Australian Government

Australian Communications and Media Authority

Cost Recovery Implementation Statement

Do Not Call Register—subscription fees effective 1 July 2018

JULY 2018

communicating | facilitating | regulating

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1. Introduction

1.1 Purpose of the Cost Recovery Implementation Statement

This Cost Recovery Implementation Statement (CRIS) provides annual information on how the Australian Communications and Media Authority (the ACMA) implements cost recovery for the operation of the Do Not Call Register (the register). All figures used are GST-exclusive.

A summary of the cost recovery model used is included in the CRIS. It also reports financial performance for these activities and contains financial forecasts for the 2018–19 financial year, as well as three forward years (financial years 2019–20 to 2021–22). The ACMA will continue to update the CRIS until the activities or cost recovery for the activities have been discontinued.

1.2 Background and description of activity

The ACMA is a statutory authority within the Australian Government portfolio of Communications and the Arts. The ACMA is Australia's regulator for broadcasting, radiocommunications, telecommunications and unsolicited communications, amongst other functions. Under the *Do Not Call Register Act 2006* (the Act), the ACMA is responsible for establishing and overseeing the operation of the register, which includes determining the subscription fees for accessing the register.

In order to opt-out of receiving certain unsolicited telemarketing calls and marketing faxes, Australian numbers can be placed on the register if they are:

> used primarily for private or domestic purposes
> used or maintained exclusively for transmitting and/or receiving faxes
> used or maintained exclusively for use by a government body
> an emergency service number.

On 31 May 2007, non-exempt telemarketing was prohibited from being made to any number listed on the register. On 30 May 2010, the Act was amended to allow fax, emergency service and government numbers to be listed on the register. To avoid calling numbers listed on the register, telemarketers and fax marketers can check, or 'wash'[1], calling lists against the numbers listed on the register.

The ACMA has outsourced the operation of the register to an external service provider. The operations were initially outsourced to Service Stream Solutions Pty Ltd (from 1 February 2007 to 30 September 2015) with a contract value of $24.8 million. A contract with Salmat Digital Pty Ltd commenced on 17 September 2014, with register operations commencing on 22 September 2015 and a contract value of $17.1 million over five years of register operation, with options to extend for three further years, up to a total of eight years.

At the commencement of the Act, partial recovery of the direct costs of operating the register occurred. From 1 July 2008, the full direct costs of operating the register have been recovered from industry. To ensure that the activity is operating on a full cost-recovery basis, the ACMA annually compares subscription fee revenue with the direct costs of operating the register.

The direct costs of operating the register are recovered from organisations that access the register to engage in telemarketing and fax marketing activities.

1.3 Stakeholders

The key stakeholders are organisations that engage in telemarketing and fax marketing activities. These range from large telemarketing organisations that engage solely in telemarketing on behalf of other organisations, to

[1] 'Washing' is a term used to describe the process where access seekers upload and check numbers against the register within the secure environment of the DNCR. Access seekers submit a list of numbers to the register and the washed list is returned with registered numbers identified for privacy reasons.

telecommunications carriers, financial and banking institutions, travel agents and small businesses that seek to increase business by telemarketing and fax marketing.

2. Policy and statutory authority to recover costs

2.1 Government policy approval to cost recover

Since 2006, there have been several government policy decisions on the activities of the register that are subject to cost recovery arrangements.

Explanatory Memorandum for the Do Not Call Register Bill 2006

The Explanatory Memorandum for the Do Not Call Register Bill 2006, circulated by authority of the (then) Minister for Communications, Information Technology and the Arts, recommended the establishment of an 'opt-out' register and that ongoing funding for the register functions be partially cost-recovered from the telemarketing industry.

2006–07 Budget paper No. 2

In the 2006–07 Budget, the government provided $33.1 million over four years (and ongoing for forward years) to establish and maintain a Do Not Call Register containing numbers telemarketers must not contact, with certain exceptions. The register operations were established through a competitive tender process to appoint a service provider, with the ACMA responsible for overseeing the operations and enforcing the register legislation.

It was anticipated that approximately $15.9 million of this allocation would be recovered over four years (and ongoing over forward years) from the telemarketing industry through the payment of fees to access the register.

2008–09 Budget paper No. 2

In the 2008–09 Budget, the government agreed that the telemarketing industry would be required to fund the full operational costs of the register by increasing annual subscription fees from 1 July 2008. Previously, the telemarketing industry was only required to fund part of the direct operating costs of the register. This would provide savings of $4.2 million over four years.

2009–10 Budget paper No.2

In the 2009–10 Budget, the government provided $4.7 million over four years (and ongoing for forward years) to extend the register and allow the registration of all Australian telephone (excluding business numbers) and fax numbers on the register. Of this amount, $3.5 million over four years (and ongoing over forward years) would be recovered from the telemarketing and fax marketing industries.

2.2 Statutory authority to impose cost recovery charges

The Do Not Call Register (Access Fees) Amendment Determination 2017 is made under subsection 21(1) of the Act. It sets the fees payable by access seekers to the register and how those fees are to be paid. The fees payable are consistent with the Australian Government Cost Recovery Guidelines.

3. Cost recovery model

3.1 Outputs and business processes of the activity

As noted, the register provides a service for those making unsolicited telemarketing calls or sending unsolicited marketing faxes to check or ‘wash’ their number lists against the register. The washed list is returned with registered numbers identified.

The register is a secure database of registered numbers. Services that support its operation include:

> a call centre with IT support
> a customer management system
> a dedicated website
> a financial system for account management
> four washing channels.

3.2 Methodology

In 2009, the Australian National Audit Office assessed whether the fees and charges were appropriately set and collected to recover the costs of the register in accordance with government policy. The audit confirmed that the methodology used was appropriate.

In reviewing the modelling, the ACMA has taken into account the current cost-recovery policy of promoting consistent, transparent and accountable charging for government activities and the proper use of public resources. There has been no change in the methodology used as the model is consistent with the Australian Government Cost Recovery Guidelines and the Australian Government Charging Framework.

3.3 Costs of the activity

The ACMA maintains separate financial records for the register to identify the direct costs associated with its operation. Direct costs to be recovered are calculated using a costing model specifically for this purpose.

In calculating the total estimated direct cost-recoverable figure, the following are excluded:

> procurement of a new register operator and transition from the former operator (totalling $1.0 million incurred across 2014–15 and 2015–16)
> establishment costs for the new register operator to build its register systems (totalling $3.6 million incurred across 2014–15 and 2015–16)
> the ACMA’s staff costs incurred across 2014–15 and 2015–16 for procurement and transition to a new register operator and the establishment of a new register
> the ACMA’s regulatory functions in monitoring and enforcing compliance with the Act; for example, the costs involved in investigating complaints or taking enforcement action
> the cost of consumer education activities related to the register.

The cost for these activities is met through central budget funding.

Table 1 summarises the actual and estimated direct costs associated with operating the register between 2014–15 and 2018–19.

Table 1: Direct operating costs of the register

Direct costs	Actual 2014–15 ($m)	Actual 2015–16 ($m)	Actual 2016–17 ($m)	Actual and estimate* 2017–18 ($m)	Estimate 2018–19 ($m)
Contractors	1.94	1.75	1.70	1.69	1.73†
Staff	0.56	0.55	0.58	0.38	0.38
Consultants	0.01	0.01	0.02	0.01	0.01

Other	0.03	0.03	0.03	0.03	0.03
Total	2.54	2.34	2.32	2.11	2.14

** Estimates for 2017–18 are based on year-to-date actuals to 31 March 2018. Totals may not add up due to rounding of decimals.*

† Contract costs are forecast to increase in line with any increase in the annual consumer price index (CPI) figure.

Calculation of costs

The estimated contractor costs for 2017–18 are for contract fees of approximately $1.69 million for services provided under contract by Salmat Digital Pty Ltd (the AusTender process was used to competitively award this contract on 17 September 2014).

Time is used as the primary means for allocating costs to activities performed by ACMA staff. The relevant hourly rate for the calculation of staff costs is published in the Telecommunications (Charges) Determination 2017. The hourly rate from 1 July 2012 to 31 March 2017 was $197. The hourly rate from 1 April 2017 is $202.

In 2017–18, it is forecast that the full-year cost-recoverable average staffing level (ASL) will be 1.29. In 2016–17, this was 2.01. In 2017–18, cost-recoverable activities performed by ACMA staff include the tasks set out in Table 2.

Table 2: Register activities completed by ACMA staff

Task	Description
Contract management	Management of the contract with the register service provider.
Project management	Project management of any changes to IT and/or register services, development and implementation of communications, development and review of register website content, management of budgets and cost recovery.
Administration	Management of register activities including the administration of access seeker accounts, invoices, payments, refunds, enquiries, data analysis and washing; oversight of financial delegations and other register-related finance activities.

ASL associated with contract management and administrative, financial and communication functions is required year-on-year as these are ongoing register tasks. However, ASL costs have decreased by approximately 35 per cent as register operations have matured and have required less staff oversight. For example, in 2016–17, time was required for post-transition activities related to the change to the register operated by Salmat Digital (post-deployment system changes and process development). The scale of these activities has reduced in 2017–18.

The consultant costs represent subscription fee modelling services provided by ACIL Allen Consulting for the 2017–18 financial year.

Other costs relate primarily to the payment system, banking gateway, domain names and certificates, post office box and phone line rental.

3.4 Structure of the charges

The costs of maintaining the register are directly related to the service being provided to those wanting to check numbers against the register. For this reason, subscription fees are set to recover the direct costs of operating the register.

In 2006, the ACMA engaged Access Economics (an independent consultancy organisation) to assist with the development of the original subscription fee model. Under this model, there are eight annual subscription types to choose from (see Table 3). The type of subscription purchased entitles the telemarketer or fax marketer to submit a specified maximum quantity of numbers—from 500 to 100 million numbers—for checking against the register during a 12-month period.

In determining the subscription fees, the likely demand for subscriptions is forecast using two components:

- trend analysis from the historical data to a defined period
- a simple growth rate across each subscription type for each month thereafter.

The likely demand for subscriptions and the total cost to recover from industry are then inserted into the subscription fee model. The model determines the amounts the subscription fees must be set at (by type) in order to generate sufficient subscription fee revenue to cover the direct operating costs of the register from industry subscribers.

Where applicable, over- or under-recovery of costs from previous periods are also considered when determining the subscription fees.

Table 3 shows that the demand for subscriptions in 2017 fell for all paid subscription types when compared with previous periods. The estimates for 2018–19 onwards have been forecast by applying simple growth rates (based on nine months of subscription purchases from 1 July 2017 to 31 March 2018).

Table 3: Historical growth and forecast growth rate

Subscription type	Historical growth (Jan 2017 to Dec 2017)	Growth rate (annual from July 2018)
Type A (500 washes)	184%	0%*
Type B (20,000 washes)	–12%	–20%
Type C (100,000 washes)	–25%	–20%
Type D (1,000,000 washes)	–20%	–20%
Type E (10,000,000 washes)	–29%	–20%
Type F (20,000,000 washes)	–100%	–20%
Type G (50,000,000 washes)	–100%	–20%
Type H (100,000,000 washes)	0%	–20%

**0 per cent growth rate applied as no charges are currently applied for Type A subscriptions.*
Source: ACIL Allen Consulting.

The growth rate of –20 per cent for future periods has been predicted by ACIL Allen based on the long-term decline in the number of type B, C and D subscriptions purchased between 2013 and March 2018 (see Table 4 below). The current and previous subscription fee amounts are set out in Table 5.

Table 4: Summary of actual and estimated subscription demand for the periods 2014–15 to 2019–20

Type	No. of washes	Demand					
		2014–15 (actual)	2015–16 (actual)	2016–17 (actual)	2017–18 (actual & estimate)	2018–19 (estimate)	2019–20 (estimate)
Type A	500	415	413	2,409*	1,238*	541	541
Type B	20,000	1,425	997	1,029	884	710	569
Type C	100,000	1,319	1,203	1,117	792	641	513
Type D	1,000,000	388	286	261	213	166	133
Type E	10,000,000	11	8	9	5	5	4
Type F	20,000,000	–	1	1	–	–	–
Type G	50,000,000	2	2	2	–	–	–
Type H	100,000,000	2	3	2	3	2	2
Total		**3,562**	**2,913**	**4,830**	3,135	2,065	1,762
Total less Type A		**3,147**	**2,500**	**2,421**	1,897	1,524	1,221

** A sharp increase in the number of Type A subscriptions activated occurred between December 2016 and August 2017 due to a user or users activating multiple Type A subscriptions within 12 months. A system change and new review process have significantly reduced this activity.*

Table 5: Subscription fees for the periods 2010–11 to 2016–17, and 2017–18 to 2018–19

Type	No. of washes	Fees	
		2010–11 to 2016–17*	2017–18 to 2018–19
Type A	500	$0	$0
Type B	20,000	$79	$113
Type C	100,000	$370	$525
Type D	1,000,000	$3,200	$4,540
Type E	10,000,000	$27,000	$38,310
Type F	20,000,000	$45,000	$63,850
Type G	50,000,000	$67,500	$95,775
Type H	100,000,000	$90,000	$127,700

**Previous fee increase occurred on 1 January 2011.*

As noted in the 2017 Do Not Call Register Cost Recovery Implementation Statement, declining subscription demand and wash volumes has implications for the sustainability of cost-recovery mechanisms.

However, as the cost recovery for the register is forecast to remain in cumulative over-recovery in 2017–18, no change to subscription fees is proposed at this time.

The ACMA continues to refine the register cost-recovery forecasting model to ensure it accurately assesses demand drivers.

In 2018–19, the ACMA will further examine the register cost-recovery model and will work with government and industry to improve the associated cost-recovery arrangements.

Accrued revenue (for a subscription type) is used in the modelling. The annual subscription fees are spread equally over 12 months. This approach has been adopted to reflect the typical usage profile of an annual list-washing subscription (where a subscription can be, and is, accessed over a 12-month period).

The subscription fee model adopts the following key charging structure characteristics based on the full direct operating-cost recovery regime:

> The pricing structure assumes a fixed subscription fee, which allows the telemarketer or fax marketer to check (wash) a certain quantity of numbers against the register. Any demand for washing above the maximum limit of the subscription will require another subscription to be bought.

- Individuals or businesses that engage in telemarketing and/or fax marketing and would like to test the washing service before purchasing a subscription may take out a subscription Type A without having to pay a fee. This is a minimal cost to the register operator and allows users to 'try before they buy' subscriptions.
- If a telemarketer or fax marketer submits a contact list for washing and does not have sufficient remaining numbers available on its subscription, it will have to buy a new annual subscription (other than Type A) before the washing transaction can be completed.
- When a telemarketer or fax marketer pays the subscription fee, it is entitled to have a quantity of numbers (depending on the subscription type) washed during a 12-month period.
- Each of the subscription fees (apart from Type A) is determined using a combination of the following factors:
  - the total number of wash credits for each paid subscription type
  - a discounted per unit cost of washing for a user purchasing a higher-level subscription type (to reflect economies of scale for the register operator)
  - for Type B, rounding is up to the nearest $1; for Type C, up to the nearest $10; and for types D to H, up to the nearest $100.
- No GST is payable on the subscription fees.
- Estimated subscription numbers are based on actual subscription numbers since the beginning of the register's operation and subscription renewal rates.

The model uses a 'goal seek[2]' function to determine the subscription fees. There are four main inputs required:

- the estimated demand for subscriptions by type (that is, the growth rate)
- the total direct operating costs to recover in a given financial year
- an 'economies-of-scale' adjustment applicable to higher-level subscription types
- the rounding rules to apply (by subscription type).

Based on these four inputs, the model identifies a set of fees that, when applied to the estimated subscription demand, gives a total subscription fee revenue amount (on an accrual basis) as close as possible to the total direct operating costs the ACMA is seeking to recover in that financial year.

Based on the above charging structure, the subscription fees have been set at levels that minimise the impact on those that use telemarketing and/or fax marketing on an ad hoc basis (and so do not require regular access to the register) and also cater for larger users with significant demand for list-washing services.

[2] Goal seek is a Microsoft excel feature that allows a user to find the result by adjusting the input value, that is, the direct costs to be recovered.

4. Risk assessment

The ACMA mitigates the risks associated with the management of the cost-recovery activities applicable to the register by:

> analysing risks
> using appropriate risk control strategies
> reviewing processes regularly
> taking appropriate action as a result of those reviews.

In accordance with the charging framework, the ACMA has undertaken a Charging Risk Assessment, resulting in a risk rating of **‘medium**’ for 2018–19.

The ’medium’ rating is based on an assessment of a number of components, including:

1. *medium* risk for the change in cost recovery revenue, as estimated cost-recovery revenue required to meeting operating costs in 2018–19 is expected to drop by 5.7 per cent to $1.82 million
2. *low* risk for the level of cost recovery revenues, as the total proposed annual cost-recovery revenue is less than $10 million ($2.32 million in 2016–17)
3. *low* risk for the level of change in the activities, as no change is being proposed to the current fees or structure of the existing cost-recovery arrangement
4. *medium* risk for the complexity in the cost-recovery arrangements, as the type of cost-recovery charges used are fees
5. *low* risk for the level of change in legislative arrangements, as there is no change to the Do Not Call Register (Access Fees) Determination 2017
6. *low* risk for working with other government entities, as the cost-recovery arrangements do not involve working with any other government entities
7. *low* risk for the level of impact of cost recovery on payers, as cost recovery was introduced to the industry in 2007.

As no changes are being proposed to the current fees and the structure of the cost-recovery arrangements, the ACMA did not undertake any consultation with stakeholders.

Forecasting

The ACMA can estimate the direct costs to operate the register with confidence; however, estimating future revenue over the longer term is considered a key risk.

To manage this risk, the ACMA has engaged external economic expertise, and will continue to monitor real-time demand on an ongoing basis.

5. Stakeholder engagement

As no change is being made to the current subscription model or fees, no stakeholder consultation has been necessary. However, after updating the actual direct costs of operating the register and further examination of the register cost-recovery model in 2018–19 (foreshadowed under section 3.4 above), future consultation with government and industry is anticipated.

6. Financial estimates

Financial estimates for the register operations for the financial year 2017–18 and three forward years are provided in Table 6.

Table 6: Financial estimates by activity, based maintaining current fees and structure

	2017–18 budget ($m)	2018–19 budget ($m)	2019–20 budget ($m)	2020–21 budget ($m)
Expenses = X	2.11	2.14	2.19	2.23
Revenue = Y	1.93	1.82	1.45	1.16
Balance = Y – X	–0.18	–0.33	–0.73	–1.07
Cumulative balance *	**0.23**	**–0.10**	**–0.83**	**–1.90**

**Totals may not add up due to rounding.*

Material variance

Over the forward years, although the average increase in total expenses is expected to be around two per cent, the revenue is expected to continue declining at a rate of up to 20 per cent per year, due to the consistent drop in demand.

In 2018–19, demand for subscriptions is expected to continue declining at a rate of 20 per cent per year (see Table 3) for all paid subscription types.

Impact on balance management strategy

The register has been in cumulative over-recovery since 2012–13. This was due to a spike in revenue from 2012 to 2014. Revenue then started to decline in 2014–15 (by 18 per cent) and has continued to do so, resulting in ongoing reduction in the cumulative over-recovery since this time.

The ACMA estimates an under-recovery of $0.33 million for 2018–19, resulting in a cumulative under-recovery to date of $0.10 million. Current modelling suggests that if demand for subscriptions continues to decline in forward years, the register may be under-recovered by $1.90 million at the end of 2020–21.[3]

The ACMA will closely monitor revenue trends over the coming months to manage potential under- or over-recoveries, before undertaking the annual review for the 2018–19 financial year.

[3] The contract with the register operator concludes in September 2020. The contract provides options for extension until September 2023.

7A. Financial performance

Table 7 shows the actual direct costs of operating the register, compared to the associated accrued subscription fee revenue since the commencement of the register.

Table 7: Historical expenses and revenue

	2007–13 ($m)	2013–14 ($m)	2014–15 ($m)	2015–16 ($m)	2016–17 ($m)
Expenses = X	15.44	2.78	2.54	2.34	2.32
Revenue = Y	15.51	3.34	2.73	2.23	2.01
Balance = Y – X	0.07	0.57	0.19	–0.11	–0.31
Cumulative balance	**0.07**	**0.64**	**0.82**	**0.71**	**0.40**

**Totals may not add up due to rounding of decimals*

Material variance

Expenses for 2015–16 reduced from the previous financial year, as the contract costs decreased by 10 per cent. This was due to the lower contract fees for the outsourced operation of the register with the new register service provider (Salmat Digital).

In 2014–15, ACMA staff costs decreased significantly, due mainly to the ACMA prioritising non-cost-recoverable procurement, and transition and establishment activities related to a new register operator.

Revenue is accounted for on a 12-month accrual basis. For example, if 20 subscriptions were purchased in July for a total revenue of $120,000, each month in the following 12 months would be credited with $10,000. This allows for revenue to be spread over 12 months and moderates the immediate impact of actual revenue on any cumulative under- or over-recovery.

The downturn in revenue first identified in 2014–15 now appears to be a longer-term trend and may reflect several influences, such as:

> movement from telemarketing to other forms of marketing
> increased use of consent-based calls that are not required to be washed
> increased use of digital channels/platforms
> high labour costs in call centres.

Additionally, an ACMA-conducted industry survey and consultations in 2016–17 identified several aspects of the register that have an impact on demand, including:

> the quantity of numbers on the register
> permanent registration
> reduced number churn—that is, numbers on the register were unlikely to have been removed after the enactment of permanent registration in 2015.

7B. Non-financial performance

The ACMA's non-financial performance is largely available through published annual reports, Portfolio Budget Statements, the Regulatory Performance Framework and the *Corporate plan 2017–21*.

A range of performance indicators will be used in 2018–19 to measure the ACMA's performance in regulating unsolicited communications. These include:

> register services are available for at least 99 per cent of the scheduled hours

> unsolicited communications investigations are completed in eight months or sooner

> relevant investigation outcomes are published on the ACMA's website.

8. Key forward dates and events

Table 8: Key forward dates and events for the review of the register subscription fees

Key events	Indicative date
Update of actual amounts (for 2017–18)	October 2018
Stakeholder consultation (if required)	October/December 2018
Update of forward estimates	June 2019

9. CRIS approval and change register

Certification

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

Creina Chapman

Acting Chair and Agency Head

Table 9: Change register

Date of CRIS change	Description of CRIS change	Approver	Basis for change
9 July 2018	Certification of the CRIS Version 4.0	Acting ACMA Chair and Agency Head	Annual CRIS update
26 June 2017	Approval to the CRIS Version 3.0	The Minister for Communications	Annual CRIS update
15 May 2017	Certification of the CRIS Version 3.0	ACMA Chairman	Annual CRIS update
18 August 2016	Certification of the CRIS Version 2.0	ACMA Chairman	Annual CRIS update
30 July 2014	Agreement to the CRIS Version 1.0	The Minister for Communications	Annual CRIS update
27 June 2014	Certification of the CRIS Version 1.0	ACMA CEO	Annual CRIS update