

## **EXPLANATORY STATEMENT**

**Issued by the Australian Communications and Media Authority**

### ***Radiocommunications Devices (Compliance Labelling) Amendment Notice 2008 (No.2)***

#### ***Radiocommunications Act 1992***

##### **Purpose**

The *Radiocommunications Devices (Compliance Labelling) Amendment Notice 2008 (No.2)* made by the Australian Communications and Media Authority (ACMA) under section 182 of the *Radiocommunications Act 1992* (the Act) amends the *Radiocommunications Devices (Compliance Labelling) Notice 2003* (the Labelling Notice). The amendment replaces a superseded standard in the Labelling Notice with a new version, revises the way test measurements are assessed in respect of one specified standard and makes several minor administrative changes.

##### **Legislative provisions**

The Australian Communications Authority (ACA) made the Labelling notice in 2003 under section 182 of the Act. That section of the Act provided for the then ACA to make a written instrument, requiring any person who is a supplier (manufacturer or importer) of a device included in a specified class of devices, to apply to the device a label to indicate whether the device meets the requirements of the standards specified in the Notice.

Subsection 33(3) of the *Acts Interpretation Act 1901* provides that where an Act confers a power to make an instrument, that power shall, unless the contrary intention appears, be construed as including a power exercisable in a like manner and subject to like conditions, to amend that instrument.

In accordance with the *Australian Communications and Media Authority (Consequential and Transitional Provisions) Act 2005*, ACMA is taken to have made the Labelling Notice under the Act as previously made by the ACA.

##### **Background**

ACMA's radiocommunications regulatory arrangements require each supplier of a radiocommunications device falling within the scope of an applicable standard to ensure the device complies with the standard, apply a compliance label to the device and to keep prescribed records, prior to supplying the device to the market.

Compliance is determined against applicable standards made under section 162 of the Act. The compliance label indicates that the supplier asserts that the device complies with all applicable standards made under section 162 of the Act that are specified in the Labelling Notice.

The Labelling Notice also specifies the compliance levels that must be met to demonstrate compliance with the applicable standards for a device. Compliance levels are established by ACMA in consultation with industry. They balance a supplier's requirement to provide evidence of compliance with a standard, against the interference potential of a device covered by that standard.

Compliance level 3 requires a test report from an accredited laboratory as part of the documentation necessary to be held to demonstrate compliance. Compliance level 2 requires specified evidence of compliance which may be as a minimum a non accredited test report or the manufacturer's performance specifications for the device and compliance level 1 only requires a declaration of conformity to applicable standards.

The Labelling Notice also specifies the method for assessing measurements in test reports where the applicable standard has a compliance level of 3. This compliance level applies to radiocommunications standards applicable to devices whose non-compliance with the standard would be likely to have a high interference impact on other devices.

The Labelling Notice is amended from time to time to incorporate changes to the regulatory requirements for radiocommunications devices. This is the second amendment of the Labelling Notice in 2008.

## **Operation**

### New standard

The amendment Notice applies labelling requirements in relation to the new radiocommunications standard made by ACMA, the *Radiocommunications (Cordless Telephone) Standard 2008*, by referring to this standard in Schedule 3 of the Labelling Notice as being an applicable standard for the purposes of labelling devices. The amendment also removes reference to the 1997 version of this standard.

This amendment applies a compliance level of 1 to this standard which is consistent with that applied to the replaced standard. This compliance level applies to radiocommunications standards applicable to devices whose non-compliance with the standard would be likely to have a low interference impact on other devices.

Compliance level 1 requires suppliers to prepare a description of the device and declare conformity with applicable standards, before applying a compliance label.

### Assessment of test measurements in specified test reports

Applicable standards are made under section 162 of the *Radiocommunications Act 1992* and may refer to an industry standard as the standard for performance. Currently one standard for performance offers an alternative compliance path by way of compliance with a specified modified European (ETSI) standard.

However, while the alternative path closely follows the ETSI process, it remains slightly askew due to a technical misalignment between the Labelling Notice and ETSI standards. The Labelling Notice requires that all compliance level 3 test reports sourced from NATA accredited test houses acquit measurement uncertainties in a manner different to the method native to ETSI standards.

Measurement uncertainties relate to the accuracy with which a test house can make a measurement and are used to determine whether a measurement complies with requirements. This misalignment with measurement uncertainties adds unwarranted complexity and cost when using the alternative ETSI standard.

The amendment makes a revision to provisions that describe how measurement uncertainties are acquitted in test reports required to be sourced from NATA accredited test houses by the Labelling Notice.

The amendment allows measurements made in accordance with the alternative ETSI standard to be interpreted consistently in accordance with the method native to ETSI standards.

While there is presently only one mandated standard for performance offering an alternative ETSI standard, it is anticipated that the number of industry standards providing a similar alternative will gradually increase.

Before more ETSI standards are offered as alternatives the suitability of each standard for Australian spectrum management purposes will be closely examined in the normal manner by stakeholders including ACMA, Standards Australia, the radiocommunications industry and other interested groups.

It should be noted that the amendment allows a supplier to use the ETSI method of acquitting measurement uncertainties only in respect of an alternative ETSI standard where the mandated standard for performance specifies one. For all other standards there is no change to existing requirements.

### Other amendments

The amendment Notice also updates an application form and a declaration of conformity proforma to the latest versions available from the ACMA website and replaces several instances of “the ACA” with “ACMA”.

### **Consultation**

Consultation for revising the process of conformity assessment and for including the new standard in ACMA’s compliance labelling regime as given effect by this amendment to the Labelling Notice was conducted by ACMA as summarised below.

ACMA circulated draft versions of the *Radiocommunications (Cordless Telephone) Standard 2008* and the *Radiocommunications Devices (Compliance Labelling) Amendment Notice 2008 (No. 2)* to a wide range of stakeholders for comment from 3 to 17 November 2008.

Parties consulted regarding these amendments included the New Zealand Ministry of Economic Development, the National Association of Testing Authorities, design & engineering consultants, regulatory compliance consultants, manufacturers & importers, peak associations of manufacturers & importers, Standards Australia Limited and test houses.

Seven responses were received from a range of stakeholders. All responses supported the proposals. The responding organisations were the New Zealand Ministry of Economic Development Radio Spectrum Management Group, the Australian Radio Communications Industry Association (ARCIA), the Australian Industry Group, Tait Electronics Ltd, Robert Bosch (Australia) Pty Ltd, Motorola Australia Pty Ltd and DSE (Holdings) Pty Limited (Dick Smith Electronics).

### **Regulation Impact**

ACMA's Best Practice Regulation Coordinator has advised that a full Business Cost Calculator analysis and Regulation Impact Statement are not required (RIS Reference No. 065) as the proposed amendments are minor and have a low impact on business.

Grandfathering provisions in the new radiocommunications standard allows for the continued supply of device models that complied with the previous applicable standard, thus minimising the impact of the change on industry and users.

The revision of the conformity assessment process as described above will provide a measure of flexibility for suppliers of devices scoped by a particular mandatory standard in the immediate term and possibly others in the future. It removes unwarranted complexity and cost when using an alternative ETSI standard.

The effect of the amendment is minor as suppliers are already permitted to use the alternative ETSI standard as specified by the mandated standard for performance. The benefits include closer alignment with international standards, increased flexibility and lower compliance costs.

### **Documents Incorporated in this Instrument by Reference**

The Amendment Notice incorporates into the Labelling Notice the technical standard referred to above. This standard is available for free download from the Federal Register of Legislative Instruments ([www.frli.gov.au](http://www.frli.gov.au)).

### **Detailed description of this Instrument**

Details of the Notice are in the Attachment.

## **Notes on the Instrument**

### **Section 1 – Name of the Notice**

This section provides for the name of the Notice.

### **Section 2 – Commencement**

This section provides that the Notice commences on the day after it is registered.

### **Section 3 – Amendment of Radiocommunications Devices (Compliance Labelling) Notice 2003**

This section provides that Schedule 1 amends the Labelling Notice.

#### **Schedule 1 – Amendment**

Schedule 1 lists the amendments to the Labelling Notice.

Item [1] inserts a provision to require that a device tested in accordance with the requirements of a specified ETSI standard be assessed for conformity based on recorded measurements. This permits measurement uncertainties to be acquitted in accordance with the method native to ETSI standards. The provision removes a requirement inconsistent with ETSI standards and applies only when an ETSI standard is specified in a standard for performance as an alternative testing path.

Item [2] defines ETSI standard to mean “a standard published by the European Telecommunications Standards Institute (ETSI).”

Schedule 3 of the Labelling Notice contains the section 162 standards incorporated into the Labelling Notice and which must be complied with before applying a compliance label.

Item [3] replaces the following outdated standard in Schedule 3:

- *Radiocommunications Standard (Cordless Telephone) No. 1 of 1997*

with the following new standard:

- *Radiocommunications (Cordless Telephone) Standard 2008*

Item [4] replaces two outdated forms in Schedules 4 and 5 with current versions.

Item [5] replaces references to the former ACA with references to ACMA.