

EXPLANATORY STATEMENT

Issued by the Australian Communications and Media Authority

Radiocommunications Devices (Compliance Labelling) Amendment Notice 2011 (No.2)

Purpose

The purpose of the *Radiocommunications Devices (Compliance Labelling) Amendment Notice 2011 (No.2)* (**the Amendment Notice**) is to amend the *Radiocommunications Devices (Compliance Labelling) Notice 2003* (**the Labelling Notice**).

The Amendment Notice amends the Labelling Notice to replace a reference to the superseded standard, *Radiocommunications (UHF CB Radio Equipment) Standard 2004* (**the 2004 UHF CB Standard**) with a reference to the new UHF Citizen Band equipment performance standard *Radiocommunications (UHF CB Radio Equipment) Standard 2011 (No.1)* (**the 2011 UHF CB Standard**).

The Amendment Notice also revokes the *Radiocommunications Devices (Compliance Labelling) Amendment Notice 2011 (No.1)*. That instrument was made by the Australian Communications and Media Authority on 18 February 2011. It was not registered on the Federal Register of Legislative Instruments, nor was it Gazetted, following the identification of a technical inconsistency in an earlier version of the 2011 UHF CB Standard to which it referred. Hence it never commenced operation. It is being revoked to avoid doubt.

Legislative provisions

Subsection 182(1) of the *Radiocommunications Act 1992* (**the Act**) provides that the Australian Communications and Media Authority (**the ACMA**) may, by notice published in the Gazette, require any person who manufactures or imports a device included in a specified class of devices to apply a label to the device to indicate whether the device complies with the standards specified in that notice.

A notice made under section 182 of the Act is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Background

The Labelling Notice requires each supplier of radiocommunications devices falling within the scope of a relevant standard to apply a compliance label to their product prior to supplying it to the market, and to keep prescribed records. Affixing a compliance label on a device is an assertion by the supplier that the device complies with applicable technical standards. As an alternative to surface labelling, suppliers have the option of displaying their label electronically if the device has a built-in electronic display.

The Labelling Notice requires suppliers to maintain documentary evidence of compliance with the applicable technical standard that is commensurate with the interference potential of that device.

Operation

The Amendment Notice amends Schedule 3 of the Labelling Notice to replace a reference to the superseded 2004 UHF CB standard with the new 2011 UHF CB Standard. The 2011 UHF CB Standard prescribes the standard for performance for radiocommunications transmitters and receivers, other than repeater stations, intended to be used in the Ultra High Frequency Citizen Band Radio Service (**UHF CBRS**).

From April 2008 to April 2010, the ACMA conducted a review of the arrangements for the radiofrequency spectrum in the 400MHz band of which the UHF CBRS band occupies a 1MHz

segment. As a result of this review, the ACMA decided to restructure the UHF CBRS band into eighty 12.5kHz channels from the existing forty 25kHz wide channels.

The 2004 UHF CB Standard refers to AS/NZS 4365:2002 for technical performance limits and test methods and is designed for the 25kHz channel arrangement. It is not suitable for use with the 12.5kHz wide channels of the restructured UHF CBRS band.

Standards Australia technical committee RC-006 developed the AS/NZS 4365:2011 (Radiocommunications equipment used in the UHF citizen band radio service) standard (AS/NZS 4365:2011) that prescribes the technical requirements suitable for the restructured 12.5kHz UHF CBRS band.

The 2011 UHF CB Standard adopts with modifications the technical requirements of AS/NZS 4365:2011.

Consultation

The ACMA conducted a public consultation process on the making of the 2011 UHF CB Standard. A draft of an earlier version of the 2011 UHF CB Standard was made available on the ACMA website for public comment on 9 September 2010 for 33 days.

Further, copies of the draft 2011 UHF CB standard were emailed to fifty-one stakeholders from a broad range of industry sectors. Copies of the draft standard were also sent to members of Standards Australia radiocommunications committees RC-004 and RC-006.

During that public consultation, the invitation to comment on the ACMA website drew attention to the fact that the 2011 UHF CB Standard would be referenced in Schedule 3 of the Labelling Notice.

A total of 13 responses were received to the ACMA's invitation for public comment. The majority of responses either supported or made no comment on the proposed 2011 UHF CB standard. There were no responses opposing the proposed 2011 UHF CB standard and its reference in the Labelling Notice.

Following the identification of a technical inconsistency in AS/NZS 4365:2011 which was referenced by the 2011 UHF CB Standard further consultation was undertaken on an amendment to the 2011 Standard and on a consequential amendment to the Amendment Notice. Email advice of the intended changes together with an invitation to comment was sent to interested persons including industry representatives such as Standards Australia radiocommunications technical committees, industry peak bodies, the New Zealand regulator (Ministry of Economic Development) and all parties that responded to the original consultation exercise. As at the date of the making of the instruments, four industry representatives have responded with none expressing opposition to the proposed changes to the 2011 UHF CB standard and its reference in the Labelling Notice.

The ACMA is satisfied that appropriate public consultation was conducted on the 2011 UHF CB Standard and its referencing in the Amendment Notice.

Regulation impact

The ACMA consulted with the Office of Best Practice Regulation (**OBPR**) regarding the making of an earlier version of the 2011 UHF CB standard and the Amendment Notice. OBPR confirmed that the 2011 UHF CB standard and its inclusion in the Labelling Notice will have minor and machinery impacts on industry and that a formal regulatory impact statement (**RIS**) would not be required. The OBPR RIS exemption number is **11897**.

OBPR was further consulted on revisions to the the 2011 UHF CB standard. It reiterated its earlier advice. ACMA staff were advised by OBPR that the OBPR Reference No. 11897 would continue to apply.

Notes on the instrument

Section 1 Name of Notice

Section 1 provides that the name of the Amendment Notice is the *Radiocommunications Devices (Compliance Labelling) Amendment Notice 2011 (No.2)*.

Section 2 Commencement

Section 2 provides that the Amendment Notice commences on the last of the following dates:

- (a) the date on which it is registered;
- (b) the date on which it is gazetted; and
- (c) the commencement of the *Radiocommunications (UHF CB Radio Equipment) Standard 2011 (No.1)*.

All of these events must occur before the Amendment Notice commences.

Section 3 Revocation of the *Radiocommunications Devices (Compliance Labelling) Amendment Notice 2011 (No.1)*

This section revokes the *Radiocommunications Devices (Compliance Labelling) Amendment Notice 2011 (No.1)*.

Section 4 Amendment of the *Radiocommunications Devices (Compliance Labelling) Notice 2003*

Section 4 provides that Schedule 1 of the Amendment Notice amends the *Radiocommunications Devices (Compliance Labelling) Notice 2003*.

Schedule 1 – Amendments

Item [1] Schedule 3, Item 11

This item amends Schedule 3 of the *Radiocommunications Devices (Compliance Labelling) Notice 2003* by replacing the reference to the superseded *Radiocommunications (UHF CB Radio Equipment) Standard 2004* at Item 11 of that Schedule with a reference to the new *Radiocommunications (UHF CB Radio Equipment) Standard 2011 (No.1)*.