

## **EXPLANATORY STATEMENT**

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

***Radiocommunications (Interpretation) Amendment Determination 2010 (No. 2)***

***Australian Communications and Media Authority Act 2005***

### **Legislative Basis**

Subsection 64 (1) of the *Australian Communications and Media Authority Act 2005* (the ACMA Act) states that the Australian Communications and Media Authority (the ACMA) may make a written determination defining one or more expressions used in specified instruments, being instruments that are made by ACMA under one or more specified laws of the Commonwealth.

For definitions of expressions used in determinations or class licences made by the ACMA under the *Radiocommunications Act 1992* (the Act), the relevant written determination is the *Radiocommunications (Interpretation) Determination 2000* (the Interpretation Determination).

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.

A determination made under subsection 64 (1) of the ACMA Act is a legislative instrument for the purposes of the *Legislative Instruments Act 2003* (the LIA).

### **Purpose**

The *Radiocommunications (Interpretation) Amendment Determination 2010 (No. 2)* (the Amendment Determination) inserts in the Interpretation Determination a definition for a new PTS apparatus licence type – a PMTS Class C licence. The PMTS Class C licence type is intended to apply to mobile communication services on aircraft.

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 (Cellular Mobile Telecommunications Devices) Class Licence Variation 2010 (No. 1)*;
- *Radiocommunications (Charges) Amendment Determination 2010 (No. 2)*;
- *Radiocommunications (Transmitter Licence Tax) Determination 2010 (No. 4)*; and
- *Radiocommunications Licence Conditions (PTS Licence) Amendment Determination 2010 (No. 2)*.

### **Background**

In order to facilitate mobile communication services on aircraft the ACMA proposes to create a new PMTS Class C apparatus licence type for operation of stations on aircraft. This will be

done through the insertion of a new definition of 'PMTS Class C' into the Interpretation Determination and through the introduction of a new licence type of 'PTS licence (PMTS C)' into the *Radiocommunications Licence Conditions (PTS Licence) Determination 1997*. The amendments to the *Radiocommunications Licence Conditions (PTS Licence) Determination 1997* will authorise the in-flight operation of a station on an aircraft as well as other specified circumstances being on-ground operation for testing and maintenance.

### **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.

Notice of the proposed amendment and an invitation for public submissions was provided on the ACMA's internet site from 8 December 2009 through to 29 January 2010. Twelve submissions were received in response to this invitation for comment. None of the respondents made any comment about the proposed Amendment Determination.

### **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 (Interpretation) Amendment Determination 2010 (No. 2)*

### **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 (Interpretation) Determination 2000*.**

Section 3 provides that Schedule 1 amends the *Radiocommunications (Interpretation) Determination 2000*.

### **Schedule 1 - Amendment**

#### **Item [1] Schedule 1, after definition of PMTS Class B - Insertion of definition of PMTS Class C.**

Item [1] inserts a definition of 'PMTS Class C' as being a service that consists of 1 or more stations that:

- (a) are located on an aircraft; and
- (b) are operated under a PTS licence; and
- (c) are operated on a frequency, or frequencies, specified in a PTS licence.