EXPLANATORY STATEMENT

Approved by the Australian Communications and Media Authority

Radiocommunications Act 1992

Radiocommunications (Communication with Space Object) Class Licence Variation 2023 (No. 1)

Authority

The Australian Communications and Media Authority (the **ACMA**) has made the *Radiocommunications (Communication with Space Object) Class Licence Variation 2023 (No. 1)* the **variation instrument**) under subsection 132(1) of the *Radiocommunications Act 1992* (the **Act**) and subsection 33(3) of the *Acts Interpretation Act 1901* (the **AIA**).

Subsection 132(1) of the Act provides that the ACMA may, by legislative instrument, issue class licences. Subsection 33(3) of the AIA relevantly provides that where an Act confers a power to make a legislative instrument, the power shall be construed as including 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 variation instrument

The purpose of the variation instrument is to vary the *Radiocommunications (Communication with Space Object) Class Licence 2015* (the **Space Object Class Licence**) to add new frequency ranges to the list of frequencies specified for the operation of stations as authorised by the Space Object Class Licence. The variation instrument also updates the reference to the *Radiocommunications (Mid-West Radio Quiet Zone) Frequency Band Plan 2011*, which has been remade as the *Radiocommunications (Australian Radio Quiet Zone Western Australia) Frequency Band Plan 2023* (the **ARQZWA Band Plan**).

The Space Object Class Licence contains the licence conditions, operational requirements and technical parameters associated with an earth station or earth receive station communicating with a station on a space object, or another station through a station on a space object, which is authorised by a space or space receive apparatus licence, in various segments of the radiofrequency spectrum.

The variation instrument varies the Space Object Class Licence by:

- inserting a new frequency range of 1668 – 1675 MHz in the list of frequencies authorised for transmission of radio emissions by an earth station operating under the Space Object Class Licence;
- inserting a new frequency range of 1518 – 1525 MHz in the list of frequencies authorised for reception of radio emissions by an earth receive station operating under the Space Object Class Licence.

These variations support the mobile-satellite service (**MSS**).

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

The variation instrument is a disallowable legislative instrument for the purposes of the *Legislation Act 2003* (the **LA**).

Documents incorporated by reference

The variation instrument inserts into the Space Object Class Licence references to the ARQZWA Band Plan, as permitted by section 314A of the Act. The ARQZWA Band Plan may be accessed, free of charge, on the Federal Register of Legislation (www.legislation.gov.au).

Consultation

Before the variation instrument was made, the ACMA was required by subsection 136(2) of the Act to publish a written notice that:

(a) stated that the ACMA proposed to vary the Space Object Class Licence;
(b) stated the subject matter of the proposed variation;
(c) set out the Space Object Class Licence and the proposed variation; and
(d) invited interested persons to make representations about the proposed variation by a specified date that was at least one month after the date of publication.

Under subsection 136(2A) of the Act, a written notice prepared pursuant to subsection 136(1) must be published on the ACMA's website and in another form readily available to the public. Under subsection 136(4) of the Act, the ACMA must give due consideration to any representations made before varying the Space Object Class Licence.

Further, subsection 17(1) of the LA requires that before a legislative instrument is made, the rule-maker must be satisfied that any consultation considered by the rule-maker to be appropriate and that is reasonably practicable to undertake has been undertaken.

Between 16 August 2023 and 20 September 2023, the ACMA conducted a public consultation process in relation to the variation instrument. A written notice about the proposal to vary the Space Object Class Licence and a draft of the variation instrument were published on the ACMA's website and in the Gazette in accordance with the requirements of subsections 136(1) and 136(2A) of the Act. Interested parties were invited to comment.

The ACMA received eight written submissions in response to the consultation process. The ACMA considered all submissions prior to making the variation instrument, seven of which supported the proposed preferred variation. The other submission did not provide a preference. Two submissions to the consultation noted a minor frequency range error in the CSO class licence variation which has been updated.

Regulatory impact assessment

A preliminary assessment of the proposal to make the variation instrument was conducted by the Office of Impact Analysis (**OIA**), based on information provided by the ACMA, for the purposes of determining whether a Regulation Impact Statement (**RIS**) would be required. OIA advised that a RIS would not be required because the variation instrument was not expected to have a regulatory impact on businesses, community organisations or individuals (OIA reference number OIA23-05058).

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 with human rights set out below has been prepared to meet that requirement.

Overview of the variation instrument

The variation instrument varies the Space Object Class Licence to include new frequency ranges of 1668 – 1675 MHz in the list authorised for transmission and 1518 – 1525 MHz in the list authorised for reception of radio emissions by a station operating under the Space Object Class Licence. The inclusion of these ranges in the Space Object Class Licence was a result of the ACMA's review of arrangements in the *Radiocommunications 1.5 GHz Frequency Band Plan 2015* (the **1.5 GHz Band Plan**). The review of the 1.5 GHz Band Plan was undertaken to:

a. support new wireless broadband (WBB) in the 1427 – 1518 MHz band. This band was identified for International Mobile Telecommunications (IMT) at the 2015 World Radiocommunication Conference (WRC-15). Japan and numerous European countries have made all or part of the band available for WBB use; and
b. support mobile-satellite services (MSS) in the 1518 – 1525 MHz and 1668 – 1675 MHz bands – often referred to as the extended MSS L-band. The 2003 and 2007 World Radiocommunication Conferences (WRC-03 and WRC-07) made MSS spectrum allocations in these bands to complete existing allocations. In its response to the 2021-2026 FYSO, Inmarsat announced plans to launch satellites in 2022 that support MSS use in the 1518–1525 MHz and 1668–1675 MHz frequency ranges in the Asia-Pacific region.

The variation instrument also updates references to the *Radiocommunications (Mid-West Radio Quiet Zone) Frequency Band Plan 2011*, which has been remade and is now called the *Radiocommunications (Australian Radio Quiet Zone Western Australia) Frequency Band Plan 2023*.

Human rights implications

The ACMA has assessed whether the variation instrument is compatible with human rights, being the rights and freedoms recognised or declared by the international 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 variation 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 variation instrument is compatible with human rights as it does not raise any human rights issues.

Attachment A

Notes to the Radiocommunications (Communication with Space Object) Class Licence Variation 2023 (No. 1)

Section 1 Name

This section provides for the instrument to be cited as the *Radiocommunications (Communication with Space Object) Class Licence Variation 2023 (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.

The Federal Register of Legislation may be accessed free of charge at www.legislation.gov.au.

Section 3 Authority

This section identifies the provision of the Act that authorises the making of the instrument, namely subsection 132(1) of the *Radiocommunications Act 1992* (the **Act**).

Section 4 Variations

This section provides the instrument specified in Schedule 1 is amended in the manner set out in that Schedule.

Schedule 1

***Radiocommunications (Communication with Space Object) Class Licence 2015* (F2015L01486)**

Item 1

Note 2 to subsection 4(1) has been amended to include 'earth receive licence' as a term in the list of terms defined in the *Radiocommunications (Interpretation) Determination 2015*.

Item 2

Subparagraph 6(a)(iia) has been amended to include the frequency range 1668 to 1675 MHz. The frequency range 2005 to 2010 MHz that was in subparagraph 6(a)(iia) is now in subparagraph 6(a)(iib).

Item 3

Subparagraph 6(b)(iv) has been amended to extend the frequency range from 1525 to 1559 MHz to 1518 to 1559 MHz.

Item 4

Subsection 8(2) has been amended to include the frequency range 1670 to 1675 MHz within the additional conditions that apply if a station is operated within 20 kilometres of a radio astronomy observatory mentioned in footnote AUS87 of the *Australian Radiofrequency Spectrum Plan 2021*.

Item 5

Subsection 8(3) has been amended to include the frequency range 1668 to 1670 MHz to the frequency ranges in which the class licence does not authorise operation of a station where the station is within

500 kilometres of a radio astronomy observatory mentioned in footnote AUS87 of the *Australian Radiofrequency Spectrum Plan 2021* or where the station is an airborne aircraft.

Item 6

Item 6 inserts a new subparagraph (3A) to limit the authorisation for operation of a station in the frequency range 1673.38 to 1675 MHz. The emissions of the radiocommunications transmitter of the station must not exceed a level of -128.1 dBm/4 kHz for more than 20% of the time at the output of the antenna of any radiocommunications receiver authorised to operate in all or part of that frequency range under an earth receive licence.

Items 7 and 8

Section 8 Note 2 and Note 3 have been amended to update the name of the *Radiocommunications (Mid-West Radio Quiet Zone) Frequency Band Plan* as the band plan has recently been remade and is now the *Radiocommunications (Australian Radio Quiet Zone Western Australia) Frequency Band Plan 2023.*