

EXPLANATORY STATEMENT

Issued by the Australian Communications and Media Authority

Telecommunications Act 1997

Telecommunications Technical Standard (Requirements for Customer Access Equipment for connection to Telecommunications Network – Part 1: General – AS/CA S003.1:2010) Amendment 2012 (No. 1)

Purpose

The *Telecommunications Technical Standard (Requirements for Customer Access Equipment for connection to Telecommunications Network – Part 1: General – AS/CA S003.1:2010) Amendment 2012 (No. 1)* (**the ACMA Amendment**) amends section 5 of the *Telecommunications Technical Standard (Requirements for Customer Access Equipment for connection to Telecommunications Network – Part 1: General – AS/CA S003.1:2010) 2010* (**the ACMA Standard**). The ACMA Standard adopts the mandatory requirements in the industry standard made by Communications Alliance Ltd (**CA**), *AS/CA S003.1:2010 Requirements for Customer Access Equipment for connection to a Telecommunications Network – Part 1: General* (**the CA Standard**). The CA Standard was amended by *Amendment No. 1/2012 to AS/CA S003.1:2010 Requirements for Customer Access Equipment for connection to a Telecommunications Network – Part 1: General* (**the CA Amendment**) which was published by CA in June 2012. The purpose of the ACMA Amendment is to amend the ACMA Standard so that it adopts the CA Standard as amended by the CA Amendment.

Legislative Provisions

The ACMA Standard and the ACMA Amendment are 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, by written instrument, relating to specified Customer Equipment (**CE**) or specified Customer Cabling (**CC**).

Standards are to consist only of such requirements as are necessary or convenient for the matters set out in subsection 376(2) of the Act. The requirements contained in the ACMA Standard are necessary and convenient to meet the objectives set out in paragraphs 376(2)(a) to (d) of the Act. The requirements imposed by the ACMA Amendment are also necessary and convenient to meet those same objectives.

Subsection 377(1) of the Act allows the ACMA to apply, adopt or incorporate (with or without modification) any matter contained in a standard proposed or approved by Standards Australia or any other body or association. The ACMA Standard adopts the mandatory requirements of the CA Standard. The ACMA Amendment ensures that the ACMA Standard adopts the mandatory requirements of the CA Standard as amended by the CA Amendment.

The ACMA Amendment is a legislative instrument for the purposes of the *Legislative Instruments Act 2003* (**the LI Act**).

Background

The telecommunications regulatory arrangements in place under Division 7 of Part 21 of the Act require each supplier of an item of CE or CC that falls within the scope of an applicable standard (that is, a standard made under section 376 of the Act) to apply a compliance label to the item prior to its 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 imposes labelling and record keeping requirements in relation to items of CE and CC covered by a listed standard. The ACMA Standard is one of the standards listed in the TLN.

The ACMA Standard adopts the CA Standard. Prior to its amendment by CA in June 2012, the CA Standard referenced AS/NZS 60950.1:2003. AS/NZS 60950.1:2003 has been replaced by AS/NZS 60950.1:2011. The CA Standard has been updated to reference AS/NZS 60950.1:2011. It is therefore necessary to update the ACMA Standard to adopt the CA Amendment.

Operation

The ACMA Standard adopts the mandatory requirements of the CA Standard. The CA Standard specifies the technical requirements for CE that is designed with multiple ports that provide or are intended to provide access to a Telecommunications Network; and is capable of switching, storage, processing, conversion, integration, line isolation/coupling or multiplexing of analogue or digital voice or voice equivalent communication. The ACMA Standard defines such CE as “customer access equipment” (**CAE**) (at section 3). Section 5 of the ACMA Standard requires that CAE comply with the mandatory requirements in the CA Standard as published by CA in September 2010.

The ACMA Amendment replaces section 5 of the ACMA Standard with a new section 5 which requires that CAE comply with the mandatory requirements contained in the CA Standard as amended by the CA Amendment. The effect of this change is that, where the ACMA Standard had originally incorporated mandatory requirements relating to AS/NZS 60950.1:2003, those mandatory requirements now relate to AS/NZS 60950.1:2011.

Consultation

Subsection 378(1) of the Act requires that before the ACMA makes a standard under section 376, the ACMA must, so far as is practicable, try to ensure that interested parties have had an adequate opportunity to comment on the proposed standard and that due consideration has been given to any comments made. Interested persons must be given a period of at least 60 days during which to make comments (subsection 378(5)),

Subsection 378(2) allows the ACMA to make an arrangement with, among others, a body or association approved in writing by Standards Australia for the purposes of that subsection, under which the body or association prepares, publishes, consults publicly and reports to the ACMA on the results of the public consultation process. CA is a body approved in writing by Standards Australia for the purposes of subsection 378(2).

On 15 June 2012 CA published the CA Amendment. CA submitted the CA Amendment to the ACMA for incorporation in the ACMA Standard, along with the results of its consultation process in relation to the CA Amendment.

The ACMA considers that, in accordance with subsection 378(1) of the Act, prior to submitting the amended industry standard for regulatory adoption, CA gave interested persons adequate opportunity to make representations about the 2012 industry amendment.

CA conducted a public consultation process in relation to the 2012 industry amendment. The consultation period commenced on 3 April 2012. The 2012 industry amendment was open for public comment for 65 days. CA extended invitations to relevant sections of the industry and the public to make submissions on the 2012 industry amendment. A copy of the 2012 industry amendment was made available for public comment on the CA website during the consultation period. The 2012 industry amendment was made available in both hard and electronic format.

During the consultation period, five submissions were received and considered by CA. All comments received supported the proposed amendment to S003.1.

The representations received by CA indicated industry support for the 2012 industry amendment. The ACMA also considers that, because of the consultation process undertaken by CA with respect to the 2012 industry amendment, the ACMA Amendment is an instrument in relation to which appropriate consultation has already been undertaken by someone other than the rule-maker and therefore, as provided in paragraph 18(2)(e) of the LI Act, it is not necessary for the ACMA to undertake further consultation on the ACMA Amendment.

Regulation Impact

The Office of Best Practice Regulation (**OBPR**) has considered the matter and formed the opinion that the ACMA Amendment will have minor and machinery impact and does not impose any substantial additional regulatory burden on manufacturers or importers of CE or on the economy. Accordingly, OBPR advised that a regulatory impact statement is not required. The OBPR exemption number is ID 14074.

Documents Incorporated in this Instrument by Reference

The effect of the ACMA Amendment will be to require that CAE comply with the mandatory requirements in the CA Standard as amended by the CA Amendment. The CA Standard and the CA Amendment can be downloaded free of charge from the CA website at: http://www.commsalliance.com.au/Documents/all/Standards/s003_1

Notes on Sections

The provisions of the ACMA Amendment are described in Attachment 1.

Statement of Compatibility with Human Rights

A statement of Compatibility with Human Rights for the purposes of Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* is set out in Attachment 2.

Attachment 1

Notes on the instrument

Section 1 Name of Amendment

Section 1 provides that the name of the instrument is the *Telecommunications Technical Standard (Requirements for Customer Access Equipment for connection to Telecommunications Network – Part 1: General – AS/CA S003.1:2010) Amendment 2012 (No.1)*.

Section 2 Commencement

Section 2 provides that the instrument commences on the day after it is registered on the Federal Register of Legislative Instruments.

Section 3 Amendment of *Telecommunications Technical Standard (Requirements for Customer Access Equipment for connection to Telecommunications Network – Part 1: General – AS/CA S003.1:2010)* 2010

Section 3 provides that the ACMA Standard is amended as set out in Schedule 1.

Schedule 1

Item [1] of Schedule 1 substitutes section 5 of the ACMA Standard. New section 5 requires that CAE comply with the mandatory requirements set out in the CA Standard as amended by the CA Amendment. The new note to section 5 explains that the CA Amendment replaced the reference to AS/NZS 60950.1:2003 in section 3 of the CA Standard with a reference to the 2011 edition of the AS/NZS Standard (namely, AS/NZS 60950.1:2011 *Information technology equipment – Safety – General requirements*).

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Telecommunications Technical Standard (Requirements for Customer Access Equipment for connection to Telecommunications Network – Part 1: General – AS/CA S003.1:2010) Amendment 2012 (No.1)

This legislative instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The legislative instrument amends the *Telecommunications Technical Standard (Requirements for Customer Access Equipment for connection to Telecommunications Network – Part 1: General – AS/CA S003.1:2010) 2010 (the ACMA Standard)* made under subsection 376(1) of the *Telecommunications Act 1997*. The ACMA Standard adopted the mandatory requirements contained in an Australian Standard developed by Communications Alliance Ltd (**CA**), namely *AS/CA S003.1:2010 Requirements for Customer Access Equipment for connection to a Telecommunications Network – Part1: General*. That Australian Standard was amended by CA on 15 June 2012. The legislative instrument will amend the ACMA Standard so that the latter adopts the Australian Standard as recently amended by CA.

Human rights implications

This legislative instrument does not engage any of the applicable rights or freedoms.

Conclusion

This legislative instrument is compatible with human rights as it does not raise any human rights issues.