
COST RECOVERY IMPACT STATEMENT

**Annual Carrier Licence Charge
for the charging period 1 July 2011 to 30 June 2012**

and

**ACMA's Fees
for the period 1 July 2012 to 30 June 2014**

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1 Overview

1.1 Purpose

The purpose of this Cost Recovery Impact Statement (CRIS) is to transparently demonstrate the Australian Communications and Media Authority's (the ACMA) compliance with the Australian Government Cost Recovery Guidelines 2005 (the guidelines) in regard to the charges outlined in Attachment A and Attachment B for the existing radiocommunications, telecommunications and broadcasting services. The development of the CRIS has been informed by a periodic review undertaken by the ACMA in accordance with the guidelines.

1.2 Background

The ACMA is a statutory authority within the federal government portfolio of Broadband Communications and the Digital Economy. The ACMA regulates broadcasting, the internet, radiocommunications, and telecommunications according to its functions and powers under the *Australian Communications and Media Authority Act 2005* (the ACMA Act). It also exercises powers under the *Broadcasting Services Act 1992*, the *Radiocommunications Act 1992*, the *Telecommunications Act 1997*, the *Spam Act 2003*, the *Telecommunications (Consumer Protection and Service Standards) Act 1999* and the *Do Not Call Register Act 2006*.

The ACMA's primary responsibilities include:

- regulating telecommunications and broadcasting services, internet content and datacasting services;
- managing access to radiofrequency spectrum bands through radiocommunications licence arrangements, and resolving competing demands for that spectrum through price-based allocation methods;
- planning the availability of segments of radiofrequency spectrum bands used by broadcasting services, and managing access to that spectrum through broadcasting licence arrangements;
- regulating compliance with the relevant legislation, licence conditions, codes of practice, standards, service guarantees and other safeguards;
- promoting and facilitating industry self-regulatory and co-regulation solutions to emerging issues;
- where necessary, exercising powers to create legislative and other instruments, often in the form of standards or service provider rules;
- facilitating the provision of community information to promote informed decisions about communications products and services;
- reporting on matters relating to the communications industry, including its performance;
- representing Australia's communications interests internationally; and
- advising the government on specific matters from time to time.

The ACMA collects revenue on behalf of the Australian Government under cost recovery arrangements for services provided in relation to radiocommunications, telecommunications and broadcasting services as described in Attachments A and B. This includes the Annual Carrier Licence Charges (ACLC) which are imposed on relevant telecommunications licensed carriers.

The ACMA also collects revenue on behalf of the Government from industry participants through other arrangements such as broadcast licensing fees, universal service obligation levies, national relay service levies, apparatus licence taxes and annual numbering taxes. These revenues are set by relevant legislation and are outside the scope of the cost recovery arrangements.

Other cost recovery charges which are subject to more frequent reviews are excluded from this review and related CRIS:

- subscriptions for access to the Do Not Call Register; and
- services provided under a contract arrangement on behalf of the ACMA with the following external parties, where revenues received from these services directly offset the contract costs:
 - Industry Numbering Management Services Ltd (INMS);
 - Australian Maritime College (AMC); and
 - Wireless Institute of Australia (WIA).

Section 60 of the ACMA Act provides that the ACMA may, by written instrument, make determinations fixing charges for services provided by the ACMA and in relation to any matter in which expenses are incurred by the ACMA under the Act, the *Radiocommunications Act 1997*, the *Telecommunications Act 1997*, the *Telecommunications (Consumer Protection and Service Standards) Act 1999* and the *Broadcasting Services Act 1992*. These charges must not be such as to amount to taxation.

In addition, under section 14 of the *Telecommunications (Carrier Licence Charges) Act 1997*, the ACMA determines the amount of the carrier licence charge to be imposed on carrier licences by a written determination on an annual basis. The purpose of the ACLC is to recover costs incurred by the ACMA, Australian Competition and Consumer Commission (ACCC) and the Commonwealth Government in exercising their telecommunications functions and powers from the eligible licensed carriers. The Commonwealth Government's costs are administered by the Department of Broadband, Communications and the Digital Economy (DBCDE).

*The ACCC promotes competition and fair trade in the market place to benefit consumers, businesses and the community. It also regulates national infrastructure services. Its primary responsibility is to ensure that individuals and businesses comply with the Commonwealth competition, fair trading and consumer protection laws.*¹

*The DBCDE aims to develop a vibrant, sustainable, and internationally competitive broadband, broadcasting and communications sector through policy development and program delivery, which promotes the digital economy for all Australians.*²

¹ As stated in ACCC's website – www.accc.gov.au.

² As stated in the DBCDE's Portfolio Budget Statement 2011-12.

Agencies are required to review their cost recovery arrangements no less frequently than every five years. The last review on radiocommunications, telecommunications and broadcasting services activities disclosed in Attachment A was conducted in 2006-07. The ACLC is reviewed annually.

The following Table 1 provides the ACMA's cost recovery component of the total revenue collected in 2010-11.

TABLE 1 – COST RECOVERY REVENUE FROM THE ACMA'S CHARGES

Revenue Items	2010-11 Revenue \$000
Annual Carrier Licence Charge (ACLC) ³	21,839
Radiocommunications fee	3,275
Telecommunications fee	175
Broadcasting fee	119
Total cost recovery revenue applicable for this review	25,408
Telecommunications Do Not Call Register fee	2,797
Revenue from outsourced activities ⁴	1,505
Total cost recovery revenue not applicable for this review	4,302
TOTAL COST RECOVERY REVENUE	29,710
Revenue from non-cost recovery taxes, levies fines and auctions	536,281
TOTAL REVENUE	565,991

1.3 Australian Government cost recovery policy

In December 2002 the Australian Government adopted a formal cost recovery policy to improve the consistency, transparency and accountability of its cost recovery arrangements and promote the efficient allocation of resources. The underlying principle of the policy is that entities should set charges to recover all the costs of products or services where it is efficient to do so, where the beneficiaries are a narrow and identifiable group and where charging is consistent with Australian Government policy objectives. In order to apply the policy, the guidelines were issued by the Government in July 2005. Cost recovery policy is administered by the Department of Finance and Deregulation (DoFD) and outlined in the guidelines.

The policy applies to all *Financial Management and Accountability Act 1997* agencies and to relevant *Commonwealth Authorities and Companies Act 1997* bodies that have been

³ Represents the ACMA's ACLC component only

⁴ Revenue from AMC and WIA relates to the 2011 calendar year

notified. In line with the policy, individual portfolio ministers are ultimately responsible for ensuring entities' implementation and compliance with the guidelines.

1.3.1 What is cost recovery?

The guidelines define cost recovery as broadly encompassing “*charges related to the provision of government goods and services (including regulation) to the private and other non-government sectors of the economy*”. Australian Government cost recovery charges fall into two broad categories:

- Fees for goods and services; and
- Cost recovery levies or taxes.

Cost recovery is different from general taxation. Some levies or taxes are used to raise cost recovery revenues, but the direct link – or ‘earmarking’ – between the revenue and the funding of a specific activity distinguishes such cost recovery taxes from general taxation. General taxation, on the other hand, is a compulsory exaction of money by a public authority for public purposes, enforceable by law, and which is not a payment for services rendered.

1.3.2 Why have cost recovery?

Used appropriately, cost recovery can provide an important means of improving the efficiency with which Australian Government products and services are produced and consumed. Charges for goods and services give an important message to users or their customers about the cost of resources involved. It may improve equity by ensuring that those who use Australian Government products and services or who created the need for regulation bear the associated costs.

2 Policy Review

2.1 Scope of the review

The policy objective of recovering the service costs is essentially ensuring that those who created the need for the regulation contribute towards its costs. This is supported by relevant legislation (as disclosed in Tables 3 and 4) which state that the ACMA's activities should be cost recovered in the context of the cost recovery policy. The ACMA reviewed its existing activities, to assess the ongoing requirement for the activity and the appropriateness of the current level and application of charges. The review has been undertaken in the context of existing legislation that has established the ACMA's powers to recover the costs of its functions and activities.

The ACLC is included in this CRIS due to a change in assessment methodology stipulated by a Direction issued by the Minister for Broadband, Communications and the Digital Economy in July 2011. The review included charges for radiocommunications,

telecommunications and broadcasting services listed in the following charges determinations:⁵

Fee for service

- *Radiocommunications (Charges) Determination 2007;*
- *Radiocommunications (Foundation Category 1 Digital Radio Multiplex Transmitter Licence – Application Fee) Determination 2008;*
- *Radiocommunications (Foundation Category 2 Digital Radio Multiplex Transmitter Licence – Application Fee) Determination 2008;*
- *Telecommunications (Charges) Determination 2009;*
- *Telecommunications (Carrier Licence Application Charge) Determination 2007;*
- *Telecommunications (Nominated Carrier Declaration Application Charge) Determination 2007;*
- *Telecommunications (Facility Installation Permit – Application Charge) Determination 2007;*
- *Telecommunications (Facility Installation Permit – Public Inquiry Charge) Determination 2007;*
- *Telecommunications (Freephone and Local Rate Numbers Auctions – Registration Charge) Determination 2007;*
- *Telecommunications (Protection Zone and Submarine Cable Permit - Application Charge) Determination 2008; and*
- *Broadcasting (Charges) Determination 2007.*

Annual Carrier Licence Charge

- *Telecommunications (Carrier Licence Charge) Determination 2011;*
- *Telecommunications (Specification of Costs by ACMA) Determination 2011;*
- *Determination Under Paragraph 15(1)(b) No. 1 of 2011 (made by the ACCC); and*
- *Determination Under Paragraph 15(1)(d) No. 1 of 2011 (made by the DBCDE).*

2.2 Cost recovery activities reviewed

As the regulator for radiocommunications, telecommunications, broadcasting and the internet, the ACMA performs a variety of activities including:

- Issuing rights and privileges such as telecommunications, radiocommunications and broadcasting licences and telephone numbers;
- Registration and approval processes such as permit applications;
- Monitoring and compliance with technical, performance and content standards;
- Investigations and enforcement activities; and

⁵ Available at www.comlaw.gov.au/

- Providing reports and publications and information to consumers about service safeguards.

2.2.1 Radiocommunications activities

2.2.1.1 Type testing

Type testing activities are performed by the ACMA's Radiocommunications Compliance Laboratory which conducts quality equipment testing (essentially on radiocommunications devices) traceable to national references in accordance with paragraph 182(4)(b) of the *Radiocommunications Act 1992*.

Type testing work performed by the ACMA which is not against a prescribed standard or specification is partly addressed as Spectrum Impact Testing under AS/NZS4295 (LMRS) – Test of data equipment for compliance with the technical aspects only of AS/NZS 4295. Other work, not addressed in the determination is assessed on a case by case basis under section 101 of the *Radiocommunications Act 1992*. When the ACMA provides advice or assessment of equipment by way of a paperwork submission, the testing work does not require the use of type testing technical facilities. All test reports produced are of an international standard. Type Testing activities are listed in Attachment A (activities from 1 to 72).

Since 1 February 2010, old analog Emergency Position Indicating Radio Beacons (EPIRB) operating on 121.5 MHz and 243.0 MHz are no longer licensed for use. As a result, testing, partial testing or retesting of devices for compliance with standard AS/NZS 4330 has been discontinued. Similarly type testing, partial testing or retesting of one aspect of a transmitter for compliance with standard TS005 has also been terminated as the analog mobile phones are no longer in use.

2.2.1.2 Issue and renewals of radiocommunications licences

The ACMA assigns access to radiofrequency spectrum through one of three types of licences:

- Class licences;
- Spectrum licences; or
- Apparatus licences.

Class licences

Class licences are essentially issued to authorise the operation of Radiocommunications devices with low interference potential. They are open, standing authorities that allow the public to operate a particular radiocommunications device, provided that the operation and the device is in keeping with the conditions of the class licence. Devices that are currently subject to class licensing in Australia include mobile phone handsets, cordless telephones and a range of other low power devices, such as garage door openers and wireless identification tags.

There are currently 18 class licences, with 13 of these issued under the *Radiocommunications Act 1992* and 5 under the *Broadcasting Services Act 1992*. The ACMA's class licensing arrangements provide permission for each operator of such

equipment to operate the equipment, without the need to obtain an individual licence. Accordingly, class licences are excluded from cost recovery arrangements. Class licences are issued by the ACMA by a notice published in the *Commonwealth of Australia Gazette* and by instrument registered on the Federal Register of Legislative Instruments.

Spectrum licences

Spectrum licences are a tradeable, technology flexible (that is the licence is not normally limited to any particular technology, system or service) spectrum access right for a fixed term. Spectrum licences are generally auctioned, or may be allocated by tender or a pre-determined price. The ACMA recovers part of its spectrum management activities through specific cost recovery fees on the beneficiaries. This forms the basis for the licence charges as disclosed in Attachment A under 'spectrum licensing' (activities from 167 to 174).

There is also an annual spectrum licence tax imposed primarily to recover spectrum maintenance costs which relate to the indirect costs of managing the spectrum and to encourage efficiency in the use of the spectrum. These costs are those that cannot be directly attributed to individual licensees. These activities include international coordination, domestic planning and interference management. The spectrum licence tax is levied by the ACMA under the *Radiocommunications (Spectrum Licence Tax) Act 1997* and therefore, has been excluded from this review as it is considered general taxation rather than a cost recovery activity.

Apparatus licences

Apparatus licences are issued to authorise the operation of radiocommunications equipment. The activities involved in issuing or renewing apparatus licences are outlined in Parts 6, 7, 8 and 12 of Schedule 2 to the *Radiocommunications (Charges) Determination 2007*⁶ (see Attachment A, activities from 94 to 153 and from 175 to 177). As licence applicants receive a direct benefit from the right to use and/or supply services, these activities are appropriate to be cost recovery arrangements. The types of equipment operating under apparatus licences include certain radiocommunications transmitters, use of mobile phones in aircrafts, amateur, broadcasting, maritime, aircraft and land mobile services.

2.2.1.3 Other radiocommunications activities

Examinations

There are two different types of examinations conducted in relation to the radio operators' certificate of proficiency. They are currently provided by external service providers as delegates of the ACMA:

- **Examination for amateur radio operators certificate of proficiency**
The WIA has been providing examination services to the amateur radio community since 1991 and as part of its service, issues amateur certificates of proficiency and administers call signs. These activities of the external providers are not being considered for this review, as the current fees for these services were reviewed

⁶ Available at www.comlaw.gov.au/

during the financial year 2010-11 and a relevant CRIS⁷ was published on the ACMA's website.

- **Examinations for maritime radio operators certificate of proficiency**

These examinations are provided by the AMC, who also publishes handbooks recommended for candidates undertaking examinations for marine radio operators certificates of proficiency. These activities of the external providers are also excluded from this review, as the current fees for the services were reviewed in May 2011 and subsequently a CRIS⁸ was published.

However, the ACMA can also provide amateur radio and marine radio operator examinations. This normally occurs in very limited circumstances, where:

- the ACMA believes on reasonable grounds that a qualified operator would be unable to achieve satisfactory results if re-examined; or
- if the WIA/AMC has failed to comply with the Deed under which it provides services on the ACMA's behalf; or
- the ACMA has taken over these services; or
- special examination services to persons with special needs or those living in remote locations.

The activities are outlined in Part 4 of Schedule 2 to the *Radiocommunications (Charges) Determination 2007* (see Attachment A, activities from 77 to 90). The ACMA has not conducted amateur radio operator exams since the WIA was delegated the responsibility for this function in 1991. The ACMA, however, retained responsibility for special examinations for marine radio certificates of proficiency but has only conducted one or two per annum. From August 2012, the AMC will become responsible for conducting all special examinations for marine radio certificates of proficiency under a new deed of agreement.

Interference investigation

The ACMA conducts interference investigations to analog (radio and television) broadcasting reception in accordance with Part 4.2 of the *Radiocommunications Act 1992*. This service is not being cost recovered any longer as the ACMA adopted a new policy for the management of interference to terrestrial television and radio broadcast reception using an evidence based approach. According to the new policy the complainant is required to provide evidence to the ACMA to prove that their broadcast reception problems are not caused by faulty installations or by the viewer attempting to receive a broadcast signal from outside the coverage area. Previously a fee was charged for investigating the cause of interference to analog (radio or television) broadcasting reception if the cause of the interference was mainly within the control of the applicant. This activity has been discontinued and therefore will not be subject to further review from a cost recovery perspective.

⁷ http://www.acma.gov.au/WEB/STANDARD/pc=PC_312211

⁸ http://www.acma.gov.au/WEB/STANDARD/pc=PC_312211

Other activities

Apart from issuing radiocommunications licences, the ACMA also issues duplicate instruments, copy of licences and permits for a non-standard transmitter under sections 167 and 174 of the *Radiocommunications Act 1992* (see Attachment A, activities from 73 to 76). All other activities including transfer of radiocommunications licences and assessment of applications for accreditation, are disclosed in Attachment A (activities from 154 to 166 and from 182 to 193).

- The review also considered the following activities (see Attachment A activities from 91 to 93 and from 178 to 181), in terms of compliance with the Cost Recovery policy. Fees for these activities are charged under section 60 of the ACMA Act and incorporated in the *Radiocommunications (Charges) Determination 2007*. Charging is appropriate as a direct beneficiary of these services can be easily identified. Revenue from these activities is retained by the ACMA as it does not form part of the budget funded services.

Satellite filing and coordination work

The filing and coordination of satellite networks with the International Telecommunication Union (ITU) are now considered a spectrum management function under the ACMA Act. Previously these services were performed as a separate function and charged separately. These activities are being carried out under Deeds of Agreement with satellite operators who wish to use frequency access to and from a location in space. However, fees for these services have now been incorporated into Part 5 of Schedule 2 to the *Radiocommunications (Charges) Determination 2007*.

Emergency locating service

This service essentially refers to locating EPIRBs, which are used by vessels of all kinds in distress to signal their location or locating personal EPIRBs designed to be attached to a life jacket or carried by an individual. This service is provided only to the Australian Search and Rescue under a Memorandum of Understanding.

Data services

Data sales mainly include the Radiocommunications Record of Licences (RRL) database on CD-ROM, which is a source of reference information on radiocommunications services. It contains information on apparatus and spectrum licences, including details about who holds the licence, duration of the licence, technical details such as frequency and power, and where the transmitters are located.

2.2.2 Telecommunications activities

2.2.2.1 Annual Carrier Licence Charge

The purpose of the ACLC is to recover, from the telecommunications licensed carriers, costs incurred by the ACMA, ACCC, and the Australian Government in exercising their telecommunications functions and powers. The Australian Government's costs relate to the contribution to the budget of the International Telecommunication Union and the grants (refer section 3.3.2.4) likely to be made under section 593 of the *Telecommunications Act 1997*, which are administered by the DBCDE. This is supported by relevant legislations as disclosed in Table 4.

The ACMA and the other participating agencies annually review their regulatory activities to assess the ongoing requirement for the relevant activities, and the appropriateness of the charges. The reviews have been conducted in the context of existing legislation which contains powers to recover the costs of their regulatory functions. The ACMA collects the charges from the carriers on behalf of other participating agencies.

During July 2011, the Minister for Broadband, Communications and the Digital Economy made the *Australian Communications and Media Authority (Annual Carrier Licence Charge) Direction 2011*⁹, which stipulates a change of methodology for the calculation of ACLC for 2011–12 and subsequent years. This direction requires the ACMA to make determinations under subsection 14(1) of the *Telecommunications (Carrier Licence Charges) Act 1997* pursuant to the *Telecommunications (Participating Persons) Determination 2011 (No.1)*, which provides exemption for smaller carriers - ‘USO non-participating persons’, with revenues less than \$25 million from the requirement of lodging an eligible revenue return to the ACMA, and consequently exempting from paying annual carrier licence charges. The DBCDE consulted with relevant stakeholders prior to making the *Telecommunications (Participating Persons) Determination 2011 (No. 1)*. This is one of the telecommunications regulatory reforms undertaken by the Australian Government to essentially reduce unnecessary red tape and to establish a more cost effective approach to cost recovery arrangements.

In the 2010-11 financial year, the total amount of annual carrier licence charge contributed by the smaller carriers represented approximately 1% of the total ACLC. The change of methodology has impacted on the calculation of the ACLC for individual licensed carriers for 2011–12. As a result of this new methodology the number of carriers who are liable to pay 2011-12 charges has dropped from 177 to 41. A list of licensed carriers liable to pay 2011-12 ACLC is included in Attachment B. This includes the carriers who failed to submit the required statutory declaration for 2010-11 financial year to the ACMA on time. Further information has been provided in section 3.3.2.6.

In accordance with section 15 of the *Telecommunications (Carrier Licence Charges) Act 1997* the ACMA makes legislative instruments (determinations) specifying the amounts under paragraph 15(1)(a), 15(1)(c) and 15(1)(ca), together with a separate determination which sets out the methodology used by the ACMA for the calculation of the total ACLC in accordance with section 14. Similarly the ACCC and the Minister for Broadband, Communications and the Digital Economy make determinations in relation to the costs described in paragraph 15(1)(b) and 15(1)(d) respectively.

The following telecommunications activities are not included in the ACLC and are funded through appropriation:

- ***Smartnumbers® auction activities***

The costs associated with numbers auctioned under the smartnumber auction system are not recovered from industry on the basis that costs would be offset by auction proceeds, except an application charge to register for the auction which is cost recovered as a fee for service (see section 2.2.2.2).

⁹ Available at www.comlaw.gov.au/

- ***SPAM and E-Security activities***

SPAM costs include the costs attributable to Anti-spam activities carried out in accordance with the *Spam Act 2003* and e-security activities. The former Department of Communications, Information Technology and the Arts confirmed that Anti-SPAM activity is not a telecommunications activity to be recovered from carriers, as the direct beneficiaries are the members of the public.

- ***Do Not Call Register activities***

According to the subsection 15(4) of the *Telecommunications (Carrier Licence Charge) Act 1997*, the activities conducted under the *Do Not Call Register Act 2006*, do not form part of the ACMA's telecommunications functions and powers.

- ***Public information activities***

This includes the production of information for consumers on consumer safeguards and statutory reporting requirements to report on the performance of the telecommunications industry (under section 105 of the *Telecommunications Act 1997*). The review concluded that these activities are more appropriately funded from the budget appropriation.

- ***Other telecommunications activities***

Other telecommunications activities disclosed in the following section 2.2.2.2 are not included in the ACLC and separate fees are imposed for these activities. The reason for this is to avoid recovering costs where industry paid up-front fees determined under cost recovery principles.

2.2.2.2 Other telecommunications activities

Costs incurred by the ACMA in regulating the telecommunications industry are largely recovered under the *Telecommunications (Carrier Licence Charges) Act 1997* through the ACLC. However, a number of services to the telecommunications industry are more appropriate to be recovered through fees established under the *Telecommunications Act 1997* (see further details in Attachment A, activities from 194 to 219) enabling them to engage in specific activities:

- Application for a connection permit;
- Application for number allocation;
- Application for a carrier licence;
- Application for a facility installation permit;
- Application for a nominated carrier declaration;
- Application for a submarine cable installation permit;
- Application for registration for smartnumber auction; and
- Activities performed by INMS on behalf of the ACMA.

2.2.3 Broadcasting services

2.2.3.1 Issue of broadcasting licences

The ACMA issues licences to broadcasters which authorise the provision of broadcasting services within a defined licence area. The fees for these services are separate from the annual broadcasting licence fee established under the *Radio Licence Fees Act 1964*, the *Television Licence Fees Act 1964* and the *Datacasting Charge Act 1998*. These annual

broadcasting licence fees were not considered as part of the review, as the annual licence fee is determined in legislation by way of a tax in respect of the licence that is determined as a percentage of gross earnings of the licences from advertising and other matter for the preceding calendar year, rather than determined on a cost recovery basis.

The review however examined the administrative activities involved in the issue of international broadcasting licences, datacasting licences and commercial licences performed under the *Broadcasting Services Act 1992* (refer activities from 220 to 226 in Attachment A).

2.2.3.2 Issue of community radio broadcasting licences

These activities include the allocation and renewal of long-term community broadcasting licences and the issuing of temporary community radio broadcasting licences under Parts 6 and 6A of the *Broadcasting Services Act 1992*. The licensing arrangements for community broadcasting services aim to enhance the delivery of information and entertainment to local communities across Australia. Imposing a charge for these activities would act as a disincentive to the provision of an essential service by the community broadcasting sector, which operates on a non-profit basis and is heavily reliant on volunteers. These activities are funded from appropriation and therefore are not cost recovery activities.

2.2.3.3 Industry monitoring and compliance activities

Provision of opinions by the ACMA under sections 21 and 74 of the *Broadcasting Services Act 1992* are subject to cost recovery charges, and were included in this review. Opinions given under section 21 provide clarity to existing and proposed broadcasters about the category or categories of broadcasting services of their existing or proposed services and section 74 opinions advise an applicant whether a person is in a position to exercise control of a licence for a newspaper or a company. These activities are included in Attachment A (activities 229 and 230).

Other activities include monitoring of compliance with licence conditions, standards and codes of practice. These include compliance with the anti-siphoning rules, internet industry codes of practice, children's television standards and disclosure standards. In these instances, the identified beneficiaries of the monitoring and compliance activity are the general community who benefits from conditions on industry behaviour that delivers diverse and appropriate content. This review considered that cost recovery was not appropriate for these activities as they benefit a broader community. Accordingly, it is considered that these activities are appropriate to continue to be appropriation funded.

2.2.3.4 Broadcasting investigations activities

In the case of broadcasting investigations activities, the review concluded that charging was not consistent with the policy objectives. These activities provide benefit to audiences and the general community, rather than an individual who has initiated a complaint or an individual licensee. It is also not possible to identify a distinct group of beneficiaries of these activities which would allow a fee to be developed. Therefore, it is considered appropriate that the activity continue to be funded through appropriation.

2.2.3.5 Other broadcasting activities

The ACMA recovers the costs of assessing and approving implementation plans for the Commercial Television Conversion Scheme, as the recipients of these services are the direct beneficiaries. These activities are disclosed in Attachment A (activities 227 and 228).

2.3 Agency outcomes relevant for cost recovery

The ACMA and other participating agencies' relevant outcomes are provided below:

ACMA's Outcome

Outcome 1: A communications and media environment that balances the needs of the industry and the Australian community through regulation, education and advice.

ACCC's Outcome

Outcome 1: Lawful competition, consumer protection, and regulated national infrastructure markets and services through regulation, including enforcement, education, price monitoring and determining the terms of access to infrastructure services.

DBCDE's Outcome

Outcome 1: Develop a vibrant, sustainable and internationally competitive broadband, broadcasting and communications sector, through policy development, advice and program delivery, which promotes the digital economy for all Australians.

In meeting the outcomes, the ACMA and the participating agencies undertake a range of radiocommunications, telecommunications and broadcasting regulatory, and other program activities, as described in section 2.2 above, on a cost recovery basis.

2.4 Who should pay cost recovery charges?

The stakeholders who receive a direct benefit from the services provided by the ACMA pay for services that they receive. The following Table 2 provides a list of relevant stakeholders for radiocommunications, telecommunications and broadcasting services.

TABLE 2 – KEY STAKEHOLDERS

Activity Group	Type	Key stakeholders
Radiocommunications	Type Testing	Manufacturers and suppliers of radiocommunications equipments
		Federal /State Police forces or other Federal/State Government entities.
	Spectrum Licences	Major telecommunications carriers
		Government entities
	Apparatus Licences	Community, commercial and national Broadcasters
		Individual persons (for amateur and marine services)
		Government entities
		Commercial organisations (mining, construction, communications companies)
		Telecommunications carriers
	Examinations	Amateur radio operators
		Marine radio operators
	Other services	Satellite operators
		Australian Search and Rescue Service
		Commercial and community organisations
Individual persons		
Telecommunications	Telecommunications carriers	
	Telecommunications carriage service providers	
Broadcasting Services	Commercial broadcasters	
	Community broadcasters	

3 Design and Implementation

3.1 Basis of charging – fee or levy

Cost recovery charges can be either:

- a fee that charges individuals or organisations directly for the costs of providing the activity; or
- a levy on a group of individuals or organisations.

Fee for Service

For the activities listed in Attachment A, the service users receive a service where the ACMA’s activities can be directly attributed to the benefit that they receive. Therefore it is appropriate that the service users pay a fee for the service and this is supported by the following policy principles:

- a direct link between the provision of an activity by the ACMA and the individual beneficiary;
- the policy rationale for undertaking the activity as described in legislation; and

- a clear legal basis for charges as defined in legal instruments as shown in Table 3.

Levy

The regulatory activities brought together under the Annual Carrier Licence Charge include monitoring ongoing compliance with regulations, investigations and enforcement.

Regulatory activities involving monitoring and compliance of entities may not be consistent with charging a direct fee. Further, it is difficult to link specific activities of administering telecommunications regulatory activities. Therefore it is appropriate to recover the expenses of regulating the telecommunications industry through an annual levy on that industry.

3.2 Legal requirements for the imposition of charges

Fee for Service

As stated in section 1.2 above, under section 60 of the ACMA Act, the ACMA may, by written instrument make determinations fixing charges for services provided by the ACMA and in relation to any matter in which expenses are incurred by the ACMA under the specified pieces of legislation. Specific provision of the *Radiocommunications Act 1992* and the *Telecommunications (Carrier Licences Charges) Act 1997* also empower the ACMA to make instruments fixing charges. The ACMA has made the following charges determinations for the fees listed in Attachment A.

TABLE 3 – LIST OF LEGAL INSTRUMENTS OUTLINING FEES FOR SERVICE

No	Determination	Made under
1	<i>Radiocommunications (Charges) Determination 2007 (as amended by the Radiocommunications (Charges) Amendment Determination 2012 (No. 1))</i>	<i>Section 60 of the ACMA Act</i>
2	<i>Radiocommunications (Digital Radio Multiplex Transmitter Licences – Application Fee) Determination 2012</i>	<i>Paragraphs 102C(2)(b) and 102D(2)(b) of the Radiocommunications Act 1992</i>
3	<i>Telecommunications (Charges) Determination 2012</i>	<i>Section 60 of the ACMA Act</i>
4	<i>Telecommunications (Carrier Licence Application Charge) Determination 2012</i>	<i>Section 9 of the Telecommunications (Carrier Licence Charges) Act 1997</i>
5	<i>Telecommunications (Free-phone and Local Rate Numbers Auctions – Registration Charge) Determination 2007</i>	<i>Section 60 of the ACMA Act</i>
6	<i>Broadcasting (Charges) Determination 2007 (as amended by the Broadcasting (Charges) Amendment Determination 2012 (No. 1))</i>	<i>Section 60 of the ACMA Act</i>

Levy - ACLC

Section 12 of the *Telecommunications (Carrier Licence Charges) Act 1997* imposes the ACLC on carrier licences that are in force at the beginning of the financial year (i.e. 1 July 2011). In accordance with the *Australian Communications and Media Authority (Annual Carrier Licence Charge) Direction 2011*, the carriers with assessed eligible revenues of less than \$25 million are exempted from the charge.

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. Section 15 of the Act requires that the total of the charges that are imposed on carrier licences must not exceed the sum of the components identified in sub-paragraphs from 15(1)(a) to 15(1)(d) of the Act. Accordingly the following determinations are made by the ACMA, ACCC and DBCDE as indicated below:

TABLE 4 – LIST OF LEGAL INSTRUMENTS FOR LEVY

No	Determination	Made under
1	<i>Telecommunications (Annual Carrier Licence Charge) Determination 2012</i> (made by the ACMA)	<i>Section 14 of the Telecommunications (Carrier Licence Charges) Act 1997</i>
2	<i>Telecommunications (Specification of Costs by ACMA) Determination 2012</i> (made by the ACMA)	<i>Paragraphs 15 (1)(a), (c) and (ca) of the Telecommunications (Carrier Licence Charge) Act 1997</i>
3	<i>Determination Under Paragraph 15(1)(b) No. 1 of 2012</i> (made by the ACCC)	<i>Paragraphs 15(1) (b) of the Telecommunications (Carrier Licence Charge) Act 1997</i>
4	<i>Determination Under Paragraph 15(1)(d) No. 1 of 2012</i> (made by the DBCDE)	<i>Paragraphs 15(1) (d) of the Telecommunications (Carrier Licence Charge) Act 1997</i>

3.3 Outcomes from the review of activities

During the review it was identified that the cost recovery charges should reflect the ACMA's current costs and as a consequence the cost recovery charges have been updated.

3.3.1 Fee for service

The majority of the fees for services have changed as a direct consequence of changes in the hourly rates. The calculation of fees was based on the ACMA's hourly rate multiplied by the time taken to conduct the activity. The costs incurred by the ACMA in executing its functions include direct, indirect and cost of capital (refer section 3.3.2.1). Direct costs are those costs that can be directly attributed to the ACMA's service provision. Other support

costs are treated as indirect costs which are attributed to business units using appropriate proxies.

Hourly rates

The ACMA's general hourly rate is based on the net cost of services incurred by the ACMA in executing its functions for the financial year 2010-11. Due to an increase in the ACMA's operating costs, including salaries, over the past five years, the hourly rate has increased by 20% from that determined in 2006-07, averaging a rise of 4% per annum. The proposed new hourly rate is \$197. This rate was established by taking the net cost of services of the ACMA's business units for 2010-11, including an attribution of all overheads and dividing this cost by the average staff hours spent by the business units during the financial year 2010-11. In the converging markets for communications and media, the ACMA's business units' activities exhibit more common characteristics, compared to traditional communications and media activity groups such as radiocommunications, telecommunications and broadcasting services. The effort required by the ACMA's staff for each activity group under the converging environment is similar as it uses almost the same level of staff across these groups. In addition, the ACMA has consulted with an independent auditor regarding the application of its general hourly rate to all activities listed in Attachment A. The new rate has been consistently applied to all proposed fees, except those related to type testing activities.

The Type Testing Unit performs a discrete activity and two separate rates apply, one for the testing of devices for compliance, and another for assessment and advice on compliance without testing of devices. The reason for establishing separate hourly rates is that this discrete activity with unique costs associated with the operation of the testing equipment that need to be reflected in the costs of undertaking the type testing activities. These rates were calculated with reference to the total costs incurred by the Type Testing Unit and the average hours spent in type testing activities. The proposed hourly rates have been reduced by 29% to \$289 for testing of devices for compliance and \$270 for assessment and advice on compliance without testing of devices. The decrease in the rates reflects the efficiency gained in the performance of type testing activities.

3.3.1.1 Radiocommunications

As a result of the reduction in the hourly rate for type testing activities, the fees have decreased by 29% for all type testing activities. The time required to perform each activity or the calculation methodology has not changed since the last review.

In general, the fees for other radiocommunications activities have increased by 20% essentially due to the increase in the hourly rate. The methodology for the calculation of fees has not changed from the previous review, except for the fee for radiocommunications assigned and non-assigned licence renewal. The calculation of these fees is now based on the ACMA's hourly rate and the time taken to perform the activities, as this methodology is consistent with the calculation of fees for all other licence issues.

The increase or decrease in the fees for each activity (as outlined in Attachment A) is caused by both the change in the time required to perform each activity and the increase in the hourly rate of 20% (which applies to all activities except type testing activities). For example, the fee for amateur operator's certificate of proficiency examination – advanced

(activity 77) has increased by 69% as a result of an increase of 40% in the time required to perform this activity and the increase of 20% in the hourly rate.

The review found, that for the majority of activities, the time required to perform each activity had not changed from the last review, except for the activities listed below:

- Amateur operator's certificate of proficiency examinations (activities from 77 to 90) – required time to perform these activities have increased by 40% on average, except for activities in relation to marine radio and satellite examinations (activities 80, 81 and 82), which have increased more significantly (more than 140% in time). Previously only the examination time had been accounted for and no allowance had been made for preparing, finalising the examinations or liaising with Australian Maritime College, in the case of marine radio and satellite examinations. The ACMA however has not issued any certificate of proficiency for the last few years as these services are provided by external service providers – refer section 2.2.1.3 above;
- Priced-based allocation of transmitter licence for High Power Open Narrowcasting (activity 137) – required time to perform this activity has decreased by 49%, which reflects the efficiency gained in the performance of this activity as a result of the procedural changes made in order reduce the time required;
- Priced-based allocation of transmitter licence for Low Power Open Narrowcasting (activity 138) – required time to perform this activity has increased by 9%. Previously this service was provided as a miscellaneous activity and the fee was not disclosed in the *Radiocommunications (Charges) Determination 2007*. Given that the activity was not appropriately considered in the last review, the complete processes involved in this activity were not correctly recognised, and as a result the required time to perform this activity was understated. The current required time for this activity reflects the actual time resulting from the survey which was conducted during this review;
- Assessing an application for accreditation (activity 162) – required time to perform this activity has increased by 45%. In the previous review that was conducted in 2006-07, the ACMA did not correctly identify all relevant processes involved in providing this service, and consequently the time required to perform this activity was understated. The current required time for this activity more accurately reflects the complete process which includes following up of referees and referring the applications to the ACMA approvers; and
- Assessing requests to file a satellite system with the ITU (activity 91) - required time to perform this activity has increased by 100%. This activity is now considered to be a spectrum management function and the increase reflects the additional time required to process an application and additional associated advice. Further information can be obtained from the ACMA's website¹⁰.

All the radiocommunications fees are established in the *Radiocommunications (Charges) Determination 2007* and the *Radiocommunications (Digital Radio Multiplex Transmitter Licences – Application Fee) Determination 2012*.

¹⁰ Available at:

http://www.acma.gov.au/scripts/nc.dll?WEB/STANDARD..PC/1001/pc=PC_312294

3.3.1.2 Other Telecommunications Licensing

The ACLC captures all the activities that are relevant in exercising the telecommunications functions and powers in accordance with the *Telecommunications (Carrier Licence Charges) Act 1997*. This is addressed in section 3.3.2 below. For other telecommunications licensing activities, the fee calculation is based on the ACMA's hourly rate together with survey information on the average time of a proficient officer to perform the activity, similar to the methodology adopted for the determination of radiocommunications and broadcasting services fees.

There is no change in the methodology for the calculation of fees from the previous review. Due to the increase in the ACMA's hourly rate, most of the fees for other telecommunications activities have increased by 20%. The increase or decrease in the fees for each activity (as outlined in Attachment A) is caused by both the change in the time required to perform each activity and the increase in the hourly rate of 20% (which applies to all telecommunications activities). For example, the application fee for allocating a number on-line (activity 198) has increased by 48% as a result of an increase of 23% in the time required to perform this activity and the increase of 20% in the hourly rate. The fees for the following activities have changed (by more than 20%) essentially as a result of the change in the time required to perform those activities as assessed by the survey:

- Allocating a number otherwise than in accordance with an allocation system determined under section 463 of the *Telecommunications Act 1997* (activities from 198 to 201) - required time to perform these activities have increased by 65% on average. Previously the time charged for these activities did not sufficiently reflect the actual time required for greater analysis and verification of applications, and consequently understated. The current time required for these activities reflect the actual time resulting from the survey which was conducted during the review;
- Considering an application for a carrier licence (activity 218) - required time to perform this activity has decreased by 35%. The decrease reflects the efficiency gained in the performance of this activity where simplified procedures have been adopted;
- Considering an application for a nominated carrier declaration under section 77 of the *Telecommunications Act 1997* (activity 194) - required time to perform this activity has decreased by 37%, which reflects the efficiency gained in the performance of this activity. Appropriate procedural and technological changes have been made in order to reduce the time required to perform this activity; and
- Considering an application to vary or revoke a protection zone (deposit only – activity 208) – required time for this activity has marginally increased by 2%.

The fees for other telecommunications services are established in the following determinations:

TABLE 5 – LIST OF TELECOMMUNICATIONS DETERMINATIONS

Ref No	Determination	Made for
1	<i>Telecommunications (Charges) Determination 2012</i>	<ul style="list-style-type: none"> • considering applications for connection permits for customer equipment and customer cabling; • considering applications for acting as a certification body for customer equipment and customer cabling; • allocating a number otherwise than in accordance with the allocation system under section 463 of the Telecommunications Act 1997; • considering application for a facility installation permit; • conducting public inquiry in relation to the permit; • processing an application for a nominated carrier declaration under section 77 of the Telecommunications Act 1997; • issuing protection and non-protection zone installation permits; and • declaring, varying or revoking a protection zone.
2	<i>Telecommunications (Carrier Licence Application Charge) Determination 2012</i>	processing an application for a carrier licence under section 7 of the <i>Telecommunications Act 1997</i> .
3	<i>Telecommunications (Free-phone and Local Rate Numbers Auctions – Registration Charge) Determination 2007</i>	processing an application for registration under an allocation determination.

3.3.1.3 Broadcasting Services

The ACMA applied its hourly rate and survey information obtained in 2011 on the estimated time to perform the activity to update the broadcasting fees. In addition to processing costs, the costs of gazettal and public notifications were included in specific licences. The calculation methodology has not changed from the one adopted in the previous review.

In summary, fees for all the broadcasting activities have increased by 20% as a result of the increase in the ACMA's hourly rate, whilst the time required to perform these activities remains the same. A further increase has occurred in the following activities as a result of an increase in the cost of gazettal:

- Considering and processing an application for a non-broadcasting services bands commercial television or radio broadcasting licence (see activity 222 in Attachment A);

- Considering and processing an application for renewal of a commercial television or radio broadcasting licence (see activity 223 in Attachment A); and
- Considering and processing an application for a subscription broadcasting licence (see activity 224 in Attachment A).

In the case of price based allocation of commercial television broadcasting licence activity (see activity 225 in Attachment A), the fee has increased by 4% despite the 20% increase in the hourly rate. This is essentially due to spreading the fixed costs such as advertising costs and Auctioneer's fees among potential bidders.

The fees for broadcasting activities are specified in the *Broadcasting (Charges) Determination 2007* (as amended by the *Broadcasting (Charges) Amendment Determination 2012 (No. 1)*).

3.3.2 Levy – Annual Carrier Licence Charge

The ACLC is not a fee for service. It operates as a cost recovery levy and its calculation methodology is established in accordance with the *Telecommunications (Carrier Licence Charges) Act 1997* (the Act). The ACMA determines the amount of the ACLC to be imposed on carrier licences annually.

Section 15 of the Act requires that the total of the charges that are imposed on carrier licences must not exceed the sum of the following components:

ACMA's Component

This is the amount determined by written instrument in accordance with paragraph 15(1)(a) of the Act to be the amount attributable to the ACMA's telecommunications functions and powers for the immediately preceding financial year to the relevant financial year. The ACMA's telecommunications functions and powers are defined by section 7 of the *Telecommunications Act 1997*.

ACCC's Component

The ACCC makes a written determination annually under paragraph 15(1)(b) of the Act of the amount determined to be the proportion of its costs attributable to the telecommunications functions and powers of the ACCC in the immediately preceding financial year to the relevant financial year. The ACCC's telecommunications functions and powers are defined by section 7 of the *Telecommunications Act 1997* by reference to that Act and other legislation.

International Telecommunication Union Contribution

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 for the calendar year in which the beginning of the financial year occurs. The amount to be prescribed in the determination annually is provided by the DBCDE to the ACMA which makes the determination accordingly.

Government Grants – Consumer Representation and Research

Paragraph 15(1)(d) of the Act requires the Minister for Broadband, Communications and the Digital Economy to estimate the total amount of grants likely to be made under section 593 of the *Telecommunications Act 1997* for the relevant financial year. The DBCDE makes a determination under paragraph 15(1)(d) of the Act for the estimated amount.

Amounts paid by the ACMA under section 136C of the Telecommunications Act 1997

Paragraph 15(1)(ca) of the Act requires the ACMA to determine the sum of the amounts paid under section 136C of the *Telecommunications Act 1997* for the immediately preceding financial year to the relevant financial year. Section 136C of the *Telecommunications Act 1997* allows the ACMA, in certain circumstances, to make payments on behalf of the Commonwealth for the development of certain industry codes by a telecommunications industry body or association which are subsequently registered by the ACMA under Part 6 of the *Telecommunications Act 1997*.

Total ACLC

The following Table 6 presents the amount attributable to each component for the current year (2011-12) ACLC and the previous financial year. The table also provides the variance applicable to each component.

TABLE 6 – ACLC COST COMPONENTS

Reference to the Act	Cost Component Details	2011-12 ACLC Amount	2010-11 ACLC Amount	Variance Increase/ (decrease)
15(1)(a)	ACMA's Cost	\$21,518,757	\$21,838,615	(\$319,858)
15(1)(b)	ACCC's Cost	\$12,947,022	\$12,223,338	\$728,684
15(1)(c)	Contributions to ITU	\$1,510,880	\$1,603,978	(\$93,098)
15(1)(d)	Grants for Consumer Representation Program	\$2,077,000	\$2,032,000	\$45,000
15(1)(ca)	Cost of development of telecommunications consumer protection codes	Nil	Nil	Nil
Total		\$38,053,659	\$37,697,931	\$355,728

(Note: a five year forecast is provided at section 3.3.3)

3.3.2.1 ACMA's Cost

As a regulator for telecommunications, the ACMA is responsible for promoting self and co-regulation and competition industry whilst protecting consumers and other users. Accordingly, the telecommunications regulatory activities include development of telecommunications standards and industry codes, compliance and monitoring, enforcements and regulatory activities in relation to National Broadband Network. Further information can be obtained from the ACMA's 2010-11 Annual Report. The determination of the ACMA's cost recovery component is subject to a rigorous process using an activity based costing (ABC) system which captures the direct and indirect costs of activities that are relevant to the ACMA's telecommunications functions and powers. Under the ABC methodology, whilst time is used as a means of allocating direct costs to activities, the allocation of indirect costs uses the average staffing level and other drivers as appropriate. In order to ascertain the allocation base for the ABC model, the ACMA conducts periodic agency-wide surveys.

From the model, a net cost of services is established for telecommunications activities and is then used to determine the ACMA's ACLC cost recovery component. The net cost of services represents the total cost incurred in the previous year by the ACMA in

undertaking its telecommunications functions and powers. This includes all relevant staff costs, other direct costs, overheads and capital costs, but excludes non-appropriated telecommunications miscellaneous revenue. The ACMA cost recovery activities account for a significant proportion of the use of its asset base, for which a user cost of capital is charged based on the net assets for the financial year 2010-11. The ACMA's asset base has been classified as a medium level of risk which has not changed from the previous year. Therefore, the user cost of capital of the net assets incorporated in the net cost of services is 10%. This is consistent with the percentage that was used in the previous year's ACLC in accordance with the previous Australian Government Property Ownership Framework.

The ABC model is reviewed annually by an external independent auditor for quality assurance purposes. The audit of the model specifically reviews the application of the ABC methodology and the calculation of the ACLC. The 2011-12 ACLC review was undertaken by Oakton during February 2012, and presents an unqualified quality assurance report. The review report confirms the appropriateness of the costing methodology adopted by the ACMA in the attribution and allocation of costs to activities as the basis for determining cost recovery charges, and confirms compliance with the Act.

The ACMA recovers the telecommunications regulatory costs incurred in the financial year preceding the financial year in which the charges are made. The ACMA's ACLC cost recovery component has decreased marginally by 1% from the previous year. This is mainly due to the reduction in the cost of field operations, which continue to achieve savings as a result of centralisation of its operations. The ACMA has made a significant effort to contain costs, whilst it has provided improved services to the industry and stakeholders.

The details of the cost of the ACMA's telecommunications functions and powers under paragraph 15(1)(a) of the Act for the financial year 2010-11 are provided in Table 7 below:

TABLE 7 – COST OF THE ACMA'S TELECOMMUNICATIONS FUNCTIONS AND POWERS – 2010-11

Expense Details	2010-11 Cost
Employee expenses	\$13,506,210
Supplier expenses	\$4,139,171
Total Costs	\$17,645,381
Overheads	\$3,873,376
Cost of ACMA's Telecommunications Functions and Powers – paragraph 15(1)(a)	\$21,518,757

3.3.2.2 ACCC Cost

The ACCC performs a broad range of activities in relation to its telecommunications responsibilities, which include:

- Complaints investigation relating to anti-competitive behaviour in the communication sector;

- Compliance monitoring activities, which include Telstra's compliance with its Operational Separation Plan;
- Establishment of regulatory arrangements for the National Broadband Network; and
- Other activities relating to regulated transmission, fixed line and mobile services.

For further information, refer to the ACCC's 2010-11 Annual Report.

The ACCC recovers the telecommunications regulatory costs incurred in the financial year preceding the financial year in which the charges are made. The total cost has been derived from relevant direct costs, including organisational units such as Communications Group and overhead costs such as contributions from the Regulatory Affairs Division for 2010-11. The details are provided in Table 8.

TABLE 8 – ACCC COST COMPONENT

	2010-11 Costs	2009-10 Costs	% Change 10-11 & 09-10
Direct Costs			
Employee	\$7,376,488	\$5,746,456	28%
Consultancy and Travel	\$315,288	\$700,323	(55%)
Other Expenses	\$154,914	\$1,494,993	(90%)
Total Direct Costs	\$7,846,690	\$7,941,772	(1%)
Overheads	\$5,100,332	\$4,281,566	19%
Total ACCC Costs	\$12,947,022	\$12,223,338	6%

The ACLC component for 2010-11 has been calculated at \$12,947,022, representing a 6% increase on the prior year. The increase in employee costs was a result of additional staff due to new activities commencing in 2010-11, and the increase in the allocation of overheads was due to the increases in employees and resulting on-cost charges for the corporate overhead allocation. These increases were substantially offset by decreases in legal expenditure and consultancies.

3.3.2.3 Contributions to ITU

The DBCDE coordinates Australia's participation in the ITU, the specialised United Nations agency responsible for international cooperation in the use of telecommunications and radiofrequency spectrum. Australian organisations, both Government and private, participate in many of the specialist ITU meetings including study groups, which develop recommendations for international adoption, and keep relevant treaties under review. Table 9 provides the comparison of ITU costs for the calendar years 2010 and 2011:

TABLE 9 – ITU COST COMPONENTS

	Telecommunication Sector	Radiocommunication Sector	Total
	AUD	AUD	AUD
2011	1,510,880	3,457,485	4,968,365
2010	1,603,978	3,443,192	5,047,170
Increase / (Decrease)	(6%)	0.4%	(2%)
Ratio 2011	30.41%	69.59%	
Ratio 2010	31.78%	68.22%	
	SWISS FRANCS	SWISS FRANCS	SWISS FRANCS
2011	1,436,873	3,288,128	4,725,000
2010	1,501,605	3,223,395	4,725,000
Increase / (Decrease)	(4%)	2%	
Ratio 2011	30.41%	69.59%	
Ratio 2010	31.78%	68.22%	

(Note: a five year forecast is provided at section 3.3.3)

The contributions to the ITU are made directly by the DBCDE. The base figure that is used for the calculation is the contribution made to the ITU by the Commonwealth of Australia for the calendar year in which the annual carrier charges are made. The contributions for the calendar year 2011 were 4,725,000 Swiss Francs (AUD 4,968,365), covering both the telecommunications and radiocommunications sectors.

In order to separate the costs that were relevant to the telecommunications sector, the DBCDE established a ratio which was based on the components of ITU’s output costs applicable to carrier licence fee calculations using ITU’s activity based costing methodology. Accordingly, for the year 2011, a ratio of 30.41:69.59 was derived for the telecommunications standardisation sector and the radiocommunications sector respectively. The decrease of 6% (AUD) for the telecommunications sector component is attributable to exchange rate fluctuation.

3.3.2.4 Grants made under section 593 of the Act

Section 593 of the *Telecommunications Act 1997* provides the Minister, on behalf of the Commonwealth, with 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.”

Since 2009-10, this grant has been provided to the Australian Communications Consumer Action Network (ACCAN) as the peak body representing consumers of telecommunication services. ACCAN are provided \$2 million (CPI indexed) per annum as part of a multi-year Funding Agreement until 2014. Milestone payments under this Agreement are made directly by the DBCDE as the Commonwealth delegate. This funding is subsequently recouped by the ACMA as a component of the ACLC calculated under subsection 15(1) of the *Telecommunications (Carrier Licence Charges) Act 1997*.

TABLE 10 – CONSUMER REPRESENTATION GRANT PROGRAM

Organisation	Expense category	Grant 2011-12	Grant 2010-11
ACCAN	National advocacy, education and research by the peak body for telecommunications consumers	\$2,077,000	\$2,032,000
Total Grant		\$2,077,000	\$2,032,000

(Note: a five year forecast is provided at section 3.3.3)

ACCAN will continue to be resourced to a level that will 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 Scheme which allows individuals and organisations to undertake research or representation projects in the interest of the telecommunication consumer.

3.3.2.5 Industry Codes developed and registered

There were no payments made for industry code development for the financial years 2009-10 and 2010-11. An indication of future payments is included in section 3.3.3.

3.3.2.6 Charging methodology

The previous methodology of the ACLC had a fixed component and a variable component. The fixed component was the proportion of the ACMA's costs directly attributable to the calculation, review and approval of the ACLC. It was equally shared by all licensed carriers. The rest of the costs were distributed, as the variable component, among the licensed carriers based on their 'eligible revenue' for the previous eligible period as assessed by the ACMA under section 20F of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* (TCPSS Act). Further information about previous methodology can be obtained from the Cost Recovery Impact Statement – ACLC 2010-11.¹¹

The introduction of the new Direction (refer section 2.2.2.1) has resulted in a change of methodology for the allocation of the ACLC to individual licensed carriers, by exempting smaller carriers from paying ACLC. Under the new methodology, the fixed component is not separately identified as a result of the introduction of the eligible revenue threshold of \$25 million where smaller carriers are exempted from paying the ACLC. This methodology is outlined in the *Telecommunications (Annual Carrier Licence Charge) Determination 2012* and complies with the *Australian Communications and Media Authority (Annual Carrier Licence Charge) Direction 2011*.

The change in methodology is also consistent with the Cost Recovery Guidelines in that cost recovery may not be warranted where it is not cost effective or it would be inconsistent with government policy objectives. The smaller carriers account for a

¹¹ Available at www.acma.gov.au/WEB/STANDARD/pc=PC_312211

relatively small component of the total cost of activities related to the ACLC levy. For example, in 2010-11 the costs of the ACMA and other participating agencies that can be attributed to smaller telecommunications carriers were estimated at \$496,000, representing around 1% of the total cost of activities related to the ACLC levy.

These costs include both direct and indirect costs of regulatory activities as well as administrative costs associated with determination of eligible revenue, calculation of the ACLC, and management of debts and litigations that directly relate to smaller carriers. Indirect costs would have been incurred regardless of whether small carriers related activities were undertaken or not, and the net costs attributable to these carriers are likely to be below 1% of the total cost of activities related to the ACLC levy. It should be noted that despite exempting smaller carriers from paying the ACLC levy, those smaller carriers who fail to submit the required statutory declaration by the due date, become liable to pay ACLC in accordance with the Direction.

While introducing a minor level of cross-subsidisation among carriers, the change in methodology is not considered a material amendment to the ACLC arrangements and delivers administrative efficiencies for the ACMA. The associated increase in the levy payable by larger carriers for 2011-12 as a result of exempting smaller carriers is estimated to be less than 0.5%, based on the 2010-11 ACLC. The ACMA and other participating agencies will monitor and regularly assess whether this change to the levy arrangements remains appropriate and consistent with the government policy objectives.

The ACMA collects financial information from industry annually in the form of a written eligible revenue return in order to assess each participating person's (as defined in section 20A of the TCPSS Act) eligible revenue in accordance with subsection 20F(1) of the TCPSS Act. The primary purpose of this information is to determine how much each participating person must contribute to the Universal Services Obligation payments. The applicable eligible revenue amounts relate to the financial year immediately preceding the financial year in which the ACLC are made for those participating persons who are liable to pay the ACLC in the relevant financial year.

The following formula is used for allocating the total charge to applicable individual carriers:

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

Where:

- MCA is the maximum charge amount
- OTC is the other telecommunications charges
- ER is the individual carrier's eligible revenue
- TER is the total eligible revenue

The "ER / TER" determines the individual proportion of the carrier's reported eligible revenue to the total reported eligible revenue for all carriers. In summary, the formula allocates the total component of the ACLC to the individual carriers, in the same proportion of their reported eligible revenue. Attachment B outlines the proposed charges for the relevant carriers.

TABLE 11 – ESTIMATED COST RECOVERY REVENUE AND EXPENSES FROM 2012-13 TO 2016-17

Fees Items	2012-13 \$million	2013-14 \$million	2014-15 \$million	2015-16 \$million	2016-17 \$million
ACLC					
ACMA					
Employee expenses	14.9	15.1	15.5	15.8	16.1
Supplier expenses	4.6	4.6	4.8	4.8	4.9
Overheads	4.3	4.3	4.4	4.5	4.7
ACMA's component per 15(1)(a) of the ACLC Act	23.8	24.0	24.7	25.1	25.7
ACCC					
Employee expenses	10.3	10.7	10.0	9.8	9.6
Consultancy and travel	0.5	0.5	0.4	0.4	0.4
Other expenses and overheads	7.3	7.6	7.0	6.9	6.8
ACCC's component per 15(1)(b) of the ACLC Act	18.1	18.8	17.4	17.1	16.8
Contributions to ITU under 15(1) (c) of the ACLC Act	1.7	1.7	1.7	1.7	1.7
Grants payable under 15(1)(d) of the ACLC Act	2.1	2.2	2.2	2.2	2.2
Code development per 15(1)(ca) of the ACLC Act	0.3	0.3	0.3	0.3	0.3
Total ACLC	46.0	47.0	46.3	46.4	46.7
Fees					
Radiocommunications fees	3.8	3.8	3.8	3.8	3.8
Other telecommunications fees	0.2	0.2	0.2	0.2	0.2
Broadcasting fees	0.1	0.1	0.1	0.1	0.1
Total fees	4.1	4.1	4.1	4.1	4.1
Total					
Total income	50.1	51.1	50.4	50.5	50.8
Less; Cost recovery expenses	51.0	50.4	50.5	50.7	51.5
Estimated over or under recovery	(0.9)	0.7	(0.1)	(0.2)	(0.7)

The ACMA's ACLC forecasts include relevant inflationary measures and an additional funding of \$4.7 million (refer MYEFO of 2009-10) for telecommunications regulatory reform in relation to competition and consumer safeguards. A further funding of \$9.1

million (refer Budget Paper No 2 of 2011-12) over four years from the financial year 2013-14 for regulatory activities in relation to National Broadband Network has also been included as this amount is required to be recovered through the ACLC. The ACMA, however, achieved efficiency gains in telecommunications field operations and other regulatory activities in the last two years, resulting in a reduction in its ACLC component.

The ACCC's forecasts include inflation factors and additional funding amounts of \$3.4 million for telecommunications regulatory reform, relating to competition and consumer safeguards (refer MYEFO of 2009-10) and \$24.0 million over 5 years (refer Budget Paper No. 2 of 2010-11) to establish and deliver the proposed regulatory arrangements for the National Broadband Network. The ACCC achieved efficiencies in general operations as well as legal and consulting expenditure, reducing its ACLC component for 2011-12.

4 Ongoing Monitoring

4.1 Mechanism for on-going monitoring

The ACMA periodically examines its organisational net cost of services based on a combination of surveys, and other cost drivers used in the ABC model to ensure that the information in the model is accurate and reliable. Similarly the other participating agencies monitor their cost components periodically. Appropriate internal consultation occurs as part of this process with consideration given to compliance requirements to ensure the recovery of costs is efficient, and consistent with Australian Government Cost Recovery Guidelines. The ACMA's ABC model is audited annually by a suitably qualified external auditor to ensure the model results in activity costs that are fair and equitable.

Cost recovery revenue is reported in the Financial Statements of the ACMA's Annual Report, in accordance with the Finance Minister's Orders.

4.2 Stakeholder consultation

The ACMA consulted with telecommunications carriers and carriage service providers, broadcasters, radiocommunications licensees and industry associations for a period of six weeks from 9 November 2011 on the updates to existing fees and charges covering telecommunications, radiocommunications and broadcasting activities including the ACLC. For the consultation, the ACMA published a discussion paper on its website and called for comments. The discussion paper was also provided to approximately 500 of the major radiocommunications licensees and over 150 telecommunications carriers and carriage service providers by email and mail to seek comments on the proposed fees. The major issues raised by stakeholder groups are set out below:

- **New methodology that was used for the calculation of the ACLC**

The ACLC is calculated in accordance with section 15 of the *Telecommunications (Carrier Licence Charges) Act 1997* and the *Australian Communications and Media Authority (Annual Carrier Licence Charges) Direction 2011*. The Direction requires the ACMA to make the *Telecommunications (Participating Persons) Determination 2011 (No.1)*, which provides exemption for smaller carriers with revenues less than \$25 million from the requirement of lodging an eligible revenue return to the ACMA, and consequently

exempting from paying annual carrier licence charges. The changes were consulted with all relevant stakeholders by the DBCDE prior to making the Direction. The issue of changing the methodology for the calculation of ACLC is beyond the scope of this review.

- **Estimated increase of 7% in the ACLC from the previous year**

As noted in section 3.3.2, the ACLC for 2011-12 is \$38.1 million, representing an increase of 1% from the previous year. However, for the purpose of stakeholder consultation an estimated amount of \$40.3 million for ACLC had been used (an increase of 7% from the previous year), based on the revised budgeted amount for 2011-12. The reduction is mainly attributable to utilisation of resources, which were budgeted for telecommunications regulatory activities, to other priorities and productivity gains. The actual ACLC amount generally becomes available during March and April each year.

- **Consideration of likely changes to regulatory environment and productivity gains**

The review process ensures that the workload and costs are updated to reflect current resourcing levels of activity in line with the Government's cost recovery policy. The ACMA considers that this is a reliable basis, given that the reviews for fees other than the ACLC are not conducted on an annual basis. All information in regards to the updated fees has been sufficiently disclosed in the discussion paper. The resourcing levels take all productivity gains and operational savings into account. The reductions in the ACMA's ACLC component and Type Testing fees are reflective of efficiencies gained in the services provided by the ACMA. It is also noted that the ACMA will continue to streamline its processes with improved technologies and will ensure that the fees will be updated as soon as any significant changes occur in the future.

- **Disclosure of future cost recovery costs and revenues in the ACMA's publications.**

Information on cost recovery activities are disclosed in the ACMA's publications, such as Annual Reports and CRISs to satisfy the reporting requirements specified in the Cost Recovery Guidelines and other reporting requirements. Table 11 under section 3.3.3 of this CRIS provides an indicative trend in regards to costs and revenues of major cost recovery activities for a five year period ending 30 June 2017. These figures are subject to change.

4.3 Periodic review

This CRIS is prepared for both the ACLC and the ACMA's fees as disclosed in Attachment A. Whilst the duration for the ACMA's fees covers a two year period from 1 July 2012 to 30 June 2014, the ACLC is based on one year duration for the financial year 2011-12. Accordingly, the ACMA will undertake a review of the ACLC in the financial year 2012-13 to determine the actual levy for the period 1 July 2012 to 30 June 2013 in accordance with the *Telecommunications (Carrier Licence Charges) Act 1997*. The outcome of this review will be outlined in a separate CRIS, which will be published on the ACMA's website. With respect to the review of the cost recovery arrangement for the ACMA's fees, a portfolio wide review is expected to be conducted in the financial year 2013-14, and this review will consider all cost recovery arrangements associated with the ACMA's activities including the Do Not Call Register operations and other outsourced activities (see section 1.2).

5 Certification

I certify that this CRIS complies with the Australian Government Cost Recovery Guidelines.



Signature of Chairman

Australian Communications and Media Authority

Name: CHRIS CHAPMAN

Date: 18 May 2012

6 Cost Recovery Links

The Australian Government Cost Recovery Guidelines and the accompanying Finance circular can be found at:

<http://www.finance.gov.au/financial-framework/financial-management-policy-guidance/cost-recovery.html>

For proposals that involve regulation or amendment to regulation that affects business, a Regulation Impact Statement is required. Contact the Office of Best Practice Regulation for further information below:

<http://www.finance.gov.au/obpr/index.html>

7 Glossary

ABC	Activity Based Costing
ACCC	Australian Competition and Consumer Commission
ACCAN	Australian Communications Consumer Action Network
ACLIC	Annual Carrier Licence Charge
ACMA	The Australian Communications and Media Authority
ACMA Act	<i>Australian Communications and Media Authority Act 2005</i>
AMC	Australian Maritime College
CRIS	Cost Recovery Impact Statement
DBCDE	Department of Broadband, Communications and the Digital Economy
DoFD	Department of Finance and Deregulation
EPIRB	Emergency Position Indicating Radio Beacons
ER	eligible revenue
GST	Goods and Services Tax
Guidelines	Australian Government Cost Recovery Guidelines July 2005
INMS	Industry Numbering Management Services
ITU	International Telecommunication Union
MCA	maximum charge amount
MNAP	Market-based Number Allocation Project
OTC	other telecommunications charges
RRL	Radiocommunications Record of Licence
TCPSS Act	<i>Telecommunications (Consumer Protection and Service Standards) Act 1999</i>
TER	total eligible revenue
WIA	Wireless Institute of Australia