Determination is the Radiocommunications (Charges) Amendment Determination 2010 (No. 2).

Section 2 - Commencement

Section 2 provides that the Amendment Determination commences on the day after it is registered on the Federal Register of Legislative Instruments.

Section 3 - Amendment of the Radiocommunications Charges Determination 2007

Section 3 provides that Schedule 1 amends the Radiocommunications Charges Determination 2007.

Schedule 1 – Amendments

Item [1] Schedule 1, insertion of new line items after item 12.2 in Schedule 2, Part 12

Item [1] inserts new items 12.3 and 12.4 in Schedule 2, Part 12 after item 12.2, specifying that:

- the issue charge for a PTS licence for the operation of a station in a PMTS Class C or considering the issue of the licence without proceeding to issue it will be the hourly rate as specified in the Charges Determination; and

- the charge for renewing a PTS licence for the operation of a station in a PMTS Class C, or considering the renewal of the licence without proceeding to renew it will be set at $3.00.