

Proposed Annual Carrier Licence Charge 2020–21 Consultation paper

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Executive summary

The Australian Communications and Media Authority (ACMA) is Australia's regulator for broadcasting, radiocommunications, telecommunications and some online content. As an Australian Government agency, the ACMA is required to define and implement, where feasible, charges for recovering the costs of its products and services, in accordance with the Australian Government Charging Framework (the Charging Framework).

The Charging Framework allows government entities to plan, implement and review their charging activities. As part of the Charging Framework, agencies that undertake cost-recovery activities are required to periodically review the charges they impose.

The *Telecommunications (Carrier Licence Charges) Act 1997* (the Act) imposes an annual carrier licence charge (ACLC) on each carrier licence that is in force at the beginning of a financial year. In accordance with the Act, the ACLC is calculated annually, in accordance with a written determination made by the ACMA, to recover an amount for certain telecommunications costs incurred by the ACMA, the Australian Competition and Consumer Commission (ACCC) and the Department of Infrastructure, Transport, Regional Development and Communications (DITRDC) from carriers.

The ACMA is required to prepare a Cost Recovery Implementation Statement (CRIS) in accordance with the [Australian Government Cost Recovery Guidelines](#) (the Guidelines) for the implementation of the proposed ACLC each year. As required by the Guidelines, the ACMA must consult with industry stakeholders on the CRIS before any potential changes are made.

Accordingly, a draft CRIS for the ACMA's ACLC is available alongside this paper on the ACMA website. The draft CRIS incorporates all the relevant details of the proposed charges, describes the methodology used for the calculation of the proposed ACLC and provides explanations for variances from the previous financial year.

The draft CRIS also includes *Attachment B: Cost Recovery Implementation Statement – Measuring Broadband Australia program*. It explains the approach the ACMA proposes for implementing cost-recovery arrangements for the Measuring Broadband Australia (MBA) program on behalf of the program administrator, the ACCC. The MBA program monitors National Broadband Network (NBN) fixed-line services provided by carriers and carriage service providers with significant market presence.

As part of the ACLC, the ACMA is required by the government to begin recovering the costs associated with the Consumer Safeguards Part A program in arrears from the 2020–21 financial year under paragraph 15(1)(a) of the Act. Accordingly, the costs incurred for the Consumer Safeguards Part A program for the 2019–20 financial year have been incorporated in the draft CRIS (see Table 8).

The program essentially involves communicating systemic issues to carriage service providers, and analysing and reporting complaints-handling data (including managing the collection, validation, analysis and verification of telecommunications complaints-handling data under the Telecommunications (Consumer Complaints) Record-Keeping Rules 2018¹) on a regular basis. Further details about these activities are provided in the draft CRIS.

To give effect to the proposed ACLC, a number of written determinations have been or are proposed to be made by the ACMA, the ACCC and the Minister for Communications, Urban Infrastructure, Cities and the Arts under sections 14 and 15 of the Act. These determinations are discussed in this consultation paper and in the draft CRIS.

¹ <https://www.legislation.gov.au/Details/F2018L00721>

Issues for comment

This consultation paper does not pose specific questions. However, the ACMA welcomes comment from interested stakeholders on the proposed ACLC, the draft CRIS for the ACLC which includes Consumer Safeguards Part A program cost recovery arrangement, the CRIS for the MBA program or any other issues relevant to the proposed charges.

Details on how to make a submission to the ACMA can be found in the [invitation to comment](#) section at the end of this paper.

Annual Carrier Licence Charge

Subsection 14(1) of the Act requires the ACMA to make a written determination setting out how the ACLC imposed on a carrier licence for the 2020–21 financial year is to be ascertained.

The total of the charges imposed on carrier licences in force at the beginning of a financial year must not exceed the sum of the 5 cost components listed below, determined under paragraphs 15(1)(a) to (d) of the Act.

- > The ACMA proposes to make a determination of the cost components under paragraphs 15(1)(a), (c) and (ca) of the Act.
- > The ACCC intends to make a determination under paragraph 15(1)(b) setting out its costs attributable to its telecommunications functions and powers.
- > The minister has made a written [determination](#) under paragraph 15(1)(d) of the Act setting out the estimated total amount of grants likely to be made during the 2020–21 financial year under section 593 of the *Telecommunications Act 1997* (Telco Act).

1. ACMA's component for 2020–21 ACLC

This amount will be determined by a written instrument under paragraph 15(1)(a) of the Act. It is the amount attributable to the ACMA's telecommunications functions and powers for the preceding financial year (the 2019–20 financial year). For the purposes of the Act, the ACMA's telecommunications functions and powers are as defined by section 7 of the Telco Act and in section 8 of the *Australian Communications and Media Authority Act 2005*, but do not include the matters excluded by subsection 15(4) of the Act. The proposed amount is set out in Table 1 and contains 2 figures:

- > the ACMA's costs attributable to telecommunications functions and powers, excluding the cost incurred in relation to the Consumer Safeguards Part A program
- > the Consumer Safeguards Part A cost.

2. ACCC's component for 2020–21 ACLC

The ACCC proposes to make a written determination under paragraph 15(1)(b) of the Act setting out the amount determined to be the proportion of its costs attributable to the telecommunications functions and powers of the ACCC in the preceding financial year (the 2019–20 financial year). The ACCC's telecommunications functions and powers are defined by subsection 15(4) of the Act and section 7 of the Telco Act. Costs associated with the MBA program are included under paragraph 15(1)(b) of the Act. The MBA program is part of the ACCC's functions of monitoring the telecommunications industry and promoting competition and consumer benefits. Accordingly, the ACCC's costs determined under paragraph 15(1)(b) that are attributable to the MBA program costs are recovered in arrears (that is, costs for the 2019–20 financial year) from monitored carriers via the ACLC. The proposed amount is set out in Table 1.

3. The Commonwealth's contribution to the International Telecommunication Union (ITU) component for 2020–21 ACLC

Paragraph 15(1)(c) of the Act requires the ACMA to determine the proportion of the Commonwealth's contribution to the ITU's budget associated with telecommunications in the calendar year 2020. This amount is proposed to be determined by the ACMA, based on advice provided by DITRDC, in a

determination to be made under paragraph 15(1)(c) of the Act. The proposed amount is set out in Table 1.

4. ACMA's payment for the development or variation of industry codes by a telecommunications industry body for 2020–21 ACLC

Section 136C of the Telco Act requires the ACMA to make payments on behalf of the Commonwealth to reimburse industry bodies that develop or vary industry codes that are subsequently registered by the ACMA under Part 6 of the Telco Act in certain circumstances. Paragraph 15(1)(ca) of the Act requires the ACMA to determine the sum of the amounts paid under section 136C of the Telco Act for the immediately preceding financial year in which the ACLC is imposed (in this case, the 2019–20 financial year). The ACMA proposes to determine this cost component in a determination to be made under paragraph 15(1)(ca) of the Act. The proposed amount is set out in Table 1.

5. Government's consumer representation and research grant (estimate) for 2020–21 ACLC

Under paragraph 15(1)(d) of the Act, the minister made the Telecommunications (Carrier Licence Charges) (Paragraph 15(1)(d)) Determination 2021 (No. 1), an instrument setting out the estimated total amount of grants likely to be made under section 593 of the Telco Act during the 2020–21 financial year. Section 593 of the Telco Act provides for the minister to make grants of financial assistance:

- > to consumer bodies for purposes in connection with representations of the interests of consumers in relation to telecommunications issues; or
- > to persons or bodies for purposes in connection with research into the social, economic, environmental or technological implications of developments relating to telecommunications.

For the purpose of ascertaining the ACLC payable by a liable licensed carrier, their 'eligible revenue'² for the 2019–20 financial year, as assessed by the ACMA, is proposed to be used as a basis for determining the carrier's ACLC. As adopted since the 2018–19 financial year, the methodology proposed for the allocation of the total charge of the MBA program to individual carriers is based on the number of NBN fixed-line connections operated by all monitored service providers that are also carriers and liable to pay the ACLC.

The methodology proposed for the allocation of the Consumer Safeguards Part A program costs to the liable carriers that are also qualifying carriage service providers subject to the Telecommunications (Consumer Complaints) Record-Keeping Rules 2018 (RKR)³, is based on each qualifying retail carriage service provider's eligible revenue. The ACMA consulted on the proposed methodology as part of the consultation for the 2019–20 ACLC, which took place during April and May 2021.

The proposed methodology for calculating a carrier's ACLC is set out in section 3.6 of the draft CRIS and 3.2 of Attachment B of the draft CRIS (available alongside this paper on the ACMA website). The total ACLC for all carriers for 2020–21 and the methodology used to determine the individual charge payable by each carrier will be specified in the determination made by the ACMA under subsection 14(1) of the Act.

² <https://www.acma.gov.au/eligible-revenue-reporting>

³ <https://www.legislation.gov.au/Details/F2018L00721>

Proposed ACLC

The cost components proposed to be recovered through the ACLC are set out in Part 3 of the draft CRIS and Attachment B of the draft CRIS for the MBA program. A summary is provided in Table 1 below. As shown in the table, and as required by the Act, the ACMA, ACCC and industry code development cost components are based on the 2019–20 financial year; ITU costs are based on the 2020 calendar year; and the component for consumer representation and research grant is based on estimates for the 2020–21 financial year.

Table 1: Summary of proposed charges

Ref	Cost component descriptions	Proposed cost component for 2020–21 ACLC	Cost component for 2019–20 ACLC	Variance inc/(dec)	Change % inc/(dec)
15(1)(a)	ACMA’s recoverable costs attributable to its telecommunications functions and powers for the previous financial year (excluding Consumer Safeguard Part A costs)	\$13,503,923	\$13,319,619	\$184,304	1.38%
15(1)(a)	ACMA’s costs attributable to its telecommunications functions and powers for the previous financial year for the Consumer Safeguard Part A	\$886,266	\$0	\$886,266	N/A
15(1)(b)	ACCC’s costs attributable to its telecommunications functions and powers for the previous financial year (excluding the MBA program)	\$11,023,928	\$10,176,135	\$847,793	8.33%
15(1)(b)	ACCC’s costs attributable to the telecommunications functions and powers for the MBA program for the previous financial year	\$1,599,297	\$1,702,406	(\$103,109)	(6.06%)
15(1)(c)	The proportion of the Commonwealth’s (i.e., DITRDC’s) contribution to the ITU’s Telecommunication Standardisation Sector budget for the calendar year in which the beginning of the charging period occurs	\$2,289,268	\$2,109,273	\$179,995	8.53%
15(1)(c a)	The sum of amounts paid under section 136C of the Telco Act (for reimbursement of industry costs for industry code development or variation) for the previous financial year	\$164,710	\$0	\$164,710	N/A
15(1)(d)	The estimated amount, determined by the minister, of total grants likely to be made in the current financial year	\$2,358,000	\$2,322,000	\$36,000	1.55%
	ACLC amount	\$31,825,392	\$29,629,433	\$2,195,959	7.41%

The total amount that may be collected through the ACLC for the 2020–21 financial year has increased by 7.4% from the preceding financial year. The variance for each component is explained below:

1. The ACMA's cost component (excluding Consumer Safeguard Part A) (paragraph 15(1)(a) of the Act) increased marginally by 1.38% from the previous year due mainly to a number of compliance, monitoring and licensing activities, including:
 - > the development of the Statutory Infrastructure Provider Register, which began following amendments to the Telco Act
 - > providing input into the Network Reliability Framework review conducted by DITRDC
 - > urgent work on the bushfire review instigated by the minister, including publishing a report, *Impacts of the 2019-20 bushfires on the telecommunications network*
 - > increased research on telecommunications consumer experience, kids and mobiles, and financial hardship
 - > an increase in regulatory forbearance requests received from industry participants due mainly to the impacts of the COVID-19 pandemic
 - > the development of numbering regulation and the introduction of the Telecommunications (Mobile Number Pre-Porting Additional Identity Verification) Industry Standard 2020.
2. The ACMA will be recovering relevant costs incurred for the Consumer Safeguard Part A program under paragraph 15(1)(a) of the Act for the first time. The cost mostly aligns with the amount appropriated in the budget for operating expenses for the 2019–20 financial year. However, the capital expenses from the 2019–20 appropriation have been incurred in subsequent financial years and will be recovered as part of future ACLCs.
3. The ACCC's costs (excluding the MBA costs) have increased by 8.33% from the previous year. The increase is largely driven by:
 - > higher staff costs due to filling of vacant positions and a standard annual increase in salaries
 - > greater consultancy costs, which were incurred mostly due to external assistance requirements for the 2019 Mobile Terminating Access Service final access determination inquiry. This inquiry is periodic and did not occur in 2018–19
 - > higher overheads, which 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.
4. The cost component for the MBA program is recovered as part of the ACCC's costs of performing statutory telecommunications functions relating to monitoring industry and providing information to consumers. This has dropped by 6.06% from the previous, year mainly due to timing of program payments to external providers. The ACCC expects to incur more costs in subsequent financial years (that is, from 2020–21). Overall, the MBA program is expected to finish budget neutral. More information is provided in section 3 of Attachment B of the draft CRIS.
5. The component under paragraph 15(1)(c) of the Act relates to the Commonwealth's annual contribution to the ITU's budget associated with telecommunications for the calendar year 2020. The contribution is made in Swiss Francs each year by DITRDC. The expenditure in Australian dollars has increased by 8.53% from the previous year. This is largely due to the impact of exchange rates at the time of payment.

6. In relation to the cost component under paragraph 15(1)(ca) of the Act, on 31 July 2019, the ACMA reimbursed expenses of \$164,709.82 to Communications Alliance Ltd. for developing the Telecommunications Consumer Protection Code C628:2019 under section 136C of the Telco Act.
7. The component under paragraph 15(1)(d) of the Act relates to the minister's estimated allocation of grants under section 593 of the Telco Act. A [determination](#) for the 2020–21 grants was made by the minister on 14 January 2021. The amount (\$2,358,000) was based on grants made or expected to be made to the Australian Communications Consumer Action Network (ACCAN) and was subject to indexation, which has resulted in an increase of 1.55% from the previous year.

Invitation to comment

Making a submission

The ACMA invites comments on the issues set out in this consultation paper.

> [Online submissions](#) can be made via the comment function or by uploading a document. Submissions in Microsoft Word or Rich Text Format are preferred.

> Submissions by post can be sent to:

The Manager
Revenue Assurance, Grants and Financial Operations
Australian Communications and Media Authority
PO Box 78
Belconnen ACT 2616

The closing date for submissions is the close of business, **Monday 2 May 2022**.

Consultation enquiries can be emailed to costrecoveryteam@acma.gov.au.

Publication of submissions

The ACMA publishes submissions on our website, including personal information (such as names and contact details), except for information that you have claimed (and we have accepted) is confidential.

Confidential information will not be published or otherwise released unless required or authorised by law.

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Information on the *Privacy Act 1988* and the ACMA's privacy policy (including how to access or correct personal information, how to make a privacy complaint and how we will deal with the complaint) is available at acma.gov.au/privacypolicy.