

EXPLANATORY STATEMENT

Approved by the Australian Communications and Media Authority

Radiocommunications Act 1992

Radiocommunications (Digital Radio Multiplex Transmitter Licence – Application Fee) Amendment Determination 2025 (No. 1)

Authority

The Australian Communications and Media Authority (**the ACMA**) has made the *Radiocommunications (Digital Radio Multiplex Transmitter Licence – Application Fee) Amendment Determination 2025 (No. 1)* (**the instrument**) under paragraphs 102C(2)(b) and 102D(2)(b) of the *Radiocommunications Act 1992* (**the Act**), and subsection 33(3) of the *Acts Interpretation Act 1901* (**the AIA**).

Paragraph 102C(2)(b) of the Act provides that the ACMA must not issue a foundation category 1 digital radio multiplex transmitter licence (**foundation category 1 DRMT licence**) for a particular designated BSA radio area otherwise than in accordance with a price-based allocation system determined under section 106 of the Act, unless the application for the licence is accompanied by the fee determined by the ACMA by legislative instrument.

Paragraph 102D(2)(b) of the Act provides that the ACMA must not issue a foundation category 2 digital radio multiplex transmitter licence (**foundation category 2 DRMT licence**) for a particular designated BSA radio area otherwise than in accordance with a price-based allocation system determined under section 106 of the Act, unless the application for the licence is accompanied by the fee determined by the ACMA by legislative instrument.

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.

The instrument amends the *Radiocommunications (Digital Radio Multiplex Transmitter Licence – Application Fee) Determination 2022 (F2022L01238)* (**the 2022 Determination**).

Purpose and operation of the instrument

The purpose of the instrument is to amend the 2022 Determination to increase the application fees payable for a foundation category 1 DRMT licence and a foundation category 2 DRMT licence. The application fee for each kind of licence has increased by 6% from \$1,130 to \$1,195.

The amount of fee has been determined using a bottom-up assessment of the actual time and effort taken by the ACMA to provide the service of assessing an application for a licence of the relevant kind. The ACMA worked out the average time taken to assess an application for a licence of the relevant kind and then multiplied that time by the ACMA's new standard hourly rate of \$239.

The increase in the application fee for each kind of licence is primarily due to a 6% increase in the ACMA's standard hourly rate from \$226 to \$239.

The standard hourly rate of \$239 is based on the cost of services incurred by the ACMA in performing its functions for the 2023-24 financial year. This rate was established by taking the net cost of services of the ACMA's business units for the 2023-24 financial year, including an attribution of all corporate and support costs, and dividing that net cost by the average staff direct hours spent by the business units during that financial year.

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

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

Documents incorporated by reference

The instrument does not incorporate any Acts, instruments or other documents by reference but does refer to the Act and the 2022 Determination without incorporating them by reference.

Commonwealth legislation can be accessed, free of charge, on the Federal Register of Legislation (www.legislation.gov.au).

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.

The ACMA consulted with the public, including industry stakeholders, on the proposal to make the instrument. In particular, between 4 April 2025 and 2 May 2025, the ACMA conducted a consultation process inviting submissions on a number of proposed changes to various fees and charges for the provision of services by the ACMA determined under cost recovery arrangements, including the proposed changes to the application fees for a foundation category 1 DRMT licence and a foundation category 2 DRMT licence. The consultation was facilitated through the release of a consultation package on the ACMA's website which included a draft Cost Recovery Implementation Statement explaining the proposed changes.

The ACMA received no submissions in response to the consultation package.

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

As noted above:

- the instrument has been made under paragraphs 102C(2)(b) and 102D(2)(b) of the Act, and subsection 33(3) of the AIA;
- the instrument amends the 2022 Determination to increase the application fees for a foundation category 1 DRMT licence and a foundation category 2 DRMT licence;
- the application fee for each kind of licence has increased by 6% from \$1,130 to \$1,195;
- to determine the amount of fee, the ACMA worked out the average time taken to assess an application for a licence of the relevant kind and then multiplied that time by the ACMA's standard hourly rate of \$239; and
- the increase in the application fee for each kind of licence is primarily due to a 6% increase in the ACMA's standard hourly rate from \$226 to \$239.¹

¹ See page 1 for details about how the ACMA's standard hourly rate was established.

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 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 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 (Digital Radio Multiplex Transmitter Licence – Application Fee) Amendment Determination 2025 (No. 1)*

Section 1 Name

This section provides for the instrument to be cited as the *Radiocommunications (Digital Radio Multiplex Transmitter Licence – Application Fee) Amendment Determination 2025 (No. 1) (the instrument)*.

Section 2 Commencement

This section provides that the instrument commences 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 provisions that authorise the making of the instrument, namely paragraphs 102C(2)(b) and 102D(2)(b) of the *Radiocommunications Act 1992*.

Section 4 Amendments – *Radiocommunications (Digital Radio Multiplex Transmitter Licence – Application Fee) Determination 2022*

This section provides that the *Radiocommunications (Digital Radio Multiplex Transmitter Licence – Application Fee) Determination 2022 (the 2022 Determination)* is amended as set out in the applicable items in Schedule 1.

Schedule 1 – Amendments

Items 1 and 2

Item 1 amends sections 6 of the 2022 Determination which determines the application fee for a foundation category 1 digital radio multiplex transmitter licence, and item 2 amends section 7 of the 2022 Determination which determines the application fee for a foundation category 2 digital radio multiplex transmitter licence. The amendment of each item increases the application fee for each kind of licence by 6% from \$1,130 to \$1,195.

To determine the amount of fee, the ACMA worked out the average time taken to assess an application for a licence of the relevant kind and then multiplied that time by the ACMA's standard hourly rate of \$239.

The increase in the application fee for each kind of licence is primarily due to a 6% increase in the ACMA's standard hourly rate from \$226 to \$239.²

² See page 1 for details about how the ACMA's standard hourly rate was established.