EXPLANATORY STATEMENT

Issued by the Australian Communications and Media Authority

Telecommunications Labelling (Customer Equipment and Customer Cabling) Amendment Notice 2010 (No.2)

Purpose

The purpose of the Telecommunications Labelling (Customer Equipment and Customer Cabling) Amendment Notice 2010 (No.2) (the Amendment Notice) is to amend the Telecommunications Labelling (Customer Equipment and Customer Cabling) Notice 2001 (the Labelling Notice). The Amendment Notice amends the Labelling Notice to correct ambiguity in the wording of section 3.1 that may result in the incorrect interpretation of the telecommunications regulatory obligations. The Amendment Notice also gives regulatory effect to the following telecommunications technical standards made under section 376 of the Telecommunications Act 1997 (the Act) by incorporating them into Schedule 1 of the Labelling Notice:


(collectively the ACMA 2010 Standard).

Legislative provisions

Subsection 407(1) of the Act provides that the Australian Communications and Media Authority (the ACMA) may by written instrument require any person who is a manufacturer or importer of specified customer equipment or customer cabling to apply to the equipment or cabling a label to indicate whether the equipment or cabling complies with the standards mandated by the ACMA under section 376 of the Act.

A notice made under section 407 of the Act is a legislative instrument for the purposes of the Legislative Instruments Act 2003 (LIA).

The Labelling Notice and the standards made under section 376 of the Act operate together to specify the relevant Australian telecommunications regulatory obligations in relation to the labelling of specified customer equipment or customer cabling.

Subsection 33(3) of the Acts Interpretation Act 1901 provides that where an Act confers a power to make an instrument, that power shall, unless the contrary intention appears, be construed as including a power exercisable in a like manner and subject to like conditions, to amend that instrument.

Background

The ACMA has responsibility for the regulation of customer equipment, customer cabling and specified devices in Australia under the Act and the Radiocommunications Act 1992. These regimes
cover aspects of devices related to the telecommunications, radiocommunications, electromagnetic energy and electromagnetic compatibility functions of the devices.

The telecommunications regulatory framework aims to ensure that customer equipment and customer cabling meet mandatory technical standards and are appropriately labelled prior to connection to the telecommunications network.

By imposing requirements on suppliers of customer equipment and customer cabling, the Labelling Notice assists in protecting the health and safety of users of the telecommunications network, protecting the integrity and interoperability of the telecommunications network and ensuring access to emergency call services.

The Labelling Notice requires suppliers to apply a compliance label to the surface of specified customer equipment and customer cabling to illustrate that they comply with mandatory requirements. Suppliers also have the option of displaying the compliance label electronically if the device has a built-in electronic display. Affixing a compliance label on equipment or cabling is a visible demonstration of compliance with applicable technical standards.

**Operation**

The Amendment Notice amends the Labelling Notice to correct ambiguity in the wording of sections 3.1(1) and 3.1(4) that may result in their incorrect interpretation. Such misinterpretation of the requirements of section 3.1 may result in the supply of unlabelled products to the market.

The policy intent of sections 3.1(1) and 3.1(4) is that if an applicable standard applies to a device and the device complies with this standard, the supplier must label the device with a compliance label. If however, the item must bear a compliance label and it is also appropriate for the item to be supplied with documentation that sets out specifications for its correct installation, after the label is applied, the item may only be supplied if it is accompanied by that documentation.

The Amendment Notice also gives regulatory effect to Parts 1, 2 and 3 of the ACMA 2010 Standard by incorporating them into Schedule 1 of the Labelling Notice.

Parts 1, 2 and 3 of the ACMA 2010 Standard respectively adopt the following Communications Alliance (CA) standards as mandatory standards under section 376 of the Act:

- AS/CA S003.1:2010 Requirements for Customer Access Equipment for connection to a Telecommunications Network – Part 1: General (Part 1 of the CA 2010 Standard);
- AS/CA S003.2:2010 Requirements for Customer Access Equipment for connection to a Telecommunications Network – Part 2: Analogue and TDM based technologies (Part 2 of the CA 2010 Standard); and

The Amendment Notice also makes a number of minor administrative changes that update outdated references.

**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.
Stakeholders have been consulted widely in the development of these changes to the Labelling Notice. Copies of a draft Amendment Notice relating to the amendments to section 3.1 were sent to peak industry bodies, members of the Customer Equipment and Cable Reference Panel (CECRP) and all known parties with an interest in telecommunications regulation. The draft Amendment Notice was made available to the public more generally via the ACMA website.

The consultation on the changes to section 3.1 commenced on 25 June 2010 and ran for a period of five weeks. Five submissions were received of which three supported the amendments, one sought clarification and one peak industry body noted that it would not submit a consolidated response on behalf of its members but would instead allow members to submit individual responses.

As a result of the request for clarification, additional information is provided below under the heading “Notes on Sections”.

Consultation on Part 1, 2 and 3 of the CA 2010 standard has been conducted by Communications Alliance in accordance with their established arrangements.

**Regulation impact**

The ACMA obtained advice from the Office of Best Practice Regulation that the Amendment Notice will have a minor and machinery impact. Therefore no further analysis in the form of a Regulation Impact Statement (RIS) is required. The RIS exemption number is ID 11761.

**Attachment**

Further details of the Amendment Notice are in the Attachment.
NOTES ON SECTIONS

Section 1 Name of Notice

Section 1 provides that the name of the Amendment Notice is the Telecommunications Labelling (Customer Equipment and Customer Cabling) Amendment Notice 2010 (No.2).

Section 2 Commencement

Section 2 provides that the Amendment Notice commences on the day after it is registered.

Section 3 Amendment of Telecommunications Labelling (Customer Equipment and Customer Cabling) Notice 2001

Section 3 provides that Schedule 1 of the Amendment Notice amends the Telecommunications Labelling (Customer Equipment and Customer Cabling) Notice 2001.

Schedule 1 – Amendments

Item [1] amends the wording of subsection 3.1(1) to clarify its policy intent. Subsection 3.1(1) is now divided into two parts. Subsection 3.1(1) refers to the instance where an applicable standard (other than ACA TS 102-1998) applies to a device and the device meets this standard and the documentation obligation as specified in subsection 3.1(1B) does not apply. In this instance the supplier must label the device with a compliance label before it can be supplied to the market.

Subsection 3.1(1A) refers to the instance where an applicable standard (other than ACA TS 102-1998) applies to a device and the device meets this standard and in addition, the documentation obligation as specified in Part 1B also applies. In this instance, suppliers must label the device and ensure that the appropriate operation and installation documentation is provided when supplied to the market.

Subsection 3.1(1B) provides that the “document obligation” applies if it is possible that the device can be used or installed in a way that is inconsistent with the standard that applies to it and causes a risk to the safety of the public.

Examples of documents that may be provided to satisfy this document obligation include manuals, guides or information pamphlets that explain the device’s correct installation or usage.

Item [2] amends the wording of subsection 3.1(4) to clarify its policy intent. Subsection 3.1(4) is now divided into two parts. Subsection 3.1(4) refers to the instance where the ACA TS 102-1998 standard applies to a device and the device complies with this standard and the documentation obligation as specified in subsection 3.1(1B) does not apply. In this instance the device must be labelled in accordance with the Austel Permit or Telecom Authorisation as defined in section 1.4 of the Labelling Notice.

Subsection 3.1(4A) refers to the instance where the ACA TS 102-1998 standard applies to a device and the device complies with this standard and the obligation to provide documentation as specified in Section 3.1(1B) applies. In this instance, the device must be labelled in accordance with the Austel Permit or Telecom Authorisation and supplied with the appropriate documentation referred to in subsection 3.1(1B).
**Item [3]** Section 3.1(5) is amended to provide that devices mentioned in Sections 3.1(4) and 3.1(4A) may bear a compliance mark in lieu of the Austel Permit and Telecom Authorisation label.

**Item [4]** amends Table 1.1 of Schedule 1, Part 1 of the Labelling Notice to now provide expiry dates for the existing AS/ACIF S003-2005 and AS/ACIF S003-2008 standards. As a result of being replaced by Parts 1, 2 and 3 of the ACMA 2010 Standard, these standards will now expire on 30/09/2011.

**Item [5]** amends Table 1.1 of Schedule 1, Part 1 of the Labelling Notice to now incorporate and subsequently give regulatory effect to Parts 1, 2 and 3 of the ACMA 2010 Standard. Note 3 only applies to Part 1 of the ACMA 2010 Standard. Note 2 does not apply to any parts of the ACMA 2010 standard.

**Item [6]** amends categories A3 and A4 of Table 1.2 of Schedule 1, Part 2 of the Labelling Notice, replacing outdated references of AS/ACIF S003 with AS/CA S003.

**Item [7]** amends categories A18 and A19 of Table 1.2 of Schedule 1, Part 2 of the Labelling Notice to clarify that these two categories relate specifically to customer equipment with analogue interfaces only. This amendment was made as a result of a submission from Communications Alliance.

**Item [8]** amends category A53 of Table 1.2 of Schedule 1, Part 2 of the Labelling Notice to remove Note 24 in relation to AS/NZS 60950. This amendment corrects a reference that incorrectly noted that compliance with AS/NZS 60950 was subject to the requirements mentioned in Division 4.5 of the Labelling Notice.

**Item [9]** amends category B29 of Table 1.3 of Schedule 1, Part 2 of the Labelling Notice by replacing the reference to AS/ACIF S003 with AS/CA S003.

**Item [10]** amends category B31 of Table 1.3 of Schedule 1, Part 2 of the Labelling Notice by replacing the reference to AC/ACIFS003 with AS/CA S003.

**Item [11]** amends the Notes to Tables 1.1 to 1.5 by updating Note 3 to include the new AS/CA S003.1 standard. Note 3 states that compliance with clause 5.8 of the versions of S003 listed in the note is only required for items designed to connect to the PSTN using digital channel associated signalling (CAS) for voice operation.