

EXPLANATORY STATEMENT

Approved by the Australian Communications and Media Authority

Telecommunications Act 1997

Telecommunications (Requirements for Customer Equipment for Use with the Standard Telephone Service – Features Designed for People with Disability – AS/ACIF S040) Standard 2025

Authority

The Australian Communications and Media Authority (the **ACMA**) has made the *Telecommunications (Requirements for Customer Equipment for Use with the Standard Telephone Service – Features Designed for People with Disability – AS/ACIF S040) Standard 2025* (the **instrument**) under subsection 380(1) of the *Telecommunications Act 1997* (the **Act**) and subsection 33(3) of the *Acts Interpretation Act 1901* (the **AIA**).

Subsection 380(1) of the Act 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**).

Subsection 33(3) of the AIA relevantly provides that where an Act confers a power to make a legislative instrument, the power shall be construed as including 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.

Purpose and operation of the instrument

Background

The ACMA is responsible for technical regulation of telecommunications customer equipment and customer cabling under Part 21 of the Act. The telecommunications industry, through ACIF and then through CA, identified and endorsed the requirement for the continued use 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.

The basis for the instrument

The ACMA has made the instrument to repeal and 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) 2015 (the 2015 Standard)* which was due to be automatically repealed on 1 April 2025 under Part 4 of Chapter 3 of the *Legislation Act 2003* (the **LA**).

The ACMA has made the instrument because it formed the view that the 2015 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 that removes barriers to access for people with disability. Accordingly, the ACMA decided to make the instrument to replace the 2015 Standard without making any significant changes to the regulatory arrangements created by the 2015 Standard so that its ongoing effect is preserved.

The instrument is part of a package of instruments made by the ACMA including technical standards under section 376 of the Act and the *Telecommunications (Labelling Notice for Customer Equipment and Customer Cabling) Instrument 2025* (the **Telecommunications Labelling Notice**).

The instrument 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 people without disability, and has features designed to meet any or all accessibility requirements of people with disability. The instrument adopts the Australian Standard, AS/ACIF S040:2001 – *Requirements for Customer Equipment for use with the Standard Telephone Service - Features for special needs of persons with disabilities* (the **AS/ACIF Standard**) published by CA in March 2002. The AS/ACIF Standard defines the technical requirements relating to the features of the equipment that are designed to meet any or all accessibility requirements for people with disability.

A provision-by-provision description of the instrument is set out in the notes at **Attachment A**.

The instrument is a disallowable legislative instrument for the purposes of the **LA**.

Documents incorporated by reference

The instrument incorporates the following Acts, legislative instruments and other documents by reference, or otherwise refers to them:

- the Act;
- the AIA;
- the LA;
- the 2015 Standard;
- the AS/ACIF Standard.

The Acts referred to above are incorporated as in force from time to time, in accordance with section 10 of the AIA and subsection 13(1) of the LA. The 2015 Standard is incorporated as in force immediately before the commencement of the instrument, in accordance with section 589 of the Act and subsection 14(1) of the LA. All Commonwealth Acts and legislative instruments are registered on the Federal Register of Legislation and may be accessed free of charge at <http://www.legislation.gov.au/>.

The AS/ACIF Standard is incorporated as existing at the times specified in the instrument, in accordance with sections 381 and 589 of the Act. The AS/ACIF Standard can be obtained from CA's website (<https://www.commsalliance.com.au>) free of charge.

Consultation

Before the instrument was made, the ACMA was satisfied that consultation was undertaken to the extent appropriate and reasonably practicable, in accordance with section 17 of the LA.

In addition, subsection 382(1) of the Act requires that before the ACMA makes a standard under section 380 of the Act, 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(5) of the Act provides that interested persons are not taken to have had an adequate opportunity unless there was a consultation period of at least 60 days.

Subsection 17(1) of the LA 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.

A public consultation process was conducted during the period 21 October 2024 to 20 December 2024 in relation to the proposal to remake the instrument, various technical standards, and the Telecommunications Labelling Notice.

Draft instruments and a consultation paper containing explanatory information were made available on the ACMA website during the consultation period. Interested parties were notified of the release of the draft instruments and invited to comment.

The ACMA received 6 submissions in response to the consultation and the submissions either supported making the instrument or provided no specific comments in relation to the proposal to make the instrument. One submitter recommended the language in the instrument be revised to align with the Australian Government's style manual for people with disability¹ and the People With Disability Australia language guide.² The ACMA considered all submissions received and in response to feedback, the ACMA amended some language used in the instrument, including the title, to better align with the style manual and language guide. No other material changes were made to the instrument after consultation.

Statement of compatibility with human rights

Subsection 9(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011* requires the rule-maker in relation to a legislative instrument to which section 42 (disallowance) of the LA applies to cause a statement of compatibility with human rights to be prepared in respect of that legislative instrument.

The statement of compatibility with human rights set out in **Attachment B** has been prepared to meet that requirement.

¹ Australian Government, 'Style manual', *People with disability* (Web Page, 2024).

<<https://www.stylemanual.gov.au/accessible-and-inclusive-content/inclusive-language/people-disability>>.

² People with Disability Australia, *PWDA Language Guide: A guide to language about disability* (Language Guide, August 2021).

Notes to the *Telecommunications (Requirements for Customer Equipment for Use with the Standard Telephone Service – Features Designed for People with Disability – AS/ACIF S040) Standard 2025*

Part 1–Preliminary

Section 1 Name

This section provides for the instrument to be cited as the *Telecommunications (Requirements for Customer Equipment for Use with the Standard Telephone Service – Features Designed for People with Disability – AS/ACIF S040) Standard 2025* or cited as “AS/ACIF S040-2025”.

Section 2 Commencement

This section provides for the instrument to commence on 30 March 2025.

The instrument is registered on the Federal Register of Legislation which may be accessed free of charge at www.legislation.gov.au.

Section 3 Authority

This section identifies the provision of the Act that authorises the making of the instrument, namely subsection 380(1) of the *Telecommunications Act 1997* (the **Act**).

Section 4 Repeal 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) 2015*

This section provides that 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**) (F2015L00191) is repealed.

Section 5 Object

This section sets out the object of the instrument. This object aligns with paragraphs 380(1)(a) to (c) of the Act.

The instrument consists of requirements relating to specified customer equipment that:

- is for use in connection with the standard telephone service; and
- is for use primarily by people without disability; and
- relates to the features of the equipment that are designed to cater for any or all accessibility requirements for people with disability.

Section 6 Definitions

This section defines a number of key terms used throughout the instrument.

Some of those key terms were used in the 2015 Standard and have been defined in the same or a similar way as in that standard, including defining the term “AS/ACIF Standard” used throughout the instrument. AS/ACIF Standard means the Australian Standard AS/ACIF S040:2001 – *Requirements for Customer Equipment for use with the Standard Telephone Service - Features for special needs of persons with disabilities* published by the Australian Communications Industry Forum Ltd (now known as Communications Alliance Ltd) in March 2002, as existing at the time the instrument commenced.

Explanatory Statement to the Telecommunications (Requirements for Customer Equipment for Use with the Standard Telephone Service – Features Designed for People with Disability – AS/ACIF S040) Standard 2025

Other terms used in the instrument which take their meaning from the Act are listed in a note to the section.

Part 2—Application, standard and transitional arrangements

Section 7 Application

This section specifies the types of customer equipment to which the instrument applies. The instrument 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 people without disability; and
- c) has features that are designed to meet any or all accessibility requirements for people with disability.

Section 8 Standard with which customer equipment must comply

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

Section 9 Savings and transitional arrangements for customer equipment in existence before commencement

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

Statement of compatibility with human rights

Prepared by the Australian Communications and Media Authority under subsection 9(1) of the
Human Rights (Parliamentary Scrutiny) Act 2011

Telecommunications (Requirements for Customer Equipment for Use with the Standard Telephone Service – Features Designed for People with Disability – AS/ACIF S040) Standard 2025

Overview of the instrument

The instrument 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 people without disability and has features designed to meet any or all accessibility requirements for people with disability. The instrument adopts the Australian Standard AS/ACIF S040:2001 – *Requirements for Customer Equipment for use with the Standard Telephone Service – Features for special needs of persons with disabilities* (the **AS/ACIF Standard**) published by ACIF (now known as Communications Alliance Ltd) in March 2002.

The AS/ACIF Standard prescribes the technical requirements relating to the features of customer equipment that is designed to meet any or all accessibility requirements (referred to as special needs in the AS/ACIF Standard) for people with disability. The AS/ACIF Standard prescribes requirements and where appropriate, recommends design features which remove barriers to access for people with disability.

Human rights implications

The ACMA has assessed whether the instrument is compatible with human rights, being the rights and freedoms recognised or declared by the international instruments listed in subsection 3(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011* as they apply to Australia.

Having considered the likely impact of the instrument and the nature of the applicable rights and freedoms, the ACMA has formed the view that the instrument engages the right to accessibility in Article 9 of the *Convention on the Rights of Persons with Disabilities* (the **CRPD**).³

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

Article 9 requires State Parties such as Australia to take appropriate measures to ensure that people with 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 CRPD outlines that State Parties shall also take appropriate measures to promote access for people with disability to new information and communications technologies and systems, including the Internet.

³ *Convention on the Rights of Persons with Disabilities*, opened for signature 30 March 2007, 2515 UNTS 3 (entered into force 3 May 2008).

The instrument 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 meet any or all accessibility requirements for people with disability, the instrument promotes equal access to communications technologies and systems.

Conclusion

The instrument is compatible with human rights because it advances the human rights in Article 9 of the CRPD by promoting equal access for people with disability to communications technologies and systems.