

**COMMUNICATIONS
ALLIANCE LTD**



OPERATING MANUAL

FOR

- THE ESTABLISHMENT AND OPERATION OF ADVISORY GROUPS
- THE DEVELOPMENT OF CODES, STANDARDS AND SUPPLEMENTARY DOCUMENTS

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Part 1 General

1 OBJECTIVES

- 1.1 The Communications Alliance *Constitution* provides that the objects for which Communications Alliance is established include to:
- (a) actively promote and lead a co-operative environment to address in a timely manner national and international issues involving communications standards, codes of practice and the development of operational guidelines for the Australian self-regulatory, competitive, multi carrier, multi carriage service provider, multi network national environment;
 - (b) establish and maintain flexible and open processes to address technical, consumer and operational issues affecting Australia's communication facilities and services and the development of innovative and cost-effective communications services; and
 - (c) develop and approve technical standards and codes of practice for the communications industry.
- 1.2 The objectives of this Operating Manual generally are to describe the openness and transparency of processes with which the organisation is to conduct its deliberations and operations when developing standards, codes or supplementary documents.
- 1.3 For the development of codes, standards and supplementary documents this Operating Manual aims to ensure that the processes for development of these documents:
- (a) adopt disciplines of project management for the control and monitoring of the development process, in particular to:
 - enable development in a timely manner and within the timeframe approved in the *Communications Alliance Project Sheet*; and
 - enable the development against the background of the anticipated resources required to be allocated as per the *Communications Alliance Project Sheet*.
 - (b) are consistent with the requirements of the *Constitution*;
 - (c) are flexible, open and transparent;
 - (d) enable timely outcomes;
 - (e) encourage and facilitate wide consultation with all stakeholders;
 - (f) have the objective of achieving a consensus outcome;

- (g) meet the requirements of Part 6 the *Telecommunications Act 1997* for the purposes of registration of an industry code where appropriate;
- (h) where applicable and practicable, comply with the requirements of the Australian Communications and Media Authority (ACMA) *Guide to developing and varying telecommunications codes for registration*.
- (i) In the case of development of standards and associated supplementary documents, that in addition to the objectives above, the processes:
 - (i) meet the requirements for accreditation by the Standards Development and Accreditation Committee (SDAC) of Standards Australia, in particular the requirement that documents be in a style generally complying with the *Style Manual for Accredited Standards Development Organisations (SDO)* as updated by Standards Australia from time to time;
 - (ii) are consistent with the World Trade Organization *Code of Good Practice for the Preparation, Adoption and Application of Standards* (Appendix 3 of the World Trade Organization *Agreement on Technical Barriers to Trade*), particularly in relation to harmonisation of Communications Alliance standards with international standards; and
 - (iii) where appropriate, meet the requirements under Part 21 of the *Telecommunications Act 1997*.

2 REVIEW

- 2.1 This Operating Manual and the document development and management processes described therein shall be reviewed every 3 years, or earlier if the circumstances require this, and, where required, be updated to ensure continuing effectiveness in meeting its objectives.

3 MISCELLANEOUS

- 3.1 This Operating Manual shall be made publicly available on the Communications Alliance website.
- 3.2 Communications Alliance complies with the policies and procedures of Standards Australia in their capacity in administering the requirements for Standards Development Organisations (SDOs) and with the policies and procedures as per the *SDAC Requirements for Accreditation of a Standards Development Organisation*.
- 3.3 The Chief Executive Officer (CEO) of Communications Alliance shall notify the SDAC of Standards Australia of any significant changes that could materially affect Communications Alliance's capacity to be an accredited Standards Development Organisation (SDO). Such changes could include an unforeseen change of CEO, changes to its financial status such as amalgamation or split-up of the organisation, or changes to its governance structure.

- 3.4 If Communications Alliance decides to no longer retain or, for any reason, can no longer retain its accreditation as an SDO, the CEO will use the *Communications Alliance Arrangements for Ceasing to be a Standards Development Organisation* to facilitate an orderly exit as an SDO.

Part 2

Establishment and Operation of Advisory Groups

4 BACKGROUND

- 4.1 The Communications Alliance *Constitution* defines 'Advisory Groups' as 'the groups established for the delivery of Communications Alliance's works program as set up from time to time'.
- 4.2 For the purpose of this Operating Manual, Reference Panels shall be included in the term 'Advisory Group'.
- 4.3 Clause 9 of the Constitution provides that:
- (a) *The CEO may at any time*
 - (i) *establish Advisory Groups for the delivery of CA's works program in accordance with CA's operating procedures as amended from time to time;*
 - (ii) *where appropriate, facilitate development of codes or technical standards by bodies other than the Company, especially in instances where such codes or standards have applicability to persons or organisations in addition to the industry; and*
 - (iii) *where appropriate will co-operate with other self-regulatory and co-regulatory bodies at Federal, State and Territorial levels to ensure a coordinated approach to the development and implementation of codes and/or technical standards.*
 - (b) *The constitution of all Advisory Groups will be endorsed by the CEO;*
 - (c) *Advisory Groups are accountable to the CEO at all times;*
 - (d) *Advisory Groups will advise the CEO on the:*
 - (i) *preparation of Works Programs to ensure it meets the strategic direction of the company;*
 - (ii) *due process, quality and timing objectives of codes, technical standards and other documentation;*
 - (iii) *content of codes and technical standards;*
 - (iv) *general developments in the industry which have an impact on matters falling within the scope of CA.*

5 ESTABLISHMENT AND OPERATION OF ADVISORY GROUPS

- 5.1 Advisory Group members will be appointed by the CEO and will be:
- (a) selected from the nominees of members of Communications Alliance which have been asked to join the Advisory Group because of particular subject-matter expertise; and/or

- (b) representative of the parties interested in and/or affected by the subject matter, including members from within the same category of membership who shall represent differing views; and
 - (c) able to contribute to the work of the Advisory Group; and
 - (d) to the greatest extent possible, a balance of representatives from the industry sectors involved with allowance for a minimum of one member from each Communications Alliance category of membership.
- 5.2 An Advisory Group can include in its membership voting and non-voting positions:
- (a) Voting members of the Advisory Group who are eligible to participate in any of the Advisory Group's decision making and voting process (i.e. their views shall be taken into account in determining whether there is consensus, or in any more formal voting process); and
 - (b) Non-voting members of the Advisory Group who may be nominees of regulatory bodies or any other stakeholders. Non-voting members are not eligible to participate in the Advisory Group's decision making and voting process.
- 5.3 Chairperson
- 5.3.1 The CEO appoints the chairperson of the Advisory Group. All Advisory Group members and the CEO shall have the right to nominate one or more chairpersons.
 - 5.3.2 Advisory Group chairpersons are non-voting members and will take an independent role in relation to an Advisory Group's debate to ensure the fair and equitable operation of the Advisory Group. Organisations whose voting representative is the Advisory Group chairperson may nominate an additional member to be the voting member of the Advisory Group.
 - 5.3.3 The chairperson and deputy chairperson (where appointed) are to be appointed for a term of two years, unless agreed otherwise by the Advisory Group and the chairperson-elect.
- 5.4 Voting within Advisory Groups
- 5.4.1 Advisory Groups will work by consensus to the greatest extent possible.
 - 5.4.2 In the exceptional case of a formal vote within the Advisory Group, the following shall apply:
 - (i) New project proposal and proposals to revise, amend, reconfirm or withdraw an existing code, standard or supplementary document: the proposal in question shall be considered to be agreed if at least 50% of those eligible to vote have voted and at least two thirds of these support the proposal, and member organisations are ready to commit the resources required to progress/implement the

proposal. If less than 50% of those eligible to vote are present at the meeting, then the vote shall be deferred until the next meeting or a postal ballot shall be undertaken to allow members time to consider the proposal.

- (ii) General voting during Advisory Group meetings and debate: a simple majority shall be sufficient to decide the matter subject to the vote.

5.5 Advisory Groups may not alter the content of a code, standard or supplementary document that has been agreed in a Working Committee that has followed due process.

5.6 Advisory Groups meet on a three monthly basis or as otherwise agreed by the Advisory Group members.

Part 3

Development of Codes, Standards and Supplementary Documents

6 ESTABLISHMENT OF A NEW WORKING COMMITTEE

- 6.1 Where an Advisory Group identifies and votes in favour of a new project proposal or a proposal to revise, amend, reconfirm or withdraw an existing code, standard or supplementary document (as per section 5.4.2 (i)), the respective Communications Alliance project manager, in cooperation with the Advisory Group members, shall develop all required project documentation, including the terms of reference for the Committee and the *Communications Alliance Project Sheet*, for approval of the project and its terms of reference by the CEO.
- 6.2 The project manager in cooperation with the Advisory Group members shall consider the net benefit of the proposed project and document the considerations in the *Communications Alliance Project Sheet*.
- 6.3 Upon approval of the project by the CEO, the project manager will seek nominations for Working Committee members. The CEO is to approve the constitution of the Working Committee.
- 6.4 If there are significant proposed (or actual) changes in the project timeline, resources, terms of reference or similar, the project manager will appraise the CEO of these changes and seek re-approval of the revised *Communications Alliance Project Sheet* by the CEO.

7 MEMBERSHIP OF A WORKING COMMITTEE

- 7.1 A Working Committee should be representative of all parties who have a stake in or are affected by the subject matter of the proposed code, standard or supplementary document but remain limited to a size that is consistent with its effective operation. This does not mean that there will be individual representatives from all stakeholders, rather the objective can be met by a representative of a number of constituent organisations.
- 7.2 For the development of standards, members of the Working Committee shall be drawn from interest categories that reflect the interests of 'producers', 'users' and 'general interests' (including public interests) and other stakeholders, to the extent applicable for the standard under consideration. For this purpose, the project manager shall invite nominations in accordance with the *Communications Alliance Working Committee Member Categories List*.
- 7.3 For the development of standards, and prior to commencing its activities within a Working Committee, Communications Alliance shall ensure that all Working Committee members have taken note of and consented to all items listed in the *Communications Alliance Checklist for Standards Development Working Committees*, including granting permission that any contributions made to the standard to be developed becomes property of Communications Alliance. Members' understanding of and consent to

the matters listed in the Checklist shall be discussed at the first meeting of the respective Working Committee and recorded in the minutes of that meeting.

- 7.4 No one party or interest category shall have a disproportionate representation in a Working Committee.
- 7.5 Membership of a Working Committee shall not be conditional upon membership in any organisation, nor be unreasonably restricted on the basis of technical or professional qualifications or other such requirements.
- 7.6 There are two categories of persons who may attend Working Committee meetings:
- (a) Voting members of the Working Committee, who are eligible to participate in any of the Working Committee's voting process (i.e. their views shall be taken into account in determining whether there is consensus, or in any more formal voting process); and
 - (b) Non-voting members of the Working Committee, who may participate in Working Committee meetings and express their views at those meetings, but are not eligible to participate in the Working Committee's voting process.
- 7.7 There is a limit of one voting member per organisation and the voting member shall be that person nominated on the *Communications Alliance Working Committee Nomination Form*.
- 7.8 An organisation may also nominate an alternate member who may attend meetings in the absence of the voting member and the alternate member shall be allowed to vote in the absence of the voting member.
- 7.9 Additional expert participants shall be permitted to attend meetings as observers or advisers to the Committee's work.
- 7.10 If regulatory bodies are represented on a Working Committee, they shall be appointed as non-voting members of the Working Committee and shall have consideration of both supplier and consumer interests.
- 7.11 In approving the establishment of the Working Committee, including its voting members, the CEO shall take into account:
- (a) the fact that representatives from each industry sector together with other interested parties shall be given the opportunity to indicate their interest;
 - (b) the need for a balance of representatives from each of the interested sectors without undue domination by one sector; and
 - (c) other matters that may be appropriate in the circumstances.
- 7.12 Where Communications Alliance provides project management for a Working Committee through one or several of its staff, that staff shall not have any voting rights.
- 7.13 For the development of standards, a chairperson is a non-voting member and shall take an independent role in relation to Working Committee

debate to ensure the fair and equitable operation of the Working Committee. Organisations whose voting representative is the Working Committee Chair may nominate an additional Member to be the voting Member of the Working Committee.

- 7.14 The Working Committee seeks to select a chairperson by consensus. If no consensus can be reached, a majority vote shall be sufficient to elect a chairperson. All Working Committee members and the CEO shall have the right to nominate one or more chairpersons.
- 7.15 A Working Committee is disbanded upon completion of the specific work assigned to it.

8 WORKING COMMITTEE RESPONSIBILITIES

- 8.1 A Working Committee is responsible for the content of the document it is developing.
- 8.2 All Working Committee members are required to keep the discussions and documents of the Committee confidential, except to the extent that they are required to report to or seek internal feedback from their organisations and constituencies and to gain approval or sign-off as required.
- 8.3 All Working Committee members agree to maintain the integrity of the Working Committee process at all times during the work of the Committee.
- 8.4 Working Committee members agree to adhere to good meeting principles, including punctuality, regular attendance, availability of delegates and timely completion of action items.
- 8.5 For the development of standards, the Working Committee shall have regard to the *Communications Alliance Guidelines for Developing Standards*.

9 DEVELOPMENT PROCESS FOR A CODE, STANDARD AND SUPPLEMENTARY DOCUMENT

- 9.1 The *Communications Alliance Project Sheet* as amended from time to time sets out the objectives, timeframe, dependencies, risks and benefits, budget, technical or legal requirements and other relevant matters for the development and revision of codes, standards and supplementary documents.
- 9.2 The CEO of Communications Alliance approves (or rejects as the case may be) the project on the basis of the information provided by the project manager and summarised on the *Communications Alliance Project Sheet*.
- 9.3 Working Committees meet as agreed by the Working Committee members and with view to meeting the timeframes set out in the *Communications Alliance Project Sheet*.
- 9.4 In addition to in-person attendance at Communications Alliance's premises or as otherwise agreed by the Working Committee members,

Working Committee meetings usually allow for remote attendance (audio, web or video conference) but may from time to time require in-person attendance.

- 9.5 Any work done at a Working Committee meeting is captured in the minutes of the meeting and the draft document by the project manager or such other person as agreed by the Working Committee. The minutes and draft document(s) are circulated to the all Working Committee members for review, and approval as the case may be, at the next meeting to ensure that all members had an equal opportunity to engage and no one interest has a disproportionate influence in the Working Committee.

10 WORKING COMMITTEE CONSENSUS

- 10.1 Working Committees seek to operate on the basis of consensus.
- 10.2 A quorum of more than 50% of voting members is required to constitute a formal Working Committee meeting.
- 10.3 With the exception of the ballot of the final draft document, in case the Working Committee cannot reach consensus, a simple majority shall be sufficient to decide the matter subject to the vote.

11 PUBLIC COMMENT PHASE

NOTE: The public comment phase does not apply for supplementary documents.

- 11.1 In the case of the development of a code, the Working Committee must decide prior to release for public comment whether to it would like the Telecommunications Industry Ombudsman (TIO) to be empowered to handle complaints in relation to matters covered in the code. If so, the project manager shall seek acceptance of conferral of powers to handle complaints under the code from the TIO.
- 11.2 Working Committee consensus that the document is ready to be released for public comment must be obtained. In case the Working Committee cannot reach consensus, a simple majority shall be sufficient to decide the matter whether a document is ready to be released for public comment.
- 11.3 The period for public comment shall be
- 11.3.1 for a code, at least 30 days, excluding the first day the document is available to the public.
- 11.3.2 for a standard, at least 60 days, excluding the first day the document is available to the public.¹
- 11.4 After the conclusion of the public comment period:

¹ These periods are based on a number of national and international requirements:

- 30 days for codes (refer *Telecommunications Act 1997*, Part 6, Section 117 (3)).
- 60 days for standards (based on WTO obligations and the *Telecommunications Act 1997*, Section 378).
- 60 days for Regulatory Instruments (*Telecommunications Act 1997*, Section 405 & 422).
- COAG requirements.

- (a) all feedback received during public comment shall be considered by the Working Committee and the draft document amended as agreed as a result of the consideration. Reasons for not incorporating feedback in amended draft document shall be recorded in meeting minutes, and advised to the author of the feedback in writing (unless the author is a member of the Working Committee and has not requested such advice); and
- (b) if a change made during or after the public comment phase to the draft standard or code that was published for public comment is likely to have an additional significant impact (beyond any impact that would have arisen from the public comment version of the document), a second public comment process may be initiated. The project manager shall seek advice from regulatory bodies as appropriate.

12 APPROVAL PHASE

- 12.1 Once the Working Committee agrees that the post-public comment document has been completed, the project manager shall ballot the final draft document.
- 12.2 If negative votes are received during ballot, the Working Committee shall make all attempts to resolve the issues that led to the negative vote, if possible. If one or more negative votes remain unresolved, the document shall proceed to publication if:
 - (a) a minimum of two-thirds of those eligible to vote have voted; and
 - (b) a minimum of 80% of votes received are affirmative; and
 - (c) for the development of standards, no major interest involved with the subject of the standard has collectively maintained a negative vote, unless special circumstances apply (see section 12.4).
- 12.3 Senior Management of Communications Alliance shall not influence, or direct, the Working Committee on the content of the final document.
- 12.4 Senior Management of Communications shall not change or overrule the decisions of the Working Committee unless there are special circumstances. The circumstances where such occurrences may apply shall be documented. Such circumstances include, but are not limited to, irreconcilable conflicts within the Working Committee or serious concerns from a regulatory body.

13 PROCESS APPROVAL PHASE

- 13.1 The CEO of Communications Alliance meets regularly with the project manager to be appraised of the process and progress of the Working Committee, including during public comment and at ballot phase, with a view to ensuring that due process is being followed.
- 13.2 The Communications Alliance Board is responsible for giving final approval to publish Communications Alliance documents. However, in exercising this responsibility, the Board generally shall only need to be assured by the

CEO that due process has been followed in preparation of the document. In the case of codes and standards to be used by the ACMA for regulatory purposes, the Board may wish to also examine the content.

- 13.3 The Communications Alliance Board may accept or reject, but shall not alter the content of a code, standards or supplementary document, that has been developed in accordance with due process and that satisfies procedures for incorporating public comments.
- 13.4 If the Communications Alliance Board finds that due process has not been followed, or in its view the contents have shortcomings, it shall direct the Working Committee to return to the appropriate phase in the development process.

14 ACMA CODE REGISTRATION

- 14.1 When developing codes for registration with the ACMA, the Working Committee shall have regard to the *ACMA Guide to developing and varying telecommunications codes for registration*.
- 14.2 The development of codes is to be assessed on a code-by-code basis as to the benefits of registration versus its costs/disadvantages. The following factors/criteria are to be taken into account in assessing whether a particular code is to be submitted for registration by the ACMA:
- (a) the size and nature of the sector(s) to which the code applies, i.e. the number of participants and their respective size affected by the code;
 - (b) the availability and relative cost-effectiveness of alternative mechanisms that produce the same or a similar outcome;
 - (c) the likely level of compliance with the code;
 - (d) the consequences of breaches of the code, i.e. number/type of parties affected and nature/magnitude of the impact;
 - (e) the ease/difficulty in identifying code breaches;
 - (f) the registerability and enforceability of the code;
 - (g) the likelihood of the code requiring amendment over time; and
 - (h) other factors as appropriate in the circumstances.
- 14.3 The CEO may make a recommendation with regards to the potential for registration/non-registration. During the course of code development additional factors/issues may be identified which may impact upon the initial recommendation. The Working Committee has the opportunity to consider/recommend registration/non-registration at the Process Approval stage.
- 14.4 The Communications Alliance Board has the final responsibility for deciding whether to submit a code for registration.

15 ACMA STANDARDS REGISTRATION

- 15.1 Part 21 of the *Telecommunications Act 1997* (Act), and specifically s376, outlines the ACMA's power to make technical standards. Working Committees should consider the issues covered within the Act.
- 15.2 In developing a standard, the Working Committee will consider the commencement of the standard in the context of existing regulatory arrangements and legal requirements.
- 15.3 The Working Committee shall make all reasonable efforts to avoid conflicting requirements between standards on the same or similar subjects.



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