

## **EXPLANATORY STATEMENT**

**Issued by the Australian Communications and Media Authority**

***Radiocommunications (Transmitter Licence Tax) Amendment Determination 2010 (No. 4)***

***Radiocommunications (Transmitter Licence Tax) Act 1983***

### **Legislative Basis**

The *Radiocommunications (Transmitter Licence Tax) Amendment Determination 2010 (No. 4)* (the Amendment Determination) amends the *Radiocommunications (Transmitter Licence Tax) Determination 2003 (No. 2)* (the Transmitter Licence Tax Determination).

Subsection 7 (1) of the *Radiocommunications (Transmitter Licence Tax) Act 1983* provides that the Australian Communications and Media Authority (the ACMA) may determine an amount of tax to be applied at the time of issue or renewal of a transmitter licence.

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.

The Amendment Determination is a legislative instrument for the purposes of the *Legislative Instruments Act 2003* (the LIA).

### **Purpose**

The purpose of the Amendment Determination is to include in Schedule 2 of the Transmitter Licence Tax Determination a new PMTS Class C apparatus licence type and to provide for the application of an annual tax amount of \$33.86 per licence.

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 (Charges) Amendment Determination 2010 (No. 2)*;
- *Radiocommunications (Cellular Mobile Telecommunications Devices) Class Licence Variation 2010 (No. 1)*; and
- *Radiocommunications Licence Conditions (PTS Licence) Amendment Determination 2010 (No. 2)*.

### **Background**

The ACMA proposes to establish a new PMTS Class C apparatus licence option specifically for mobile communication services on aircraft.

The Transmitter Licence Tax Determination sets out the amount of annual tax payable at the time the apparatus licence is issued, or at the anniversary of a transmitter licence coming in to force or for the holding of a transmitter licence. Because there is no spectrum denial associated with the operation of onboard systems that are intended to be authorised by the

PMTS Class C licence, only the minimum transmitter tax is to be applied to the PMTS Class C apparatus 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 the amendment.

Notice of the proposed amendment was provided on ACMA's internet site from 8 December 2009 through to 29 January 2010 as part of a package of amending legislative instruments forming part of the radiocommunications regulatory framework seeking to facilitate the provision of mobile communication services on aircraft. Twelve submissions were received in response to this package. None of the respondents made any comment about the proposed Amendment Determination.

The ACMA conducted public consultation on a proposed annual tax amount of \$33.36 per licence. This amount has been adjusted to \$33.86 per licence post-consultation to take into account changes in the Consumer Price Index (CPI). The Amendment Determination has been amended to reflect this amount.

### **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 Amendment Determination is the *Radiocommunications (Transmitter Licence Tax) Amendment Determination 2010 (No. 4)*.

**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 *Radiocommunications (Transmitter Licence Tax) Determination 2003 (No.2)***

Section 3 provides that Schedule 1 amends the *Radiocommunications (Transmitter Licence Tax) Determination 2003 (No.2)*.

**Schedule 1- Amendments**

**Item [1] After item 17A in Schedule 2, Table 702**

Item [1] inserts a new line item 17B in Schedule 2, Table 702 being the annual tax amount of \$33.86 to apply to a PMTS Class C apparatus licence type.

**Item [2] After the definition for PMTS Class B in the Dictionary,**

Item [2] inserts a definition for “PMTS Class C” into the Dictionary.