

**National Interest Analysis [2012] ATNIA 21  
with attachment on consultation**

**Partial Revision of the 2008 Radio Regulations  
as incorporated in the International Telecommunication Union  
Final Acts of the World Radiocommunication Conference (WRC-12)  
done at Geneva on 17 February 2012**

**[2012] ATNIF 15**

## NATIONAL INTEREST ANALYSIS: CATEGORY 2 TREATY

### **Partial Revision of the 2008 Radio Regulations as incorporated in the International Telecommunication Union Final Acts of the World Radiocommunication Conference (WRC-12) done at Geneva on 17 February 2012 [2012] ATNIF 15**

#### **Nature and Timing of Proposed Treaty Action**

1. It is proposed that Australia consents to be bound by the Partial Revision of the Radio Regulations, as incorporated in the Final Acts of the World Radiocommunication Conference (WRC-12) of the International Telecommunication Union (ITU), done at Geneva on 17 February 2012. Australia intends to notify its consent as soon as possible after the completion of the domestic treaty process.
2. The Radio Regulations (including their appendices) together with the International Telecommunication Regulations constitute the Administrative Regulations of the ITU. The Administrative Regulations complement the basic instruments of the ITU—the *Constitution of the International Telecommunication Union* and the *Convention of the International Telecommunication Union* (“the Constitution” and “the Convention”, [\[1994\] ATS 28](#)) and are binding on Member States (Article 4(3) Constitution). World Radiocommunication Conferences are empowered to partially or, in exceptional cases, completely revise the Radio Regulations (Article 13(1) Constitution). WRC-12 partially revised the Radio Regulations, as set out in the Final Acts of that conference.
3. The bulk of the WRC-12 revisions of the Radio Regulations will enter into force on 1 January 2013 for those Member States that have notified their consent to be bound to the ITU Secretary-General by that date (Article 54 Constitution and Article 59.11 Revised Radio Regulations). The remaining provisions will take effect from the special dates stipulated in Resolution 98 of WRC-12, as indicated in Article 59.12 of the revised Radio Regulations. For a Member State that has not notified its consent by 1 January 2013, the revisions will apply provisionally until the State notifies its decision on whether it consents to be bound and will enter into force for that State from the date it notifies its consent to be bound. If Australia fails to notify its decision within a period of thirty-six months, that is, by 1 January 2016, it will be deemed to have consented to be bound by the revisions (Article 54 Constitution).

#### **Overview and National Interest Summary**

4. The proposed treaty action would align Australia with the rest of the world in its regulation of the radiofrequency spectrum and would allow for continued international compatibility. Australia would retain its sovereign right to control transmissions within and into its territory and to protect Australian users from interference from foreign systems. Consenting to be bound by the revisions would make possible the introduction of new communication technologies, improved end user efficiencies, enhanced public safety and greater access to wireless networking and broadband data services. It would also continue Australia’s good standing in the ITU and enable Australia to maintain its position that the geographical situation of particular countries does not enable them to claim any preferential rights to the geostationary-satellite orbit.

5. The substantive benefits arising from the WRC-12 revisions of the Radio Regulations include:

- international regulations for the application of new technologies to support advanced public protection and disaster relief operations, including regional harmonisation;
- the enhancement of aeronautical communications capability through additional spectrum allocations aimed at improved safety and more efficient use of airspace;
- continued protection of frequency bands required for Earth observation systems, including an additional allocation of spectrum for meteorological satellite services; and
- improvements to international satellite coordination methods.

6. As noted in paragraph 3 above, if Australia takes no action and still has not notified its consent to be bound by 1 January 2016, Australia will be deemed to consent to be bound from 1 January 2016. However, inaction by Australia may have a negative effect on Australia's standing within the ITU and on Australia's negotiating position at future reviews of the Radio Regulations. In contrast, notification to the ITU Secretary-General of Australia's consent to be bound by the WRC-12 revision would maintain Australia's good standing in the ITU and would place Australia's administration of the radiofrequency spectrum in line with the rest of the world.

### **Reasons for Australia to Take the Proposed Treaty Action**

7. The ITU is a specialised agency of the United Nations with 193 Member States. It is concerned with international cooperation in the use of telecommunications and the radiofrequency spectrum. To this end, it establishes treaties and recommends world standards for telecommunication and radiocommunication services, including satellite services. Australia has been a Member of the ITU and its predecessors since Federation.

8. The purpose of the Radio Regulations is to ensure the rational, efficient and equitable use of the radiofrequency spectrum. In this respect, the Radio Regulations contain allocations to over 40 radiocommunication services. They also provide technical, operational and regulatory conditions for the use of the radiofrequency spectrum and the geostationary-satellite and non-geostationary-satellite orbits. ITU members are required to ensure that the radio spectrum is used internationally in a manner that will prevent harmful interference to services.

9. The ITU divides the world into three ITU regions for the purposes of managing the global radio spectrum:

- Region 1: Europe, Africa, the Middle East west of the Persian Gulf and including Iraq, the former Soviet Union and Mongolia.
- Region 2: the Americas, Greenland and some of the eastern Pacific Islands.
- Region 3: most of Asia (excluding the former Soviet Union), east of and including Iran, and most of Oceania. Australia is in ITU Region 3.

10. To ensure that the Radio Regulations facilitate the introduction of new technical advances, they are periodically reviewed (and may be revised) by a World Radiocommunication Conference. WRC-12 (held in Geneva from 23 January to 17 February 2012) was such a conference and resulted in the revisions under consideration.

#### Reservations and declarations

11. The ITU Constitution permits a Member State to make reservations at the time of signing revisions to the Radio Regulations and to maintain such reservations at the time of notifying its consent to be bound (Article 54). Pursuant to the Vienna Convention on the Law of Treaties, a reservation ‘purports to exclude or modify the legal effect of certain provisions of the treaty in their application to that State’. It is also accepted international practice for States to be able to make declarations at the time of signing or ratifying a treaty—a declaration differs from a reservation in that it does not purport to exclude or modify the legal effect of the treaty, but merely sets forth the State’s interpretation of the treaty.

12. Member States made a series of statements at WRC-12 in response to the Partial Revision of the Radio Regulations, which are set out in the Final Acts under the heading ‘Declarations and reservations’.. Australia made two such statements:

Number 9:

In signing the Final Acts of the World Radiocommunication Conference (Geneva, 2012), the delegation of Australia reserves for its Government the right to take any measures it might deem necessary to safeguard its interests if another Member State of the International Telecommunication Union in any way fails to respect the conditions specified in the Final Acts or if the reservations made by any Member State should be prejudicial to the operation of radiocommunication services in Australia or its full sovereign rights.

The delegation of Australia further declares that it reserves for its Government the right to make declarations or reservations when depositing its instrument of ratification for amendments to the Radio Regulations adopted at this World Radiocommunication Conference (Geneva, 2012).

Number 113:

*For the Federal Republic of Germany, Australia, Austria, Belgium, Canada, the Republic of Croatia, Denmark, the Republic of Estonia, the United States of America, Finland, France, Georgia, Greece, Hungary, Ireland, Iceland, Italy, Japan, The Former Yugoslav Republic of Macedonia, the Principality of Liechtenstein, Luxembourg, Malta, the Republic of Moldova, Norway, New Zealand, the Kingdom of the Netherlands, the Republic of Poland, Portugal, the Slovak Republic, the Czech Republic, Romania, the United Kingdom of Great Britain and Northern Ireland, the Republic of Slovenia, Sweden, the Confederation of Switzerland and Turkey:*

The delegations of the above-mentioned States, referring to the declaration made by the Republic of Colombia (No. 34), inasmuch as these and any similar statements refer to the Bogotá Declaration of 3 December 1976 by equatorial countries and to the claims of those countries to exercise sovereign rights over segments of the geostationary-satellite orbit, or to any related claims, consider that the claims in question cannot be recognized by this conference.

The above-mentioned delegations also wish to state that the reference in Article 44 of the Constitution to the “geographical situation of particular countries” does not imply recognition of a claim to any preferential rights to the geostationary-satellite orbit.

13. Statement 9 allowed Australia to make further reservations or declarations upon notifying its consent to be bound. It is not intended for Australia to make any further reservations or declarations, and therefore there is no need to maintain this statement. Statement 113 was made by Australia, together with other like-minded countries, to counter claims by equatorial countries, such as Columbia, concerning preferential rights to geostationary-satellite orbit slots. This statement was made at WRC meetings in 1995, 1997, 2000, 2003 and 2007. It is intended for Australia to maintain statement 113 when it notifies its consent to be bound.

### **Obligations**

14. The WRC-12 revisions of the Radio Regulations made several changes that impact on the international allocation and use of the radiofrequency spectrum. As part of the Radio Regulations, these changes will become binding upon Australia. The following provides a brief outline of some of the key changes arising out of the WRC-12 revision of the Radio Regulations. References are provided to the text of the Radio Regulations where relevant. Spectrum allocations are made at Article 5, Section IV – Table of Frequency Allocations (TFA); references to footnotes are included for each allocation cited below.

### Maritime procedures

15. International regulations related to the maritime mobile service were updated to revise frequencies and channelling arrangements, allowing implementation of new digital maritime communications technologies [Appendix 17].

16. The changes agreed to at WRC-12 will improve global maritime navigation and provisions for maritime distress and safety.

### Aeronautical services

17. Aeronautical security has been enhanced and civil aviation telecommunication systems modernised through a new spectrum allocation at 5 030–5 091 MHz to support the safe operation of unmanned aircraft systems [TFA with footnotes 5.443C, 5.443D].

18. The changes agreed at WRC-12 will improve global civil aviation safety and assist the deployment of new technologies.

### Radiolocation

19. New spectrum allocations were made to the radiolocation service in relation to:

- oceanographic radar, in the range 3–50 MHz, for measurement of coastal sea surface conditions to support environmental, oceanographic, meteorological, climatological, maritime and disaster mitigation operations [TFA, with footnote 5.132A]; and

- new defence radar systems, in the range 15.4–15.7 GHz, that require increased bandwidth for improved resolution and range accuracy [TFA, with footnotes 5.511E, 5.511F].

### Science

20. Earth observation systems that provide critical data relating to weather forecasts, disaster prediction, climate change and natural resources have been enhanced through:
- a new spectrum allocation for meteorological aids (passive lightning detection), in the range 8.3–11.3 kHz, to improve the accurate location of lightning for public safety considerations [TFA with footnote 5.54A]; and
  - an extended spectrum allocation of 50 MHz in the range 7 850–7 900 MHz to the existing non-geostationary meteorological satellite allocation to accommodate the increased data transmission requirements of high resolution sensors in next generation satellites [TFA with footnote 5.461B].
21. Space research services have been enhanced through a new spectrum allocation in the band 22.55–23.15 GHz to support Earth-to-space communications for lunar exploration missions [TFA with footnote 5.532A].

### Radiodetermination satellite service

22. A primary global allocation to the radiodetermination satellite service in the range 2 483.5–2 500 MHz to accommodate new Galileo satellite navigation and improved global positioning system (GPS) services [TFA with footnote 5.401].

### Amateur service

23. A secondary allocation to the amateur service was made between 472 and 479 kHz enhancing capability for disaster relief and emergency communications and providing opportunity for research and development of new communication modes [TFA with footnote 5.80A].

### Satellite coordination

24. The international coordination of satellite networks has been improved through:
- enhancing the international notification process for new satellite deployments, which provides additional security of tenure for notified satellite networks;
  - streamlining the coordination requirements in two major satellite frequency bands;
  - clarifying the processes of resolving interference and completing coordination, thereby improving the global operation of satellite networks; and
  - changes that permit the use of an alternative reference radiation pattern for Earth station antennas, potentially enabling more efficient use of the geostationary orbit [Articles 9, 11].

### **Implementation**

25. Australia's obligations under the Radio Regulations are implemented through the Australian Radiofrequency Spectrum Plan (ARSP), which is prepared by the Australian Communications and Media Authority (ACMA) in accordance with sections 30 and 34 of the

*Radiocommunications Act 1992*. The existing ARSP will be updated by the ACMA to take account of the WRC-12 revision.

### **Costs**

26. There are no identifiable direct costs to Commonwealth, State or Territory Governments arising from the proposed treaty action.

### **Regulation Impact Statement**

27. The Office of Best Practice Regulation, Department of Finance and Deregulation has been consulted and confirms that a Regulation Impact Statement is not required.

### **Future Treaty Action**

28. Under Article 13 of the ITU Constitution, a World Radiocommunication Conference may partially or completely revise the Radio Regulations. The next World Radiocommunication Conference will be held in 2015. The framework for the WRC-15 agenda was developed and agreed at WRC-12. Based on the results of lead-up studies, further changes to the Radio Regulations will be considered at that meeting. Future revisions will be subject to Australia's domestic treaty process.

### **Withdrawal or Denunciation**

29. In order to withdraw from the Radio Regulations, it would be necessary for Australia to denounce the ITU Constitution and Convention by notification to the Secretary-General of the ITU. In accordance with Article 57 of the Constitution, this would have to be done as a single instrument, denouncing the Constitution and the Convention simultaneously. Such denunciation would take effect at the expiration of one year from the date of receipt of its notification by the Secretary-General of the ITU.

30. Any denunciation would be subject to Australia's domestic treaty process.

### **Contact details**

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## ATTACHMENT ON CONSULTATION

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#### CONSULTATION

31. The ACMA consulted key stakeholders in the preparation of the Australian Delegation Brief in the four year cycle leading up to WRC-12. This work led to the development of Australian positions for each agenda item considered at WRC-12, which were incorporated into the Australian Delegation Brief.
32. The Minister for Broadband, Communications and the Digital Economy approved the Australian Delegation Brief prior to WRC-12. The Minister approved Australian positions on all 35 agenda items considered at WRC-12, which were agreed with the full consensus of Australian stakeholders.
33. Australian industry and government representatives were invited to participate in the preparation of the Australian brief for WRC-12 through the Radiocommunications Consultative Committee Preparatory Group (PG WRC-12) convened by the ACMA. PG WRC-12 met regularly over the four-year cycle to develop Australian positions to take to WRC-12.
34. Organisations and agencies that contributed to the Australian Brief for WRC-12 included ACMA, Australian Broadcasting Corporation, AsiaSpace Ltd, Australian Maritime Safety Authority, Airservices Australia, Aviation Spectrum Group, Bureau of Meteorology, Canberra Deep Space Communications Complex, CEA Technologies, Civil Aviation Safety Authority, Commercial Radio Australia, Commonwealth Scientific and Industrial Research Organisation, Department of Broadband Communications and the Digital Economy, Defence Science and Technology Organisation, Department of Defence, Emergency Management Australia, Ericsson, Foxtel, Free TV Australia, Globalstar, Intelsat, Inmarsat, Iridium, National ICT Australia, Network TEN, Nortel, Nine Network, Optus, Qualcomm, Special Broadcasting Service, Stratos, SkyStation Australia, Seven Network, Telstra, Thales Alenia Space, WorldSpace Asia and the Wireless Institute of Australia.
35. Most of the above-mentioned groups were represented at WRC-12. Following WRC-12, the ACMA held a debriefing session on the outcomes with industry and government representatives on 23 April 2012.
36. Australia's obligations under the Radio Regulations are implemented through the *Australian Radiofrequency Spectrum Plan (ARSP)*, which is prepared by the ACMA in accordance with sections 30 and 34 of the *Radiocommunications Act 1992*. The existing ARSP will be updated by the ACMA to accord with the WRC-12 revision and include some revisions of a purely domestic nature. A draft revised ARSP is expected to be released by the ACMA in the second half of 2012 for public comment, as required by section 33 of the *Radiocommunications Act 1992*. The ACMA anticipates the revised ARSP will commence on 1 January 2013.



37. The States and Territories were consulted on the proposed ratification of the WRC-12 Final Acts through the Commonwealth-State/Territory Standing Committee on Treaties (SCOT) schedule of treaties under negotiation, consideration or review by the Australian Government.

38. There is general support for the proposed treaty action from relevant stakeholders and acknowledgment of the benefits of the WRC-12 revision to Australia.