**EXPLANATORY STATEMENT**

Issued by the authority of the Australian Communications and Media Authority

***Telecommunications Labelling (Customer Equipment and Customer Cabling) Amendment Notice 2013 (No. 2)***

***Telecommunications Act 1997***

**Purpose**

The purpose of the *Telecommunications Labelling (Customer Equipment and Customer Cabling) Amendment Notice 2013 (No. 2)* (**the Amendment Notice**) is to amend the *Telecommunications Labelling (Customer Equipment and Customer Cabling) Notice 2001* (**the Labelling Notice**). The Amendment Notice brings the *Telecommunications Technical Standard (Voice frequency performance requirements for Customer Equipment) 2013* (**the new ACMA Standard**)*,* a technical standardmadeunder section 376 of the *Telecommunications Act 1997* (**the Act**), within the compliance labelling regime, by referencing it in Schedule 1 of the Labelling Notice.

**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 (**CE**) or customer cabling (**CC**) to apply to the equipment or cabling a label to indicate whether the item complies with the technical standards made by the ACMA under section 376 of the Act and specified in the instrument.

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

Division 7 of Part 21 of the Act, together with the Labelling Notice and the standards made under section 376 of the Act operate to specify the relevant Australian telecommunications regulatory obligations in relation to the labelling of specified CE or CC.

**Background**

The ACMA has responsibility for the regulation of CE and CC in Australia under the Act and the *Radiocommunications Act 1992*. These regimes cover aspects of CE and CC related to the telecommunications, radiocommunications, electromagnetic energy and electromagnetic compatibility functions of the items.

The telecommunications regulatory framework aims to ensure that CE and CC meet technical standards and are appropriately labelled prior to connection to the telecommunications network.

By imposing requirements on suppliers of CE and CC, 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.

**Operation**

The Amendment Notice inserts a reference to the new ACMA Standard in Schedule 1 of the Labelling Notice, thereby requiring suppliers of an item of CE or CC to apply a label to that item indicating whether it is compliant.

Section 377 of the Act provides that in making a technical standard under section 376, the ACMA may apply, adopt or incorporate (with or without modification) any matter contained in a standard proposed or approved by various bodies, including Communications Alliance (**CA**). The new ACMA Standard incorporates the Australian Standard *AS/CA S004:2013 Voice performance requirements for Customer Equipment* (**AS/CA S004:2013 industry standard**), an industry standard made by CA, as a technical standard made under section 376 of the Act. The new ACMA Standard also provides for a two year overlap period between the former industry standard and AS/CA S004:2013 industry standard from the commencement of the new ACMA standard.

**Consultation**

Subsection 378(1) of the Act requires that before the ACMA makes a standard 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. This provision also applies when the ACMA is amending a standard made under section 376.

Subsection 378(2) of the Act allows the ACMA to make an arrangement with Standards Australia, or a body or association approved in writing by Standards Australia (or a body specified in a written determination by the ACMA) 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.

CA commenced a public consultation process of DR AS/CA S004:2012 (**the draft industry standard**) on 17 July 2012 for 63 days. During this period, public comment was also sought on recommendations made by CA on how the proposed revision to the industry standard should be applied in the TLN.

The ACMA is satisfied that appropriate public consultation was undertaken by CA prior to submitting the revised industry standard and recommendation for amendment of the TLN to the ACMA.

**Regulation impact**

The Office of Best Practice Regulation (**OBPR**) has considered the matter and formed the opinion that the Amendment Notice will have minor and machinery impact and will 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 was not required. The OBPR exemption number is ID 14900.

**Statement of Compatibility with Human Rights**

Subsection 9(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011* requires the rule maker in relation to a legislative instrument to which section 42 (disallowance) of the *Legislative Instruments Act 2003* applies to cause a statement of compatibility to be prepared in respect of that legislative instrument. This statement is in **Attachment 2**.

**Attachment 1**

**Notes on the Amendment Notice**

**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 2013 (No.2)*.

**Section 2 Commencement**

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

**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 Schedule 1, Part 1, Table 1.1, item beginning with AS/ACIF 2004 to provide an expiry date for the existing AS/ACIF S004 -2008 industry standard (incorporated into the *Telecommunications Technical Standards (Voice frequency performance requirements for Customer Equipment AS/ACIF S004:2008) 2008*). As a result of being replaced by the AS/CA S004:2013industry *s*tandard *(*incorporated into the *Telecommunications Technical Standard (Voice frequency performance requirements for Customer Equipment) 2013*), the former 2008 standard will not apply for the purposes of the TLN after 30 June 2015.

**Item [2]** amends Schedule 1, Part 1, Table 1.1, to insert a new AS/CA S004 Standard item which references the *Telecommunications Technical Standard (Voice frequency performance requirements for Customer Equipment) 2013* incorporating the AS/CA S004:2013industrystandard. As a result, suppliers of an item of CE to which that technical standard applies must affix a label to that item indicating whether the equipment or cabling complies with the standard.

**Attachment 2**

**Statement of Compatibility with Human Rights**

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

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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**

This legislative instrument amends the *Telecommunications Labelling (Customer Equipment and Customer Cabling) Notice 2001* **(the Labelling Notice)**made under subsection 407(1) of the *Telecommunications Act 1997* (the Act)*.* This legislative instrument brings the *Telecommunications Technical Standard (Voice frequency performance requirements for Customer Equipment) 2013* (**the new ACMA Standard**)*,* madeunder section 376 of the Act, within the compliance labelling regime, by referencing the new ACMA Standard in Schedule 1 of the Labelling Notice.

**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.

**Australian Communications and Media Authority**