



Australian Government

Statement of expectations—Australian Communications and Media Authority

This Statement of Expectations (SoE) outlines the Australian Government's expectations concerning the operations and performance of the Australian Communications and Media Authority (ACMA). This SoE forms part of the Government's response to the final report of the review of the ACMA.

Investment in infrastructure and effective and well-targeted regulation of the media and communications sector, its products and services are critical to Australia's national productivity and creativity. The Government considers that the ACMA plays an important role in ensuring that the sector delivers economic and social benefits to all Australians. The ACMA's role and performance should keep pace with the market, including emerging technologies, to facilitate opportunities. It will need to do this while ensuring benefits for business and citizens regarding emerging technologies, particularly noting potential challenges for consumers. Acting as a decisive and responsive regulator, the ACMA will balance the benefits of reducing regulatory burden on the sector while ensuring delivery of public interest outcomes.

The Government is issuing this SoE to the ACMA, consistent with regulatory best practice, the recommendations of the ACMA review and relevant legislative frameworks, while taking into account its statutory independence. The Government expects that the ACMA will respond with a Statement of Intent within three months from the date of this SoE.

Roles and responsibilities of the ACMA

The ACMA is responsible for the regulation of broadcasting, radiocommunications, telecommunications and online content. The ACMA is required to perform its functions in accordance with the *Australian Communications and Media Authority Act 2005*, the *Public Governance, Performance and Accountability Act 2013*, the *Public Service Act 1999* as well as other relevant legislation.

Consistent with Recommendation 1 of the ACMA review, and in accordance with its statutory functions, I expect that the ACMA's remit of responsibility will cover all layers of the communications sector including infrastructure, transport, devices, content and applications.

Relationship with the Minister

I expect that the ACMA will provide me with accurate and timely advice on significant issues. Significant issues may include (but not be limited to): matters arising in regard to the ACMA's statutory remit and the conduct of its statutory obligations; operational or budgetary issues; and any issues likely to have a significant impact on those entities that the ACMA regulates (including substantial breaches of regulatory rules) or the market segments in which they operate.

I ask that the ACMA also keep me informed in relation to its public submissions, its media releases and major speeches and any information relating to the administration of the Chair's office for which the Government is accountable to the Parliament.

Relationship with the Department of Communications and the Arts

The Department of Communications and the Arts (Department) is the principal advisor to me on a wide range of matters including policy development, the Portfolio budget, and the performance and effectiveness of regulatory arrangements. I expect that the ACMA will work collaboratively with the Department to inform advice to me with the ACMA's views and expertise. I expect the ACMA to keep the Department informed about its delivery timeframes on projects, including those that have interdependencies.

I expect that the ACMA will focus its research on the effectiveness of its own regulatory operations and functions, including impacts on business and consumers. Analysis of broader market trends and economic analysis will be undertaken by the Bureau of Communications and Arts Research.

I also expect that all information, briefing, press releases and correspondence being provided by the ACMA to me will also be provided to the Secretary of my Department or his delegate.

Relationship with regulated entities and other stakeholders

To provide confidence to regulated entities and the wider community, I expect that the ACMA will be open and transparent in the conduct of its regulatory functions. Where the exercise of its powers may have significant implications for regulated entities or the markets in which they operate, the ACMA will consult with industry, the Government and other relevant stakeholders.

Relationship with the Office of the eSafety Commissioner

The Office of the eSafety Commissioner is an independent statutory office. While functionally separate to the ACMA, the ACMA provides corporate support services to the Office and also provides staff to enable the functions of the Office to be fulfilled.

I understand that these support services are currently provided through informal arrangements. I expect that these arrangements will be formalised in due course through a Memorandum of Understanding.

Regulator performance

To implement Recommendation 18 of the ACMA review, I expect that in the conduct of its regulatory operations the ACMA will:

- Have regard to the importance of promoting competition, innovation and efficient investment;
- Apply a risk-based approach to regulation, compliance and enforcement activities. Regulatory intervention should be targeted, evidence-based and commensurate with risk
- Implement continuous review of regulation to reduce burden and streamline approaches where benefits exceed the costs and
- Be timely and transparent in its actions and clearly indicate the priorities and objectives which inform its decision-making to regulated entities and the broader public.

I expect that the ACMA will focus on improving the quality, timeliness and transparency of its regulatory decision-making through implementation of Recommendations 21 to 24 of the ACMA review.

In common with all Commonwealth regulators, the ACMA is also required to comply with the Government's Regulator Performance Framework, including associated assessment requirements and the *Legal Services Direction 2017*.

Regulatory cooperation

I expect that the ACMA will maintain effective and constructive working relationships with other Commonwealth, and State and Territory regulatory agencies. The ACMA should avoid duplication of the supervisory activities of other regulators and look at opportunities to better coordinate regulatory activities.

The ACMA review recommended retention of the current and separate roles of the ACMA and the Australian Competition and Consumer Commission (ACCC) in relation to competition and consumer protection matters. However, the review also recommended strengthening the relationship between the two regulators by reinvigorating the cross-appointment arrangements (Recommendation 10), which is currently under way. As the Treasurer has portfolio responsibility for the ACCC, I am seeking the views of the Treasurer on the most appropriate form of these cross-appointment arrangements.

In the meantime, I expect the ACMA and ACCC to consult where responsibilities connect. For example, while the ACMA has primary responsibility for the planning and allocation of the radiofrequency spectrum, the ACCC's insight into the effect of particular planning or allocation decisions on downstream markets and competition should be sought as appropriate. I intend to provide an SoE to the ACCC which will also set out my expectations in regard to cooperation between the regulators.

Governance, transparency and accountability

The ACMA was established as an independent body to administer the regulatory frameworks that are within its remit. However, the ACMA performs its statutory functions as part of the Australian Government and is accountable to the Parliament, and ultimately the public, through the responsible Minister, the Parliamentary Committee process, its corporate plan and tabling of its annual report.

I expect the ACMA and its senior management to manage financial matters with care and diligence in accordance with the applicable obligations of the *Public Governance, Performance and Accountability Act 2013*. The ACMA should also have robust systems and processes in place to manage its risks.

I note that the ACMA staff are employed under the *Public Service Act 1999* which requires them to uphold and promote the Australian Public Service (APS) values and comply with the APS Code of Conduct. This includes staff employed by the ACMA but operating under the direction of the eSafety Commissioner.

I expect the ACMA to improve transparency of its processes, actions and decision-making and implement the associated recommendations from the ACMA review. The ACMA should publish its policies, procedures, decisions and reasons, to the greatest extent practicable.

Government policies and priorities

In developing its business planning, I expect the ACMA to have regard to the following Government priorities:

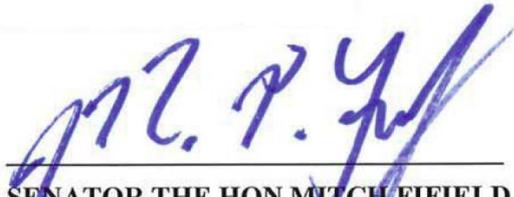
- The rollout of the National Broadband Network, including the need to provide consumers with a smooth transition in the peak NBN service activation period
- Designing and implementing regulatory reform—including reform of the radiocommunications regulatory framework, spectrum pricing arrangements, management of Commonwealth-held spectrum and Statutory Infrastructure Provider (SIP) regime arrangements (subject to passage of the Telecommunications Reform Package through Parliament)
- Identifying emerging issues in the communications sector that may present significant policy decisions for government or have implications for current regulatory arrangements and
- Reform of the ACMA, including its roles, responsibilities, structure and operational arrangements through implementation of recommendations of the ACMA review.

In addition to the priorities above, the ACMA is also to:

- Comply with Government and Parliamentary requirements in relation to the provision of information
- Comply with Ministerial Directions and
- Have regard to the Australian Government's international commitments, including treaties.

The Government recognises the ACMA's discretion to set its work program, subject to any Ministerial Directions.

I look forward to receiving a Statement of Intent outlining the ACMA's plan for meeting the expectations in this statement.



SENATOR THE HON MITCH FIFIELD
MINISTER FOR COMMUNICATIONS AND THE ARTS

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