

Cost Recovery Implementation Statement

Annual Carrier Licence Charge for the charging period 1 July 2019 to 30 June 2020

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Contents

1.	Introduction	1
1.1	Purpose of the Cost Recovery Implementation Statement	1
1.2	Background and description of activity	1
1.3	Stakeholders	2
2.	Policy and statutory authority to undertake cost recovery	3
2.1	Government policy approval to recover costs	3
2.2	Statutory authority to impose cost recovery charges	4
3.	Cost recovery model	7
3.1	Determination of cost component for the ACMA's activity	7
3.1.1	Summary of costs	7
3.1.2	Outputs and business processes of the activity	7
3.1.3	Costs of the activity	12
3.2	Determination of cost component for the ACCC's activity	15
3.2.1	Outputs and business processes of the activity	15
3.2.2	Costs of the activity	18
3.3	Determination of cost component for the ITU activity	21
3.3.1	Outputs and business processes of the activity	21
3.3.2	Costs of the activity	21
3.4	Determination of cost component for the development or variation of consumer protection codes	22
3.4.1	Outputs and business processes of the activity	22
3.4.2	Costs of the activity	23
3.5	Determination of cost component for government grants for consumer representation and research	23
3.5.1	Outputs and business processes of the activity	23
3.5.2	Costs of the activity	23
3.6	Design of cost recovery charges	24
	Establishment of individual levy amounts	24
	Consumer Safeguard Program	25
4.	Risk assessment	27

Contents (Continued)

5.	Stakeholder engagement	28
6.	Financial estimates	29
7A.	Financial performance	31
7B.	Non-financial performance	33
	The ACMA's cost component	33
	The ACCC's cost component	33
	ITU contribution	34
	Government grants – consumer representation and research	34
8.	Key forward dates and events	35
9.	CRIS approval and change register	36
	Glossary	38
	Attachment A: Telecommunications activities not included in the ACLC	40
	Smartnumbers allocation activities	40
	Spam and e-security activities	40
	Do Not Call Register and telemarketing-related activities	40
	Public information activities	40
	Other telecommunications activities	40
	Attachment B: Cost Recovery Implementation Statement – Measuring Broadband Australia program	41
1.	Introduction	41
1.1	Purpose of the Cost Recovery Implementation Statement	41
1.2	Background and description of activity	41
1.3	Stakeholders	41
2.	Policy and statutory authority to undertake cost recovery	42
2.1	Government policy approval to recover costs	42
2.2	Statutory authority to impose cost recovery charges	42

Contents (Continued)

3.	Cost recovery model	43
3.1	Determination of cost component under paragraph 15(1)(b) of the Act – the ACCC’s MBA-related activities	43
3.2	Design of cost recovery charges	45
4.	Risk assessment	46
5.	Stakeholder engagement	47
6.	Financial estimates	48
7A.	Financial performance	48
7B.	Non-financial performance	49
8.	Key forward dates and events	50
	Attachment C: ACLC for 2019–20	51
	Attachment D: Summary of issues raised in industry consultation, ACLC 2019–20	53

1. Introduction

1.1 Purpose of the Cost Recovery Implementation Statement

This Cost Recovery Implementation Statement (CRIS) provides information on how the Australian Communications and Media Authority (ACMA), the Australian Competition and Consumer Commission (ACCC) and the Department of Infrastructure, Transport, Regional Development and Communications (DITRDC) apply cost recovery principles in determining relevant amounts under the *Telecommunications (Carrier Licence Charges) Act 1997* to be recovered through the Annual Carrier Licence Charge (ACLC).

A summary of the cost recovery models used by the ACMA, ACCC and the Minister for Communications, Urban Infrastructure, Cities and the Arts (the minister) in calculating their relevant telecommunications costs to be recovered through the ACLC is included in this statement.

This CRIS reports the financial performance for the relevant activities and includes forecasts for these costs over the 2019–20 financial year and 3 forward years (financial years 2020–21 to 2022–23). The ACCC and DITRDC have contributed the relevant information in relation to their cost recovery models. The ACMA will maintain the CRIS until the activities or cost recovery arrangements for the activities have been discontinued.

Attachment B of this CRIS provides information on how the ACCC applies cost recovery principles in determining the costs incurred in relation to its Measuring Broadband Australia (MBA) program as part of its ACLC cost component.

The ACLC amounts payable by carrier licensees for the period from 1 July 2019 to 30 June 2020, are set out in Attachment C.

1.2 Background and description of activity

The ACMA is a statutory authority within the Infrastructure, Transport, Regional Development and Communications Portfolio of the Australian Government. It is responsible for various telecommunications functions and powers under the *Australian Communications and Media Authority Act 2005* (the ACMA Act) and the *Telecommunications Act 1997* (the Telco Act).

The ACLC is established by the *Telecommunications (Carrier Licence Charges) Act 1997* (the Act) to fund the activities of the ACMA, ACCC and DITRDC in regulating licensed telecommunications carriers and telecommunications services provided by carriers. The purpose of the ACLC is that those entities creating the need for the government activities, such as regulation, meet the cost of those activities.

The ACLC for a financial year is imposed on a carrier licence that is in force at the beginning of that financial year and is payable by the holder of the licence.

The ACMA determines the amount of ACLC payable by a licensed telecommunications carrier through a determination made under section 14 of the Act.

The total ACLC must not exceed the sum of the amount of relevant telecommunications costs of the ACMA and the ACCC, as well as the costs incurred by DITRDC for the Commonwealth's contribution for the International Telecommunication Union (ITU) membership and grants made under section 593 of the Telco Act. These amounts will be specified in legislative instruments made by the ACMA, ACCC and the minister, respectively. The costs of the ACMA and ACCC's other regulatory activities are not included in the ACLC.

For the 2019–20 financial year, as in previous years, the ACMA proposes that the ACLC payable by each liable licenced carrier will be based on the carrier's eligible revenue (within the meaning of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* (TCPSS Act)) for the previous financial year (2018–19) as assessed by the ACMA. Carriers that were 'non-participating persons' within the meaning of the Telecommunications (Participating Persons) Determination 2015 for the eligible revenue period that began on 1 July 2018 and ended 30 June 2019 are, in effect, exempt from paying the ACLC for the 2019–20 financial year.

The methodology for allocating the total ACLC (excluding the amount applicable to the Measuring Broadband Australia (MBA) program) to liable individual carriers, has not changed from the previous year. The amount applicable to the MBA program is allocated to liable individual licenced carriers based on the number of NBN fixed-line connections operated by monitored service providers who are also carriers. It is appropriate that those who create the need for regulatory activities meet these expenses through the ACLC. Those who are non-participating persons, while operating in the telecommunications industry, do not create any substantial regulatory burden.

Non-participating persons are carriers with initial telecommunications sales revenue, gross telecommunications revenue or eligible revenue that is below \$25 million in the applicable eligible revenue period (such as financial year) who give a statutory declaration stating as such to the ACMA within the specified time frame, or carriers that have revenue below the stated threshold and the ACMA is otherwise reasonably satisfied that this is the case.¹

Any carrier who held a carrier licence on 1 July 2019 and was not a non-participating person during the period 1 July 2018 to 30 June 2019 is required to pay the ACLC for the 2019–20 financial year and will be liable for payment of the charge when it is due. This is irrespective of whether they have surrendered their licence or had their licence cancelled after 1 July 2019.

1.3 Stakeholders

Key stakeholders are telecommunications carriers, carriage service providers, industry bodies (for example, the Communications Alliance) and consumer bodies (for example, the Australian Communications Consumer Action Network).

¹ See the [Telecommunications \(Participating Persons\) Determination 2015](#) for more information.

2. Policy and statutory authority to undertake cost recovery

2.1 Government policy approval to recover costs

As an outcome of the Communications Portfolio Charging Review in the financial year 2014–15, the Australian Government confirmed the appropriateness of cost recovery for the following activities through the ACLC:

- > the ACMA regulating telecommunications entities
- > the ACCC regulating telecommunications entities
- > a telecommunications industry body or association developing industry codes under Part 6 of the Telco Act
- > the Commonwealth's contributions to the budget of the ITU
- > the granting of financial assistance to consumer bodies to support consumer representation in the telecommunication sector and to relevant research bodies.

Prior to 2019–20, the Australian Government made a series of decisions² determining the above activities to be the subject of cost recovery through the ACLC. These decisions are consistent with the Act which specifically includes the costs of each of these 5 activities as part of the amount that can be recovered through the ACLC.

The financial estimates of all relevant ACLC activities are reflected in Table 18 in this CRIS, and Table 5 in Attachment B.

Consumer safeguards

The original funding for the Consumer Safeguards Review Part A Program was \$7.2 million over 4 years (2019–20 to 2022–23), with \$1.3 million in ongoing funding from 2023–24. Therefore, this is equivalent to a total of \$8.5 million over 5 years from 2019–20 to 2023–24.

As part of the July 2020 Economic and Fiscal Update³, the government reduced its original budget measure for the Consumer Safeguard program by \$4.3 million (over 5 years from 2019–20) to \$4.2 million (\$3.2 million in operating expenses and \$1.04 million in capital expenses), as the responsibility for direct oversight of the Telecommunications Industry Ombudsman (TIO) is no longer required. From 2024–25, the government will provide \$0.6 million per year ongoing for this program,

The ACMA will be looking to undertake several activities, which include:

- > data integrity and consistency – the ACMA undertakes an intensive validation exercise quarterly against each set of data it receives from providers to ensure integrity and consistency of the data

² <https://archive.budget.gov.au/1996-97/statement4/bst04.pdf>
https://archive.budget.gov.au/2005-06/myefo/myefo_2005-06.pdf
https://archive.budget.gov.au/2009-10/bp2/bp2_consolidated.pdf
https://archive.budget.gov.au/2009-10/myefo/MYEF0_2009-10.pdf
<https://archive.budget.gov.au/2010-11/bp2/bp2.pdf>
<https://archive.budget.gov.au/2011-12/bp2/bp2.pdf>
https://archive.budget.gov.au/2013-14/bp2/BP2_consolidated.pdf
https://archive.budget.gov.au/2014-15/bp2/BP2_consolidated.pdf

³ <https://budget.gov.au/2020-21/content/jefu/downloads/JEFU2020.pdf>, see page 62.

- > resolving systemic issues – systemic and other issues arising from the analysis of the complaint data are communicated to the relevant industry participant(s), industry body and/or regulator, to facilitate the appropriate resolution to address the issues identified.

2.2 Statutory authority to impose cost recovery charges

Section 12 of the Act imposes an annual charge on carrier licences that are in force at the beginning of a financial year (commencing 1 July 2019 for the purposes of this CRIS).

Subsection 14(1) of the Act specifies that the amount of the charge to be imposed on a carrier licence is the amount ascertained in accordance with a written determination made by the ACMA.

The Australian Communications and Media Authority (Annual Carrier Licence Charge) Direction 2017⁴ (the 2017 Direction) requires the ACMA to make such determinations as are necessary under subsection 14(1) of the Act to have the effect of imposing an annual carrier licence charge in the amount of \$0 on each carrier licence that is:

- > in force at the beginning of a relevant financial year⁵
- > held by a carrier that was a non-participating person for the eligible revenue period immediately preceding that financial year.⁶

Accordingly, when the ACMA makes a determination under subsection 14(1) of the Act, the determination will have the effect of imposing a charge of \$0 on carriers that were non-participating persons for the 2018–19 eligible revenue period.

Subsection 15(1) of the Act requires that the total of the charges that are imposed on carrier licences in force at the beginning of a financial year must not exceed the sum of the cost components identified in paragraphs 15(1)(a) to 15(1)(d) of the Act (see Table 1). Further information on these cost components is provided in Chapter 3 below.

⁴ This can be accessed from: www.legislation.gov.au/Details/F2017L00542.

⁵ The 2017 Direction defines relevant financial year as the financial year that begins on 1 July 2017 and each later financial year.

⁶ Non-participating person for the purpose of the 2017 Direction has the same meaning as in subsection 4(3) of the Telecommunications (Participating Persons) Determination 2015.

Table 1: Structural components of the ACLC

Reference in the Act	Cost component
15(1)(a)	The ACMA's cost component
15(1)(b)	The ACCC's cost component ⁷
15(1)(c)	A proportion of the Commonwealth's ITU contribution
15(1)(ca)	The sum of amounts paid to industry bodies for reimbursement of costs associated with developing or varying industry codes under Part 6 of the Telco Act
15(1)(d)	Estimated grants to be made under section 593 of the Telco Act for consumer representation and research

The ACMA will make a legislative instrument under subsection 14(1) of the Act that sets out the ACLC imposed on liable individual carrier licences, and the method of ascertaining the amount of the charge.

In accordance with subsection 15(1) of the Act, the ACMA will also make a separate legislative instrument, determining the relevant amounts under paragraphs 15(1)(a), 15(1)(c) and 15(1)(ca) of the Act.

The ACCC will make a determination specifying its costs as described in paragraph 15(1)(b) of the Act, showing separately the costs applicable to the MBA program.

On 11 March 2020, the minister made the Telecommunications (Carrier Licence Charges) (Paragraph 15(1)(d)) Determination 2020 (No. 1)⁸, determining the estimated total amounts of grants likely to be made during the 2019–20 financial year under section 593 of the Telco Act in accordance with paragraph 15(1)(d) of the Act.

All determinations are or will be registered on the Federal Register of Legislation by the respective entities.

⁷ This component may incorporate costs indirectly related to the MBA program (for example administration costs, contract management and publishing of results costs) associated more generally with the ACLC. However, costs which directly relate to the MBA Program are not included in Table 1, but these are disclosed in Attachment B.

⁸ www.legislation.gov.au/Details/F2020L00280

Table 2: List of legislative instruments for imposition of the ACLC for the 2019–20 financial year

Determination	Made under
Telecommunications Carrier Licence Charges (Annual Charges) Determination (No. 1) 2021 (Made by the ACMA)	Subsection 14(1) of the Act
Telecommunications Carrier Licence Charge (Specification of Costs by the ACMA) Determination (No. 1) 2021 (Made by the ACMA)	Paragraphs 15(1)(a), (c) and (ca) of the Act
Determination under paragraph 15(1)(b) (Made by the ACCC)	Paragraph 15(1)(b) of the Act
Telecommunications (Carrier Licence Charges) (Paragraph 15(1)(d)) Determination 2020 (No. 1) ⁹ (Made by the minister)	Paragraph 15(1)(d) of the Act

⁹ This can be accessed from: www.legislation.gov.au/Details/F2020L00280

3. Cost recovery model

There are 5 distinct regulatory outputs (cost components) that are included in the total amount of the ACLC and levied on carrier licences on an annual basis.

3.1 Determination of cost component for the ACMA's activity

3.1.1 Summary of costs

In 2018–19, the ACMA increased its regulatory activity directed to improving consumer experiences in migrating to the NBN, including the enforcement of new NBN consumer experience rules. These activities were agreed by the government in the 2017–18 Mid-Year Economic and Fiscal Outlook update, with an additional \$2.6 million provided in 2018–19 to the ACMA as a cost-recovered measure.

The ACMA also undertook a comprehensive analysis of the performance of wi-fi modems used for some NBN services. This analysis was undertaken at the request of NBN Co and the broader industry at a total cost of \$0.687 million.

However, the ACMA decreased its overall regulatory costs from \$13.398 million in 2017–18 to \$13.320 million in 2018–19, an overall reduction of \$0.08 million or 0.6%.

This reflects increased efficiency across other telecommunications regulatory functions including licensing and numbering allocation and administering the carrier licensing regime. The ACMA will continue to identify efficiencies to ensure only minimum efficient costs are passed onto industry.

3.1.2 Outputs and business processes of the activity

This component (under paragraph 15(1)(a) of the Act) represents the ACMA's costs incurred during the 2018–19 financial year that are attributable to performing its telecommunications functions set out in section 8 of the ACMA Act, and in exercising its telecommunications powers as defined in section 7 of the Telco Act, except for functions and powers conferred on the ACMA by or under¹⁰:

- > the *Do Not Call Register Act 2006* (DNCR Act)
- > the Telco Act, to the extent to which it relates to the DNCR Act
- > Part 6 of the Telco Act to the extent to which it relates to telemarketing activities (within the meaning of that Part).

As a regulator of the telecommunications industry, the ACMA exercises powers conferred by the following Acts relevant to the ACLC:

- > the Telco Act
- > the TCPSS Act
- > Chapters 4 and 5 of the *Telecommunications (Interception and Access) Act 1979*
- > Part XIC of the *Competition and Consumer Act 2010* (Competition and Consumer Act)
- > section 12 of the ACMA Act, in so far as it relates to the ACMA's telecommunications functions.

¹⁰ Subsection 15(4) of the Act defines the terms 'ACMA's telecommunications functions' and 'ACMA's telecommunications powers' for the purposes of the Act.

The outputs in relation to the ACMA’s telecommunications activities are summarised below. In order to demonstrate transparency of costs attributable to the ACLC, as reported in the CRIS for the 2018–19 ACLC, ACMA now provides activity costs for the 2019–20 ACLC with comparative costs for the previous year and relevant explanations for variations for each output.

Regulation development

This output includes regulatory development under the existing legislative framework, including the promotion of self-and co-regulation and competition in the telecommunications industry; the development and variation of telecommunications industry standards; the conduct of research on matters affecting telecommunications regulations, and the management of technical regulatory arrangements.

Table 3 provides details of the activities performed under this output for 2019–20 and 2018–19 ACLC.

Table 3: Regulation development – activities and costs for 2019–20 ACLC (based on 2018–19 costs) and 2018–19 ACLC (based on 2017–18 costs)

Ref	Activity	2018–19 cost	2017–18 cost	Variance
R1	Assessing authorisation requests under the Integrated Public Number Database (IPND) Scheme, making authorisations, monitoring and enforcing compliance with IPND requirements	\$708,576	\$786,057	(\$77,481)
R2	Educating industry and consumers on safeguards; ongoing consultation with stakeholders	\$517,909	\$485,358	\$32,551
R3	Consultation and engagement with industry consumers and government; review and analysis of industry-provided information	\$585,013	\$225,761	\$359,252
R4	Coordinating deregulation agendas and reporting against the Regulator Performance Framework	\$0	\$131,580	(\$131,580)
R5	Making new regulatory protections to improve the experience of consumers migrating to the NBN including consumer information standard, service continuity standard, complaints handling standard and determination	\$0	\$642,550	(\$642,550)

Ref	Activity	2018–19 cost	2017–18 cost	Variance
R6	Making submissions to a range of consumer safeguards consultation processes, – telecommunications consumer regulatory review and development, including development of proposals to improve the NBN consumer experience, review of the Telecommunications Consumer Protection (TCP) Code and International Mobile Roaming Standard	\$1,964,342	\$1,689,783	\$294,559
R7	Managing telecommunications labelling notices and standards	\$634,287	\$758,457	(\$124,170)
R8	Providing secretariat function to Emergency Call Service Advisory committee; monitoring and reporting on emergency call person compliance	\$557,909	\$307,594	\$250,315
R9	Registering telecommunications industry codes relating to technical characteristics of the telecommunications network	\$82,749	\$342,865	(\$260,116)
R10	Researching market developments and telecommunications consumer experience (excluding NBN)	\$727,633	\$664,064	\$63,569
R11	Researching telecommunications regulatory practice and design	\$0	\$125,703	(\$125,703)
R12	Reviewing, making and registering of codes and determinations (e.g. Emergency Call Service Determination, Mobile Phone Base Stations Deployment Code)	\$592,004	\$306,435	\$285,569
R13	Preparing, managing, analysing and reporting on the performance of wi-fi modems used for NBN fibre-to-the-node and fibre-to-the-building phone and internet services	\$687,499	\$0	\$687,499
	Total costs	\$7,057,921	\$6,466,207	\$591,714

Industry monitoring and NBN

This output includes monitoring and reporting on the service performance and compliance of telecommunications organisations with regulatory obligations, monitoring consumer safeguards that establish minimum performance standards, and monitoring the implementation of appropriate NBN standards and codes.

Table 4 provides details of the activities performed under this output for 2019–20 and 2018–19 ACLC.

Table 4: Industry monitoring and NBN – activities and costs for 2019–20 ACLC (based on 2018–19 costs) and 2018–19 ACLC (based on 2017–18 costs)

Ref	Activity	2018–19 cost	2017–18 cost	Variance
M1	Providing secretariat function to the Consumer Consultative Forum; ongoing consultation with stakeholders; conducting industry and consumer research on telecommunications consumer safeguards, focusing on the NBN	\$491,605	\$1,013,660	(\$522,055)
	Total costs	\$491,605	\$1,013,660	(\$522,055)

Compliance, enforcement and consumer safeguards

This output involves handling complaints from the telecommunications industry and consumers, compliance monitoring of devices subject to labelling arrangements and telecommunications cabling, compliance monitoring of electromagnetic activities, compliance with consumer protection codes, undertaking audit programs, issuing warning notices and directions to comply, and taking other enforcement actions.

Table 5 provides details of the activities performed under this output for 2019–20 and 2018–19 ACLC.

Table 5: Compliance, enforcement and consumer safeguard – activities and costs for 2019–20 ACLC (based on 2018–19 costs) and 2018–19 ACLC (based on 2017–18 costs)

Ref	Activity	2018–19 cost	2017–18 cost	Variance
C1	Contributing submissions to a range of consumer safeguards consultation processes	\$0	\$234,503	(\$234,503)
C2	Implementing cabling compliance arrangements including cabling inspections	\$8,942	\$34,836	(\$25,894)
C3	Investigating non-compliant cabling work	\$83,896	\$23,054	\$60,842

Ref	Activity	2018–19 cost	2017–18 cost	Variance
C4	Monitoring and investigating compliance with consumer safeguards such as the NBN, Telecommunications Consumer Protection (TCP) Code and Priority Assistance regulatory obligations; taking enforcement action resulting from non-compliance with TCP Code; responding to providers' queries about the TIO scheme; handling TIO referrals about potential non-compliance with the scheme; making preliminary enquiries and investigating compliance with the scheme; considering exemption requests; assessing compliance, approving reports and dealing with complaints about the Customer Service Guarantee, National Relay Service and provision of payphones under the Universal Services Obligation.	\$2,821,635	\$2,032,671	\$788,964
C5	Providing newsletters and quarterly telecommunications facts and figures on the ACMA's website; providing fact sheets and maintaining currency of supporting consumer material on the ACMA website and other media platforms	\$0	\$234,503	(\$234,503)
C6	Undertaking investigations about the emergency call service, carrier licensing and infrastructure deployment; reporting on the number of disclosures of customer information and the costs of providing an interception capability; enforcing compliance with the requirement to submit interception capability plans; reporting on the cost of data retention and telecommunications sector security reforms	\$1,220,305	\$1,140,602	\$79,703
	Total costs	\$4,134,778	\$3,700,169	\$434,609

Note: Costs relating to the revenue collection and compliance activity (previously reported under Table 5 in the 2018–19 ACLC CRIS) is now classified under 'Other' outputs in Table 7 (refer Activity O1). As a result, the 2017–18 comparatives have also been moved to Table 7.

Licensing and number allocation

This output includes planning, development and management of telecommunications carrier licences and submarine cable permits, and the planning, development, allocation and maintenance of telecommunications numbers. Issuing licences and allocating certain numbers, such as geographic, free-phone, local rate and premium numbers are not included, as these services are delivered on a fee-for-service basis.

Table 6 provides details of the activities provided under this output for 2019–20 and 2018–19 ACLC.

Table 6: Licensing and number allocation – activities and costs for 2019–20 ACLC (based on 2018–19 costs) and 2018–19 ACLC (based on 2017–18 costs)

Ref	Activity	2018–19 cost	2017–18 cost	Variance
L1	Administering the carrier licensing regime, granting permits and considering submarine protection zone applications	\$465,155	\$1,115,755	(\$650,600)
L2	Managing outsourced arrangements and numbering allocation	\$335,048	\$346,471	(\$11,423)
	Total costs	\$800,203	\$1,462,226	(\$662,023)

Other outputs

All other outputs in relation to the ACMA’s telecommunications functions and powers are considered in this category, including dealing with the telecommunications industry on national interest issues.

Table 7 provides details of the activities provided under this output for 2019–20 and 2018–19 ACLC.

Table 7: Other outputs – activities and costs for 2019–20 ACLC (based on 2018–19 costs) and 2018–19 ACLC (based on 2017–18 costs)

Ref	Activity	2018–19 cost	2017–18 cost	Variance
O1	Administering the carrier licence charging arrangement and costing of regulatory activities associated with telecommunications	\$835,111	\$697,089	\$138,022
O2	Considering and implementing the potential for self-regulation of functions relating to the IPND – the ACMA review recommendation	\$0	\$58,392	(\$58,392)
	Total costs	\$835,111	\$755,481	\$79,630

As noted in ‘Compliance’ output, an amount of \$478,047 is included in the 2017–18 costs for Activity O1, which now includes the cost of revenue collection and compliance.

Further details about the ACMA’s telecommunications activities in 2018–19 are set out in the [ACMA’s Annual report 2018–19](#).

3.1.3 Costs of the activity

Determining the ACMA’s costs to be recovered under the ACLC is subject to a rigorous process using an Activity Based Management (ABM) model, which tracks the direct and support costs incurred by the ACMA for activities performed under its telecommunications functions and powers. As in prior years, time is used as a primary means of allocating direct costs to activities, while support costs are allocated using an appropriate cost driver (further detail on cost drivers is provided later in this section).

The ACMA conducts agency-wide surveys twice a year to ensure the allocation base for the ABM model remains accurate.

Tables 8 and 8A summarise the direct costs and support costs of the ACMA's components at the output level for 2019–20 and 2018–19 ACLC, respectively.

Table 8: The ACMA's components at output level for 2019–20 ACLC (based on 2018–19 costs)

Output	Direct cost 2018–19 cost	Support cost 2018–19 cost	Total cost 2018–19 cost
Regulation development	\$4,545,303	\$2,512,618	\$7,057,921
Industry monitoring and NBN	\$317,670	\$173,936	\$491,606
Compliance, enforcement and consumer safeguards	\$2,534,570	\$1,600,208	\$4,134,778
Licensing and allocation	\$510,788	\$289,415	\$800,203
Other outputs	\$528,855	\$306,256	\$835,111
Total costs	\$8,437,186	\$4,882,433	\$13,319,619

Please note: The methodology used to classify the ACMA's direct and support costs has been reviewed and updated from 2018–19.

Overall, the ACMA's costs decreased by approx. \$0.08 million (0.6%) in 2018–19, due to operational and regulatory efficiency across the ACLC cost components more than offsetting the additional regulatory effort relating to the Improving NBN Consumer Experience measure, provided through the 2017–18 Portfolio Additional Estimates Statements.

The ACMA has implemented a new ABM model from 2018–19 and updated the methodology for allocating overhead costs to direct activities. Previously, all overhead costs were allocated to support costs. For 2018–19, those overhead costs attributable to direct activities are allocated as direct costs. For example, the costs attributable to the general manager and executive manager support cost centres are no longer allocated to the cost centres under their division. Instead, they are allocated to their relevant support cost pool before being apportioned across the ACMA direct activities.

Direct costs include those directly attributable to outputs and activities performed by the relevant operational areas that are involved in service provision as well as overhead costs. This included staff salaries and other expenses (for example, contractors, consultants, suppliers, office consumables, travel, property, facilities) in relation to the operational areas carrying out telecommunications activities.

Support costs include all remaining overhead costs (such as depreciation and occupancy expenses) as well as the ACMA's corporate services, encompassing information technology (IT), finance, human resources, facilities and other costs.

Table 8A: The ACMA's components at output level for 2018–19 ACLC (based on 2017–18 costs)

Output	Direct cost 2017–18 cost	Support cost 2017–18 cost	Total cost 2017–18 cost
Regulation development	\$3,053,763	\$3,412,444	\$6,466,207
Industry monitoring and NBN	\$432,688	\$580,972	\$1,013,660
Compliance, enforcement and consumer safeguards	\$1,609,445	\$2,568,771	\$4,178,216
Licensing and allocation	\$680,368	\$781,858	\$1,462,226
Other outputs	\$40,451	\$236,983	\$277,434
Total costs	\$5,816,715	\$7,581,028	\$13,397,743

For 2017–18 direct costs only include those directly attributable to outputs and activities performed by the relevant operational areas that are involved in service provision as well as overhead costs. This included staff salaries and other expenses (for example, contractors, consultants, suppliers, office consumables, travel) in relation to the operational areas carrying out telecommunications activities. Direct costs do not include overhead costs related to direct activities performed.

Support costs include all overhead costs (such as depreciation and occupancy expenses) as well as the ACMA's corporate services, encompassing information technology (IT), finance, human resources, facilities, legal, Authority and other costs.

Table 9: Allocation of the ACMA's support costs (cost drivers)

Category	Cost driver
Authority	Average staffing level (ASL) applicable to recipient cost centre
People and finance	ASL applicable to recipient cost centre
Media	ASL applicable to recipient cost centre
Information and facilities	ASL applicable to recipient cost centre
Property operating expenses	Expenses were firstly allocated to property locations and subsequently assigned to relevant cost centres within the location using applicable ASL
Asset usage	Percentage split based on asset usage (that is, depreciation)
Legal	ASL applicable to recipient cost centre

Table 10 outlines a breakdown of expenses included in the ACMA's cost components for the ACLC amount for the 2019–20 financial year in comparison to the previous year. The employee costs include salaries and staff on-costs and the operating costs essentially relate to expenses incurred, including contractors, consultants, travel, supplies and occupancy. Depreciation and write-offs of non-financial assets represent the loss of service potential of assets attributable to the telecommunications services included for the purpose of determining the ACLC. These costs are subsets of both the direct and support costs shown in Tables 8 and 8A above.

Table 10: The ACMA’s cost component

Costs	2019–20 ACLC (based on 2018–19 costs)	2018–19 ACLC (based on 2017–18 costs)	% change*
Employees	\$8,673,458	\$8,589,512	1.0%
Operating	\$2,742,210	\$2,752,521	(0.4%)
Depreciation and write-off	\$2,025,138	\$2,131,464	(5.0%)
Total ACMA costs	\$13,440,806	\$13,473,497	(0.2%)
Less: revenue received from activities delivered on a fee-for-service basis (see Attachment A: Telecommunications activities not included in the ACLC)	\$121,187	\$75,754	60.0%
Total costs for ACLC	\$13,319,619	\$13,397,743	(0.6%)

*Increase/(decrease).

The ACMA’s costs take all productivity gains and operational savings into account, including the efficient use of resources as a result of the application of an efficiency dividend.

Independent review of the ACMA’s costs

The ACMA procured an independent audit on their 2018–19 ACLC costs. The independent audit found the ACMA Activity Based Management (ABM) model used to calculate the ACMA ACLC component employed a sound methodology, and no issues were identified with the accuracy of the input data. The ABM model was also found to be arithmetically sound.

3.2 Determination of cost component for the ACCC’s activity

Under paragraph 15(1)(b) of the Act, the ACCC must determine the proportion of its costs incurred during 2018–19 that are attributable to its telecommunications functions and powers. Accordingly, the information in this section has been provided by the ACCC and sets out the cost recovery model it has used to determine the costs.

3.2.1 Outputs and business processes of the activity

Part XIC of the Competition and Consumer Act contains the framework for the economic regulation of the communications industry. The ACCC is responsible for:

- > conducting inquiries into which communications services should be regulated
- > conducting inquiries into the making of access determinations for regulated services that will contain price (or a method of ascertaining price) and non-price terms and conditions of access
- > making binding rules of conduct (if needed) to address specific competition issues
- > investigating allegations of access providers failing to comply with the standard access obligations and/or non-discrimination obligations in the Competition and Consumer Act
- > assessing special access undertakings (SAUs), which if accepted by the ACCC, will provide terms and conditions for access to regulated services.

Part XIB of the Competition and Consumer Act enables a quick response to instances of anti-competitive conduct in the communications industry and allows the ACCC to impose specific information-gathering obligations on industry participants to assist with the ACCC's administration and enforcement of the Competition and Consumer Act.

The ACCC's responsibilities under Part XIB include:

- > investigating allegations of anti-competitive conduct
- > considering exemption applications for anti-competitive conduct
- > reporting as part of the mandatory and discretionary reporting requirements
- > monitoring industry, including the NBN Wholesale Indicators Report, the Telstra Customer Access Network snapshot, and the Telstra Economic Model reports.

The ACCC also has responsibilities under the Telco Act for facilities access and structural reform. This includes monitoring Telstra's compliance with its structural separation undertaking (SSU) and planning for migrating services to the NBN. As well as the ACCC's specific statutory obligations, it also has resources dedicated to:

- > conducting market and competition analysis and investigations (especially under Part IV of the Competition and Consumer Act) for content, media and application services delivered over communications networks
- > considering engineering issues relevant to its statutory role in the communications sector
- > advising other areas of the ACCC on implications of convergent technologies in the context of mergers, adjudication and enforcement activities
- > formulating briefing material and submissions to major government reviews, such as inquiries regarding the NBN, Senate Estimates and other public inquiries
- > providing industry guidance where appropriate to improve the operation of markets
- > drafting speeches and public presentations for commissioners and senior managers.

The key communications outputs are outlined below.

Communications markets and advocacy

- > Issuing the annual telecommunications report, *Communications Market Report 2017–18* (Division 11 report).
- > Reviewing the effectiveness and expanding the scope of our broadband speeds advertising guidance to provide consumers with comparable information on the typical broadband speeds they can expect from their service and taking enforcement action to support these outcomes.
- > Ongoing release of quarterly reports on broadband performance data (from March 2018) under the ACCC's MBA program.
- > Following up on 2 action items from the April 2018 final report of the communications market study; assessing competition implications from the use of e-SIMs and examining communications comparator tools used by consumers.
- > Undertaking compliance and enforcement activities regarding the Competition and Consumer Act and wholesale telecommunications markets (Part IV, Part XIB, NBN SAU and Telstra SSU), which included securing penalties in the Federal Court regarding misleading representations Optus made to its customers in connection with migrating customers from its HFC network to the NBN, and an investigation into NBN Co's activities in the business services market resulting in the ACCC accepting a court-enforceable undertaking from NBN Co.
- > Participating in a number of industry-led working groups and forums with important implications for competition and consumer outcomes.

Mobiles, transmission and consumer (including NBN)

- > Undertaking a review into NBN Co wholesale pricing, with a focus on entry level affordability.
- > Monitoring NBN Co's compliance and performing other functions under NBN Co's SAU (given by NBN Co and accepted by the ACCC in late 2013), which sets out price and non-price terms of access to the NBN.
- > Assessing a variation proposed by NBN Co to the SAU accepted by the ACCC in 2013 and issuing a draft decision.
- > Undertaking a number of inquiries into the continued regulation and appropriate access settings for certain key wholesale communications services, including for mobiles and legacy fixed-line and transmission services.
- > Issuing final determinations on the NBN Co SAU annual revenue determination (Long Term Revenue Constraint Methodology determination) for 2018–19.
- > Undertaking NBN pricing and SAU financial/pricing compliance.
- > Examining NBN wholesale service standards to consider whether regulatory intervention would be required to improve customer experience including the acceptance of an undertaking from NBN Co to support positive consumer outcomes with respect to fault rectification and missed appointments.
- > Providing advice to other areas on matters such as mergers or authorisation applications relating to mobiles and fixed line markets, transmission markets and compliance and consumer matters relating to NBN.
- > Providing advice to ministers, other government agencies and departments on request (examples include advice on NBN non-commercial funding options, transmission and aggregation markets, and market developments) including on spectrum allocation limits.
- > Providing submissions to consultation processes of other government agencies and departments' policy and regulatory issues including telecommunications consumer safeguard reviews, radiocommunications legislation review and spectrum allocation processes.
- > Maintaining and collecting data through the Infrastructure, Exchange Facilities, Telstra CAN and NBN SIO Record Keeping Rules.
- > Publishing relevant extracts in quarterly reports on NBN wholesale market indicators.
- > Consulting and engaging with industry on a range of regulatory matters, including telecommunications consumer issues, industry codes, numbering, consumer issues about NBN migration, and mobiles and transmission markets with special attention to regional and rural areas of Australia.

Wireline markets

- > Reporting annually to the minister on Telstra's compliance with its SSU, while continuing to monitor Telstra's compliance with the SSU for 2017–18.
- > Issuing the annual telecommunications report, *Communications Market Report 2017–18* (Division 12 report).
- > Consulting and engaging with industry on a range of regulatory matters, including variations and additions to the Telstra Migration Plan.
- > Completing an access declaration inquiry for legacy fixed-line networks
- > Commencing an inquiry into making final access determinations for declared fixed-line networks.
- > Assessing quarterly information on access agreements in place for communication services.

- > Issuing an Internet Activity Record Keeping Rule following consultation with stakeholders
- > Releasing biannual internet activity reports that provide information on internet activity within Australia.
- > Assessing access undertakings in relation to the commencement of digital radio services in Canberra, Darwin and Hobart.
- > Providing advice to other government agencies and departments on request.

Other outputs

All other outputs in relation to the ACCC's telecommunications functions and powers are considered in this category, including strategic liaison and coordination of regulatory affairs.

3.2.2 Costs of the activity

The determination of the ACCC's telecommunications costs to be recovered under the ACLC is based on a cost allocation model. There has been no change in the methodology used to determine the costs from the previous financial year. Both direct and support (indirect) costs incurred by the ACCC in exercising its telecommunications functions and powers are captured by the model. Telecommunication activities are aligned to discrete cost centres to capture direct costs. Support costs are allocated using an appropriate cost driver (further detail on support costs is provided later in this section).

The activity costs produced by the ACCC's cost allocation model for 2018–19 are based on the cost of services in accordance with the ACCC's 2018–19 audited financial statements.

Delivery costs of the MBA program (*Cost Recovery Implementation Statement – Addendum: Measuring Broadband Australia program*) is provided in the 2017–18 ACLC CRIS available on the [ACMA website](#), which formally commenced in July 2017, are not included in the ACLC cost calculations disclosed in Table 11 below. Supplier costs and overheads for that program are tracked separately and are disclosed in Attachment B. However, the following costs are applicable to the ACLC:

- > Staff working in the ACCC's telecommunications regulation function in 2018–19 incurred costs related to the MBA program's establishment and oversight, including the procurement process for an outsourced provider. These costs are included in the amount disclosed in Table 11.
- > Responsibility for any investigative and regulation work resulting from the MBA program's findings will fall to ACCC staff as part of their business-as-usual telecommunications regulation function. These costs will not form part of the MBA program costs, instead they will be recovered through future ACLC attributable to paragraph 15(1)(b) of the Act.

Table 11 provides details for the direct and support costs that the ACCC proposes to include in its determination of costs for the purpose of paragraph 15(1)(b) of the Act.

**Table 11: The ACCC's component at output level, 2019–20
(based on 2018–19 costs)**

Output activity	Direct costs	Support costs	Total cost
Communications markets and advocacy	\$2,563,088	\$1,332,631	\$3,895,719
Mobiles, transmission and consumer (including NBN)	\$2,231,982	\$1,160,479	\$3,392,461
Wireline markets	\$1,435,071	\$746,140	\$2,181,211
Other outputs	\$464,984	\$241,760	\$706,744
Total costs	\$6,695,125	\$3,481,010	\$10,176,135

Direct costs are the costs incurred directly by the ACCC's communications function housed within the ACCC's Infrastructure Regulation Division. These costs are attributed to discrete cost centres aligned with the telecommunication output activities. They include staff salaries and other expenses for the communications function carrying out the activities (for example, contractors, consultants, suppliers, travel and office consumables). An annual review of executive effort related to the telecommunication function provides a consistent approach for capturing costs into the allocation model.

The support costs are the costs incurred by the ACCC's corporate divisions, including finance, human resources, legal, property, IT, and regulatory. The costs include all support staff salaries and other expenses in relation to corporate support services (for example, consultancies, suppliers, depreciation and property/accommodation). These costs are allocated to activities using 3 cost drivers:

- > legal expenditure driver – allocates the in-house legal support function, based on a proportion of usage
- > non-legal expenditure driver – allocates corporate costs not easily attributed to usage or headcount (for example, executive governance, assurance and strategic support)
- > ASL driver – allocates overhead costs that are driven more by staffing than expenditure (for example, human resources, IT support and property costs).

The output costs reported in Table 11 are the cost object captured at a lowest level by the ACCC. As an activity-based cost system is not used by the ACCC, these costs are captured at cost object level.

Table 12 sets out the allocation method to be applied by the ACCC to each of the corporate categories.

Table 12: Allocation of the ACCC's support costs

Category	Cost driver	Allocation method
Executive	Non-legal costs	Percentage allocation based on the proportion of the communications function component to the ACCC's operational divisions* component
Corporate management		
Corporate services		
Finance		
Strategic communications		
Information and technology	ASL	
Human resources		
Property		
Asset usage		
Legal	Legal costs	

*ACCC's operational divisions perform consumer and competition regulatory and enforcement functions.

The ACCC's costs to be determined for the purpose of the 2019–20 ACLC (excluding the MBA costs, which are discussed in Attachment B) have been calculated at \$10,176,135. This represents a \$1,587,874 (13.5%) decrease from the previous year, largely driven by:

- > telecommunications staff transferring to other areas within the ACCC and the AER to progress the urgent delivery of new budget measures. Filling the staff vacancies was not an immediate priority as the telecommunications regulation cycle was less intense due to many access declarations and determinations finalised in 2016–17 and early 2017–18
- > consultancy expenditure in the 2017–18 financial year involved engagement of market experts to help progress the market study of the telecommunications sector and provide independent procurement advice on the tender process for the MBA program. These were one-off activities and therefore not required to continue, resulting in significantly less consultancy expenditure in 2018–19
- > overhead costs from corporate support functions being spread across more business lines in 2018–19 due to the ACCC and the Australian Energy Regulator (AER) being funded for budget measures involving new (or expanded) functions.

Table 13: The ACCC's cost component

Costs	2019–20 ACLC (based on 2018–19 costs)	2018–19 ACLC (based on 2017–18 costs)	% change*
Employees	\$7,535,846	\$7,994,219	(5.73%)
Consultancy and travel	\$215,138	\$544,592	(60.50%)
Overheads	\$2,425,151	\$3,225,198	(24.81%)
Total costs	\$10,176,135	\$11,764,009	(13.50%)

*Increase/(decrease).

3.3 Determination of cost component for the ITU activity

The information in this section has been provided by DITRDC, setting out the cost recovery model it has used for the calculation of relevant costs to be included in the ACMA's determination under paragraph 15(1)(c) of the Act.

3.3.1 Outputs and business processes of the activity

This cost component (determined by the ACMA under paragraph 15(1)(c) of the Act) represents the proportion of the Commonwealth's annual contribution to the ITU budget associated with telecommunications for the calendar year 2019. The applicable amount is determined using calculations provided by DITRDC.

The ITU is the specialised United Nations agency responsible for international cooperation for the use of telecommunications and the radiofrequency spectrum. It establishes treaty agreements and recommends standards for telecommunications and radiocommunications (including satellite) services. There are 193 member states of the ITU and more than 700 non-government members. DITRDC manages Australia's membership and engagement in the ITU. Australian organisations, both government and private, engage with the ITU. As the ITU forms part of the regulatory framework, it is appropriate to attribute ITU costs to the licensed carriers through the ACLC.

The ITU's work is carried out by 3 sectors:

- > Radiocommunication Sector (ITU-R) – manages the finite natural resources of the radiofrequency spectrum and satellite orbits
- > Development Sector (ITU-D) – assists developing countries with information and communication technologies (ICTs), including promoting access to ICTs and actions that narrow the digital divide
- > Telecommunication Standardisation Sector (ITU-T) – develops voluntary standards called ITU-T Recommendations.

The ITU is responsible for a number of treaties, including:

- > the ITU Constitution and Convention, which governs the organisation and its engagement
- > the Radio Regulations, which govern the use of radiofrequency spectrum
- > the International Telecommunication Regulations, which facilitate the interconnection of international telecommunication services.

3.3.2 Costs of the activity

The Commonwealth contributions to the ITU are paid by DITRDC each year as appropriated through the budget process. The contribution for the 2019 calendar year was Swiss Francs 4,725,000 (A\$6,750,818, using the exchange rate at the time payment was made).

To determine the telecommunication component of the Commonwealth's 2019 contribution, the ACMA has, on the advice from DITRDC, considered ITU-T's share of the combined output costs for ITU-T and ITU-R. As outlined in Table 14, the cost component of the contribution associated with the ACLC is the ITU-T activities of A\$2,109,273. The decrease of 4% from the previous year is partly due to a decrease in the split for the ITU-T expenditure, compared to the ITU-R expenditure in 2019 and partly as a result of differences in exchange rates at the time of payment.

Table 14 provides the comparison of ITU contributions for the calendar years 2018 and 2019.

Table 14: Costs associated with ITU-T and ITU-R activities

	ITU-T	ITU-R	Total
	A\$	A\$	A\$
2019	2,109,273	4,641,544	6,750,818
2018	2,194,009	4,400,548	6,594,557
Increase/(decrease)	(4%)	5%	2%
Ratio 2019	31.24%	68.76%	
Ratio 2018	33.27%	66.73%	
	Swiss Francs	Swiss Francs	Swiss Francs
2019	1,476,312	3,248,688	4,725,000
2018	1,571,982	3,153,018	4,725,000
Increase/(decrease)	(6.09%)	3.03%	

3.4 Determination of cost component for the development or variation of consumer protection codes

3.4.1 Outputs and business processes of the activity

This component (to be determined by the ACMA under paragraph 15(1)(ca) of the Act) represents the sum of the amounts paid under section 136C of the Telco Act during the immediately preceding financial year (the 2018–19 financial year). Section 136C of the Telco Act requires the ACMA (providing certain statutory preconditions are met) to make a payment on behalf of the Commonwealth to reimburse the costs incurred by a telecommunications industry body or association for the development or variation of an industry code (the output of this activity).

The industry body or association must first have obtained a declaration from the ACMA under section 136B of the Telco Act to be eligible to claim reimbursement of these costs and, within 2 years, provide a detailed claim in relation to the code development or variation costs. The cost of the development or variation of an industry code is required to be verified by an independent auditor at the time the code or variation is submitted to the ACMA and must be assessed by ACMA as a reimbursable cost in accordance with the Telco Act prior to any payment being made.

Communications Alliance Ltd is an industry body that represents the telecommunications industry and develops codes as required. An industry body is only eligible to seek reimbursement for development or variation of consumer codes (that is, where industry codes wholly or mainly deal with matters relating to the relationship between carriage service providers and their retail customers). The industry codes are a key component of the co-regulatory approach to regulation in the telecommunications sector, which is intended to provide consumer protection in an efficient manner, with a low regulatory burden on industry. Industry codes, as a form of co-regulation, form part of the telecommunications regulatory framework and it is appropriate to attribute these costs to the licensed carriers through the ACLC.

3.4.2 Costs of the activity

No payment was made by the ACMA during the 2017–18 and 2018–19 financial years under section 136C of the Telco Act. In February 2019, a claim for reimbursement of \$164,709.82 was received from CA for developing the Telecommunication Consumer Protection Code C628:2019. However, this claim was paid by the ACMA on 31 July 2019. As a result, this amount will be included in the 2020–21 ACLC.

3.5 Determination of cost component for government grants for consumer representation and research

The information in this section has been provided by DITRDC, setting out the cost recovery model it has used to determine the costs.

3.5.1 Outputs and business processes of the activity

Under section 593 of the Telco Act, the minister, on behalf of the Commonwealth, has the power to make a grant of financial assistance to a consumer body for purposes in connection with the representation of the interests of consumers in relation to telecommunications issues. The total of the grants likely to be made for the 2019–20 financial year was determined by DITRDC.

Since 2009–10, a grant has been provided to the Australian Communications Consumer Action Network (ACCAN). ACCAN is provided with around \$2 million per annum as part of a multi-year grant agreement until 31 May 2022. Milestone payments for completing each stage of the activity, as set out in the grant agreement, are made directly by DITRDC as the Commonwealth delegate.

ACCAN represents consumer interests in telecommunications, conducts research on current and emerging issues, and disseminates educational material to consumers. ACCAN coordinates responses to government-initiated processes and conducts conferences and workshops. Consumer education and advocacy form part of the telecommunications regulatory framework and it is appropriate to attribute these costs to the licensed carriers through the ACLC.

ACCAN operates a competitive Independent Grants Program, which allows individuals and organisations to undertake research or representation projects in the interest of the telecommunications consumer. Further information can be obtained from [ACCAN's website](#).

3.5.2 Costs of the activity

The minister has made a legislative instrument determining that an amount of \$2,322,000 is estimated to be paid in grants under section 593 of the Act during the 2019–20 financial year. A breakdown of the expected use of the grants by ACCAN as the likely recipient has been provided by ACCAN as shown below.

Table 15: Consumer representation grant program

Expense	Cost (million)
Employee expenses	\$1.423
Administration expenses	\$0.445
Independent grants program research projects	\$0.382
Committee expenses, travel, accommodation	\$0.072
Total	\$2.322

3.6 Design of cost recovery charges

The ACLC is imposed as a levy, which is considered appropriate as it encompasses a number of regulatory and other activities that may not be easily or cost effectively attributed to individual licensed carriers and therefore translated into direct fees but can be attributed to the cost of regulation for the telecommunications industry as a group. The use of a carrier's eligible revenue to calculate the carrier's ACLC provides a reasonable reflection of effort and costs, and industry understands and accepts this methodology. Furthermore, the eligible revenue of licensed carriers is utilised for the calculation of the Telecommunications Industry Levy imposed under the *Telecommunications (Industry Levy) Act 2012* and assessed and collected by the ACMA in accordance with the TCPSS Act.

The ACMA is required by the 2017 Direction to ensure that the ACLC payable by any non-participating persons, as defined in the Telecommunications (Participating Persons) Determination 2015, is zero, effectively exempting such carriers from contributing to the costs of telecommunications regulations through the ACLC. Any change to this approach would require a change to the 2017 Direction or a change to the Telecommunications (Participating Persons) Determination 2015, each made by the minister.

In accordance with the 2017 Direction, non-participating persons (generally, the smaller carriers) are required to be exempted from the liability to pay the ACLC. While the total ACLC includes costs that may be incurred by the ACMA, ACCC and the minister in regulating non-participating persons, the ACMA estimates that the financial impact of exempting non-participating persons from the liability to pay the ACLC is insignificant.

Establishment of individual levy amounts

For the purpose of ascertaining the levy for liable individual licensed carriers, their 'eligible revenue', as assessed by the ACMA, will be used as a basis for allocating the total ACLC, except the amount attributable to the MBA program.

In order to establish the individual levy amount that relates to the MBA program, a portion of the ACCC's costs determined under paragraph 15(1)(b) of the Act are to be allocated to individual liable carriers (that is, participating persons) on the basis of the number of NBN fixed-line connections operated by monitored service providers. All the details including the formula for the calculation of this component of the individual levy are disclosed in section 3.2 of Attachment B.

The following formula will be used for allocating the total charge (except the component of the overall charge applicable to the MBA program) to individual liable carriers when the applicable eligible revenue amounts become available. The formula allocates the total ACLC to the individual carriers, in the same proportion as their assessed eligible revenue relates to the total assessed eligible revenue of all participating persons:

$$(MCA - OTC) \times \frac{ER}{TER}$$

Where:

- > MCA is the maximum charge amount
- > OTC is the other telecommunications charges¹¹
- > ER is the individual carrier's eligible revenue for the 2018–19 financial year
- > TER is the total eligible revenue for the 2018–19 financial year.

The 'ER/TER' determines the individual proportion of the carrier's assessed eligible revenue relative to the total assessed eligible revenue for those carriers that are liable to pay the ACLC.

In the instrument the ACMA proposes to determine under subsection 14(1) of the Act, both methodologies (including the methodology for the MBA program set out in Attachment B) will be included as specified above in order to establish the total individual levy amount payable by liable licenced carriers.

The summary of all components that are determined under paragraphs 15(1)(a) to 15(1)(d) of the Act (that is, sections 3.1, 3.2, 3.3, 3.4 and 3.5 in this CRIS and section 3.1 of Attachment B of this CRIS) are set out in Table 16.

Consumer Safeguard Program¹²

The cost of performing this program will form part of the ACLC from the 2020–21 financial year, ongoing, as determined under paragraph 15(1)(a) of the Act. The costs will be recovered in arrears from those carriage service providers that are required to report under the complaints Record Keeping Rules (RKR) that are also carriers and participating persons.

For 2020–21, the methodology proposed to apportion the Consumer Safeguards Program costs to the liable carriers that report under the ACMA's RKR¹³ is:

- > based on each relevant carrier group's eligible revenue; or
- > evenly distributed between the relevant carrier groups, based on the number of carriage service providers they have that are captured under the RKR.

¹¹ This is the amount of the ACMA's costs for the immediately preceding financial year that is attributable to its telecommunications functions and powers but has been met from telecommunications charges other than the ACLC (see Attachment A). This amount also excludes the costs of activities prescribed under subsection 15(4) of the Act in relation to the Do Not Call Register and telemarketing activities.

¹² www.communications.gov.au/documents/part-complaints-handling-and-consumer-redress-consumer-safeguards-review-report-minister

¹³ Complaints per 10,000 services in operation' was considered as a methodology to apportion the consumer safeguards program costs, however, the information cannot be made public without each entity's consent.

Table 16: ACLC summary by cost component

Reference in the Act	Cost component	2019–20 ACLC actual ¹⁴
15(1)(a)	The ACMA's cost component	\$13,319,619
15(1)(b)	ACCC's cost component including the costs for the MBA program of \$1,702,406 (see section 3.2 of Attachment B of this CRIS)	\$11,878,541
15(1)(c)	Proportion of ITU contribution	\$2,109,273
15(1)(ca)	Costs for reimbursements of costs for development or variation of consumer protection related industry codes	Nil
15(1)(d)	Government grants – consumer representation and research	\$2,322,000
Total		\$29,629,433

The ACLC amounts payable by carrier licensees for the period from 1 July 2019 to 30 June 2020, are set out in Attachment C for relevant calculations.

¹⁴ The Act requires the components under paragraph 15(1)(a), 15(1)(b) and 15(1)(ca) to be calculated on the costs that are incurred in the financial year immediately preceding the financial year (the 2018–19 financial year) for which the charges are imposed. The cost component under paragraph 15(1)(c) relates to the calendar year (the 2019 calendar year) in which the beginning of the financial year for imposing the ACLC occurs. The component under paragraph 15(1)(d) relates to the 2019–20 financial year.

4. Risk assessment

The ACMA has carried out a risk assessment for each cost component of the 2019–20 ACLC, resulting in an overall rating of medium. The individual ratings for each cost component are shown in Table 17 and are based on assessment of the criteria in the [Regulatory Charging Risk Assessment](#)¹⁵ (under ‘Tools and templates’)

Table 17: Risk ratings for ACLC components

Reference in the Act	Cost component	Risk rating
15(1)(a)	ACMA’s cost component	Medium
15(1)(b)	ACCC’s cost component	Medium
15(1)(c)	Commonwealth’s ITU contribution	Low
15(1)(ca)	Reimbursed costs of development or variation of consumer protection related industry codes	Not applicable
15(1)(d)	Government grants – consumer representation and research	Low
Overall rating		Medium

The overall risk rating of medium was derived mainly due to the overall amount to be subject to this cost recovery arrangement, which exceeded \$10 million for the costs specified in paragraphs 15(1)(a) and (b) of the Act, and because the amounts to be recovered through ACLC for those costs have changed by more than 5%. However, there are no complexities associated with this charging regime as there are no changes to the existing cost recovery arrangement from the previous year for the ACLC. The ACLC is being charged as a levy and does not require any new legislation to be passed by the parliament, nor does it involve working with state, territory or local government entities.

For the MBA program, a risk rating is provided in section 4 of Attachment B.

¹⁵ Further information is available on www.finance.gov.au/sites/default/files/2019-11/RMG-302%20Australian%20Government%20Charging%20Framework_0.pdf (page 18)

5. Stakeholder engagement

The ACMA regularly consults with stakeholders about telecommunications regulatory matters. In 2018–19, the ACMA consulted on a number of matters, including:

- > proposed ACLC for the 2018–19 financial year
- > review of regulation of telecommunications customer cabling
- > technological solutions to combating scams
- > review and remaking certain telecommunications legislative instruments including the emergency call service determination.
- > administration of existing legislative and regulatory arrangements.

The ACCC also advises that it has engaged with stakeholders through price-setting consultations and regulatory matters. The key areas of consultation in 2018–19 included:

- > promoting competition to ensure an efficiently functioning communications market
- > regulating access to infrastructure to support continuing competition and efficient investment in fixed-line, mobiles and transmission markets while transitioning to the NBN
- > promoting competition through regulation of the NBN and encouraging transparency and appropriate consumer safeguards in the migration to the NBN
- > monitoring industry consolidation and the impact on competition within the communications market.

To maintain an active involvement with industry on the ACLC proposal for 2019-20, the ACMA published a consultation paper and a draft version of this CRIS on its website for a 4-week period to 11 May 2021 for feedback. Communications Alliance Ltd provided a submission during consultation. A late submission was received from Optus on 12 May 2021. Both submissions raised queries on the:

- > 2018–19 costs incurred by the ACMA relating to the NBN Consumer Experience Rules
- > need for greater transparency of the NBN Consumer Experience Rules and the Consumer Safeguard Program
- > cost recovery arrangements relating to ACCAN funding and the costs associated with the MBA program.

A summary of issues or recommendations in response to the consultation is provided in Attachment D.

6. Financial estimates

Financial estimates for each component of the ACLC to be determined under section 15 of the Act for the financial year 2019–20 are provided in Table 18, along with forecasts over the next 3 years.

Table 18: Financial estimates by activity

Ref. in the Act	Component	2019–20 budget	2019–20 revised budget	2020–21 budget	2021–22 budget	2022–23 budget
		(\$million)	(\$million)	(\$million)	(\$million)	(\$million)
15(1)(a)	ACMA telecommunications expenses	15.933	14.871	14.241	13.941	13.896
15(1)(b)	ACCC telecommunications expenses	11.472	11.151	11.151	11.151	11.151
15(1)(c)	Commonwealth's ITU contribution	2.103	2.149	2.193	2.239	2.32
15(1)(ca)	Amounts reimbursed to industry groups for development or variation of consumer protection related industry codes	0.300	0.300	0.300	0.300	0.300
15(1)(d)	Estimated government grants – consumer representation and research	2.324	2.322	2.365	2.409	2.451
Total expenses		32.132	30.793	30.250	30.040	30.118
15(1)(a)	ACMA telecommunications expenses	13.398	13.319	14.871	14.241	13.941
15(1)(b)	ACCC telecommunications expenses	11.472	10.176	11.151	11.151	11.151
15(1)(c)	Commonwealth's ITU contribution	2.109	2.11	2.256	2.194	2.274
15(1)(ca)	Amounts reimbursed to industry groups for development or variation of consumer protection related industry codes	0.300	0	0.300	0.300	0.300
15(1)(d)	Estimated government grants – consumer representation and research	2.324	2.322	2.365	2.409	2.451
Total revenue		29.603	27.927	30.943	30.295	30.117
Balance		(2.529)	(2.866)	0.693	0.255	(0.001)

The cost components recovered through the ACLC revenue are determined in accordance with the Act. The Act requires the components under paragraph 15(1)(a), 15(1)(b) and 15(1)(ca) to be calculated on the costs that are incurred in the financial year immediately preceding the financial year for which the ACLC is imposed. As a result, the revenues for 15(1)(a), 15(1)(b) and 15(1)(ca) are based on the previous year's expenditure. Under the Act, the cost component under paragraph 15(1)(c) relates to the calendar year in which the beginning of the financial year for imposing the ACLC occurs. In order to translate the expenditure incurred in the calendar year to the respective fiscal year, an average expenditure of 2 consecutive calendar years is used. This creates a lag in recognising the revenue, which has resulted in a surplus or deficit balance (that is, a timing difference) for each financial year.

The level of the ACMA's expenditure for the 2019–20 financial year is not expected to change significantly. As noted in section 2.1 of this CRIS, the government has provided \$4.2 million, which was reduced from \$7.2 million appropriated in the 2019–20 Budget¹⁶ to the ACMA in relation to telecommunications Consumer Safeguard Program to be delivered over 5 years from 2019–20. The estimated costs of these activities have been incorporated in the ACMA's expected telecommunication functions costs and revenue components above.

The forecasts for the ACCC do not include any expenditure or revenues from the MBA program. These have been disclosed separately in Attachment B. The ACCC notes there is a slight decrease in expenses for the ACCC from 2019–20 than originally budgeted. This is mainly due to a lower proportion of overheads being allocated to the ACLC. The ACCC has continued to receive funding for additional inquiry and priority work. The AER, which forms part of the ACCC, has also been provided additional ongoing funding to strengthen its capacity to regulate Australia's energy markets. The result of these changes will lead to overhead allocations being absorbed by a larger base, and therefore, reduce the overheads calculated as part of the ACLC function. Information on the additional funding received by the ACCC is contained in its 2019–20 Portfolio Budget Statements¹⁷ and 2019–20 Portfolio Additional Estimates.¹⁸

The forecast increases in the grant for consumer representation and research reflect indexation movements.

¹⁶ www.budget.gov.au/2019-20/content/bp2/index.htm

¹⁷ ACCC 2019–20 Portfolio Budget Statements, https://treasury.gov.au/sites/default/files/2019-04/pbs_2019-20_04_acc.pdf, p.77.

¹⁸ ACCC 2019–20 Portfolio Additional Estimates Statements, https://treasury.gov.au/sites/default/files/2020-02/p2020-54024paes_0.pdf, p.45.

7A. Financial performance

Historical actual financial results for ACLC for 2018–19 and previous financial years are in Table 19.

Table 19: Historical ACLC expenses and revenue

Ref. in the Act	Component	2018–19 (\$million)	2017–18 (\$million)	2016–17 (\$million)	2015–16 (\$million)	2014–15 (\$million)
15(1)(a)	ACMA telecommunications expenses	13.319	13.398	14.304	14.405	17.572
15(1)(b)	ACCC telecommunications expenses (include the costs for the MBA program since 2017–18)	11.878	13.296	13.109	13.641	15.107
15(1)(c)	Commonwealth's ITU contribution	2.030	2.004	2.004	2.062	1.861
15(1)(ca)	Amounts reimbursed to industry groups for development or variation of consumer protection related industry codes	0	0	0	0.086	0
15(1)(d)	Estimated government grants – consumer representation and research	2.296	2.261	2.230	2.196	2.164
Total expenses		29.523	30.959	31.647	32.390	36.704
15(1)(a)	ACMA telecommunications revenue	13.398	14.304	14.405	17.572	19.654
15(1)(b)	ACCC telecommunications revenue (include the revenue for the MBA Program since 2017–18)	13.296	13.109	13.641	15.107	14.975
15(1)(c)	Commonwealth's ITU contribution	2.060	2.004	2.262	1.861	1.860
15(1)(ca)	Amounts reimbursed to industry groups for development or variation of consumer protection related industry codes	0	0	0.086	0	0
15(1)(d)	Estimated government grants – consumer representation and research	2.296	2.261	2.230	2.196	2.164
Total revenue		31.050	31.678	32.624	36.736	38.653
Balance		1.527	0.719	0.977	4.346	1.949

Note: The revenues for 15(1)(a), 15(1)(b) and 15(1)(ca) are based on the previous year's expenditure. The revenue for 15(1)(c) is derived by averaging the expenditure for the year in which the charges are made and the previous year. The revenue for 15(1)(d) is based on the same year's expenditure. Further details appear in section 6.

As the ACLC is set on an annual basis, the actual costs of activities are ascertained before they translate into the charges for the applicable period. This reduces the risk of over or under recovery from the telecommunications industry. The balance reflects the surplus or deficit that occurred due to the lag between the actual expenses incurred and the recognition of the corresponding revenue, as noted in section 6 above.

The ACMA's component decreased by 18% in 2015–16, which was mainly attributable to lapsed funding for the NBN regulatory framework and a reduction in numbering management costs due to outsourcing the ACMA's numbering allocation activities. The reduction of the ACMA's expenditure in the 2017–18 financial year relates to mainly re-prioritisation of resources in making telecommunications labelling notices and standards. The increase in the ACMA's expenditure in the 2018–19 financial year is explained in section 3.1.2 under Table 8.

The reduction of the ACCC's expenditure in the 2018–19 financial year is explained in section 3.2.2 following Table 12.

7B. Non-financial performance

The ACMA's cost component

The ACMA's performance measures for its deliverables for telecommunications services are provided in Table 20.

Table 20: Deliverables and key performance indicators (KPIs)

Deliverable	KPI
Administration of licensing and number allocation arrangements promotes efficiency, innovation and competition in the Australian telecommunications industry	Administration of numbering allocation and licensing arrangements is efficient; allocation of 90% of licences is within statutory time frames and the numbering provider meets 100% of contractual milestones
Facilitation of the efficient review of telecommunications operational codes to ensure effective operation	Decision whether to register all operational codes made within 2 months of receipt
In partnership with industry, working to improve the performance of Australia's emergency call service, ensuring the security and reliability of critical infrastructure, and facilitating collaboration between law enforcement, industry and government stakeholders	Law enforcement, emergency and national security service providers are appropriately and reasonably supported by the ACMA and telecommunications industry Facilitation of emergency call service obligations is efficient, with 100% of investigations into compliance and other activities completed within an average of 6 months
Maintain effective telecommunications safeguards	Consumer interests are protected and promoted when telecommunications services are purchased and used
Develop and maintain appropriate regulatory settings for an information economy and network society	Industry and business have sufficient confidence in regulatory settings to continue development of innovative communications

The actual performance for the ACMA's deliverables for the 2018–19 financial year is published in Chapter 3 of the ACMA's [Annual report 2018–19](#).

The ACCC's cost component

The ACCC is responsible for the economic regulation of the communications sector, which includes:

- > assessing and enforcing terms of access to the NBN in a SAU from NBN Co
- > assessing and enforcing Telstra's SSU and plan to migrate its customers to the NBN
- > setting wholesale prices and terms of access for declared services
- > monitoring and reporting on prices and competition in the communications sector
- > investigating claims of anti-competitive conduct in the communications sector.

The ACCC advises that its performance measures for these deliverables include:

- > completing inquiries within statutory time frames
- > providing outcomes that improve consumer welfare, are in the long-term interests of telecommunications end users, protect competition, and open markets to competition
- > contributing to market and competition analysis and investigations (especially under Part IV of the Competition and Consumer Act) for content, media and application services delivered over telecommunications networks
- > advising other areas of the ACCC on implications of convergent technologies in the context of mergers, adjudication and enforcement activities
- > formulating briefing material and submissions to major government reviews and policy processes, such as inquiries regarding the NBN, spectrum allocation, consumer safeguards, Senate estimates and other public inquiries.

ITU contribution

As the ITU is responsible for the International Telecommunication Regulations, its main deliverables are to promote international cooperation, collaboration and regulation as appropriate, and to support domestic priorities in the telecommunications industry, so that industry, business and government can effectively engage in the international telecommunications landscape.

Government grants – consumer representation and research

Section 593 of the Telco Act enables the minister to make grants of financial assistance to consumer bodies to support consumer representation in the telecommunications sector and to persons or bodies in connection with research into the social, economic, environmental or technological implications of developments. ACCAN has been the sole recipient of the grant since 2009–10 and is expected to continue to be given this financial assistance to enable it to conduct activities necessary for an effective peak communications consumer advocate, including representation, research, consumer education and participation in self-regulatory activities.

ACCAN also operates a competitive independent grants program, which allows individuals and organisations to undertake research or representation projects in the interest of the telecommunications consumer.

8. Key forward dates and events

Reflecting the annual nature of the ACLC, the CRIS is updated on an annual basis. The key forward events and dates for the ACLC process for the 2020–21 financial year are provided in Table 21.

Table 21: Key forward dates and events

Key events	Date
Update of forward estimates	November 2021
Update of actual costs	November 2021

9. CRIS approval and change register

Table 22: Change register

Date	Description	Approved by	Comments
7 June 2021	Approval of the 2019–20 CRIS	The Minister for Communications, Urban Infrastructure, Cities and the Arts	
24 May 2021	Certification of the 2019–20 CRIS	ACMA Chair	
29 March 2021	Consultation for 4 weeks in the 2019–20 draft CRIS	ACMA Authority	
26 November 2019	Approval of the 2018–19 CRIS – Version 5.1	The Minister for Communications, Cyber Safety and the Arts	
30 October 2019	Certification of the 2018–19 CRIS – Version 5.1	ACMA Chair	
22 July 2019	Consultation for 4 weeks on the 2018–19 draft CRIS – Version 5.0	ACMA Authority	
13 December 2018	Approval of the 2017–18 CRIS – Version 4.1	The Minister for Communications and the Arts	
8 November 2018	Certification of the 2017–18 CRIS – Version 4.1	ACMA Chair	
12 April 2018	Consultation for 6 weeks on the 2017–18 draft CRIS – Version 4.0	ACMA Authority	
17 July 2017	Approval of the 2016–17 CRIS – Version 3.1	The Minister for Communications and the Arts	
29 June 2017	Certification of the 2016–17 CRIS – Version 3.1	ACMA Acting Chair	
18 April 2017	Consultation for 4 weeks on the 2016–17 draft CRIS – Version 3.0	ACMA Authority	

Date	Description	Approved by	Comments
30 May 2016	Approval of the 2015–16 CRIS – Version 2.0	The Minister for Communications and the Arts	
18 May 2016	Certification of the 2015–16 CRIS – Version 2.0	ACMA Acting Chair	
24 June 2015	Approval of the 2014–15 CRIS – Version 1.0	The Minister for Communications	
29 May 2015	Certification of the 2014–15 CRIS – Version 1.0	ACMA Chair	

Glossary

2017 Direction	Australian Communications and Media Authority (Annual Carrier Licence Charge) Direction 2017
ABM	Activity Based Management
ACCAN	Australian Communications Consumer Action Network
ACCC	Australian Competition and Consumer Commission
ACLIC	Annual Carrier Licence Charge
ACMA	Australian Communications and Media Authority
ACMA Act	<i>Australian Communications and Media Authority Act 2005</i>
AER	Australian Energy Regulator
APC	Annual program costs by financial year
ASL	Average Staffing Level
CCF	Consumer Consultative Forum
CRIS	Cost Recovery Implementation Statement
CSP	Carriage Service Provider
DITRDC	Department of Infrastructure, Transport, Regional Development and Communications
ER	Eligible revenue
FLC	The total number of NBN fixed-line connections operated by the monitored service provider in a test segment
FTTN	Fibre-to-the-node
Guidelines	Australian Government Cost Recovery Guidelines (RMG 304)
ICT	Information and communication technology
IPND	Integrated Public Number Database
IT	Information technology
ITU	International Telecommunication Union
ITU-D	International Telecommunication Union – Development Sector
ITU-R	International Telecommunication Union – Radiocommunication Sector
ITU-T	International Telecommunication Union – Telecommunication Standardization Sector
MBA	Measuring Broadband Australia
MCA	Maximum charge amount
NBN	National Broadband Network
NBN Co	NBN Co Limited
OTC	Other telecommunications charges
POI	Point of Interconnection
RSP	Retail service provider

SAU	Special access undertaking
SIO	Services in operation
SSU	Structural separation undertaking
TCP	Telecommunications Consumer Protections Code
TCPSS Act	<i>Telecommunications (Consumer Protection and Service Standards) Act 1999</i>
Telco Act	<i>Telecommunications Act 1997</i>
TER	Total eligible revenue
TFLC	The total number of NBN fixed-line connections operated by all monitored service provider.
the Act	<i>Telecommunications (Carrier Licence Charges) Act 1997</i>
TIO	Telecommunications Industry Ombudsman

Attachment A: Telecommunications activities not included in the ACLC

Smartnumbers allocation activities

The costs associated with the allocation of smartnumbers in the numbering system are not recovered from industry on the basis that costs would be offset by allocation proceeds, except for a registration charge, which is cost recovered on a fee basis for the use of the numbering system.

Spam and e-security activities

These activities include anti-spam activities carried out in accordance with the *Spam Act 2003* and e-security activities. The costs associated with these activities are considered not appropriate to recover from telecommunications carriers, as the direct beneficiaries are the members of the public.

Do Not Call Register and telemarketing-related activities

In accordance with subsection 15(4) of the Act, the activities conducted under the DNCR Act and the Telco Act, to the extent that they relate to telemarketing, do not form part of the ACMA's telecommunications functions and powers for the purposes of the Act.

Public information activities

These activities include the production of information on consumer awareness for the matters initiated by the public. The costs of these activities are considered to be more appropriately met through budget funding.

Other telecommunications activities

The following activities are delivered on a fee-for-service basis or taxation:

- > carrier licence applications
- > nominated carrier declaration licence applications
- > numbering applications for allocation of geographic numbers
- > numbering applications for allocation of numbers charged under the *Telecommunications (Numbering Charges) Act 1997*
- > submarine cable installation permit applications
- > connection permit applications.

Attachment B: Cost Recovery Implementation Statement – Measuring Broadband Australia program

1. Introduction

1.1 Purpose of the Cost Recovery Implementation Statement

This addendum to the Annual Carrier Licence Charge (ACLC) Cost Recovery Implementation Statement (CRIS) provides information on how the Australian Communications and Media Authority (ACMA) incorporates the portion of the Australian Competition and Consumer Commission's (ACCC) costs, which is determined under paragraph 15(1)(b) of the Act, that relates to its Measuring Broadband Australia (MBA) program. This addendum is required as the method for recovering MBA program costs differs from that used to recover the costs of other activities funded via the ACLC. Accordingly, the information in this CRIS addendum has been provided by the ACCC.

This statement reports financial performance for 2017–18 and 2018–19 financial years and contains financial forecasts for the 2019–20 financial year and 2 forward years (financial years 2020–21 to 2021–22).

1.2 Background and description of activity

Under the *Telecommunications (Carrier Licence Charges) Act 1997* (the Act), the ACLC is used to fund the exercise of the ACMA's and ACCC's telecommunications functions and powers, the Commonwealth's contribution to the International Telecommunications Union (ITU) and relevant telecommunications grants made by the Minister for Communications, Urban Infrastructure, Cities and the Arts (the minister). Costs associated with the MBA program are included in the ACCC's determination of its costs under paragraph 15(1)(b) of the Act and are therefore to be recovered via the ACLC, consistent with the ACCC's functions of monitoring the telecommunications industry and promoting competition and consumer benefits.

The MBA program monitors National Broadband Network (NBN) fixed-line services provided by carriers and carriage service providers with significant market presence, including resellers (which currently represent less than 10% of NBN fixed-line access connections).

The key output of the MBA program is public reporting of objective and reliable information of the performance and reliability of fixed-line broadband services to inform consumers.

Consistent with the Australian Government Charging Framework 2015 and the Act, costs of the MBA program will be recovered in arrears from monitored carriers via the ACLC.

For more information about the MBA program, please refer to [ACCC website](#).

1.3 Stakeholders

The key stakeholders are the ACCC, and telecommunications carriers, carriage service providers, industry bodies (for example, Communications Alliance), consumers

and consumer bodies – for example, the Australian Communications Consumer Action Network (ACCAN).

2. Policy and statutory authority to undertake cost recovery

2.1 Government policy approval to recover costs

As an outcome of the Communications Portfolio Charging Review in the 2014–15 financial year, the government confirmed the appropriateness of cost recovery through the ACLC for the exercise of the ACCC's telecommunications functions and powers. The activities undertaken under the MBA program form part of the ACCC's statutory responsibilities of monitoring industry and the providing information to consumers.

In April 2017, the government announced the introduction of the MBA program, to be administered by the ACCC.¹⁹ Funding of \$7.0 million over 4 years (to 2020–21) was provided to the ACCC to establish the MBA program as part of the 2017–18 Budget.²⁰ The ACMA's role is to administer the cost recovery for the MBA program as part of the existing ACLC cost-recovery process from the financial year 2018–19.

2.2 Statutory authority to impose cost recovery charges

Section 12 of the Act imposes an annual charge on carrier licences that are in force at the beginning of a financial year (1 July 2019 for the purposes of this CRIS).

Subsection 14(1) of the Act specifies that the amount of the charge to be imposed on a carrier licence is the amount ascertained in accordance with a written determination made by the ACMA.

Subsection 15(1) of the Act requires that the total of the charges that are imposed on carrier licences in force at the beginning of a financial year must not exceed the sum of the cost components identified in paragraphs 15(1)(a) to 15(1)(d) of the Act (see Table 1).

The ACCC's determination in relation to the costs described in paragraph 15(1)(b) of the Act, relates to the ACCC's telecommunications powers and functions. The ACCC will incorporate the relevant costs applicable to the MBA program. Further information on the contribution of the MBA program to these cost components is provided in Section 3.1 (below).

All determinations will be registered on the Federal Register of Legislation and commence before the invoices for the ACLC are forwarded by the ACMA to the licensed carriers.

¹⁹ Australian Competition and Consumer Commission (2017), *ACCC to monitor Australia's broadband performance*, www.accc.gov.au/media-release/accc-to-monitor-australias-broadband-performance; Senator the Hon Mitch Fifield (2017).

²⁰ Portfolio Budget Statements 2017–18 Budget Related Paper No. 1.16 Treasury Portfolio, <https://static.treasury.gov.au/uploads/sites/1/2017/06/PBS-2.pdf>, p. 83.

Table 1: Structural components of the ACLC applicable to MBA program

Reference in the Act	Cost component
15(1)(a)	Not applicable – ACMA’s cost component
15(1)(b)	The ACCC’s cost component – this is to incorporate relevant costs applicable to the MBA program
15(1)(c)	Not applicable – Commonwealth’s contribution to the International Telecommunication Union (ITU)
15(1)(ca)	Not applicable – reimbursement of cost of developing or varying consumer protection-related industry codes
15(1)(d)	Not applicable – government grants – consumer representation and research

3. Cost recovery model

There are 5 distinct activities (cost components) that are included in the total amount of the ACLC and levied on carrier licences on an annual basis. The ACCC’s cost component under paragraph 15(1)(b) of the Act (see below) will include an additional cost for its telecommunications functions relating to the administration of the MBA program for the period 2018–19 to 2021–22.

3.1 Determination of cost component under paragraph 15(1)(b) of the Act – the ACCC’s MBA-related activities

3.1.1 Outputs and business processes of the activity

This component represents the ACCC’s costs incurred during 2018–19 in delivering the MBA program that are attributable to its telecommunications functions and powers. While the ACCC has a range of telecommunications functions and powers, any outputs of business processes that do not map directly to the MBA program delivery are not included in determining this cost component.

The delivery of the MBA program is underpinned by a number of key business processes, the cost of which is to be charged to industry. These processes include:

- > recruitment of potential participants and selection of participants receiving broadband services matching those the ACCC has chosen to include in its reporting (for example, certain combinations of broadband technology, retail service providers and speed tier²¹)
- > distribution and management of monitoring devices
- > collection of NBN fixed-line speed and reliability data from approximately 4,000 volunteers across different service providers and different retail offerings
- > analysis of test results to determine speed and reliability, and identify causes of performance issues
- > regular publication of detailed real-world performance (speed/reliability) data.

The cost of these charges to industry will be calculated annually by the ACCC and is included in its paragraph 15(1)(b) determination so that it can be recovered through the existing ACLC charging framework.

²¹ Speed tier refers to the NBN speed option being used to provide the volunteer’s broadband service (for example, 12/1 Mbps, 25/5 Mbps), being a speed tier that the ACCC has chosen to include in its reporting.

The MBA program will undergo an evaluation after 3 years of operation. Any proposal for an extension of its 4-year term will require a new policy proposal in the budget context and will need to comply with the applicable Budget Process Operational Rules and Charging Framework.

3.1.2 Costs of the activity

The primary cost drivers for the MBA are:

- > purchase and distribution of monitoring devices (one per monitored service)
- > maintenance of test servers
- > ongoing maintenance and/or replacement of testing devices as needed
- > recruitment and maintenance of volunteer base
- > establishment and operation of testing servers and system, including software, hosting and bandwidth charges
- > production of quarterly and other reports based on the MBA program data.

Table 2 provides details of the ACCC’s MBA program expenses by financial year that was originally profiled. The estimated total cost of the program over 4 years is \$6.974 million.

Table 2: The ACCC’s anticipated program expenses

Expense	Budget 2017–18 million	Budget 2018–19 million	Budget 2019–20 million	Budget 2020–21 million
MBA budgeted program expenses	\$1.997	\$1.684	\$1.642	\$1.651

Costs associated with ACCC project and contract management, and publishing of results is not cost recovered under the MBA program. Instead, these costs will be recovered through the ACLC component (other than the MBA program costs) attributable to paragraph 15(1)(b) of the Act.

The ACCC’s paragraph 15(1)(b) component for the MBA program 2019–20, representing the costs incurred during 2018–19, has been calculated at \$1,702,406 as disclosed in Table 3 below. The budget for 2018–19 was \$1,684,000 (as reflected in the table above) and therefore the cost of providing MBA services was \$18,406 higher than expected. The variance resulted from timing issues with the start-up phase which meant the ACCC would not become liable for costs until later than originally anticipated. The ACCC still expects to finish budget neutral at the end of the program, meaning the future financial years will have expenditure slightly greater than originally profiled in Table 2. The revised budget profile has been presented in Table 5.

Table 3: The ACCC’s cost component for the MBA program

Costs	2019–20 ACLC (based on 2018–19 costs)	2018–19 ACLC (based on 2017–18 costs)	% change*
MBA program expenses	\$1,702,406	\$1,531,854	11.1%

*Increase/(decrease).

3.2 Design of cost recovery charges

The portion of the efficient costs of the program to be cost recovered (as opposed to the proportion of costs which are being absorbed) are to be levied on the carriers whose services are subject to testing via the program (that is, they are the recipients of the activity), through the ACLC calculation, for the duration of that testing. Note that this includes levying both retail carriers whose own retail services are being monitored, and wholesale carriers where their reseller's retail services are being monitored. In accordance with the calculation of the ACLC levy, and the 2017 Direction, non-participating persons (that is, the smaller carriers) within the meaning of the Telecommunications (Participating Persons) Determination 2015 must be exempted from the liability to any ACLC associated with the MBA program or any other telecommunication costs.

The costs imposed on a carrier via the ACLC for the MBA program is calculated according to the following formula:

$$APC \times \frac{FLC}{TFLC}$$

Where:

- > APC is the MBA annual program costs, incurred by the ACCC, during the financial year as determined by the ACCC as part of its paragraph 15(1)(b) determination.
- > FLC is the total number of NBN fixed-line connections operated by the monitored service provider who is also a participating person in a test segment during the financial year.
- > TFLC is the total number of NBN fixed-line connections operated by all monitored service providers who are also participating persons.

The MBA program provides information about a variety of monitored 'test segments', namely fixed-line NBN connection classes each comprising an access technology and/or by speed tier. Annual MBA program costs are allocated to each carrier based upon the volume of fixed-line NBN connections that they acquired in the relevant period within these 'test segments' expressed as a proportion of the total number of such connections acquired by all monitored service providers who are also participating persons.

The number of NBN fixed-line connections in any financial year will be established based on NBN's quarterly reporting to the ACCC on the number of fixed-line NBN connections.

Partial year participation in the MBA program will be charged on a pro-rata basis on the number of quarters in which monitoring occurs. It is not anticipated that monitoring of providers will change within a given financial year, however, this methodology accommodates new NBN service provider entrants.

Invoicing for the charging activity will occur in accordance with existing ACLC arrangements. The activities funded by the ACLC may be subject to future Communications Portfolio Charging Reviews.

4. Risk assessment

A risk assessment has been completed for each component of the MBA program cost recovery, resulting in an overall risk rating of medium, with the following individual ratings for each cost component set out in Table 4 below.

Table 4: Risk ratings for MBA cost recovery

Risk factor	Rationale for risk rating	Risk rating
What is the change in annual cost-recovery revenue for the activity?	Resulting change to total ACLC of less than 5%	Low
What is the total annual cost-recovery revenue for the activity?	Total annual cost recovery of less than \$10 million	Low
What does the policy proposal or change in the cost-recovered activity involve?	Introduction of cost recovery for a new activity or for an existing activity (or its components) that has not been cost recovered previously	High
What type of cost-recovery charges will be used?	Fees only or fees and levies	Medium
What legislative requirements are necessary for the imposition of cost-recovery charges?	Does not involve primary legislation but does involve the making of subordinate legislation	Low
Does the proposal involve working with other Commonwealth, state/territory and/or local government entities?	Involves only Commonwealth entities	Low
What will be the expected impact of cost recovery on payers?	The additional cost imposed by the program is low	Low
What consultation has occurred with payers and other stakeholders about the cost recovery?	Consultation yet to be undertaken	Not applicable
Overall rating		Medium

The above risk rating is based on assessment of the criteria in the [Regulatory Charging Risk Assessment template \(under 'tools and templates'\)](#). Due to an overall risk rating of medium²², this CRIS can be approved by the responsible minister for release to commence charging and does not require approval from the Finance Minister.

²² Overall risk rating is determined according to the formula published at www.finance.gov.au/government/managing-commonwealth-resources/managing-money-property/managing-money/australian-government-charging-framework/charging-activities.

5. Stakeholder engagement

In August 2013, the ACCC released a consultation paper, *Broadband Performance Monitoring and Reporting in the Australian Context*. The paper outlined the policy rationale for the MBA program, noted similar international examples and sought views on questions of methodology and the reporting approach.

The consultation produced a range of views from stakeholders. Support for the development of measurement tools and other technologies to better inform the consumer was expressed by ACCAN, Choice, Google and NBN Co Limited (NBN Co).

A number of stakeholders, including Telstra, Optus and AAPT indicated that they would like greater clarity on the ACCC policy objectives and raised concerns around certain features of the proposed program. In particular, Communications Alliance expressed strong doubts that consumers want or would benefit from the information that the program would produce.

All submitters expressed a strong preference to remain engaged with the ACCC over the further development of the program. The ACCC provided an open letter in response to submissions in October 2013, expanding on its policy objectives and responding to issues raised in the stakeholder submissions.

Following the release of the open letter, the ACCC conducted a 'closed' consultation process from December 2013 through March 2014. This gave key industry stakeholders the chance to discuss their views with the ACCC in more detail and to provide further input on specific issues associated with the design and implementation of the proposed MBA program.

The ACCC subsequently released a [position paper](#) in June 2014 that outlined the proposed program specifications taking into account previous consultations and introduced the pilot MBA program. The pilot was conducted over a period of 3 months from March to May 2015.

In September 2015, the ACCC released a [report](#) on the results from the pilot program and noted that further consideration and consultation was needed to determine which funding model would receive support and cooperation.

Following the government's decision to proceed with the MBA program in April 2017, the ACCC published a request for tender on AusTender on 30 May 2017. The competitive open tender to appoint a testing provider closed on 26 June 2017. The tender was conducted in accordance with Commonwealth government procurement policy and rules.

The former Department of Communications and the Arts consulted with both industry and government bodies and informed these parties that it is proposed that funding will be recovered through the ACLC.

A draft CRIS addendum was published on the ACMA's website for a 6-week period from 16 April 2018 for public comment.

On 7 and 8 December 2017, the ACCC hosted 2 briefings delivered by the successful testing provider, SamKnows for industry participants including key retail service providers and their representative bodies. During the workshop SamKnows' representatives delivered detailed presentations covering the technical aspects of the program and the testing methodologies.

The ACCC published its first MBA report in March 2018. The release of the report was preceded by an industry briefing involving carriers covered by the report as well as other stakeholders. The last report published during the 2018–19 financial year was in May 2019. All published reports are located on the [MBA website](#).

6. Financial estimates

Financial estimates for the cost of providing the MBA program for the financial year 2019–20 and 3 forward years are provided in Table 5.

Table 5: Financial performance and estimates by activity

Component	2017–18 Actual (\$million)	2018–19 Actual (\$million)	2019–20 budget (\$million)	2020–21 budget (\$million)	2021–22 budget (\$million)
MBA program expenses	1.532	1.702	1.863	1.877	0.0
ACLC revenue	0.0	1.532	1.702	1.863	1.877
Balance	(1.532)	(0.170)	(0.161)	(0.014)	1.877
Cumulative balance	(1.532)	(1.702)	(1.863)	(1.877)	0.0

These costs will be recouped through the ACLC, to be determined by the ACMA under section 14 of the Act. These charges are levied in the financial year after the financial year in which the costs are incurred, resulting in a deficit equal to the previous financial year's expenses being carried forward.

Overall, the MBA program is expected to finish budget neutral. The administrative costs associated with implementing the MBA program will not be cost recovered using the formula set out at section 3.2 of this Attachment B, but instead will be captured in the component of the ACLC determined under paragraph 15(1)(b) of the Act, using the formula based on the eligible revenue set out at section 3.6 of the CRIS.

7A. Financial performance

The 2017–18 and 2018–19 financial results for the MBA program are reported in Table 5 (above).

Following the approach for all the cost components recovered through the ACLC, the MBA program expenses are also set on an annual basis. This means the actual costs of activities are ascertained before they translate into the charges for the applicable period. This reduces the risk of over or under recovery from the telecommunications industry.

7B. Non-financial performance

The ACCC is responsible for the economic regulation of the communications sector, which includes:

- > assessing and enforcing terms of access to the NBN in a standard access undertaking (SAU) from NBN Co
- > assessing and enforcing Telstra's structural separation undertaking (SSU) and plan to migrate its customers to the NBN
- > setting wholesale prices and wholesale terms of access for declared services
- > monitoring and reporting on prices and competition in the communications sector
- > investigating claims of anti-competitive conduct in the communications sector.

The ACCC's performance measures for these deliverables include:

- > completing inquiries within statutory timeframes
- > providing outcomes that improve consumer welfare, are in the long-term interests of telecommunications end-users, protecting competition and opening markets to competition
- > contributing to market and competition analysis and investigations (especially under Part IV of the *Competition and Consumer Act 2010*) in relation to content, media and application services delivered over telecommunications networks
- > advising other areas of the ACCC on implications of convergent technologies in the context of mergers, adjudication and enforcement activities
- > formulating briefing material and submissions to major government reviews, such as inquiries regarding the NBN, spectrum, consumer safeguards, Senate Estimates and other public inquiries.

Table 6 provides comparisons between forecast and actual monitoring device deployment. The device deployments lagged in 2017–18 because of the longer than expected start-up phase of the MBA program and delays in the NBN rollout. The latter required the program to delay device deployments in order to achieve a representative sample on the newer access technologies and later release sites.

Table 6: The ACCC's device deployment profile

Details	2017–18	2018–19	2019–20	2020–21
Original forecast of total number of measurement devices deployed	2,500	3,300	3,800	>=4,000
Actual total number of measurement devices deployed	1,200	2,100	To be reported	To be reported
Variation	(1,300)	(1,200)	To be reported	To be reported

The ACCC publishes reports of MBA program results on its websites, [Measuring Broadband Australia program](#) and [Broadband performance data](#). Further non-financial performance data will be included in future CRIS documentation.

8. Key forward dates and events

Reflecting the annual nature of the ACLC, the CRIS relating to the MBA program costs will also be updated on an annual basis. The key forward events and dates for the ACLC process for the 2019–20 financial year are provided below in Table 7.

Table 7: Key forward dates and events

Key events	Date
Update of forward estimates	By November 2021
Update of actual costs	By November 2021

Attachment C: ACLC for 2019–20

Item	Carrier name	Eligible revenue 2018–19	ACLC 2019–20 (excl MBA)	Fixed line connections 2018–19	ACLC MBA 2019–20	Total ACLC 2019–20
1	AARNet Pty Ltd	\$54,703,805	\$60,014			\$60,014
2	Allegro Networks Pty Ltd	\$2,034,336	\$2,232			\$2,232
3	BigAir Cloud Managed Services Pty Ltd	\$1,376,038	\$1,510			\$1,510
4	Bigair Group Pty Limited	\$17,876,844	\$19,612			\$19,612
5	Chime Communications Pty Ltd	\$384,736,397	\$422,084	373,757	\$125,737	\$547,821
6	Integrated Data Labs Pty Ltd	\$206,848	\$227			\$227
7	Intelligent IP Communications Pty Ltd	\$2,322,130	\$2,548			\$2,548
8	Macquarie Telecom Pty Limited	\$73,944,041	\$81,122			\$81,122
9	NBN Co Limited	\$1,679,414,774	\$1,842,440			\$1,842,440
10	New Skies Satellites Australia Pty Ltd	\$20,455,059	\$22,441			\$22,441
11	Nextgen Networks Pty Limited	\$95,217,141	\$104,460			\$104,460
12	Nuskope Pty Ltd	\$9,835,019	\$10,790			\$10,790
13	O3b Teleport Services (Australia) Pty Ltd	\$49,318,902	\$54,106			\$54,106
14	Opticomm Ltd	\$29,335,213	\$32,183			\$32,183
15	Optus Fixed Infrastructure Pty Limited	\$20,341,110	\$22,316			\$22,316
16	Optus Mobile Pty Ltd	\$3,794,654,063	\$4,163,012	787,598	\$264,959	\$4,427,971
17	Optus Networks Pty Limited	\$1,152,897,559	\$1,264,813			\$1,264,813
18	Optus Satellite Network Pty Ltd	\$162,460,761	\$178,231			\$178,231
19	Over The Wire Pty Ltd	\$28,493,686	\$31,260			\$31,260
20	Pivotel Group Pty Limited	\$42,056,143	\$46,139			\$46,139
21	Primus Telecommunications Pty Limited	\$221,032,677	\$242,489			\$242,489
22	Skiron OpCo Pty Ltd	\$603,663	\$662			\$662
23	Soul Pattinson Telecommunications Pty Limited	\$841,764,134	\$923,477	817,742	\$275,100	\$1,198,577
24	Speedcast Australia Pty Ltd	\$67,688,205	\$74,259			\$74,259
25	Superloop (Australia) Pty Ltd	\$5,330,840	\$5,848	2,855	\$960	\$6,809
26	Telstra Corporation Limited	\$14,514,205,847	\$15,923,141	2,600,765	\$874,935	\$16,798,076
27	Telstra Multimedia Pty Limited	\$35,088,708	\$38,495			\$38,495
28	Uecomm Pty Limited	\$62,347,716	\$68,400			\$68,400

Item	Carrier name	Eligible revenue 2018–19	ACL 2019–20 (excl MBA)	Fixed line connections 2018–19	ACL MBA 2019–20	Total ACL 2019–20
29	Victorian Rail Track	\$37,274,953	\$40,893			\$40,893
30	Vocus Fibre Pty Ltd	\$197,753,333	\$216,950	426,407	\$143,450	\$360,399
31	Vodafone Australia Pty Limited	\$1,851,175,754	\$2,030,875	51,317	\$17,264	\$2,048,138
Totals		\$25,455,945,699	\$27,927,027	5,060,441	\$1,702,406	\$29,629,433

Attachment D: Summary of issues raised in industry consultation, ACLC 2019–20

Recommendation/Issue	Response
Communications Alliance	
<p>1. Provide stakeholders with access to the results of the independent audit on the ACMA's 2018–19 ACLC costs.</p>	<p>The independent audit found the ACMA Activity Based Management (ABM) model used to calculate the ACMA ACLC component employed a sound methodology, and no issues were identified with the accuracy of the input data. The ABM model was also found to be arithmetically sound.</p> <p>Page 15 of the CRIS has been updated to reflect the above statement.</p>
<p>2. The NBN Consumer Experience Rules costs of \$2.6m identified in the draft ACLC CRIS contradicts the \$1.5m in costs estimated in the 2018–19 short-form Regulatory Impact Statement developed for this matter.</p>	<p>The \$1.49m in average annual costs referenced in the short form RIS reflects the estimated regulatory costs to business of the NBN Consumer Experience Rules. These were assessed in accordance with the Regulatory Burden Measurement Framework (the Framework) and reflect the costs to business of:</p> <ul style="list-style-type: none"> > reporting and recordkeeping > updates to existing training/learning development requirements > updates to operating processes and minor system/IT changes. <p>The costs to be recovered from industry via the ACLC CRIS are those incurred by the ACMA to administer the NBN Consumer Experience Rules. These costs are separate to the \$1.49m reflected in the RIS – see https://archive.budget.gov.au/2017-18/myefo/MYEFO_2017-18.pdf (page 124).</p>
<p>3. What amount of money is being allocated (and cost recovered from industry) for the Consumer Safeguards Program?</p>	<p>The ACMA can confirm the Consumer Safeguards Program is \$4.2m over 5 years from 2019–20, with \$0.6m in ongoing funding from 2024–25.</p> <p>The original funding for the Consumer Safeguards Review Part A Program was \$7.2m over 4 years (2019–20 to 2022–23), with \$1.3m in ongoing funding from 2023–24. Therefore, this is equivalent to a total of \$8.5m over 5 years from 2019–20 to 2023–24.</p> <p>As reflected in the July 2020 Economic and Fiscal Update, the government reduced the original budget measure for the Consumer Safeguard Program by \$4.3m over 5 years from 2019–20 to \$4.2 million as the responsibility for direct oversight of the TIO was no longer required.</p> <p>Page 3 of the final CRIS has been updated to reflect the above statement.</p>

Recommendation/Issue	Response
<p>4. What exactly is the Consumer Safeguards Program? Is it simply enhanced analysis and reporting of TIO complaints data? How does that differ from the TIO's data analysis that industry already funds, and funding already provided for ACMA research, consumer safeguards monitoring and data analysis, and similar activities?</p>	<p>The Consumer Safeguards Program involves the collection, validation, analysis and reporting of consumer complaints made to carriage service providers. This data provides insights into the level and type of complaints made to carriage service providers and their performance in responding to them. This work has not previously been undertaken by the ACMA.</p> <p>In contrast, TIO data only covers complaints that are escalated to the TIO. The Consumer Safeguards Program does not involve reporting of TIO complaints data.</p> <p>As mentioned above, the ACMA's responsibility under the Consumer Safeguards Program no longer includes the direct oversight of the TIO.</p> <p>For further information on the Consumer Safeguards Program, please refer to www.communications.gov.au/documents/part-complaints-handling-and-consumer-redress-consumer-safeguards-review-report-minister.</p>
<p>5. ACCAN funding: Consideration should be given to exploring other cost recovery mechanisms from relevant stakeholders to reduce the proportionate contribution from carriers (given ACCAN's broad work program including digital platforms, captioning, and content on broadcast services).</p>	<p>DITRDC acknowledges these comments and will examine the issues raised.</p>
<p>Expansion of budget (MBA Program)</p> <p>6. The MBA program was initially developed with a specific set budget for its operation, of \$7m over 2 years. However, the draft CRIS does not clearly provide the costs that are funded and cost recovered under the MBA program and the costs that are recovered in the broader ACCC charges.</p> <p>As one of the intended outcomes of cost recovery is to 'increase cost consciousness for all stakeholders by raising awareness of how much a government activity costs', all costs for the MBA program should be captured under that program's budget and reported clearly in the financial reports.</p>	<p>The MBA program was developed with a specific budget for its operation, of \$7.2m over 4 years.</p> <p>This budget was intended to fund certain components of the program:</p> <ul style="list-style-type: none"> > probes > initial set up and maintenance of servers > operation of testing system > provision for replacement probes > initial program establishment > production of testing results. <p>However, this budget provision was not intended to fund other aspects of the program, including:</p> <ul style="list-style-type: none"> > ongoing project management and contract management > consultancy expenditure/probity on procurement advice > public consultation > analysis of testing results. <p>These areas of expenditure were intended to be funded as a cost off-set from within the ACCC's communications budget.</p>

Recommendation/Issue	Response
<p>Lack of whiteboxes (MBA Program)</p> <p>7. As previously raised by Communications Alliance, the under-deployment of whiteboxes does not align with the ACCC's claims that the program is being delivered on budget.</p> <p>For example: Although the table on page 50 of the Draft CRIS states that the number of devices deployed for 2019–20 and 2020–21 are 'to be reported', the published reports have included the number of deployed whiteboxes, and thus this information should be included in the CRIS. The most recent publication only reports on 1,199 whiteboxes, significantly below the 4,000 scheduled to be deployed.</p> <p>There should be some clarity on what adjustments will be made to the program's budget and resulting cost recovery. Additionally, the Draft CRIS states that there will be an update of forward estimates and actual costs in May. It would seem appropriate for this information – which would be at a maximum 2 weeks from publication – to be available for comment prior the finalisation of the CRIS.</p>	<p>The program maintains adequate numbers of operational probes to ensure accurate reporting (i.e., a statistical confidence level of 95%). Around 3,000 testing devices have been deployed during the life of the program, with some people who have received devices no longer participating in the program. In the initial forecasts, the ACCC anticipated releasing around 4,000 testing devices.</p> <p>The ACCC received almost 20,000 expressions of interest to volunteer as part of the program. Probes have been deployed with careful consideration of the fixed-line broadband market to provide an appropriate representative mix of service providers, speed tiers, locations and technologies that have then been reported on. This approach resulted in a more robust MBA data set that covered a broader range of fixed-line broadband service providers and services over time. The ACCC has always retained a pool of probes to allow for the continuous expansion of the MBA reports to cover emerging service providers and NBN fixed-line services. For example, in late 2020, the ACCC was able to add a 10th retail service provider to the MBA reports.</p> <p>Now that the MBA program is established, it has become clear that the volunteer panel size required to obtain statistically robust data with a sufficiently high degree of accuracy is lower than initially expected. The ACCC's current volunteer panel sizes is appropriate for each of the NBN access technologies monitored. Withholding some of the testing devices has the benefit of increasing flexibility to respond to market developments, and to some extent, decreases the program costs.</p> <p>Additionally, some devices may register results that are not statistically reliable and are removed from the reporting. The number of devices quoted in the reports exclude these.</p> <p>In relation to the reference about the update to the forward estimates and actual costs in May 21, as reflected in Table 7: Key Forward dates and events in Attachment B, this will be updated by November 2021, in line with the expected timing of the consultation of the 2020–21 ACLC CRIS.</p>
Optus	
<p>8. The cost of \$2.6m for the NBN Consumer Experience Rules is substantially above the \$1.5m in costs originally identified in the regulatory development process.</p>	<p>See response to issue 2.</p>

Recommendation/Issue	Response
<p>9. At the time the Ministerial Direction was made, there was no consultation with industry regarding the implementation and ongoing costs of the proposed regulations relating to the NBN Consumer Experience Rules. The Explanatory Statement to the Ministerial Direction notes that a Regulation Impact Statement (RIS) was prepared. However, this RIS is not available on the Office of Best Practice Regulation's website.</p>	<p>A short-form RIS was prepared, and the Office of Best Practice Regulation has confirmed that only a short form RIS was required (OBPR ID 23048).</p>
<p>10. The draft CRIS discusses proposed cost recovery for the Consumer Safeguards Program. What amount will be recovered from industry and what will the program entail?</p>	<p>See response to issue 3 regarding to the costs associated with the Consumer Safeguards Program.</p> <p>See response to issue 4 regarding activities captured within the Consumer Safeguards Program.</p>
<p>11. What activities are covered by costs related to the NBN Consumer Experience Rules?</p>	<p>The NBN Consumer Experience Rules include the development, compliance and enforcement of new rules to provide improved protection for Australian consumers migrating to and using NBN services. This includes:</p> <ul style="list-style-type: none"> > the development and implementation of industry standards related to NBN complaints handling (replacing coregulatory arrangements); > service provider determination related to line testing for faults and speed; > record-keeping rules for RSPs to monitor and report complaint numbers and for ACMA to make public > modem quality investigation to assess quality/routers on the market > auditing 73 providers and concluding 50 investigations into compliance with the new rules > issuing 28 formal warnings, 4 remedial directions and 7 infringement notices to providers for failing to comply with the new rules.
<p>12. The Cost Recovery Guidelines note that it is usually inappropriate to recover some government activities, such as general policy development, ministerial support or enforcement. Confirm that the costs for the Consumer Safeguards Program and the NBN Consumer Experience Rules do not include costs for activities such as general policy development, ministerial support, or enforcement.</p>	<p>As per the Australian Government Charging Framework (AGCF) and Cost Recovery Guidelines, it is usually inappropriate to recover some government activities, such as general policy development, ministerial support or law enforcement.</p> <p>Therefore, the ACMA can confirm that cost recovery relating to the Consumer Safeguards Program and the NBN Consumer Experience Rules Program does not include general policy development and ministerial support. However, page 6 of AGCF does allow for cost recovery of enforcement-related activities under both programs.</p>

Recommendation/Issue	Response
<p>13. ACCAN Funding: Consideration should be given to exploring other cost recovery mechanisms from relevant stakeholders to reduce the proportionate contribution from carriers (given ACCAN's broad work program including digital platforms, captioning, and content on broadcast services).</p>	<p>See response to issue 5.</p>
<p>14. NBN Co should contribute to the MBA Program costs.</p>	<p>The Australian Government Cost Recovery Guidelines (Resource Management Guide 304) states that 'The Australian Government's overarching cost recovery policy is that, where appropriate, non-government recipients of specific government activities should be charged some or all of the costs of those activities'. The MBA program's focus is testing and reporting on services provided by RSPs to consumers. The measurement devices deployed by the program test services provided by RSPs, and the collated results of those tests, are reported against the performance claims made by those RSPs.</p> <p>DITRDC and the ACCC acknowledge that the program's costs need to be recovered from the appropriate entities and note that the recently announced MBA program extension commencing in 2021–22 will be cost recovered from industry starting with the 2022–23 ACLC CRIS. Any changes to the cost recovery arrangements will be consulted on as part of the normal annual publication of the Draft CRIS.</p>