EXPLANATORY STATEMENT

Broadcasting (Charges) Amendment Determination 2012 (No. 1)
Australian Communications and Media Authority Act 2005

Legislative Provisions

The Broadcasting (Charges) Amendment Determination 2012 (No. 1) (the Determination) has been made by the Australian Communications and Media Authority (the ACMA) to amend the Broadcasting (Charges) Determination 2007. The Determination provides updated charges arising from a review of the ACMA’s cost recovery fees and charges.

Subsection 60(1) of the Australian Communications and Media Authority Act 2005 provides that the ACMA may, by written instrument, make determinations fixing charges for services provided by the ACMA and for any matter in relation to which expenses are incurred by the ACMA under the Broadcasting Services Act 1992. The charges must not be such as to amount to taxation.

This Determination is a legislative instrument for the purposes of the Legislative Instruments Act 2003.

Background

The ACMA has reviewed its fees and charges as part of a periodic review of its cost recovery arrangements in accordance with the Australian Government’s Cost Recovery Guidelines. The review resulted in updates to certain existing charges, including charges for services provided by the ACMA under the Broadcasting Services Act 1992.

This Determination specifies the charges payable to the ACMA for services in relation to:

(a) applications for certain broadcasting licences to be issued and renewed under the Broadcasting Services Act 1992;
(b) submission of implementation plans and applications to vary implementation plans under the Commercial Television Conversion Scheme 1999, made under the Broadcasting Services Act 1992; and
(c) preparing and giving an opinion under section 21 or section 74 of the Broadcasting Services Act 1992.

Regulation Impact

The ACMA has obtained the advice of the Office of Best Practice Regulation that a Regulation Impact Statement is not required for the Determination as the proposal does not have a significant impact on business or the economy (exemption reference ID: 2011/13142). A Cost Recovery Impact Statement has been prepared which outlines the basis for calculating the charges payable.
Consultation

A consultation paper about the review of the ACMA’s cost recovery fees and charges was released for public comment on 9 November 2011. The paper proposed changes to the charges in this Determination. The consultation paper was also published on the ACMA’s website and was provided directly to a range of industry bodies, associations and companies, including the major broadcasting licensees.

The ACMA received four submissions on the proposed fees and charges none of which related to the fees being amended by the Determination.

The ACMA is satisfied that its consultation process in relation to the Determination was appropriate for the purposes of section 17 of the Legislative Instruments Act 2003.

Commencement of Determination

The Determination commences on 1 July 2012.

Notes on Sections

The provisions of the Determination are described in Attachment 1.

Statement of Compatibility with Human Rights

Notes on Sections

Section 1 – Name of Determination
Section 1 provides for the citation of the Determination as the Broadcasting (Charges) Amendment Determination 2012 (No. 1).

Section 2 – Commencement
Section 2 provides that the Determination commences on 1 July 2012.

Section 3 – Amendments to Broadcasting (Charges) Determination 2007
Section 3 provides that the amendments to the Broadcasting (Charges) Determination 2007 are set out in Schedule 1 of the Determination.

Notes on Schedule 1
Items [1] and [2] are mechanical provisions which have the effect of changing references to “ACMA” in the Broadcasting (Charges) Determination 2007 into “the ACMA”.

Item [3] omits section 5 of the Broadcasting (Charges) Determination 2007 and substitutes a new section 5 which omits certain references to dates that are no longer required to be included in the determination.

Statement of Compatibility with Human Rights
Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Broadcasting (Charges) Amendment Determination 2012 (No. 1)
This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the Human Rights (Parliamentary Scrutiny) Act 2011.

Overview of the Legislative Instrument
The Broadcasting (Charges) Amendment Determination 2012 (No. 1) (the Determination) has been made by the Australian Communications and Media Authority (the ACMA) to amend the Broadcasting (Charges) Determination 2007. The Determination provides updated charges arising from a review of the ACMA’s cost recovery fees and charges.

Subsection 60(1) of the Australian Communications and Media Authority Act 2005 provides that the ACMA may, by written instrument, make determinations fixing charges for services provided by the ACMA and for any matter in relation to which expenses are incurred by the ACMA under the Broadcasting Services Act 1992. The charges must not be such as to amount to taxation.

The ACMA has reviewed its fees and charges as part of a periodic review of its cost recovery arrangements in accordance with the Australian Government’s Cost Recovery Guidelines. The review resulted in updates to a range of existing charges, including charges for services provided by the ACMA under the Broadcasting Services Act 1992.

The Determination specifies the charges payable to the ACMA for services in relation to:
(a) applications for certain broadcasting licences to be issued and renewed under the Broadcasting Services Act 1992;
(b) submission of implementation plans and applications to vary implementation plans under the Commercial Television Conversion Scheme 1999, made under the Broadcasting Services Act 1992; and
(c) preparing and giving an opinion under section 21 or section 74 of the Broadcasting Services Act 1992.

Human rights implications
This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion
This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.