

25 May 2018



Mark Loney

Executive Manager
Operations, Services and Technologies
Australian Communications and Media Authority
PO Box 78, Belconnen ACT 2616

Dear Mark,

RE: Changes to Annual Carrier Licence Charge 2017–18

The Communications Alliance Satellite Service Working Group (SSWG) welcomes the opportunity to provide this response to the Australian Communications and Media Authority (the ACMA) consultation on the *Changes to Annual Carrier Licence Charge 2017–18*. Telstra and Optus have advised that this response does not represent their views.

The *Australian Communications and Media Authority (Annual Carrier Licence Charge) Direction 2017* (the *2017 Direction*) applies to Carrier licences that were in force on 1 July 2017. The *2017 Direction* requires the ACMA to make such determinations as necessary under subsection 14(1) of the *Carrier Licence Charges Act* (the *Act*) to have the effect of imposing an annual Carrier licence charge in the amount of \$0 on each Carrier licence that is:

- in force at the beginning of a relevant financial year.
- held by a Carrier that was a non-participating person for the eligible revenue period immediately preceding that financial year.

Accordingly, under the proposed *Telecommunications (Annual Carrier Licence Charge) Determination 2018* to be made by the ACMA under subsection 14(1) of the *Act*, Carriers who were non-participating persons for the 2016–17 eligible revenue period will, in effect, be exempted from the liability to pay the Annual Carrier Licence Charge (ACLC).

Whilst the *2017 Direction* forms a basis for the ACMA valuation of ACLC charging, it does not appear to be readily available on the ACMA website under the register of Ministerial Directions which the ACMA is obliged to maintain under s67 of the *Australian Communications and Media Authority Act 2005* (ACMA Act). Therefore, the following comments are based partially on an assumed carry-forward of past ACMA determinations and strategy as outlined in the ACMA documents circulated for comment.

The definition of a participating Carrier relies on a threshold of eligible revenue of AUD \$25 million below which exemption from ACLC charges applies. This threshold was set in 2008/9 in a Ministerial Determination. The logic at the time behind having a threshold was to reduce the burden of red tape and administration of the scheme to both the ACMA and to smaller Carriers where diminishing efficiencies were becoming obvious. A fixed threshold was selected for administrative simplicity, even though adjustment by CPI was considered. Smaller Carriers covers many satellite and other operators.

Now almost a decade later the threshold needs to be reconsidered following a CPI increase of about 25% which has eroded the objective and in an unintended way widened the

revenue boundary for Carriers to be captured by the scheme. In 2008/9, there were 194 Carriers, and as at 4 May 2018 there are 292 Carriers. There have been no Ministerial Determinations under subsection 45(3) of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* (TCPSS Act) setting a new threshold, or under the predecessor subsection 93(3) of the *Telecommunications Universal Service Management Agency Act 2012* (TUSMA Act).

In a broader sense, the breadth of the scheme continues to expand and widen the net of supported activity and a continuing onus of exclusive financial support by Carriers, whilst allowing those categorised as non-participating within the service provider community and other users or beneficiaries of codes, capabilities and international participation, to be paid for by Carriers. One example is the *Over the Top* (OTT) service providers who currently challenge the margins of Carriers and this is an issue which causes concern and possible instability in the Carrier community. These issues will not disappear and will ultimately require some fundamental re-thinking in Government policy and regulation.

Whilst these latter comments may require deeper and more time-consuming attention, immediate progress could be made with the bracket creep phenomenon of the threshold figure which would appear to be in need of an increase to AUD \$30 million.

Thank you for your consideration of this submission. If you have any questions with regards to this response, please contact Mike Johns on (02) 9959 9125.

Yours sincerely,

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

John Stanton
Chief Executive Officer