

1 February 2007

Manager
Funding Review
Finance and Facilities Branch
Australian Communications and Media Authority
PO Box 13112 Law Courts
Melbourne Vic 8010



To whom it may concern,

Re: Comments on ACMA's cost recovery arrangements

Please find attached Communications Alliance's submission in response to ACMA's request for comments on the discussion paper '*Cost recovery arrangements for services provided by the Australian Communications and Media Authority (ACMA)*'.

Yours sincerely,

Anne Hurley
Chief Executive Officer
Communications Alliance

**COMMUNICATIONS
ALLIANCE LTD**

Level 9
32 Walker Street
North Sydney
NSW 2060 Australia

P.O.Box 444
Milsons Point
NSW 1565

T 61 2 9959 9111
F 61 2 9954 6136
TTY 61 2 9923 1911
www.commsalliance.com.au
ABN 56 078 026 507

COMMENTS ON COST RECOVERY ARRANGEMENTS FOR SERVICES PROVIDED BY THE AUSTRALIAN COMMUNICATIONS AND MEDIA AUTHORITY

1. INTRODUCTION

Communications Alliance is pleased to have this opportunity to provide comments to the discussion paper on 'Cost recovery arrangements for services provided by the Australian Communications and Media Authority (ACMA)'.

Communications Alliance Ltd was formed in 2006 following the merger between the Australian Communications Industry Forum (ACIF) and the Service Providers Association Inc.. Its membership is drawn from a wide cross-section of the communications industry, including service providers, vendors, consultants and suppliers as well as business and consumer groups.

The vision of Communications Alliance is to provide a unified voice for the Australian communications industry and to lead it into the next generation of converging networks, technologies and services. In pursuing its goals, the Communications Alliance aims to provide constructive contributions to policy development and debate.

The Discussion Paper seeks feedback on the following questions related to ACMA's cost recovery arrangements:

- The principle that the beneficiary of an activity pays for the cost of the activity
- The efficiency and equity of cost recovery fees and charges; and
- The transparency of ACMA's agency objectives and its approach to cost recovery arrangements.

It is the view of Communications Alliance that:

- ACMA's cost recovery arrangements should be consistent with, and reflect the implementation of, the policy objective in s 4 of the *Telecommunications Act 1997* of 'maximum use of industry self-regulation'.
- The cost recovery arrangements should be transparent and any productivity and efficiency gains should be reflected in the arrangements
- reductions in ACMA's operating costs should be passed on to the benefit of those paying the costs;
- it is particularly relevant to include these matters in assessment of ACMA's cost-recovery arrangements at a time when Government and industry are working to address the impact of regulation and regulatory costs on business – particularly when the outcome of the assessment of cost-recovery arrangements is to increase the overall cost of the fees and charges to the industry.

2. CONSISTENT WITH POLICY OF MAXIMUM USE OF INDUSTRY SELF-REGULATION

As noted in the Discussion Paper, s 60 of the *Australian Communications and Media Authority Act 2005* empowers ACMA to fix charges for services provided by it and in relation to expenses incurred in carrying out functions under various Acts, including the *Telecommunications Act 1997*.

It is a fundamental policy objective of the *Telecommunications Act 1997* that 'telecommunications be regulated in a manner that...promotes the greatest practicable use of industry self-regulation.'

It is submitted that the cost recovery arrangements set up s 60 by ACMA should not only reflect any changing balance between ACMA's regulatory activities and the industry's increasing role of self-regulation – they should in fact be set so as to promote industry self-regulation.

The principle of consistency with, and promotion of, the policy objective of 'maximum use of industry self-regulation' was recognized recently in the amendments to the *Telecommunications (Carrier Licence Charges) Act 1999*. The particular option to implement a scheme enabling the recovery of the costs of developing consumer-related codes from carriers in the following financial year via carrier licence charges was adopted because, as set out in the explanatory memorandum to the *Telecommunications (Carrier Licence Charges) Amendment (Industry Plans and Consumers Codes) Bill 2005*:

'It promotes self-regulation's objectives in a cost-effective and efficient manner, consistent with the statement of regulatory policy articulated in the *Telecommunications Act 1997* that self-regulation in telecommunications be used to the maximum practicable extent...'

Communications Alliance notes that the Discussion Paper is silent on the policy objective of promoting industry self-regulation. It is not therefore apparent whether this policy objective has been included as part of ACMA's objectives or the methodology of calculating both the fees for services and the 'cost recovery' taxes of carrier licence fees and spectrum management taxes.

It is the submission of Communications Alliance that if the methodology has not included either the objective of promoting industry self-regulation in the methodology, and/or an adjustment for the changing balance between regulatory functions undertaken by ACMA and increasing role assumed by industry (for example, related to the changing environment for VOIP and consumer education initiatives), the cost recovery arrangements proposed may not meet ACMA's stated objectives of transparency and equity.

3. BENEFITS OF PRODUCTIVITY AND EFFICIENCY GAINS AND OPERATIONAL SAVINGS TO BE REFLECTED IN COST RECOVERY ARRANGEMENTS

Communications Alliance submits that ACMA's cost recovery arrangements should reflect any productivity and efficiency gains for the benefit of those paying the charges, as well as any savings in operational costs. If these are not reflected, it is arguable that the principles of efficiency, equity and transparency are not capable of fully being met.

Communications Alliance notes that the Discussion Paper is silent on any productivity and efficiency gains since the review of fees and charges in 2003, and any operational savings since that time. However, it is relevant to note that since that time there has been the merger of the ABA and the ACA in mid-2005 which potentially should be able to deliver efficiency gains and provide the opportunity for rationalization and costs saving. If it has not been possible at this point in time to realize or quantify any gains or savings from that merger in ACMA's cost recovery arrangements, Communications Alliance submits that at any subsequent review of fees and charges such benefits should be assessed as part of the methodology .

4. CONCLUSION

Communications Alliance acknowledges the principles upon which ACMA purports to have revised its cost recovery arrangements.

However, we note the absence of mention in the Discussion Paper of whether the fundamental objective of promoting industry self-regulation has been considered or included in the methodology. We submit that if the methodology and calculation has not included adjustments for any re-balancing of the self-regulating activities of industry and the regulatory activities of ACMA, as well as a component to reflect ACMA's active promotion of industry self-regulation, then ACMA will fall short of achieving its stated objectives and the proposed revised arrangements fall short of implementing the underlying principles of cost recovery as set out in the Discussion Paper.

We also note the absence of mention of the benefit of productivity/ efficiency gains, and operational savings, since the last review in 2003. Communications Alliance submits that the omissions of these factors from the methodology and calculation, where they would be for the benefit of those paying the costs and charges, may result in cost recovery charges which are not efficient and equitable.

The issue of the impact of regulation and the cost of regulation on business is a current focus for both Government and industry, and it is relevant that these issues be taken into account when the outcome of a review of cost recovery arrangements is a significant increase in overall regulatory fees and charges.

