**EXPLANATORY STATEMENT**

Issued by the authority of the Australian Communications and Media Authority

***Telecommunications Act 1997***

**Telecommunications Technical Standard (Requirements for connection to an air interface of a Telecommunications Network - Part 4: IMT-2000 Customer Equipment - AS/CA S042.4:2010) 2011**

**Purpose**

The *Telecommunications Technical Standard* *(Requirements for Connection to an Air Interface of a Telecommunications Network - Part 4: IMT-2000 Customer Equipment - AS/CA S042.4:2010) 2011* (**the ACMA 2011 Standard**) sets out the requirements that must be met in relation to specified customer equipment (**CE**) for the purposes of the Australian telecommunications compliance and labelling regime.

The ACMA 2011 Standard adopts the mandatory technical requirements for CE prescribed in a new industry telecommunications technical standard developed by Communications Alliance Ltd (**CA**), being AS/CA S042.4:2010 *Requirements for connection to an air interface of a Telecommunications Network - Part 4: IMT-2000 Customer Equipment* (**the** **CA Standard**).

**Legislative Provisions**

The ACMA 2011 Standard is made under subsection 376(1) of the *Telecommunications Act 1997* (**the Act**). Subsection 376(1) allows the Australian Communications and Media Authority (**the ACMA**) to make a technical standard in the form of a written instrument relating to specified CE or specified customer cabling (**CC**).

Subsection 376(2) of the Act provides that a technical standard made under section 376 can only consist of such requirements as are necessary or convenient for:

* protecting the integrity of a telecommunications network or a facility;
* protecting the health or safety of persons who operate, work on, use services or are otherwise likely to be affected by the operation of, the telecommunications 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 telecommunications network facility used to supply a standard telephone service; or
* achieving an objective specified in the regulations (no regulations have been made to date).

The Act provides at section 377 that in making a technical standard, the ACMA may apply, adopt or incorporate (with or without modification) any matter contained in a standard proposed or approved by Standards Australia International Limited or any other body or association, such as CA. The ACMA’s practice is to review, and where appropriate to adopt, the mandatory requirements of industry telecommunications technical standards developed by CA.

**Background**

The telecommunications regulatory arrangements require each supplier of an item of CE or CC that falls within the scope of an applicable standard to apply a compliance label to the item prior to supply to the market and to keep prescribed records. Compliance is determined against technical standards made under section 376 of the Act.

The *Telecommunications Labelling (Customer Equipment and Customer Cabling) Notice 2001* (**the TLN**) made under section 407 of the Act, lists those standards and applies labelling and record keeping requirements in relation to items of CE and CC covered by a listed standard. The TLN makes it mandatory for a supplier of certain CE to comply with applicable standards before affixing a label to their product.

The ACMA routinely makes standards under section 376 of the Act adopting mandatory technical requirements contained in industry standards made by CA. The CA Standard adopted in the ACMA 2011 Standard arose out of a review of the compliance arrangements for CE to which IMT-2000 applies in Australia by the CA Customer Equipment and Cable Reference Panel (**CECRP**).

This review identified the need for the development of a technical standard for CE to which IMT-2000 applies in Australia to replace the existing arrangements which required suppliers to obtain written permission from the manager of a carrier network or facility to connect CE to that network or facility. The CA Standard is based on relevant international standards.

**Operation**

The ACMA 2011 Standard adopts the mandatory requirements of the CA Standard prescribing the technical requirements for CE for connection to an IMT-2000 (commonly known as “3G”) public mobile telecommunications service (**PMTS**).

Once referenced in the TLN, and following a phase-in period of 12 months provided for in the TLN (**the phase-in period**), the ACMA 2011 Standard will become the standard to be met in order to apply a compliance label to items of CE to which IMT-2000 applies (**the relevant CE**).

During the phase-in period the TLN requires that the relevant CE comply with either the ACMA 2011 Standard or the requirements set out at section 4.9A of the TLN. After the phase-in period ends, the requirements set out at section 4.9A of the TLN will cease to apply, and a supplier will be required to declare compliance with the ACMA 2011 Standard before affixing a compliance label to the relevant CE.

**Consultation**

Subsection 378(1) of the Act requires the ACMA to ensure, so far as practicable, that interested persons have an adequate opportunity to make representations on a proposed technical standard and that due consideration be given to any representation before the ACMA makes the standard.

Subsection 378(2) of the Act permits the ACMA to make an arrangement with an approved body or association for that body or association to prepare, publish and undertake public consultation on a draft standard and to report to the ACMA on the results of that consultation process. CA has accreditation as a Standards Development Organisation from the Accreditation Board for Standards Development Organisations established by Standards Australia Limited (formerly Standards Australia International Limited). The ACMA has a Memorandum of Understanding with CA under which CA is responsible for the development and revision of industry telecommunications technical standards.

The CA Standard adopted by the ACMA 2011 Standard was developed by the CA Mobile CE-General and IMT-2000 Working Committee (**CA WC19**), a committee comprising representatives from the ACMA, relevant sections of industry, and interested parties. In developing the industry standard, CA consulted with both industry and the community.

A draft of the CA Standard was issued for public comment for 63 days from 4 May 2010 to 6 July 2010, in compliance with the requirements for consultation under section 378 of the Act. Copies of the draft of the CA Standard were issued to CA members, CECRP members and CA WC19 members.

A draft of the CA Standard was publicised through the CA newsletter *We Communicate*, and Standards Australia publications, and a notice was placed in *The Australian* newspaper. An electronic copy of the draft of the CA Standard was made available for free download on the CA website during the above period. Draft copies were also made available to interested parties who contacted CA directly.

During the consultation period, two public submissions were received and considered by CA. Both submissions were in support of the draft CA Standard, but raised some minor suggested amendments. The ACMA is satisfied that CA satisfactorily addressed these suggestions prior to publishing the CA Standard.

The ACMA considers that appropriate consultation was conducted by CA in relation to the CA Standard adopted by the ACMA 2011 Standard. Therefore, the ACMA is satisfied, pursuant to paragraph 18(2)(e) of the *Legislative Instruments Act 2003*, that consultation in relation to the ACMA 2011 Standard is unnecessary.

**Regulation Impact**

The Office of Best Practice Regulation has considered the matter and formed an opinion that the ACMA 2011 Standard will have minor and machinery impact and does not impose any substantial additional regulatory burden on manufacturers or importers of CE, or the economy. The OBPR RIS exemption number is ID 12079.

**Documents Incorporated in this Instrument by Reference**

The CA Standard, AS/CA S042.4:2010 *Requirements for connection to an air interface of a Telecommunications Network - Part 4: IMT-2000 Customer Equipment* is incorporated by reference in this ACMA 2011 Standard. The CA Standard can be downloaded free of charge from the CA website at:

<http://www.commsalliance.com.au/Documents/Technical-CE>

**Detailed Description of the Instrument**

Details of the ACMA 2011 Standard are in **Attachment A**.

**ATTACHMENT A**

**Notes on Sections**

### Section 1 Name of Technical Standard

This section provides that the name of the Standard is the *Telecommunications Technical Standard* *(Requirements for Connection to an Air Interface of a Telecommunications Network - Part 4: IMT-2000 Customer Equipment - AS/CA S042.4:2010) 2011.*

This section also notes that the ACMA 2011 Standard may also be cited as AS/CA S042.4-2011.The alternative citation is the name by which the ACMA 2011 Standard is usually cited by the ACMA.

### Section 2 Commencement

This section provides for the ACMA 2011 Standard to commence on the day after it is registered on the Federal Register of Legislative Instruments.

### Section 3 Definitions

This section provides definitions for terms used in the ACMA 2011 Standard. It includes definitions for *addressable device, E-UTRA FDD, IMT-2000,* *mandatory requirement, OFDMA TDD WMAN, satellite service* and *UTRA FDD* which are not defined in the Act.

### Section 4 Objects of Technical Standard

This section sets out the objects of the ACMA 2011 Standard. These objects are consistent with matters that may be incorporated into a standard as provided by paragraphs 376(2) (a) to (d) of the Act.

### Section 5 Application of Technical Standard

This section identifies the scope of application of the ACMA 2011 Standard. It applies to IMT-2000 customer equipment that is:

(a) designed, or intended, for use in connection with an IMT-2000 PMTS; and

(b) an addressable device; and

(c) based upon any of the following IMT-2000 technologies:

 (i) UTRA FDD;

 (ii) E-UTRA FDD; or

 (iii) OFDMA TDD WMAN.

**Section 6 Requirements**

This section provides that CE referred to in section 5 of the ACMA 2011 Standard must comply with the mandatory requirements of the CA Standard as published by Communications Alliance in October 2010.

The CA Standard, as adopted by the ACMA 2011 Standard, does not include any amendments made after the commencement of the ACMA 2011 Standard. If amendments are made, the terms of the ACMA 2011 Standard will differ from those of the CA Standard unless the amendments are adopted by the ACMA.