

From: [REDACTED]
To: [Cathy Rainsford](#); [Craig Riviere](#)
Cc: [John Stanton](#); [DL - Cathy Rainsford & Assistants](#); [REDACTED]; [Tanya Farrell](#)
Subject: RE: Reimbursement of Independent Adviser costs related to TCP Code Review [SEC=OFFICIAL]
Date: Monday, 22 May 2023 10:36:52 AM
Attachments: [imaoe013.png](#)
[imaoe003.png](#)
[imaoe005.png](#)
[imaoe006.png](#)
[imaoe007.png](#)
[imaoe013.png](#)
[imaoe014.png](#)
[imaoe015.png](#)
[imaoe016.png](#)
[230522_Attachment 1- 2024 review & revision progress.pdf](#)
[230522_Attachment 2-Terms of Reference TCP Code Review Independent Adviser.pdf](#)
[230522_Attachment 3 - Final Draft Contractor Agreement Independent Adviser.pdf](#)
[230522 CA letter to ACMA re cost reimbursement.pdf](#)

Dear Cath and Craig,

Please find attached the Communications Alliance application for reimbursement of refundable costs for the upcoming (2024) TCP Code revision.

As per Cath's email, we have included an assurance that CA understands the inability to amend our request for reimbursement or to seek additional reimbursement once the attached application has been approved.

[REDACTED]

[REDACTED]

[REDACTED]



In the spirit of reconciliation Communications Alliance acknowledges the Traditional Custodians of country throughout Australia and their connections to land, sea and community. We pay our respect to their Elders past and present and extend that respect to all Aboriginal and Torres Strait Islander peoples today.

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From: Cathy Rainsford <Cathy.Rainsford@acma.gov.au>

Sent: Monday, May 22, 2023 8:00 AM

[REDACTED]

[REDACTED] <DL-CathyRainsford&Assistants@acma.gov.au>; [REDACTED] Tanya Farrell

<Tanya.Farrell@acma.gov.au>; Craig.Riviere@acma.gov.au>; Peppi.Wilson@commsalliance.com.au>

Subject: RE: Reimbursement of Independent Adviser costs related to TCP Code Review [SEC=OFFICIAL]

Dear [REDACTED]

[REDACTED]

I am comfortable with the proposed changes and consider the Authority is likely to be amenable to the proposal as revised (although I obviously cannot guarantee that until a formal decision is made).

Given the proposal for the non-IA costs is significantly lower than in previous review processes, the Authority will want to be assured that CA understands that, once an approval is given, there is no option to amend the amounts or add to the approval. I'm confident that CA understands that given the conversations we've had with [REDACTED] but it would be helpful if the letter could also include confirmation of this. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Regards

Cath

Cathy Rainsford
General Manager Content & Consumer Division

Australian Communications and Media Authority
T +61 2 6219 5500 M +61 477 357 336
E cathy.rainsford@acma.gov.au
www.acma.gov.au

Executive Assistant: Anna Sergi
T +61 2 6219 5332
E anna.sergi@acma.gov.au



From: [REDACTED]

Sent: Monday, 15 May 2023 1:13 PM

To: Cathy Rainsford <Cathy.Rainsford@acma.gov.au>

Cc: [REDACTED] <DL-CathyRainsford&Assistants@acma.gov.au>; [REDACTED] Tanya Farrell

<Tanya.Farrell@acma.gov.au>; Craig.Riviere@acma.gov.au>; [REDACTED]

Subject: RE: Reimbursement of Independent Adviser costs related to TCP Code Review [SEC=OFFICIAL]

Dear Cath,

As discussed, please find attached the documents that we propose to submit for the reimbursement of costs for the 2024 TCP Code revision.

As per our recent discussions, I have amended the "230515_CA letter to ACMA re cost reimbursement" (changes tracked) to reflect the additional cost reimbursement that we are seeking, along with a statement as to why we consider these costs reasonable (i.e., consistent with previous revisions).

The other documents have either not been amended or only seen minor editorial changes (word missing, date etc.).

[REDACTED]

[REDACTED]

[REDACTED]





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From: Cathy Rainsford <Cathy.Rainsford@acma.gov.au>

Sent: Friday, May 12, 2023 1:37 PM

To: [REDACTED]

Cc: [REDACTED] DL - Cathy Rainsford & Assistants <DL-CathyRainsford&Assistants@acma.gov.au> [REDACTED] Tanya Farrell <Tanya.Farrell@acma.gov.au>; Craig Riviere <Craig.Riviere@acma.gov.au>; [REDACTED]

Subject: RE: Reimbursement of Independent Adviser costs related to TCP Code Review [SEC=OFFICIAL]

Dea [REDACTED]

Outside of the IA cost reimbursement piece, if the types of services (eg hosting meetings, drafting expertise) for which CA would be seeking approval for reimbursement are similar to those for which approval has been given in previous Code reviews, and the amounts sought are similar (subject to reasonable adjustments to reflect the passage of time), I consider that would be a reasonable basis on which to seek the Authority's approval. [REDACTED]

Regards

Cath

Cathy Rainsford
General Manager Content & Consumer Division

Australian Communications and Media Authority
T +61 2 6219 5500 M +61 477 357 336
E cathy.rainsford@acma.gov.au
www.acma.gov.au

Executive Assistant: Anna Sergi
T +61 2 6219 5332
E anna.sergi@acma.gov.au



From: [REDACTED]

Sent: Thursday, 11 May 2023 3:18 PM

To: Cathy Rainsford <Cathy.Rainsford@acma.gov.au>

Cc: [REDACTED] DL - Cathy Rainsford & Assistants <DL-CathyRainsford&Assistants@acma.gov.au> [REDACTED] Tanya Farrell <Tanya.Farrell@acma.gov.au>; Craig Riviere <Craig.Riviere@acma.gov.au>; [REDACTED]

Subject: RE: Reimbursement of Independent Adviser costs related to TCP Code Review [SEC=OFFICIAL]

Hi Cath,

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



In the spirit of reconciliation the Communications Alliance acknowledges the Traditional Custodians of country throughout Australia and their connections to land, sea and community. We pay our respect to their Elders past and present and extend that respect to all Aboriginal and Torres Strait Islander peoples today.

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Regards

Cath

Cathy Rainsford
General Manager Content & Consumer Division

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T +61 2 6219 5500 M +61 477 357 336

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www.acma.gov.au

Executive Assistant: Anna Sergi
T +61 2 6219 5332
E anna.sergi@acma.gov.au



Sent: Friday, 5 May 2023 4:20 PM

To: Craig Riviere <Craig.Riviere@acma.gov.au>

Cc: DL - Cathy Rainsford & Assistants <DL-CathyRainsford&Assistants@acma.gov.au> Tanya Farrell <Tanya.Farrell@acma.gov.au>

Subject: RE: Reimbursement of Independent Adviser costs related to TCP Code Review [SEC=OFFICIAL]

Dear Craig et al,
Thank you for your advice.
Please find attached a revised request for reimbursement of costs related to the Independent Adviser.
Regards,

[REDACTED]

[REDACTED]



In the spirit of reconciliation the Communications Alliance acknowledges the Traditional Custodians of country throughout Australia and their connections to land, sea and community. We pay our respect to their Elders past and present and extend that respect to all Aboriginal and Torres Strait Islander peoples today.

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From: Craig Riviere <Craig.Riviere@acma.gov.au>

Sent: Friday, May 5, 2023 3:34 PM

To: [REDACTED]

Cc: [REDACTED] DL - Cathy Rainsford & Assistants <DL-CathyRainsford&Assistants@acma.gov.au> [REDACTED] Tanya Farrell <Tanya.Farrell@acma.gov.au>

Subject: Reimbursement of Independent Adviser costs related to TCP Code Review [SEC=OFFICIAL]

[REDACTED]

As discussed on the telephone this afternoon, please find attached a letter from the ACMA on the reimbursement of costs related to the Independent Adviser.

Our first point of contact on this issue is [REDACTED] who is copied into this email.

Regards

Craig

Craig Riviere

Executive Manager
Telecommunications Safeguards Branch

Australian Communications and Media Authority
+61 2 6219 5333 | 0407 097 104
craig.riviere@acma.gov.au
acma.gov.au



The ACMA acknowledges the Traditional Owners of Country throughout Australia and their continuing connection to land, culture and community. We pay our respects to Elders past, present and future.

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The 2024 review/revision process and timeline

The first step in any Code review process is to consider whether the Code requires revision. The need for revision has already been recognised and accepted by Communications Alliance.

The 2024 review and revision process will comprise 3 stages:

Stage 1: Information-gathering

The foundations for the rest of the review will be set through some very early, pre-code-drafting stage information-gathering exercises in the form of:

- a) a **public discussion paper**. Available on the CA website and pushed out to all key stakeholders, responses to the paper will help identify stakeholders' key concerns and priorities.
- b) **one-on-one stakeholder meetings**. Offered to all interested parties, these will provide a relatively informal opportunity for priorities and issues to be explored in more detail, with few enough participants in each meeting to allow the kind of non-confrontational, two-way, constructive dialogue that is often simply not possible in bigger group settings.

Communications Alliance took a similar approach to consultation when reviewing its Guideline: G660: 2023 Assisting Customers Affected by Domestic and Family Violence⁵ and found the small meeting format to be very constructive.

To ensure transparency of process, a summary of key issues will be made available, as described [below](#).

Stage 2: Iterative drafting

Once the initial information-gathering is complete, Code drafting will begin. A small industry working group ('Drafting Committee') will use information gathered through the first stages of the review to inform a first draft of the revised Code.

The Code will be further developed and refined through an iterative drafting process with stakeholders regularly engaged to ensure that their individual issues and concerns are understood. Engagement will take place via a number of mechanisms, including:

- monthly Review Committee meetings,
- deep engagement and liaison with an Independent Adviser (IA)
- direct, one-on-one engagement between the Drafting Committee and individual stakeholders on issues of direct interest to that stakeholder,
- report summaries made available online,
- opportunities for direct engagement with the IA.

Further detail is provided overleaf.

Stage 3: Formal consultation on a new Code

The final stage will involve the public release of a 'revised draft Code' which will be subject to the formal consultation processes required of the Code development process, including a mandatory public comment period.

Transparency and independence of process

Transparency of process and independence of process at each stage will be ensured through appropriate documentation and reporting mechanisms.

To ensure **transparency** of the review process:

- submissions received in response to the discussion paper will be posted on the CA website, along with a summary of key issues identified through the one-on-one meetings,
- key points from stakeholder meetings/input received at each additional stage will be documented. Stage summary information will be published on the CA website periodically and will be shared through appropriate forums (e.g. the ACMA CCF),
- drafting records will clearly document how key identified issues have been managed (i.e. has the issue been addressed within the Code revision? If not, why not?), and
- there will be regular, scheduled reporting, as described below.

Independence of process will be assured through the engagement (from the start of stage 2) of an Independent Adviser (IA) who will monitor and advise on the revision process to ensure it is fair and reasonable and appropriately transparent. This will primarily be managed through monthly meetings of the IA with the Review Committee (see below), and regular reporting and the raising of any concerns or issues by the IA to the Communications Alliance Board (independent of engagement with the Review and Drafting Committees). Additional direct engagement with stakeholders will also occur at the IA's discretion.

The IA will also provide an accompanying note and any observations on the review and revision process to the Authority when the draft TCP Code is submitted to the ACMA for consideration for registration.

The Drafting Committee will relay information about the Code review process to the IA at the monthly Review Committee meetings.

Review Committee

The Review Committee will comprise: the IA, Drafting Committee, the consumer peak body, the Australian Communications Consumer Action Network (ACCAN) and possibly a second consumer peak representative, the ACMA, Australian Competition and Consumer Commission (ACCC), Department of Infrastructure, Transport, Regional Development, Communications and the Arts (DITRCA) and TIO (as observers).

The ACMA observer will brief ACMA Authority Members on progress and concerns. The IA will be available to meet with and to receive questions/hear concerns directly from ACMA staff and Authority members. As already noted, the IA will also be available to liaise with consumer groups or other stakeholders, as he sees appropriate. The IA may also attend Drafting Committee meetings (at his discretion).

Other independent input

There may also be a role for an independent party to provide neutral and considered advice about whether the Code clauses are clear and fit for purpose, and/or to provide expert advice on metrics, analytics and reporting issues. We would consider the benefit of these options at stage 2.

Key dates

	Date	Step
Stage 1 Information-gathering	6 June 2023	Discussion paper (DP) submissions response deadline.
	Mid-June – end Aug 2023	One-on-one stakeholder meetings.
Stage 2 Iterative drafting	Aug/Sept – Dec 2023	Iterative Code drafting, including targeted consultation/ review discussions. (i.e. engaging on topics relevant to each stakeholder.)
Stage 3 Formal consultation	Early 2024 (TBC) (Minimum 30 days consultation) Close by end Feb 2024	Release draft revised Code for public consultation.
Additional steps	Throughout Periodically, throughout From July 2023	Additional stakeholder engagement as required. Stage reports summaries, online. Monthly review meetings with IA.
Code submission to ACMA	Mid-2024	Submit Code to the ACMA for registration. (Note: the current Code continues to be in force until a new Code is registered. It does not expire.)

Note: Dates for stages 2 and 3 are indicative and may change.

Independent Adviser, TCP Code Review -

Terms of Reference



The position of Independent Adviser (IA), Telecommunications Consumers Protections (TCP) Code Review, has been established to perform an area of work identified by the Communications Alliance (CA) Board and the CA Industry Consumer Advisory Group Reference Panel (ICAG).

The IA is to actively monitor and provide advice on the TCP Code revision process to verify whether it is fair, reasonable and appropriately transparent, in line with the [specific terms](#) described below.

In carrying out the specific terms, the IA is to observe Part 6 of the *Telecommunications Act 1997* and the ACMA's "[Guide to Developing Telecommunications Codes for registration](#)".

These Terms of Reference (TOR) should be read in conjunction with the TOR for the TCP Code Drafting Committee (Drafting Committee) and TCP Code Independent Adviser (IA) (see [related committees/roles](#)).

Specific terms

The IA will:

1. monitor and provide advice on the TCP Code revision process to verify whether it is fair, reasonable and appropriately transparent.
2. raise any concerns or issues directly with the Communications Alliance Board (as well as advising the Review Committee and CA management of any concerns, suggestions or advice). A standing item will be placed on each CA Board meeting agenda during the period of the engagement, to enable the IA to engage with the Board directly as she/he deems appropriate.
3. be available to meet with and to receive questions directly from and discuss issues of concern directly with, ACMA staff and Authority members.
4. be empowered, at his or her discretion, to liaise with consumer groups or other stakeholders.
5. be empowered, at his or her discretion, to attend Drafting Committee meetings.
6. provide a report and relevant observations to the ACMA when the draft TCP Code is submitted to the ACMA for consideration for registration. The report will include the IA's views on the adequacy of the consultation process, including the manner in which the final drafting addresses key issues identified during the process.

Monitoring and assessment will take place through monthly online or in-person meetings with the Review Committee, as well as via direct communication with individual stakeholders.

Written reports will be provided by CA management to all participants ahead of the monthly meetings as required. Stage summaries will also be posted online periodically.

The IA may raise, or facilitate questions on, process issues or concerns before, during or after meetings.

The IA will be supported by CA management in this role.

Primary deliverables

- Regular reports/feedback (verbal or written) to the CA Board on the fairness, reasonableness and transparency of TCP Code revision process.
- Advice to CA management and the Board about concerns about the process and suggestions as to how they might be reasonably addressed/ improvements to the process.
- Direct engagement with stakeholders as required to facilitate a fair and reasonable process.
- A written report to the ACMA at the time that the Code is submitted to the ACMA for consideration for registration, to include comments about the adequacy of the consultation process, including the manner in which the final drafting addresses key issues identified during the process.

Requirements for the role

The IA will be a person with deep experience of the Australian telecommunications industry, the concerns and issues of importance to Australian telecommunications consumers and the relevant regulatory framework.

The IA will be a person demonstrably independent from the telecommunications industry.

Appointment and governance

The IA will be appointed by, and will report to, the Communications Alliance Board of Directors.

Resources and Administration

Administrative support will be provided by Communications Alliance, managed by the Communications Alliance Project Manager.

Related committees/roles

WC84: TCP Code Working Committee (the 'Review Committee'). TCP Code Drafting Committee. (Terms of reference for both are available on the TCP Code [review page](#) on the CA website)

TCP Code Review and Revision Process

Stage 1: Information-gathering

1.1 The first stage in the 2024 review and revision process includes early pre-code-drafting stage information-gathering exercises that will set the foundations for the revision:

- (a) a public discussion paper, designed to help identify stakeholders' key concerns and priorities, and
- (b) one-on-one stakeholder meetings that will provide a more informal opportunity to share and properly understand the issues raised in submissions.

At each stakeholder meeting, one or two members of the Drafting Committee will meet one or two representatives from the stakeholder organisation, with support provided by the CA Project Manager.

Stage 2: Iterative drafting

1.2 Once the initial information-gathering is complete, Code drafting will begin. The Drafting Committee will use information gathered through the first stages of the review to inform drafting.

1.3 Code drafting will progress through an iterative drafting process with stakeholders regularly engaged to ensure that their individual issues and concerns are understood. Engagement will take place via a number of mechanisms, including:

- Review Committee meetings (monthly or as required),
- deep engagement and liaison with an Independent Adviser (IA)
- direct, one-on-one engagement between the Drafting Committee and representatives of the individual stakeholder organisation on issues of direct interest to that stakeholder,
- report summaries made available online,
- opportunities for direct engagement with the IA.

Stage 3: Formal consultation on a new Code

1.4 The final stage will involve the public release of a 'revised draft Code' which will be subject to the formal consultation processes required of the Code development process, including a mandatory public comment period.

Transparency and independence of process

Transparency of process and independence of process at each stage will be ensured through appropriate documentation and reporting mechanisms.

- submissions received in response to the discussion paper will be posted on the CA website (unless the respondent requests otherwise), along with a summary of key issues identified through the one-on-ones,
- details of stakeholder meetings/input received at each additional stage will be documented, with stage summary information published on the CA website,
- drafting records will clearly document how key identified issues have been managed (i.e. has the issue been addressed within the Code revision? If not, why not?),
- an Independent Adviser (IA), appointed by and reporting to the Communications Alliance Board of Directors, will actively monitor and advise on the revision process to verify it is fair and reasonably and appropriately transparent. This will primarily be managed through monthly meetings with the Review Committee, with additional engagement and independent review at the IA's discretion, and
- the revision process will be a standing agenda item at each meeting of the Communications Alliance Board of Directors for the duration of the project, to facilitate regular updates of the Board by the IA and the opportunity to surface and address any issues of concern.

There might also be a role for a (different) independent party to provide neutral and considered advice about whether the Code clauses are clear and fit for purpose, and/or to provide expert advice on metrics, analytics and reporting issues. The benefit of these options will be assessed once the review process is further progressed.

DD MM 2023

Mr Michael Cosgrave

Address

Address

Address

Dear Michael,

Re: Contract work with Communications Alliance – Independent Adviser to the 2023-24 Review and Revision of the Telecommunications Consumer Protections (TCP) Code.

The Board of Directors of Communications Alliance wishes to engage you as an independent contractor to provide the Services as described below on the terms and conditions set out below, which if accepted by you will comprise the Contract.

The terms and conditions of the Contract are as follows:

Period of Contract:	Commencing dd mm yyyy and continuing until the revised draft code is submitted to the Australian Communications and Media Authority (ACMA) for consideration for registration and any subsequent questions from the Authority have been addressed (expected to occur in the third quarter of calendar 2024). The contract may be terminated by either party upon 14 days' notice.
Location:	Flexible
Services:	To provide independent assessment on the TPC Code revision process to verify whether it is fair, reasonable and appropriately transparent, as described in the Independent Adviser Terms of Reference at Annexure A. You will work cooperatively with any other contractor appointed by Communications Alliance in respect of the Project.
Project:	Independent Adviser to the 2023/24 Review and Revision of the Communications Alliance <i>Telecommunication Consumer Protections (TCP) Code</i>
Hours of Work:	You will be engaged as an independent contractor to perform the Services during the Period of Contract. The intention under this arrangement is to manage outputs, and as such you will determine the days and hours worked in order to best meet the requirements for delivery of the Services.
Remuneration:	\$8,000 (plus GST) to be paid as a monthly retainer for the duration of the project. The retainer is intended to reflect and average of three working days per month, devoted to the project.

	The adequacy of the retainer will be assessed jointly by you and Communications Alliance after the first three months of the engagement.
Directly incurred telecommunications costs (fixed, mobile, email and internet):	Your remuneration includes an allowance for this, and no additional payment will be made. You are able to use Communications Alliance's telecommunications, internet and printing facilities in pursuit of the Project during those periods (if any) when you work from the Communications Alliance office.
Travel costs:	<p>It is recognised that the IA will need to have some face-to-face meetings with stakeholders. Communications Alliance will pay reasonable travel costs associated with the Contract including:</p> <ul style="list-style-type: none"> • economy class airfares (if required), • taxi fares. <p>No such costs will be reimbursed unless prior approval is obtained from Communications Alliance.</p> <p>Communications Alliance is available to make travel bookings. Communications Alliance will also book and meet the costs of overnight accommodation if required.</p>
Invoicing and payment:	You should invoice Communications Alliance monthly by submitting an invoice which quotes your Australian Business Number. Payment will be made within 30 days of receipt of the invoice.
Superannuation:	As you are an independent contractor and not an employee, we do not deduct superannuation and will not make any contribution towards superannuation for you.
Leave:	As you are an independent contractor and not an employee, there is no entitlement to leave.
Taxes:	You acknowledge and agree that you are responsible for all taxes required to be paid by law in respect of your engagement as a contractor under the Contract. Communications Alliance will not make any payment of taxes except goods and services taxes (GST) on receipt of a valid tax invoice.
Confidential Information:	<p>You will keep confidential, and not disclose or use, any confidential information:</p> <ul style="list-style-type: none"> • belonging to Communications Alliance, except as required by law or with the written consent of Communications Alliance; or • belonging to any third party (including without limitation any carrier or carriage service provider) with whom you engage in complying with your obligations under the Contract, except as required by law. <p>Confidential information means any information that is not generally known or available to the public and includes trade secrets, operational processes, data (including data that you become aware of, produce or collect in connection with your</p>

	<p>performance of the Services) or any other information relating to Communications Alliance's or any relevant third party's accounts, marketing plans, research, general business information, development of industry standards and codes or any other information which is not generally known or available to the public.</p> <p>Without limiting your other obligations under the Contract, unless directed to do so by Communications Alliance you will not under any circumstances disclose to, or share with, any carrier or carriage service provider any confidential information belonging to another carrier or carriage service provider which you receive in connection with performing your obligations under the Contract.</p>
Intellectual Property:	<p>Communications Alliance will own exclusively and be entitled to the benefit of the Intellectual Property in all materials and works developed, produced or created by you in relation to the Project.</p> <p>You will promptly take any action, execute any document and/or do anything reasonably required by Communications Alliance to transfer to Communications Alliance your interests in any such Intellectual Property.</p> <p>Intellectual Property includes copyright (and future copyright), trade mark, design, patent, rights in respect of trade secrets and other confidential information, and all other rights generally falling within the scope of this term, whether registered or unregistered and whether registrable or not.</p> <p>You consent to any and all acts or omissions done or committed by Communications Alliance in relation to any works made or to be made by you during the course of your agreement. This consent applies to all works in which moral rights subsist.</p>
Insurance:	<p>On and from the commencement date of the Contract, you must maintain all appropriate insurances in relation to the Contract which includes professional indemnity insurance with no less than \$1,000,000 cover. You will provide Communications Alliance with evidence of all relevant insurances on request by Communications Alliance.</p> <p>*Sole traders and Individuals will be covered under Communications Alliances Insurances.</p>
Compliance with law and policies:	<p>You will at all times comply with all applicable laws and any policies of Communications Alliance as advised by Communications Alliance from time to time.</p>
Governing law:	<p>The Contract is governed by and is to be construed in accordance with the laws in force in New South Wales and the parties irrevocably and unconditionally submit to the non-exclusive jurisdiction of the courts of New South Wales and any</p>

	courts which have jurisdiction to hear appeals from any of those courts.
Right of substitution:	The Contractor may not engage a third party sub-contractor to perform some or all of the obligations of the Contractor under the Contract.

Michael, we look forward to working with you on this important project.

If the above terms and conditions are acceptable, could you please sign a copy of this letter and return it to me. This letter must be signed before you commence performance of the Services.

If you have any queries at all please do not hesitate to contact me on 02 9959 9130.

Yours sincerely,

John Stanton
Chief Executive Officer
 (On behalf of the Communications Alliance Board of Directors)

I hereby accept the above terms and conditions.

.....
[Contractor's signature]

.....
[Date]

.....
[Contractor's name]

22 May 2023

Craig Riviere, General Manager
Executive Manager Telecommunications Safeguards Branch
Australian Communications and Media Authority

Cc: Tanya Farrell, Manager
Telecommunications Performance & Regulation
Erin Raco, Executive Officer, Content and Consumer Division

By email:
craig.riviere@acma.gov.au
tanya.farrell@acma.gov.au
cathy.rainsford@acma.gov.au

Dear Craig,

RE: ACMA reimbursement of TCP Code development costs for Independent Adviser

Thank you for your advice on the phone and by email today about the reimbursement costs on the Independent Adviser to the TCP Code review.

Please find following an amended request for reimbursement.

As you are aware, the Communications Alliance Telecommunications Consumer Protection (TCP) Code is reviewed at least every 5 years, with the next review due in 2024. Work has already commenced, with considerable time and effort expended in developing – in consultation with key stakeholders including the ACMA and Authority Members, ACCAN, ACCC, DITRDCA and the TIO - a new review and revision process designed to better respect stakeholders' time and specific areas of interest, providing for a more collaborative and constructive revision and drafting process. The final proposed process, which has been received positively by these key stakeholders, is provided at *attachment 1*.

As we have discussed at some length, a critical part of the new process is the engagement of an Independent Adviser (IA) to monitor the revision – a person who is demonstrably independent from the telecommunications industry and respected by all stakeholders, with deep experience of the industry, the concerns and issues of importance to Australian telecommunications consumers and the relevant regulatory framework. Such a skillset is not easy to find, but we have identified Michael Cosgrave as the preferred candidate and are seeking to engage him accordingly. The final Terms of Reference for the IA position (which takes into account feedback provided by the ACMA/Authority and other key stakeholders) is provided at *attachment 2*, and the contract of engagement at *attachment 3*.

We have also identified the potential need for advice in relation to the development of specific Code provisions (e.g., those dealing with metrics) and to ensure that the Code language uses sufficiently plain English.

The purpose of this letter is to formally present to the ACMA for approval a declaration of eligibility for reimbursement of the above costs as a refundable cost under s136A of the Telecommunications Act¹ (the Act).

Confirmation of eligibility for reimbursement

1) Section 136A

I can confirm that the TCP Code meets the requirements for reimbursement of costs under section 136A (1).

2) Section 136(2)

An estimate of costs, per 136(2), is presented below.

Cost type	Amount	Comment
Independent Adviser	\$8,000/ month from 1 July 2023 to 31 July 2024 (with potential for extension to Dec 2024 should the process need more time) Estimated total: \$96,000 - \$136,000	Paid on retainer basis. Cost represents a 25.9% discount on Michael's usual charge-out rates. See below for further comment.
Domestic travel costs for IA	\$10,000	For face-to-face meetings with stakeholders, with CA prior approval.
External advice/drafting resources	Up to a maximum of \$50,000	Quote(s) will be obtained prior to the work being assigned to a contractor.
Estimated total	\$156,000 – \$196,000	

Communications Alliance understands that once the ACMA has made a declaration that Communications Alliance is eligible for reimbursement of refundable costs for this TCP Code revision process, there is no power to amend the declaration to increase the amount of costs or add additional types of costs.

Reasonableness of costs

The negotiated retainer represents a discount of approximately 26% off Mr Cosgrave's usual charge-out fee. The ACMA Guideline¹ advises that the ACMA "expects that the reasonableness of some costs will need to be demonstrated with multiple quotes". We note also, however, that the ACMA does have some discretion, in circumstances where there might not be a multitude of potential suppliers. As discussed, providing multiple quotes in this case is not possible or practicable, as there are very few possible candidates with the expertise, independence, standing, availability and other characteristics required of the IA role.

¹ And as specified in the ACMA guide for industry bodies: [Reimbursing costs of developing or varying consumer-related telecommunications industry codes](#).

We believe that the provision of quotes for the external advice/drafting resources at this stage is not practical as we are unable to sufficiently specify the scope of works in order to obtain realistic quotes. However, with respect to such costs, we note that the use of external advice/drafting resources – and the reimbursement of such costs – is consistent with previous TCP Code revisions. For example, the 2017 TCP Code revision included a request for reimbursement of \$40,000 for research in relation to Critical Information Summaries and a further \$69,000 for legal fees/ professional drafting. Similarly, the 2014 and 2010 revisions included requests for reimbursement of \$106,000 and \$185,000, respectively. We note the substantially lower costs requested for reimbursement for the 2024 revision.

Timelines

We recently released the discussion paper with a description of the IA role and a 'holding note' about his identity. Ideally, we would like to be able to reveal the IA's identity and provide a link to his short biography as soon as possible, as this will provide stakeholders confidence in the role. Obviously, we cannot publicly refer to him by name until he has signed the contract.

As my Board's instruction to me is to sign the contract with the IA as soon as the ACMA has confirmed reimbursement arrangements, I would very much appreciate the ACMA's advice on the reimbursement of costs as soon as possible.

Should you have any questions or need further information, please do not hesitate to contact Peppi Wilson, Senior Manager Policy and Regulation, or me.

Many thanks for your consideration of this important issue.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'J Stanton', written in a cursive style.

John Stanton
Chief Executive Officer

Attachments:

230522_Attachment 1- 2024 review & revision process

230522_Attachment 2 -Terms of Reference TCP Code Review Independent Adviser3

230522_Attachment 3 - Final Draft Contractor Agreement Independent Adviser (unsigned)