Regulator Performance Framework 2015–16

Performance assessment

DECEMBER 2016

communicating | facilitating | regulating

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Introduction

This is the Australian Communications and Media Authority's first self-assessment report under the Regulator Performance Framework (RPF), covering performance over the 2015–16 financial year.

This report demonstrates our performance in satisfying the requirements of the six RPF key performance indicators (KPIs).

As a Commonwealth regulator, we have reporting obligations under both the RPF and the broader outcome reporting requirements of the Enhanced Commonwealth Performance Framework (ECPF).[1] With the ECPF being broader in scope, the RPF is focused on the efficiency and effectiveness of regulators in achieving results through better administration and the good design of regulatory frameworks. In this way, the RPF is intended to encourage regulators to minimise the impact of regulatory burden on regulated entities, increase their transparency and accountability, and focus on continuous improvement of regulatory frameworks.

The primary requirement of the RPF is for regulators to conduct an annual performance self-assessment.

Performance must be assessed against the following six KPIs that cover common activities of regulators, validated through consultation with stakeholders:
> KPI 1—Regulators do not unnecessarily impede the efficient operation of regulated entities.
> KPI 2—Communication with regulated entities is clear, targeted and effective.
> KPI 3—Actions undertaken by regulators are proportionate to the risk being managed.
> KPI 4—Compliance and monitoring approaches are streamlined and coordinated.
> KPI 5—Regulators are open and transparent in their dealings with regulated entities.
> KPI 6—Regulators actively contribute to the continuous improvement of regulatory frameworks.

In addition to these annual self-assessments, the RPF includes a requirement for regulators to undergo an external review of performance once during consecutive three-year cycles.

Our performance under the RPF was assessed as part of the Department of Communications and the Arts (DoCA) ACMA Review. Noting that we have recently undergone a comprehensive review broadly consistent with RPF requirements, the government has agreed the ACMA will not be subject to an external review in the first three-year cycle.

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[1] Instituted under the *Public Governance and Performance Accountability Act 2013*.

Interpreting the ACMA's RPF performance assessment 2015–16

While our key focus in this report is our self-assessment against the RPF KPIs, a recap of our methodology and 2015–16 assessment processes is provided in Appendix A.

Taking a program logic view of the RPF, we identify KPI1 (that regulators do not unnecessarily impede the efficient operation of regulated entities) as the primary outcome of the RPF. We have therefore constructed our self-assessment framework around the twin principles of *Better regulation administration* and *Better regulation design*, as a way of assessing our performance towards reducing unnecessary regulatory burden on industry and the community as we fulfil our remit.

The performance measures in our self-assessment methodology are expressed as a series of self-assessment questions to test our progress towards meeting the RPF KPIs. These have been summarised as outcome statements in the discussion of our performance against each RPF KPI within this report. The full list of questions is covered in Appendix A.

We have drawn on a range of quantitative statistical analysis and qualitative descriptive evidence to demonstrate how we have met the RPF KPIs.

It is important to note that the performance results referred to in our 2015–16 performance assessment are not the sum total of our achievements, but are used to illustrate our performance claims.

Appendix B contains a consolidated set of quantitative data tables covering our core transactional activities and summaries of compliance investigation and enforcement activity. In addition to basic volume measures of activity, these data tables include statistical analysis stakeholders identified as of interest to them, which provide further insights into the overall profile of our regulatory activity.

Structure of the performance assessment

We have presented our performance assessment in three sections, pairing KPIs we consider have a natural alignment and where similar evidence would apply. However, each KPI is individually addressed with performance evidence.

Our self-assessment is presented in three sections representing these pairings:
> KPI 1 and KPI 6—both centre on applying measures of efficiency and effectiveness to minimise regulatory burden and continuously improve regulatory frameworks
> KPI 2 and KPI 5—both focus on better regulatory practice through effective communication and a commitment to transparency and openness
> KPI 3 and KPI 4—both relate to applying a proportionate, risk-based and coordinated approach to compliance monitoring and enforcement.

Given the interrelated nature of the KPIs, some evidence has relevance across more than one pairing and, in these cases, the report generally refers to the other relevant section rather than repeating the material in full.

Background

Engagement and feedback

The ACMA engages with industry and consumers through a variety of informal and formal mechanisms, and seeks to use these processes to inform the development of our regulatory practice and outcomes.

RPF validation

A key requirement of the RPF is that regulators consult with stakeholders on their self-assessment.

As part of the implementation of the RPF in 2015, we sought comment from 40 key stakeholders, including regulated entities and peak industry bodies from the radiocommunications, broadcasting, telecommunications and online sectors, as well as government and consumer groups from across our regulated community, to assess whether our methodology for the self-assessment was fit-for-purpose. Over 90 per cent confirmed that it would provide a valid assessment of our performance. This engagement was constructive and feedback included recommendations on the proposed self-assessment methodology, performance measures, and potential evidence as well as specific areas for improvement.

Our response to this feedback was addressed in our new Continuous improvement program (CIP). The program is outlined below, including actions already taken as part of the program to address the areas identified for further development.

In finalising our self-assessment this year, we directly sought comment from the same group of key stakeholders that we consulted with last year.[2] We also published the validation process as an issue for comment on our consultations webpage.

The majority of respondents agreed that the self-assessment provided a valid assessment of the ACMA's performance. Overall, respondents indicated that they were satisfied with the ACMA's regulatory and compliance and enforcement processes.

Submitters also provided useful insights about our regulatory practice, engagement with stakeholders, use of different communications strategies, and suggestions as to how we should focus our resources and regulatory practice.

Where appropriate and within the ACMA's remit, we have also incorporated responses to the themes raised by submitters through this process into our continuous improvement program for 2016–17 and beyond, or sought to respond to stakeholder responses within the discussion of our performance against specific RPF KPIs in this report (as indicated by footnotes). Where feedback raised policy or legislative issues not within the ACMA's remit, staff have identified these separately for provision of advice to the Department on these matters.

See Appendix C for further information about our stakeholder validation. Full copies of stakeholder submissions are also available on the ACMA website.

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[2] Due to the acquisition of one stakeholder by another, the ACMA sought comment from 39 stakeholders in total.

ACMA Review

The DoCA review of the ACMA in 2015 provided an additional opportunity to reflect on our performance as a converged regulator since our inception in 2005. As a key element of the review process, the RPF KPIs were used as a framework to assess our performance over the 10-year period captured by the review.

In our own submission to the review, we provided a summary report of performance against the RPF KPIs. The draft report of the review was published in May 2016 and made recommendations for areas of improvement in our performance, including aspects of regulatory practice captured under the RPF.

Where submissions to the ACMA Review also provided feedback on our performance and suggestions for improvements, these have been reflected in more detail in the self-assessment against the relevant KPI throughout this report. These recommendations are also consistent with feedback we received as part of the RPF stakeholder validation consultation process.

Our actions to date, as well as additional planned measures, are outlined in the discussion of the CIP and aim to address the key performance improvement areas identified from the ACMA Review.

Developing our performance framework

We intend to use input from our engagement processes in addition to feedback on our annual RPF self-assessment to make further improvements in our performance reporting and assessment. The two main mechanisms for achieving this are analysis of performance exceptions and our ongoing CIP.

Analysis of performance exceptions

We are focused on identifying and addressing instances of performance exceptions. Examining these variances will help us to identify potential process enhancements that may yield further efficiency gains. It may also point to where internal procedures may need to be changed to ensure meaningful and representative performance reporting. For example, where measures such as *average completion time* and *percentage of benchmark met* are applied to a small sample of activities, there may be cases where performance exceptions have a disproportionate effect on net results.

During 2015–16, the following areas were subject to performance variations:

> Long-term community radio broadcast licensing (see Appendix B, Table 1). While average processing times for long-term community radio licences fell, average completion time remained over the target. Staff turnover within the period affected our normal licensing activities, which affected processing times and meant the average completion time was over the target.

> Temporary community broadcast licensing (see Appendix B, Table 1). Results were adversely affected because in one case the applicant was not ready to commence service until more than five years after lodging the application.

> Interactive gambling content assessments and investigations (see Appendix B, Table 2 and Table 8). During the period, complaints were received that raised novel legal issues. As a result, our need to seek legal advice and change some processes adversely affected usual completion times for some assessments.

> Australian content quota assessments (see Appendix B, Table 2). The average maximum completion time was adversely affected because the time taken for one assessment was increased due to the licensee needing to resubmit after including a program that did not meet the assessment criteria.

> Radiocommunications interference investigations ([Appendix B, Table 8](#)). During the period, the maximum time to finalise an investigation benchmark was not met due to one case adversely affecting the average figures. In one instance, device testing by an external accredited test house was required. The testing period significantly influenced the duration of the investigation and was beyond the control of both the ACMA and the respondent.

> Unsolicited communications investigations (see [Appendix B, Table 9](#)). Finalisation of three DNCR investigations was delayed because of associated Federal Court action, and finalisation of a spam investigation was delayed because of a novel legal issue that emerged late in the investigation.

> Spectrum management. The implementation of SPECTRA for all radiocommunications licensing and broadcast service licensing was completed in May 2016. The ACMA is now improving the reporting capabilities of SPECTRA to allow more detailed analysis of system performance, including processing times for individual transactions. This will allow additional reporting on performance against benchmarks in future reporting periods (see [Appendix B, Table 3](#)).

These findings will be fed into the ongoing development of our performance reporting framework in 2016–17 and beyond, and may result in longer-term improvements to benchmarks and reporting measures.

Continuous improvement program

In response to the stakeholder feedback received during our initial consultation on our RPF methodology in May 2015, we implemented a [CIP](#).

This is a significant organisational initiative to respond to stakeholder input and operationalise the principles of *Better regulation administration* and *Better regulation design* by implementing a rolling set of improvement priorities, both strategic and operational.

The program will assist us to respond to feedback received through submissions to the ACMA Review and our future consultation on the RPF. The actions we have taken in response to our first RPF consultation provide some initial foundation for responding to feedback provided through the ACMA Review submissions.

In future years, we intend to collect time-series data to support our account of performance against the RPF KPIs. In 2015–16, we collated a snapshot of our performance statistics, shown at Figure 1. Figure 2 illustrates the new RPF performance measures we have started tracking, as we begin benchmarking to support the use of more time-series statistics in future years.

Key focus areas

In summary, we considered three main areas of focus where stakeholders identified a need for us to improve our performance:

1. Timeliness of decisions (KPI 1, KPI 6)

The ACMA Review reflected stakeholder concern about the timeliness of concluding code registration processes and complaint investigation time frames, together with issues around timeliness of spectrum consultation and planning decisions. In response, the ACMA Review draft report proposed a stronger focus on the timeliness of decision-making in future cycles of the RPF, including legislative amendment to support more timely decision-making where necessary (draft report recommendation 21).

Highlights of actions to date against RPF KPIs 1 and 6:

> the establishment and expansion of the ACMA Customer Service Centre (CSC). The CSC provides a central point of contact and resolution for stakeholder enquiries, handling more than 50,000 enquiries during 2015–16 and meeting its initial target of 95 per cent of enquiries resolved in three days or less

> improved timeliness and effectiveness of broadcasting investigations. We have adopted a more proportionate and streamlined approach, assisted by new processes, IT systems and the discretion as to whether to investigate broadcasting complaints. This has led to a reduction in average complaint investigation completion time from 2.6 months in 2014–15, to 1.6 months in 2015–16.

Additional planned measures for 2016–17 include:

> refinement of our understanding and use of performance metrics for core activities

> expanded performance metrics for our corporate plan and Portfolio Budget Statements, including reporting on specific performance targets, stretch targets where appropriate, and a long-term focus on benchmarking and providing a clear line of sight between performance goals and outcomes

> continued focus on improved time frames for investigations and code registration

> additional focus on spectrum planning time frames, to be communicated through the ACMA forward work plan and the five-year spectrum outlook (FYSO), signalling planning priorities

> review of interference management principles that underpin our approach to diagnosing and resolving cases of interference to licensed radiocommunications services and domestic television

> conducting a stakeholder satisfaction survey before the end of the 2016–17 financial year to assist with identifying areas for improvement.

2.   Engagement with stakeholders (KPI 2)

Issues raised in the ACMA Review context focused on improving stakeholder understanding of our actions, the application of our compliance and enforcement policy, and transparency about our prioritisation of activities and decision-making processes.

Highlights of actions to date against RPF KPI 2 include:

> launch of an online consultation facility, providing an alternative way for stakeholders to respond to and engage with our public consultations

> hosting our annual RadComms conference about spectrum management issues, including mobile and public safety broadband, satellite and space activity, broadcasting industry evolution and disruption, spectrum reform, and the Internet of Things

> use of a wider range of formal and informal channels to enable stakeholders' engagement with regulatory processes, including web-based resources, such as blogs and social media, as well as face-to-face events, such as spectrum tune-ups and *Citizen conversations.*

Additional planned measures for 2016–17 include:

> publishing the 2016–17 ACMA forward work plan including planned communications channels and timeframes to identify key stakeholder engagement opportunities

> publishing the FYSO, a forward work plan that outlines spectrum planning priorities, as well as providing opportunities for engagement on future priorities, via spectrum tune-ups

> continued use and expansion of targeted engagement channels for formal and informal consultations[3], including:

> industry events and public forums, such as spectrum tune-ups and the *Citizen conversations* program, and technical evenings on harmful interference compliance matters

> sector specific blogs and e-bulletins to engage on compliance priorities and priority activities

> social media presence and technology-assisted forums—Facebook, YouTube and Twitter will remain key channels to facilitate two-way communication with citizens and stakeholders.

3.   Transparency of decision-making (KPI 5, KPI 3)

Stakeholder feedback about the ACMA's engagement has been largely directed at the communication of our forward work plan and opportunities for stakeholder engagement in regulatory processes, including providing input to our work priorities.

Highlights of actions to date against RPF KPIs include:

> annual forward work plan for 2015–16 reinstated and published on the ACMA website

> the ACMA compliance and enforcement policy published to explain our regulatory approach

> a revised approach to the way we develop our priority compliance areas—actively consulting key stakeholders for their input about matters of significant interest before finalising the program in June 2016

> broadcasting *Investigation concepts* series—published to improve the transparency and accessibility of our approach to broadcasting investigations, and to inform stakeholders how the principles of broadcast content regulation have been applied in our decisions.

Additional planned measures for 2016–17 include:

> release in August 2016 of redeveloped and improved annual forward work plan for 2016–17

> engaging with radiocommunications stakeholders on our FYSO and spectrum related work priorities via spectrum tune-ups and other consultations

> standardising our approach to providing stakeholder feedback and explaining regulatory decisions

> use of RPF reporting and consultation processes to update industry stakeholders about how we approach regulatory practice, and to seek feedback on further areas for continuous improvement.

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[3] Responds to stakeholder feedback seeking continued development of the ACMA's efforts to engage with stakeholders.

Figure 1:   2015–16 performance snapshot

Cybersecurity

We sent

44,361 PHISHING ALERTS

and

16.9 million OBSERVATIONS OF MALWARE INFECTIONS AND SERVICE VULNERABILITIES TO AISI MEMBERS

Spectrum interference—transmitter licensing and compliance labelling arrangements

We concluded

450 INVESTIGATIONS

We undertook

847 ENFORCEMENT ACTIONS

Spectrum operations

We completed

1,120 SPECTRUM INTERFERENCE TASKS

36.5% led to COMPLIANCE ENFORCEMENT ACTIONS

Unsolicited communications

We received

23,059 COMPLAINTS ABOUT TELEMARKETING

533,947 REPORTS AND COMPLAINTS ABOUT SPAM

We issued

4,103 COMPLIANCE WARNINGS TO BUSINESSES TO NOTIFY THEM ABOUT POTENTIAL COMPLIANCE PROBLEMS

Licensing

We granted	31	TELECOMMUNICATIONS CARRIER LICENCES
We issued	14,511	NEW APPARATUS LICENCES
	114	NEW BROADCASTING RETRANSMISSION LICENCES
	153	SPECIAL EVENT BROADCASTING LICENCES
We renewed	156,316	APPARATUS LICENCES
	77	COMMERCIAL RADIO BROADCASTING LICENCES
	17	COMMERCIAL TELEVISION BROADCASTING LICENCES
We varied	33	RADIO AND TELEVISION APPARATUS LICENCES

Broadcasting codes and investigations

We finalised

156 COMPLIANCE INVESTIGATIONS

with an average completion time of

1.6 months

Telecommunications consumer protection

We undertook

105 PRELIMINARY ENQUIRIES

and

24 INVESTIGATIONS

We issued

37 FORMAL WARNINGS, DIRECTIONS OR INFRINGEMENT NOTICES

Customer Service Centre

We had

over **50,100** INTERACTIONS WITH CUSTOMERS

Figure 2:   Summary of self-assessment
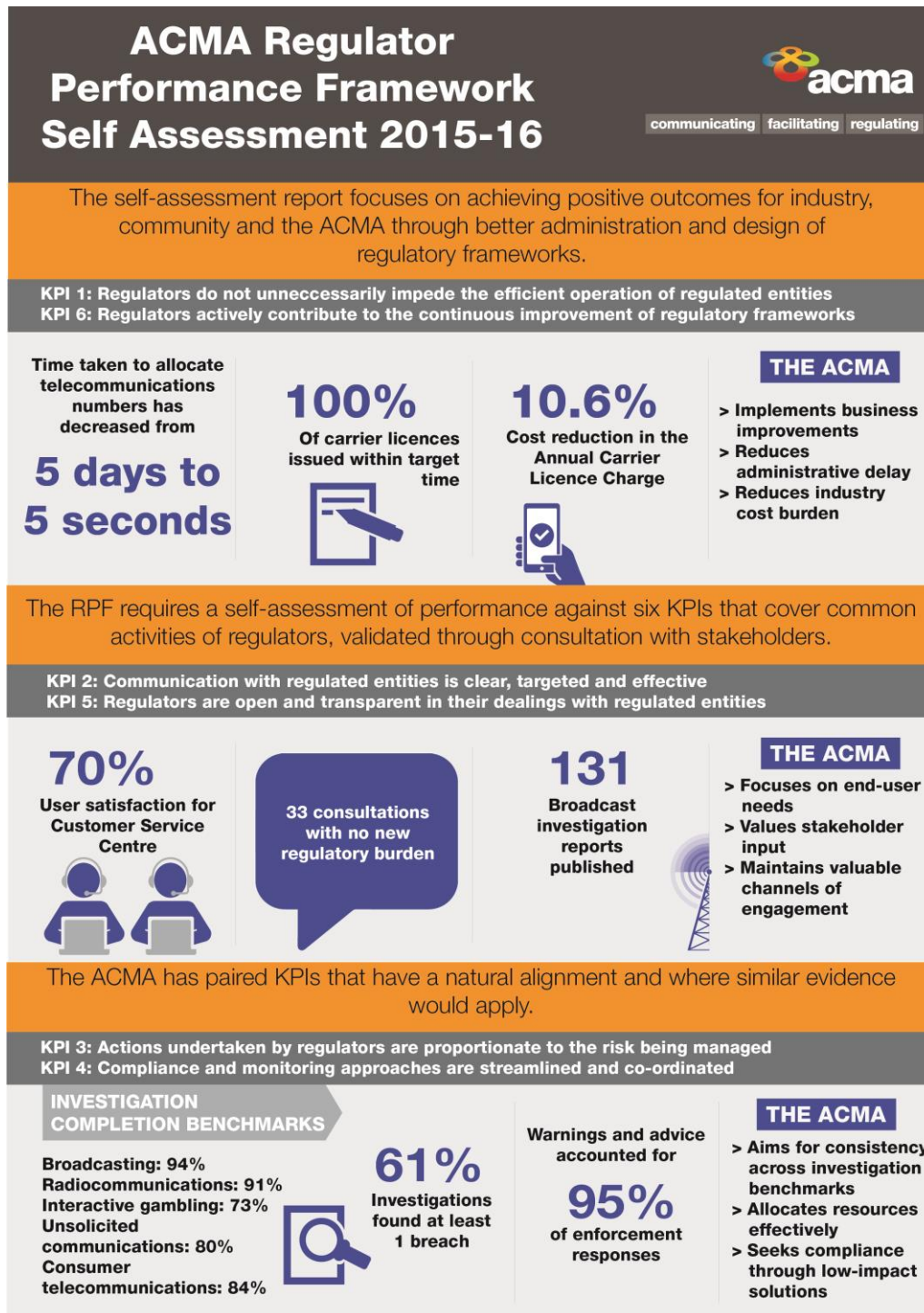
Self-assessment against Regulator Performance Framework

KPI 1—Regulators do not unnecessarily impede the efficient operation of regulated entities

KPI 6—Regulators actively contribute to the continuous improvement of regulatory frameworks

The ACMA perspective

Together, KPIs 1 and 6 focus on applying measures of efficiency and effectiveness to minimise regulatory burden and continuously improve regulatory frameworks. By collaborating with industry, consumers and government, our assessment is that we are meeting the objectives of KPIs 1 and 6 to establish evenly balanced regulatory arrangements that underpin consumer confidence in markets, while minimising regulatory burden and reducing compliance costs over time.

Our actions against KPI 1 and KPI 6 fall under three broad strategies:

> improvements in core transactions and processes to reduce the time and cost of interacting with the regulator, to minimise red tape burden (KPI 1)

> employing consultation and collaboration to support continuous improvement of regulatory frameworks (KPI 6)

> applying evidence and regulatory analysis to reduce regulatory burden on industry and support review of regulation (KPI 1 and KPI 6).

Over the course of the 2015–16 period, we have taken some significant steps towards improving our timeliness and efficiency through investments in infrastructure, revisions to internal processes, and making better use of benchmarks and statistical analysis of core functions. By adopting new approaches to consultation, collaborating through committees and forums, and gathering evidence through research and analysis, we have sought to augment our understanding of issues affecting our regulated community and contribute to ongoing regulatory reform.

In our work to meet KPI 1, we continued to pass on cost reductions to industry, achieved by streamlining our activities. For example, the 2015–16 telecommunications Annual Carrier Licence Charge (ACLC) reflects a 10.6 per cent reduction in the cost of our telecommunications regulatory activities, as a result of streamlining activities undertaken in the 2014–15 year.

We have instigated improvements across key areas aimed at reducing transactional processing times for industry and citizens, with our new single point-of-contact customer centre responding to over 50,100 interactions in 2015–16.

Our regulation reform program and continuous improvement strategy have helped us to identify opportunities to streamline work, reduce red tape and reduce the overall burden for industry and citizens.

For example, we registered the revised TCP code that streamlines information provisions, and amended pre-selection code processes to make better use of generic customer authorisation requirements, which has supported our efforts to meet the requirements of KPIs1 and 6.

In conjunction with DoCA, we are actively working to implement recommendations of the Spectrum Review[4], which will see significant improvements in our spectrum management frameworks over the next few years. This forms part of our efforts to ensure that the design, administration and implementation of our regulatory program is fair, consistent, measurable and relevant.

Improvements in transactions and processes to improve efficiency and reduce red tape burden[5] (KPI 1)

In our self-assessment methodology, the performance measures identified for the strategy relate to whether our processes support timely decisions, and whether we sought opportunities for process improvement and review of regulation.

Investment in ICT and industry partnerships to support improved service delivery

Throughout 2015–16, we completed some significant ICT investment projects, and continued to augment our service delivery through enhancements to internal processes or by partnering with industry suppliers. This led to improved efficiency, particularly in core activities of licensing and unsolicited communications, providing better outcomes for industry participants, including:

> Seeking to enhance the flexibility and convenience of the Do Not Call Register (DNCR). In September 2015, we transitioned management of the register to a new service provider, Salmat Digital Pty Ltd. Improvements implemented by Salmat provide more self-service options to access seekers, better access to information about access seeker accounts and a simplified telephone number washing service. This will reduce the number of access seeker enquiries that need to be manually resolved and will enable more efficient use of the register. During the period, we also enhanced internal systems to facilitate a more efficient compliance warning process for the DNCR, providing earlier notification to businesses about potential compliance issues and enabling faster resolution of identified problems.

> Streamlining the existing numbering system and improving the operation of the Numbering Plan by implementing the Telecommunications Numbering Plan Variation 2016 (No.1). A key benefit of the variation is that it enabled us to pursue automation of telephone number allocation processes and more flexible payment arrangements for special allocations of freephone and local rate numbers. We contracted with ZOAK Solutions to implement an automated system for processing telephone number allocation applications and payments. Commencing in August 2015, this new system completes the outsourcing of the majority of our number allocation functions, and is delivering instantaneous processing of applications. This compares to the previous, partially manual process that delivered an average completion time of five business days in 2014–15 (see Appendix B, Table 5).

> Adoption of a more proportionate and streamlined approach to investigating broadcast content complaints.[6] This has been assisted by the implementation of new processes, IT systems and the discretion as to whether to investigate

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[4] Addresses stakeholder feedback regarding implementation of Spectrum Review recommendations

[5] Addresses stakeholder feedback regarding the ACMA's efforts to improve timeliness and continue with regulatory reform actions.

[6] Addresses stakeholder feedback regarding ensuring the ACMA seeks to ensure its regulatory activities impose the minimum burden necessary on industry.

broadcasting complaints (introduced in October 2014 by legislative amendment to the *Broadcasting Services Act 1992*). This has led to a reduction in average complaint investigation completion time from 2.6 months in 2014–15, to 1.6 months in 2015–16 (see Appendix B, Table 8). Only four of the 156 investigations completed (2.5 per cent) fell outside the target time frame of six months for 2015–16, compared with 7.5 per cent of investigations the year before.

> In May 2016, we completed our transition to the SPECTRA Enterprise Suite for radiocommunications licensing with the implementation of apparatus licensing and broadcast service licensing in SPECTRA. This brings to a close the multi-year, multi-dimensional initiative to upgrade the ACMA's spectrum management capabilities. This means we now have the modern infrastructure in place to support the coordination of radiocommunications services and the issue and management of radiocommunications licences. SPECTRA has allowed us to automate a range of administrative and technical activities, as well as provide a business-to-government (B2G) portal for accredited persons that allows them to electronically lodge licence applications on behalf of their clients. SPECTRA also provides real-time updates to the Register of Radiocommunications Licences, which is now freely available through downloads and application program interfaces (APIs) in support of the development of third-party apps and systems. The ACMA will continue to work with the software provider to improve the performance of the system throughout 2016–17.

Providing a single point of contact into the ACMA to respond to enquiries

During 2015–16, we completed the implementation and expansion of our single point-of-contact CSC. Prior to the CSC initiative, we had upwards of 100 different entry points for contact and enquiries. The introduction of the CSC aims to provide a consistent standard of service for people interacting with us. It is helping us systematically track our timeliness in resolving enquiries. We expect this will reduce processing times for industry and citizens, and improve our own internal efficiency.

The CSC responded to more than 50,000 enquiries during the period, with just over 60 per cent of these relating to radiocommunications licensing (see Appendix B, Table 5). Of the total enquires dealt with for 2015–16, only 16 related to complaints about our service (see Appendix B, Table 6). Upon establishment, the CSC set a performance benchmark to resolve 95 per cent of enquiries in three business days or less. For 2015–16, the CSC achieved an overall result of 97 per cent of enquiries resolved within three business days.

We sought to augment our focus on performance benchmarking by contracting Woolcott Research to conduct a survey to establish year-one customer satisfaction benchmarks for the CSC. The survey of 1,551 respondents included 444 respondents who identified as having contacted us on behalf of organisations (see Appendix B, Table 7).

The survey found 70 per cent of respondents reported overall satisfaction as slightly satisfied or better (71 per cent for organisational respondents). The highest levels of satisfaction reported related to licensing enquiries (all respondents, 79 per cent positive satisfaction range) and enquiries handled directly by the CSC (all respondents, 90 per cent positive satisfaction range). Sound results were achieved across a number of service elements surveyed, such as:

> *staff polite and courteous* (all respondents, 90 per cent positive satisfaction)
> *staff knowledgeable* (all respondents, 83 per cent positive satisfaction).

Implementing new performance metrics to track core activities

As a result of industry input received during our 2015 RPF consultation, we have commenced tracking new metrics for a number of our core transactional activities.[7]

These include measures relating to benchmarks, volumes and average completion times across all of our regulated industries, as well as measures relating to levels of satisfaction with ACMA processes (see Appendix B, tables 1, 2, 4, 8, 9 and 10 for further information).

Performance measurement involves expanded use of benchmarks for completion times and tracking of minimum/maximum completion times, which helps us to identify instances of 'outlying' performance. Our remit covers diverse stakeholder groups and spans different regulatory frameworks, and for this reason, benchmarks across similar activities may not be wholly comparable. We consider these new metrics provide insights into the consistency of our operations across our regulated communities and factors that affect operational efficiency. As we continue to track these metrics over time, we will assess their usefulness in measuring performance, and identify areas for continuous improvement.

Using consultation and collaboration to support continuous improvement of regulatory practice (KPI 6)

Performance measures under this strategy relate to whether we made use of our stakeholder forums to provide for departmental representation, and to enable collaboration with regulated communities. Additional measures relate to whether we enabled early stakeholder consultation and input relating to options for addressing regulatory issues.

Collaborating to improve regulatory practice

One of our strategies for finding greater efficiency and effectiveness is to explore the possibilities of working more collaboratively with industry and other government entities. These collaborations can lead to better outcomes in education and compliance awareness, greater assistance to industry development, or can contribute to the wider improvement of regulatory practice.[8]

> In June 2016, we collaborated with Australian Radio Communications Industry Association (ARCIA) to hold events for the radio industry and the Institute of Instrumentation and Control Automation (IICA). These events covered a range of technical, legal, licensing and interference management topics.

> During 2015–16, we worked with DoCA and Commercial Radio Australia on the continued expansion of digital radio services, especially in regional Australia. Key actions included establishing the Digital Radio Planning Committee and the extension of digital radio trials in Canberra.

> During 2015–16, we took part in an initiative of the Department of Prime Minister and Cabinet with Open Leaning Global Pty Ltd, to create an online learning course on regulation impact analysis (RIA). We were one of a number of government entities that contributed to the discussion of best practice procedures and techniques to help public servants improve their analytical and conceptual skills and understand the public policy principles underpinning RIA.

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[7] Addresses stakeholder feedback suggesting the ACMA continue to focus on improving its performance and ensuring it is transparent in its operations.

[8] Addresses stakeholder feedback suggesting the ACMA consult with industry on regulatory reform agendas.

Bringing key stakeholders together to foster discussion and exchange of ideas[9]

We also facilitate ongoing targeted consultation and collaboration through a number of purpose-specific advisory committees that bring together industry and community stakeholders with departmental representatives. They allow for open discussion between stakeholders about issues of concern and potential paths to solutions.

Meetings we held through 2015–16 included the Emergency Call Service Advisory Committee (ECSAC), Consumer Consultative Forum (CCF), Digital Radio Planning Committee (DRPC), Numbering Advisory Committee (NAC) and Registrars Coordinating Committee (RCC). Some of the issues canvassed through these forums in 2015–16 include:

> ECSAC—improved mobile location for emergency call service, promoting community awareness of the Triple-Zero service and review of the national Triple Zero operator.
> CCF—TCP Code enforcement, government's regulation reform agenda, consumer experience with the NBN, third-party charges on telecommunications bills, and illegal phoenix activity in the telecommunications sector.
> DRPC—technical and legislative matters regarding support of digital radio expansion.
> NAC—outsourcing of our numbering allocation and administration function, and transition to industry-managed numbering administration.
> RCC—cabling competency requirements, cabling compliance and enforcement, NBN network cabling issues, and cabling industry education and awareness.

Further discussion of our communication and consultation strategies is covered under KPIs 2 and 5, looking at how we supplement formal consultation processes with technology-assisted communications, social media, and industry events and technical evenings.

Applying analysis to reduce regulatory burden on industry and support review of regulation (KPI 1 and KPI 6)

Our performance measures ask whether we informed ourselves of the environment of our regulated communities, undertook a full analysis of relevant factors when weighing up potential initiatives, and used our research program to contribute to an evidence base for improving regulatory frameworks.

Contributing to regulation reform

Our ongoing program of regulation reform is integrated with, and informed by, our programs for regulation review, consultation with industry and other stakeholder groups, and evidence-gathering through research.[10] During 2015–16, our key focus was on working with DoCA to implement recommendations of the Spectrum Review. This will provide a new framework that is equipped to meet the challenges of evolving technology and demand for spectrum access, in recognition of the importance of spectrum to the digital transformation of the economy.

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[9] Addresses stakeholder feedback noting the importance of continued engagement between stakeholders and the ACMA.

[10] Addresses stakeholder feedback suggesting the ACMA consult with industry on regulatory reform agendas.

Our regulation reform agenda has a specific focus on examining how regulatory frameworks can be streamlined, refocused to address contemporary priorities, or simply retired to reduce the regulatory cost burden on regulated entities and citizens.

During 2015–16, we continued to implement or support initiatives that contributed to DoCA's regulatory reform cost savings, including:

> changes to the Telecommunications Consumer Protections (TCP) Code 2012 to simplify information obligations and reporting requirements (see *Assessing the effectiveness of regulatory arrangements* below)

> variations to the International Mobile Roaming Standard that improved its flexibility

> a streamlined and simplified Free TV Code that came into effect on 1 December 2015, providing broadcasters with greater flexibility of programming in recognition of the impact of web-enabled content viewing.

In other cases, regulation reform simply meant making arrangements more flexible to facilitate industry development with nil cost impact. In 2015–16, we made variations to licensing arrangements that enable deployment of new technologies, for example, the amendments to the Radiocommunications (Low Interference Potential Devices) Class Licence 2015. We also expanded compliance options available for technical regulation, facilitating new business models, such as the amendment to the Radiocommunications (Electromagnetic Compatibility) Standard 2008.

Streamlining the ACMA's stock of regulation through sunsetting provisions

Under provisions contained in the *Legislation Act 2003*, most legislative instruments 'sunset' (automatically repeal) 10 years after being registered, unless reviewed and remade. Our program of regular review and consultation for sunsetting legislative instruments ensures we systematically assess our stock of legislation for ongoing relevance and usefulness. Where a given instrument is found to be operating effectively and providing benefit to industry and the community, it will be remade. However, we also use the review and consultation process to consider revisions that could be implemented while remaking the instrument to enhance its efficiency.

In the 2015–16 year we:

> facilitated the sunsetting of 20 ACMA instruments

> replaced 32 instruments prior to the instrument's sunset date

> revoked five instruments

> ceased two instruments, due to the commencement of other legislation.

Using research and evidence-gathering to underpin an evidence-informed regulatory approach[11]

Our program of regulatory research and analysis, research**acma**, is one of the most important and most successful mechanisms we use to improve regulatory practice by gathering evidence about industry conditions, market developments and international best practice, and to ensure our understanding of the environment in which our regulated entities operate.

The research**acma** program identifies five broad areas of interest: market developments, media content and culture, digital society, citizen and consumer safeguards, and regulatory best practice and development.

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[11] Addresses stakeholder feedback on the ACMA's research supporting its regulatory practice.

The program is critical to our understanding of regulatory impact, including whether regulatory settings may need to be adjusted to allow for innovative services and applications, to redress potential harms and likely risks, or to ensure the ongoing effectiveness of particular regulatory arrangements.

Over 2015–16, we published 10 key papers and reports across these areas of interest and regulatory themes.

Assessing the effectiveness of regulatory arrangements

Two important studies completed during 2015–16 contributed to our review of the operation of the TCP Code 2012: *Spend management tools and alerts—Tracking consumer outcomes of the Reconnecting the Customer inquiry* (September 2015) and *Reconnecting the Customer—Estimation of benefits* (November 2015). A review begun in 2014 by industry stakeholders, in conjunction with the ACMA, to examine customer information obligations in the TCP Code 2012 also influenced the revision of the TCP Code in 2015.

These studies reviewed the impact of new arrangements introduced through the TCP Code 2012, and in particular, the usefulness of spend-management tools. Benefits to consumers were estimated at nearly $550 million a year from cost savings from reduced complaints, consumers choosing plans more appropriate for their consumption behaviour, and reductions in unexpectedly high bills.[12] Industry has also benefited from cost savings since the TCP Code 2012 came into effect through reduced numbers of complaints, with estimated savings for industry of $3.2 million annually.[13]

The review of customer information obligations in the TCP Code 2012 by industry and other stakeholders also found parts of the code that could be revised or simplified. In December 2015, we registered a revised version of the TCP Code that simplifies how providers inform consumers about products and services, removing some unnecessary duplication of provisions covered under the Australian Consumer Law and the *Privacy Act*. A variation was also approved for Chapter 9 of the code, increasing the flexibility of reporting arrangements associated with the industry body Communications Compliance.

The TCP Code is scheduled for review in 2017, and we will at that time again reflect on the issues specific to the telecommunications environment during this process, and how best to achieve the policy outcomes sought. Codes are a regulatory mechanism which allow us to be responsive to the regulatory environment, for example, where we see evidence of developing maturity, we can consider reducing the granularity of obligations. We need to also ensure, however, that citizens, consumers and industry understand and can comply with their obligations and requirements under specific codes. This means ensuring clear, transparent and measurable compliance requirements that support the assessment of the effectiveness of the regulatory arrangements, minimise the impact on industry, and are informed by evidence.[14]

In October 2015, we released *The AISI: interviews with industry* findings from focus interviews with Internet Service Providers (ISPs) about the Australian Internet Security Initiative (AISI), a program we run to help industry address problems of malware or

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[12] Addresses stakeholder feedback that we consider the costs/benefits of regulation from the consumer perspective.

[13] Addresses stakeholder feedback that we impose the minimum burden necessary for effective regulatory outcomes.

[14] Responds to stakeholder feedback seeking consideration of outcomes-based provisions for the TCP Code.

malicious software infecting computing devices. The research found that AISI continues to be valued by industry for the role it plays in helping ISPs to manage malware affecting users on their networks.

Understanding the communications and media environment to improve regulatory practice

For us to anticipate where regulatory pressures may occur, and to understand how and when adjustments to regulatory frameworks may be beneficial, we need a broad awareness of the developments in technology and market conditions affecting our regulated community.

For example, we looked at whether regulatory settings may need to be adjusted to support technology developments in two studies conducted throughout 2015–16; one relating to the Internet of Things (IoT) and one relating to 5G mobile developments:

> *Internet of Things and the ACMA's areas of focus*—In November 2015, we released this paper looking at Australia's readiness for IoT, and sought feedback on areas where we can facilitate IoT developments. In 2016[15], we made variations to class licensing arrangements to remove a previous technical limitation. This was done in order to support applications important to IoT implementations, including data telemetry, machine-generated data and monitoring, sensor networks, smart metering, security systems and industrial control.[16]

> *5G and mobile network developments*—Released in February 2016, this paper looks at 5G mobile developments and the opportunities it offers to the Australian community through increased use of mobile broadband and machine-to-machine communication. In addition to examining technological developments and market drivers, the paper reviews existing regulatory arrangements that may be useful in facilitating the next evolution of mobile networks.

Other ACMA studies over 2015–16 tracked changes in market and consumer communications and content behaviours. These studies helped inform our understanding of where regulation may need to adapt to address emerging harm or risk. The diversity of our industry stakeholders is reflected in the variety of topics covered in these research reports:

> *Subscription video on demand in Australia 2015*—In November 2015, we published this research snapshot on subscription video on demand (SVOD) services in Australia, including the take-up, use and satisfaction with these services. The study looks at time spent using these services, and provides insights into why SVOD services are seen to be attractive, particularly amongst younger adults.

> *Communications report 2014–15*—Tabled in parliament in December 2015 (section 105 of the *Telecommunications Act 1997*), the report provides an overview of industry performance against a range of regulatory obligations and safeguards covered in legislation, codes and standards. It also provides insights into the way consumers are using communications and media services and technologies.

> *Aussie teens and kids online research*—Released in February 2016, this research snapshot, produced jointly with the Office of the Children's eSafety Commissioner, provides an update to our 2014 paper about teens online. It provides an insight into

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[15] The ACMA remade the Radiocommunications (Low Interference Potential Devices) Class Licence 2015 (the LIPD Class Licence) on 4 September 2015, including new arrangements supporting the use of short-range low-power devices using ultra-wide band technology. The ACMA varied the remade LIPD Class Licence in April 2016 after public consultation to introduce updated arrangements to support low-power digital devices for use in the IoT, industrial radar sensors and building material analysis devices.

[16] Addresses stakeholder feedback on the ACMA's involvement with the IoT space.

how teens are using the internet to communicate and connect, and compares their usage and behaviours to adult internet users.

> *Regional Australians online*—This snapshot from April 2016 shows how Australians across the country have changed their patterns of online engagement in the four years to June 2015, by examining how they engage online, their use of mobile devices, and the digital services and activities that attract them online.

Regulatory practice

We also explore opportunities to create new pathways for addressing regulatory issues. For example, *The connected citizen—a disruptive concept informing ACMA perspectives* occasional paper (February 2016) builds on our body of work focusing on 'the citizen' as a central consideration in making communications and media work in Australia's interests. The paper reflects how we have dealt with citizen interests in our regulatory practice and points to where regulation can be recalibrated to remove outdated and unnecessary obligations. It also explores a range of emerging and future citizen challenges, and opportunities for change in communications and media regulatory practice.

Continuous improvement program

While the initiatives described above have established some initial improvements in our processes and regulatory practice, we have identified a number of work areas for further attention over 2016–17 and beyond:

> continued focus on improved timeframes for investigation completion and code registration[17]

> additional focus on spectrum planning timeframes (to be communicated through the forward work plan and signalling planning priorities)[18]

> conducting a stakeholder satisfaction survey before the end of the 2016–17 financial year to assist with identifying areas for continuous improvement

> refinement of our understanding and use of performance metrics for core activities

> expanded performance metrics for our corporate plan and Portfolio Budget Statements, including reporting on specific performance targets, stretch targets where appropriate, and a long-term focus on benchmarking and providing a clear line of sight between performance goals and outcomes.

Following feedback from the 2015–16 RPF stakeholder validation process, we have identified a number of further work areas for inclusion in our continuous improvement program in 2016–17 and beyond:

> driving an ongoing program of work to enhance and improve SPECTRA over the warranty period. This work will provide a basis for further improvements in performance reporting, as well as improving the ACMA's spectrum management capabilities. This will enable us to support improvements in the coordination of radiocommunications services, and the issue and management of radiocommunications licences through the automation of a range of administrative and technical activities.

> continuing to fine-tune consultation with industry on spectrum planning matters in 2016–17, including improvements to consultation on the FYSO

> developing a spectrum management work program for implementation in 2017–18

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[17] Addresses stakeholder feedback regarding a continued focus on improved timeframes and streamlining of code registration activities.

[18] Addresses stakeholder feedback seeking further information of spectrum management and planning priorities.

> reflecting in the development of our 2017–18 regulatory reform program the feedback provided from industry via consultations conducted by the ACMA, and those wider government reviews such as the ACMA Review and Spectrum Review, which may reflect on the ACMA's regulatory practice or remit.

> progressing the ACMA's engagement with Communications Alliance to develop the most appropriate processes for streamlining code deregistration processes

While regulatory reform is ultimately a matter for government, as part of its examination of whether the DNCR could be referred to industry for self-regulation (proposal 6 of the draft report of the ACMA Review), we will consider the efficiency and effectiveness of the current register, including issues of data integrity.

In future RPF assessments, we will report on performance against these measures and any revisions in benchmarking that result.

KPI 2—Communication with regulated entities is clear, targeted and effective

KPI 5—Regulators are open and transparent in their dealings with regulated entities

The ACMA perspective

The ACMA considers that effective communication and a commitment to transparency and openness are central elements to demonstrating KPI 2 and KPI 5. In being transparent about our decision-making and aiming to achieve our regulatory outcomes predominantly through communication, education and outreach, our assessment is that we are meeting the objectives of KPIs 2 and 5.

Our actions against KPIs 2 and 5 fall under the following broad strategies:

> use of an adaptable and targeted communication strategy to assist industry to understand regulatory obligations and communicate our approach to risk (KPI 2)

> a transparent approach to consultation, performance reporting and explaining decisions, while respecting confidentiality and fairness (KPI 5).

We have implemented a number of activities during 2015–16 aimed at enhancing our communications, transparency and openness in response to stakeholder feedback about these matters. A key element of this has been an expanded engagement strategy through which we can educate the community and assist various industry sectors to understand their regulatory obligations.

We also took steps to publish more of our planning priorities and compliance decisions, and to engage with stakeholders on our early thinking about horizon issues, such as mobile broadband planning. These efforts to enhance our accountability and transparency resulted in trialling the publication of quarterly performance snapshots, introducing a new online consultation tool, and continuing to employ a range of targeted communications and social media channels.

Use of a flexible and targeted communication strategy to assist industry to understand regulatory obligations and communicate the ACMA's approach to risk (KPI 2)

The measures to assess performance for this strategy relate to whether we had a clear communication strategy, and whether we used our expertise to promote an understanding of regulatory arrangements in the communications and media environment.

Improving access to the ACMA through expanded channels of communication and engagement

Our corporate plan and compliance and enforcement policy are key documents in our strategy to communicate to stakeholders and the community about how we approach risk.

The corporate plan sets out our measures for dealing with enterprise risk, and talks more broadly about understanding risk in the environment of our regulated community, and the application of risk assessment to proportionate regulatory practice.

Our compliance and enforcement policy deals specifically with risk assessment as a tool for guiding compliance monitoring activities and enforcement responses. The

application of risk assessment to compliance monitoring and enforcement is covered further in the discussion under KPI 3 and KPI 4.

We also sought to improve the nature and variety of our communication channels to encourage stakeholder dialogue and to create more targeted communications through our stakeholder engagement strategy.

Acknowledging the need to be more accessible to regulated entities and the community, we have responded with new forms of communication and engagement that extend beyond conventional consultation processes. This includes mechanisms like social media, public discussion forums, industry technical evenings and sector specific blogs, in addition to our program of media releases.

These expanded communication channels are examples of how we use public mediums to raise awareness about our priorities and risk disposition, and to create more transparency about our decisions and underlying reasons. They also provide stakeholders with opportunities to advise us of current and emerging risks in their industry sectors or fields of expertise. Stakeholders have responded positively to our efforts to broaden our communications channels in an effort to encourage stakeholder dialogue and we will be continuing these throughout 2016–17.[19]

During 2015–16, we used a range of these formal and informal channels to create discussion with industry about our regulatory processes and to consult on key regulatory matters, including:

> posting 66 media releases on high profile issues, hosting 2.5 million visits on our website, producing 50 blogs across 11 tailored industry-targeted products and 215 targeted e-bulletins

> convening *Citizen conversations* forums about matters of public interest, such as the forum in support of the Captioning Standard Review, which facilitated public discussion of issues central to our review of the TV Captioning Quality Standard

> holding our flagship spectrum event, RadComms, covering topics including mobile and public safety broadband, satellite and space activity, broadcasting industry evolution and disruption, spectrum reform, and the IoT

> hosting three technical spectrum tune-up events, enabling open dialogue with industry on issues including 5G technology, ACMA mobile broadband strategy, priority compliance areas (interference), 400 MHz Band Plan review, and the Spectrum after Scarcity research programme, funded under the Australian Research Council's *Discover* Project

> issuing 15 separate scam alerts via our Facebook and Twitter accounts, warning the Australian community about phishing, malware, SMS or telemarketing scams

> releasing six separate blogs and fact sheets for several local communities, outlining steps to improve TV reception.

Assisting industry to understand its obligations

Our engagement strategy also facilitates the education and outreach activities that form a key component of our overall compliance and enforcement strategy. We use online resources such as blogs, YouTube videos and social media, and partnerships with other industry bodies, to create permanent reference materials as well as made-for-purpose education campaigns to target specific issues as they emerge, or to highlight key events.

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[19] Responds to stakeholder feedback encouraging the ACMA to continue to improve its communications with stakeholders.

During 2015–16, we released a [YouTube video](#) featuring a number of government and industry leaders canvassing issues raised at the *RadComms 2016* conference, which had a theme of innovation and new technology supported by access to spectrum. Topics covered at *[RadComms 2016](#)* included mobile and public safety broadband, satellite and space activity, broadcasting industry evolution and disruption, spectrum reform, and the IoT.

An example of our use of targeted education campaigns during 2015–16 includes our response to an increase in interference to television reception caused by LED lighting installations. LED globes can cause interference to TV signals, particularly if the product does not meet Australian standards. Our [LED campaign](#) educated Australian suppliers about their obligations to prevent interference from LED lighting, and featured a [video](#) explaining the issues that can occur and why compliance standards are important. The video was deployed across multiple channels to achieve greater reach, and has so far received over 2,200 views.

Also in 2015–16, following a rise in complaints from the public, we carried out an education outreach campaign targeting businesses using telemarketing to sell solar power products. We worked with the Clean Energy Council to create a targeted campaign contacting more than 4,000 solar retailers, explaining the obligations associated with telemarketing under the DNCR provisions.

Educating citizens to help create an informed market

Our consumer and citizen education campaigns are an important adjunct to the work we do with industry, recognising that addressing awareness issues on the demand side of the market can be an efficient means of achieving regulatory outcomes without creating additional burden on regulated industries. During 2015–16, we ran five consumer campaigns that drove over 7,000 visits to our website:

> *[Streaming services: get the full story](#)*—an online guide to subscription video on demand and subscription TV
> *[Public Wi-Fi hotspots: food for thought](#)*—we partnered with Stay Smart Online to provide safety tips to citizens about using Wi-Fi hotspots
> *[How well do you know your mobile operating system](#)*—a guide for consumers on mobile usage updates, monthly data plans and other material connected with managing costs
> *[Slow home internet: symptoms, causes and cures](#)*—advice on why slow internet speeds occur at home and what consumers can do to improve them[20]
> *[Free apps: do you know what you're agreeing to](#)*—advice about the personal, behavioural and location information consumers could be giving away when downloading and using apps.

A transparent approach to consultation, performance reporting and explaining decisions, while respecting confidentiality and fairness (KPI 5)

We stated we would measure our performance on whether we engaged early with stakeholders on revisions to regulation, and whether we worked to resolve enquiries with a sense of urgency. We also said we would measure our transparency in publishing decisions, performance reports and data sets of value to the community.

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[20] Addresses stakeholder feedback regarding the ACMA's engagement with consumer education around broadband network issues.

Using a mix of consultation practices and activity to gain industry insights

Over 2015–16, we conducted 33 formal consultations. The overwhelming majority of regulatory proposals covered under these consultations were reduced- or zero-cost proposals relating to:

> maintaining frameworks identified as useful to industry and the community
> facilitating flexibility and reduction in regulatory burden
> seeking input on regulatory practice and forward planning.

These consultations provided input into a range of important matters, including regulation reform proposals, reviews of sunsetting legislative instruments, and important resource planning matters, such as variations to the national numbering plan, our FYSO and draft mobile broadband strategy.

Formal consultations are only one mechanism we use to alert our regulated community to contemplated changes to regulatory arrangements. Advisory committees, social media and technology-assisted communications such as Facebook, YouTube, Twitter and blogs have all become important additional channels for interacting with our stakeholders. Industry conferences and technical evenings, and public hearings or discussion forums provide further consultation opportunities that target specific issues in a more informal manner.

Consultation and communications processes were identified as early target areas for our CIP. Building on earlier website usability and accessibility work, our new online consultation tool facilitates easier gathering of, and response to, feedback on issues we release publically via our issues for comment webpage. We provided information and guidance to help stakeholders use the application, and sought feedback about its useability. Stakeholder response has been positive, reporting the online tool to be a convenient and efficient mechanism for providing feedback.

An important consultation target over 2015–16 has been our mobile broadband strategy. Recognising the potential for mobile broadband to deliver substantial economic and societal benefits, we undertook a comprehensive research and industry consultation process.

Following findings from our 2014 commissioned-research into the economic impacts of mobile broadband on the Australian economy, we sought to update our earlier work, *Towards 2020—Future spectrum requirements for mobile broadband*.

In September 2015, we released a discussion paper, *Beyond 2020—A spectrum management strategy to address the growth in mobile broadband capacity*, seeking input from industry on approaches to address growth in mobile broadband capacity.

In February 2016, we released our mobile broadband strategy and work program, along with a summary of the submissions to the discussion paper, and our responses to the submissions. This ensured stakeholders were informed of the process and reasoning by which we considered submissions. The mobile broadband strategy outlines various schemes for addressing growth in demand for mobile broadband capacity, including a spectrum management process for releasing additional spectrum. The mobile broadband work program will form part of our annual FYSO, which will help keep stakeholders informed about our mobile broadband spectrum planning projects.

Transparency through explaining decisions and approaches[21]

We meet our statutory reporting and transparency obligations by publishing materials such as our Annual Performance Statement and annual report. These documents provide information about outcomes of our activities and decisions, and statements about our approach to regulatory practice. The Annual Performance Statement provides a clear line of sight for stakeholders between our purpose of making communications and media work in Australian's public interest, the actions we have taken to achieve this, and the outcomes of those actions.

In addition, we have sought sort to enhance the transparency of our decision-making over time in areas of interest to stakeholders.

Our broadcasting *Investigation concepts* series, for example, aims to provide guidance to industry about how we interpret concepts that are central to decision-making on broadcast content investigations. We also update it regularly to ensure it remains relevant.

We also publish information about our telecommunications compliance and investigation activity, and release reports of completed investigations into compliance with broadcasting and telecommunications codes of practice or regulations.

Our investigation reports identify the provisions breached and provide an explanation of our reasoning, promoting an understanding of the regulations by demonstrating how we apply them to a specific real-world circumstance.

In relation to public consultations, our standing policy is to publish submissions provided by respondents, as this promotes open discussion and understanding of the issues, priorities and positions of affected stakeholders. In some cases, proper consideration of a compliance matter or a regulatory proposal requires candid discussion about private or personal material, or review of commercial-in-confidence information. In these instances, we consider each confidentiality claim on a case-by-case basis, and if accepted, will not publish the confidential information unless authorised or required by law to do so.

Exercising discretion in this way is an important element in building confidence and trust to enable the genuine engagement needed to achieve better regulatory outcomes. At the conclusion of a public consultation, we make updates to the relevant consultation website, describing the final outcome. In many cases, this is accompanied by a summary explaining whether regulatory arrangements have changed or been retained, and explains the rationale or effect we have sought to achieve.

Transparency through explaining planning priorities[22]

Our corporate plan and other published materials such as spectrum management plans, priority compliance areas and the national numbering plan provide transparency about our work programs and expected priorities. Implemented under the CIP, the reinstated annual forward work plan (released in February 2016) articulates key priorities and activities over the forward year. This responds to feedback from stakeholders seeking more transparency from us about our short- to medium-term work priorities. The revised annual forward work plan also acts on feedback indicating it would be beneficial for us to consolidate our sector-specific planning programs into a single forward planning document. This work also informed a restructured and

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[21] Addresses stakeholder feedback on the ACMA providing clarity and information about its decision-making.

[22] Addresses stakeholder feedback regarding provision of information on planning and priorities.

redesigned forward work plan that we released in August 2016, as part of our *Corporate plan 2016–17 package*.

Evolving performance measurement and reporting

As part of our response to the RPF and the revised accountability and reporting requirements under the *Public Governance and Public Accountability Act 2013* (PGPA) initiatives, we are working to develop a more integrated set of qualitative and quantitative performance metrics. With performance benchmarks established and early customer satisfaction results tracked (see Appendix B, tables 5, 6 and 7), we will be able to more systematically monitor how efficiently and effectively enquiries from our stakeholders and the community are being resolved.

In addition, for the 2015–16 period, we the expanded our use of timeliness benchmarks for a number of our core transactional activities, as a means of measuring efficiency and effectiveness, including:

> metrics for average, maximum and minimum completion times

> enhancements to business processes to improve transactional processing efficiency (for example, outsourcing of numbering allocation)

> percentage benchmark achieved (see Appendix B, tables 1, 2, 3, 4, 5, 8, 9 and 10).

Noting the concerns stakeholders expressed through the ACMA Review about timeliness of processes and decisions, these performance criteria will enable us to commence tracking, benchmarking and reporting on our performance, and provide a mechanism for ongoing feedback and continuous review through a more structured program of stakeholder consultation. This focus on efficient processes and decision-making can also be seen in the more specific performance targets and defined time frames outlined in the 2016–17 corporate plan and forward work plan and we are seeking to integrate these changes at an organisation-wide level. Recognising that these efforts will require long-term organisational change as we build on our initial improvements, we have also outlined our commitment to improving the effectiveness of our performance measures across the full four years of the current corporate planning cycle.[23]

Continuous improvement program

We have identified a number of further steps we can take to continue working on improved stakeholder engagement and the transparency of our processes for 2016–17:

> publishing the 2016–17 forward work plan, including planned communications channels and timeframes to identify key stakeholder engagement opportunities, such as feedback from stakeholders on the five-year spectrum forward work program priorities, via spectrum tune-ups

> additional focus on spectrum planning timeframes being communicated to stakeholders through the forward work plan and flagging of planning priorities

> performance measures expanded in the 2016–17 corporate plan and Portfolio Budget Statements to include average completion rates, percentage time benchmarks met, stretch targets where appropriate, and completion times

> expanding the range and targeting of communications channels for formal and informal consultations, including:

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[23] Addresses stakeholder feedback on continuing to improve our timeliness and efficiency improvements.

> industry events and public forums—RadComms, spectrum tune-ups, *Citizen conversations*, and technical evenings on harmful interference compliance matters

> sector specific blogs and e-bulletins to engage on compliance priorities and priority activities

> social media presence—ACMA presence on Facebook, YouTube and Twitter have become key channels through which two-way communication with citizens is facilitated

> standardising the approach to providing stakeholder feedback and explaining regulatory decisions.

Following feedback from the 2015–16 RPF stakeholder validation process, we have identified a number of further work areas for inclusion in our continuous improvement program in 2016–17 and beyond:

> the development of a spectrum management work program for implementation in 2017–18

> development of whole-of-organisation internal consultation guidelines to enhance our consistency in managing consultation processes, including how we report to stakeholders on the impact of their feedback on consultation outcomes, and the provision of sufficient time to respond to complex matters

> continue a review to improve the usability and accessibility of the ACMA website. Building on initial work done in 2015–16, we are embarking on a second round of improvements, due to commence in 2017. This segment of the project is purely technical and seeks to ensure we will have a robust platform. The Federal Government Digital Transformation Agency (DTA) is currently working towards delivering a unified view of all government services via one single site, GOV.AU. The ACMA supports, and is actively participating in the delivery of this new website, and looks forward to providing better digital services for all Australians.

In future RPF assessments, we will report on performance against these measures and any revisions in benchmarking that result.

KPI 3—Actions undertaken by regulators are proportionate to the risk being managed

KPI 4—Compliance and monitoring approaches are streamlined and coordinated

The ACMA perspective

The ACMA considers a proportionate, risk-based and coordinated approach to compliance monitoring and enforcement is central to meeting KPI 3 and KPI 4. Based upon our strong compliance and enforcement record, we assess that we are meeting the objectives of KPIs 3 and 4.

Our actions against KPIs 3 and 4 fall under the following broad strategies:

> using evidence and risk assessment to prioritise compliance activities and apply proportionate enforcement responses (KPI 3)

> reviewing compliance monitoring approaches to minimise information burden (KPI 4).

During 2015–16, we took steps to further improve, and build more transparency into our proportionate, risk-based and coordinated approach to compliance monitoring and enforcement. We did this by having regard to the compliance profile of our regulated sectors and prioritising compliance activity towards matters central to preventing consumer detriment. This enabled us to employ a range of low-impact enforcement responses to maximise our compliance effect. By reviewing regulatory arrangements, internal processes and exploring potential information sources available through external relationships, we sought to minimise regulatory burden associated with information obligations.

Using evidence and risk assessment to prioritise compliance activities and apply proportionate enforcement responses (KPI 3)

Our performance measures for KPI 3 ask whether we examine the evidence of stakeholder detriment, industry compliance history, and assessment of current and emerging risks to inform a proportionate and flexible approach to compliance and enforcement activity.

Achieving proportionate outcomes through a graduated approach to compliance[24]

Our published compliance and enforcement policy explains our graduated approach to the use of our enforcement powers, and the range of factors we consider when making compliance and enforcement decisions. This applies at the level of enforcement responses to specific instances of non-compliance, as well as at the level of strategic decisions about allocating resources to compliance activities.

Generally, we seek to foster a voluntary compliance culture, and where a breach of regulation occurs, to use the minimum enforcement option necessary to remedy the breach. Beyond the question of whether or not a breach has occurred, this involves an assessment of the actual detriment incurred and the pattern of conduct of an entity or

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[24] Addresses stakeholder feedback regarding the ACMA's use of proportionate compliance and enforcement approaches.

sector. This graduated and risk-based approach seeks to foster industry compliance without imposing undue financial or administrative burdens, and promote a communications and media sector respectful of community standards.

A review of our compliance and enforcement activity over 2015–16 demonstrates how this policy applies in practice. The majority of enforcement was achieved through low-impact options that reinforce regulatory obligations through education, while more stringent measures were reserved for cases of ongoing non-compliance or high risk failures.

In the telemarketing sector, we have found the vast majority of issues relating to spam and breaches of the DNCR arrangements can be dealt with effectively through direct contact with businesses, informal advice and education campaigns. If a complaint is raised about a business, an informal compliance warning is sent to the business, outlining potential breaches identified and explaining the relevant obligations. In 2015–16, the majority of businesses (72 per cent) contacted about potential breaches relating to spam or the DNCR generated no further complaints to the ACMA after receiving a single compliance warning. This approach results in minimal disruption to compliant industry members and is an efficient use of ACMA resources.

Through 2015–16, the ACMA issued 2,412 informal compliance warnings to businesses regarding spam complaints. Following an informal compliance warning, we may then seek to interact with businesses about non-compliant practices through the exercise of our formal information gathering powers and escalated communications. If potential non-compliance is not addressed through these efforts, a formal investigation may then be initiated. This tiered compliance response meant that in 2015–16, we conducted five investigations, resulting in the ACMA issuing one formal warning and one infringement notice (see Appendix B, Table 11).

In relation to DNCR complaints, the ACMA issued 1,691 informal compliance warnings to businesses. As with spam investigations, the ACMA uses a tiered compliance process that seeks to achieve compliance without the need to initiate formal investigations. Nine matters were investigated in 2015–16, resulting in two formal warnings, two infringement notices and one court action against a company and its director. In this case, the Court ordered payment of pecuniary penalties of $325,000 for widespread breaches of the Do Not Call Act and the Telemarketing and Research Industry Standard.

In the customer cabling sector, we have adopted an industry-managed regime for implementing a national registration system under the Cabling Provider Rules. This approach recognises industry's long-term record of engagement and cooperation, and the stable, low level of complaints generated by the sector.

As with the telemarketing sector, the ACMA achieves customer cabling compliance through low-impact actions (for example, advice notices), addressing specific substantiated complaints, and ongoing engagement with industry on emerging issues, such as the convergence of electrical and communications cabling (a priority compliance area identified through consultation with industry, see *Engaging with stakeholders on compliance and enforcement priorities* below). Over 2015–16, the ACMA issued two warning notices and one advice notice, in response to 12 complaints received.

Over 2015–16, across the broadcasting, telecommunications and radiocommunications sectors, 95 per cent of enforcement responses fell into the category of advices and warnings (see Appendix B, Table 10). In the areas of spam and DNCR compliance, more than 99 per cent of all enforcement actions comprised

informal warnings and advices (see [Appendix B, Table 11](#)). This demonstrates how we apply a proportionate risk-based approach to compliance and enforcement matters.

Additional summary information of our enforcement investigations and responses over 2015–16 can be found in [Appendix B](#), tables 8, 9, 10 and 11.

Assessing detriment or risk to prioritise compliance and enforcement action[25]

In the broadcasting sector, one of our key roles relates to managing industry compliance with the broadcasting codes of practice. An amendment to the primary legislation in 2015 provided us with the discretion to investigate a given broadcasting complaint. Previously, we were required to investigate every complaint.

We investigate a complaint where we consider it is in the public interest to do so. A range of factors are considered on a case-by-case basis when determining if we will exercise our discretion not to investigate a complaint, including, (but not limited to) the nature and seriousness of the matter raised, or steps taken by the broadcaster involved to prevent future incidences of the issue. We also advise individual broadcasters when we have taken the decision not to investigate a complaint and may provide information regarding the factors that we have considered in making that decision.[26]

Exercising this discretion assists us to prioritise our compliance and enforcement activities where there is evidence of detriment or potentially significant transgression.[27] Of 1,232 broadcasting complaints and inquires received in 2015–16, we declined to investigate 65 that we considered did not warrant further examination (see [Appendix B, Table 8](#)). This also allowed us to make more efficient use of our resources, and significantly reduce the overall impact on industry from compliance activity

In the telecommunications sector, we direct resources to reviewing compliance with those aspects of consumer protections identified as central to preventing detriment or promoting community safety. We proactively monitor compliance with consumer protections, such as the TCP Code, and often adopt an educative approach to promptly address concerns. We may also initiate checks of industry compliance where potential areas of concern are identified through our analysis of TIO complaint statistics, and when we receive referrals of suspected non-compliance from other agencies. In general, we initially raise our concerns with service providers to seek further information and take an educative approach, seeking a voluntary response to resolve the matter.[28]

More serious measures are reserved for instances of ongoing non-compliance, or matters where systemic failures attract much higher risk, such as obligations connected with supporting the emergency call service or law enforcement services. This may also include cases of non-compliance with the TIO scheme or instances of systemic breaches of other key consumer telecommunications safeguards that cause significant consumer detriment. This allows us to target compliance and enforcement

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[25] Addresses stakeholder feedback regarding the ACMA's use of risk-informed compliance and enforcement approaches.

[26] Responds to stakeholder feedback seeking further information on the ACMA's decision-making for the use of discretion in broadcasting investigations.

[27] Responds to stakeholder feedback seeking a full merits review of broadcasting investigations. Inclusion of a full merit review process for all investigations that we progress would seem to be inconsistent with our efforts to provide proportionate compliance response for an industry with a strong record of compliance.

[28] Responds to stakeholder feedback regarding the ACMA's use of TIO data for compliance monitoring and its engagement with industry regarding issues this monitoring may raise.

resources towards those issues with a greater impact on consumers, and to signal our priorities more clearly to our regulated community.

During 2015–16, we reviewed industry compliance with provisions in the TCP Code for Critical Information Summaries, complaints-handling, financial hardship and customer transfer processes, as well as compliance with TCP Code attestation requirements. Most instances of confirmed non-compliance were resolved through information and advice, with the ACMA issuing 27 formal warnings over 2015–16 (this compares with 39 formal warnings issued in 2014–15 and 95 for 2013–14). Eight directions to comply were sent to providers who demonstrated repeated or ongoing contraventions (see Appendix B, Table 10).

Also during 2015–16, a further two directions to comply were issued to providers who failed obligations relating to the Integrated Public Number Database, a critical customer information reference for emergency service organisations and law enforcement services. In both cases, we agreed to accept enforceable undertakings, enabling the providers to negotiate how they would operationalise the directions to comply, and providing them with some flexibility to reduce potential efficiency impacts.

While we respond to individual consumer complaints regarding telecommunications services, we find these are generally resolved through educating consumers about the TCP Code and the Telecommunications Industry Ombudsman (TIO) scheme, and do not typically give rise to investigations involving communications service providers. During 2015–16, we addressed over 200 telecommunications consumer enquiries or complaints in this way (see Appendix B, Table 10).

Engaging with stakeholders on compliance and enforcement priorities[29]

In the area of technical standards and spectrum interference management, we manage compliance with mandatory standards for devices through our priority compliance areas (PCAs). This graduated compliance program gathers intelligence about potential compliance problems within the sector, and uses a risk-assessment methodology to identify and prioritise issues where there may be systemic compliance problems. For 2015–16, the PCAs focused on:

> radiocommunications transmitter licensing—involving importation and sale of overseas devices not correctly configured for the Australian market, and certain mobile apparatus licensees failing to properly authorise and administer third-party users

> light-emitting diode (LED) lighting compliance—arising from an increase in digital television interference complaints caused by LED installations (see also, the discussion under KPI 2 and KPI 5, *Assisting industry to understand its obligations*, regarding how this issue was addressed through education).

In setting our PCAs for 2016–17, we sought to improve our process by consulting industry representatives about the development of future priorities.

At our March 2016 spectrum tune-up, *Shaping our technical priorities*, stakeholders consistently nominated interference management as a matter that should have priority. Industry representatives particularly identified devices operating on 902–915 MHz, because they pose an interference risk to mobile phone services. Devices such as solar inverters, wireless power transfer devices and devices subject to the Radiocommunications (Short Range Devices) Standard 2014 were also discussed. Taking into account industry input and our own observations of technology trends in

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[29] Addresses stakeholder feedback on the ACMA's engagement with stakeholders on compliance and enforcement.

the radiocommunications sector, PCAs for 2016–17 will cover (not in order of significance):

> compliance in the Harmonised Government Spectrum of the 400 MHz band
> customer cabling compliance (in light of convergence of electrical and communications cabling)
> interference management.

We see stakeholder engagement as an increasingly important input to the PCA program, both for identifying and resolving potential compliance problems. The program is one mechanism enabling broader discussions with suppliers, radiocommunications licensees and relevant stakeholders about the role of both industry and the ACMA in managing interference. In particular, we will examine the interference management principles that underpin our approach to diagnosing and resolving cases of interference to licensed radiocommunications services and domestic television.

Reviewing compliance monitoring approaches to minimise information burden (KPI 4)

The performance measures under this strategy relate to whether we have internal processes for minimising information burden, and whether we engage with stakeholders and other regulators on minimising data requests and sharing information where possible. They also ask whether we work cooperatively with regulated entities, where possible, on compliance monitoring activities.

Using information to drive compliance and enforcement outcomes

Information and evidence is critical to ensuring targeted compliance monitoring and enforcement decisions and risk assessments, both at the level of responding to specific instances of potential non-compliance, and at the strategic level of priority setting and resource allocation. To this extent, we regard KPI 3 and KPI 4 as crucially interlinked. In the context of communications and media regulation, we identify reviewing existing processes and information sources, as well as exploring the possibilities afforded through external relationships, as important avenues for minimising information burden. Our regulation reform program and continuous improvement strategy help us to identify opportunities to streamline work, reduce regulatory red tape and reduce the overall regulatory burden on industry and citizens.

Reviewing processes and information sources to reduce burden or duplication

Our sunsetting and regulation reform programs are key mechanisms through which we consider the potential for streamlining or simplifying the industry information burden associated with compliance monitoring, or simply remove requirements that have become redundant. For example, during 2015–16, we made amendments to obligations under the Australian Content Standard that require commercial television broadcasters to report against content quotas. Recognising that industry consistently meets quotas for Australian content, the amendments reduce the previous monthly reporting requirement to a single annual report. We also made similar revisions to reporting obligations relating to compliance with captioning requirements, introducing a simplified annual captioning report form.

Working cooperatively with the regulated community

In the administration of the Cabling Provider Rules, we work with our contracted registrars to improve reporting arrangements, and monitor service delivery levels across the industry through quarterly meetings of the Registrars' Coordinating Committee (RCC). As described under KPI 3, a key enhancement to the way we

establish our PCAs during the period has been to seek the active participation of our regulated community in setting the 2016–17 priorities.

In other areas of our remit, we explore ways of fulfilling our information needs without additional input from our regulated community. By adapting data available through bodies such as the Australian Bureau of Statistics, drawing on reports produced by professional industry research companies, and commissioning custom research projects, we are able to obtain much of the data that supports our functions.

In 2015–16, our formal data request to industry for the annual communications report combined a reduced dataset with a previously separate process for collecting data about telecommunications services suspended at the request of law enforcement under section 315 of the Telecommunications Act. We accessed alternative sources, such as company annual reports and data-sharing arrangements with the Australian Competition and Consumer Commission, in order to obtain some of the material previously collected through our annual formal request. In addition, industry feedback supported combining the data collection for services suspended under section 315 with the communications report data request, enabling a more coordinated approach to satisfy these separate requirements.

Exploring potential efficiencies through external relationships and information sharing

As an overarching strategy to improve efficiency and reduce industry reporting burden, we adopt a largely complaints-based approach to compliance monitoring. This is a more flexible and responsive strategy because it allows us to use intelligence provided by the market to direct our focus to where there is evidence of detriment, and allows our focus to shift as issues change over time. This also avoids the need to make predictions about compliance issues, or create bespoke industry reporting obligations for monitoring purposes.

Much of this complaints-based monitoring is facilitated through Memoranda of Understanding (MoU) and other information gathering or sharing arrangements. Consumer complaints data shared by the TIO, or tracked by our providers for the DNCR, are examples of this.

These are key sources of intelligence about potential trends that may require monitoring in a sector, or spikes in complaints about an individual provider that may require an education or enforcement response.

During 2015–16, we observed a spike in complaints from the DNCR about telemarketing activity in the solar power industry. In response, we conducted a targeted education campaign for the sector, in partnership with the Clean Energy Council. The complaints we directly received about issues like radiocommunications interference, customer cabling and broadcasting content also provide indicative information about possible compliance monitoring targets.

In the area of online security, we participated in information-sharing initiatives as both recipient and contributor. Through the Australian Internet Security Initiative (AISI), we share information obtained from external sources (including Microsoft, the Spamhaus Project and the Shadowserver Foundation) with private, public and not-for-profit partners about cybersecurity threats affecting citizens and business. Under the AISI program, daily reports are provided to partners (principally ISPs) about malware infections and vulnerable services occurring on their networks. We also share information from our Spam Intelligence Database with a number of other government agencies to help identify current and emerging threats delivered via spam.

In 2015–16, we steered negotiations for a MoU between regulatory authorities of the London Action Plan, which fosters international cooperation between members regarding spam and unsolicited telemarketing. The MoU aims to facilitate the exchange of information to assist signatories in the performance of enforcement responsibilities. In November 2015, we signed a separate MoU with the New Zealand Department of Internal Affairs, with both agencies committing to share information related to spam compliance and enforcement, as well as intelligence about phishing activity, malware and botnets. These arrangements improve our efficiency, helping to prioritise and focus enforcement actions.

Continuous improvement program

Areas we identified for ongoing focus over 2016–17 include:

> implementing the radiocommunications PCAs for 2016–17 (published in July 2016), which now includes consultation with industry (via a dedicated spectrum tune-up) to help determine appropriate compliance target areas[30]

> engaging radiocommunications stakeholders on the five-year spectrum forward work program priorities via spectrum tune-ups and other consultation processes

> a review of interference management principles that underpin our approach to diagnosing and resolving cases of interference to licensed radiocommunications services and domestic television.

Following feedback from the 2015–16 RPF stakeholder validation process, we have identified a number of further work areas for inclusion in our continuous improvement program in 20016–17 and beyond:

> In the context of the Spectrum Review and our ongoing engagement with DoCA on implementing the review's recommendations, we will be reviewing radiocommunications compliance and enforcement process in 2016–17. We will be seeking input from industry on this process and building on reforms already achieved in 2015-16.[31]

In future RPF assessments, we will report on performance against these measures and any revisions in benchmarking that result.

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[30] Addresses stakeholder feedback on ensuring proportionality of compliance responses and using risk-informed compliance approaches.

[31] Addresses stakeholder feedback on compliance and enforcement in relation to spectrum interference management.

Feedback

The ACMA welcomes feedback on all elements of our RPF 2015–16 performance assessment. Please email us at Regframe@acma.gov.au.

Appendix A—ACMA RPF methodology and 2015–16 self-assessment process

Methodology

In summary, the RPF requires regulators to make a self-assessment (validated with industry stakeholders) of their performance against six KPIs that cover common activities of regulators:

> KPI 1—Regulators do not unnecessarily impede the efficient operation of regulated entities.

> KPI 2—Communication with regulated entities is clear, targeted and effective.

> KPI 3—Actions undertaken by regulators are proportionate to the risk being managed.

> KPI 4—Compliance and monitoring approaches are streamlined and coordinated.

> KPI 5—Regulators are open and transparent in their dealings with regulated entities.

> KPI 6—Regulators actively contribute to the continuous improvement of regulatory frameworks.

Our RPF self-assessment methodology is informed by a program logic analysis that takes KPI 1 as the key outcome. This sees the reduction of unnecessary regulatory burden as both an operational and tactical imperative, and an over-arching strategic outcome. Our methodology proposed the achievement of this goal through the twin guiding principles of *Better regulation administration* and *Better regulation design*. Better administration tends to deal with operational or tactical elements of regulatory practice, and whether current arrangements are being executed efficiently, such as day-to-day transactions with industry and established frameworks and processes. Better design tends to encompass more strategic questions of whether existing arrangements are the right ones, and how to continually improve regulatory frameworks in response to emerging trends in technology and consumer behaviour, such as regulation review, risk assessment and research, and analysis of the communications and media environment.

As a basis for performance measures that would align our remit in communications and media with the KPIs of the RPF, we drew upon concepts of regulatory practice explored in our work on *Optimal conditions for effective self- and co-regulatory arrangements.* In looking at potential evidence of performance, we started with metrics that we were already reporting that were relevant or adaptable to RPF needs. We added to this base by applying further statistical analysis and mining our information sources for other metrics that stakeholders indicated were of interest to them. We also sought information through research and stakeholder consultation to widen the scope of our data collection. As proposed in the methodology, the evidence presented in the self-assessment includes both quantitative statistical data, and qualitative evidence in narrative form that provides a more detailed demonstration of how we apply RPF principles in practice.

For the purpose of compiling the self-assessment, we have grouped the KPIs into three pairs we consider have a natural alignment, and where evidence of a similar nature would apply:

> KPI 1 and KPI 6—Applying measures of efficiency and effectiveness to minimise regulatory burden and continuously improve regulatory frameworks.

> KPI 2 and KPI 5—Effective communication and a commitment to transparency and openness.

> KPI 3 and KPI 4—A streamlined approach to compliance monitoring and enforcement that is proportionate, risk-based and coordinated.

Self-assessment questions

One of the key aspects of our methodology has been to consider the RPF KPIs in terms of the ACMA's role as Australia's communications and media regulator. To do this, we framed the KPIs as performance-based questions related to our remit and the relevant aspects of our regulatory practice. These questions express the measures we are using to assess our performance against the RPF.

RPF KPI 1 and KPI 6

Improvements in transactions and processes to improve efficiency and reduce red tape burden

> Did our processes implement decision in a timely manner, having regard to the complexity of the decision and cost considerations?

> Did we seek opportunities for process improvements, including by engaging with stakeholders on the progress and evaluation of regulatory initiatives, the regular review of the stock of regulation and ACMA business processes, to reduce the volume and cost of red tape associated with ACMA administrative requirements?

Using consultation and collaboration to support continuous improvement of regulatory practice

> Did we make use of our stakeholder forums, advisory committees and reference panels to collaborate with stakeholders on the progress, review and improvement of regulatory arrangements or initiatives?

> Did we enable wide, early consultation when canvassing options to address regulatory issues or revise regulatory settings, actively seek stakeholder input to identify best practice approaches, and identify the likely cost burden and other impacts applicable to proposed options?

> Did we provide for departmental representation on our forums, advisory committees and reference panels, and engage in staff-level communication and liaison with DoCA counterparts across line areas to share information and identify potential for improvements in communications and media regulation?

Applying analysis to reduce regulatory burden on industry and support review of regulation

> Did we inform ourselves of, and take into consideration, the evolving technology and marked pressures affecting communications and media industries as it identifies risk and emerging areas of harm, and in the application of regulatory practice?

> When contemplating or implementing initiatives that may have operational implications for regulated entities, did we undertake appropriate analysis of all relevant factors, consider options (including alternatives to regulation), and elicit evidence of the associated costs and benefits to reduce the risk of negative impacts on industry, consumers and citizens? Did this include exploration of international experience and best practice?

> Did our research program contribute to an evidence base that assists in identifying opportunities for improvement in the regulatory framework?

RPF KPI 2 and KPI 5

Use of a flexible and targeted communication strategy to assist industry to understand regulatory obligations and communicate the ACMA's approach to risk

> Did we have a clear communication strategy and a clear set of public messages for communicating with affected stakeholders?

> Did we use our expertise to assist stakeholders in their understanding of complex communications and media regulatory arrangements, and to communicate the approach to organisational risk management? Did we communicate this approach through the publication of up-to-date information, which is available in a range of formats (including disability friendly)?

A transparent approach to consultation, performance reporting and explaining decisions, while respecting confidentiality and fairness

> Did we engage early with industry stakeholders when contemplating regulatory changes to frameworks that affect communications and media-related industries, and did our consultations have a clear purpose directly linked to regulatory outcomes?

> Did we resolve enquiries, applications and investigations with a sense of urgency, and with proper regard to due process? Did we give genuine consideration to complaints received about the ACMA and resolve them with appropriate transparency?

> Where possible and appropriate (considering matters of confidentiality and fairness), did we publish our decisions and accompanying reasons to promote awareness and understanding of the application of the communications and media regulatory framework and our decision-making?

> Did we demonstrate transparency in the reporting of performance results and publication of data sets that are of value to our stakeholders and the community?

RPF KPI 3 and KPI 4

Using evidence and risk assessment to prioritise compliance activities and apply proportionate enforcement responses

> Did we allocate or realign our resources for monitoring and enforcement of compliance with communication and media regulations in proportion to the evidence of actual stakeholder detriment or risk to the integrity of the regulatory scheme?

> Did our approach to compliance and enforcement facilitate flexibility to adjust compliance and enforcement responses according to current risks?

> Did our approach to compliance and enforcement allow for consideration of previous conduct and the value a regulated entity provides its community, in addition to other sources of evidence when making decisions under communications and media regulation?

> Has the identification of areas for reduction in regulatory burden been informed by a risk assessment?

Reviewing compliance monitoring approaches to minimise information burden

> Did we have internal clearance processes in place to ensure that information requests regarding applications or investigations seek only the data required to meet legislative decision-making requirements?

> In relation to our reporting requirements, did we engage with stakeholders on the most effective way to minimise the impact of data request while still acquitting legislative requirements?

> Did we engage with stakeholders and other regulators on opportunities to share or re-use existing information for our purposes to the extent allowable under legislation?

> Did we prioritise our compliance monitoring according to a risk assessment of evident harms, and where there is no danger of compromise to an investigation or enforcement activity, engage cooperatively with stakeholders on monitoring and inspection activities?

Appendix B—ACMA 2015–16 self-assessment against the Regulator Performance Framework: Data tables

Key:

Data shown in **black** indicates targets/benchmarks and 2014–15 performance

Data shown in red indicates where a target or benchmark is not met.

Data shown in green indicates where a target or benchmark has been met.

Data shown in purple indicates where a target or benchmark has been exceeded.

Table 1:   Community broadcast licensing activities (non-spectrum licensing)

Table 1indicates processing volumes and completion times for community broadcasting activities, including newly expanded metrics relating to timeliness. Benchmark targets are aligned to those for spectrum-related licensing for consistency. The target benchmarks allow for constraints imposed by certain legislative consultation requirements, as well as allowing for proper examination of applications and reasonable time for applicants to respond to ACMA queries that may arise. While average processing times for long-term community radio licences fell, average completion time remained over the target. Staff turnover within the period affected our normal licensing activities, which impacted processing times and meant the average completion time was over the target. Results for temporary community broadcast licensing were adversely affected, because in one case, the applicant was not ready to commence service until more than five years after lodging the application.

Evidence (transactional processes)	Benchmark/ target	Volume	% time benchmark met	Average completion time 2014–15	Average completion time 2015–16	Minimum completion time	Maximum completion time
Trial community television licences	Applications processed within 90 days of receipt date	2	100%	34 days	47 days	39 days	56 days
Long-term community radio broadcasting licences	Applications processed within 90 days of receipt date	54	33%	116 days	107 days	16 days	234 days
Temporary community broadcasting licences	Applications processed within 90 days of receipt date	91	99%	42 days	47 days	1 day	1,941 days

Table 2: Media control and content assessment activities

Table 2 indicates processing volumes and times for assessment of media control and content quota requirements, including newly expanded metrics related to timeliness. Benchmarks for media control and content assessment activities reflect the inherent diversity and complexity involved in these functions. Media control benchmarks reflect current legislative requirements, while benchmarks for content assessment are built around differing levels of complexity and burden on stakeholders, and the need to allow reasonable timeframes for respondents to reply to ACMA queries that may arise. Results for Australian content quota assessments were adversely affected for one assessment, because the licensee needed to resubmit after including a program not meeting the assessment criteria.

Evidence (transactional processes)[32]	Benchmark/ target (if applicable)	Volume	% time benchmark met	Average completion time 2014–15	Average completion time 2015–16	Minimum completion time	Maximum completion time
Media control—prior approvals (s67 BSA)	Completed within 45 days	1	100%	15.8 days	23.2 days	18 days	31 days
Media control—extensions (s68 BSA)	Completed within 45 days	4	100%				
Media control—extensions (ss61AJ, 61AK BSA)	Completed within 45 days	1	100%				
Media control registers—entry, alteration or removal	Completed within 2 business days	8	100%	1.4 days	1 day	1 day	2 days
Media control registers—confirm or cancel entry, alteration or removal	Completed within 28 days	8	100%	2.6 days	2.9 days	1 day	7 days
Media control investigations	Not applicable	1		n/a	35 days	35 days	35 days
Australian content quota and sub-quota compliance assessments (including children's television quota assessments)	Completed within 90 days	13	92%	110 days	79 days	13 days	126 days
Captioning exemption orders/target reduction orders	Completed within 90 days	53	100%	54.7 days	78.1 days	39 days	87 days
Children's and pre-school program classification assessments	Completed within 60 days	28	93%	46 days	54 days	26 days	98 days
Interactive gambling content assessments	Completed within 5 months	26	73%	47 days	90 days	14 days	170 days

[32] New eligible drama expenditure compliance assessments are not included in RPF reporting because the operation of the scheme means the data lags one year behind the current period.

Table 3:   Spectrum licensing activities—Apparatus licences, national and commercial broadcast licensing (2015–16)

Table 3 sets out the number of transactions and processing times for both radiocommunications licences and complaints about access to VAST (viewer access satellite television). For radiocommunications licences, information is provided about both the issue of new licences and the renewal of existing licences. The benchmark for licence allocation and VAST complaint resolution focuses on providing a consistent turn-around for processing, within a timeframe that allows proper examination of applications, and reasonable time for respondents to reply to ACMA queries that may arise. The benchmark for renewal of commercial broadcasting licences and the issue of special event licences supports the uninterrupted provision of service by commercial broadcasters and allows complete coverage of special events. The implementation of SPECTRA for all radiocommunications licensing and broadcast service licensing was completed in May 2016. The ACMA is now enhancing the reporting capabilities of SPECTRA to allow more detailed analysis of system performance, including processing times for individual transactions. This will allow additional reporting on performance against benchmarks in future reporting periods.

Evidence (transactional processes 2015–16)	Benchmark/target (if applicable)	Volume	% time benchmark met
Assigned apparatus licences—allocation	90% within 90 days	13,218	99%
Assigned apparatus licences—renewal	90% within 90 days	132,031	99%
Non-assigned apparatus licences—allocation	90% within 90 days	1,293	100%
Non-assigned apparatus licences—renewal	90% within 90 days	24,285	100%
Transmitter licences issued—commercial radio and TV	90% within 90 days	29	99%
Radio and TV broadcasting retransmission licences	90% within 90 days	114	99%
Radio and TV apparatus licences—variations	90% within 90 days	33	99%
Commercial radio broadcasting licences—renewal	Prior to expiry	77	100%
Commercial television broadcasting licences—renewal	Prior to expiry	17	100%
Special event broadcasting licences	Prior to event	153	99%
Actioned complaints about access to VAST	4 weeks	251	100%

Table 4: Telecommunications licensing and numbering activities

Table 4 relates to processing volume and completion times in telecommunications licensing and telephone number resource management. In telecommunications licensing, average completion time for granting carrier licences and nominated carrier declarations is constrained by a statutory obligation to consult the Communications Access Co-ordinator in the Attorney-General's Department prior to approval. For this reason, minimum and maximum completion times are not applicable to this activity.

Evidence (transactional processes)	Benchmark /target (if applicable)	Volume	% time benchmark met	Average completion time 2014–15	Average completion time 2015–16
Carrier licences issued	Within 20 business days	31	100%	20 business days	20 business days
Nominated carrier declarations issued	Within 20 business days	9	100%	20 business days	20 business days
Telecommunications numbering allocations (application for mobile and geographic number resources)	2014–15: competed in 10 business days or less. 2015–16: automated process	57	n/a[33]	5 days	Instantaneous

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[33] On 3 August 2015, ZOAK Solutions switched on the ACMA's automated numbering allocation. The new system provides instantaneous approval for standard number applications.

Table 5:   ACMA Customer Service Centre—Resolution of enquiries

Tables 5 to 7 cover results relating to volume, processing times and service satisfaction for the first year of operation of our single point-of-contact CSC. A more detailed discussion of the CSC results is provided under KPI 1 of the self-assessment. Table 5 indicates the distribution of enquiries received across our remit, with radiocommunications licensing making up the majority (73 per cent) of enquiries. Table 6 provides a summary of enquiries relating to ACMA service, with the majority (83 per cent) relating to service compliments. Table 7 provides a more comprehensive survey of customer satisfaction, indicating that the best results relate to licensing enquiries, while lower satisfaction was reported for enquires relating to compliance and general enquiries.

ACMA enquiries, (all sectors excluding DNCR)	Volume (%)	% time benchmark met (target = 95% of enquiries resolved in three business days or less)
Total enquiries	**50,330 (100%)**	**97%**
Broadcasting total	**866 (2%)**	**98%**
Telecommunications total	**4,807 (9%)**	**96%**
Cabling	1,323	98%
Consumer interests	154	97%
Labelling	1,522	95%
Network safeguards	165	98%
Non-compliant devices	160	94%
Numbering	175	99%
Smartnumbers	626	96%
Supplier	491	96%
Telecommunications infrastructure	129	95%
Unlabelled devices	62	98%
Spam total	**597 (1%)**	**98%**
Radiocommunications total	**36,656 (73%)**	**97%**
400 MHz implementation	295	99%
Accredited persons	35	94%
Interference	3,380	99%
Licensing	30,703	97%
LPON	64	97%
Marine radio	557	95%
TV reception issues	1,270	98%
VAST	352	95%
Other total	**7,404 (15%)**	**98%**

Table 6:   ACMA Customer Service Centre—ACMA service feedback

Nature of feedback	Volume	Proportion of feedback
ACMA service total	**138**	**100%**
Enquiries	8	6%
Complaints	16	11%
Compliments	114	83%

Table 7:   ACMA Customer Service Centre (CSC)—Satisfaction survey results

Respondent numbers and profile	
Total respondents	**1,551**
Organisation respondents	444
Satisfaction levels reported by respondents	**Percentage of respondents**
Ease of contact with CSC (easy + very easy) *Total respondents* *Organisation respondents*	 75% 73%
Overall satisfaction (slightly satisfied or better) *Total respondents* *Organisation respondents*	 70% 71%
Satisfaction by enquiry type—all respondents (slightly satisfied or better) *Licencing* *Compliance* *General* *Other*	 79% 67% 60% 53%
Satisfaction by handling procedure—all respondents (slightly satisfied or better) *CSC answered enquiry directly* *CSC and other ACMA staff member answered enquiry* *Enquiry forwarded to other ACMA staff member*	 90% 79% 74%
Satisfaction with elements of service—all respondents (slightly satisfied or better) *Staff polite and courteous* *Staff easy to understand on the phone* *Friendliness of staff* *Staff patient and not rushing enquiry* *Understanding of enquiry* *Staff knowledgeable* *Quick resolution of enquiry* *Waiting time was short* *Follow-up to resolution of enquiry*	 90% 88% 89% 87% 83% 83% 74% 78% 65%

**Table 8:   Summary of ACMA compliance investigation activities 2015–16
(not including spam and Do Not Call Register)[34]**

Table 8 provides a high-level summary of compliance investigation activity across the majority of key ACMA-regulated sectors. Varying benchmarks for completion times across the sectors reflect the diversity of stakeholder industries and the different regulatory frameworks under which this work is carried out. This makes aggregation of data at organisational level, for most metrics, of little value. During the period, interactive gambling content assessments and investigation complaints were received regarding issues that had not previously been considered. It was necessary to seek legal advice and change certain processes, adversely affecting usual completion times for some assessments. Also during the period, one compliance investigation into the operation of a Radio Frequency Identification (RFID) device was escalated, with the ACMA exercising statutory powers to require device testing by an external accredited test house. The matter was escalated on the basis of a continuing history of non-compliance by the supplier. The time taken to fully resolve the matter was heavily influenced by the time required to arrange and conduct testing by the test house. This significantly increased the maximum time for completion of radiocommunications investigations for the period.

Investigations and findings activity/ Legislative investigation type	ACMA	Broadcast content	Telecommunications consumer codes	Telecommunications—Emergency services & other	Radiocommunications	Interactive Gambling Act
Compliance complaints/ enquiries received from consumers and citizens	2,198	1,232	201	104	463	198
Compliance complaints/ enquiries resolved without formal investigation required	1,547	1,076	201	104	Not applicable	166
Benchmark/ target to action complaints/ enquiries ('days' refers to business days)	n/a	*Standard enquiries:* 2 days *Complex issues:* 20 days	1–2 days (informal)	1 day	Completed 45 days or less	2 days
% complaints/ enquiries actioned in benchmark	n/a	99.7%	95% (estimate)	100%	91%	100%
Average time to action complaint/ enquiry	n/a	1 day	1 day (estimate)	1 day	6.9 days	1 day
Investigations commenced (including	654	149	15	1	463	26

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[34] See Table 9 for spam and DNCR.

Investigations and findings activity/ Legislative investigation type	ACMA	Broadcast content	Telecommunications consumer codes	Telecommunications —Emergency services & other	Radiocommunications	Interactive Gambling Act
finalised after period end)						
Investigations finalised (including launched prior to period start)	640 (98% cleared)	144	19	2	449	26
Benchmark for completing investigations	n/a	*Standard*: 3 months from launch *Complex*: 6 months from launch	6 months from launch	6 months from launch	Completed 45 days or less	5 months
% of investigations meeting benchmark	n/a	*Standard*: 90% *Complex*: 97%	84%	100%	91%	73%
Minimum investigation completion time	n/a	2 days	10 days	6 months	1 day	14 days
Maximum investigation completion time	n/a	12.4 months	6 months, 27 days	6 months	103 days	6 months
Average time to complete investigation 2015–16	n/a	1.6 months	3.5 months	6 months	24 days	3 months
Average time to complete investigation 2014–15	n/a	2.6 months	Not captured	6 months	61 days	1.3 months
Instances of exercising discretion not to investigate	70	65	Nil	Nil	n/a	5
investigations resulting in non-breach finding	249 (39% of total)	109	6	0	126	8 (not prohibited)
Investigations where at least one breach found	391 (61% of total)	35	13	2	323	18 (prohibited / potentially prohibited)
Investigation reports published[35]	138	131	5	2	n/a	n/a

[35] There are a range of reasons why the ACMA may not publish investigations reports, ranging from considerations of confidentiality and fairness, to maintaining the integrity of investigative processes.

**Table 9:   Summary of compliance investigations and findings, 2015–16—
spam and Do Not Call Register**

In Table 9, data on compliance investigations for unsolicited communications activity is
separated from other regulated sectors because of the very high volume of activity
involved. Finalisation of three DNCR investigations was delayed because of
associated Federal Court action, and finalisation of a spam investigation was delayed
because of additional issues requiring legislative interpretation that emerged when the
investigation was close to finalisation.

Investigations and findings activity	Result: spam	Result: DNCR
Complaints/reports received from consumers and citizens	533,947	29,799
Complaints/reports resolved without formal investigation required	n/a	n/a
Benchmark to action complaints/enquiries	15 days	15 days
% complaints/enquiries actioned in benchmark	99%	96%
Average time to action complaint/enquiry	1.6 days	4.7 days
Investigations commenced (including finalised after period end)	6	6
Investigations finalised (including launched prior to period start)	5	9
Benchmark for completing investigations	Completed 8 months or less	Completed 8 months or less
% of investigations meeting benchmark	80%	38%
Minimum investigation completion time	4 months	4 months
Maximum investigation completion time	12 months	14 months
Average time to complete investigation 2015–16	7 months	9 months
Average time to complete investigation 2014–15	7 months	9 months
Instances of exercising discretion not to investigate	n/a	n/a
Investigations resulting in non-breach finding	3	3
Investigations where at least one breach found	2	6
Investigation reports published	n/a	n/a

Table 10: Summary of ACMA compliance enforcement responses, 2015–16 (not including spam, Do Not Call Register[36], interactive gambling)[37]

Table 10 provides an overview of the compliance enforcement responses across the majority of key ACMA-regulated sectors. The table illustrates the ACMA's use of informal enforcement responses, demonstrating a compliance regime based on risk-assessment and a graduated approach to the type of enforcement action necessary. More serious measures are used where significant detriment or contraventions have occurred, or where non-compliance represents greater risk to consumers or the community. The absence of successful challenges or appeals of our enforcement actions indicates these decisions were underpinned by sound reasoning.

Enforcement responses/ actions[38]	ACMA	Broadcast content	Telecommunications consumer codes	Telecommunications —emergency services & other	Radiocommunications
Total informal warnings/advice issued	Nil	Nil	Nil	Nil	Nil
Total formal warnings/advice issued	913 (95%)	Nil	27	Nil	886
Total enforceable undertakings	3 (0.5%)	1	Nil	2	Nil
Total infringement notices/take-down notices issued	20 (2%)	Nil	2	Nil	18
Total directions to comply	19 (2%)	1	8	2	8
Total court actions	3 (0.5)	Nil	Nil	Nil	3
Total number of ACMA enforcement decisions appealed or challenged	Nil	Nil	Nil	Nil	Nil
Number of successful appeals or challenges to ACMA decisions	Nil	Nil	Nil	Nil	Nil

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[36] Total unique enforcement responses/actions: 958.

[37] See Table 11 for spam and DNCR.

[38] The ACMA does not have carriage of enforcement action in relation to interactive gambling. Where an ACMA investigation or preliminary assessment results in a finding of prohibited or potentially prohibited material, the instance is referred to the Australian Federal Police and internet filter providers:
number of URLs referred to the Australian Federal Police in 2015–16: 18
number of URLs referred to filter providers in 2015–16: 9.

Table 11: Summary of compliance enforcement responses/actions, 2015–16—spam and Do Not Call Register

Table 11 illustrates our extensive use of low-impact enforcement responses, demonstrating our risk-based and proportionate approach to compliance and enforcement. Data on enforcement responses for unsolicited communications is separated from other regulated sectors because of the very high volumes of activity involved. As with compliance action for other sectors, the statistics show our predominate use of informal enforcement responses, demonstrating a compliance regime based on risk-assessment and a graduated approach to the type of enforcement action necessary. More serious measures are used in cases of significant contraventions. The absence of successful challenges or appeals of our enforcement actions indicates these decisions were underpinned by sound reasoning.

Enforcement responses/actions[39]	All unsolicited communications	Result: spam	Result: DNCR
Total informal warnings/advice issued	6,127	4,435	1,692
Total formal warnings	3	1	2
Total enforceable undertakings	Nil	Nil	Nil
Total infringement notices issued	3	1	2
Total directions to comply	n/a	n/a	n/a
Total court actions	2	0	2
Total number of ACMA enforcement decisions appealed or challenged	Nil	Nil	Nil
Number of successful appeals or challenges to ACMA decisions	Nil	Nil	Nil

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[39] Total unique enforcement responses/actions: 6,135.

Appendix C—Stakeholder validation

A key requirement of the RPF is that regulators consult with stakeholders on their self-assessment. We undertook the stakeholder validation process for our draft 2015–16 performance assessment report in October 2016. We invited stakeholders who had participated in the consultation on our draft RPF methodology in 2015 to participate via email. In addition, we sought comment via the issues for comment page on our website. Altogether, we received 11 submissions.

Submitters who responded to the question of whether they agreed with our assessment that we had met the objective of each of the RPF KPIs agreed that we had. Respondents who expanded upon their answers also provided some useful input in areas that we could consider for improvement, including in relation to our regulatory practice, engagement with stakeholders, greater transparency of consultation practices and areas to focus our resources and regulatory practice. Some respondents also suggested variations to the consultation response options, including that having a greater scale of variability to indicate their level of agreement with our assessment of our performance would be useful.

Participants were also asked targeted questions about their level of satisfaction with the regulatory and compliance and enforcement processes of the ACMA. Overall, of the respondents who chose to answer these questions, the majority indicated that they were satisfied with various components on these ACMA processes.

All respondents apart from one were satisfied with the ACMA's regulatory processes. The Australian Communications Consumer Action Network (ACCAN) was dissatisfied with the timeframes provided by the ACMA to respond to regulatory processes and the ACMA's understanding of particular issues relating to their industry or sector. Only four of the 11 respondents completed the question related to satisfaction with the ACMA's compliance and enforcement processes, and all were satisfied.

Some respondents also made comments relating to the RPF consultation process more broadly. We put significant effort into obtaining stakeholder feedback for this process to obtain broadly representative stakeholder feedback on our self-assessment. This included following up with multiple stakeholders individually and allowing additional time for individual stakeholders to provide their input, We will review our consultation process as part of our 2015–16 RPF evaluation to ensure the process for 2016–17 meets industry expectations. This could include, for example, developing a more responsive measurement scale for use in the 2016–17 stakeholder validation process.

The focus of the RPF KPIs is on a regulator's actions with its regulated industry. The ACMA included stakeholders that are not regulated entities in its consultation process to bring a broader perspective to its self-assessment. This may mean that the responses of non-regulated stakeholders adopt a different focus to that of the KPIs. We will evaluate how best to ensure our RPF consultation processes can incorporate these broader perspectives for future self-assessments.

Where practical and within our remit, we have also incorporated responses to the themes raised by submitters through this process into our continuous improvement program for 2016–17 and beyond, or sought to respond to stakeholder responses within the discussion of our performance against specific RPF KPIs in this report.

Where feedback raised policy or legislative issues not within the ACMA's remit, staff have identified these separately for provision of advice to DoCA on these matters.

Table 12 provides a summary of stakeholder feedback. All submissions are published in full on the [ACMA's website](#), unless confidentiality has been requested.[40]

Table 12: Summary of stakeholder feedback received from the 2015–16 RPF performance assessment validation

RPF KPI	Stakeholder comments
KPI 1	All respondents agreed with the ACMA's assessment. Seven stakeholders provided additional comments.
	Free TV, which submitted that it reiterated the views it made in submissions to previous reviews, and Special Broadcasting Service (SBS) noted their support for the ACMA's adherence to RPF principles, with Free TV emphasising that the ACMA's remit and its regulatory practice should be discharged using the minimum level of intervention necessary to achieve public policy outcomes.
	Optus and Telstra both noted there is ample evidence that the ACMA's operations, regulatory decision-making and prioritisation of activities have been consistent with a positive outcome against this KPI. Telstra noted that the ACMA had put significant effort into improving its efficiency, timeliness and the ease of interacting with the organisation, as well as making efforts to reduce the burden upon industry and consumers. Optus also noted, however, that discussion of these results was in a large part oriented towards the ACMA's perspective.
	Australian Mobile Telecommunications Association (AMTA) noted that in its view the ACMA had met KPI 1 for the most part. It observed general improvement in the ACMA's performance in relation to application of regulation. However, it noted instances where timeliness of outcomes has not been a feature, although AMTA appreciated that in some cases this may result from circumstances beyond the ACMA's control.
	The Communications Alliance (CA) and the Australian Narrowcast Radio Association (ANRA) both noted the significant efforts the ACMA had made to improve its efficiency in relation to timeliness. ANRA noted that the improved time frames for investigations and code registration will improve the efficient operation of its members. Free TV also noted that the creation of sub-boards to deal with specific issues, or a specific class of issues, is likely to improve timeliness and agility of the Authority's decision-making process.[41] SBS noted its interactions with the ACMA had been consultative and constructive.
	Free TV, Optus, Telstra, AMTA and CA also made further suggestions for inclusion in the continuous improvement program. CA suggested streamlining code removal processes, executing Spectrum Review recommendations (specifically for reductions in the cost of some satellite spectrum licences[42]) and considering planning for more outcomes-based provisions as part of the 2017 TCP code review. CA also noted that it was actively engaging with the ACMA on developing changes to the attestation process for stakeholder consultation for code review and deregistration processes. Free TV noted that industries with strong compliance records, such as commercial free-to-air broadcasting, should be prioritised for deregulation initiatives. Optus and

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[40] Submission to be published following provision of report to Authority.
[41] An ACMA response is dependent on the government agenda and time frames of the ACMA Review, so progressing this work is outside the ACMA's remit at this time.
[42] An ACMA response is dependent on the government agenda and time frames of the Spectrum Review, the ACMA is actively engaged with DoCA on work to implement the Spectrum Review recommendations.

RPF KPI	Stakeholder comments
	AMTA noted that the ACMA should continue its focus on transparency and the signalling of priorities, and focus on pursuing efficiencies in investigations and information collection. AMTA appreciates the level of engagement that occurs with industry on an ad hoc basis, however spectrum consultation is increasingly important and warrants further consideration outside of ACMA events like RadComms[43], tune-ups and WRC-related committees. Telstra suggested that the ACMA continue to look for ways in which to streamline reporting requirements, such as the current Network Reliability Framework (NRF) reporting requirement on Telstra, which Telstra believes is not cost effective and is not delivering any significant consumer benefit.[44] ACCAN expressed its desire to see decisions made in a timely manner and for the ACMA to publically communicate its position on issues.
KPI 2	All respondents who answered agreed with the ACMA's assessment. Seven stakeholders provided additional comments. The Australian Subscription Television and Radio Association (ASTRA), SBS, CA, Optus, Telstra, AMTA and ANRA appreciated the ACMA's efforts to provide timely, open and clear communication. ANRA especially appreciated opportunities to engage with Authority members. CA and Telstra also noted that ACMA management has worked harder and more effectively than in previous years, to provide background contextual information to industry about the Authority's thinking on issues. SBS encouraged the continued use of stakeholder events to bring together industry and community representatives, which it noted it found valuable, and highlighted the importance of the ACMA standardising its approach to stakeholder feedback and explaining regulatory decisions and made some suggestions to assist this. Optus mentioned the ACMA's annual reports, work programs and prioritisation documents as examples of demonstrating improved levels of transparency, and encouraged the ACMA to continue building on the good work, including by articulating the program and timetable for spectrum work. ACCAN reiterated that it would like to see the ACMA make timely public announcements about its rulings and decisions. CA, Telstra, and Optus suggested that the ACMA continue its planned review to improve the ACMA's website. Telstra and CA also suggested that the ACMA work with CA to finalise broadband educational material for consumers to enhance their understanding of service performance issues.

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[43] The ACMA is continuing to fine tune its engagement with industry, including consultation on spectrum via its FYSO.

[44] The ACMA has no discretion to make changes to the NRF data it collects from Telstra, as this is prescribed in detail in Telstra's carrier licence conditions (which are made by the minister, not by the ACMA). However, the ACMA understands that DoCA is considering the NRF obligations on Telstra in its review of telecommunications consumer safeguards.

RPF KPI	Stakeholder comments
KPI 3	All respondents who answered agreed with the ACMA's assessment. Eight stakeholders provided additional comments.

SBS noted the ACMA's use of proportionate compliance responses. It also supported the ACMA's application of RPF principles related to proportionate compliance and enforcement, and consideration of regulated entities compliance records.

ANRA appreciated the ACMA's willingness to discuss spectrum planning issues and suggested that the ACMA not be risk averse to engaging with stakeholders in ways that not only streamline operations, but also make them more transparent.

CA and Telstra noted that the ACMA's graduated response approach to compliance and enforcement in the telecommunications sector is generally agreed by industry to be executed appropriately and sensibly. Telstra suggested that the ACMA focus its continuous improvement efforts on assessment of the data it uses to inform compliance and enforcement activity, and suggested there is a problem with TIO data acting as the catalyst for regulatory action, without the ACMA first seeking information on how industry was responding to an issue.[45]

ASTRA noted that the absence of additional regulations in the last year shows an approach to compliance and enforcement consistent with the low level of community concern.

Optus commented that the ACMA's approach to risk is reasonable, though also commented that there is greater scope for a broader risk management approach that focuses more on limiting, rather than eliminating, risk.

AMTA noted that the ACMA's application of proportionality is inconsistent across service types, and that there are examples of where proportionality has been lost, such as the International Mobile Roaming Standard and regulation of pre-paid mobile services. It did, however, suggest that this may also result from other agendas overriding the ACMA's ability to deliver light touch, fit-for-purpose regulation or even co-regulation.

Free TV suggested in its response that the ACMA review the laws which it applies. This supports Free TV's position, as outlined in its ACMA Review submission, that the ACMA's remit and its regulatory practice should be discharged using the minimum level of intervention necessary to achieve public policy outcomes, and that compliance records should be taken into consideration. In its submission to the ACMA Review, Free TV also requested more transparency regarding instances where the ACMA exercises discretion in investigating complaints, and suggested that the availability of an external merits review process for investigations should be incorporated into any reform agenda.

ACCAN submitted that greater attention should be given to the cost and effect that regulatory decisions have on consumers. It also encouraged the ACMA to better use its corporate knowledge and history. |

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[45] TIO data is being used to monitor progress of industry actions, refer to the section on *Assessing detriment or risk to prioritise compliance and enforcement action* for general discussion of how this informs the ACMA's compliance and enforcement programs. In relation to recent rises in TIO complaints regarding direct carrier billing, the ACMA has taken no enforcement action at this time. TIO complaint data relating to direct carrier billing was discussed at the CCF as part of the ACMA's engagement with consumer stakeholder organisations. No push for a regulatory response was initiated by the ACMA. Information was also sought from industry as to what it was doing to respond to the issue, and this information proved to be helpful.

RPF KPI	Stakeholder comments
KPI 4	All respondents who answered either agreed with the ACMA's assessment or noted that it was not applicable, as they were not directly regulated by the ACMA. Six stakeholders provided additional comments.
	SBS, Optus and ANRA acknowledged that the ACMA had taken a number of steps in recent years to streamline compliance processes in a way that is proportionate. SBS noted that that there is always room for improvement. ACCAN reiterated the importance of a timely approach to regulatory decisions.
	The Office of the Australian Information Commissioner noted that it had a MoU in place with the ACMA, which aimed to minimise duplication of regulation between the two agencies, and that it regularly provides advice and feedback in relation to telecommunication codes approval processes to the ACMA.
	AMTA reiterated concerns it has expressed previously regarding resources available for compliance and enforcement activity, and that the ACMA's approach to the management of interference issues with radiofrequency spectrum could be improved in terms of co-ordination with spectrum owners.[46] AMTA also acknowledged that these were issues recognised as a priority by the ACMA.
	Telstra suggested that the ACMA review the usefulness of data it collects from Telstra and whether there are more efficient means of collecting this data.[47]
KPI 5	All respondents who answered agreed with the ACMA's assessment. Six stakeholders provided additional comments.
	ANRA again repeated that regular communication and meetings with senior executives has shown an increasing openness on the part of the ACMA and requested that the ACMA continue the dialogue.
	ASTRA noted that the level of visibility of the ACMA's spectrum management functions and work plan is very good.
	AMTA agrees with the importance of transparency, and notes that the ACMA's efforts in this regard are considerable, as outlined in the 2015–16 performance assessment. It also suggests that more work can be done, especially in the areas of spectrum interference management and transparency of Authority decision-making.
	ACCAN highlighted the detail and clarity of ACMA decisions, while encouraging increased transparency and public discussion of decisions.
	CA and Telstra also noted that the transparency of the ACMA's operations and deliberations had improved somewhat in recent years, and said that further progress could be made. In particular, CA and Telstra would like to see the major decisions of the Authority published, along with accompanying commentary/rationale.
	Optus said that the ACMA's communication and actions allow it to understand the context and intentions of its dealings with the ACMA. Optus and AMTA recommended consideration be given to additional structured work programs, as well as periodic or regular liaison arrangements. Telstra noted that the regular engagement between ACMA management and Telstra staff is a very good example of the ACMA seeking to improve its dialogue with regulated entities.

[46] In the context of the Spectrum Review, the ACMA will be consulting further with industry further on compliance and enforcement activity.

[47] The ACMA has no discretion to make changes to the NRF data it collects from Telstra, as this is prescribed in very detailed form in Telstra's carrier licence conditions (which are made by the minister, not by the ACMA). However, the ACMA understands that DoCA is considering the NRF obligations on Telstra in its review of telecommunications consumer safeguards.

RPF KPI	Stakeholder comments
KPI 6	All respondents who answered agreed with the ACMA's assessment. Six stakeholders provided additional comments.
	SBS supported the use of innovative consultation approaches (like *Citizen conversation* events) and the commissioning of ACMA research to provide an evidence base for improvement of regulatory frameworks. It also noted that ongoing reviews of guidelines, such as the ACMA's review of its privacy guidelines for broadcasters, was a good example of how the ACMA contributed to the continuous improvement of regulatory frameworks.
	ANRA noted that the ACMA should always be open to industry ideas and initiatives to streamline regulatory practices.
	AMTA reiterated its expectation that the ACMA will continue to play a leadership role in the Spectrum Review and subsequent implementation of the agreed spectrum management and planning framework.
	CA noted that the ACMA has been willing to continue to engage in dialogue to improve the workings of the regulatory framework, and that the ACMA has agreed to work with CA to create more streamlined processes around code deregistration. CA also noted that the ACMA is active in the IoT space, and suggests further areas for improvement could be the creation of a cleansing mechanism for the DNCR[48] and further outsourcing of ACMA functions.[49] CA also noted that some of its members commented that the ACMA had on occasion provided short time frames, which made it difficult to respond to complex policy issues, however, also noted, that the ACMA has shown a willingness to grant extensions for consultations.
	Telstra referred to the CA submission and also noted that it believes that regular senior management engagement meetings between the ACMA and Telstra staff provides the scope to identify agreed areas of activity to improve regulatory frameworks. CA and Telstra also suggested the ACMA work with industry to identify further red tape reduction initiatives. Telstra also noted that the ACMA needs to be mindful of the time frames needed for stakeholders to respond to complex policy questions in consultations.
	ACCAN submitted that they would like to see regulatory reform encompass additional consumer issues, and cover standards as well as codes of practice.
	Optus commented that the ACMA has refined a number of its instruments in a beneficial manner, and encouraged the ACMA to consider further refinements as well as opportunities to better manage existing regulatory frameworks, such as by initiating reviews.

[48] The ACMA acknowledges that the integrity of DNCR data is of concern to access seekers. While regulatory reform is ultimately a matter for government, as part of its examination of whether the DNCR could be referred to industry for self-regulation (proposal 6 of the draft report of the ACMA Review), the ACMA will consider the efficiency and effectiveness of the current register, including issues of data integrity.

[49] An ACMA response is dependent on the government agenda and time frames of the ACMA Review, so progressing this work is outside the ACMA's remit at this time.

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