

# Draft Cost Recovery Implementation Statement

Annual Carrier Licence Charge for the  
charging period 1 July 2020 to  
30 June 2021

APRIL 2022

**Canberra**

Red Building  
Benjamin Offices  
Chan Street  
Belconnen ACT

PO Box 78  
Belconnen ACT 2616

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

**Melbourne**

Level 32  
Melbourne Central Tower  
360 Elizabeth Street  
Melbourne VIC

PO Box 13112  
Law Courts  
Melbourne VIC 8010

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

**Sydney**

Level 5  
The Bay Centre  
65 Pirrama Road  
Pyrmont NSW

PO Box Q500  
Queen Victoria Building  
NSW 1230

T +61 2 9334 7700  
F +61 2 9334 7799

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Written enquiries may be sent to:

Manager, Editorial Services  
PO Box 13112  
Law Courts  
Melbourne VIC 8010  
Email: [info@acma.gov.au](mailto:info@acma.gov.au)

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# 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 2020–21 financial year and 3 forward years (financial years 2021–22 to 2023–24). 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.

## 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* (ACMA Act) and the *Telecommunications Act 1997* (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 the following telecommunications costs:

- > the ACMA's cost including the cost of the Consumer Safeguards Part A program
- > the ACCC's cost including the cost of the MBA program

- > the amount reimbursed for the development or variation of industry codes under Part 6 of the Telco Act
- > the costs incurred by DITRDC for the Commonwealth's contribution for the International Telecommunication Union (ITU) membership (for telecommunications) 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.

The methodology for allocating the total ACLC (excluding the amount applicable to the Consumer Safeguards Part A program) to liable individual carriers, has not changed from the previous year. The amount applicable to the MBA program is allocated to liable individual licensed carriers based on the number of NBN fixed-line connections operated by monitored service providers who are also carriers. The methodology proposed to allocate the Consumer Safeguards Part A program costs for the 2020–21 financial year to the liable carriers that report under the Telecommunications (Consumer Complaints) Record-Keeping Rules 2018 (RKR) is based on each relevant carrier's eligible revenue for the previous year (2019–20).

For the 2020–21 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 (2019–20) 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 2019 and ended 30 June 2020 are, in effect, exempt from paying the ACLC for the 2020–21 financial year in accordance with The Australian Communications and Media Authority (Annual Carrier Licence Charge) Direction 2017<sup>1</sup> (the 2017 Direction).

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 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.<sup>2</sup> 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.

Any carrier who held a carrier licence on 1 July 2020, and was not a non-participating person during the period 1 July 2019 to 30 June 2020, is required to pay the ACLC for the 2020–21 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 2020.

### 1.3 Stakeholders

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

<sup>1</sup> This can be accessed from: [www.legislation.gov.au/Details/F2017L00542](http://www.legislation.gov.au/Details/F2017L00542).

<sup>2</sup> 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 in 2019–20, 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 decisions<sup>3</sup> 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 19 in this CRIS, and Table 5 in Attachment B.

#### Consumer safeguards

The government provided funding of \$4.2 million over 5 years from 2019–20 (\$3.2 million in operating costs and \$1.04 million in capital costs) and \$0.6 million per year ongoing from 2024–25 for the Consumer Safeguards program. The original funding<sup>4</sup> for this program was \$8.5 million, however, it was reduced by \$4.3 million as part of the July 2020 Economic and Fiscal Update<sup>5</sup>, as the responsibility for direct oversight of the Telecommunications Industry Ombudsman (TIO) by the ACMA was considered no longer necessary.

Under the program, the ACMA collects data and undertakes analysis to consider telecommunications industry and company performance. As part of the program, the ACMA also undertakes the following activities:

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

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<sup>3</sup> <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/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/bp2/bp2_consolidated.pdf)  
[https://archive.budget.gov.au/2009-10/myefo/MYEFO\\_2009-10.pdf](https://archive.budget.gov.au/2009-10/myefo/MYEFO_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/2013-14/bp2/BP2_consolidated.pdf)  
[https://archive.budget.gov.au/2014-15/bp2/BP2\\_consolidated.pdf](https://archive.budget.gov.au/2014-15/bp2/BP2_consolidated.pdf)

<sup>4</sup> <https://archive.budget.gov.au/2019-20/bp2/download/bp2.pdf> - see page 56

<sup>5</sup> <https://archive.budget.gov.au/2020-21/jefu/downloads/JEFU2020.pdf> - see page 149.

- > data management, analysis and visualisation, using Microsoft Power BI and the ACMA-developed data platform using Microsoft Azure
- > performance reporting under the Telecommunications (Consumer Complaints) Record-Keeping Rules 2018 (RKR) that relates specifically to Consumer Safeguards
- > resolving systemic issues – systemic and other issues arising from the analysis of the complaint data and issues referred from the TIO are investigated further by compliance and enforcement officers or 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 (1 July 2020 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 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 year<sup>6</sup>
- > held by a carrier that was a non-participating person for the eligible revenue period immediately preceding that financial year.<sup>7</sup>

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 2019–20 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.

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<sup>6</sup> The 2017 Direction defines relevant financial year as the financial year that begins on 1 July 2017 and each later financial year.

<sup>7</sup> The term 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 <sup>8</sup>
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 14 January 2021, the minister made the Telecommunications (Carrier Licence Charges) (Paragraph 15(1)(d)) Determination 2021 (No. 1)<sup>9</sup>, determining the estimated total amounts of grants likely to be made during the 2020–21 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.

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<sup>8</sup> 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.

<sup>9</sup> <https://www.legislation.gov.au/Details/F2021L00057>

## 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

The following table summarises the ACMA's costs that relate to the telecommunications functions and powers for the preceding financial year at the output level for the 2020–21 and 2019–20 ACLC, respectively.

**Table 2: the ACMA's ACLC costs for the 2019–20 and 2018-19 financial years**

Output	ACMA cost 2019–20	ACMA cost 2018–19	Variance \$	Variance %
Regulation development	\$5,890,735	\$6,500,012	(\$609,277)	(9%)
Industry monitoring and NBN	\$558,956	\$491,606	\$67,350	14%
Compliance, enforcement and consumer safeguards	\$5,193,700	\$4,692,687	\$501,013	11%
Licensing and allocation	\$951,760	\$800,203	\$151,557	19%
Other outputs	\$908,772	\$835,111	\$73,661	9%
<b>Sub-total</b>	<b>\$13,503,923</b>	<b>\$13,319,619</b>	<b>\$184,304</b>	<b>1%</b>
Consumer Safeguards – Part A	\$886,266	\$0	\$886,266	
<b>Total costs</b>	<b>\$14,390,189</b>	<b>\$13,319,619</b>	<b>\$1,070,570</b>	<b>8%</b>

The ACMA's costs, excluding the cost of Consumer Safeguards Part A program, increased marginally by \$0.18 million from \$13.32 million to \$13.50 million in comparison to the prior year. During the 2019–20 financial year, the ACMA undertook a number of new initiatives including:

- > the development of the Statutory Infrastructure Provider register which commenced following amendments to the Telco Act and providing input into the Network Reliability Framework review conducted by DITRDC.
- > urgent work on a report to the minister on the 'Impacts of the 2019–20 bushfires on the telecommunications network'
- > increased research on telecommunications consumer experience, kids and mobiles and financial hardship
- > responding to urgent requests from industry for regulatory forbearance and other actions due mainly to the impacts of the COVID-19 pandemic
- > responding to an increased number of enquiries in relation to the introduction of the Telecommunications (Mobile Number Pre-Porting Additional Identity Verification) Industry Standard 2020 in April 2020.

Despite the additional initiatives undertaken above, the ACMA continues to identify efficiencies to ensure only minimum costs are passed on to industry.

The cost of undertaking the Consumer Safeguards program will be included as part of the costs of the ACMA performing its telecommunications functions and exercising its telecommunications powers from the 2019–20 financial year onwards, as determined under paragraph 15(1)(a) of the Act. The cost will be recovered in arrears from those carriage service providers that are required to report under the RKR that are also carriers and participating persons.

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.

### **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 2019–20 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 under<sup>10</sup>:

- > 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 various Acts and other legislation, including 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*
- > section 12 of the ACMA Act, in so far as it relates to the ACMA's telecommunications functions.

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 2019–20 ACLC, ACMA now provides activity costs for the 2020–21 ACLC with comparative costs for the previous year for each output.

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

### 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 the 2020–21 and 2019–20 ACLC.

**Table 3: Regulation development – activities and costs for 2020–21 ACLC (based on 2019–20 costs) and 2019–20 ACLC (based on 2018–19 costs)**

Ref	Activity description	2019–20 cost	2018–19 cost	Variance inc/(dec)
R1	Granting authorisation to access numbers via the IPND Scheme and Regulations and monitoring and enforcing compliance with IPND requirements	\$718,963	\$708,576	\$10,387
R2	Educating industry and consumers on safeguards; ongoing consultation with stakeholders	\$116,725	\$517,909	(\$401,184)
R3	Provide advice to industry and consumers about obligations and safeguards under the NBN consumer rules; report compliance activities to the public and relevant internal and external stakeholders.	\$576,487	\$585,013	(\$8,526)
R6	Making submissions to consumer safeguards consultation processes—telecommunications consumer regulatory review/ development including development of proposals to improve the NBN consumer experience, review of industry codes, standards and determinations	\$1,511,885	\$1,964,342	(\$452,457)
R7	Managing telecommunications labelling notices and standards	\$391,915	\$634,287	(\$242,372)
R9	Registering telecommunications industry codes relating to technical characteristics of the telecommunications network	\$0	\$82,749	(\$82,749)
R10	Researching market developments and telecommunications consumer experience (excluding NBN)	\$1,553,537	\$727,633	\$825,904
R12	Reviewing, making and registering of codes and determinations (e.g., the Telecommunications (Emergency Call Service) Determination 2019, Mobile Phone Base Stations Deployment Code)	\$1,021,223	\$592,004	\$429,219

Ref	Activity description	2019–20 cost	2018–19 cost	Variance inc/(dec)
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	\$0	\$687,499	(\$687,499)
	<b>Total costs</b>	<b>\$5,890,735</b>	<b>\$6,500,012</b>	<b>(609,277)</b>

Note: No costs were incurred for 2019–20 for R8 as the Advisory Committee for Emergency Call Services had been disbanded. The ACMA now undertakes investigations about the emergency call service, which is recognised as part of Compliance in C6 under Compliance, enforcement and consumer safeguards' outputs in Table 5. As the funds allocated for this activity for 2019–20 have been utilised in C6, the cost \$557,909 that was disclosed under R8 for 2018-19 in the 2019–20 ACLC CRIS has been moved to C6.

### 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 the 2020–21 and 2019–20 ACLC.

**Table 4: Industry monitoring and NBN – activities and costs for 2020–21 ACLC (based on 2019–20 costs) and 2019–20 ACLC (based on 2018–19 costs)**

Ref	Activity description	2019–20 cost	2018–19 cost	Variance inc/(dec)
M1	Telecommunications consumer engagement, including providing secretariat function to the Consumer Consultative Forum; consulting with stakeholders; conducting industry and consumer research on telecommunications consumer safeguards, focussing on the NBN	\$558,956	\$491,605	\$67,351
		<b>\$558,956</b>	<b>\$491,605</b>	<b>\$67,351</b>

### 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 the 2020–21 and 2019–20 ACLC.

**Table 5: Compliance, enforcement and consumer safeguards – activities and costs for 2020–21 ACLC (based on 2019–20 costs) and 2019–20 ACLC (based on 2018–19 costs)**

Ref	Activity description	2019–20 cost	2018–19 cost	Variance inc/(dec)
C1	Contributing submissions to a range of consumer safeguards consultation processes	\$116,725	\$0	\$116,725
C2	Implementing cabling compliance arrangements including cabling inspections	\$0	\$8,942	(\$8,942)
C3	Investigating non-compliant cabling work	\$111,281	\$83,896	\$27,385
C4	Monitoring and investigating compliance with a range of consumer safeguards including, the Telecommunications Consumer Protections Code, the Mobile Premium Services Code, Priority Assistance obligations, Customer Service Guarantee and Payphone benchmarks and the Telecommunications Industry Ombudsman (TIO) scheme. Reporting on industry compliance against those consumer safeguards and the ACMA's telecommunications compliance and enforcement activity. Assess applications from carriers and CSPs seeking exemptions from the requirement to join the TIO	\$2,483,345	\$2,821,635	(\$338,290)
C6	Responding to enquiries and undertaking investigations about the emergency call service, the Prepaid Determination, 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.	\$1,929,602	\$1,778,214	\$151,388
C7	Maintaining telecommunications network resilience through the Statutory Infrastructure Provider Register and overseeing compliance with Network Reliability Framework.	\$552,747	\$0	\$552,747
	<b>Total costs</b>	<b>\$5,193,700</b>	<b>\$4,692,687</b>	<b>\$501,013</b>



Note: The amount disclosed for 2018-19 for C6 includes the amount (\$557,909) transferred from R8 for 2018-19 that was disclosed in Table 3 activity R2 in the 2019–20 ACLC CRIS due to reclassification (refer note provided under Table 3)

### 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 the 2020–21 and 2019–20 ACLC.

**Table 6: Licensing and number allocation – activities and costs for 2020–21 ACLC (based on 2019–20 costs) and 2019–20 ACLC (based on 2018–19 costs)**

Ref	Activity description	2019–20 cost	2018–19 cost	Variance inc/(dec)
L1	Develop and maintain the administrative functions necessary to process applications under the carrier licensing regime and submarine cable regime.	\$512,370	\$465,155	\$47,215
L2	Managing outsourced numbering arrangements and numbering allocation	\$439,390	\$335,048	\$104,342
	<b>Total costs</b>	<b>\$951,760</b>	<b>\$800,203</b>	<b>\$151,557</b>

### 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 the 2020–21 and 2019–20 ACLC.

**Table 7: Other outputs – activities and costs for 2020–21 ACLC (based on 2019–20 costs) and 2019–20 ACLC (based on 2018–19 costs)**

Ref	Activity description	2019–20 cost	2018–19 cost	Variance inc/(dec)
O1	Administering the carrier licence charging arrangement and costing of regulatory activities associated with telecommunications	\$908,773	\$835,111	\$73,662
		<b>\$908,773</b>	<b>\$835,111</b>	<b>\$73,662</b>

### **Consumer Safeguards Part A program**

This output involves undertaking intensive validation of data to ensure integrity and consistency of the data, resolving systemic issues arising from the analysis of the complaint data and facilitating the appropriate resolution to address the issues identified.

Table 8 provides details of the activities provided under this output for the 2020–21 and 2019–20 ACLC.

**Table 8: Consumer Safeguards Part A – activities and costs for 2020–21 ACLC (based on 2019–20 costs) and 2019–20 ACLC (based on 2018–19 costs)**

<b>Ref</b>	<b>Activity description</b>	<b>2019–20 cost</b>	<b>2018–19 cost</b>	<b>Variance inc/(dec)</b>
S1	Telecommunications Consumer Safeguards relates to Consumer Safeguards Part A activities including telecommunications performance reporting	\$406,304	\$0	\$406,304
S2	Conduct compliance audits to test Telecommunication Industry Service Providers' compliance with requirements under the standards that relate to Consumer Safeguards Part A.	\$479,962	\$0	\$479,962
	<b>Total costs</b>	<b>\$886,266</b>	<b>\$0</b>	<b>\$886,266</b>

*Note: The work in relation to these activities commenced in 2019–20, therefore there are no amounts to disclose for 2018–19.*

Further details about the ACMA's telecommunications activities in 2019–20 are set out in the ACMA's [Annual report 2019–20](#).

### **3.1.3 Costs of the activity**

Tables 9 and 9A summarise the direct costs and support costs of the ACMA's components at the output level for the 2020–21 and 2019–20 ACLC, respectively.

**Table 9: The ACMA's components at output level for 2020–21 ACLC (based on 2019–20 costs)**

Output	Direct cost 2019–20 cost	Support cost 2019–20 cost	Total cost 2019–20 cost
Regulation development	\$3,838,122	\$2,052,613	\$5,890,735
Industry monitoring and NBN	\$333,096	\$225,860	\$558,956
Compliance, enforcement and consumer safeguards	\$3,148,675	\$2,045,025	\$5,193,700
Licensing and allocation	\$679,884	\$271,876	\$951,760
Other outputs	\$527,749	\$381,023	\$908,772
<b>Sub-total</b>	<b>\$8,527,526</b>	<b>\$4,976,397</b>	<b>\$13,503,923</b>
Consumer safeguards – Part A	\$541,640	\$344,626	\$886,266
<b>Total costs</b>	<b>\$9,069,166</b>	<b>\$5,321,023</b>	<b>\$14,390,189</b>

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.

The overhead costs attributable to direct activities are allocated as direct costs. For example, the costs attributable to the Authority and Legal support cost centres are allocated to their relevant support cost pool before being apportioned across the ACMA direct 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 9A: 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	\$305,256	\$835,111
<b>Total costs</b>	<b>\$8,437,186</b>	<b>\$4,882,433</b>	<b>\$13,319,619</b>

Table 10 sets out the allocation method to be applied by the ACMA to each of the support categories.

**Table 10: 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	ASL applicable to recipient cost centre
Asset usage	Percentage split based on asset usage (i.e. depreciation)
Legal	ASL applicable to recipient cost centre

Table 11 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 9 and 9A above.

**Table 11: The ACMA’s cost component**

Costs	2020–21 ACLC (based on 2019–20 costs)	2019–20 ACLC (based on 2018–19 costs)	% change*
Employees	\$8,720,513	\$8,673,458	1%
Operating	\$3,493,647	\$2,742,210	27%
Depreciation and write-off	\$2,307,010	\$2,025,138	14%
<b>Total ACMA costs</b>	<b>\$14,521,169</b>	<b>\$13,440,806</b>	<b>8%</b>
Less: revenue received from activities delivered on a fee-for-service basis (see Attachment A: Telecommunications activities not included in the ACLC)	\$130,980	\$121,187	8%
<b>Total costs for ACLC</b>	<b>\$14,390,189</b>	<b>\$13,319,619</b>	<b>8%</b>

\*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 the 2019–20 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, for the 2020–21 ACLC, the ACCC must determine the proportion of its costs incurred during 2019–20 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. These include:

- > monitoring Telstra's compliance with its structural separation undertaking (SSU) and planning for migrating legacy copper and hybrid fibre coaxial (HFC) services to the NBN.
- > overseeing the carrier separation rules in Part 8, including compliance with functional separation undertakings and the non-discrimination obligations.

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 2018–19* (Division 11 and 12 report).
- > Ongoing release of quarterly reports on broadband performance data (from March 2018) under the ACCC’s MBA program.
- > 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 accepting a court enforceable undertaking from Dodo in relation to claims it made about its low data allowance entry-level NBN plans being ‘perfect for streaming’, instituting proceedings in the Federal Court against Dodo and iPrimus for alleged misleading busy hour speed claims, and securing penalties of \$6.4m in the Federal Court against Optus for making misleading claims about NBN disconnections.
- > Investigating NBN Co discriminating between retail service providers (RSPs) for the supply of upgraded infrastructure to business customers, including issuing a formal warning and accepting a court enforceable undertaking from NBN Co to implement measures to ensure the conduct is not repeated.
- > Commencing consultation on a superfast broadband network class exemption and deeming functional separation undertaking pursuant to the new carrier separation rules in Part 8 of the Telco Act.
- > 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)**

- > Commencing a review into NBN access pricing, with a focus on entry level affordability.
- > Continuing the inquiry into NBN wholesale service standards, with a focus on service level rebates and associated remedies when NBN Co does not meet its performance targets.
- > 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 minor variation proposed by NBN Co relating to a number of non-price provisions (including product development). 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.

- > 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 the design of government co-contributions programs such as the Mobile Black Spot Program and Regional Connectivity Program.
- > Maintaining and collecting data through the Audit of Telecommunications Infrastructure Assets, Telstra Customer Access Network and NBN SIO Record Keeping and Reporting Rules.
- > Publishing relevant extracts in quarterly reports on NBN Wholesale Market Indicators and the Telstra Customer Access Network Record Keeping and Reporting Rules.
- > 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 structural separation undertaking (SSU), while continuing to monitor Telstra's compliance with the SSU for 2018–19.
- > Consulting and engaging with industry on a range of regulatory matters, including matters under the Telstra Migration Plan such as required measures, regulatory forbearance, force majeure and excluded events.
- > Holding a public inquiry on the Local Bitstream Access Services and Superfast Broadband Access Services declarations.
- > Reviewing and reporting to the minister on the Regional Broadband Scheme Levy initial base component.
- > Assessing quarterly information on access agreements in place for communication services.
- > Reviewing the Internet Activity and Division 12 Record-Keeping and Reporting Rules.
- > Reviewing the Building Block Model Record Keeping and Reporting Rule.
- > Releasing biannual internet activity reports that provide information on internet activity within Australia.
- > 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 2019–20 are based on the cost of services in accordance with the ACCC's 2019–20 audited financial statements.

Delivery costs of the MBA program (*Cost Recovery Implementation Statement – Addendum: Measuring Broadband Australia program*) which formally commenced in July 2017, is provided in the 2017–18 ACLC CRIS available on the [ACMA website](#), and are not included in the ACLC cost calculations disclosed in Table 13 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.
- > 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 12 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 12: The ACCC’s component at output level, 2020–21  
(based on 2019–20 costs)**

Output activity	Direct costs	Support costs	Total cost
Communications markets and advocacy	\$2,771,856	\$1,360,520	\$4,132,376
Mobiles, transmission and consumer (including NBN)	\$2,562,241	\$1,257,636	\$3,819,877
Wireline markets	\$1,650,763	\$810,251	\$2,461,014
Other outputs	\$409,610	\$201,051	\$610,661
<b>Total costs</b>	<b>\$7,394,470</b>	<b>\$3,629,458</b>	<b>\$11,023,928</b>

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, such as 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– allocates the in-house legal support function, based on a proportion of usage
- > non-legal expenditure– allocates corporate costs not easily attributed to usage or headcount (for example, executive governance, assurance and strategic support)
- > ASL– 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 13 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 13 sets out the allocation method to be applied by the ACCC to each of the corporate categories.

**Table 13: 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 2020–21 ACLC (excluding the MBA costs, which are discussed in Attachment B) have been calculated at \$11,023,928. This represents an \$847,793 (8.3%) increase from the previous year, largely driven by higher staff costs due to filling of vacant positions and a standard annual increase in salaries.

While travel costs were lower compared to 2018-19 due to COVID-19, greater consultancy costs were incurred mostly due to external assistance required for the 2019 Mobile Terminating Access Service access determination inquiry. This determination inquiry is periodic and did not occur in 2018-19.

Higher overheads were incurred in supporting staff in areas such as IT, learning and development and other support functions. The increased overhead costs were commensurate with the uplift in the ACCC’s staffing levels from the previous year.

**Table 14: The ACCC’s cost component**

Costs	2020–21 ACLC (based on 2019–20 costs)	2019–20 ACLC (based on 2018–19 costs)	% change*
Employees	\$8,195,864	\$7,535,846	8.8%
Consultancy and travel	\$269,835	\$215,138	25.4%
Overheads	\$2,558,229	\$2,425,151	5.5%
<b>Total costs</b>	<b>\$11,023,928</b>	<b>\$10,176,135</b>	<b>8.3%</b>

\*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 2020. 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 2020 calendar year was Swiss Francs 4,725,000 (A\$7,129,389, using the exchange rate at the time payment was made).

To determine the telecommunication component of the Commonwealth's 2020 contribution, the ACMA has, on advice from DITRDC, considered ITU-T's share of the combined output costs for ITU-T and ITU-R. As outlined in Table 15, the cost component of the contribution associated with the ACLC is the ITU-T activities of A\$2,289,268. The increase of 8.53% from the previous year can largely be attributed to the difference in the exchange rate at the time of payment.

Table 15 provides the comparison of ITU contributions for the 2019 and 2020 calendar years.

**Table 15: Costs associated with ITU-T and ITU-R activities**

	ITU-T	ITU-R	Total
	A\$	A\$	A\$
2020	2,289,268	4,930,120	7,219,389
2019	2,109,273	4,641,544	6,750,818
Increase/(decrease)	8.53%	6.22%	6.94%
Ratio 2020	31.71%	68.29%	
Ratio 2019	31.24%	68.76%	
	Swiss Francs	Swiss Francs	Swiss Francs
2020	1,498,298	3,226,702	4,725,000
2019	1,476,312	3,248,688	4,725,000
Increase/(decrease)	1.49%	(0.68%)	

### 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 is determined by the ACMA under paragraph 15(1)(ca) of the Act. It represents the sum of the amounts paid under section 136C of the Telco Act during the immediately preceding financial year (the 2019–20 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

The ACMA paid \$164,709.82 to Communications Alliance Ltd on 31 July 2019 for the development of the Telecommunication Consumer Protection Code C628:2019. No payment was made by the ACMA during the 2018–19 financial year under section 136C of the Telco Act.

## 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 2020–21 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 made a legislative instrument determining<sup>11</sup> that an amount of \$2,358,000 is estimated to be paid in grants under section 593 of the Act during the 2020–21 financial year. A breakdown of the expected use of the grants by ACCAN as the likely recipient has been provided by ACCAN and is shown below in Table 16.

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<sup>11</sup> <https://www.legislation.gov.au/Details/F2021L00057>

**Table 16: Consumer representation grant program**

<b>Expense</b>	<b>Cost (million)</b>
Employee expenses	\$1.512
Administration expenses	\$0.456
Independent grants program research projects	\$0.380
Committee expenses, travel, accommodation	\$0.010
<b>Total</b>	<b>\$2.358</b>

### **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 of 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 components of the overall charge applicable to the MBA program and the Consumer Safeguards Part A program) to individual liable carriers. 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 charges<sup>12</sup>
- > ER is the individual carrier's eligible revenue for the 2019–20 financial year
- > TER is the total eligible revenue for the 2019–20 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.

### Consumer Safeguards Program<sup>13</sup>

The cost of performing this program forms part of the ACLC from the 2020–21 financial year, ongoing, and is included as a part of the ACMA's cost component determined under paragraph 15(1)(a) of the Act. The costs will be recovered in arrears from those carriage service providers who are required to report under the RKR (that is, carriage service providers who were 'qualifying retail carriage service providers'<sup>14</sup> during the relevant period) and 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 RKR is based on each carrier's eligible revenue.

Accordingly, it is proposed that the following formula be applied for the purpose of allocating the total cost of the Consumer Safeguards Part A program for the 2019–20 financial year to the individual qualifying retail carriage service providers. The formula allocates the cost in the same proportion as the qualifying retail carriage service provider's assessed eligible revenue relates to the total assessed eligible revenue of all qualifying retail carriage service providers:

$$CSPA \times \frac{ER}{TERQCS}$$

Where:

- > CSPA is the cost of the Consumer Safeguards Part A program for the 2019–20 financial year
- > ER is the individual carrier's eligible revenue for the 2019–20 financial year (for qualifying retail carriage service provider)
- > TERQCS is the total assessed eligible revenue of all qualifying retail carriage service providers (under the RKR) who were also participating persons for the 2019–20 financial year.

The instrument that the ACMA proposes to make under section 14 of the Act must include such information as required to allow every carrier to determine the amount of

<sup>12</sup> 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.

<sup>13</sup> [www.communications.gov.au/documents/part-complaints-handling-and-consumer-redress-consumer-safeguards-review-report-minister](http://www.communications.gov.au/documents/part-complaints-handling-and-consumer-redress-consumer-safeguards-review-report-minister)

<sup>14</sup> The term 'qualifying retail carriage service provider' is defined in section 7 of the RKR.

carrier licence charge imposed on their carrier licence. In order to do so, having regard to the formula above, it is proposed that the determination made under section 14 of the Act will:

- > specify the CSPA program cost as a dollar amount
- > specify the TERQCSP as a dollar amount.

The ACMA will specify the amount of the CSPA (as per Table 9 of this CRIS) and TERQCSP in a determination made under Section 14 of the Act.

It is also proposed that the names of the qualifying retail carriage service providers be listed in the determination made under section 14 of the Act so as to allow a person to readily determine the amount of ACLC payable by a carrier.

In order to establish the total individual levy amount payable by liable licenced carriers, the ACMA will include the above methodologies and the methodology for the MBA program set out in Attachment B in the instrument to be made under subsection 14(1) of the Act.

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 17.

**Table 17: ACLC summary by cost component**

Reference in the Act	Cost component	2020–21 ACLC actual <sup>15</sup>
15(1)(a)	The ACMA's cost component	\$14,390,189
15(1)(b)	ACCC's cost component including the costs for the MBA program of \$1,599,297 (see section 3.2 of Attachment B of this CRIS)	\$12,623,225
15(1)(c)	Proportion of ITU contribution	\$2,289,268
15(1)(ca)	Costs for reimbursements of costs for development or variation of consumer protection related industry codes	\$164,710
15(1)(d)	Government grants – consumer representation and research	\$2,358,000
<b>Total</b>		<b>\$31,825,392</b>

<sup>15</sup> 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 2019–20 financial year) for which the charges are imposed. The cost component under paragraph 15(1)(c) relates to the calendar year (the 2020 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 2020–21 financial year.



## 4. Risk assessment

The ACMA has carried out a risk assessment for each cost component of the 2020–21 ACLC, resulting in an overall rating of medium. The individual ratings for each cost component are shown in Table 18 and are based on assessment of the criteria in the [Regulatory Charging Risk Assessment](#)<sup>16</sup> (under 'Tools and templates').

**Table 18: 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	Medium
15(1)(ca)	Reimbursed costs of development or variation of consumer protection related industry codes	Medium
15(1)(d)	Government grants – consumer representation and research	Low
<b>Overall rating</b>		<b>Medium</b>

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.

<sup>16</sup> Further information is available on [www.finance.gov.au/sites/default/files/2019-11/RMG-302%20Australian%20Government%20Charging%20Framework\\_0.pdf](http://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 2019–20, the ACMA consulted on:

- > proposed ACLC for the 2019–20 financial year
- > post-implementation review of the NBN consumer experience rules
- > 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 2019–20 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.

## 6. Financial estimates

Financial estimates for each component of the ACLC to be determined under section 15 of the Act for the 2020–21 financial year are provided in Table 19, along with forecasts over the next 3 years.

**Table 19: Financial estimates by activity**

Ref. in the Act	Component	2020–21 budget	2020–21 revised budget	2021–22 budget	2022–23 budget	2023–24 budget
		(\$million)	(\$million)	(\$million)	(\$million)	(\$million)
15(1)(a)	ACMA telecommunications expenses	14.241	15.495	14.581	14.539	14.539
15(1)(b)	ACCC telecommunications expenses	11.151	10.500	10.500	10.500	10.500
15(1)(c)	Commonwealth's ITU contribution	2.193	2.239	2.228	2.167	2.170
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	2.365	2.358	2.381	2.416	2.451
<b>Total expenses</b>		<b>30.250</b>	<b>30.892</b>	<b>29.990</b>	<b>29.922</b>	<b>29.960</b>
15(1)(a)	ACMA telecommunications expenses	14.871	14.390	15.495	14.581	14.539
15(1)(b)	ACCC telecommunications expenses	11.151	11.024	10.500	10.500	10.500
15(1)(c)	Commonwealth's ITU contribution	2.256	2.289	2.167	2.167	2.172
15(1)(ca)	Amounts reimbursed to industry groups for development or variation of consumer protection related industry codes	0.300	0.165	0.300	0.300	0.300
15(1)(d)	Estimated government grants – consumer representation and research	2.365	2.358	2.381	2.416	2.451
<b>Total revenue</b>		<b>30.943</b>	<b>30.226</b>	<b>30.843</b>	<b>29.964</b>	<b>29.962</b>
<b>Balance</b>		<b>0.693</b>	<b>(0.666)</b>	<b>0.853</b>	<b>0.042</b>	<b>0.002</b>

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 2020–21 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 Budget<sup>17</sup> to the ACMA in relation to the delivery of the telecommunications Consumer Safeguards Program. 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 the actual ACLC revenue for the 2020–21 financial year was consistent with budgeted expectations from the previously published 2019–20 CRIS.

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

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<sup>17</sup> [www.budget.gov.au/2019-20/content/bp2/index.htm](http://www.budget.gov.au/2019-20/content/bp2/index.htm)

## 7A. Financial performance

Historical actual financial results for ACLC for the 2019–20 financial year and previous financial years are in Table 20.

**Table 20: Historical ACLC expenses and revenue**

Ref. in the Act	Component	2019–20 (\$million)	2018–19 (\$million)	2017–18 (\$million)	2016–17 (\$million)	2015–16 (\$million)
15(1)(a)	ACMA telecommunications expenses	14.390	13.319	13.398	14.304	14.405
15(1)(b)	ACCC telecommunications expenses (include the costs for the MBA program since 2017-18)	12.623	11.878	13.296	13.109	13.641
15(1)(c)	Commonwealth's ITU contribution	2.149	2.030	2.004	2.004	2.062
15(1)(ca)	Amounts reimbursed to industry groups for development or variation of consumer protection related industry codes	0.165	0	0	0	0.086
15(1)(d)	Estimated government grants—consumer representation and research	2.322	2.296	2.261	2.230	2.196
<b>Total expenses</b>		<b>31.649</b>	<b>29.523</b>	<b>30.959</b>	<b>31.647</b>	<b>32.390</b>
15(1)(a)	ACMA telecommunications revenue	13.319	13.398	14.304	14.405	17.572
15(1)(b)	ACCC telecommunications revenue (include the revenue for the MBA Program since 2017-18)	11.878	13.296	13.109	13.641	15.107
15(1)(c)	Commonwealth's ITU contribution	2.109	2.060	2.004	2.262	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	2.322	2.296	2.261	2.230	2.196
<b>Total revenue</b>		<b>29.628</b>	<b>31.050</b>	<b>31.678</b>	<b>32.624</b>	<b>36.736</b>
<b>Balance</b>		<b>(2.021)</b>	<b>1.527</b>	<b>0.719</b>	<b>0.977</b>	<b>4.346</b>

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 reduction of the ACMA's expenditure in the 2017–18 financial year relates mainly to the re-prioritisation of resources in making telecommunications labelling notices and standards. The increase in the ACMA's expenditure in the 2019–20 financial year is explained in section 3.1.1 under Table 2.

The increase in the ACCC's expenditure for the 2019–20 financial year is explained in section 3.2.2, following Table 13.

## 7B. Non-financial performance

### The ACMA's cost component

The ACMA's performance measures for its deliverables for telecommunications services are provided in Table 21.

**Table 21: Deliverables and performance indicators**

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; the numbering provider meets 100% of contractual milestones and the allocation of licences is within statutory timeframes
Facilitation of the efficient review of telecommunications operational codes to ensure effective operation	Decision whether to register all operational codes made within benchmark timeframe
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 complaints and enquiries actioned within benchmark timeframe
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 2019–20 financial year is published in the Report on Performance section of the ACMA's [Annual report 2019–20](#).

### 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 2021–22 financial year are provided in Table 22.

**Table 22: Key forward dates and events**

Key events	Date
Update of forward estimates	October 2022
Update of actual costs	October 2022

# 9. CRIS approval and change register

Table 23: Change register

Date	Description	Approved by	Comments
May 2022	Certification of the 2020–21 CRIS		
April 2022	Consultation for 4 weeks on the 2020–21 draft CRIS		
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	

Date	Description	Approved by	Comments
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	
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	

# 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 recovered through 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 to 2019–20 financial years and contains financial forecasts for the 2020–21 financial year and 4 forward years (financial years 2020–21 to 2023–24).

### 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 the [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**

The activities undertaken under the MBA program form part of the ACCC's statutory responsibilities of monitoring industry and providing information to consumers.

In April 2017, the government announced the introduction of the MBA program, to be administered by the ACCC.<sup>18</sup> 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.<sup>19</sup>

As part of the 2020–21 Budget, further funding of \$7.7 million over 4 years was provided by the government to continue and extend the MBA program. Fixed wireless broadband services will now be included in the program to ensure consumers in additional regional and emerging market segments can make informed choices about broadband services. The program will also be expanded to monitor non-NBN networks as well as new higher speed services and support for access to business applications. The expected MBA program expenditure over the next 4 years has been reflected in Table 2.

The ACMA's role is to administer the cost recovery for the MBA program as part of the existing ACLC cost-recovery process, which commenced 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 2020 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.

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<sup>18</sup> 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](http://www.accc.gov.au/media-release/accc-to-monitor-australias-broadband-performance); Senator the Hon Mitch Fifield (2017).

<sup>19</sup> 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 2018–19 to 2024–25 financial years.

#### 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 the 2019–20 financial year 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 tier<sup>20</sup>)
- > 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.

<sup>20</sup> 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.

### 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 for the next four years. This includes an update to the 2020–21 budget profile related to the initial MBA program, and the expected expenditure profile for the program continuation and extension from 1 July 2021.

**Table 2: The ACCC’s anticipated program expenses**

Expense	Budget 2020–21 (million)	Budget 2021–22 (million)	Budget 2022–23 (million)	Budget 2023–24 (million)
MBA budgeted program expenses	\$1.651	\$2.146	\$1.900	\$1.811

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 for the 2020–21 ACLC, representing the costs incurred during 2019–20, has been calculated at \$1,599,297 as disclosed in Table 3 below. The budget for 2019–20 was \$1,642,000 and therefore the cost of providing MBA services was \$42,703 less than expected. The ACCC still aims to finish budget neutral by the end of the program extension. The revised budget profile has been presented in Table 5.

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

Costs	2020–21 ACLC (based on 2019–20 costs)	2019–20 ACLC (based on 2018–19 costs)	% change*
MBA program expenses	\$1,599,297	\$1,702,406	(6.1%)

\*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 pay any ACLC, including any costs associated with the MBA program.

The cost 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 greater than 5%	Medium
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?	Change in the level of existing cost recovery charges	Low
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
<b>Overall rating</b>		<b>Medium</b>

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 medium<sup>21</sup>, this CRIS can be approved by the responsible minister for release to commence charging and does not require approval from the Finance Minister.

<sup>21</sup> 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](http://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 ACCC will also engage in a competitive open tender to appoint a testing provider for the MBA program extension.

The former Department of Communications and the Arts consulted with both industry and government bodies and informed these parties that it was proposed that funding would 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 2019–20 financial year was in May 2020. All published reports are located on the [MBA website](#).

In 2020, the ACCC undertook a [review of the effectiveness of the MBA program](#). The review was undertaken in consultation with the Department of Infrastructure, Transport, Regional Development and Communications (DITRDC). The consultation paper was shared with a range of nominated stakeholders for their comment during October and November 2020. A public consumer survey was also undertaken on the ACCC consultation hub.

Submissions were received from key stakeholders including Telstra, Optus, NBN Co, Communications Alliance and a number of consumer advocates.

The review demonstrated that the program had met its objectives and strongly contributed to improving competition and consumer outcomes in broadband markets. Consumer advocates expressed support for the expansion of the program to benefit consumers outside of the NBN fixed line footprint. Submissions also identified a number of improvements and enhancements to the program to ensure it continues to provide reliable, informative and timely data to the market. Following the Australian Government’s decision to extend the program, the ACCC is continuing to engage with stakeholders to implement improvements and to expand the scope of the program to NBN fixed wireless and non-NBN networks.

## 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 Actual (\$million)	2020–21 Budget (\$million)	2021–22 Budget (\$million)	2022–23 Budget (\$million)
MBA program expenses	1.532	1.702	1.599	1.877	1.651	2.146
ACLCL revenue	0.0	1.532	1.702	1.599	1.877	1.651
<b>Balance</b>	<b>(1.532)</b>	<b>(0.170)</b>	<b>0.103</b>	<b>(0.278)</b>	<b>0.226</b>	<b>(0.495)</b>
<b>Cumulative balance</b>	<b>(1.532)</b>	<b>(1.702)</b>	<b>(1.599)</b>	<b>(1.877)</b>	<b>(1.651)</b>	<b>(2.146)</b>

These costs will be recouped through the ACLCL, 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 ACLCL 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, 2018–19 and 2019–20 financial year results for the MBA program are reported in Table 5.

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 (actual)**

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	2,483	3000
<b>Variation</b>	<b>(1,300)</b>	<b>(1,200)</b>	<b>(1,317)</b>	<b>(1,000)</b>

**Table 6A: The ACCC's device deployment profile (forecast)**

Details	2021–22	2022v23	2023–24	2024–25
Original forecast of total number of measurement devices deployed	5,000	5,500	5,500	5,500
Actual total number of measurement devices deployed	To be reported	To be reported	To be reported	To be reported
<b>Variation</b>	<b>To be reported</b>	<b>To be reported</b>	<b>To be reported</b>	<b>To be reported</b>

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 2020–21 financial year are provided below in Table 7.

**Table 7: Key forward dates and events**

Key events	Date
Update of forward estimates	By October 2022
Update of actual costs	By October 2022

# 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>
APC	Annual program costs by financial year
ASL	Average Staffing Level
CRIS	Cost Recovery Implementation Statement
CSP	Carriage Service Provider
CSPA	Consumer Safeguards Part A program cost
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)
HFC	Hybrid Fibre Coaxial
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
RKR	Telecommunications (Consumer Complaints) Record-Keeping Rules 2018

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