

**COMMUNICATIONS
ALLIANCE LTD**



OPERATING MANUAL
FOR

- THE DEVELOPMENT OF INDUSTRY CODES,
STANDARDS AND SUPPLEMENTARY DOCUMENTS
- THE ESTABLISHMENT AND OPERATION OF
ADVISORY GROUPS

June 2007

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Part 1

Development of Industry Codes, Standards and Supplementary Documents

1 INTRODUCTION AND OBJECTIVES

- 1.1 The Constitution provides that the objects for which Communications Alliance is established include:
- (a) To actively promote and lead a co-operative environment to address in a timely manner national and international issues involving communications standards, codes of practice and the development of operational guidelines for the Australian self regulatory, competitive, multi carrier, multi carriage service provider, multi network national environment;
 - (b) To establish and maintain flexible and open processes to address technical, consumer and operational issues affecting Australia's communication facilities and services and the development of innovative and cost effective communications services; and
 - (c) To develop and approve Industry Codes and Standards for the communications industry.
- 1.2 The objectives of this Operating Manual for the Development of Industry Codes, Standards and Supplementary Documents are to ensure that the processes for development of these documents:
- (a) adopt disciplines of project management for the control and monitoring of the development process, in particular to:
 - enable development in a timely manner and within the timeframe approved in the Project Proposal;
 - include the costs of development of a Code, in particular the labour cost of the members of the Working Committee, in the Project Proposal and manage the progress of the work to meet that budget.
 - (b) are consistent with the requirements of the Constitution;
 - (c) are flexible, open and transparent;
 - (d) enable timely outcomes;
 - (e) encourage and facilitate wide consultation with all stakeholders;
 - (f) have the objective of achieving a Consensus outcome;
 - (g) meet the requirements of Part 6 the *Telecommunications Act 1997* for the purposes of registration of an Industry Code where appropriate;

- (h) comply with the requirements of the publication 'Developing Telecommunications Codes for Registration – A Guide' (Australian Communications Authority, 2003);
- (i) In the case of development of Standards and associated Supplementary Documents, that in addition to the objectives above:
 - (i) they meet the requirements for accreditation by the Standards Accreditation Board granted in March 1999 and confirmed in May 2005 (Appendix 1), in particular the requirement that documents be in a style generally complying with Standards Australia HB 162 – 2002 Rules for the structure and drafting of Australian Standards (the Standards Australia's Style Manual);
 - (ii) are consistent with the WTO Code of Good Practice for the Preparation, Adoption and Application of Standards (Appendix 2), particularly in relation to harmonisation of Standards with international Standards;
 - (iii) meet the requirements under Part 21 of the *Telecommunications Act 1997* where appropriate.

2 MEMBERSHIP OF A WORKING COMMITTEE TO DEVELOP A CODE, STANDARD AND SUPPLEMENTARY DOCUMENTS

- 2.1 A Working Committee should be representative of all parties who have a stake in or are affected by the subject matter of the proposed Code or Standard while limited to a size that is consistent with its effective operation. This does not mean that there will be individual representatives from all stakeholders, rather the objective can be met by a representative of a number of constituent organisations;
- 2.2 There are two categories of persons who may attend Working Committee meetings:
- (a) **Voting Members** of the Working Committee who are eligible to participate in any of the Working Committee's voting process (ie their views shall be taken into account in determining whether there is Consensus, or in any more formal voting process); and
 - (b) **Non-voting Members** of the Working Committee, who are appointed by the CEO and who may participate in Working Committee meetings and express their views at those meetings, but are not eligible to participate in the Working Committee's voting process (ie their views shall be disregarded in determining whether there is Consensus, or in any more formal voting process).
- 2.3 There is a limit of one voting member per organisation and the voting member shall be that person nominated on the 'Nomination for Membership of Working Committee' form. An organisation may also nominate an alternate member who may attend meetings in the absence of the voting member and the alternate member shall be allowed to vote in the absence of the voting member. Additional 'expert' participants shall be permitted to attend meetings as observers or advisers to the Committee's work.
- 2.4 In approving Voting Members, the CEO shall take into account:
- (a) the fact that representatives from each industry sector together with other interested parties shall be given the opportunity to indicate their interest;
 - (b) the need for a balance of representatives from each of the interested sectors and that no one sector dominates; and
 - (c) that, where there are representatives of constituent organisations, appropriate arrangements have been made to assist the representatives in providing information to and receiving feedback from their constituents.
- 2.5 If regulatory bodies are represented on a Working Committee, they shall be appointed as non-voting members of the Working Committee and shall have consideration of both supplier and consumer interests.

- 2.6 A Chair is a non-voting Member and shall take an independent role in relation to Working Committee debate to ensure the fair and equitable operation of the Working Committee. Organisations whose voting representative is the Working Committee Chair may nominate an additional Member to be the voting Member of the Working Committee.
- 2.7 The Working Committee Chair may be an Independent Chair appointed by the CEO or may be nominated by Working Committee members, to be endorsed by the CEO.
- 2.8 A Working Committee is disbanded upon completion of the specific work assigned to it.

3 WORKING COMMITTEE RESPONSIBILITIES

- 3.1 A Working Committee is responsible for the content of the document it is developing.
- 3.2 All Working Committee members are required to keep the discussions and documents of the Committee confidential, except to the extent that they are required to report to their organisations and constituencies and to gain approval or sign-off as required.
- 3.3 All Working Committee members agree to maintain the integrity of the Working Committee process at all times during the work of the Committee.
- 3.4 Working Committee members agree to adhere to good meeting principles, including punctuality, regular attendance, availability of delegates, and meeting required actions.

4 DEVELOPMENT PROCESS FOR A CODE, STANDARD AND SUPPLEMENTARY DOCUMENT

- 4.1 The Communications Alliance Activity Proposal/Project Management Plan (Appendix 1) as amended from time to time, sets the process for the commencement and development of Codes, Standards and Supplementary Documents.

5 WORKING COMMITTEE CONSENSUS

- 5.1 Working Committees operate on the basis of Consensus.
- 5.2 A quorum of more than 50% of voting members is required to constitute a formal Working Committee meeting.
- 5.3 The Working Committee is encouraged to focus on reaching Consensus on matters of principle with matters of drafting allocated to external professional resources.
- 5.4 In the case of smaller Working Committees, participants are encouraged to adopt the provisions of the Content Approval stage outlined in Clause 7 to ensure that the views of all parties being represented by the Working Committee members is taken into consideration before the readiness vote.

6 PUBLIC COMMENT PHASE

NOTE: *The Public comment phase does not apply for Supplementary Documents.*

- 6.1 In the case of Code development, the Working Committee must decide prior to release for public comment whether to seek TIO conferral of powers to handle complaints under the Code.
- 6.2 Working Committee Consensus that the document is ready to be released for public comment must be obtained.
- 6.3 The period for Public comment for a Code shall be at least 30 days, excluding the first day the document is available to the public.
- 6.4 The period for Public comment for Standard shall be at least 60 days, excluding the first day the document is available to the public.¹
- 6.5 Working Committee actions at this phase include the following:
 - (a) all comments shall be considered by the Working Committee and the draft document amended as agreed as a result of the consideration. Reasons for not incorporating certain comments in amended draft document shall be recorded in meeting minutes, and advised to the author of the comment in writing; and
 - (b) if there is an amendment to a Standard or a Code at the Public comment Phase that has significant impact, a second Public comment process may be initiated.

¹ This period is based on a number of national and international requirements:

- 60 days for Standards (based on WTO obligations and the *Telecommunications Act 1997*, Section 378).
- 60 days for Regulatory Instruments (*Telecommunications Act 1997*, Section 405 & 422).
- at least 30 days for Codes (refer *Telecommunications Act 1997*, Part 6, Section 117 (3)).
- COAG requirements.

7 CONTENT APPROVAL PHASE

- 7.1 There are 2 phases to approval of the content of a document – the readiness vote and the content vote.
- 7.2 The 'readiness vote' refers to the vote to determine whether there is Working Committee Consensus that the document has been completed and is ready to proceed to the content vote.
- 7.3 If there is not Consensus on the readiness vote, the project manager will escalate the matter to the CEO.
- 7.4 The 'content vote' refers to the ballot conducted by the project manager to determine if there is Working Committee Consensus for approval of the content of the document and its publication as a Code or Standard.
- 7.5 If negative votes are received, the Working Committee shall make all attempts to resolve the issues. If one or more negative votes remain unresolved, a draft shall proceed to publication if:
- (i) a minimum of two-thirds of those eligible to vote have voted; and
 - (ii) a minimum of 80% of votes received are affirmative; and
 - (iii) no major interest maintains a negative vote.
- 7.6 If there is Consensus on the content vote, the project manager will progress the Code or Standard to the next stage of publication.
- 7.7 If there is not Consensus on the content vote, the matter will be escalated to resolve disputes in accordance with the Project Management Plan.
- 7.8 Following attempts to resolve the dispute, the steps in 7.1 to 7.7 will be followed a second time.
- 7.9 If there is Consensus on the content vote, the project manager will progress the Code or Standard to the next stage of publication.
- 7.10 If there is not Consensus on the content vote the second time, the Working Committee will be deemed to have completed its work and will be disbanded.

8 PROCESS APPROVAL PHASE

- 8.1 The Communications Alliance Board is responsible for giving final approval to publish Communications Alliance documents. However in exercising this responsibility, the Board generally shall only need to be assured by the CEO that due process has been followed in preparation of the document. In the case of Codes and Standards to be used by the ACMA for regulatory purposes, the Board may wish to also examine the content.
- 8.2 The Communications Alliance Board may accept or reject, but shall not alter the content of a Standard or Code that has been developed in accordance with due process and that satisfies procedures for incorporating Working Committee and public comments.
- 8.3 If the Communications Alliance Board finds that due process has not been followed, or in its view the contents have shortcomings, it shall direct the Working Committee to return to the appropriate phase in the development process.

9 ACMA CODE REGISTRATION

- 9.1 When preparing a Code that is likely to be submitted to ACMA for registration, reference shall be made to the ACMA document Developing Telecommunications Codes for Registration - a Guide (August 2003 or its successor).
- 9.2 Consumer Codes are to be submitted for registration with the ACMA unless significant Code-specific reasons exist for not doing so.
- 9.3 Operations and Network Codes are to be assessed on a Code-by-Code basis as to the benefits of registration versus the costs/disadvantages. The following factors/criteria are to be taken into account in assessing whether or not a particular Code is to be registered.
- (a) the size and nature of the sector(s) to which the Code applies - ie the number of participants affected by the Code;
 - (b) the availability and relative cost-effectiveness of alternative enforcement or compliance mechanisms;
 - (c) the likely level of voluntary participation in the Code;
 - (d) the consequences of breaches of the Code - ie number/type of parties affected and nature/magnitude of the impact;
 - (e) the ease/difficulty in identifying Code breaches;
 - (f) the likely level of voluntary compliance with the Code and, over time, the actual level of voluntary compliance;
 - (g) the registerability of the Code; and
 - (h) the likelihood of the Code requiring amendment over time.
- 9.4 The CEO will recommend on likely registration/non-registration at the Project Proposal stage. During the course of Code development, however, additional factors/issues may be identified which impact upon the initial recommendation. The Working Committee would also have the opportunity to consider/recommend on registration/non-registration at the Process Approval stage.
- 9.5 The Communications Alliance Board has the final responsibility for deciding whether or not to submit a Code for registration.

10 ACMA STANDARDS ADOPTION

- 10.1 Part 21 of the *Telecommunications Act 1997*, and specifically s376, outlines ACMA's power to make technical standards and Working Committees should consider the issues covered within the Act.
- 10.2 In developing a Standard, the Working Committee will consider the implementation of the Standard into the existing regulatory arrangements.
- 10.3 Prior to commencing work on a Standard the Reference Panel shall ensure there is sufficient evidence to address the requirements of a Regulatory Impact Statement (RSI) as required under COAG guidelines, potentially including cost benefit analysis, regulatory costs, effect on industry as included within the Project Plan.
- 10.4 Working Committees must consider adoption of international standards as appropriate but must recognize the difficulties associated with adopting such standards that are not specifically dated versions or are written for a voluntary regulatory regime.
- 10.5 Requirements in newly developed standards must not conflict with requirements included in existing standards.

Part 2

Establishment and Operation of Advisory Groups

1 BACKGROUND

1.1 The Communications Alliance Constitution defines 'Advisory Groups' as 'the groups established for the delivery of Communications Alliance's works program as set up from time to time'.

1.2 Clause 9 of the Constitution provides that:

9 ADVISORY GROUPS

- (a) The CEO may at any time
 - (i) establish Advisory Groups for the delivery of CA's works program in accordance with CA's Operating procedures as amended from time to time;
 - (ii) where appropriate, facilitate development of codes or technical standards by bodies other than the Company, especially in instances where such codes or standards have applicability to persons or organisations in addition to the industry; and
 - (iii) where appropriate will co-operate with other selfregulatory and co-regulatory bodies at Federal, State and Territorial levels to ensure a coordinated approach to the development and implementation of codes and/or technical standards.
- (b) The constitution of all Advisory Groups will be endorsed by the CEO;
- (c) Advisory Groups are accountable to the CEO at all times;
- (d) Advisory Groups will advise the CEO on the:
 - (i) preparation of Works Programs to ensure it meets the strategic direction of the company;
 - (ii) due process, quality and timing objectives of codes, technical standards and other documentation;
 - (iii) content of codes and technical standards;
 - (iv) general developments in the industry which have an impact on matters falling within the scope of CA.

1.3 As at June 2007 there are a number of Reference Panels and ad hoc Working Groups within Communications Alliance focussing on both the legacy environment and the requirements of the Next Generation Network environment.

- 1.4 In accordance with recommendations endorsed by the Communications Alliance Board in the 2006 report 'Development of Strategy Framework for Industry Transition to Next Generation Network Environment'², it is intended to transition from the Reference Panel structure to a structure of industry expert groups which aligns with the 'delayed' NGN model (infrastructure, networks, services and applications).
- 1.5 The Ovum report recommends the establishment of an NGN Co-ordination Group, and the creation of two Expert Groups, which between them will combine the activities of the existing Reference Panels and ad hoc Working Groups.
- 1.6 It is intended to phase in the new structure, starting with the creation of the overarching NGN Co-ordination Group – to be called the Emerging Services Group – from third quarter 2007. The current Reference Panel and Working Groups structure will continue for the short to medium term and will evolve into the new Expert Groups at a time when the assessment is made that work being undertaken in those groups is focussed more on NGN issues than on legacy issues. At such time the arrangements will be reflected in the body of this Operating Manual.
- 1.7 Two industry Expert Groups are proposed:
 - (a) Equipment and Infrastructure Expert Group: this will comprise the current areas of focus of the Customer Equipment and Cabling Reference Panel (CECRP) and the Network Reference Panel (NRP). The group will address the underlying infrastructure used to transport services between end users eg the customer equipment, the connection to a network (fixed or wireless), the network devices and protocols for interfacing between customer equipment and networks as well as between networks.
 - (b) Services and Applications Expert Group: this will incorporate the current areas of focus of the VOIP Working Group as well as the Customer Issues Reference Panel (CIRP) and the Operations Reference Panel (ORP). The group will address both customer/provider interface matters and inter-operator issues between sections of the telecommunications industry.
- 1.8 Participation criteria for Expert Groups will adopt the same criteria as those currently applying for Reference Panels.

² Report by Ovum, consultants, November 2006

2 THE EMERGING SERVICES COORDINATION GROUP

- 2.1 The membership of the Emerging Services Coordination will consist of the Chairs of existing Reference Panels, plus member representatives with expertise in specialist areas such as competition, economics, marketing, technical areas as required.
- 2.2 The role of the group is to:
- (a) identify and plan for the emerging issues and technologies that are likely to affect the industry in the medium to long term; and
 - (b) identify and prioritise projects in the Communications Alliance Work Plan (which incorporates the Work Plan for Strategic Transitioning to NGN).
- 2.3 The work of the group will be guided by the following high-level principles:
- to promote the objectives of the *Telecommunications Act 1997*, including the promotion of competition, the benefit of the end-user, the maximum use of industry self-regulation without financial impost on suppliers;
 - to balance the need for industry resources for the development and implementation of Next Generation Network transitional and operating arrangements with the need for industry resources required to support a legacy operating environment;
 - to prioritise forward-looking initiatives which facilitate the introduction of competitive and/or innovative new services, including enabling connectivity and the efficient operation of inter-carrier systems;
 - to be open and transparent and independent of particular stakeholders' positions;
 - to be predicated on not increasing the regulatory burden for industry, either through Government regulation or industry-led initiatives.

3 REFERENCE PANELS

- 3.1 Reference Panel Members will be appointed by the CEO and will be:
- (a) selected from the nominees of Members of Communications Alliance asked to join because of particular subject-matter expertise
 - (b) representative of the parties interested in and/or affected by the subject matter, including Members from within the same category of membership who shall represent differing views;
 - (c) able to contribute to the work of the Reference Panel; and
 - (d) to the greatest extent possible, a balance of representatives from the industry sectors involved with allowance for a minimum of one Member from each Communications Alliance category of membership.
- 3.2 Each Reference Panel shall include in its membership voting and non-voting positions:
- (a) **Voting Members** of the Reference Panel who are eligible to participate in any of the Reference Panel's decision making and voting process (ie their views shall be taken into account in determining whether there is consensus, or in any more formal voting process); and
 - (b) **Non-Voting Members** of the Reference Panel who may be Nominees of ACMA, the ACCC, the TIO, the Privacy Commission and/or other relevant regulators/bodies as agreed. Non-Voting Members are not eligible to participate in the Reference Panel's decision making and voting process.
- 3.3 Chairperson
- 3.3.1 Reference Panel Chairpersons are non-voting Members and will take an independent role in relation to Reference Panel debate to ensure the fair and equitable operation of the Reference Panel. Organisations whose voting representative is the Reference Panel Chairperson may nominate an additional Member to be the voting Member of the Reference Panel.
- 3.3.2 The Chairperson and Deputy Chairperson are to be appointed for a term of two (2) years.
- 3.4 Voting within Reference Panels
- 3.4.1 Reference Panels will work by consensus to the greatest extent possible.
- 3.4.2 In the exceptional case of a formal vote within the Reference Panel the following shall apply:
- (i) **New Project** Proposal: the proposal in question shall be considered to be agreed if at least 50% of those eligible to vote have voted and at least two thirds of these support

the proposal and Member organisations are ready to commit the resources required to progress/implement the proposal. If less than 50% of those eligible to vote are present at the meeting then the vote shall be deferred until the next meeting or a postal ballot shall be undertaken to allow Members time to consider the proposal.

- (ii) **General Voting during Reference Panels:** Agreement shall be reached by consensus rather than formal votes and the Chairperson shall use indicative voting by simple majority to assist in making a decision.

- 3.5 Reference Panels may not alter the content of a Technical Standard or Industry Code that has been agreed in a Working Committee that has followed due process.

4 CONSUMER COUNCIL AND DISABILITY COUNCIL

- 4.1 The purpose of the Consumer Council and the Disability Council is to ensure that:
- (i) consumers have a voice in the development of Codes / Standards / Guidelines and other telecommunications processes that affect them;
 - (ii) consumers' needs and interests are represented in processes that affect them;
 - (iii) consumers' interests in the development of policy and government, regulatory and industry policy relating to telecommunications are met; and
 - (iv) consumers are informed and educated in relation to telecommunications issues.
- 4.2 The Consumer Participation Framework sets out the operating arrangements for the Consumer Council and Disability Council.



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