

EXPLANATORY STATEMENT

Telecommunications Labelling (Customer Equipment and Customer Cabling) Amendment Notice 2006 (No. 1)

Issued by the Authority of the Australian Communications and Media Authority

Legislative Provisions

On the 30th of March 2006 the Australian Communications and Media Authority (ACMA) made the *Telecommunications Labelling (Customer Equipment and Customer Cabling) Amendment Notice 2006 (No. 1)* (the Amendment Instrument) under section 407 of the *Telecommunications Act 1997* (the Act). The Amendment Instrument amends the *Telecommunications Labelling (Customer Equipment and Customer Cabling) Notice 2001* (the Labelling Notice).

The Australian Communications Authority (ACA) made the Labelling notice in 2001 under section 407 of the Act. That section of the Act provided for the then ACA to make a written instrument (the Labelling Notice) requiring any person who is a manufacturer or an importer (collectively referred to as “suppliers”) of customer equipment (CE) or customer cabling (CC) to apply a label to specified items of CE and/or CC. The labels must indicate whether the item meets the requirements of the standards made under section 376 of the Act specified in the Labelling Notice.

In accordance with the *Australian Communications and Media Authority Act 2005*, from 1 July 2005 ACMA exercises powers and functions under the Act previously exercised by the ACA.

Background

Part 21 of the Act establishes the scheme for technical regulation of telecommunications in Australia. The fundamental policy approach reflected in the scheme is to rely on industry self-regulation with the regulatory body empowered to intervene only where it is considered necessary for limited purposes relating to the maintenance of certain safeguards.

The telecommunications regulatory arrangement for CE and CC require each supplier to apply a compliance label to specified products prior to supply to the market. Compliance is determined against technical standards made under section 376 of the Act and if a product complies compliance labels are applied to particular items of CE and CC as required by the Labelling Notice.

Section 376(2) provides that technical standards made under section 376 are to consist only of such requirements as are necessary or convenient for:

- protecting the integrity of a telecommunications network or facility;
- protecting the health and safety of persons who are likely to be affected by the operation of the network or facility to which the equipment or cabling is connected;
- ensuring equipment can be used to give access to an emergency call service;

- ensuring interoperability of equipment with a network facility used to provided the standard telephone service; or
- achieving an objective specified in the regulations (no regulations have been made to date).

The applicable section 376 technical standards for each item of CE or CC, the level of testing required for each standard in order to demonstrate compliance (the compliance level) and, the labelling requirements including placement, type and form of the label, amongst other things, are also specified in the Labelling Notice.

The Labelling Notice also allows for the parallel operation of ‘old’ and ‘replacement’ standards, in the event that an existing (old) standard is amended or replaced. This parallel operation, known to industry participants as the overlap period, allows suppliers of CE and CC to continue to use the ‘old’ standards for the duration of the overlap period assisting industry in the transition from one standard to the next. The overlap period is only implemented where the changes do not substantively affect integrity of the network or safety of users.

The Labelling Notice and the specified section 376 technical standards are important components of the telecommunications regulatory requirements that aim to ensure the integrity, safety and continued availability of telecommunications networks within Australia.

Purpose and Operation

The main purpose of the Amendment Instrument is to incorporate recently made section 376 standards into the Labelling Notice.

These standards were developed or reviewed by the Australian Communications Industry Forum (ACIF) and recommended to ACMA for adoption as mandatory standards under section 376 of the Act. ACMA works in close cooperation with ACIF and other industry partners to ensure the standards are relevant to the matters listed in subsection 376(2) of the Act and referred to in dot points above.

The incorporation of new standards into the Labelling Notice is part of the ongoing process of keeping the telecommunications regulatory arrangement contemporary and adaptable.

Impact and Effect

This Amendment Instrument will:

- i) incorporate four technical standards made under section 376 of the Act into the Labelling Notice;
- ii) provide a new alternative method (alternative compliance path) for suppliers to demonstrate compliance with their labelling obligations for Global System for Mobile Communications Customer Equipment (GSM CE); and
- iii) implement several minor and technical amendments.

These points are discussed in more detail below.

- i) **The Amendment Instrument will incorporate the following standards made by ACMA under section 376 of the Act:**
- *Telecommunications Technical Standard (Safety of Information Technology Equipment — AS/NZS 60950:2000 (Incorporating Amendment No 1)) 2005 (AS/NZ 60950-2000(Incorporating Amendment No 1));*
 - *Telecommunications Technical Standard (Information Technology Equipment - Safety, Part 1: General requirements - AS/NZS 60950.1:2003) 2005 (AS/NZS 60950.1-2003);*
 - *Telecommunications Technical Standard (Analogue interworking and non-interference requirements for Customer Equipment for connection to the Public Switched Telephone Network — AS/ACIF S002:2005) 2005 (AS/ACIF S002-2005); and*
 - *Telecommunications Technical Standard (Requirements for DSL Customer Equipment for connection to the Public Switched Telephone Network — AS/ACIF S041:2005) 2005 (AS/ACIF S002-2005).*

ii) **New alternative compliance path for GSM CE**

The new alternative compliance path for GSM CE allows suppliers to make use of test reports from accredited test houses to current international standards to assist in demonstrating compliance with the current Australian standard specified in the Labelling Notice. Those test reports are more easily sourced than those in the existing alternative or conventional compliance paths. It follows that the new provision will provide for greater flexibility for suppliers in meeting their regulatory obligations.

ACMA has made a section 376 standard adopting a new Australian standard for GSM CE that aligns with the current international standards. However, that standard is not being incorporated into the Labelling Notice by the Amendment Instrument.

ACMA intends to simultaneously incorporate the new section 376 standard into the Labelling Notice with a proposed companion section 376 standard for mobile CE (the mobile CE general standard). The mobile CE general standard addresses generic issues such as 000 dialling requirements. It is anticipated that the new Australian standard for GSM CE and the proposed mobile CE general standard will be incorporated within the Labelling Notice later in 2006.

The new alternative compliance path will continue to provide flexibility following the incorporation of the new and the proposed standard.

iii) **Minor and technical amendments**

The administrative amendments:

- are consequential to the *Australian Communications and Media Authority Act 2005*, the *Legislative Instruments Act 2003* and the *Corporations Act 2001*; and
- correct previous minor drafting errors.

Consultation

ACIF undertook public consultation processes and consulted with industry and consumer groups on the incorporation of the technical standards in the Labelling Notice and on the alternative method for demonstrating compliance by suppliers of GSM CE.

ACMA did not undertake consultation in relation to the minor technical amendments referred to above. Those amendments are of a minor and machinery nature and do not affect the rights and obligations of industry participants or consumers.

Description of the provisions of the Amendment Instrument

Section 1 provides that the name of the Amendment Notice is the *Telecommunications Labelling (Customer Equipment and Customer Cabling) Amendment Notice 2006 (No. 1)*.

Section 2 provides that the Amendment Notice commences on the day after it is registered under the *Legislative Instruments Act 2003*.

Section 3 provides that Schedule 1 amends the Labelling Notice.

Schedule 1—Amendments

Item [1] provides for definitions of terms used in the Labelling Notice to be contained within the new subsection (1) of the definitions section.

Item [2] amends the definition of “accreditation body” to replace a reference to the former ACA with a reference to ACMA and to remove a redundant note.

Item [3] inserts a new subsection 1.4(2) that provides that a reference to an action taken by ACMA includes a reference to an action taken by the former ACA. This will allow actions taken by the ACA (such as accreditation of testing bodies) to continue to have effect.

Items [4], [5] and [6] update references in the Labelling notice to corporations legislation to take account of the enactment of the *Corporation Act 2001*.

Items [7] and [8] update the compliance paths in the Labelling Notice for suppliers to take account of the incorporation into the Labelling notice of AS/NZS 60950.1-2003 and AS/NZS 60950-2000 (Incorporating Amendment No 1).

Part 1 of Schedule 1 of the Labelling Notice contains a table listing the section 376 standards incorporated into the Labelling Notice.

Item [9] inserts a note into Part 1 of Schedule 1 to outline the commencement of amendments to section 376 standard in accordance with the *Legislative Instruments Act 2003*.

Item [10] inserts AS/ACIFS041-2005 into Part 1 of Schedule 1.

Item [11] inserts AS/ACIF S002-2005 into Part 1 of Part 1 of Schedule 1 and places notes to indicate that it is the replacement standard for AS/ACIF S002-2001, AS/ACIF S002-2001 (Amdt 1) and AS/ACIF S002-2001 (Amdt 2).

Item [12] inserts AS/NZS 60950-2000 (incorporating Amendment No.1) and AS/NZS 60950.1-2003 into Part 1 of Schedule 1 and places a note beside AS/NZS 60950-2000 to indicate that it has been replaced by AS/NZS 60950-2000 (incorporating Amendment No.1) and AS/NZS 60950.1-2003.

Part 2 of Schedule 2 contains tables that set out all relevant categories of CE and CC and the section 376 standards that apply to the items in each of those categories. The table also contains compliance levels for particular items and expiry or amendment dates of relevant section 376 standards. Compliance levels determine the type of documents suppliers must keep to demonstrate compliance with the Labelling Notice.

Item [13] inserts the new standards AS/NZS 60950-2000 (incorporating Amendment No.1), AS/NZS 60950.1-2003 and AS/ACIF S002-2005 into categories A1 and A2. This item also provides expiry dates for AS/NZS 60950-2000, AS/ACIF S002-2001, AS/ACIF S002-2001 (Amdt 1) and AS/ACIF S002-2001 (Amdt 2).

Items [14] to [46] insert references to the new standards into the relevant categories in the tables in Part 2 of Schedule 2. The provisions also insert relevant compliance levels for suppliers of items in the relevant categories and, where appropriate, expiry dates for section 376 standards that are replaced by the new section 376 standards. In some cases, references to notes are inserted to highlight matters relevant to compliance with particular standards by suppliers of certain categories of items.

Item [37] also amends a previous drafting error.

Items [47] to [50] and item [55] replace references to the ACA or the Australian Communications Authority with references to ACMA or the Australian Communications and Media Authority.)

Items [51], [52] and [54] correct previous drafting errors.

Item [53] inserts the new compliance path for GSM CE referred to in background material above.)