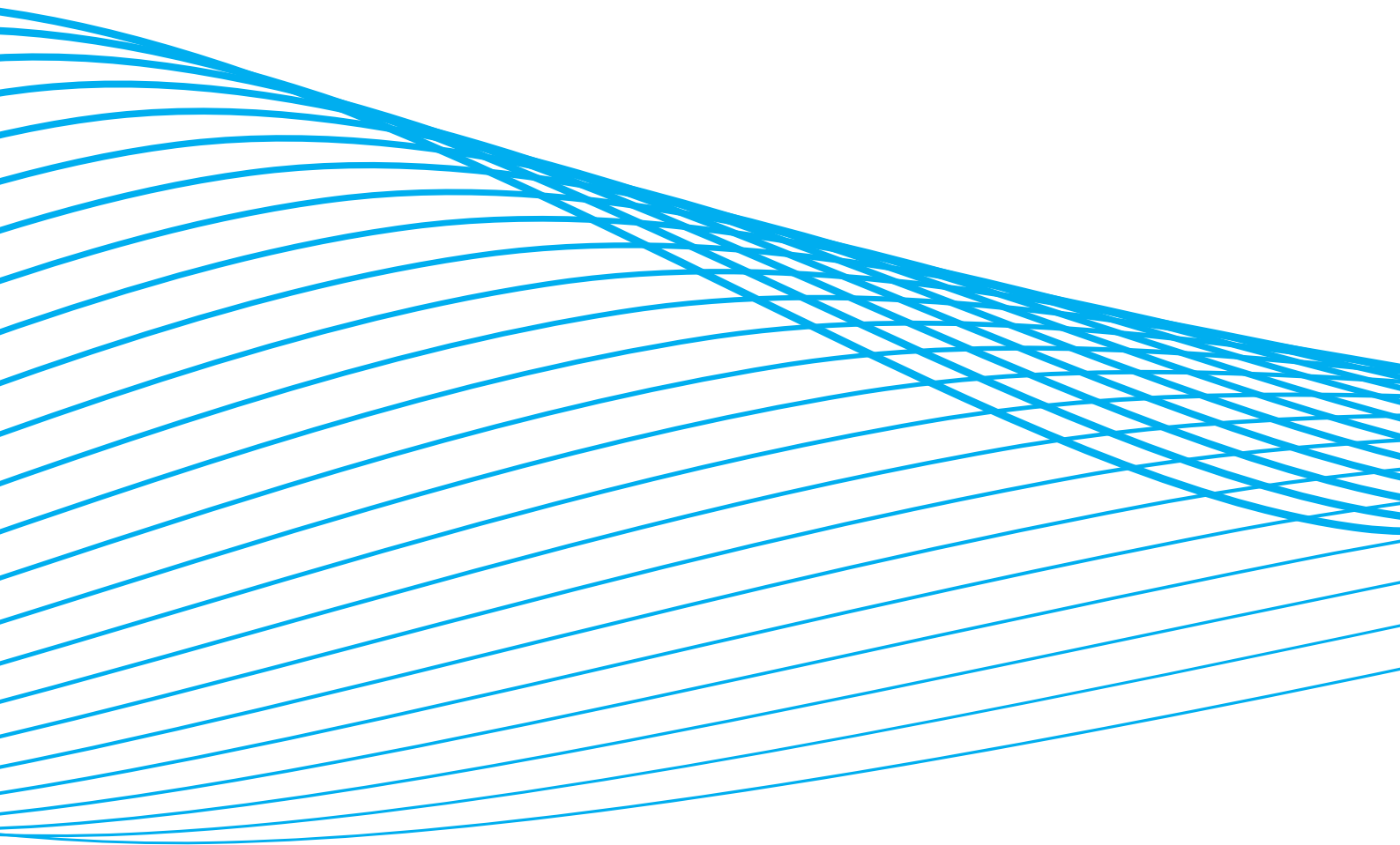


Information on labelling and record-keeping

For suppliers of telecommunications
customer equipment and
cabling products in Australia

MARCH 2014



Canberra
Red Building
Benjamin Offices
Chan Street
Belconnen ACT

PO Box 78
Belconnen ACT 2616

T +61 2 6219 5555
F +61 2 6219 5353

Melbourne
Level 32
Melbourne Central Tower
360 Elizabeth Street
Melbourne VIC

PO Box 13112
Law Courts
Melbourne VIC 8010

T +61 3 9963 6800
F +61 3 9963 6899

Sydney
Level 5
The Bay Centre
65 Pirrama Road
Pyrmont NSW

PO Box Q500
Queen Victoria Building
NSW 1230

T +61 2 9334 7700
1800 226 667
F +61 2 9334 7799

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Written enquiries may be sent to:

Manager, Editorial and Design
PO Box 13112
Law Courts
Melbourne VIC 8010
Tel: 03 9963 6968
Email: candinfo@acma.gov.au

Contents

| | |
|--|----------|
| Introduction | 1 |
| Other regulatory arrangements | 1 |
| 1. Telecommunications regulatory arrangements | 2 |
| What are the telecommunications regulatory arrangements for customer equipment and cabling products? | 2 |
| What about goods supplied to New Zealand? | 2 |
| 2. Labelling, testing and record-keeping requirements | 3 |
| Labelling requirements | 3 |
| What are the labelling requirements? | 3 |
| What is a compliance mark? | 3 |
| Who can use the RCM? | 4 |
| What are the current arrangements for first-time suppliers? | 4 |
| What are the arrangements for ACMA-registered suppliers? | 4 |
| The compliance label | 5 |
| What is a compliance label? | 5 |
| Who may apply a compliance label? | 6 |
| Who is responsible for applying labels to an item? | 6 |
| Exempt items | 7 |
| Can a non-compliant item be supplied? | 7 |
| What is an agency agreement? | 7 |
| How does an agent register under the new labelling arrangements? | 8 |
| What happens if someone else has already labelled a device with the compliance label? | 9 |
| What should I do if I transfer responsibility for supply of a telecommunications item? | 9 |
| Testing requirements | 10 |
| What standards apply to my telecommunications items? | 10 |
| What are compliance levels? | 10 |
| What is an RTA? | 11 |
| What is a certification body? | 11 |
| Who should test my item? | 12 |
| What other compliance documentation can be used? | 12 |
| Information on changes to standards | 12 |
| What happens if standards are amended or replaced? | 12 |
| Can an item continue to be labelled as being compliant to an expired standard? | 13 |
| Supply of disability customer equipment | 13 |
| Record-keeping requirements | 14 |
| What are the record-keeping obligations for telecommunications items? | 14 |
| Declaration of Conformity | 15 |
| Does a modification to a device require a new set of compliance records? | 15 |
| Do I need the original test report? | 15 |

Contents (Continued)

| | |
|--|-----------|
| Where do I keep the compliance records? | 16 |
| Can I store my compliance records electronically? | 16 |
| How long should I keep the compliance records? | 16 |
| 3. Enforcement | 17 |
| Will the ACMA inspect the compliance records? | 17 |
| How does the ACMA decide who is to be audited? | 17 |
| What offences and penalties apply? | 17 |
| 4. Contact details | 18 |
| Regulator | 18 |
| Australian Communications and Media Authority (ACMA) | 18 |
| Standards development organisations | 18 |
| Communications Alliance Ltd | 18 |
| Standards Australia | 18 |
| Accreditation body | 18 |
| National Association of Testing Authorities, Australia | 18 |

Introduction

The Australian Communications and Media Authority (the ACMA) is responsible for regulating telecommunications, broadcasting, radiocommunications and the internet. The ACMA has regulatory arrangements for equipment used in the supply of telecommunications, radiocommunications and broadcasting services.

This booklet provides information on the regulatory arrangements for the supply of telecommunications **customer equipment** and **customer cabling products** (collectively referred to as 'items' throughout this booklet). It outlines the steps that must be taken prior to an item being supplied to the Australian market. The booklet is intended for manufacturers and importers in Australia of telecommunications items, or authorised agents in Australia acting on behalf of manufacturers and importers. Manufacturers, importers and their agents are collectively referred to as '**suppliers**' throughout this booklet.

Under the *Telecommunications Act 1997*, the ACMA places obligations on suppliers of specified telecommunications **customer equipment** and **customer cabling products**. The instrument through which the ACMA manages these regulatory requirements is the [Telecommunications Labelling \(Customer Equipment and Customer Cabling\) Notice 2001](#), as amended (the Telecommunications Labelling Notice).

The regulatory arrangements require suppliers to ensure that items are labelled to indicate that they comply with mandatory technical standards before they are supplied to the Australian market. The arrangement also imposes record-keeping requirements on suppliers.

The ACMA's labelling arrangements changed on 1 March 2013. This updated booklet includes the new regulatory requirements for labelling telecommunications items with the regulatory compliance mark—the RCM.

Other regulatory arrangements

The ACMA has regulatory arrangements for different types of telecommunications items. As well as the requirements in the Telecommunications Labelling Notice under the Telecommunications Act, the ACMA has requirements for radiocommunications, electromagnetic compatibility (EMC) and electromagnetic radiation/energy (EMR/EME) under the *Radiocommunications Act 1992*.

Any of these above regulatory arrangements may also apply to telecommunications items. More information on these arrangements can be found on the [ACMA website](#).

Disclaimer

The information in this booklet is intended as a guide only and should not be relied on or regarded as a substitute for legal advice in individual cases. This booklet should be read in conjunction with the Telecommunications Labelling Notice.

The information contained in this booklet is correct at the time of publication.

1. Telecommunications regulatory arrangements

What are the telecommunications regulatory arrangements for customer equipment and cabling products?

The regulatory arrangements for customer equipment and customer cabling impose requirements related to network integrity, health and safety, access to emergency call services and interoperability.

The regulatory arrangement imposes labelling, testing and record-keeping requirements on the suppliers of specified items. Suppliers must ensure items meet ACMA technical standards before they are supplied to the Australian market.

The Telecommunications Labelling Notice specifies the items scoped by the arrangements. It generally groups items according to the type of carrier service interface to which the item is designed to connect. It identifies applicable ACMA technical standard(s) and the compliance level(s) required for the item.

The regulatory arrangements apply to all suppliers of telecommunications devices that are listed in Schedule 1 of the Telecommunications Labelling Notice.

In broad terms, the telecommunications regulatory arrangements require that, prior to supplying a telecommunications item, a supplier must:

- > **Establish** whether the item is covered by the telecommunications regulatory arrangement. Refer to Schedule 1 in the Telecommunications Labelling Notice.
- > **Ensure** the device complies with the applicable telecommunications standard(s) identified for that device in the Telecommunications Labelling Notice.
- > **Collect** supporting documentation as indicated by the applicable compliance level in the Telecommunications Labelling Notice (see Chapter 2).
- > **Complete and sign** a [Declaration of Conformity](#) (Form C02)—a declaration on behalf of the supplier that all items supplied comply with the applicable standard(s). The supporting documentation and the Declaration of Conformity then become the ‘compliance records’ for the item.
- > **Apply** a compliance label to each item (see Chapter 2).
- > **Maintain** the compliance records (see Chapter 2).

The Telecommunications Labelling Notice and its associated explanatory statement can be found on the [ComLaw website](#).

What about goods supplied to New Zealand?

Telecommunications items supplied in New Zealand are subject to that country's laws. They must meet applicable New Zealand standards and be labelled in accordance with requirements. Telecommunications items that are labelled and tested for Australian requirements are not, by virtue of complying with Australian requirements, able to be supplied to the New Zealand market. The [Radio Spectrum Management \(RSM\) website](#) provides advice for suppliers to the New Zealand market, particularly on [how to meet the New Zealand standards and labelling regime](#).

2. Labelling, testing and record-keeping requirements

There are three key steps to ensuring supplier compliance with the telecommunications regulatory arrangements:

- > **labelling**—how, where and when to apply a compliance label
- > **testing**—testing of items, what standards items are tested to and who should test
- > **record-keeping**—what records must be kept, who by and for how long.

This chapter gives some guidance on these requirements. If you have any doubt about these requirements, you should refer to the Telecommunications Labelling Notice. As there are significant consequences for being in breach of these requirements, the ACMA suggests that in the case of any doubt on your behalf, you seek your own legal advice.

Labelling requirements

This section provides information on labelling arrangements, including transitional arrangements, for both new suppliers and suppliers who are currently labelling with a compliance label bearing the A-Tick compliance mark.

What are the labelling requirements?

Items that are listed in Schedule 1 to the [Telecommunications Labelling Notice](#) must be labelled with a compliance label before supply to the Australian market.

A compliance label must not be applied to the item unless the item complies with the applicable standard(s) and the supplier holds the documentation relevant to the item.

Two possible compliance labels can be used under this regulatory arrangement:

- > for ACMA-registered suppliers—a compliance label that bears both the A-Tick compliance mark and supplier identification (the A-Tick compliance label)
- > for all suppliers—a compliance label that bears only the Regulatory Compliance Mark (RCM).

There are certain items that are exempt from labelling. These items are predominantly customer cabling items and minor customer equipment used in the installation of customer cabling. Details on exemptions for the items are below.

What is a compliance mark?

A compliance mark is a graphical symbol that forms part of the label. There are two compliance marks relevant to this regulatory arrangement—the A-Tick and the RCM. These marks are ‘protected symbols’ that is, they are protected by law from misuse. To use a compliance mark you must be authorised to do so.

The A-Tick is a compliance mark for the ACMA and has been in use for many years to indicate compliance for telecommunications equipment. Suppliers can use the A-Tick if they are registered with the ACMA and have a Supplier Code Number (SCN).

The RCM is a compliance mark that is recognised by the ACMA and by state and territory electrical safety regulators. It can be used to indicate compliance to arrangements imposed by these Authorities. As part of the move to a single compliance mark a database—the national database—of supplier details has been

developed. This database is jointly shared by the Electrical Regulatory Authorities Council (ERAC) and the ACMA. Suppliers can use the RCM once they are registered on the [national database](#).

From 1 March 2013, a national database of all suppliers using the RCM is [available](#). Suppliers must register on the [national database](#) before they use the RCM for the first time.

A downloadable image of the RCM is available [here](#).

Who can use the RCM?

From 1 March 2013, any supplier can use the RCM once they have registered on the national [database](#).

What are the current arrangements for first-time suppliers?

For any person who is first supplying equipment to the market after 1 March 2013, the only available compliance label is the RCM.

First-time suppliers are those who have not been issued with a SCN by the ACMA prior to 1 March 2013. From this date they must:

- > register on the [national database](#)
- > use the RCM compliance label to indicate compliance with applicable ACMA regulatory arrangements, including all technical and record-keeping requirements.

What are the arrangements for ACMA-registered suppliers?

ACMA-registered suppliers are those who have been issued with a SCN prior to 1 March 2013 and are using the A-Tick compliance label. A three-year transition period applies to ACMA-registered suppliers.

From 1 March 2013:

- > ACMA-registered suppliers will be permitted to continue to use the A-Tick for labelling of new items until 29 February 2016.
- > ACMA-registered suppliers have until 29 February 2016 to register on the national database.
- > ACMA-registered suppliers that have registered on the national database may label with the RCM.

From 1 March 2016:

- > All suppliers must use the RCM as the compliance label.
- > Items first supplied to the market prior to 29 February 2016 that are labelled with the A-Tick compliance label can continue to be supplied with that label until labelled stock is exhausted.

Some suppliers will hold authority to use the RCM compliance mark by virtue of the fact that they are registered on the Electrical Equipment Safety System (EESS) database and have been using the RCM to indicate compliance with State and Territory electrical safety requirements. Irrespective of this authority suppliers must register on the national database before the end of the transitional period

The compliance label

What is a compliance label?

A compliance label is a durable and legible label bearing a compliance mark. It indicates that an item has been certified by the supplier as meeting any applicable standards that apply to that item.

A compliance label may comprise either:

- > a compliance mark only (where the compliance mark is the RCM)—see Figure 1
- > a compliance mark and information about the identity of the supplier (where the compliance mark is the A-Tick under the transitional arrangements)—see Figure 2.

The requirements for durability and legibility issues like font and symbol size are addressed in the Telecommunications Labelling Notice.

Figure 1 [RCM](#)



Figure 2 [A-Tick](#)



Scale and visibility

The compliance label must be legible and visible to the unaided eye. The compliance mark should be no smaller than three millimetres (3 mm) in height. The label may be reproduced in any colour, provided that visibility is assured through either contrast with the background colour or marking in relief (for example, moulding or engraving).

Placement

Suppliers have the choice of either applying a compliance label to the surface of the item (surface labelling), electronically if the item has a built-in electronic display or in some circumstances on the packaging of the device. In addition, the label may be placed on promotional material associated with the item:

- > **Surface labelling**—the compliance label should be a permanent feature placed on the item.
 - > It must be applied to a surface of the item that is readily accessible to the user.
 - > The label should be durable and applied by any suitable means including printing, painting, moulding, etching or engraving.
 - > The label should be applied to the item so that it is accessible. It may be applied to the bottom of an item but not in such a way that a special tool is required to open a compartment to view the label.

- > **Electronic labelling**—the supplier of an item that has a built-in display has the option of displaying the compliance label electronically on the built-in display rather than on the surface of the item. Electronic labelling is only an option if the item has a 'built-in' display. Displays that connect to the item, but are external to the item, are not considered as built-in displays. Suppliers that choose to use electronic labelling are required to explain in the documentation that accompanies the item how the electronic label can be viewed.
- > **Packaging**—if it is not practical to apply a label either to the external surface of the item or electronically, it must be applied to the following items associated with the item:
 - > the external surface of the packaging used for the item
 - > the documentation (operating instructions, warranty or guarantee certificates) that accompanies the device when it is used by the consumer
 - > a label applied to the external surface of the packaging used for a item must:
 - > be clearly visible
 - > occupy an area that is greater than one per cent of that external surface.

Suppliers are required to maintain records detailing the reasons why and where the label was applied.

Who may apply a compliance label?

It is the responsibility of the registered supplier of the item to ensure that compliance labels are correctly applied to each item before it is supplied to the market.

A supplier can give permission to a third party, including an agent, to apply labels on its behalf; however, ultimate responsibility and accountability for applying the label rests with the supplier.

A supplier should ensure that where it is relying on a third party to apply labels it has confidence that labels are applied in accordance with the requirements. There are penalties for failing to apply compliance labels, applying a compliance label to a non-standard item or misusing protected symbols that form part of a compliance label.

Who is responsible for applying labels to an item?

Items manufactured in Australia

The Australian manufacturer, or their authorised agent in Australia, must label items manufactured in Australia in accordance with the Telecommunications Labelling Notice.

Any person who applies a compliance label to a device must be authorised to do so by the supplier, irrespective of whether the compliance label bears the RCM or the A-Tick.

Copies of the authorisation to apply the compliance labels must be kept by the authorising supplier as part of the compliance records. A copy should also be kept by the authorised person applying the labels on behalf of the supplier.

Any person who applies labels without authorisation may be subject to prosecution for the misuse of a protected symbol.

Items manufactured overseas

The Australian importer, or the importer's authorised Australian agent, must ensure that items manufactured overseas are labelled in accordance with the Telecommunications Labelling Notice.

The ACMA recognises that it may be more cost-effective for many imported items to be labelled at the time of manufacture rather than at the time of importation. Where the item is labelled overseas, the registered supplier or their agent in Australia must provide a written authorisation to the original manufacturer of the item to apply a label. The registered supplier or agent must keep a copy of this authorisation in their compliance records. The registered supplier is accountable for this process.

Copies of this authorisation must be kept with the compliance records. Suppliers should take precautions to ensure that their compliance label is not misused by the overseas manufacturer.

Exempt items

For the labelling of a range of certain cabling products—some customer cabling and associated customer equipment—suppliers have an alternative to applying the compliance label. Details of the requirements for suppliers using the alternative labelling arrangements are specified in Part 2A of the Telecommunications Labelling Notice. It is important that suppliers read these requirements and consult the ACMA.

Suppliers who use the alternative labelling arrangements, and do not place a compliance label on their product, are required to provide the ACMA with written intention to use the exemption. They must establish and maintain a publicly available register on the internet, list each of their compliant cabling products supplied under the exemption and maintain compliance records for each product.

Products supplied under the exemption are identified in the marketplace by their unique markings and labels applied during the manufacturing process.

For a cabling product to be eligible for the alternative labelling arrangements it must:

- > be compliant with the standard AS/CA S008-2011 or its predecessors
- > be a type of product that can only be installed by a licensed or registered cabler (under section 420 of the Telecommunications Act)
- > be marked with the manufacturer's identification.

These cabling products include cable, connectors, distributors and patch panels.

Cabling products intended for the consumer market must be marked with a compliance label. The exemption is not intended for equipment supplied to the retail sector. Examples of such products include pre-terminated (terminated with plugs and sockets) telephone extension cords, plug-in socket adaptors and pre-terminated patch leads.

More information, including the application form for the exemption, Form T004, is available on the [ACMA website](#).

Can a non-compliant item be supplied?

Generally no, however there are occasions when a non-compliant item can be supplied to the market. Details on labelling requirements for non-compliant items are provided in the Telecommunications Labelling Notice

What is an agency agreement?

Suppliers can meet their labelling obligation by either labelling the item themselves or entering into an agreement with another person (an agent) who labels the item.

An Australian manufacturer or importer may authorise an Australian-based agent to carry out the compliance requirements on their behalf. In such instances, **a written agency agreement must exist between the agent (in Australia) and the supplier**

(in Australia) that identifies the agent as the person responsible for the compliance arrangements on behalf of the supplier.

For the purposes of the telecommunications regulatory arrangements, an agency agreement is any agreement between a person with an obligation to label and a separate entity, under which the latter agrees to take responsibility for labelling. An agent taking responsibility for labelling an item also must retain and maintain the compliance records for the item.

An agreement between an overseas manufacturer and a local agent under which the latter agrees to assume the regulatory compliance obligations for all importers of a specified item is *not* an agency agreement for the purposes of the telecommunications regulatory arrangements, and does not absolve the importer(s) of the compliance obligations. The agreement must be between the Australian importer and the local agent. In the case of an agreement between the overseas manufacturer and a local agent (which is not accompanied by an agreement between the importer and the agent), each individual importer of an item is responsible for complying with the telecommunications regulatory arrangements.

The agency agreement must address all aspects of the responsibility to label and be written in unambiguous language. The ACMA recommends that both parties to an agency agreement seek independent legal advice on the content of that agreement.

There is no defined form for an agency agreement. It can be either a standalone document of a form agreed to by the parties involved or incorporated into another agreement between those parties. A copy of the agency agreement must be kept with the compliance records of the device. A further copy should be held by each party mentioned in the agreement.

Information about issues that must be considered in making an agency agreement between people importing or manufacturing goods for supply to the Australian market, subject to the ACMA compliance arrangements, is on the [ACMA website](#).

How does an agent register under the new labelling arrangements?

The new ACMA arrangements do not preclude the use of an agent to manage a supplier's compliance responsibilities. As with the previous arrangements, an agent can only assume responsibility for compliance of an item if the agent has a written agreement directly with the supplier of the item. An agent who has assumed supplier compliance responsibilities must register on the new database.

However, the Electrical Equipment Safety System (EESS) arrangements impose obligations on the first supplier of the item to the Australian market, and do not allow agents to assume the compliance responsibilities of first suppliers. The database has only two registration options—'supplier' or 'consultant'. Therefore, the following ACMA agent registration arrangements apply:

- > An agent of a supplier of an item that is subject to ACMA-only requirements should register as a 'supplier'.
- > An agent of a supplier of an item that is subject to both ACMA and EESS requirements should:
 - > register as a 'supplier' for ACMA purposes
 - > register as a 'consultant' for EESS purposes
 - > ensure the first supplier of the item is registered as the supplier of the item for EESS purposes and has nominated the agent ('consultant') as their 'preferred consultant'.

What happens if someone else has already labelled a device with the compliance label?

A supplier may wish to supply an item that is already being supplied by another supplier to the Australian market. Each supplier must obtain the appropriate documentation to establish and keep their own compliance records, and subsequently apply compliance labels to each item they supply. It is not adequate to rely solely on the compliance documentation held by the other supplier. Each importer or authorised agent in Australia is responsible for ensuring that the imported item complies with the relevant standard(s).

A single supplier or agent may act on behalf of multiple importers of the same item. There must be an agency agreement between each supplier and the agent. The agent may establish and maintain the compliance records relevant to the item. Information on agency agreements is available from the [ACMA website](#).

If a person purports to act as the agent for an item imported by multiple importers, the person must have written agreements with each separate importer.

What should I do if I transfer responsibility for supply of a telecommunications item?

Where a supplier (the old supplier) ceases to supply a device and a different supplier (the new supplier) elects to take responsibility for the continued supply of that device, a transfer of responsibility may occur.

From the date of transfer of responsibility, the new supplier is responsible for the compliance of all devices supplied to the market.

The ACMA will consider the old supplier of the item responsible for all items supplied prior to the transfer of responsibility unless this issue is specifically addressed in detail in the written agreement between the old and new supplier. The old supplier cannot acquit its responsibility for all actions through the written agreement. The old supplier may be accountable for items that were supplied without labels, incorrectly labelled or not compliant to the standard in the period prior to the transfer of responsibility.

Where a transfer of responsibility occurs and labelling is done with the RCM, the new supplier must be registered on the database prior to taking responsibility for supply of the device and labelling with the RCM.

If the new supplier in this instance is an existing supplier and is labelling with the A-Tick compliance label, it may continue to label the item in this manner until the end of the transition period.

The new supplier must ensure that the item is compliant before labelling it with the compliance mark. The new supplier is responsible for the compliance of all items supplied from the date that it takes control.

The new supplier may choose to rely on the documentation provided by the old supplier about the conformity of the supplied devices. This approach is risky and the ACMA recommends that the supplier assesses the compliance of the item independently—although this is not mandatory. In any event, the new supplier must complete a Declaration of Conformity for the item before supplying it to the market.

The ACMA recommends that both parties seek legal advice about their responsibilities and the obligations they accrue through a transfer of responsibility for a device.

Testing requirements

What standards apply to my telecommunications items?

Suppliers should refer to Schedule 1, Part 2 of the Telecommunications Labelling Notice to identify:

- > the item category according to either the carrier service to which the item is designed to connect or the function of the item
- > the applicable ACMA technical standard(s) for the item
- > the compliance level(s) for the item in relation to each applicable standard.

If the item is scoped by more than one category, that item must comply with all the applicable ACMA technical standards that are identified for each category.

Items must meet the requirements of the applicable ACMA technical standard(s) detailed in Schedule 1, Part 1 of the Telecommunications Labelling Notice. There are different ACMA technical standards for different types of items and, in many cases, more than one technical standard will apply to a particular item.

The telecommunications standards list is available on the [ACMA website](#).

If an item labelled as compliant is modified, it must continue to meet the requirements of the applicable ACMA technical standard(s) and may require additional testing if it is to continue being labelled with the compliance label and supplied to the market.

What are compliance levels?

The Telecommunications Labelling Notice identifies three compliance levels. Each compliance level, in a given instance, relates to the risk associated with non-compliance with an applicable technical standard(s).

The higher the compliance level, the greater the risk to either safety or network integrity presented by a non-compliant item. The higher the compliance level, the higher the requirements for evidence of compliance and record-keeping.

There are three compliance levels:

Compliance level one

Compliance level one—applies where non-compliance has low consequences. For compliance level one, the supplier must hold as part of the compliance record a description of the item and a Declaration of Conformity for the item

Compliance level two

Compliance level two—non-compliance may have adverse consequences. For compliance level two, the supplier must hold the same information as for level one but must also hold enough information, to show the item meets the requirements of each of the applicable technical standards for that item.

The type of information for compliance level two is specified in the Telecommunications Labelling Notice. In brief any of the following documents may be used to demonstrate compliance:

- > a test report
- > a written statement by a certification body or competent body
- > supplementary compliance documentation. This can include specified overseas type approvals and endorsed test reports, an attestation of conformity, a certificate of approval or certificate of suitability supported by a compliant test report and a

written statement from a certification body. In combination, these documents should clearly indicate that the item meets the applicable standard.

For compliance level two, a compliant test report may be obtained from any test house/authority, including an in-house test facility.

Compliance level three

Compliance level three—non-compliance may have serious adverse consequences. For compliance level three, the supplier must hold the same information as for level two, but the criteria for the information that proves compliance is higher.

For compliance level three, all test reports must be endorsed by, or obtained from, a Recognised Testing Authority (RTA).

Statements by certification bodies or competent bodies are acceptable as is supplementary compliance information, however, the supplier should be confident that adequate documentation is held. Schedule 7 of the Telecommunications Labelling Notice covers the type of information suitable for each of the compliance levels in detail including acceptable overseas approvals, test reports, attestations of conformity or electrical safety certificates.

An item with supplementary compliance documentation only needs to be tested to the requirements in the applicable technical standard(s) that differ from those under which the supplementary compliance document was given.

Note: Though low-risk devices only require a Declaration of Conformity, the supplier should still be confident that the device complies with the applicable standard. It is the supplier's choice to maintain a test report supporting conformity. The penalty for supply of a non-standard device is not affected by its compliance level.

What is an RTA?

An RTA is a laboratory that has the technical knowledge, skills and testing expertise to test to the Australian standards for telecommunications items. An RTA is determined by an accreditation body under the Telecommunications Act. For the purposes of the Telecommunications Act, National Association of Testing Authorities (NATA) has been determined as an accreditation body.

NATA has determined a number of test houses, including overseas laboratories, to be RTAs. A list of RTAs and the standards they are accredited to are available from the [NATA website](#). NATA can provide further details of the scope of the accreditation for each RTA (refer to the 'Contact details' section in this booklet for more information about NATA).

What is a certification body?

A certification body is a body determined by the ACMA. The ACMA has approved a number of persons to be certification bodies. A certification body is a person or association that has the technical knowledge, skills and experience to make statements on the compliance of telecommunications items against Australian standards.

A certification body issues a statement certifying that an item complies with the applicable technical standard(s). A certification body can issue a statement of compliance where there is no RTA to test to a standard. Although certification bodies are generally asked to issue statements on compliance of items to the applicable technical standard(s) at compliance level three, they may also issue statements on compliance at any level. Suppliers should discuss this further with a certification body.

In issuing statements, the certification body must follow the guidelines issued by the approving body.

The certification body guidelines and the details of the determined certification bodies can be found on the [ACMA website](#).

Who should test my item?

There is no requirement to hold a test report for compliance level one requirements. Compliance level two requirements can be tested by any test house or even tested in-house. Testing organisations for compliance level two do not need to be accredited by NATA. However, for compliance level three, test reports must be endorsed by NATA or a body with which NATA has an agreement for the mutual recognition of test reports (NATA MRA Partner), and be obtained from an RTA.

What other compliance documentation can be used?

In addition to the above arrangements, for compliance levels two and three the ACMA also recognises supplementary compliance documentation for particular items including:

- > approvals issued by specified foreign administrations relating to Global System for Mobile (GSM) communications handsets, Digital Enhanced Cordless Telecommunications (DECT) terminal equipment, cordless telephone terminal equipment and ISDN terminal equipment
- > test reports for European Telecommunications Standards Institute (ETSI) ISDN telecommunications terminal equipment and GSM devices
- > attestations of conformity issued by designated conformity assessment bodies under the Mutual Recognition Agreement between Australia and the European Union
- > electrical safety certificates of approval or certificates of suitability given by an Australian state or territory electrical safety authority
- > reports issued under the IECEE CB Scheme. Please note: to ensure items comply with the Australian national differences, IECEE CB test reports and certificates will be required to be assessed by the Australian NCB (SAI Global) or a Recognised Testing Authority (RTA).

Whatever compliance documentation you elect to use, you should be confident that it proves compliance and meets the requirements in the Telecommunications Labelling Notice.

Information on changes to standards

What happens if standards are amended or replaced?

In most cases, items must meet the requirements of the applicable ACMA technical standard(s) that are in force at the time the device is first supplied to the market (at the point where the Declaration of Conformity is signed).

Where an ACMA technical standard is amended or a new standard is introduced, Schedule 1 will often provide for an overlap period during which both the old and the replacement standard apply. The overlap period will vary depending on the nature of the changes introduced through the change of standard.

Suppliers of new items may select either applicable standard during the overlap period. The item must comply with either the old or the replacement standard. It must not be tested against a combination of the two.

Can an item continue to be labelled as being compliant to an expired standard?

Provided that a standard was in effect at the time of signing the Declaration of Conformity, a supplier may continue to apply the compliance label to an item, even though the standard has been amended, or has expired and has been replaced.

The supplier is not required to re-test an item to the amended or replacement standard where an item is already labelled. This is commonly known as 'grandfathering'.

However, these arrangements do not apply if one of the following occurs:

- > the item is subsequently modified (the item may need to be tested in part or in full to the replacement standard depending on the modification)
- > continued supply of the items would have adverse effects on safety or on the integrity of a telecommunications network or facility
- > the item is also subject to a radiocommunications standard and that standard is not grandfathered.

A significant issue related to safety or network integrity could drive a sudden change to an applicable standard. Depending on the consequences of supply of non-compliant equipment to the changed standard it may be the case that equipment provided under the expired standard cannot continue to be supplied or grandfathered. That is, all equipment provided from the date of the changed standard onward must immediately comply with the changed standard. The ACMA recognises that change to the overlap period and the bar on the grandfathering of previously supplied equipment has significant consequences for industry. It would only consider such an approach where the consequences of supply of non-compliant equipment were significant. In the unlikely event that such a change to a standard is needed, the ACMA will take all reasonable steps to provide advice to suppliers of devices that are subject to the standard.

Supply of disability customer equipment

The ACMA has introduced modified requirements for specified customer equipment that has one or more features designed to assist persons with disabilities to access services supplied over the analog public switched telephone network (PSTN).

This arrangement applies to equipment supplied in low quantities (not more than 50 items from each supplier per calendar year) and only applies to equipment that connects to the analog PSTN (scoped by Category A1 or A2 in Schedule 1 to the Labelling Notice).

The modified arrangement recognises the benefits offered to the disability community by the supply of equipment with specific features to aid a disability group. It allows for reduced testing requirements but maintains adequate safety and interoperability requirements. Under the arrangement, the equipment supplied must be recognised by a disability representative body as having a feature or features that are specifically designed to assist a person with a disability to access a service supplied over the analog PSTN.

Suppliers should consider early in the process whether the equipment they are manufacturing, importing or modifying will be recognised as disability customer equipment by a disability representative body. They need to seek that endorsement prior to testing or supply of the equipment.

More information about the requirements for suppliers of disability equipment is available on the [ACMA website](#).

Record-keeping requirements

What are the record-keeping obligations for telecommunications items?

The record-keeping obligations require suppliers to obtain and hold specified compliance records. These records must be made available on request to the ACMA. The ACMA may require additional information in relation to compliance of a device and may also require a supplier to have a device tested if the compliance of the device to a standard is in doubt. Compliance records must be in English but may be copies of originals or held in electronic form.

These records, amongst other things, serve to:

- > accurately identify the item
- > provide information about testing of the item and its compliance to standards
- > confirm the suppliers' commitment to ensuring conformity to the standard for all devices supplied that are identical to the item tested.

A compliance record must contain a description of the device and a Declaration of Conformity for the device. Depending on the type of device and the required level of testing required, it must also contain a test report or information that proves that the device complies with a standard.

There are other documents that might be included in a compliance record. These include statements about modifications, copies of agency agreements and statements regarding transfer of responsibility and statements by a disability body.

The supplier must ensure that compliance records are updated as appropriate. For example, if the device is changed or modified in any way, the compliance records, test reports and Declaration of Conformity may all need updating or replacing. It is the suppliers' responsibility to ensure the compliance records are maintained.

Suppliers must make the records available for inspection at the business address of the supplier. The ACMA will advise a supplier about a need to examine a compliance record and will notify it ahead of time. This should allow time for the supplier to ensure that the records are available.

The major components of a compliance record are described below in more detail. They are also described in detail in the Telecommunications Labelling Notice.

Description of a device

The description of an item must include sufficient information for a person to determine whether a particular item is identical to the item for which a Declaration of Conformity, test report, endorsed test report or statement by a competent body or certification body was prepared.

The description of the item may include photographs of the item but must include:

- > the current model number for the item and, if relevant, any related model numbers for the item
- > the version of any software or firmware incorporated into or supplied with the item where changes in these may affect the compliance of the item with the telecommunications standard
- > sufficient information to determine whether the item is the same as described in the compliance records, such as a block diagram
- > if the item is disability customer equipment, a description of the relevant features of the item.

Declaration of Conformity

A Declaration of Conformity is a document signed by or on behalf of the supplier asserting that the item tested meets the applicable ACMA technical standard(s) and that all subsequent devices of that type supplied to the market will also comply with the standard.

The person signing the declaration must be satisfied that the evidence contained within the compliance records is sufficient to demonstrate compliance with these technical standards. There are significant penalties for knowingly or willingly providing false or misleading information such as a false Declaration of Conformity.

The format of the Declaration of Conformity is not set, suppliers may create their own form of Declaration; however any declaration must contain, as a minimum, all of the information listed in the sample Declaration of Conformity ([Form C02](#)) on the ACMA website.

Test report

The test report that forms part of the compliance record will depend on the level of compliance for the item:

- > For compliance level one, the compliance record may contain a test report.
- > For compliance level two, the compliance record must contain a report that shows the tests conducted; the results of the tests, including any test data and that the item meets the standard.
- > For compliance level three, the compliance record must contain information to prove compliance showing the same detail as is applicable for level two above. For this compliance level, the required level of proof is higher and the test report is usually an accredited test report prepared by a recognised testing authority. Other proof like a certification body or competent body statement is also acceptable. You should examine the detailed list of suitable information in the Telecommunications Labelling Notice if you have any doubts.

Does a modification to a device require a new set of compliance records?

Where a change or modification to an item is made, changes will be required to the compliance record. These changes will depend on the extent of the change or modification and whether it affects the operation and performance of the device.

The supplier must make a new Declaration of Conformity and must include a written signed statement in the compliance records that identifies the modified item; details the modification and describes the differences between the modified item and the unmodified item.

The supplier must ensure that the modified item is tested against the requirements of each applicable standard relevant to the modification. This testing must be done at the appropriate compliance level. The supplier must add the reports of the testing to the compliance record for the device.

The supplier must not apply a compliance label to the modified item unless it is fully compliant with the applicable standards.

Do I need the original test report?

It is not necessary to hold the original test report with the compliance records. However, any copy (faxed copy, photocopy or electronic copy) must be accompanied by a signed statement that the copy of the test report is a true and complete copy of the original; that is, the copy should be endorsed by the holder of the original report.

Where do I keep the compliance records?

The ACMA does not specify a location for the storage of the compliance records. Compliance records must be available at a location, or locations, that will allow retrieval within the notification period prior to an audit being carried out. The compliance records must be made available to the ACMA, for audit or investigation purposes, on written advice from the ACMA. Currently the notification period is 10 working days.

Can I store my compliance records electronically?

The ACMA auditor can view the information in electronic form, provided these records meet all the requirements for compliance records, including appropriate signatures on test reports. If, as a result of the initial audit, a more in-depth audit is required, the compliance records must be provided to the ACMA auditor in the format specified by the ACMA.

How long should I keep the compliance records?

Compliance records for an item must be retained for five years after the supplier ceases to supply the item in Australia.

3. Enforcement

Will the ACMA inspect the compliance records?

Although the compliance and labelling arrangements are based on industry self-regulation, the ACMA complements this with a supplier audit program for all suppliers. An audit program is a critical way of managing risk and is a commitment by the ACMA to support responsible suppliers.

How does the ACMA decide who is to be audited?

The ACMA takes a risk-based approach to compliance. Details of the ACMA's compliance and enforcement policy are on the ACMA [website](#).

If non-compliance for an item or type of item is identified, the ACMA may conduct targeted auditing of identified items. As a result, the ACMA may seek to examine a supplier's compliance records for an item.

In the event of an audit of this type, the ACMA will write to a supplier and require it to provide specified compliance records for an item(s). The supplier must make these records available for the ACMA. The supplier must be prepared to make the compliance records available within 10 working days after the date of the request.

Requests for specific items to identify the item such as circuit diagrams or manuals may also be made. These records must be supplied with 30 days of the date specified in the written request.

If the ACMA is not satisfied that the compliance records are adequate, it may require the supplier to have the item tested by an accredited testing body (irrespective of the compliance level for the device).

What offences and penalties apply?

Offences in relation to the telecommunications regulatory arrangements include offences under the Telecommunications Act and the *Criminal Code Act 1995*.

Offences and fines include:

- > Supply of unlabelled Customer Equipment or Customer Cabling (Telecommunications Act, section 413)—100 penalty units
- > Failing to maintain compliance records (Telecommunications Act, section 415)—100 penalty units
- > Knowingly providing false or misleading information to a Commonwealth entity (Criminal Code Act, section 137.1)—12 months imprisonment.

As of 28 December 2012, the value of a penalty unit for calculating financial penalties was \$170. A fine of 100 penalty units would correspond to a penalty of \$17,000

4. Contact details

Regulator

Australian Communications and Media Authority (ACMA)

Any questions about the Telecommunications Labelling Notice or the telecommunications regulatory arrangements in Australia should be directed to the ACMA:

Email: info@acma.gov.au

[Online enquiry](#) on the ACMA website

Standards development organisations

Communications Alliance Ltd

Under arrangements between the ACMA and Communications Alliance Ltd (CA), CA manages the preparation of Australian standards for the telecommunications industry, including consultation on proposed standards or revisions.

Copies of standards issued for public comment of the AS/CA-SXXX series of Australian standards may be obtained from Communications Alliance:

Telephone: (02) 9959 9111

Facsimile: (02) 9954 6136

Website: www.commsalliance.com.au

Standards Australia

Australian standards and other products (including referenced standards in the telecommunications regulatory arrangements) may be obtained from SAI Global Limited. Australian standards, handbooks and other documents developed by Standards Australia are printed and distributed under licence by SAI Global Limited.

For information on the development of standards:

Standards Australia Limited

Telephone: (02) 9237 6000

Facsimile: (02) 9237 6020

Website: www.standards.org.au

Email: mail@standards.org.au

For information on the sale and distribution of standards:

SAI Global InfoStore

Telephone: 131 242

Facsimile: 1300 65 49 49

Website: <http://infostore.saiglobal.com/store/>

Email: sales@saiglobal.com

Accreditation body

National Association of Testing Authorities, Australia

The National Association of Testing Authorities, Australia (NATA) is recognised by the Commonwealth as the national authority for accreditation of laboratories. NATA has been determined by the ACMA as an accreditation body under the Telecommunications Act.

Mutual recognition agreements (MRAs) exist between NATA and accreditation bodies of other countries for recognition of test results from accredited laboratories covered by the MRAs. A number of test houses, including overseas laboratories, have been determined by NATA to be Recognised Testing Authorities (RTAs) for the purposes of the Telecommunications Act.

Details of RTAs and their scope of accreditation are on the NATA website:

Telephone: 1800 621 666

Facsimile: (02) 9743 5311

Website: www.nata.asn.au

Canberra

Red Building
Benjamin Offices
Chan Street
Belconnen ACT

PO Box 78
Belconnen ACT 2616

T +61 2 6219 5555
F +61 2 6219 5353

Melbourne

Level 32
Melbourne Central Tower
360 Elizabeth Street
Melbourne VIC

PO Box 13112
Law Courts
Melbourne VIC 8010

T +61 3 9963 6800
F +61 3 9963 6899

Sydney

Level 5
The Bay Centre
65 Pirrama Road
Pyrmont NSW

PO Box Q500
Queen Victoria Building
NSW 1230

T +61 2 9334 7700
1800 226 667
F +61 2 9334 7799

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