

EXPLANATORY STATEMENT

Issued by the Australian Communications and Media Authority

Radiocommunications (Communication with Space Object) Class Licence Variation 2011 (No. 1)

Radiocommunications Act 1992

Purpose

The *Radiocommunications (Communication with Space Object) Class Licence Variation 2011 (No. 1)* (the Variation) varies the *Radiocommunications (Communication with Space Object) Class Licence 1998* (the Class Licence).

Legislative Provisions

The Variation is made under section 134 of the *Radiocommunications Act 1992* (the Act) which provides that the Australian Communications and Media Authority (ACMA) may vary a class licence by:

- including one or more further conditions; or
- revoking or varying any of the conditions of the licence.

A class licence variation is a legislative instrument for the purposes of the *Legislative Instruments Act 2003* (the LIA).

Background

The ACMA made the *Radiocommunications (Mid-West Radio Quiet Zone) Frequency Band Plan 2011* in order to create a radio quiet zone (RQZ) in the Mid-West region of Western Australia. The RQZ is intended to minimise harmful interference to radioastronomy services.

This Variation is intended to support the RQZ by placing restrictions on the use of stations in the RQZ where that use will cause interference with radioastronomy services.

Operation

This Variation amends the Class Licence to insert a further condition on the use of devices to communicate with space objects (e.g. satellite telephones) within the inner zone of the RQZ, which is the area within a 70 kilometre radius of the Murchison Radioastronomy Observatory (MRO). The new condition requires that a person must not operate a station in a specified range of transmission frequencies so as to cause interference with radioastronomy observations.

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 before making a legislative instrument. Section 136 of the Act also requires that a Gazette notice explaining the variation be published and a period of one month be provided for public comment.

On 8 October 2010 the ACMA commenced a public consultation process to explore a proposal to strengthen existing measures to protect the Mid West RQZ around the MRO. The ACMA made a media release and published a page on its website describing the issues for comment, the process for contributing to the consultation and providing a copy of a discussion paper.¹

¹ ACMA (2010) *Mid West Radio Quiet Zone – Discussion paper on proposed regulatory measures*, October 2010, available at: http://www.acma.gov.au/WEB/STANDARD/pc=PC_312298

The discussion paper proposed that the ACMA introduce a legislative basis for the existing administrative arrangements around the Mid West RQZ in order to provide greater certainty for all parties. This would include action to:

- > introduce a Mid West RQZ frequency band plan that would, among other things, replace Embargo 41 and largely duplicate its provisions
- > extend the lower boundary of the protected frequency range from 100 MHz to 70 MHz to enable the requirements of the SKA bid to be met
- > make consequential amendments to the Australian Radiofrequency Spectrum Plan to enable the introduction of the band plan
- > leave the existing RALI MS32 in place
- > further highlight the protection mechanisms by cross-referencing them in relevant spectrum, class and apparatus licence conditions.

Two *Gazette* notices were published on 12 October 2010. *Gazette* notice No. S171 set out the ACMA's intention to make a new frequency band plan, as per its proposal in the discussion paper. *Gazette* notice No. S172, in compliance with the consultation requirements for class licence variations under section 136 of the Act, provided a notice that the ACMA proposed to vary several instruments, including the Class Licence and sought public comments about the proposals.

Submissions to the consultation were initially due on 17 November 2010, but at the request of stakeholders the deadline was extended to 17 December 2010. Twenty responses were received, 19 from the stakeholders listed below and one confidential submission. They are available on the ACMA website.

Government

- > Department of Defence
- > Department of Innovation, Industry, Science and Research (DIISR)
- > Government of Western Australia

Miners and infrastructure developers

- > Crosslands Resources
- > Jabiru Metals Ltd
- > Sinosteel Midwest Corporation
- > Talisman Mining Ltd
- > Australasian Railway Association
- > Oakajee Port and Rail

Telecommunications carriers

- > Optus
- > Telstra

Satellite service providers

- > AeroMobile
- > Global VSAT Forum
- > Inmarsat
- > Intelsat
- > Iridium
- > Pivotal

Astronomers

- > International Centre for Radio Astronomy Research (ICRAR)
- > CSIRO

Submissions indicated a diverse group of stakeholders with polarised and complex concerns regarding the ACMA proposal. Stakeholders, while generally supportive of the SKA, raised a number of concerns regarding the potential impacts of the proposed measures, which were addressed in the revised approach.

In particular, some key themes emerged from the responses as follows:

- > **certainty**—a desire for greater technical and regulatory certainty, particularly around the role of the MRO;
- > **access to spectrum**—ensuring that arrangements did not unnecessarily restrict access to spectrum by other users in the region, particularly major mining and infrastructure projects;
- > **SKA bid**—ensuring that the technical and radio quiet requirements for the SKA project are met.

In addition, stakeholders raised a number of specific issues including the perceived potential for the impact of the proposed class licence conditions on other services to be more significant than intended.

Following its consideration of the diverse comments of stakeholders on its discussion paper, and further, targeted consultation on proposed revisions to the package of measures, the ACMA has implemented revised arrangements to enhance regulatory protections for radio quiet in the Mid West RQZ. In particular, a more targeted approach to licence conditions was taken. A more limited range of licence amendments were made, including the Variation, which was adjusted to apply to a limited range of frequencies in a specified geographic zone.

Regulatory Impact

The Office of Best Practice and Regulation (OBPR) has considered the matter and formed the opinion that no regulatory impact analysis is required for the Variation. The OBPR reference number is ID12615.

Variation Details

Further details of the Variation are provided in the Attachment.

NOTES ON SECTIONS

Section 1 Name of Variation

Section 1 provides the name of the Variation.

Section 2 Commencement

Section 2 provides that the Variation commences on the day after it is registered or the day on which it is published in the *Gazette*, whichever is later.

Section 3 Variation of *Radiocommunications (Communications with Space Object) Class Licence 1998*

Section 3 provides that Schedule 1 of the Variation amends the *Radiocommunications (Communication with Space Object) Class Licence 1998*.

Schedule 1 Variations

Item 1

Item 1 inserts a new paragraph 8(1)(d), which adds the Murchison Radioastronomy Observatory (MRO) to a list of radioastronomy observatories that are afforded interference protection under the Class Licence.

Item 2

Item 2 inserts a new condition at subsection 8(5), which deems that the interference protection at subsection 8(1)(d) for the MRO has been contravened if a station causes interference with the MRO in one of the nominated frequency bands while located within 70 kilometres of the MRO.

The nominated frequency bands are a subset of those set out in section 6 of the Class Licence for transmission. The subset is aligned with the frequency range in which the MRO operates, which is 70 MHz to 25.25 GHz.

Item 3

Item 3 inserts a new note (note 5) that defines the location of the MRO and its associated area of interference protection.