

Fri 27/04/2012

RE: Environment and Communications Committee - Additional questions on notice

- How is compliance with the voluntary code monitored, when would you consider making it prescribed?

The object of the *Telecommunications Act 1997* (the Act) includes the promotion of the greatest practicable use of industry self-regulation. Part 6 of the Act outlines how industry self-regulation is to be achieved through industry initiated and developed codes of practice.

Industry codes can be developed by industry bodies and associations that represent sections of the telecommunications industry, on any matter which relates to a “telecommunications activity” (s.109). Codes can be presented by industry bodies to the ACMA for registration. Where the ACMA is satisfied that the code meets the statutory criteria, it is obliged to include the code on a Register of Industry Codes. Once a code is registered, it becomes applicable to participants in a section of the telecommunications industry (s.110). Once a code applies to industry participants, they must comply with it. The ACMA can direct industry participants to comply with a code (s.121) and issue formal warnings where an industry participant has contravened a code (s.122).

The Industry Code ACIF C564:2004 Deployment of Mobile Phone Network Infrastructure (the Industry Code) was developed by the Australian Communications Industry Forum or ACIF, a predecessor of Communications Alliance Ltd. The Industry Code was registered by the Australian Communications Authority on 7 April 2005. As set out above, it is a statutory requirement that industry participants comply with the Industry Code.

The Industry Code supplements the regulatory regimes provided under Commonwealth, state, and territory laws. It applies a 'precautionary principle' and other obligations on all carriers with respect to facilities that are installed as low-impact under Commonwealth law and to facilities that are not low-impact and that are installed with the approval of state, territory or local governments.

The ACMA monitors compliance with the Industry Code through its consideration and analysis of the enquiries it receives about the Industry Code and any complaints it receives about industry participants.

The ACMA also promotes a common understanding and interpretation of the requirements of the Industry Code through feedback to individual carriers and Operational Practices Meetings. These meetings are held every six months and attended by representatives from Telstra, Optus, Vodafone Hutchinson Australia and the Mobile Carriers Forum (MCF). The MCF is a division of the Australian Mobile Telecommunications Association (AMTA), the peak industry body representing Australia's mobile telecommunications industry.

- As regulator are you confident that review process is rigorous and flexible enough to deal with changes in use patterns?

Communications Alliance commenced a review of the Industry Code in July 2010, five years after it was originally registered. The review was undertaken by a working committee that

included industry and community representatives as well as an ACMA observer (a non-voting member of the committee). Working committee representatives included Telstra, Optus, Vodafone Hutchison Australia, the Mobile Carriers Forum, NBN Co, Rainworth P&C (No Towers Near Schools Action Group) and the Sutherland Shire Environment Centre. The revised code was released for public comment in August 2011 and submitted to the ACMA for registration in February 2012. The ACMA will consider whether to register the revised code before the end of June 2012.

While the ACMA has not yet considered the revised code, ACMA staff believe that the review process undertaken by Communications Alliance was effectively supported by industry and community representatives and reflected a genuine commitment by industry to engage with and address issues and concerns that had been identified since the Industry Code was registered in 2005.

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