

**COMMUNICATIONS  
ALLIANCE LTD**



**ACMA Compliance Priorities, 2021-22**  
COMMUNICATIONS ALLIANCE SUBMISSION  
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## **INTRODUCTION**

Communications Alliance welcomes the opportunity to provide this submission to the ACMA's consultation on compliance priorities for 2021-22.

We have structured our submission based on the questions posed on the consultation paper, and have provided comments against the current priorities in the response to question 7.

Members appreciate the ACMA's ongoing engagement with industry on these and other matters, and would welcome any further questions or discussion.

### **About Communications Alliance**

Communications Alliance is the primary telecommunications industry body in Australia. Its membership is drawn from a wide cross-section of the communications industry, including carriers, carriage and internet service providers, content providers, equipment vendors, IT companies, consultants and business groups.

Its vision is to provide a unified voice for the telecommunications industry and to lead it into the next generation of converging networks, technologies and services. The prime mission of Communications Alliance is to promote the growth of the Australian communications industry and the protection of consumer interests by fostering the highest standards of business ethics and behaviour through industry self-governance. For more details about Communications Alliance, see <http://www.commsalliance.com.au>.

## Questions

### 1. What are the matters of significant public interest or concern?

Consumers are best served by a telecommunications market that is competitive. This delivers increased access, lower costs, and increased innovation. Examples of direct consumer benefits we have seen due to a competitive market include the increase in flexibility and choices on contracts, the consistently decreasing real cost of telecommunications, and the advanced level of mobile connectivity in Australia.

Across the economy, consumers benefit when they are able to choose from a varied marketplace. It is important that regulations – and the enforcement of those regulations – allow for product and service differentiation.

On the other hand, overly prescriptive regulation or expectations that existing regulation will be implemented in a specific and uniform manner can create harm for consumers. Decreased competition leads to increased prices, and stopping providers from evolving their methods of product and service delivery prevents Australians from being able to take advantage of new and emerging technologies.

### 2. What are the potential and actual causes of harm to consumers?

#### Scams and fraudulent activity:

Industry is pleased to continue working with the ACMA on solutions and preventative steps to protect consumers from scams and fraud.

However – international and domestic experience shows that scammers will quickly adapt and pursue new methods as protections are put in place. Therefore, telcos must be able to be nimble in response, and any regulations or enforcement need to keep this in mind.

Also – there are many ways for fraudsters to gain access to an identity. It is important to strike the balance in identity verification procedures in telco in a way that enables consumers to access their account while simultaneously protecting them from fraudulent access.

Cybersecurity and digital identity are quickly evolving areas, and changes in these – whether telco-specific or more broadly – need to take into account the totality of the environment.

Scams and fraud are further discussed in the response to question 4.

### 3. What are the high level risks of non-compliance, including from technological developments?

Technological developments such as the increasing number of connected devices directly relevant to health and safety (for example, medical devices) can increase the risks of non-compliance in cabling, directly impacting individuals' medical care or their access to assistance, among other potential consequences. In light of this, the ACMA's promotion and enforcement of existing technical standards under Part 21, Division 3 of the *Telecommunications Act 1997* is increasingly important.

Under this Section, the ACMA has the power to make/call-up standards that fulfill a range of roles, including “protecting the integrity of a telecommunications network or a facility” or “protecting the health or safety of persons who...use services supplied by means of or are otherwise reasonably likely to be affected by the operation of a telecommunications network or facility” (Section 376, (2)(a) and (b)). The evolution of the use and roles of

connected devices necessitates a parallel evolution of the ACMA's application of existing technical standards under this section.

The increasing number of connected devices is also challenging the existing technical standards in other ways – for example, connected products coming to market that don't precisely fit within existing Australian Standards, thus creating challenges with complying with the ACMA labelling requirements.

Both of these matters make clear that the quickly evolving nature of 'connectedness' will require ongoing dialogue between industry and the ACMA, and that risks of non-compliance with certain technical standards may evolve beyond the initial interpretation that was focused on occupational health and safety and direct risks to health or safety from cabling equipment. Communications Alliance's Customer Equipment and Cable Reference Panel (CECRP) members would be pleased to further discuss these topics with the ACMA.

#### **4. What are the emerging issues where we can encourage compliant behaviour, deter non-compliance or boost public confidence?**

##### Consumer safeguards:

There is an opportunity for the ACMA to educate smaller RSPs who are not actively engaged in the regulatory process about their obligations. Communications Alliance will continue working to raise awareness and provide guidance, but the ACMA has an important role to play as the regulator. There are extensive regulatory obligations for service providers who sell to residential consumers and small businesses, and clearer and further information from the regulator on this point would be helpful, including potentially updating this document, which while very helpful, is quite out of date: [Know Your Obligations](#).

##### Scams and fraudulent activity:

There are two key points of action the ACMA can take to increase consumer protection. The first is to increase enforcement activity against scammers themselves –the constant and fast adaptation of methods by scammers and fraudsters noted in the response to question 2 means that there must be a two-pronged approach to pursuing them. Telcos can implement safeguards where weaknesses have been identified, but criminals must be prosecuted for their actions, with high profile and significant consequences to act as a deterrent.

Additionally – and more importantly – Australians need to be armed to protect themselves. While the ACCC does do some scam and fraud education, this could be significantly improved with additional targeting and active work in various communities. The ACMA should work with the ACCC to increase this education and raise awareness about scams, including with the ability to quickly adapt and notify communities about emerging scams.

##### Public confidence:

We also view that the ACMA could increase public confidence in telecommunications through further communicating the changes in behaviour they have seen from previous compliance and enforcement priorities and activities.

#### **5. What are the technological or market developments that test the effectiveness of the regulatory framework?**

Technology will continue evolving at a rate of change that will challenge the regulatory framework. Outcomes or principles-based regulation is the most effective method to ensure established goals are identified and met without either slowing innovation or necessitating extensive work from both the ACMA and industry to constantly review and update prescriptive rules that are no longer relevant.

The continued evolution of methods by which RSPs communicate with their customers is an example of this. The existing consumer safeguards were written in a way that prescribe specific methods by which a customer must be able to contact their provider, but do not take into account web-chat, or the emerging use of apps for instant or asynchronous messaging, and are predicated on an underlying – yet inaccurate - assumption that there is a difference in service for a customer depending on the method of contact.

Another example of an evolution of technology being impacted by prescriptive regulations was with the International Mobile Roaming Standard (IMR). In recent years, there has been significant innovation in mobile roaming options and offers, such as \$5/day plans, or being able to use 'normal' plan data overseas. However, the prescriptiveness of the IMR Standard meant that requirements did not align with those new plans. For example, providers had to send consumers alert messages including pricing information that did not correlate to the inclusion in their plan or the travel pack they signed up for, or they had to send alerts when a consumer crossed country borders, even if there was no change in the rate applicable. This prescriptiveness ultimately caused significant confusion for consumers, instead of supporting innovative and improved offerings.<sup>1</sup>

While the ACMA has worked with industry on specific challenges as they have arisen, technology will continue evolving, and prescriptive regulations will continue to impede innovation and require costly resources from the regulator and industry to address, whereas appropriately drafted outcomes-based regulation can ensure appropriate and strong consumer safeguards while avoiding these problems.

## 6. In what specific areas can we clarify the scope and reach of the law?

At this moment we don't have any specific areas we would like to put forward, but on a broader note we think there is opportunity for a more open and transparent method for all parties in the regulatory system – including specific RSPs – to contact the ACMA with clarifying questions about the law or regulations, and for those answers to be publicly shared for the benefit of all.

## 7. Views on 2020-21 Priority Areas

2020/21 Priority	Comments
1. Protecting telco customers, assessing compliance with new rules under the Telecommunications Consumer Protection Code in relation to responsible approaches to selling, credit assessment and consumer financial hardship.	We understand that consumer safeguards will remain a high priority for the ACMA, and would encourage an increased focus on education for all RSPs – not just those typically engaged in regulatory activities - particularly small providers who may have limited resources to understand their obligations and could benefit from additional guidance.
2. A better move to the NBN, examining compliance with rules to improve the process for households and small businesses moving their phone and internet to services delivered over the NBN.	Considering the small proportion of premises left to migrate to the NBN, this may be less relevant than previous years, or may need to be narrowed to those activities that are still relevant.

<sup>1</sup> More detail is available in Communications Alliance and AMTA's submission to the 2018 review of the Standard: [https://www.commsalliance.com.au/\\_data/assets/pdf\\_file/0017/61442/AMTACAsubmission-IMR-Standard-Review-11-Sept-2018-pdf](https://www.commsalliance.com.au/_data/assets/pdf_file/0017/61442/AMTACAsubmission-IMR-Standard-Review-11-Sept-2018-pdf)

<p>3. 5G and EME. We are assessing that mobile base station emissions meet Australian standards set by the radiation protection agency. We are also monitoring how telcos follow the rules to ensure people receive accurate information about the rollout of 5G networks in their local areas.</p>	<p>We consider the ACMA's work on educating the public on the scientific research regarding 5G and EME to be important.</p> <p>We note that in their submission, the Australian Mobile Telecommunications Association (AMTA) has recommended an update to the ACMA's June 2020 report <i>EME measurements near small cell base stations</i>,<sup>2</sup> taking into account the updated ARPANSA standard,<sup>3</sup> and agree this could be of use in educating the community about the safety of 5G equipment.</p>
<p>4. Phone scams. We are looking at new ways to fight phone scams, including making sure telcos follow new rules we've introduced to protect Australians from fraud and identity theft – a critical consequence of phone scams.</p>	<p>As noted in the response to question 4, telcos are actively engaged in developing solutions to protect Australians from fraud, and we think additional activity from the ACMA on prosecuting scammers/fraudsters and educating the public on how they can protect themselves would be most beneficial on this topic.</p>
<p>5. Financial services marketing. Our focus is on illegal financial services marketing – by SMS, email and phone. We are targeting cold calling for financial services and we are undertaking compliance activities and investigations. We are educating Australians about their rights, and businesses about their responsibilities.</p>	<p>We note that this will likely be of increasing interest considering the economic impacts of COVID.</p> <p>On the topic of financial services, as discussed in our recent submission to Treasury on <a href="#">licencing debt management firms</a> and in previous conversations with the ACMA, there are some credit repair firms which take advantage of consumer confusion about credit enquiries. There could be benefit to the ACMA providing education – either to the relevant firms or to consumers – about the requirement on telcos to undertake credit enquiries in certain circumstances.</p>
<p>6. Online casinos. Our work is focused on the providers of online casinos that target Australians, as well as associated marketers and other supporting services.</p>	<p>Considering the ACMA's research and work on financial hardship impacts and services of RSPs, we think it would be appropriate for the ACMA to do similar work on the impacts and practices of online casinos.</p>
<p>7. Interference from unlicensed mobile phone repeaters and in the construction and resources industries. We are concentrating on unlicensed mobile phone repeaters, which often cause interference and poor mobile network performance, and interference in the construction and resources industry that poses safety risks.</p>	<p>We support a continued focus from the ACMA on the matter of illegal repeaters, and consider public education to be a useful part of this work.</p>

<sup>2</sup> <https://www.acma.gov.au/publications/2020-06/report/eme-measurements-near-small-cell-base-stations>

<sup>3</sup> <https://www.arpansa.gov.au/regulation-and-licensing/regulatory-publications/radiation-protection-series/codes-and-standards/rpss-1>



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