EXPLANATORY STATEMENT

Issued by the Australian Communications and Media Authority

Radiocommunications (Low Interference Potential Devices) Class Licence Variation Notice 2009 (No. 1)

Radiocommunications Act 1992

Purpose

The purpose of the *Radiocommunications (Low Interference Potential Devices) Class Licence Variation Notice 2009 (No. 1)* (the Variation Notice) is to extend existing arrangements in the *Radiocommunications (Low Interference Potential Devices) Class Licence 2000* (the LIPD Class Licence), to allow for the introduction and use of new technology.

Legislative Provisions

Section 134 of the *Radiocommunications Act 1992* (the Act), allows the Australian Communications and Media Authority (ACMA) by notice published in the *Commonwealth Gazette*, to vary a class licence.

As a class licence variation is a legislative instrument for the purposes of the *Legislative Instruments Act 2003* (the LIA), subsection 56(1) of the LIA ensures that the requirement in the Act for publication in the *Commonwealth Gazette* is satisfied by registration of the instrument on the Federal Register of Legislative Instruments (FRLI).

Section 136 of the Act requires ACMA, before varying a class licence, to publish a notice in the *Commonwealth Gazette* inviting persons to make representations about the proposed variation and providing those persons with an opportunity of at least one month in which to make those representations.

Background

It is generally a requirement of the Act that the operation of all radiocommunications devices within Australia be authorised by a radiocommunications licence.

A class licence is one type of licence available to authorise the operation of radiocommunications devices. It is an effective and efficient means of spectrum management for services where a limited set of common frequencies is employed, and equipment is operated under a common set of conditions. A class licence sets out the conditions under which any person is permitted to operate any device to which the class licence is applicable; it is not issued to an individual user, and does not involve the payment of licence fees. The licences are issued by ACMA as legislative instruments and are registered on the FRLI. They involve minimal licence administration by ACMA.

The LIPD Class Licence authorises the operation of a wide range of low interference radiocommunications devices in various segments of the radiofrequency spectrum. The LIPD Class Licence sets out the conditions under which many types of short range devices may operate. These transmitters do not require individual frequency coordination because of their low interference characteristics. Examples of equipment covered by the LIPD Class Licence include garage door openers, radiofrequency identification transmitters and personal alarms.

Operation

This Variation Notice makes a number of changes to the LIPD Class Licence. The individual changes introduced by the Variation Notice are:

1. Addition of definitions

Two definitions are inserted into section 3A of the LIPD Class Licence. The definitions are for digital audio broadcasting (DAB) and effective radiated power (ERP).

2. Items 22 and 22A – Editorial change to add ERP value for wireless audio transmitters

There is an editorial change to items 22 and 22A of the LIPD Class Licence, which adds an ERP value in addition to the existing limit already specified. The insertion of the ERP value does not increase the power level for this item, but is an alternative unit of measurement.

3. Item 38A – Addition of a new class of transmitter – DAB in-store repeaters

The insertion of new item 38A into the LIPD Class Licence enables the operation of DAB in-store repeater transmitters in the 174-230 MHz band with a maximum equivalent isotropically radiated power (EIRP) of 10μW. In-store DAB repeaters are transmitters used in sales rooms. They ensure coverage that might not otherwise be available in heavily shielded buildings such as shopping centres, where DAB receivers are likely to be sold. The use of repeaters is necessary in part because of the restrictions on DAB power levels in some areas, in order to protect analogue television services.

4. Item 44 – Editorial change to units used in limitation

There is an editorial change to item 44 of the LIPD Class Licence for radio local area networks (RLANs), operating in the 5150-5250 MHz band. The text of the radiated power spectral density limit has been changed to indicate that the limit is relative to the radiated power spectral density from an isotropic radiator.

5. Item 50 – Deletion of item

Medical implant telemetry systems transmitters are extremely low power transmitters, used to provide telemetry links from medical devices (for example pacemakers and defibrillators) implanted in the human body to external medical equipment used by doctors to monitor the device.

During the last variation to the LIPD Class Licence, the *Radiocommunications (Low Interference Potential Devices) Class Licence Variation 2008 (No. 1)*, amendments were made to an existing item in the LIPD Class Licence, item 49, and a new item, item 49A, inserted. As a result of these changes, devices that were authorised under item 50 are now authorised by items 49 and 49A through the standards referenced therein. Consequently, item 50 of the LIPD Class Licence has been superseded and is now removed.

6. Item 59 – Addition of a new class of transmitter – in-store pricing system transmitters

The insertion of new item 59 into the LIPD Class Licence enables the operation of in-store pricing system transmitters in the 0.0366-0.0402 MHz band (36.6-40.2 kHz), with a maximum EIRP of 4.8 W. In-store pricing systems are a shelf labelling system that allows electronic updating of shelf prices in line with computer price scanning systems. These systems reduce labelling costs and minimise errors.

Consultation

In accordance with section 136 of the Act, notice of ACMA's proposed variation to the LIPD Class Licence was published in the *Commonwealth Gazette* on 15 May 2009, inviting public submissions until 15 June 2009. Notice of the proposed variation and an invitation for public submissions was also provided on ACMA's internet site from 15 May 2009 through to 15 June 2009.

Fourteen submissions were received in response to the invitation for public comment. Of those fourteen, four were supportive of the changes, whilst a fifth noted the contents of the Variation Notice, but made no further comment. ACMA acknowledged all submissions it received.

A sixth submission objected to the change to item 44 of the LIPD Class Licence, which authorises radio local area networks. The objection was not to the change itself, but to any change in the frequencies specified for this item. The respondent was informed that the proposed Variation Notice would not change the frequencies specified, and that the frequency band for item 44 had previously been divided into two by the *Radiocommunications (Low Interference Potential Devices) Class Licence Variation Notice 2005 (No. 1)*, which inserted a new item, item 44A to cover the upper part of the band.

The seventh submission objected to a proposed new transmitter class for in-store pricing system transmitters. The submission expressed concern at the potential of 'coupling' of these types of transmitters to other loop structures. The concerns were noted and the respondent informed that ACMA did not consider this a concern due to the technical characteristics of such systems.

The frequency band identified in item 59 of the LIPD Class Licence is part of a larger band that the *Australian Radiofrequency Spectrum Plan 2009* (the Spectrum Plan), identifies as a band that is principally for the purpose of defence. Pursuant to subsection 9(2) of the Spectrum Plan, the Department of Defence has been consulted about the proposed use and has provided advice to the ACMA that they have no objection to the indoor use of the new class of transmitter facilitated by inclusion of item 59 in the LIPD Class Licence.

Seven of the submissions received objected to proposed changes to items 25, 26 and 27 of the LIPD Class Licence. These items authorise telecommand or telemetry transmitters. As a result, ACMA has withdrawn the proposed changes to these items in order to undertake further consultation.

Regulation Impact

ACMA obtained advice from its SES contact officer for the Government's regulation impact analysis arrangements that the Variation has no or low impact. For those reasons, under the self-assessment regime administered by the Office of Best Practice Regulation, 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 ACMA 101.

Attachment

Details of the Variation Notice are in the Attachment.

ATTACHMENT

NOTES ON SECTIONS

Section 1 Name of Notice

Section 1 provides for the citation of the instrument.

Section 2 Commencement

This section provides for the Variation Notice to commence on the day after it is registered.

Section 3 Variation of *Radiocommunications (Low Interference Potential Devices) Class Licence 2000*

This section provides that Schedule 1 varies the *Radiocommunications (Low Interference Potential Devices) Class Licence 2000.*

Schedule 1 Variations

[1] Section 3A, after definition of *coverage area*

Item [1] inserts a definition for *DAB.*

[2] Section 3A, after definition of *device compliance day*

Item [2] inserts a definition for *ERP*.

[3] Schedule 1, items 22 and 22A

Item [3] amends items 22 and 22A to add an ERP value.

[4] Schedule 1, after item 38

Item [4] inserts new item 38A for in-store DAB repeater transmitters.

[5] Schedule 1, item 44

Item [5] amends item 44 to clarify the limitation for radiated power spectral density.

[6] Schedule 1, item 50

Item [6] removes item 50, which has been superseded.

[7] Schedule 1, after item 58

Item [7] inserts new item 59 for in-store pricing system transmitters.