

**COMMUNICATIONS
ALLIANCE LTD**



**ACMA Proposal to remake the sunseting
Telecommunications (Labelling Notice for
Customer Equipment and Customer Cabling)
Instrument 2015 and 8 telecommunications
standards**

COMMUNICATIONS ALLIANCE SUBMISSION
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CONTENTS

INTRODUCTION	2
RESPONSE TO QUESTIONS	3

INTRODUCTION

Communications Alliance welcomes the opportunity to provide this submission in response to ACMA's consultation paper on the *Proposal to remake the sunseting Telecommunications (Labelling Notice for Customer Equipment and Customer Cabling) Instrument 2015 and 8 telecommunications standards*.

Communications Alliance understands that as a result of time and resource constraints within ACMA to instigate a full review of the TLN, some of the more fundamental issues in the TLN's application to technical regulation will be subject to further study. With this in mind, Communications Alliance provides the following comments in this submission on the understanding that this round will be followed by a full and detailed review of the TLN, once the existing TLN has been remade.

In particular, there are two outstanding issues that are demanding further attention to ensure that Australia has a robust technical regulatory regime for customer equipment and cabling products.

This first is for the TLN to clearly and unambiguously identify what are the applicable Australian customer equipment Standards for the increasingly diverse range of telecommunications products.

The second resolves around the compliance and enforcement of CE and cabling, an issue that has been primarily instigated by the Bean review. This would entail a fundamental review of the TLN compliance regime, including a proposal to publish the Part 5 compliance records in a public register. This review would need to align with the timeline for the implementation of the emergency call testing and notification regime in Recommendations 3 and 4 of the Bean review. The end goal would be to have greater transparency to end users and industry as to products that are fit for purpose for the Australian market.

Communications Alliance

Communications Alliance is the primary communications industry body in Australia. Its membership is drawn from a wide cross-section of the communications industry, including carriers, carriage and internet service providers, content providers, platform providers, equipment vendors, IT companies, consultants and business groups.

Its vision is to be the most influential association in Australian communications, co-operatively initiating programs that promote sustainable industry development, innovation and growth, while generating positive outcomes for customers and society.

The prime mission of Communications Alliance is to create a co-operative stakeholder environment that allows the industry to take the lead on initiatives which grow the Australian communications industry, enhance the connectivity of all Australians and foster the highest standards of business behaviour.

For more details about Communications Alliance, see <https://www.commsalliance.com.au>.

Response to questions

The numbering of the questions differs between those in the body on the consultation paper and those in the 'Issues for comment' summary on Page 18. This submission uses the numbering in the 'Issues for comment' list.

Question 1a. Is it necessary and appropriate for ACMA to remake the seven technical standards due to sunset?

Communications Alliance supports the remaking of the following six Standards that are called up under the *Telecommunications (Labelling Notice for Customer Equipment and Customer Cabling) Instrument 2015* (the TLN):

1. Telecommunications Technical Standard (Analogue Interworking and Non-interference Requirements for Customer Equipment for Connection to the Public Switched Telephone Network – AS/CA S002) 2015 (**AS/CA S002-2015**)
2. Telecommunications Technical Standard (Requirements for Customer Access Equipment for connection to a Telecommunications Network – AS/CA S003) 2015 (**AS/CA S003-2015**)
3. Telecommunications Technical Standard (Voice performance requirements for Customer Equipment – AS/CA S004) 2015 (**AS/CA S004-2015**)
4. Telecommunications Technical Standard (Requirements for customer cabling products – AS/CA S008) 2015 (**AS/CA S008-2015**)
5. Telecommunications Technical Standard (Requirements for DSL Customer Equipment for connection to the Public Switched Telephone Network – AS/ACIF S041) 2015 (**AS/ACIF S041-2015**)
6. Telecommunications Technical Standard (Requirements for Customer Equipment for connection to a metallic local loop interface of a Telecommunications Network – AS/CA S043) 2015 (**AS/CA S043-2015**)

Question 1b) Should ACMA allow AS/ACIF S016-2015 to sunset? If no, please provide your reasons why the standard should be remade.

Communications Alliance recommends that AS/ACIF S016-2015 be remade and not to sunset. There are still a number of G.703 interface links on the Telstra network that are still being used and are unlikely to be switched off in the near future, noting that these links may also require new equipment to maintain connectivity.

Question 2. Do you have any comments on our proposal to change terminology to clarify the items to which the technical standards apply and to align with the definitions of customer cabling and customer equipment in subsections 20(4) and 21(4) of the Act?

The challenges that the telecommunications industry has faced in identifying what are the applicable Australian customer equipment Standards for the increasingly diverse range of products coming to market in recent years is well known by the regulator, the equipment suppliers, service providers and the test laboratories.

Communications Alliance understands that this is being partly addressed in the consultation paper but remains a part of the broader discussion required to be had once the current TLN is remade post the sunset date of 1 April 2025.

A key proposed change in the consultation is the manner by which the TLN identifies what CE is captured through an amended definition of CE, from 'proposed to be connected to a telecommunications network' to 'used, installed ready for use, or intended for use for connection to a telecommunications network'.

Communications Alliance acknowledges the merits in this proposed approach, however some aspects of this should be subject to further consultation and clarification. We also suggest that ACMA considers retaining inclusion of the term 'proposed to be connected' together with the new terminology for completeness and to ensure continuity.

Having said that, the ongoing concern is that without explicitly defining, or clarifying the intent of, the terminology being used, both the regulator and industry are still left in the same position in interpreting the application. One issue that consistently arises in these discussions is the use of the term 'intended.' It is Communications Alliance's understanding, as a consequence of many previous discussions on this subject, the term 'intended' solely relates to the intention of the design (or the capability) of the device and not the intention of a person (designer, manufacturer, importer, supplier, marketer). Without documentation that clarifies this, for example in clarifying notes (preferred) or in an accompanying Explanatory Memorandum, this and other terms will continue to be the subject of debate and ongoing confusion, including the ongoing and unnecessary tying up resources of both ACMA and Communications Alliance.

In addition, without further clarification as to the applicability of the term Telecommunications Network to both public and/or private networks, the issue of non-compliance with respect to AS/CA S042 equipment being used on private networks remains unresolved. Communications Alliance suggests that the wording along the lines of '*regardless of whether or not it was designed or intended for use on a public telecommunications network*' be considered for clarification.

Communications Alliance therefore recommends that it is essential that clarification to terminology used in the TLN is to be captured in additional notes (preferred) or in the Explanatory Memorandum.

Guidance materials

Communications Alliance would also like to suggest that ACMA reconsider reintroducing the approach of having guidelines similar to those that were developed some time ago to support industry in its understanding in how to apply the regulations. Our members found these guidelines very useful. We anticipate that a short series of targeted guidelines would be welcomed and supported by our members and by industry as a whole. These guidelines covered a wide breadth of topics, as the following examples, covering topics of importance of that time, show:

- FSC 3: ACA Health Effects and Electromagnetic Energy
- FSC 10: ACA The New Telecommunications Regulatory Environment and How It Affects You
- FSC13: ACA Telephone Cabling in Your Home
- FSC 27: ACA Emergency Call Services
- FSI 01: Cabling

- FSI 10: Labelling Requirements for Telecommunications Customer Equipment & Customer Cabling
- FSI 11: Telecommunications, Radiocommunications & EMC A Summary of Labelling Requirements

Question 3. [Question 5 in the paper] Do you have any comments on our proposal to align particular pre-labelling and record-keeping requirements in the proposed TLN with the General Equipment Rules (where possible)?

Communications Alliance has yet to identify any valid reason to have different record retention durations being specified for different regimes. In fact, our members have pointed out that in light of the outcomes the recent Bean Review¹, specifically relating to the uncertainty of the fitness for purpose of some devices on the market, our members are proposing durations that would be more aligned to the expectations under other regimes with more generous record retention policies. It can be argued that this is even of greater significance for the telecommunications sector, in that one of key goals is the protection of persons from hazards, underpinned by a compliance regime delivering safe and fit-for-purpose products.

Communications Alliance suggests that two years is considered to be too short as safety incidents can occur beyond the first two years. This timeframe does not reflect the life cycle of short-supplied products, particularly from the smaller suppliers, after which these products can then remain on the market for some time. As records are typical archived digitally, there is little physical storage impost, notwithstanding that there may be some incremental costs incurred in storing/managing larger compliance folders. It has been surmised that the origin of the two-year timeframe came about during a period where there was a deregulatory agenda at the time of the introduction of the General Equipment Rules, a timeframe which is considered to be no longer appropriate.

Communications Alliance recommends that ACMA considers extending the record retention to seven years after the date the last item, or classes of items, is supplied in Australia, to more accurately reflect the needs of a practical compliance regime. This would be in line with other regimes, such as with EU regulation 2023/1670², where all smartphones, mobile phones, and cordless tablets sold within the EU must be designed to allow for easy disassembly and repair, with manufacturers required to provide critical spare parts for at least seven years after the product is no longer sold, alongside operating system updates for a minimum of five years after the end of sales.

¹ *Australian Government Review into the Optus outage of 8 November 2023 – Final Report. March 2024 and the Australian Government Response to the Bean Review Final Report Review into the Optus outage of 8 November 2023. April 2024*

² COMMISSION REGULATION (EU) 2023/1670 of 16 June 2023 laying down ecodesign requirements for smartphones, mobile phones other than smartphones, cordless phones and slate tablets pursuant to Directive 2009/125/EC of the European Parliament and of the Council and amending Commission Regulation (EU) 2023/826. <https://eur-lex.europa.eu/EN/legal-content/summary/ecodesign-requirements-smartphones-mobile-phones-other-than-smartphones-cordless-phones-and-slate-tablets.html>

Further clarification on how the concept of 'classes of items' applies to record retention is also sought, as industry members were uncertain how this works in practice.

There is a broader discussion being had at present, again arising out of the Bean Review, for the implementation of a device register for the recording of compliant, fit-for-purpose products, specifically in relation to the supply of mobile (cellular) devices. The question being asked is how does a buyer know when they are purchasing a product that it is fit for purpose and that it is going to function correctly in Australia for its intended purpose. Certainty only comes from a robust and transparent testing and compliance regime.

Communications Alliance proposes that it is time for a fundamental rethink of the telecommunications compliance regime, which includes Part 5 of the TLN on compliance records, to make the outcomes of compliance testing to be made more visible, with the appropriate updates to the current framework to provide the necessary transparency for the regulator, for industry and for the consumer.

For example, transparency could be considered through clarification regarding the establishment and maintenance of a Register of CE and cabling which can be accessible to both industry and consumers. As part of the obligations under the compliance records, the TLN could recommend this information be captured and recorded in the form of a Register.

This Register should ideally be held by ACMA and the agreed disclosure items made accessible on the ACMA website. The full scope of this Register (or multiple Registers) should, at the minimum, cover consumer CE and cabling that is available for purchase in Australia at the time of establishment.

This Register could also be used and updated with additional information as required to meet other regulatory requirements.

Question 4. [Question 3 in the paper] Do you have any comments on our proposal to remove the provisions in Part 6 of the TLN?

Communications Alliance recognises that regulatory obligations need to be apparent to those who have to follow them, meeting the needs of both the regulator who enforce, and the industry member being enforced. We would argue that retaining these obligations in the TLN would lead to better compliance outcomes by making them more accessible and visible to those who have to comply with the obligations, rather than relying on industry member needing to have an operational knowledge of the Telecommunications Act.

We also note that Section 25 of Part 6 in the existing TLN provides obligations on manufacturers and importers, that is not necessarily made as clear in the Telecommunications Act.

The proposal to remove the provisions in Part 6 of the TLN would, in our view, result in a further reduction of clarity for industry and/or difficulties to source applicable regulation, thereby resulting in additional regulatory burden for industry.

For the avoidance of doubt, these provisions are another example where clarifications could be contained in a guideline or guidance note for industry, as discussed earlier in this response.

Question 5. [Question 4 in the paper] Do you have any comments on our proposed amendments to Schedule 1 to the TLN?

Communications Alliance supports the approach to clarify the application of Standards to CE using more than one access technology with the introduction of the term of hybrid customer equipment.

Communications Alliance also supports the proposal to clarify the application of the CE safety Standard by separating it out from the other categories in Schedule 1.

We are unsure of the reasoning behind the change of the terminology from 'satellite-based facility' (as defined in the *Telecommunications Act 1997*) to 'satellite service' (as defined in the *Telecommunications ECS Determination 2019*).

Noting that there a number of scenarios where CE will be connecting to non-terrestrial stations (D2H using mobile spectrum (roaming), D2H using MSS, tradition GEO satellite services, other satellite services), we encourage ACMA to look at the applicability of AS/CA S042 with, for example, the ECS requirements and the new NMS requirements), to ensure that all scenarios have been considered when considering to change terminology.

Communications Alliance appreciates that the consultation paper is only proposing changes to fix immediate application issues. We would suggest the longer-term goal to consider that having analogue equipment listed as Item 1 in Schedule 1, nominally placing it as the primary type of equipment, is becoming increasingly anachronistic as mobile telephony is becoming the primary means of communication.

Question 6. Do you have any comments on our proposed amendments to the exemption in item 3 of Schedule 2 to the TLN? If so, please specify your reasons and provide evidence to support your position.

Communications Alliance recognises that Note 2 of Schedule 2 currently exempts handsets and headsets manufactured or imported solely for use with an internet or voice modem connection to a telecommunications network, and that any lessening of this exemption leads to additional regulatory impost upon industry.

Communications Alliance agrees with the objective to avoid over-regulation.

Handsets

With regards to handsets, Communications Alliance supports the removal of handsets from the exemption, noting that the risks to safety apply to all types of handsets and that the safety-related requirements in AS/CA S004 Standard should apply to all handsets.

Headsets

With regards to headsets, Communications Alliance agrees that Option 1 (removing the current exemption) and Option 2 (exempting all headsets) do not meet the desired safety objectives and are to be discounted.

In reviewing Option 3 (STS headsets) and Option 4 (physically connected to analogue equipment), Communications Alliance has identified concerns with both approaches.

Communications Alliance notes that the existing exemption, with the use of the terms 'internet or voice modem connection' is an anachronism and reflects the state of services that were being supplied when the exemption was introduced. This was at the time of the early days of VoIP, when softphones used via internet browsers were being introduced. At the time the ACA provided guidance to industry to understand this exemption.

A distinction needs to be made to differentiate between the mitigation of risks arising from electrical and acoustic harm.

Today TDM voice networks have been replaced by VoIP-based networks. The greater majority of voice services are VoIP and are provided over the internet. Voice telephony encompasses VoIP, SIP and any other protocols used for the provision of voice services. The codecs to convert the digital voice signals to analogue can be located in the CE itself (for analogue headsets) or in the headset (for digital headsets). The possibility of hearing damage is independent of the signal source interface type (analogue or digital, wired or wireless), with the maximum loudness values being a function of the circuitry and transducers involved.

The proposed new Note 3, which explicitly does not exempt physically connected headsets, appears to be only considering electrical safety as the criteria.

We are also making the assumption that the term 'analogue customer equipment' (an undefined term) is meaning CE with an analogue network interface.

Communications Alliance also does not see any utility in introducing the term 'Standard Telephone Service (STS).' The definition encompasses communications between end users using the same service, but not necessarily on the same network. This would appear to include VoIP, SIP and any other protocols used for the provision of those voice services, and thus is not a useful mechanism to carve out types of CE.

Question 7. Do you have any comments on our proposed amendments in relation to labelling cabling items?

Communications Alliance understands that the exemption for labelling is to be removed, to be replaced by a QR Code (directing the user to the website where the RCM can be viewed) or the RCM mark on the product or the packaging.

Communications Alliance supports having in place a Responsible Supplier Register subject to addressing some usability issues that have been identified. We agree with the approach being proposed by ACMA but wish to highlight one major flaw with the current implementation of the Responsible Supplier Register

The search criteria in the Responsible Supplier Register prevents the discovery and identification of manufacturers of the cabling product when registered by an agent.

Products names are not necessarily presented in the searches which makes it impossible for cablers and users to 1) identify if the cabling products being searched for have been registered by a responsible supplier or 2) if the products have a

compliance folder. Without a viable register, it facilitates suppliers to more easily provide products into Australia that are not fit for purpose.

ACMA is predominantly complaints driven. Products without compliance folders are often not discovered because there is no mechanism that allows to identify the appropriate responsible supplier.

In the past, ACMA had maintained the Certified Cabling List (CCL) which made this information readily available to cabling and customers. With this information no longer being publicly available, has led to the situation where the utility of the proposed approach is questionable. For example:

- a request for a product compliance folder took 18 months to be actioned to be able to determine whether the product was compliant. It was noted at the time that some of the test dates were after the date of the initial request.
- there are many parallel imports of products from various internet channels. Some products enter Australia with only the NZ compliance mark.
- in the last 12 months, 30 to 40 Cat 6A patch cables from major Australia retailers and wholesalers were tested, with none passing the appropriate performance test, with some even struggling to pass the Cat 5 performance criteria.

We also understand that there are overseas manufacturers who seek out agents to act on behalf of the manufacturer in Australia to supply their products. If the agent does not have an agreement with ACMA for that product, there is no recognised agency agreement in place for the supply of that product under ACMA's rules.

For longer term consideration, we note that there may be a benefit to explore:

- having the RCM to have unique manufacturer number, as is used in other jurisdictions, and
- have a register of cabling products that is supported by ACMA, EESS or the registrars.

The ACMA TLN and associated standards support health and safety objectives of the *Telecommunication Act 1997*. Customer cabling has key participants that have an obligation to ensure that installed products meet ACMA regulations and industry standards supporting health and safety. The system utilised for establishing compliance would ideally be made available to all participants, including the registered cabling, industry bodies and the end users.

Question 8. Do you have any comments on our proposal to remake the Disability Standard?

Communications Alliance supports the approach to retain 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.



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