

# EXPLANATORY STATEMENT

Approved by the Australian Communications and Media Authority

*Radiocommunications Act 1992*

## ***Radiocommunications (Foreign Space Objects) Amendment Determination 2022 (No. 1)***

### **Authority**

The Australian Communications and Media Authority (**the ACMA**) has made the *Radiocommunications (Foreign Space Objects) Amendment Determination 2022 (No. 1)* (**the instrument**) under paragraph 16(1)(ca) of the *Radiocommunications Act 1992* (**the Act**) and subsection 33(3) of the *Acts Interpretation Act 1901* (**the AIA**).

Under paragraph 16(1)(ca), the Act applies outside Australia (whether or not in a foreign country) in relation to foreign space objects, in the circumstances specified in a determination made by the ACMA.

Subsection 33(3) of the AIA provides that where an Act confers a power to make a legislative instrument, the power shall be construed to include a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend or vary any such instrument.

### **Purpose and operation of the instrument**

The purpose of the instrument is to amend the *Radiocommunications (Foreign Space Objects) Determination 2014* (**the Foreign Space Objects Determination**) to include Kuiper Systems LLC, Omnispace LLC, OQ Technology S.à r.l., Ovzon Sweden AB, Satelio IoT Services, S.L. and Telesat Canada as specified owners, controllers or operators of a foreign space object.

In certain planned radiofrequency bands, the ACMA supports the operation of ubiquitous terrestrial radiocommunications devices (**earth stations**) without the requirement for individual licensing of those earth stations, through the *Radiocommunications (Communications with Space Object) Class Licence 2015*. Radiocommunications devices on foreign space objects (**space stations**) may communicate with those earth stations, if the space stations are operated under an apparatus licence issued under the Act. For this to occur, the owner, controller or operator of a foreign space object needs to be identified in the Foreign Space Objects Determination. These owners, controllers or operators of foreign space objects may now apply for apparatus licences that authorise communications between space stations on their foreign space objects and earth stations in Australia.

Inclusion of a space object in the Foreign Space Objects Determination has the effect of extending the application of the Act outside Australia to the specified space object, thereby requiring its radio emissions to be authorised by a licence issued in accordance with the Act.

The inclusion of these foreign business entities in the Foreign Space Objects Determination will enable them to apply for apparatus licences that authorise communications between space stations and ubiquitous earth stations in frequency bands identified in the *Radiocommunications (Communication with Space Object) Class Licence 2015*.

The instrument is a disallowable legislative instrument for the purposes of the *Legislation Act 2003* (**the LA**). The Foreign Space Objects Determination is subject to the sunset provisions of the LA.

A provision-by-provision description of the instrument is set out in the notes at **Attachment A**.

## **Documents incorporated by reference**

The instrument does not incorporate any document by reference.

## **Consultation**

Before the instrument was made, the ACMA was satisfied that consultation was undertaken to the extent appropriate and reasonably practicable, in accordance with section 17 of the LA.

On 3 February 2022, the ACMA commenced a [public consultation](#) on proposed amendments to the Foreign Space Objects Determination to include Kuiper Systems LLC (incorporated in the United States), Omnispace LLC (incorporated in the United States), Ovzon Sweden AB (incorporated in Sweden) and Telesat Canada (incorporated in Canada). The consultation was initially scheduled to close on 10 March 2022.

After the consultation commenced, OQ Technology S.à r.l. (incorporated in Luxembourg) and Satelio IoT Services, S.L. (incorporated in Spain) sought inclusion in the Foreign Space Objects Determination. Since the ACMA typically amends the Foreign Space Objects Determination around once per year, and given these entities' near-term deployment plans, the consultation was extended by 4 weeks to 7 April 2022 to facilitate their inclusion in the consultation.

The ACMA received 7 written submissions in response to the consultation. There were no objections to the amendments proposed to be made by the instrument, and no changes were made to the final version of the instrument.

## **Regulatory impact assessment**

The Office of Best Practice Regulation (**OBPR**) has considered the matter and formed the opinion that the proposed variation is minor or machinery in nature and no regulatory impact analysis is required. The OBPR reference ID number is 43253.

## **Statement of compatibility with human rights**

Subsection 9(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011* requires the rule-maker in relation to a legislative instrument to which section 42 (disallowance) of the LA applies to cause a statement of compatibility with human rights to be prepared in respect of that legislative instrument.

The statement of compatibility set out below has been prepared to meet that requirement.

## **Overview of the instrument**

The *Radiocommunications (Foreign Space Objects) Amendment Determination 2022 (No. 1)* (**the instrument**) amends the *Radiocommunications (Foreign Space Objects) Determination 2014* to include Kuiper Systems LLC, Omnispace LLC, OQ Technology S.à r.l., Ovzon Sweden AB, Satelio IoT Services, S.L. and Telesat Canada as specified owners, controllers or operators of foreign space objects. The inclusion of these entities in the *Radiocommunications (Foreign Space Objects) Determination 2014* will enable them to access licensing arrangements in Australia for space-based communications systems that permit communications with terrestrial radiocommunications devices operated under a class licence.

### ***Human rights implications***

The ACMA has assessed whether the instrument is compatible with human rights, being the rights and freedoms recognised or declared by the instruments listed in subsection 3(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011* as they apply to Australia.

Having considered the likely impact of the instrument and the nature of the applicable rights and freedoms, the ACMA has formed the view that the instrument does not engage any of those rights or freedoms.

### ***Conclusion***

The instrument is compatible with human rights as it does not raise any human rights issues.

**Notes to the *Radiocommunications (Foreign Space Objects) Amendment Determination 2022 (No. 1)***

**Section 1      Name**

This section provides for the instrument to be cited as the *Radiocommunications (Foreign Space Objects) Amendment Determination 2022 (No. 1)*.

**Section 2      Commencement**

This section provides for the instrument to commence at the start of the day after the day it is registered on the Federal Register of Legislation.

**Section 3      Authority**

This section identifies the provision that authorises the making of the instrument, namely paragraph 16(1)(ca) of the Act.

**Section 4      Amendment**

This section provides that the amendments set out in Schedule 1 have effect.

**Schedule 1 – Amendment**

Item 1 adds “Kuiper Systems LLC (incorporated in the United States of America)”, “Omnispace LLC (incorporated in the United States of America)”, “Ovzon Sweden AB (incorporated in Sweden)”, “Telesat Canada (incorporated in Canada)”, “OQ Technology S.à r.l. (incorporated in Luxembourg)” and “Satelio IoT Services, S.L. (incorporated in Spain)” as specified owners, controllers or operators of a foreign space object to Schedule 1 to the Foreign Space Objects Determination. The inclusion of these entities will enable them to access licensing arrangements under the Act for space-based communications systems that permit communications with earth stations.