EXPLANATORY STATEMENT

ISSUED BY THE AUSTRALIAN COMMUNICATIONS AND MEDIA AUTHORITY

VARIATION TO LICENCE AREA PLAN – DARWIN AND KATHERINE TELEVISION AND RADIO – NO.1 OF 2012

BROADCASTING SERVICES ACT 1992

In accordance with the Australian Communications and Media Authority Act 2005, since 1 July 2005, the Australian Communications and Media Authority (ACMA) has exercised powers and functions under the Broadcasting Services Act 1992 (BSA) previously exercised by the Australian Broadcasting Authority (ABA).

The ACMA has made a variation to the Licence Area Plan – Darwin and Katherine Television and Radio – October 1995. The variation was made under subsection 26(2) of the BSA and is referred to in this explanatory statement as “the variation”.

The licence area plan and variations

The ACMA prepares Licence Area Plans (LAPs) under subsection 26(1) of the BSA. LAPs determine the number and characteristics, including technical specifications, of broadcasting services that are to be available in particular areas of Australia with the use of the broadcasting services bands.

The ACMA may, by legislative instrument, vary LAPs under subsection 26(2) of the BSA.


It is referred to in this explanatory statement as “the Darwin LAP”.

Intended impact and effect

The variation removes the television specifications from the Darwin LAP, and renames the Darwin LAP as the Licence Area Plan – Darwin Radio.

A new LAP for Darwin Television using 2006 ABS census data has been determined and named Licence Area Plan – Darwin Television (the new Darwin Television LAP).

Regulatory impact analysis

The ACMA’s Best Practice Coordinator has considered the matter and referred it to the Office of Best Practice Regulation (OBPR). The OBPR formed the opinion that the variation is likely to have no or low impact on business or the economy, and neither a regulation impact statement nor a business cost calculator report is necessary in relation to the regulatory proposal.
The OBPR issued an exemption reference number: 2011/12980.

Consultation and submissions
Before making the decision to vary the Darwin LAP, the ACMA undertook the following consultation:

- On 15 December 2011, the ACMA wrote to the commercial television broadcasting licensees and national television broadcasters in Darwin alerting them to the proposed variation and inviting comment.
- On 20 December 2011, the ACMA published a media release seeking comment on the proposed variation.
- On 20 December 2011, the ACMA published the following papers on its website:
  - a draft variation to the Darwin LAP;
  - a draft Darwin Television LAP; and
  - an explanatory paper about the draft variation to the Darwin LAP and the draft Darwin Television LAP, which invited public comment by 27 January 2012.
- On 21 December 2011, the ACMA placed an advertisement in Northern Territory News and Katherine Times newspapers, outlining the draft variation to the Darwin LAP, providing details of how to obtain copies of the draft variation and inviting public comment.
- No submissions were received on the draft variation to the Darwin LAP.

Description of the provisions of the variation

Clause 1
Clause 1 identifies that the ACMA makes the variation under subsection 26(2) of the BSA.

Clause 2
Clause 2 names the variation the Variation to Licence Area Plan – Darwin and Katherine Television and Radio – No. 1 of 2012.

Clause 3
Clause 3 provides that the variation commences the day after it is registered on the Federal Register of Legislative Instruments.

Paragraph 4(a)
Paragraph 4(a) renames the Darwin LAP the “Licence Area Plan – Darwin Radio”.

Paragraph 4(b)
Paragraph 4(b) omits the second paragraph on page one of the Darwin LAP. This paragraph deals with planning for television broadcasting services in Darwin, which is now dealt with by the new Darwin Television LAP.

Paragraph 4(c)
Paragraph 4(c) omits Schedule One of the Darwin LAP, which dealt with planning for television broadcasting services.
**Paragraph 4(d)**

Paragraph 4(d) omits the heading “Licence Area Plan - Darwin & Katherine (Radio) - October 1995” and substitutes the heading “Licence Area Plan - Darwin Radio - October 1995” in Schedules Two, Three and Four of the Darwin LAP.

**Paragraph 4(e)**

Paragraph 4(e) omits Attachments 1.1 to 1.17 of the Darwin LAP, which planned transmitters for television broadcasting services.

**Paragraph 4(f)**

Paragraph 4(f) inserts the word “Radio” after the word “Darwin” in the heading of each of Attachments 2.1, 2.2, 2.3, 2.4, 2.5, 2.6, 2.7, 2.8, 2.9, 2.10, 2.11, 2.12, 2.13, 2.14, 2.15, 2.16, 2.17, 2.18, 2.19, 2.20, 2.21, 2.22, 2.23, 3.1, 3.2, 3.3, 4.1, 4.2, 4.3, 4.4, 4.5, 4.6, 5.1, 5.2, 5.3 and 5.4 of the Darwin LAP. This is to reflect that the Darwin LAP now deals solely with radio broadcasting services.
Statement of Compatibility with Human Rights

Variation to Licence Area Plan – Darwin and Katherine Television and Radio – No. 1 of 2012
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 legislative instrument varies the Darwin LAP by way of removing the television specifications from the Darwin LAP, and renaming the Darwin LAP as the Licence Area Plan – Darwin Radio.

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.

Australian Communications and Media Authority