

EXPLANATORY STATEMENT

Issued by the Australian Communications and Media Authority

Telecommunications Disability Standard (Requirements for Customer Equipment for use with the Standard Telephone Service – Features for special needs of persons with disabilities – AS/ACIF S040) 2015

Telecommunications Act 1997

Purpose

The Australian Communications and Media Authority (**the ACMA**) has made the *Telecommunications Disability Standard (Requirements for Customer Equipment for use with the Standard Telephone Service – Features for special needs of persons with disabilities – AS/ACIF S040) 2015 (the 2015 Standard)* to replace the *Telecommunications Disability Standard (Requirements for Customer Equipment for use with the Standard Telephone Service – Features for special needs of persons with disabilities – AS/ACIF S040) 2002 (the 2002 Standard)* without making any significant changes to the regulatory arrangements created by the 2002 Standard.

The ACMA has made the 2015 Standard as the 2002 Standard was due to be automatically repealed on 1 April 2015, in accordance with Part 6 of the *Legislative Instruments Act 2003* (the **LIA**).

Legislative Provisions

The ACMA made the 2015 Standard under subsection 380(1) of the *Telecommunications Act 1997* (the **Act**). Subsection 380(1) allows the ACMA to make a standard relating to customer equipment if:

- a) the customer equipment is for use in connection with the standard telephone service; and
- b) the customer equipment is for use primarily by persons who do not have a disability; and
- c) the standard relates to the features of the equipment that are designed to cater for any or all of the special needs of persons with disabilities.

Section 381 of the Act provides that in making a standard under section 380, the ACMA may apply, adopt or incorporate (with or without modification) any matter contained in a standard proposed or approved by Standards Australia or by any other body or association, as that standard is in force or existing at a particular time, or from time to time. For the purposes of section 381 of the Act, Communications Alliance Ltd (**CA**) is such a body or association, as was its predecessor, the Australian Communications Industry Forum Ltd (**ACIF**).

The 2015 Standard is a legislative instrument for the purposes of the LIA.

Subsection 33(3) of the *Acts Interpretation Act 1901* provides that where an Act confers a power to make a legislative instrument, the power shall be construed to include a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend or vary any such instrument. The 2015 Standard is made under subsection 380(1) of the Act and revokes and replaces the 2002 Standard previously made by the ACMA under the Act (see section 3 of the 2015 Standard).

Background

The telecommunications industry, through ACIF and then through CA, identified and endorsed the requirement for the continued utilisation of disability standards for customer equipment. Section 380 of the Act provides specifically for the making of disability standards which are separate and distinct from technical standards made under section 376 in relation to customer equipment and customer cabling.

Following review and consultation, the ACMA formed the view that the 2002 Standard was operating effectively and efficiently, and continued to form a necessary and useful part of the legislative framework. The ACMA considers that there are no industry self-regulatory processes in place at this time that would serve to effectively offer the same safeguards as are offered by this standard in relation to the supply of equipment serving the special needs of persons with disabilities. Accordingly, the ACMA decided to make the 2015 Standard to replace the 2002 Standard without making any significant changes to the regulatory arrangements created by the 2002 Standard so that its ongoing effect is preserved.

Operation

The 2015 Standard applies to customer equipment that uses a telephone handset or a keypad that is manufactured in, or imported into Australia for use with the Standard Telephone Service that is for use primarily by persons who do not have a disability and has features designed to cater to any or all of the special needs of persons with disabilities. The 2015 Standard adopts the Australian Standard AS/ACIF S040:2001 – *Requirements for Customer Equipment for use within the Standard Telephone Service – Features for special needs of persons with disabilities (the AS/ACIF Standard)*. The AS/ACIF Standard defines the technical requirements relating to the features of the equipment that are designed to cater for some of the special needs of persons with disabilities. The AS/ACIF Standard prescribes requirements, and where appropriate recommends design features, which remove barriers to access for people with disabilities.

Consultation

Subsection 382(1) of the Act requires that before the ACMA makes a standard under section 380, the ACMA must try to ensure, so far as is practicable, that interested parties have an opportunity to comment on a proposed standard and that due consideration be given to any comments received.

Subsection 382(2) of the Act allows for 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 for this purpose.

Subsection 17(1) of the LIA requires that, before the ACMA makes a legislative instrument, it must be satisfied that any consultation that the ACMA considers is appropriate and reasonably practicable to undertake, has been undertaken.

CA regularly reviews their publications to ensure that they satisfactorily fulfil their intended role in meeting the needs of industry and the community.

In accordance with subsection 382(2) of the Act, CA (on behalf of the ACMA) conducted a public consultation process between December 2013 and May 2014, asking interested parties to make submissions on the review of the AS/ACIF Standard. The consultation process commenced in December 2013 and submissions were accepted by CA until May 2014. CA received six submissions from industry participants, consumer and disability bodies in response to the review of the AS/ACIF Standard. All comments received supported the recommendation to reconfirm the AS/ACIF Standard.

The AS/ACIF Standard was reconfirmed by CA in 2014 and the next review is scheduled to occur in May 2019. There was no change made to the AS/ACIF Standard, therefore the AS/ACIF Standard was not republished.

Regulation Impact

The ACMA determined that the existing 2002 Standard made under subsection 380(1) of the Act was operating efficiently and effectively, and should be remade without any significant changes. Accordingly, the ACMA has certified those matters to the Office of Best Practice Regulation (**OBPR**), and no Regulation Impact Statement is required. The OBPR exemption number is 16677.

Detailed Description of the 2015 Standard

Details of the 2015 Standard are in **Attachment A**.

Documents incorporated in the 2015 Standard by reference

The 2015 Standard incorporates the AS/ACIF Standard by reference. The AS/ACIF Standard is available on CA's website at <http://www.commsalliance.com.au>.

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 B**.

Attachment A

Detailed description of the 2015 Standard

Section 1 Name of Standard

This section names the 2015 Standard as the *Telecommunications Disability Standard (Requirements for Customer Equipment for use with the Standard Telephone Service – Features for special needs of persons with disabilities – AS/ACIF S040) 2015*.

Section 2 Commencement

This section provides that the 2015 Standard commences on the day after it is registered on the Federal Register of Legislative Instruments.

Section 3 Revocation of the *Telecommunications Disability Standard (Requirements for Customer Equipment for use with the Standard Telephone Service – Features for special needs of persons with disabilities – AS/ACIF S040) 2002*

This section revokes the previous 2002 standard, the *Telecommunications Disability Standard (Requirements for Customer Equipment for use with the Standard Telephone Service – Features for special needs of persons with disabilities – AS/ACIF S040) 2002*.

Section 4 Objects of Standard

This section sets out the objects of the 2015 Standard. These objects link back to the matters referred to in paragraphs 380(1)(a) to (c) of the Act.

Section 5 Definitions

This section defines the term “AS/ACIF Standard” used throughout the 2015 Standard. Other terms used in the 2015 Standard which take their meaning from the Act are listed in a note to the section.

Section 6 Application of Standard

This section specifies the types of customer equipment to which the 2015 Standard applies. The 2015 Standard applies to customer equipment that:

- a) uses a telephone handset or keypad that is manufactured in Australia, or imported, for use with the standard telephone service; and
- b) is for use primarily by persons who do not have a disability; and
- c) has features that are designed to cater for any or all of the special needs of persons with disabilities.

Section 7 Standard with which customer equipment must apply

This section provides that customer equipment to which the 2015 standard applies must comply with the AS/ACIF Standard.

Section 8 Transitional arrangements for customer equipment in existence before the commencement of this Standard

This section implements transitional arrangements for customer equipment that complied with the 2002 Standard. Customer equipment that complied with the 2002 Standard as in force immediately prior to the commencement of the 2015 Standard is, by virtue of the transitional arrangements in this section, deemed to comply with the 2015 Standard and can continue to be lawfully supplied.

Attachment B

Statement of Compatibility with Human Rights

Subsection 9(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011* (**the HR Act**) requires the rule maker in relation to a legislative instrument to which section 42 (disallowance) of the *Legislative Instruments Act 2003* (**the LIA**). The LIA applies to cause a statement of compatibility to be prepared in respect of that legislative instrument. This statement has been prepared in accordance with Part 3 of the HR Act.

Background

The ACMA made the 2015 Standard under subsection 380(1) of the *Telecommunications Act 1997*. Subsection 380(1) allows the ACMA to make a standard relating to customer equipment if:

- a) the customer equipment is for use in connection with the standard telephone service; and
- b) the customer equipment is for use primarily by persons who do not have a disability; and
- c) the standard relates to the features of the equipment that are designed to cater for any or all of the special needs of persons with disabilities.

Overview of the Legislative Instrument

The 2015 Standard applies to customer equipment that uses a telephone handset or a keypad that is manufactured in, or imported into Australia for use with the standard telephone service that is for use primarily by persons who do not have a disability and has features designed to cater for any or all of the special needs of persons with disabilities. The 2015 Standard adopts the Australian Standard AS/ACIF S040:2001 – *Requirements for Customer Equipment for use within the Standard Telephone Service – Features for special needs of persons with disabilities* (**the AS/ACIF Standard**).

The AS/ACIF Standard prescribes the technical requirements relating to the features of customer equipment that is designed to cater for some of the special needs of persons with disabilities. The AS/ACIF Standard prescribes requirements and where appropriate, recommends design features which remove barriers to access for people with disabilities.

Human rights implications

Australia is a signatory to the *Convention on the Rights of Persons with Disabilities* (**the Convention**) which amongst other things, aims to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities and provides that people with a disability are entitled to exercise human rights and fundamental freedoms on an equal basis with others. The 2015 Standard is compatible with the Convention, and in particular, advances the human rights described in Article 9 (Accessibility) of the Convention.

Article 9 requires State Parties such as Australia to take appropriate measures to ensure that people with a disability have access on an equal basis with others, to information and communications, including information and communications technologies and systems. These measures are to include the identification and elimination of obstacles and barriers to accessibility, and shall apply to, inter alia, information, communications and other services, including electronic services and emergency services.

Paragraph 2(g) of Article 9 of the Convention outlines that State Parties shall also take appropriate measures to promote access for persons with disabilities to new information and communications technologies and systems, including the Internet.

The 2015 Standard adopts the AS/ACIF Standard which sets out the technical requirements for hearing aid coupling and tactile indicators on keypads. By prescribing technical requirements relating to certain features of customer equipment designed to cater for the special needs of persons with disabilities, the 2015 Standard promotes equal access for persons with disabilities to communications technologies and systems.

Conclusion

The 2015 Standard is compatible with human rights and in particular, advances the human rights in Article 9 of the Convention by promoting equal access for persons with disabilities to communications technologies and systems.