

Explanatory Statement

**Issued by the authority of the Australian Communications and Media Authority
(‘ACMA’)**

**Radiocommunications (Trading Rules for Defence Spectrum Licences)
Determination 2005**

Radiocommunications Act 1992

Legislative Provisions

Subsection 88(1) of the *Radiocommunications Act 1992* refers to rules about assignments and confers on the ACMA the power to determine rules for assignments of spectrum licences and set out the circumstances in which spectrum licences are to be varied, issued or cancelled under section 87.

Background

This determination sets out the conditions under which the Department of Defence (Defence) as the licensee can trade Defence spectrum licences in the 20.2 – 21.2 GHz and 30.0 – 31.0 GHz (20/30 GHz) bands. It specifies the rules that apply if Defence were to trade the spectrum.

Section 85 of the Act allows for spectrum licences to be traded, subject to any rules that the ACMA may determine under section 88. Both the 20 and 30 GHz licences will be tradable, but with restrictions.

The standard trading unit set by the trading rules produce the result that Defence may trade only in ‘whole of band and whole of geographic area’ (i.e. whole of Australia). This restriction is applied because the technical frameworks issued with these licences, while suitable to ‘whole of band, whole of Australia’ usage by Defence, would become unsuitable if partial trading occurred.

Should Defence want to trade the spectrum in part, an amended or new licence will need to be issued by the ACMA, as indicated in section 8 of the determination. The ACMA will develop technical frameworks, where appropriate, to facilitate partial trading.

This determination commences on the day after it is registered.

Consultation

Representatives of Defence and interested personnel within the ACMA formed a team that was consulted on issues concerning Defence spectrum licensing, including those issues relevant to this determination, so consultation with Defence was ongoing. Consultation with Defence was considered the most important part of the public consultation process, as Defence is the only incumbent licensee in the 20/30 GHz bands and the conversion of these bands to spectrum licences is unlikely to have any significant impact on business, competition, or on other licensees. Also, as part of two public consultation phases, the ACMA consulted with two commercial satellite operators who

have filings with the International Telecommunication Union. Both operators were supportive of the conversion process.

Additionally, licence note 10 in the sample spectrum licences is included as a result of the public consultation, and describes the key restrictions applied to these spectrum licences (by this determination) regarding the standard trading unit including minimum geographical area.

Details of the Determination

Section 1 - Name of Determination

Section 1 provides for how the determination is to be cited.

Section 2 - Commencement

Section 2 sets the commencement date for the determination.

Section 3 – Purpose of Determination

Section 3 states the purpose of the determination.

Section 4 – Radiocommunications (Trading Rules for Spectrum Licences) Determination 1998 – non-application to Defence

Section 4 provides that the *Radiocommunications (Trading Rules for Spectrum Licences) Determination 1998* does not apply to Defence.

Section 5– Definitions

Section 5 sets out definitions of terms referred to in this determination.

Section 6 - Approval of form

Section 6 provides that the ACMA must approve a trading form to be used by Defence to provide information about a trade.

Section 7 - What may be traded

Section 7 sets out what and to whom Defence may trade, subject to the restrictions set out in Section 8.

Section 8 - Restrictions on trading

Section 8 sets out the restrictions that apply to trading the spectrum licences in the 20/30 GHz bands and sets out the procedure that Defence should follow if they wish to trade this spectrum in part or to a non-Defence licensee.

Section 9 – Information to be given to the ACMA

Section 9 sets out the information to be provided to the ACMA on the trading form referred to under section 6.

Schedule 1 – Standard Trading Unit

Schedule 1 sets out the standard trading unit that applies to specific bands of spectrum.