

# **Cost Recovery Implementation Statement**

## Annual Carrier Licence Charge for the charging period 1 July 2021 to 30 June 2022

MAY 2023

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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, Communications and the Arts (DITRDCA) apply cost-recovery principles to determine relevant amounts under the *Telecommunications (Carrier Licence Charges) Act 1997* to be recovered through the Annual Carrier Licence Charge (ACLCL).

A summary of the cost-recovery models used by the ACMA, ACCC and the former Minister for Communications, Urban Infrastructure, Cities and the Arts to calculate their relevant telecommunications costs recovered through the ACLCL is included in this statement.

This CRIS reports the financial performance for the relevant activities and includes forecasts for these costs over the 2021–22 financial year and 3 forward years (financial years 2022–23 to 2024–25). The ACCC and DITRDCA have contributed the relevant information about 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 to determine the costs incurred for its Measuring Broadband Australia (MBA) program as part of its ACLCL cost component.

The ACLCL amounts payable by carrier licensees from 1 July 2021 to 30 June 2022 are set out in Attachment C.

## 1.2 Background and description of activity

The ACMA is a statutory authority within the Infrastructure, Transport, Regional Development, Communications and the Arts 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 ACLCL is established by the *Telecommunications (Carrier Licence Charges) Act 1997* (the Act) to fund the activities of the ACMA, ACCC and DITRDCA in regulating licensed telecommunications carriers and telecommunications services provided by carriers. The purpose of the ACLCL is that those entities creating the need for government activities, such as regulation, meet the cost of those activities.

The ACLCL 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 ACLCL 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 following telecommunications costs:

- > the ACMA's costs, including the cost of the Consumer Safeguards Part A program
- > the ACCC's costs, 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 DITRDCA for the Commonwealth's contribution to the International Telecommunication Union (ITU) membership (for telecommunications), and for grants made under section 593 of the Telco Act.

These amounts are specified in legislative instruments made by the ACMA, ACCC and the former minister. The costs of the ACMA's and ACCC's other regulatory activities are not included in this ACLC.

The methodology for allocating the total ACLC (including 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 that are also carriers.

For the 2021–22 financial year, as in previous years, the ACLC payable by each liable licensed carrier is 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 (2020–21) 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 (1 July 2020 to 30 June 2021) are exempt from paying the ACLC for the 2021–22 financial year in accordance with the Australian Communications and Media Authority (Annual Carrier Licence Charge) Direction 2017 (the 2017 Direction).<sup>1</sup>

Non-participating persons must either give a statutory declaration to the ACMA stating they are carriers with initial telecommunications sales revenue, gross telecommunications revenue or eligible revenue below \$25 million in the applicable eligible revenue period, or be 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 that create the need for regulatory activities meet the corresponding expenses through the ACLC. Those that are non-participating persons, while operating in the telecommunications industry, do not create any substantial regulatory burden.

Any carrier that held a carrier licence on 1 July 2021, and was not a non-participating person during 1 July 2020 to 30 June 2021, is required to pay the ACLC for the 2021–22 financial year and will be liable for payment when it is due. This applies whether they have surrendered their licence or had their licence cancelled after 1 July 2021.

### 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).

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<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 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 ITU budget
- > the granting of financial assistance to consumer bodies to support consumer representation in the telecommunication sector and to relevant research bodies.

Before 2019–20, the Australian Government made a series of decisions determining the above activities to be the subject of cost recovery through the ACLC.<sup>3</sup> 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 20 in this CRIS, and Table B5 in Attachment B.

#### Consumer Safeguards Part A program

The government provided funding of \$3.7 million over 4 years from 2019–20 (\$2.7 million in operating costs and \$1.01 million in capital costs) and \$0.6 million per year, ongoing from 2023–24, for the Consumer Safeguards Part A program.

Under this program, the ACMA collects data and undertakes analysis to consider telecommunications industry and company performance, as well as undertaking the following activities:

- > data integrity and consistency – a quarterly intensive validation of each set of data received from carriage service providers
- > data management, analysis and visualisation
- > performance reporting under the Telecommunications (Consumer Complaints) Record-Keeping Rules 2018 (RKR) that relates specifically to the Consumer Safeguards Part A program
- > resolving systemic issues – systemic and other issues arising from the analysis of the complaint data and issues referred from the Telecommunications Industry Ombudsman (TIO) are investigated further by compliance and enforcement officers

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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)  
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[https://archive.budget.gov.au/2014-15/bp2/BP2\\_consolidated.pdf](https://archive.budget.gov.au/2014-15/bp2/BP2_consolidated.pdf)

or communicated to the relevant industry participant(s), industry body and/or regulator, 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 in force at the beginning of a financial year (1 July 2021 for 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 determinations as necessary under subsection 14(1) of the Act to impose 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>4</sup>
- > held by a carrier that was a non-participating person for the eligible revenue period immediately preceding that financial year.<sup>5</sup>

Accordingly, when the ACMA makes a determination under subsection 14(1) of the Act, it will impose a charge of \$0 on carriers that were non-participating persons for the 2020–21 eligible revenue period.

Subsection 15(1) of the Act requires that 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 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.

**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>6</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.

<sup>4</sup> The 2017 Direction defines relevant financial year as the financial year that begins on 1 July 2017 and each later financial year.

<sup>5</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.

<sup>6</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 that directly relate to the MBA program are not included in Table 1, but are disclosed in Attachment B.



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 22 March 2022, the former minister made the Telecommunications (Carrier Licence Charges) (Paragraph 15(1)(d)) Determination 2022 (No. 1), which estimated total amounts of grants likely to be made during the 2021–22 financial year under section 593 of the Telco Act, in accordance with paragraph 15(1)(d) of the Act.<sup>7</sup>

All determinations are, or will be, registered on the Federal Register of Legislation by the respective entities and commence before the ACMA will formally determine the amount of ACLC payable by each relevant licenced carrier and issues invoices.

**Table 2: List of legislative instruments for imposition of the ACLC for the 2021–22 financial year**

No.	Determination	Made under
1	Telecommunications Carrier Licence Charges (Annual Charges) Determination (No. 1) 2023  (To be made by the ACMA, commencing after each of the determinations listed below have commenced)	Subsection 14(1) of the Act
2	Telecommunications Carrier Licence Charges (Specification of Costs by the ACMA) Determination (No. 1) 2023  (To be made by the ACMA)	Paragraphs 15(1)(a), (c) and (ca) of the Act
3	Determination Under Paragraph 15(1)(b) No. 1 of 2023  (Made by the ACCC)	Paragraph 15(1)(b) of the Act
4	Determination Under Paragraph 15(1)(d) No. 1 of 2022 <sup>8</sup>  (Made by the Minister for Communications)	Paragraph 15(1)(d) of the Act

<sup>7</sup> [www.legislation.gov.au/Details/F2022L00560](http://www.legislation.gov.au/Details/F2022L00560)

<sup>8</sup> [www.legislation.gov.au/Details/F2022L00560](http://www.legislation.gov.au/Details/F2022L00560)

## 3. Cost recovery model

There are 5 distinct regulatory outputs (cost components) 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

Table 3 summarises the ACMA's costs that relate to the telecommunications functions and powers for the preceding financial year for the 2021–22 and 2020–21 ACLC.

**Table 3: The ACMA's ACLC costs for the 2020–21 and 2019–20 financial years**

Output	ACMA cost 2020–21	ACMA cost 2019–20	Variance \$	Variance %
Regulation development	\$4,595,110	\$5,890,735	(\$1,295,626)	(22%)
Industry monitoring and NBN	\$776,318	\$558,956	\$217,362	39%
Compliance, enforcement and consumer safeguards	\$6,654,831	\$5,193,701	\$1,461,130	28%
Licensing and allocation	\$804,546	\$951,760	(\$147,214)	(15%)
Other outputs	\$655,651	\$908,772	(\$253,121)	(28%)
<b>Sub-total</b>	<b>\$13,486,456</b>	<b>\$13,503,923</b>	<b>(\$17,467)</b>	<b>0%</b>
Consumer Safeguards Part A	\$1,456,349	\$886,266	\$570,083	64%
<b>Total costs</b>	<b>\$14,942,805</b>	<b>\$14,390,189</b>	<b>\$552,616</b>	<b>4%</b>

Note: Sums may not add due to rounding.

The ACMA's costs (excluding the Consumer Safeguards Part A program) have not significantly changed from the previous financial year, decreasing by 0.1% (\$0.02 million).

The Consumer Safeguards Part A program costs have increased by 64.3% (\$0.6 million) from the previous year, mainly due to the delay in the start-up phase in 2019–20, resulting in the expenditure being incurred in 2020–21 instead. The expenditure is in line with overall funding, and the program is expected to finish budget neutral.

The ACMA continues to identify efficiencies to ensure only minimum costs are passed on to industry.

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

Determining the ACMA's costs to be recovered under the ACLC uses 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 previous years, time is used as the 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 2020–21 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>9</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, as it relates to the ACMA's telecommunications functions.

The outputs for the ACMA's telecommunications activities are summarised below. To demonstrate transparency of costs attributable to the ACLC, as reported in the CRIS for the 2020–21 ACLC, the ACMA now provides activity costs for the 2021–22 ACLC with comparative costs for the previous year for each output.

#### ***Regulation development***

This output includes regulatory development under the existing legislative framework, including:

- > promoting self- and co-regulation and competition in the telecommunications industry
- > developing and varying telecommunications industry standards
- > conducting research on matters affecting telecommunication regulations
- > managing technical regulatory arrangements.

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<sup>9</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.

Table 4 provides details of the activities performed under this output for the 2021–22 and 2020–21 ACLC.

**Table 4: Regulation development – activities and costs for 2021–22 ACLC (based on 2020–21 costs) and 2020–21 ACLC (based on 2019–20 costs)**

Ref	Activity description	2020–21 cost	2019–20 cost	Variance increase/ (decrease)
R1	Granting authorisation to access numbers via the IPND Scheme and Regulations and monitoring and enforcing compliance with IPND requirements. Regulating and managing numbering arrangements	\$1,124,124	\$718,963	\$405,161
R2	Educating the telecommunications industry and consumers on safeguards, including ongoing consulting with stakeholders	\$69,781	\$116,725	(\$46,944)
R3	Providing advice to industry and consumers about obligations and safeguards under the NBN consumer rules; reporting compliance activities to the public and relevant internal and external stakeholders	\$410,211	\$576,487	(\$166,276)
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	\$1,240,432	\$1,511,885	(\$271,452)
R7	Managing telecommunications labelling notices and standards	\$685,907	\$391,915	\$293,991
R9	Registering telecommunications operational codes	\$11,577	\$0	\$11,577
R10	Researching market developments and telecommunications consumer experience (excluding NBN)	\$646,838	\$1,553,537	(\$906,699)
R12	Reviewing, making and registering of codes and determinations (e.g. Emergency Call Service Determination, Mobile Phone Base Stations)	\$406,240	\$1,021,223	(\$614,983)
	<b>Total costs</b>	<b>\$4,595,110</b>	<b>\$5,890,735</b>	<b>(\$1,295,626)</b>

Note: Sums may not add due to rounding.

### **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
- > monitoring the implementation of appropriate NBN standards and codes.

Table 5 provides details of the activities performed under this output for the 2021–22 and 2020–21 ACLC.

**Table 5: Industry monitoring and NBN – activities and costs for 2021–22 ACLC (based on 2020–21 costs) and 2020–21 ACLC (based on 2019–20 costs)**

Ref	Activity description	2020–21 cost	2019–20 cost	Variance increase/ (decrease)
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	\$776,318	\$558,956	\$217,362
	<b>Total costs</b>	<b>\$776,318</b>	<b>\$558,956</b>	<b>\$217,362</b>

*Note: Sums may not add due to rounding.*

### **Compliance, enforcement and consumer safeguards**

This output includes:

- > monitoring compliance relating to:
  - > consumer protection codes
  - > devices subject to labelling arrangements
  - > telecommunications cabling
  - > electromagnetic activities
- > handling complaints from the telecommunications industry and consumers
- > undertaking audit programs
- > issuing warning notices and directions to comply
- > taking other enforcement actions.

Table 6 provides details of the activities performed under this output for the 2021–22 and 2020–21 ACLC.

**Table 6: Compliance, enforcement and consumer safeguards – activities and costs for 2021–22 ACLC (based on 2020–21 costs) and 2020–21 ACLC (based on 2019–20 costs)**

Ref	Activity description	2020–21 cost	2019–20 cost	Variance increase/ (decrease)
C1	Contributing submissions to a range of consumer safeguards consultation processes	\$6,807	\$116,725	(\$109,919)
C2	Implementing cabling compliance arrangements, including cabling inspections	\$33,774	\$0	\$33,774
C3	Investigating non-compliant cabling work	\$177,809	\$111,281	\$66,528
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. Assessing applications from carriers and CSPs seeking exemptions from the requirement to join the TIO	\$2,499,233	\$2,483,345	\$15,887
C5	Providing newsletters and quarterly telecommunications facts and figures on website; providing fact sheets and maintaining currency of supporting consumer material on the ACMA website and other media platforms	\$186,040	\$0	\$186,040
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	\$2,172,100	\$1,929,602	\$242,498
C7	Maintaining Telco network resilience through the Statutory Infrastructure Provider Register, and overseeing Telstra's compliance with Carrier Licence Conditions such as the Network Reliability Framework and regional reporting	\$872,829	\$552,747	\$320,082
C9	Conducting compliance and enforcement activities to ensure that the telecommunications industry complies with new regulations to improve the experience of consumers migrating to the NBN, including with the Consumer Information Standard, Service Continuity Standard and Service Migration Determination and the Complaints Handling Standard	\$706,239	\$0	\$706,239
	<b>Total costs</b>	<b>\$6,654,831</b>	<b>\$5,193,701</b>	<b>\$1,461,130</b>

Note: Sums may not add due to rounding.

### **Licensing and number allocation**

This output includes:

- > planning, developing and managing telecommunications carrier licences and submarine cable permits
- > planning, developing, allocating and maintaining 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 7 provides details of the activities provided under this output for the 2021–22 and 2020–21 ACLC.

**Table 7: Licensing and number allocation – activities and costs for 2021–22 ACLC (based on 2020–21 costs) and 2020–21 ACLC (based on 2019–20 costs)**

Ref	Activity description	2020–21 cost	2019–20 cost	Variance increase/ (decrease)
L1	Develop and maintain the administrative functions necessary to process applications under the carrier licensing regime and submarine cable regime	\$360,908	\$512,370	(\$151,462)
L2	Managing outsourced numbering arrangements and number allocation	\$443,638	\$439,389	\$4,249
	<b>Total costs</b>	<b>\$804,546</b>	<b>\$951,759</b>	<b>(\$147,213)</b>

Note: Sums may not add due to rounding.

### **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 8 provides details of the activities provided under this output for the 2021–22 and 2020–21 ACLC.

**Table 8: Other outputs – activities and costs for 2021–22 ACLC (based on 2020–21 costs) and 2020–21 ACLC (based on 2019–20 costs)**

Ref	Activity description	2020–21 cost	2019–20 cost	Variance increase/ (decrease)
O1	Administering the carrier licence charging arrangement and costing of regulatory activities associated with telecommunications	\$655,651	\$908,773	(\$253,122)
	<b>Total costs</b>	<b>\$655,651</b>	<b>\$908,773</b>	<b>(\$253,122)</b>

Note: Sums may not add due to rounding.

### 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 9 provides details of the activities provided under this output for the 2021–22 and 2020–21 ACLC.

**Table 9: Consumer Safeguards Part A program – activities and costs for 2021–22 ACLC (based on 2020–21 costs) and 2020–21 ACLC (based on 2019–20 costs)**

Ref	Activity description	2020–21 cost	2019–20 cost	Variance increase/ (decrease)
S1	Telecommunications Consumer Safeguards relating to Consumer Safeguards Part A activities including telecommunications performance reporting	\$1,091,716	\$406,304	\$685,412
S2	Conducting compliance audits to test Telecommunication Industry Service Providers' compliance with requirements under the standards that relate to Consumer Safeguards Part A	\$364,632	\$479,962	(\$115,330)
	<b>Total costs</b>	<b>\$1,456,349</b>	<b>\$886,266</b>	<b>\$570,083</b>

Note: Sums may not add due to rounding.

Further details about the ACMA's telecommunications activities in 2020–21 are set out in the ACMA's [Annual report 2020–21](#).

### 3.1.3 Costs of the activity

Tables 10 and 10A summarise the direct costs and support costs of the ACMA's components at the output level for the 2021–22 and 2020–21 ACLC, respectively.



**Table 10: The ACMA's components at output level for 2021–22 ACLC (based on 2020–21 costs)**

<b>Output</b>	<b>Direct cost 2020–21</b>	<b>Support cost 2020–21</b>	<b>Total cost 2020–21</b>
Regulation development	\$3,179,009	\$1,416,101	\$4,595,110
Industry monitoring and NBN	\$508,773	\$267,545	\$776,318
Compliance, enforcement and consumer safeguards	\$4,274,358	\$2,380,473	\$6,654,831
Licensing and allocation	\$607,085	\$197,461	\$804,546
Other outputs	\$366,955	\$288,697	\$655,651
<b>Sub-total</b>	<b>\$8,936,179</b>	<b>\$4,550,277</b>	<b>\$13,486,456</b>
Consumer Safeguards Part A program	\$935,926	\$520,423	\$1,456,349
<b>Total costs</b>	<b>\$9,872,105</b>	<b>\$5,070,700</b>	<b>\$14,942,805</b>

*Note: Sums may not add due to rounding.*

Direct costs include those directly attributable to outputs and activities performed by relevant operational areas that are involved in service provision, as well as overhead costs. These include 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 Chair 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, including information technology, finance, human resources, facilities and other costs.

**Table 10A: The ACMA's components at output level for 2020–21 ACLC (based on 2019–20 costs)**

Output	Direct cost 2019–20	Support cost 2019–20	Total cost 2019–20
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 program	\$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>

*Note: Sums may not add due to rounding.*

Table 11 sets out the allocation method applied by the ACMA to each of the support categories.

**Table 11: 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 12 outlines a breakdown of expenses included in the ACMA's cost components for the ACLC amount for the 2020–21 financial year compared to the previous year. Employee costs include salaries and staff on-costs; 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 in determining the ACLC. These costs are subsets of both the direct and support costs shown in tables 10 and 10A above.

**Table 12: The ACMA’s cost component for 2021–22 ACLC (based on 2020–21 costs) and 2020–21 ACLC (based on 2019–20 costs)**

<b>Costs</b>	<b>2021–22 ACLC</b>	<b>2020–21 ACLC</b>	<b>% change increase/ (decrease)</b>
Employees	\$9,225,212	\$8,720,513	6%
Operating	\$3,024,660	\$3,493,647	(13%)
Depreciation and write-off	\$2,873,427	\$2,307,010	25%
<b>Total ACMA costs</b>	<b>\$15,123,299</b>	<b>\$14,521,169</b>	<b>4%</b>
Less: revenue received from activities delivered on a fee-for-service basis (see Attachment A: Telecommunications activities not included in the ACLC)	\$180,494	\$130,980	38%
<b>Total costs for ACLC</b>	<b>\$14,942,805</b>	<b>\$14,390,189</b>	<b>4%</b>

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

***Independent review of the ACMA’s costs***

The ACMA procured an independent audit of the 2021–22 ACLC costs. It 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.

**3.2 Determination of cost component for the ACCC’s activity**

Under paragraph 15(1)(b) of the Act, for the 2021–22 ACLC, the ACCC must determine the proportion of its costs incurred during 2020–21 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 2020–21* (Division 11 and 12 report).
- > Releasing 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 special access undertaking (SAU) and Telstra SSU), which have 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 \$6.4 million in the Federal Court against Optus for making misleading claims about NBN disconnections.
- > Consulting on and updating *Broadband speed claims: Industry guidance* and consulting on updating telecommunications non-discrimination guidelines.

- > Investigating NBN Co Limited (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, including establishing the [COVID-19 taskforce](#).

***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 2019–20.
- > 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 on various market developments, statements of intent and on spectrum allocation limits, including conducting public consultation.
- > Providing submissions to consultation processes of other government agencies and departments' policy and regulatory issues on matters such as reform of the radiocommunications legislative regime and the Consumer Safeguards Review.
- > Releasing the domestic transmission capacity service and mobile terminating access service final access determinations for 2021–24.
- > 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 former minister on Telstra's compliance with its 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 former 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 2020–21 are based on the cost of services in accordance with the ACCC's 2020–21 audited financial statements.

Delivery costs of the MBA program (*Cost Recovery Implementation Statement – Addendum: Measuring Broadband Australia program*) are 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 13 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 13: The ACCC’s component at output level, 2021–22 (based on 2020–21 costs)**

Output activity	Direct costs	Support costs	Total cost
Communications markets and advocacy	\$2,772,881	\$1,365,369	\$4,138,250
Mobiles, transmission and consumer (including NBN)	\$2,220,088	\$1,093,174	\$3,313,262
Wireline markets	\$1,071,813	\$527,762	\$1,599,575
Other outputs	\$341,428	\$168,120	\$509,548
<b>Total costs</b>	<b>\$6,406,210</b>	<b>\$3,154,425</b>	<b>\$9,560,635</b>

Direct costs are those 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 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 those 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 reflect the cost objects 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 14 sets out the allocation method to be applied by the ACCC to each of the corporate categories.

**Table 14: 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 2021–22 ACLC (excluding the MBA program costs, which are discussed in Attachment B) have been calculated at \$9,560,634. This represents a \$1,463,293 (13.3%) decrease from the previous year, largely driven by lower staff costs due to vacant positions, and lower consultancy, legal and travel costs during the surge of the COVID-19 pandemic.

The access determination inquiry for the Mobile Terminating Access Service is conducted periodically. This determination inquiry last occurred in 2019–20, therefore consultancy costs were lower in 2020–21 compared to 2019–20.

Overheads were down slightly from the previous period mainly due to lower support staff costs and lower property costs resulting from efficiencies in new lease arrangements.

**Table 15: The ACCC's cost component for 2021–22 ACLC (based on 2020–21 costs) and 2020–21 ACLC (based on 2019–20 costs)**

Costs	2021–22 ACLC	2020–21 ACLC	% change increase/ (decrease)
Employees	\$7,312,388	\$8,195,864	(10.8%)
Consultancy and travel	\$145,827	\$269,835	(46.0%)
Overheads	\$2,102,420	\$2,558,229	(17.8%)
<b>Total costs</b>	<b>\$9,560,635</b>	<b>\$11,023,928</b>	<b>(13.3%)</b>



### 3.3 Determination of cost component for the ITU activity

The information in this section has been provided by DITRDCA, setting out the cost-recovery model 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 2021. The applicable amount is determined using calculations provided by DITRDCA.

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. DITRDCA 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 DITRDCA each year as appropriated through the budget process. The contribution for the 2021 calendar year was Swiss Francs 4,725,000 (A\$6,934,989, using the exchange rate at the time payment was made).

To determine the telecommunication component of the Commonwealth's 2021 contribution, the ACMA has, on advice from DITRDCA, considered ITU-T's share of the combined output costs for ITU-T and ITU-R. As outlined in Table 16, the cost component of the contribution associated with the ACLC is the ITU-T activities of A\$2,209,549. The decrease of 3.48% from the previous year can largely be attributed to the difference in the exchange rate at the time of payment.

Table 16 provides the comparison of ITU contributions for the 2020 and 2021 calendar years.

**Table 16: Costs associated with ITU-T and ITU-R activities**

	ITU-T	ITU-R	Total
	A\$	A\$	A\$
2021	2,209,549	4,725,440	6,934,989
2020	2,289,268	4,930,120	7,219,389
Increase/(decrease)	(3.48%)	(4.15%)	(3.94%)
Ratio 2021	31.86%	68.14%	
Ratio 2020	31.71%	68.29%	
	Swiss Francs	Swiss Francs	Swiss Francs
2021	1,505,427	3,219,573	4,725,000
2020	1,498,298	3,226,702	4,725,000
Increase/(decrease)	0.48%	(0.22%)	

### 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 2020–21 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 for 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 before any payment is 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 2020–21 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 DITRDCA, 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 2021–22 financial year was determined by DITRDCA.

Since 2009–10, a grant has been provided to the Australian Communications Consumer Action Network (ACCAN). ACCAN was 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, were made directly by DITRDCA 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 former minister made a legislative instrument determining<sup>10</sup> that an amount of \$2,381,000 was estimated to be paid in grants under section 593 of the Telco Act during the 2021–22 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 17.

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<sup>10</sup> <https://www.legislation.gov.au/Details/F2021L00057>

**Table 17: Consumer representation grant program**

<b>Expense</b>	<b>Cost (million)</b>
Employee expenses	\$1.793
Administration expenses	\$0.269
Independent grants program research projects	\$0.314
Committee expenses, travel, accommodation	\$0.005
<b>Total</b>	<b>\$2.381</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.

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 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**

To ascertain 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 for 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 that are also participating persons. 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 bears 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>11</sup>
- > ER is the individual carrier's eligible revenue for the 2020–21 financial year
- > TER is the total eligible revenue for the 2020–21 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 Part A program<sup>12</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 are recovered in arrears from those carriage service providers that are required to report under the RKR (that is, carriage service providers that were 'qualifying retail carriage service providers'<sup>13</sup> during the relevant period) and are also carriers and participating persons.

For 2021–22, the methodology to apportion the Consumer Safeguards Part A program costs to the liable carriers that report under the RKR is based on each carrier's eligible revenue.

Accordingly, the following formula is applied to allocate the total cost of the Consumer Safeguards Part A program for the 2020–21 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 bears to the total assessed eligible revenue of all qualifying retail carriage service providers (QRCSPs):

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

Where:

- > CSPA is the cost of the Consumer Safeguards Part A program for the 2020–21 financial year
- > ER is the individual carrier and QRCSP's eligible revenue for the 2020–21 financial year
- > TERQRCSP is the total assessed eligible revenue of all QRCSPs (under the RKR) that were also participating persons for the 2020–21 financial year.

The instrument that the ACMA proposes to make under section 14 of the Act must include information that allows every carrier to determine the amount of carrier licence

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<sup>11</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>12</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>13</sup> The term 'qualifying retail carriage service provider' is defined in section 7 of the RKR.

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 TERQRCSP as a dollar amount.

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

It is also proposed that the names of the QRCSPs be listed in the determination made under section 14 of the Act to readily determine the amount of ACLC payable by a carrier.

To establish the total individual levy amount payable by liable licensed 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 18.

**Table 18: ACLC summary by cost component**

Reference in the Act	Cost component	2021–22 ACLC actual <sup>14</sup>
15(1)(a)	The ACMA's cost component (including costs of the Consumer Safeguards Part A program)	\$14,942,805
15(1)(b)	ACCC's cost component including the costs for the MBA program of \$1,640,116 (see section 3.2 of Attachment B of this CRIS)	\$11,200,750
15(1)(c)	Proportion of ITU contribution	\$2,209,549
15(1)(ca)	Costs for reimbursements of costs for the development or variation of consumer protection related industry codes paid under section 136C of the Telco Act	\$0
15(1)(d)	Government grants – consumer representation and research	\$2,381,000
<b>Total</b>		<b>\$30,734,104</b>

<sup>14</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 2020–21 financial year) for which the charges are imposed. The cost component under paragraph 15(1)(c) relates to the calendar year (the 2021 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 2021–22 financial year.

## 4. Risk assessment

The ACMA has carried out a risk assessment for each cost component of the 2021–22 ACLC, resulting in an overall rating of medium. The individual ratings for each cost component are shown in Table 19 and are based on assessment of the criteria in the [Regulatory Charging Risk Assessment](#)<sup>15</sup> (under 'Tools and templates').

**Table 19: 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	Low
15(1)(c)	Commonwealth's ITU contribution	Low
15(1)(ca)	Costs for reimbursement of costs for the development or variation of consumer protection related industry codes paid under section 136C of the Telco Act	Low
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. 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>15</sup> Further information is available on p. 18 of the Department of Finance's [Australian Government Charging Framework](#).

# 5. Stakeholder engagement

The ACMA regularly consults with stakeholders about telecommunications regulatory matters. In 2021–22, the ACMA consulted on:

- > the proposed ACLC for the 2020–21 financial year
- > standards and determinations
- > compliance priorities
- > exemptions
- > customer cabling
- > new rules to prevent phone scams
- > consumer protections and safeguards.

The ACCC also advises that it has engaged with stakeholders through price-setting consultations and regulatory matters. The ACCC's key areas of consultation in 2020–21 included:

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

To maintain an active involvement with industry, the ACMA published a consultation paper and a draft version of this CRIS on its website for a 7-week period to 3 February 2023. Submissions were received from Communications Alliance Ltd, Telstra and TPG Telecom. The submissions raised the following points:

- > the need for further clarity on how the Consumer Safeguards Part A program differs from other complaints handling and consumer redress work the ACMA undertakes as part of the normal operations
- > the need for greater transparency on the budget and financial performance of the MBA program
- > concerns regarding the appropriateness of other carriers bearing the cost of regulating the NBN
- > the need for policy makers to undertake a review of the ACLC to ensure the cost recovery model continues to be reasonable and fit for purpose.

A summary of the issues and responses to the consultation is provided in Attachment D.



## 6. Financial estimates

Financial estimates for each component of the ACLC to be determined under section 15 of the Act for the 2021–22 financial year are provided in Table 20, along with forecasts over the next 3 years.

**Table 20: Financial estimates by activity**

Ref. in the Act	Component	2021–22 budget (\$million)	2021–22 revised budget (\$million)	2022–23 budget (\$million)	2023–24 budget (\$million)	2024–25 budget (\$million)
15(1)(a)	ACMA telecommunications expenses	14.581	14.564	14.522	14.522	14.522
15(1)(b)	ACCC telecommunications expenses	10.500	9.861	11.704	9.861	9.861
15(1)(c)	Commonwealth's ITU contribution	2.202	2.173	2.172	2.133	2.100
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	2.381	2.381	2.488	2.619	2.693
<b>Total expenses</b>		<b>29.964</b>	<b>29.279</b>	<b>31.186</b>	<b>29.435</b>	<b>29.476</b>
15(1)(a)	ACMA telecommunications expenses	15.495	14.943	14.564	14.522	14.522
15(1)(b)	ACCC telecommunications expenses	10.500	9.561	9.861	11.704	9.861
15(1)(c)	Commonwealth's ITU contribution	2.157	2.137	2.137	2.137	2.137
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	2.381	2.381	2.488	2.619	2.693
<b>Total revenue</b>		<b>30.833</b>	<b>29.322</b>	<b>29.350</b>	<b>31.282</b>	<b>29.513</b>
<b>Balance</b>		<b>0.869</b>	<b>0.042</b>	<b>(1.836)</b>	<b>1.847</b>	<b>0.037</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 can result in a surplus or deficit balance (that is, a timing difference) for each financial year.

Section 2.1 of this CRIS notes that the government has provided \$3.7 million, which was reduced from \$7.2 million appropriated in the 2019–20 Budget<sup>16</sup> to the ACMA for the delivery of the telecommunications Consumer Safeguards Part A 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 in this document. The increase in forecast expenditure in 2022–23 reflects a one-off funding increase for the 12-month regional mobile infrastructure inquiry. The ACCC notes the actual ACLC revenue for the 2021–22 financial year was consistent with budgeted expectations from the previously published 2020–21 CRIS.

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

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<sup>16</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

Table 21 lists historical actual financial results for ACLC for the 2020–21 financial year and previous financial years.

**Table 21: Historical ACLC expenses and revenue**

Ref. in the Act	Component	2020–21 (\$million)	2019–20 (\$million)	2018–19 (\$million)	2017–18 (\$million)	2016–17 (\$million)
15(1)(a)	ACMA telecommunications expenses	14.943	14.390	13.319	13.398	14.304
15(1)(b)	ACCC telecommunications expenses (including the costs for the MBA program since 2017–18)	11.201	12.623	11.878	13.296	13.109
15(1)(c)	Commonwealth's ITU contribution	3.153	2.149	2.030	2.004	2.004
15(1)(ca)	Amounts reimbursed to industry groups for development or variation of consumer protection related industry codes	0.000	0.165	0.000	0.000	0.000
15(1)(d)	Estimated government grants – consumer representation and research	2.358	2.322	2.296	2.261	2.230
<b>Total expenses</b>		<b>31.655</b>	<b>31.649</b>	<b>29.523</b>	<b>30.959</b>	<b>31.647</b>
15(1)(a)	ACMA telecommunications revenue	14.390	13.319	13.398	14.304	14.405
15(1)(b)	ACCC telecommunications revenue (including the revenue for the MBA program since 2017–18)	12.623	11.878	13.296	13.109	13.641
15(1)(c)	Commonwealth's ITU contribution	2.332	2.109	2.060	2.004	2.262
15(1)(ca)	Amounts reimbursed to industry groups for development or variation of consumer protection-related industry codes	0.165	0.000	0.000	0.000	0.000
15(1)(d)	Estimated government grants – consumer representation and research	2.358	2.322	2.296	2.261	2.230
<b>Total revenue</b>		<b>31.868</b>	<b>29.628</b>	<b>31.050</b>	<b>31.678</b>	<b>32.538</b>
<b>Balance</b>		<b>0.213</b>	<b>(2.021)</b>	<b>1.527</b>	<b>0.719</b>	<b>0.891</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 increase in the ACMA's expenditure in the 2020–21 financial year is explained in section 3.1.1.

The decrease in the ACCC's expenditure for the 2020–21 financial year is explained in section 3.2.2.

## 7B. Non-financial performance

### The ACMA's cost component

The ACMA's performance measures for its deliverables for telecommunications services are provided in Table 22.

**Table 22: 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 2020–21 financial year is published in the 'Report on performance' section in the ACMA's [Annual report 2020–21](#).

### 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 an 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 timeframes
- > 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 each year. The key forward events and dates for the ACLC process for the 2022–23 financial year are provided in Table 23.

**Table 23: Key forward dates and events**

Key events	Date
Update of forward estimates	October 2023
Update of actual costs	October 2023

# 9. CRIS approval and change register

Table 24: Change register

Date	Description	Approved by	Comments
26 April 2023	Approval of the 2021–22 CRIS	Minister for Communications	
28 March 2023	Certification of the 2021–22 CRIS	ACMA Chair	
16 December 2022 to 3 February 2023	Consultation for 7 weeks on the 2021–22 draft CRIS	ACMA Authority	
23 September 2022	Approval of the 2020–21 CRIS	Minister for Communications	
18 August 2022	Certification of the 2020–21 CRIS	ACMA Chair	
5 April 2022 to 2 May 2022	Consultation for 4 weeks on the 2020–21 draft CRIS	ACMA Authority	
7 June 2021	Approval of the 2019–20 CRIS	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	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	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	Minister for Communications and the Arts	
29 June 2017	Certification of the 2016–17 CRIS – Version 3.1	ACMA Acting Chair	



Date	Description	Approved by	Comments
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	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	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 these 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.

## **Anti-spam and e-security activities**

Costs associated with anti-spam activities carried out in accordance with the *Spam Act 2003* and e-security 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 *Do Not Call Register Act 2006* and the *Telecommunications Act 1997*, 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**

The costs of consumer awareness information and 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 (ACLCL) 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 are determined under paragraph 15(1)(b) of the Act, that relate to its Measuring Broadband Australia (MBA) program. This addendum is required as the method for recovering the MBA program costs differs from that used to recover the costs of other activities funded via the ACLCL. Accordingly, the information in this CRIS addendum has been provided by the ACCC.

This statement reports financial performance for 2017–18 to 2020–21 financial years and contains financial forecasts for the 2021–22 financial year and 4 forward years (financial years 2021–22 to 2024–25).

### 1.2 Background and description of activity

Under the *Telecommunications (Carrier Licence Charges) Act 1997* (the Act), the ACLCL is used to fund the exercise of the ACMA's and ACCC's telecommunications functions and powers, the Commonwealth's contribution to the International Telecommunication Union (ITU), the amount reimbursed for the development or variation of industry codes under Part 6 of the *Telecommunications Act 1997* (Telco Act) and relevant telecommunications grants made by the former minister for Communications, Urban Infrastructure, Cities and the Arts. 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 ACLCL, 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 about 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 ACLCL.

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, administered by the ACCC.<sup>17</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>18</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 B2.

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 2021 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 B1).

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).

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<sup>17</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).

<sup>18</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.

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.

**Table B1: 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 2020–21 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>19</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.

<sup>19</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.

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.

### 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
- > 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 B2 provides details of the ACCC’s MBA program expenses by financial year for the next 4 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 B2: The ACCC’s anticipated program expenses**

Expense	Budget 2021–22 (million)	Budget 2022–23 (million)	Budget 2023–24 (million)	Budget 2024–25 (million)
MBA program budgeted expenses	\$2.330	\$2.084	\$1.811	\$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 2021–22 ACLC, representing the costs incurred during 2020–21, has been calculated at \$1,640,116. The budget for 2020–21 was \$2,008,693 and, therefore, the cost of providing MBA services was \$368,577 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 B3.

**Table B3: The ACCC’s cost component for the MBA program**

Costs	2021–22 ACLC (based on 2020–21 costs)	2020–21 ACLC (based on 2019–20 costs)	% change*
MBA program expenses	\$1,640,116	\$1,599,297	2.6%

\*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 that are 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 that 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 that 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 that 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.

## 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 B4 below.

**Table B4: 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 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?	Consulted – no issues raised	Low
<b>Overall rating</b>		<b>Medium</b>

The overall risk rating is based on assessment of the criteria in the [Regulatory Charging Risk Assessment Template](#) (accessed under 'Tools and templates'). Due to an overall risk rating of medium<sup>20</sup>, this CRIS can be approved by the responsible minister to commence charging and does not require approval from the Finance Minister.

<sup>20</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 2020–21 and 3 forward years are provided in Table B5.

**Table B5: Financial performance and estimates by activity**

Component	2017–18 actual (\$million)	2018–19 actual (\$million)	2019–20 actual (\$million)	2020–21 actual (\$million)	2021–22 budget (\$million)	2022–23 budget (\$million)	2023–24 budget (\$million)
MBA program expenses	1.532	1.702	1.599	1.640	2.330	2.084	1.811
ACLC revenue	0.0	1.532	1.702	1.599	1.640	2.330	2.084
<b>Balance</b>	<b>(1.532)</b>	<b>(0.170)</b>	<b>0.103</b>	<b>(0.041)</b>	<b>(0.690)</b>	<b>0.246</b>	<b>0.273</b>
<b>Cumulative balance</b>	<b>(1.532)</b>	<b>(1.702)</b>	<b>(1.599)</b>	<b>(1.640)</b>	<b>(2.330)</b>	<b>(2.084)</b>	<b>(1.811)</b>

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

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

## 7A. Financial performance

The 2017–18, 2018–19, 2019–20 and 2020–21 financial year results for the MBA program are reported in Table B5.

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 SAU from NBN Co
- > assessing and enforcing Telstra's 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, and media and application services delivered over telecommunications networks
- > advising other areas of the ACCC on the 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 and Senate Estimates.

Tables B6 and B6A provide 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 to achieve a representative sample on the newer access technologies and later release sites.

**Table B6: 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	3,088
<b>Variation</b>	<b>(1,300)</b>	<b>(1,200)</b>	<b>(1,317)</b>	<b>(912)</b>

**Table B6A: The ACCC’s device deployment profile (forecast)**

Details	2021–22	2022-23	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 website – [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 for the MBA program costs will also be updated each year. The key forward events and dates for the ACLC process for the 2021–22 financial year are provided below in Table B7.

**Table B7: Key forward dates and events**

Key events	Date
Update of forward estimates	By October 2023
Update of actual costs	By October 2023

# 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
DITRDCA	Department of Infrastructure, Transport, Regional Development and Communications and the Arts
ER	eligible revenue
FLC	total number of NBN fixed-line connections operated by the monitored service provider in a test segment
Guidelines	Australian Government Cost Recovery Guidelines (RMG 304)
ICT	information and communication technology
IPND	Integrated Public Number Database
IT	information technology
ITU	International Telecommunication Union
ITU-D	International Telecommunication Union – Development Sector
ITU-R	International Telecommunication Union – Radiocommunication Sector
ITU-T	International Telecommunication Union – Telecommunication Standardization Sector
MBA program	Measuring Broadband Australia program
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
TERQRCSP	total assessed eligible revenue of all qualifying retail carriage service providers
TFLC	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

# Attachment C: ACLC for 2021–22

Item	Carrier name	Eligible revenue 2020–21	ACLC 2021–22 (excl MBA program and Consumer Safeguards Part A program)	Eligible revenue 2020–21 for allocating Consumer Safeguard Part A program costs	ACLC 2021–22 Consumer Safeguards Part A	Fixed-line connections 2020–21	ACLC 2021–22 MBA program	Total ACLC 2021–22
1	AARNet Pty Ltd	\$57,768,561	\$67,839					\$67,839
2	Aussie Broadband Pty Ltd	\$93,083,132	\$109,310	\$93,083,132	\$7,057	\$363,135	\$76,612	\$192,979
3	Capital Fibre Networks Pty Ltd	\$595,324	\$699					\$699
4	Iridium Australia Licensee Pty Limited	\$26,773,908	\$31,441					\$31,441
5	LBN Co Pty Ltd	\$19,302,717	\$22,668					\$22,668
6	Link Us Pty Ltd	\$3,666,900	\$4,306					\$4,306
7	Macquarie Telecom Pty Limited	\$85,424,266	\$100,316					\$100,316
8	NBN Co Limited	\$3,234,380,291	\$3,798,216					\$3,798,216
9	New Skies Satellites Australia Pty Ltd	\$24,952,523	\$29,302					\$29,302
10	Nextgen Networks Pty Limited	\$75,351,202	\$88,487					\$88,487
11	O3b Teleport Services (Australia) Pty Ltd	\$77,947,900	\$91,536					\$91,536
12	OPENetworks Pty Ltd	\$5,972,582	\$7,014					\$7,014
13	Opticomm Pty Ltd	\$81,859,542	\$96,130					\$96,130
14	Optus Fixed Infrastructure Pty Ltd	\$5,079,218	\$5,965					\$5,965

Item	Carrier name	Eligible revenue 2020–21	ACLCL 2021–22 (excl MBA program and Consumer Safeguards Part A program)	Eligible revenue 2020–21 for allocating Consumer Safeguard Part A program costs	ACLCL 2021–22 Consumer Safeguards Part A	Fixed-line connections 2020–21	ACLCL 2021–22 MBA program	Total ACLCL 2021–22
15	Optus Mobile Pty Ltd	\$4,206,336,571	\$4,939,609	\$4,206,336,571	\$318,909	\$1,279,095	\$269,855	\$5,528,373
16	Optus Satellite Network Pty Ltd	\$150,282,888	\$176,481					\$176,481
17	Over the Wire Pty Ltd	\$40,144,610	\$47,143					\$47,143
18	Pivotel Group Pty Ltd	\$45,077,763	\$52,936					\$52,936
19	Primus Telecommunications Pty Limited	\$195,234,733	\$229,269	\$195,234,733	\$14,802			\$244,071
20	Skiron OpCo Pty Ltd	\$583,728	\$685					\$685
21	Superloop (Australia) Pty Ltd	\$42,381,087	\$49,769			\$41,574	\$8,771	\$58,540
22	Telstra Corporation Limited	\$11,859,233,827	\$13,926,602	\$11,859,233,827	\$899,124	\$3,563,444	\$751,791	\$15,577,517
23	Telstra Multimedia Pty Limited	\$47,863,735	\$56,208					\$56,208
24	TPG Telecom Limited	\$2,855,016,182	\$3,352,719	\$2,855,016,182	\$216,457	\$1,963,989	\$414,349	\$3,983,524
25	UEComm Operations Pty Limited	\$40,342,617	\$47,375					\$47,375
26	Uniti Group Limited	\$6,315,911	\$7,417					\$7,417
27	Victorian Rail Track Corporation	\$48,074,958	\$56,456					\$56,456
28	Vocus Fibre Pty Ltd	\$205,855,440	\$241,741			\$562,816	\$118,739	\$360,480
<b>Totals</b>		<b>\$23,534,902,117</b>	<b>\$27,637,639</b>	<b>\$19,208,904,445</b>	<b>\$1,456,349</b>	<b>\$7,774,053</b>	<b>\$1,640,116</b>	<b>\$30,734,104</b>



# Attachment D: Summary of issues raised in industry consultation

Recommendation/issue	Response
<b>Communications Alliance (CA)</b>	
<p>1. Consumer Safeguards Review Part A: CA noted the increase in costs from the prior year and the reason provided and sought additional information on how the Consumer Safeguards Part A program differs from the ACMA's normal course of operations, which already includes industry monitoring, compliance, and enforcement.</p>	<p>The Consumer Safeguards Review Part A involves the collection, validation, analysis and reporting of consumer complaints made directly to carriage service providers. This data provides insights into the level and type of complaints made to carriage service providers and their performance in responding to them. This work has only been undertaken by the ACMA after the ACMA's Telecommunications (Consumer Complaints) Record-Keeping Rules 2018 were introduced and is ongoing.</p> <p>Work on the Consumer Safeguards Review Part A is separate from our normal course of monitoring and compliance operations using TIO data, which only covers complaints that are escalated to the TIO. The Consumer Safeguards Review Part A does not involve reporting of TIO complaints data. For further information on the Consumer Safeguards Review Part A, please refer to DITRDCA's <a href="#">Part A: complaints handling and consumer redress— Consumer Safeguards Review — Final Report</a>.</p>
<p>2. MBA program: Following the 2021–22 May budget measure to extend and expand the existing MBA program, CA would welcome a review by the ACCC after the first 12 months to assess the effectiveness of the MBA program in measuring the performance of these networks.</p>	<p>The ACCC considers that it is appropriate to periodically review programs to ensure that they efficiently deliver their objectives. However, the most recent review, which recommended renewing the MBA program, was only conducted in 2020. The ACCC's current focus is on delivering the broader scope of the MBA program that was set out with the government's decision to renew funding for 4 years through to 2025, having already commenced reporting on NBN fixed wireless, higher-speed services and alternative fixed-line broadband access networks. The 2020 review concluded that the MBA program supports strong market outcomes for consumers and encourages RSPs to deliver the speed and quality that consumers have paid for during the busy hours, when consumers are most likely to use their service. We consider that it would be more appropriate to review the program closer to its scheduled end.</p>
<p>3. MBA program: CA raised concerns about the MBA program in prior consultation processes in relation to the lack of transparency on the budget and financial performance of the MBA program. As take-up under the MBA program remains low, CA welcomes additional clarity on what adjustments will be made to</p>	<p>Transparency over the financial performance of the MBA program is provided through the annual CRIS. The MBA program component of the ACLC for 2020–21 is calculated at \$1,640,116, which is \$368,577 less than the budget of \$2,008,693. The ACCC aims to finish budget neutral by the end of the MBA program extension as activities such as new tests and reports allocated to the 2020–21 financial year have been rescheduled as priorities shifted in response to market developments. The MBA program currently has over 3,800 volunteers, which has allowed the ACCC</p>

Recommendation/issue	Response
<p>the MBA program’s budget and resulting cost recovery.</p>	<p>to report results on a wide variety of consumer segments to a high degree of accuracy at 95% level of confidence.</p> <p>The ACCC continues to work with stakeholders to admit volunteers to panels to maintain the current robustness of reporting and to expand the scope of the MBA program in line with the government’s direction.</p> <p>The ACCC considers that the current budget remains appropriate, noting the key costs of the program relating to test infrastructure, implementing new testing, data collection and analysis, quality assurance, licensing access to the data analytics platform, reporting and volunteer engagement. The cost of testing devices is a relatively small component of the total program budget.</p>
<p><b>Telstra</b></p>	
<p>4. Telstra noted that while the overall ACMA component of the ACLC did not significantly change in the reporting period, there was a move away from research and development (spend down 22%) to monitoring and compliance, and enforcement and consumer safeguards (spend up 28%). Telstra is keen to see an appropriate balance between proactive development/reform work and managing compliance of existing regulations.</p>	<p>Regulation development/reform work is primarily government-led, to which the ACMA responds appropriately. The ACMA’s annual research program is aligned with annual compliance priorities, ensuring that our risk-based approach to regulation is informed by data, evidence and intelligence. Each year, the ACMA sets its compliance priorities in consultation with stakeholders based on significant public interest or areas creating negative impacts on the community, including consumer harm.</p> <p>In addition to regular consumer research the ACMA undertakes, such as the annual consumer survey, the ACMA commissions large, bespoke research projects to address gaps relevant to these compliance priorities. In 2019–20, there was significant research investment into understanding what Australian adults, households and small- and medium-sized businesses think about their telco services, which was published in October 2020, as the telco consumer experience research. There was a general decline in regulation development in 2020 to 2022, and the ACMA saw a shift in its compliance priorities to compliance activities.</p> <p>The ACMA will continue to base its resourcing decisions around its priorities, which will see these fluctuations in spend over time between its important regulatory activities.</p>
<p>5. Consumer Safeguards Review Part A: Telstra requested the ACMA to clarify how the Customer Safeguards Review Part A is distinct from the other complaints-handling and consumer redress work the ACMA undertakes as part of its usual activities.</p>	<p>The Consumer Safeguards Review Part A involves the collection, validation, analysis and reporting of consumer complaints made directly to carriage service providers. This data provides insights into the level and type of complaints made to carriage service providers and their performance in responding to them. This work has only been undertaken by the ACMA after the ACMA’s Telecommunications (Consumer Complaints) Record-Keeping Rules 2018 were introduced and is ongoing.</p> <p>Work on the Consumer Safeguards Review Part A is separate from our normal course of monitoring and compliance operations using TIO data, which only covers complaints that are escalated to the TIO. The Consumer Safeguards Review Part A does not involve reporting of TIO complaints data. For further information on the Consumer Safeguards Review Part A, please refer to</p>

Recommendation/issue	Response
	DITRDCA's <a href="#">Part A: complaints handling and consumer redress—Consumer Safeguards Review — Final Report</a> .
6. MBA program – Telstra requested further detail on the strategy to make up the delay, given the program has been running behind the forecast budget to date.	The MBA program is running in-line with its budget. The ACCC is continuing to recruit volunteers, with over 3,800 consumers recruited into the program since its commencement. Over 1,850 of these volunteers are currently active participants. The ACCC works with service providers and through direct-to-consumer media channels to generate interest amongst relevant consumers. The ACCC focuses on managing attrition rates amongst volunteers as well as admitting new volunteers that are of high value to the MBA program.
7. MBA program – Telstra noted that different costs associated with the MBA program continue to be recovered through both the MBA program component and the general ACCC component of the ACLC. Telstra is of the view that all costs attributed to the MBA program should be reported in a straightforward and direct manner to provide transparency on whole-of-program costs.	MBA program costs are recovered separately from the rest of the ACCC's communications work costs for ACLC purposes.
<b>TPG</b>	
8. TPG submitted that policy makers ought to consider undertaking a review of the ACLC to ensure the cost recovery model continues to be reasonable and fit for purpose. A particular issue of concern was whether it is appropriate for other carriers to bear the cost of regulating the NBN, which is a government business enterprise.	<p>Government departments conduct reviews of all existing and potential charging activities within their portfolios at least every 5 years as part of a Portfolio Charging Review. Terms of reference for each review are agreed between the Finance Minister and the Minister for Communications as the Portfolio Minister. The charging arrangement used for the ACLC was reviewed in the former Department of Communications and the Arts 2019–20 review and concluded that the current charging arrangements for the ACLC should remain unchanged. The Department will undertake the next Portfolio Charging Review in 2026, for the 2025–26 financial year.</p> <p>The ACCC reviews its cost recovery model on an annual basis to ensure it is fit for purpose and compliant with government charging policy. The ACCC is transparent with those details via the annual CRIS. In terms of inclusion of the NBN, the ACCC notes that carriers benefit from economic regulation of bottleneck services in the form of more efficient and competitive access terms and access to information of relevance to their business operations.</p>
9. Other issues that may be considered in a review include: <ul style="list-style-type: none"> <li>&gt; whether the ACCC ought to be able to recover costs for advocacy actions and enforcement action from carriers</li> </ul>	Government departments conduct reviews of all existing and potential charging activities within their portfolios at least every 5 years as part of a Portfolio Charging Review. Terms of reference for each review are agreed between the Finance Minister and the Minister for Communications as the Portfolio Minister. The charging arrangement used for the ACLC was reviewed in the former Department of Communications and the Arts 2019–20

Recommendation/issue	Response
<ul style="list-style-type: none"> <li data-bbox="204 342 617 465">&gt; whether the ACCC's recovery of costs from successful enforcement action should be used to offset the ACLC</li> <li data-bbox="204 481 617 667">&gt; the extent to which the ACCC's activities relate to regulation of over-the-top providers and digital platforms and whether these providers ought to contribute to costs.</li> </ul>	<p data-bbox="632 342 1406 528">review and concluded that the current charging arrangements for the ACLC should remain unchanged. The Department will undertake the next Portfolio Charging Review in 2026, for the 2025–26 financial year. As part of this, the cost recovery arrangements for the ACLC, including the ACCC component, will be reviewed again.</p> <p data-bbox="632 551 1422 768">Penalty revenue from enforcement action is returned to Commonwealth consolidated revenue. The cost of regulating industry is separate from the cost of any enforcement (and advocacy action taken for breach of the Competition and Consumer Act (CCA). Using penalty revenue to offset ACLC costs would effectively reward non-compliance via reduced ACLC fees to industry, which is impractical.</p> <p data-bbox="632 790 1398 846">The ACCC's Digital Platforms work is separate from and outside the scope of our telecommunications regulation and the ACLC.</p>