Draft Annual Carrier Licence Charge 2023–24 and proposed cost recovery of the *Fighting Scams* measure

Consultation paper

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Canberra

Level 3
40 Cameron Avenue
Belconnen ACT

PO Box 78
Belconnen ACT 2616

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

Melbourne

Level 32
Melbourne Central Tower
360 Elizabeth Street
Melbourne VIC

PO Box 13112
Law Courts
Melbourne VIC 8010

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

Sydney

Level 5
The Bay Centre
65 Pirrama Road
Pyrmont NSW

PO Box Q500
Queen Victoria Building
NSW 1230

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

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Executive summary

The Australian Communications and Media Authority (ACMA) is Australia’s regulator for broadcasting, radiocommunications, telecommunications and some online content. As an Australian Government agency, the ACMA is required to define and implement, where feasible, charges for recovering the costs of its products and services, in accordance with the [Australian Government Charging Policy (the Charging Policy)](https://www.finance.gov.au/government/managing-commonwealth-resources/implementing-charging-framework-rmg-302/australian-government-charging-policy#:~:text=The%20Australian%20Government%20Charging%20Framework,decided%20to%20fund%20the%20activity.).

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

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

The ACMA is required to prepare a Cost Recovery Implementation Statement (CRIS) in accordance with the [Australian Government Cost Recovery Policy (the Cost Recovery Policy)](https://www.finance.gov.au/government/managing-commonwealth-resources/implementing-charging-framework-rmg-302) for the implementation of the proposed ACLC each year. As required by the Cost Recovery Policy, the ACMA must consult with industry stakeholders on the CRIS before any potential changes are made.

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

The draft CRIS includes an attachment, *Cost Recovery Implementation Statement – Measuring Broadband Australia program* (at Attachment B), which explains the approach the ACMA proposes to implement cost-recovery arrangements for the Measuring Broadband Australia (MBA) program on behalf of the ACCC. The MBA program monitors National Broadband Network (NBN) fixed-line services provided by carriers and carriage service providers with significant market presence. The ACCC is responsible for administering the program, which commenced on 1 July 2017.

The ACMA was required by the government to recover the costs associated with the ACMA’s Consumer Safeguards Part A program as part of the ACLC under paragraph 15(1)(a) of the Act from the 2019–20 financial year onwards, in arrears. Accordingly, the costs incurred for the Consumer Safeguards Part A program for the 2022–23 financial year have been incorporated in the draft CRIS (see Table 9).

The program essentially involves communicating systemic issues to carriage service providers and analysing and reporting complaints-handling data (includes managing the collection, validation, analysis and verification of telecommunications complaints handling data under the [Telecommunications (Consumer Complaints) Record-Keeping Rules 2018)](https://www.legislation.gov.au/Details/F2018L00721) on a regular basis. Further details about these activities are provided in the draft CRIS.

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

From the 2024–25 Budget, the ACMA will receive government funding for the *Fighting Scams* measure to administer and enforce rules for the telecommunications sector under the new Scams Code Framework.

As per the government’s decision, the expenses incurred for the telecommunications component of the framework are to be fully cost recovered the year after the expense is incurred. Consistent with existing charging arrangements under the ACLC, it is proposed that the costs incurred for the delivery of this measure will be fully cost recovered from all licensed carriers from the 2025–26 ACLC onwards. Further details of these activities are provided in this consultation paper and sections 2.1 and 3.6 of the draft CRIS.

# Issues for comment

This consultation paper does not pose specific questions. However, we welcome comment from interested stakeholders on the proposed ACLC, the draft CRIS for the ACLC (which includes the Consumer Safeguards Part A program cost recovery arrangements), the CRIS for the MBA program, the proposed upcoming *Fighting Scams* measure cost recovery arrangements or any other issues relevant to the proposed charges.

This paper initiates the 4-week consultation process, which ends 16 September 2024.

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

# Annual Carrier Licence Charge

Subsection 14(1) of the Act requires the ACMA to make a written determination setting out how the ACLC imposed on a carrier licence for the 2023–24 financial year is to be ascertained.

The total of the charges imposed on carrier licences in force at the beginning of a financial year must not exceed the sum of the following 5 cost components determined under paragraphs 15(1)(a) to (d) of the Act. The ACMA proposes to make a determination under paragraphs 15(1)(a), (c) and (ca) of the Act, to determine the cost components under those paragraphs. The ACCC intends to make a determination under paragraph 15(1)(b) of the Act setting out the costs attributable to its telecommunications functions and powers, and the Minister for Communications has made a [written determination](https://www.legislation.gov.au/F2024L00392/asmade/text) under paragraph 15(1)(d) of the Act setting out the estimated total amount of grants likely to be made during the 2023–24 financial year under section 593 of the *Telecommunications Act 1997* (the Telecommunications Act).

1. **ACMA’s component for the 2023–24 ACLC**

This amount will be determined by a written instrument proposed to be made by the ACMA under paragraph 15(1)(a) of the Act. It is the amount attributable to the ACMA’s telecommunications functions and powers for the preceding financial year (the 2022–23 financial year). For the purposes of the Act, the ACMA’s telecommunications functions and powers are as defined by section 7 of the Telecommunications Actand in section 8 of the *Australian Communications and Media Authority Act 2005,* but do not include the matters excluded by subsection 15(4) of the Act. The proposed amount is set out in Table 1 below. Table 1 contains 2 figures – the first amount represents the ACMA’s costs attributable to telecommunications functions and powers, excluding the cost incurred for the Consumer Safeguards Part A program. The other amount represents the Consumer Safeguards Part A cost.

1. **ACCC’s component for the 2023–24 ACLC**

The ACCC proposes to make a written determination under paragraph 15(1)(b) of the Act setting out the amount determined to be the proportion of its costs attributable to the telecommunications functions and powers of the ACCC in the preceding financial year (the 2022–23 financial year). The ACCC’s telecommunications functions and powers are defined by subsection 15(4) of the Act and section 7 of the Telecommunications Act as the functions and powers conferred on the ACCC under the Telecommunications Act and other legislation. Costs associated with the MBA program are included under paragraph 15(1)(b) of the Act. The MBA program is part of the ACCC’s functions of monitoring the telecommunications industry and promoting competition and consumer benefits. Accordingly, the ACCC’s costs determined under paragraph 15(1)(b) of the Act that are attributable to the MBA program costs are recovered in arrears (that is, costs for the 2022–23 financial year) from monitored carriers via the ACLC. The proposed amount is set out in Table 1 below.

1. **The Commonwealth’s contribution to the International Telecommunication Union (ITU) component for the 2023–24 ACLC**

Paragraph 15(1)(c) of the Act requires the ACMA to determine the proportion of the Commonwealth’s contribution to the budget of the ITU associated with telecommunications in the 2023 calendar year. This amount is proposed to be determined by the ACMA, based on advice provided by DITRDCA, in a determination to be made under paragraph 15(1)(c) of the Act. The proposed amount is set out in Table 1 below.

1. **ACMA’s payment for the development or variation of industry codes by a telecommunications industry body for the 2023–24 ACLC**

Section 136C of the Telecommunications Act requires the ACMA to make payments on behalf of the Commonwealth to reimburse industry bodies that develop or vary industry codes that are subsequently registered by the ACMA under Part 6 of the Telecommunications Act in certain circumstances. Paragraph 15(1) (ca) of the Act requires the ACMA to determine the sum of the amounts paid under section 136C of the Telecommunications Actfor the immediately preceding financial year to the one in which the ACLC is imposed (in this case, the 2022–23 financial year). The ACMA proposes to determine this cost component in a determination to be made under paragraph 15(1)(ca) of the Act. The proposed amount is set out in Table 1 below.

1. **Government’s consumer representation and research grant (estimate) for the 2023–24 ACLC**

Under paragraph 15(1)(d) of the Act, the minister has made the [Telecommunications (Carrier Licence Charges) (Paragraph 15(1)(d)) Determination 2024](https://www.prod.legislation.gov.au/F2024L00392/latest/text)*,* an instrument setting out the estimated total amount of grants likely to be made under section 593 of the Telecommunications Actduring the 2023–24 financial year. Section 593 of the Telecommunications Actprovides for the minister to make grants of financial assistance:

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

To ascertain the ACLC payable by a liable licensed carrier, their eligible revenue for the 2022–23 financial year, as assessed by the ACMA, is proposed to be used as a basis for determining the carrier’s ACLC. As adopted since the 2018–19 financial year, the methodology proposed for the allocation of the total charge of the MBA program to individual carriers is based on the number of NBN fixed-line connections operated by all monitored service providers that are also carriers and liable to pay the ACLC.

The methodology proposed for the allocation of the Consumer Safeguards Part A program costs to the liable carriers that are also qualifying carriage service providers subject to the [Telecommunications (Consumer Complaints) Record-Keeping Rules 2018](https://www.legislation.gov.au/Details/F2018L00721) (the RKRs), is based on each qualifying retail carriage service provider’s eligible revenue.

The proposed methodology for calculating a carrier’s ACLC is set out in section 3.6 of the draft CRIS and 3.2 of Attachment B of the draft CRIS (available alongside this paper on the ACMA website). The total ACLC for all carriers for 2023–24 and the methodology used to determine the individual charge payable by each carrier (including the names of the carriers that are qualifying retail carriage service providers) will be specified in the determination made by the ACMA under subsection 14(1) of the Act.

# Proposed ACLC

The cost components proposed to be recovered through the ACLC are set out in Part 3 of the draft CRIS and Attachment B of the draft CRIS for the MBA program (available alongside this paper on the ACMA website). A summary of the cost components is provided in Table 1 below. As shown in the table (and as required by the Act), the ACMA, the ACCC and industry code development cost components are based on the 2022–23 financial year, ITU costs are based on the 2023 calendar year, and the component for consumer representation and research grants is for the 2023–24 financial year.

Summary of proposed charges

| **Ref** | **Cost component descriptions** | **Proposed cost component for 2023–24 ACLC** | **Cost component for 2022–23 ACLC** | **Variance inc/(dec)** | **Change % inc/(dec)** |
| --- | --- | --- | --- | --- | --- |
| 15(1)(a) | ACMA’s recoverable costs attributable to its telecommunications functions and powers for the previous financial year (excluding Consumer Safeguard Part A costs) | $13,059,258 | $12,104,546 | $954,712  | 7.9% |
| 15(1)(a) | ACMA’s costs attributable to its telecommunications functions and powers for the previous financial year in relation to the Consumer Safeguard Part A | $581,350 | $813,888 | ($232,538) | (28.6%) |
| 15(1)(b) | ACCC’s costs attributable to its telecommunications functions and powers for the previous financial year (excluding the MBA program) | $11,397,019 | $10,210,861 | $1,186,158  | 11.6% |
| 15(1)(b) | ACCC’s costs attributable to the telecommunications functions and powers in relation to the MBA program for the previous financial year | $1,644,950 | $1,837,902 | ($192,952) | (10.5%) |
| 15(1)(c) | The proportion of the Commonwealth’s (i.e. DITRDCA) contribution to the budget of the International Telecommunication Union (ITU) for the calendar year in which the beginning of the charging period occurs  | $2,179,686 | $2,198,407 | ($18,721) | (0.9%) |
| 15(1)(ca) | The sum of amounts paid to under section 136C of the Telecommunications Act (for reimbursement of industry costs for industry code development or variation) for the previous financial year | $0 | $0 | $0 | 0.0% |
| 15(1)(d) | The estimated amount, determined by the minister, of total grants likely to be made under section 593 of the Telecommunications Act in the current financial year | $2,624,000 | $2,435,000 | $189,000  | 7.8% |
|  | **Total ACLC amount** | **$31,486,263** | **$29,600,605** | **$1,885,659** | **6.4%** |

Note: More details for each component are provided in section 3 of the attached draft CRIS and section 3 of Attachment B of the draft CRIS. The amounts disclosed for paragraphs 15(1)(a) and 15(1)(b) above are to be the same amounts as the amounts to be disclosed in ACMA’s and ACCC’s determinations respectively when these are made.

1. The ACMA’s costs (excluding Consumer Safeguards Part A costs) under paragraph 15(1)(a) of the Act have increased by 7.9% ($0.95 million) from the previous financial year. The change is mainly attributable to industry monitoring and regulation development effort as a result of:
* Increased research supporting the Telecommunications Consumer Protection (TCP) Code review and Telecommunications Financial Hardship Industry Standard. This includes the release of the *Keeping the customer connected* report and the *What consumers want* position paper.
* Enhanced telecommunications performance reporting through various data initiatives. This includes data action projects to improve our compliance, regulatory and operational functions.
* Increased focus on protecting telco customers experiencing financial hardship through the development/release of the financial hardship awareness campaign, including consumer education resources.

The Consumer Safeguards Part A program costs have decreased by 28.6% ($0.23 million) from the prior year in line with the funding profile, with the program work now moving into BAU activities.

The ACMA continues to base its resourcing decisions around its priorities, which will see fluctuations in spend over time between its regulatory activities.

1. The ACCC’s costs to be determined for the purpose of the 2023–24 ACLC (excluding the MBA program costs) under paragraph 15(1)(b) of the Act have increased by
11.6% ($1.19 million) from the previous year, largely driven by:
* Increased employee costs to support the government’s response to the
*2021 Regional Telecommunications Review* by conducting an inquiry into access to towers and other infrastructure used in the supply of mobile services in regional areas. This was funded through a budget measure in the 2022–23 March Budget.
* Increased consultancy costs due to the provision of external advice and support on the review of NBN Co's Special Access Undertaking (SAU).
* These increases in costs were partially offset by reduced overhead costs due to the ACCC’s other program areas expanding in size from new government work, and therefore absorbing more overhead costs than the previous year.
1. The ACCC's MBA program costs have decreased by 10.5% ($0.19 million) from the previous year, which mostly relates to one-off costs incurred during 2021–22 that did not continue into the 2022–23 financial year. This includes:
* work involved with procurement processes for an external service provider to help with the delivery of the extended MBA program
* procurement of a report comparing the performance of the broadband networks in Australia and New Zealand.
1. The component under paragraph 15(1)(c) of the Act relates to the Commonwealth’s annual contribution to the budget of the International Telecommunication Union (ITU) associated with telecommunications for the 2023 calendar year. The contribution is made in Swiss Francs each year by DITRDCA. The expenditure in Australian dollars has decreased by 0.9% ($0.02 million) from the previous year. This is largely attributed to an increase in expenses on ITU Radiocommunication Sector (ITU-R) activities and the difference in the exchange rate at the time of payment.
2. For the cost component under paragraph 15(1)(ca) of the Act, no reimbursements were made for the development or variation of industry codes in the 2022–23 financial year by the ACMA under section 136C of the Telecommunications Act.
3. The component under paragraph 15(1)(d) of the Act relates to the minister’s estimated allocation of grants under section 593 of the Telecommunications Act. The [determination for the 2023-24 grants](https://www.prod.legislation.gov.au/F2024L00392/latest/text)[[1]](#footnote-2) was made by the minister on 19 March 2024. The amount was based on grants made or expected to be made to the Australian Communications Consumer Action Network and was subject to indexation, which has resulted in an increase of 7.8% ($0.19 million) from the previous year.

# Proposed cost recovery of the *Fighting Scams* measure

Through the 2024–25 Budget, the Australian Government funded the ACMA $12.4 million over 4 years from 2024–25, and $2.5 million per year ongoing from 2028–29, for the *Fighting Scams* measure. The ACMA will administer and enforce rules for the telecommunications sector under a new Scams Code Framework. The objective of the Framework is to implement the government’s commitment to introduce mandatory industry rules for regulated businesses to address scams. The sectors that have been initially designated are banking, telecommunications and digital services platforms, each of which is a significant source of scam activity.

The Framework is likely to be established in primary law – for example, the *Competition and Consumer Act 2010* (CCA). The CCA would set mandatory obligations for businesses in the designated sectors to take action to address scams delivered over their services. Mechanisms would also be established under sector-specific legislation, enabling government or regulators to develop codes and standards for designated sectors that place additional, tailored obligations on businesses to prevent, detect, disrupt and respond to scams.

The ACMA will be involved in considering the rules for the telecommunications sector in 2024–25 and will oversee and enforce the rules under the Scams Code Framework. The ACMA will also deliver a new digital service to support the implementation of the Scams Code Framework, including to facilitate analysis of scam information and compliance and enforcement activities, and information sharing across the telecommunications anti-scam ecosystem (including scam traceback mechanisms).

The cost incurred for performing these functions will form part of the ACLC from the 2025–26 financial year, determined under paragraph 15(1)(a) of the Act. The costs will be recovered in arrears from all licensed carriers assessed as being participating persons for the 2024–25 financial year. The methodology proposed to apportion the costs will be based on each relevant carrier group’s eligible revenue as a proportion of the overall eligible revenue for the year.

# Invitation to comment

## Making a submission

We invite comments on the issues set out in this consultation paper.

* [Online submissions](https://www.acma.gov.au/have-your-say) can be made by uploading a document. Submissions in PDF, Microsoft Word or Rich Text Format are preferred.
* Submissions by post can be sent to:

The Manager

Revenue, Cost Recovery, Budgets and Operations
Australian Communications and Media Authority
PO Box 78

Belconnen ACT 2616

The closing date for submissions is COB (AEST), **Monday** **16 September 2024.**

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

### Publication of submissions

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

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

### Privacy

View information about our policy on the [publication of submissions](https://www.acma.gov.au/publication-submissions), including collection of personal information during consultation and how we handle that information.

Information on the Privacy Act 1988, how to access or correct personal information, how to make a privacy complaint and how we will deal with any complaints, is available in our [privacy policy](https://www.acma.gov.au/privacy-policy).

1. <https://www.prod.legislation.gov.au/F2024L00392/latest/text>. [↑](#footnote-ref-2)