



Telecommunications Labelling (Customer Equipment and Customer Cabling) Amendment Notice 2013 (No. 1)

Telecommunications Act 1997

The AUSTRALIAN COMMUNICATIONS AND MEDIA AUTHORITY makes this Notice under section 407 of the *Telecommunications Act 1997*.

Dated 18th January 2013

Chris Chapman
[signed]
Member

Richard Bean
[signed]
General Manager / Member

Australian Communications and Media Authority

1 Name of Notice

This Notice is the *Telecommunications Labelling (Customer Equipment and Customer Cabling) Amendment Notice 2013 (No. 1)*.

2 Commencement

This Notice commences on 1 March 2013.

Note All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.frli.gov.au>.

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

Schedule 1 amends the *Telecommunications Labelling (Customer Equipment and Customer Cabling) Notice 2001*.

Schedule 1 Amendments

(section 3)

[1] Subsection 1.4 (1)

insert

A-Tick mark means the mark set out in Part 2 of Schedule 3.

[2] Subsection 1.4 (1), paragraph (b) of definition of *applicable standard*

omit

only

[3] Subsection 1.4 (1), definition of *compliance mark*

substitute

compliance mark means the A-Tick mark or the RCM.

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- [4] **Subsection 1.4 (1), definition of *label***
omit
- [5] **Subsection 1.4 (1)**
insert
national database means a database designated in writing by the ACMA for the purposes of Division 4.1A.
Note A database may be designated by the ACMA for the purposes of Division 4.1A even if it forms part of another database or also serves purposes other than purposes provided for in this Notice.
- [6] **Subsection 1.4 (1), definition of *non-compliance label***
omit
- [7] **Subsection 1.4 (1), definition of *product identification code***
omit
- [8] **Subsection 1.4 (1)**
insert
RCM means the Regulatory Compliance Mark set out in Part 1 of Schedule 3.
- [9] **Subsection 1.4 (1), definition of *supplier code number***
substitute
supplier code number means a code number issued to a person:
(a) in accordance with a notice made by the ACMA under section 407 of the Act; or
(b) in accordance with a notice made by the ACMA under section 182 of the *Radiocommunications Act 1992*; or
(c) by Standards Australia International Limited under AS/NZS 4417.
- [10] **Subsection 1.5 (7)**
substitute
(7) If a compliance label is not applied to the item because of subsection 3.6 (3) or (4), the compliance records include the records mentioned in subsection 3.6 (6).

[11] Paragraph 2A.2 (a)

substitute

- (a) has complied with the requirements set out in section 2A.3; and

[12] Section 2A.3

substitute

2A.3 Supply of exempt items without a compliance label

- (1) A supplier must, before supplying an exempt item without a compliance label, give the ACMA a written notice that it will be a supplier of exempt items that do not bear a compliance label and:
- (a) be registered on the national database in accordance with section 4.2A; or
- (b) if the ACMA has not designated in writing a national database for the purposes of Division 4.1A— have obtained a supplier code number from the ACMA.
- (2) A supplier is only required to give the ACMA one written notice under subsection (1) even if the supplier supplies more than one type of exempt item without a compliance label.
- (3) The written notice of intention must be in a form approved by the ACMA.

Note The ACMA makes approved forms available on its website.

Transitional arrangements

- (4) A supplier who, before the commencement day, gave the ACMA a written notice in relation to an exempt item under the former notice provision is taken to have complied with the requirement in subsection (1) to give the ACMA a written notice.
- (5) In this section:

commencement day means the day the *Telecommunications Labelling (Customer Equipment and Customer Cabling) Amendment Notice 2013 (No. 1)* commences.

former notice provision means paragraph 2A.3 (1) (a) of the *Telecommunications Labelling (Customer Equipment and Customer Cabling) Notice 2001* as in force immediately before the commencement day.

[13] Subsection 2A.4 (1)

omit

A supplier who intends to supply exempt items that do not bear a compliance label must:

insert

A supplier must, before supplying an exempt item without a compliance label:

[14] After subsection 2A.4 (5)

insert

Transitional arrangements

- (6) A supplier who, before the commencement day, established a publicly available register and told the ACMA the internet address for that register in accordance with the former exempt items register provision is taken to have complied with the requirement in subsection (1).
- (7) In this section:

commencement day means the day the *Telecommunications Labelling (Customer Equipment and Customer Cabling) Amendment Notice 2013 (No. 1)* commences.

former exempt items register provision means section 2A.4 of the *Telecommunications Labelling (Customer Equipment and Customer Cabling) Notice 2001* as in force immediately before the commencement day.

[15] Part 3, Simplified outline of Part 3, first dot point

substitute

- Compliance labels must have certain characteristics (durability, size and position on the item).

[16] Part 3, Simplified outline of Part 3, third dot point

substitute

If an item is non-compliant, statements about non-compliance must be printed on the external surface of the packaging and also be incorporated into the documentation supplied.

[17] Subsection 3.1 (2)

substitute

- (2) A compliance label consists of:
- (a) the RCM; or
 - (b) if the label is applied before 1 March 2016 – either of the compliance marks.

[18] Subsection 3.1 (3)

omit

[19] Subsection 3.1 (4)

omit “compliance” before “label” and renumber as subsection (3).

[20] Subsection 3.1 (4A)

omit “compliance” before “label” and renumber as subsection (4).

[21] Subsection 3.1 (5)

substitute

- (5) An item to which subsections (3) or (4) applies may also bear a compliance mark.

[22] Section 3.2

substitute

3.2 Statements of non-compliance

- (1) Subject to Part 2A, if an item does not meet the requirements of each applicable standard, or has not been tested against each applicable standard, the item must be accompanied by the statements set out in Parts 1 and 2 of Schedule 9.
- (2) The statement set out in Part 1 of Schedule 9 must be printed on the external surface of the packaging used for the item in capital letters at least 5 mm high.
- (3) The statement set out in Part 2 of Schedule 9 must be:
- (a) printed on the external surface of the packaging used for the item in letters of at least 12 point; and
- (b) incorporated into the documentation supplied with the item.

Note If an item described in subsection 3.2 (1) is also an item to which a notice made by the ACMA under section 182 of the *Radiocommunications Act 1992* applies and the item meets the requirements of that notice and that notice requires the RCM be applied to the item, the RCM must be applied to the item in accordance with that notice.

[23] Sections 3.3 and 3.4

insert “compliance” before “label” and “labels” (wherever occurring).

[24] Sections 3.5 and 3.6

substitute

3.5 Size of compliance mark

A compliance mark must be at least 3 mm high.

Note This Notice does not prevent a supplier from applying its own additional supplier identification details onto an item.

3.6 Placement of compliance labels on items

- (1) Subject to subsections (3) and (4) and section 3.6A, a compliance label must be placed on an item on a place that is accessible by the user.

Note Subsections (3) and (4) deal with situations where applying a compliance label to the surface of an item is not possible or practical. Section 3.6A gives a supplier the option of labelling some types of item electronically.

- (2) A compliance label is not accessible if it is necessary to use a specialised tool to gain access to it.
- (3) For customer equipment, if it is not possible to apply a compliance label to the surface of the equipment because of the size or physical nature of the equipment, or it is not practical to apply a compliance label to the surface of the equipment, the label must be applied to:
- (a) the external surface of the packaging used for the equipment; and
 - (b) the documentation (including any warranty or guarantee certificates) that accompanies the equipment when it is supplied to the user.
- (4) For customer cabling, if it is not possible to apply the compliance label to a surface of the cabling because of the size or physical nature of the cabling, or it is not practical to apply a label to the surface of the cabling, the label must be applied to the external surface of the packaging used for the cabling.
- (5) A compliance label applied to the external surface of the packaging used for an item must:
- (a) occupy an area that is greater than 1% of that external surface; and
 - (b) be clearly visible.
- (6) The supplier of an item to which subsection (3) or (4) applies must make and keep a record of:
- (a) the reasons why subsection (3) or (4) applies to the item; and
 - (b) where each compliance label is applied.

[25] Subsection 3.6A (1)

insert “compliance” *before* “label”.

[26] Subsection 3.6A (4)

substitute

- (4) Section 3.4 and subsections 3.6 (1), (3) and (5) do not apply to a compliance label applied under this section.

[27] Division 4.1, Part 4, Simplified outline of Part 4, first dot point

substitute

- Before applying a compliance label to an item, a supplier must:
 - be registered on the national database; or
 - if a national database has not been designated by the ACMA – have been issued a supplier code number.

[28] Section 4.2

substitute

Division 4.1A Registration on national database and issue of supplier code numbers**4.2 Use of RCM subject to registration on national database or issue of supplier code number**

A supplier must, before a compliance label consisting of the RCM is applied to an item, either:

- (a) be registered on the national database; or
- (b) if the ACMA has not designated in writing a national database for the purposes of this Division – have been issued a supplier code number.

4.2A Registration on national database

- (1) To be registered on the national database a supplier must, using a method which the database indicates is a method for including information on the database, provide:
 - (a) information identifying the supplier;
 - (b) the supplier's address in Australia; and
 - (c) the name and contact details of a representative of the supplier.
- (2) For paragraph (1) (a), information identifying a supplier consists of the supplier's ABN and 1 of the following pieces of information in relation to the supplier:
 - (a) if the supplier is a body corporate, the name of the body corporate;
 - (b) if the supplier is an individual, the name of the individual;

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- (c) a business name used by the supplier in connection with its business as a supplier and registered as a business name under the *Business Names Registration Act 2011*.
- (3) If the information provided by a supplier for inclusion in the national database subsequently changes, the supplier must, within 30 days after the change occurs, update the national database with the changed information using a method which the database indicates is a method for updating information on the database.
- (4) In this section:

ABN has the same meaning as in the *A New Tax System (Australian Business Number) Act 1999*.

representative of the supplier means:

- (a) an employee of the supplier;
- (b) an officer of the supplier; or
- (c) a person authorised in writing for the purposes of this section by the supplier or an employee or officer of the supplier.

officer of the supplier means:

- (a) if the supplier is a corporation for the purposes of the *Corporations Act 2001*, an officer of a corporation as that term is defined in section 9 of the *Corporations Act 2001*; or
- (b) if the supplier is an entity that is neither an individual nor a corporation for the purposes of the *Corporations Act 2001*, an officer of that entity as defined in section 9 of the *Corporations Act 2001*.

Note 1 The requirement for a supplier to update the information provided by it for inclusion in the national database imposed under subsection 4.2A (3) is an ongoing requirement. Under section 187A of the Act, a supplier that fails to comply with a specific requirement that must be met after a label has been applied to an item may be subject to a pecuniary penalty.

Note 2 Information provided by a supplier for inclusion on the national database for the purposes of this Notice will be made publicly available.

4.2B Use of A-Tick mark

Before a supplier applies a compliance label consisting of the A-Tick mark to an item, the supplier must have been issued a supplier code number by the ACMA.

4.2C Issue of a supplier code number

- (1) This section applies unless the ACMA has designated in writing a national database for the purposes of Part 4.
- (2) A supplier may apply in writing to the ACMA for a supplier code number.

- (3) The application must be in a form approved by the ACMA.

Note The ACMA makes approved forms available on its website.

- (4) Upon such application being made, the ACMA may issue to the supplier a supplier code number.

[29] Paragraph 6.1 (3) (c)

insert “compliance” before “label”.

[30] Schedule 2, item 8 (b) (i)

insert “compliance” before “label”.

[31] Subsection 7.2 (2)

substitute

- (2) The supplier must not apply a compliance label to the item.

[32] Schedule 3

substitute

Schedule 3 Compliance marks

(section 1.4, definition of *A-Tick mark* and *RCM*)

Part 1 The RCM



Note The RCM is a protected symbol for section 417 of the Act. The RCM is a trademark owned by Australian and New Zealand regulators.

Part 2 The A-Tick mark



Note The A-Tick mark is a protected symbol for section 417 of the Act.

[33] **Schedule 9, heading**

omit

**for items to be labelled with a non-compliance
label**
