Australian Telecommunications Alliance

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AUSTRALIAN TELECOMMUNICATIONS ALLIANCE SUBMISSION

To: Productivity Commission

Re: Creating a more dynamic and resilient economy

Interim Report

15 September 2025

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1. AUSTRALIAN TELECOMMUNICATIONS ALLIANCE

The Australian Telecommunications Alliance (ATA) is the peak body of the Australian telecommunications industry. We are the trusted voice at the intersection of industry, government, regulators, and consumers. Through collaboration and leadership, we shape initiatives that grow the Australian telecommunications industry, enhance connectivity for all Australians, and foster the highest standards of business behaviour. For more details, visit www.austelco.org.au.

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2. INTRODUCTION

2.1 The ATA appreciates the opportunity to make a submission in response to the Productivity Commission's (PC) *Creating a more dynamic and resilient economy Interim Report* (Report).

2.2 At this stage, we will confine our feedback to high-level remarks on section 2 of the Report, *Regulating to support business dynamism* and Appendix C. We also refer to our submission in preparation for the Economic Reform Roundtable.

2.3 The ATA and its members stand ready to work with the PC and other relevant stakeholders to further progress practical reforms designed to enhance the productivity of the Australian economy, including regulatory reform. We look forward to providing additional feedback during the next stages of the Five Pillars Inquiries.

3. REGULATING TO SUPPORT BUSINESS DYNAMISM

3.1 THE PROBLEM

3.1.1 As in many other sectors, the telecommunications sector is hamstrung by a myriad of complex, burdensome, inconsistent and/or duplicative regulation.

3.1.2 Telecommunications network operators and resellers in Australia are encumbered by an excessively complex regulatory landscape, comprising more than 500 legislative and regulatory instruments, of which around 200 are sector specific. In 2024/25 alone, approximately 20 additional sector-specific obligations were introduced or are in development.[1] The cumulative cost of complying with these new requirements significantly erodes capital reserves otherwise available for critical digital infrastructure investment.

3.1.3 The Report identified

> *"three core challenges facing policymakers, regulators and ministers, who experience:*
>
> - *strong incentives to behave in a risk averse manner, as any mistakes on their watch tend to be highly salient, while the economic dynamism and growth foregone can go largely unnoticed*
> - *strong incentives to undervalue the burden they place on businesses, because governments (and the fiscal budget bottom line) do not, for the most part, directly bear the burden*

[1] For example: *Telecommunications (Financial Hardship) Industry Standard 2024*; updated *Telecommunications (Consumer Complaints Handling) Industry Standard 2018*; updated *Telecommunications (Emergency Call Service) Determination*; new *Telecommunications (Customer Communications for Outages) Industry Standard 2024*; new *Telecommunications (Domestic, Family and Sexual Violence Consumer Protections) Industry Standard 2025*; new online safety Codes and Standards, new rules under the *Security of Critical Infrastructure Act 2018*; new *Cyber Security Act 2024*; new Scams Prevention Framework Act 2025; new *Telecommunications Amendment (SMS Sender ID Register) Act 2024* and Standard (30/09/25); and additional co-regulatory instruments (i.e. ACMA-registered, enforceable industry codes) requested by Ministerial Directives.

- *a tendency for tunnel vision, as they allow their primary regulatory or policy objective to outweigh all other considerations. That may be because their enabling legislation does not permit them to consider these trade-offs, because the trade-offs are difficult to make, or because the skills and interests of those involved tend to align with the primary regulatory objective."*[2]

and

"a variety of burdens that poor regulation imposes on businesses. The most common and impactful issues are:

- *band-aid regulation that does not address the underlying cause of the problem*
- *duplicate or inconsistent regulation that can manifest as multiple regulations affecting businesses in a geographic area or sector*
- *overly prescriptive and rigid regulation that leaves little room for adaptation*
- *overly risk averse regulation that pushes too hard to address all harms or eliminate all risk, creating a disproportionate regulatory burden*
- *regulatory delay when regulatory bodies fail to make timely decisions or provide necessary approvals or permits within a reasonable time frame*
- *cumulative burden of multiple overlapping or conflicting regulations which is often overlooked when assessing individual regulations in isolation."*[3]

3.1.4 We and our members regularly observe all of these core challenges and common pitfalls in the regulatory landscape of our sector.

3.1.5 In addition to the challenges noted above, a significant challenge confronting Australia's telecommunications network operators and resellers lies in the fragmented and siloed nature of regulatory oversight.[4] As a result, despite well-intentioned goals such as enhancing consumer rights, ensuring national security, fostering market competition, and advancing environmental sustainability, the current regulatory ecosystem has led to duplication, misalignment, and, at times, contradictions between regulators and departments.[5]

3.1.6 The Report also highlights substantial inadequacies with the current processes to assess the impact of regulation. We share the opinion voiced by regulators that "*impact analyses had little to no impact on the regulatory proposals they brought forward.*"[6] Indeed, impact analyses more often than not appear to be a box-ticking exercise rather than an independent, unbiased assessment of different policy options. We observe the following:

- Impact analyses are not conducted in a timely manner, i.e. they are completed after the passing of the legislation, or are completed with such haste that no genuine analysis of costs and benefits (and necessary industry input) can occur. Often affected entities are given such short timeframes to produce cost (or benefit) estimates that an impact assessment cannot be considered a genuine attempt to assess likely costs and benefits.
- Impact analyses are fitted to suit the desired outcome, i.e. estimates may only bear little resemblance with actual costs and/or benefits.
- Costs or, more commonly, benefits, are diffuse and non-specific and rest on assertions rather than evidence or conservative deduction from comparable experience.
- Impact analyses are conducted on primary legislation and are high-level in nature with the primary legislation delegating most of the (burdensome and costly) regulatory detail to delegated regulation which may not be subject to an impact analysis. In line with our comments above, affected entities

[2] Productivity Commission. 2025 (p. 32). Creating a *more dynamic and resilient economy Interim Report*
[3] Ibid (p. 32)
[4] Tech Policy Design Institute. 2024. *Map of Australia Tech Policy Stakeholders*
[5] Also refer to: Australian Strategic Policy Institute. 2025. *Recognising the economic potential of digital infrastructure resilience*
[6] Ibid (p.33)

are often requested to produce cost estimates for legislation without knowledge of much of the relevant detail (which drives costs) due to subordinate regulation yet to be finalised or even developed at the time of the request.

- Where delegated regulation is subject to an impact analysis, the primary legislation leaves insufficient flexibility to design regulation so as to avoid inappropriate regulatory impost which, in turn, limits the effectiveness/usefulness of any subsequent impact analysis.
- Impact analyses are not conducted with sufficient independence and rigour. In the past, impact analyses could be bypassed altogether through use of so-called (self-)certified 'Independent Reviews' in lieu of an impact analysis where the relevant Deputy Secretary certifies the Review has undertaken an impact analysis-like process and adequately addresses the several questions.[7] The process means that the Office of Impact Analysis (OIA) is restrained to only testing the *relevance* of documents submitted as opposed to the *quality* of analysis. While a newer processes introduced in 2023 permit the OIA to 'comment' on the quality of analysis, there appears to be no consequence to a finding of deficiency.[8] We note that these Reviews were not, as the name would suggest, independent but could be conducted by the responsible Department itself or a consulting firm commissioned by the responsible Department. The then Office of Best Practice Regulation informally indicated to us that around 25% of all assessments followed this alternative process. We are unsure whether such 'Independent Reviews' still form part of the assessment toolkit.
- Impact analyses are not conducted at all, for example where the Office of Impact Analysis forms a view that an impact analysis is not required, even where industry participants disagree with that assessment.

3.1.7 Consequently, we agree with general tenor of the Report and commend the PC for clearly articulating the key challenges with respect to the regulatory culture, processes and environment that impedes dynamism and investment in the Australian economy.

3.1.8 **We concur, in-principle, with the recommendations put forward in section 2 of the Report.**

3.2 EXAMPLE: LOCAL, STATE AND FEDERAL REGULATORY HURDLES TO DEPLOYMENT OF AND UPGRADES TO INFRASTRUCTURE

3.2.1 All of Australia's connectivity is enabled by digital infrastructure, such as fixed-line and mobile networks, and various types of satellite networks, These networks require substantial ongoing and increasing investments to deploy infrastructure: to upgrade to latest technology (including 5G and 6G) for the most transformative applications, which require very high speed, ultra-low latency, and reliability; to further increase reach; and to securely operate and maintain such infrastructure.

3.2.2 The local, state and federal regulatory landscape governing the deployment of digital infrastructure may act as an example of the detrimental effects of complex, duplicative and inconsistent regulation on Australia's productivity which is largely enabled by telecommunications networks.

3.2.3 The ATA consistently hears from our members of cases where they are being hamstrung by prohibitive planning laws that actively disincentivise network deployment.

3.2.4 For example, the deployment of mobile network infrastructure, which may only require a few weeks to construct, can take years to pass the required assessment and approval processes, or to obtain connection to the power grid. Similar bottlenecks are encountered in the rollout of fibre networks.

3.2.5 Existing legislation in the *Telecommunications Act 1997*, i.e. the Powers and Immunities Regime, originally intended to facilitate efficient deployment of infrastructure, has consistently seen its powers diminished under the weight of state-based land access rules, environmental approvals, and heritage laws which are duplicative, inconsistent or impractical. Additionally, the legitimate legal rights of Traditional Owners groups over land access arrangements are complicated by unclear and inconsistent legislation, often resulting in

[7] For example, this was the case for the impact assessment for the Consumer Data Right in the telecommunications sector.
[8] See specifically Department of the Prime Minister and Cabinet. 2023 (p.47). *Australian Guide to Policy Impact Analysis*

open-ended consultation processes which lack established timeframes to conclude agreements. Given the criticality of telecommunications networks for the Australian economy, social cohesion and national security, we urge the Commonwealth to ensure that the regulatory settings are fit for purpose and not 'eroded' by legitimate, but ultimately less prioritised, areas and levels of regulation.

3.2.6 A salient example of the systemic inefficiencies afflicting Australia's network deployment environment is the Commonwealth-funded Mobile Black Spot Program. Despite the urgent need to enhance digital connectivity in underserved communities, many co-funded sites remain mired in protracted cycles of local and State planning approvals. As of July 2025, some applications remain languishing unresolved since as far back as 2019. Even where planning hurdles are cleared, delays persist in securing power connections, with timelines extending up to two and a half years. Several completed mobile sites remain inoperative, awaiting power connection despite active engagement by infrastructure providers with electricity utilities to expedite the process. This is also due to telecommunications infrastructure not being prioritised for power connection in regulation.

3.2.7 Similarly illustrative are the regulatory bottlenecks encountered in the rollout of national intercity fibre networks. A major national carrier reports that on a single fibre route, over 3,000 land access activity notices have been issued, alongside 1,128 construction certificates, 1,723 land access surveys, and 171 cultural heritage and environmental assessments.

3.2.8 Another major national carrier has separately reported similar challenges. During a project to build 2,000km of terrestrial fibre through the Pilbara in WA, the carrier experienced delayed land access and approvals, as well as inconsistencies between the Department of Planning, Lands and Heritage, Mains Roads and multiple levels of approvals with differing requirements for supporting evidence. This resulted in significant delays to the project by approximately 12-18 months.

3.2.9 While these regulatory requirements serve important public interests, the absence of coordination across approval bodies has generated excessive delays and costs – ultimately deterring or significantly delaying the infrastructure investment vital for national productivity and technological advancement, including AI.

3.2.10 **While changes to some regulatory instruments have recently been made, we urgently recommend a holistic reform of regulation affecting the deployment of telecommunications infrastructure (Powers and Immunities Regime (Schedule 3 of the *Telecommunications Act 1997)* and associated regulations).**

3.2.11 **Given the frequent delays to connect digital infrastructure to the power grid, we also urgently recommend regulation to prioritise telecommunications infrastructure for connection.**

3.3 COORDINATED, STRATEGIC, AND FORWARD-LOOKING REGULATION

3.3.1 As indicated above, we agree with the Report's assessment of the pitfalls of the current regulatory environment and the lack of rigour, timeliness, independence of (and accountability for) regulation impact analyses. We support, in-principle, the recommendations put forward in section 2 of the Report that seek to address those issues.

3.3.2 **In addition to those recommendations, we propose a coordinated, strategic, and forward-looking regulatory approach in Australia with respect to measures impacting the digital infrastructure sector. This encompasses, but is not confined to, regulatory interventions concerning consumer protections and privacy, online safety, data security, scam prevention, and equitable access and affordability of services.**

3.3.3 As an initial step, we propose that the key regulators and departments, including the Australian Competition & Consumer Commission (ACCC), Australian Communications and Media Authority (ACMA), Office of the Australian Information Commissioner (OAIC), the Office of the eSafety Commissioner, Department of Infrastructure, Transport, Regional Development, Communications, Sports and the Arts (DITRDCSA), Treasury, and the Department of Home Affairs, collaboratively develop and maintain a Regulatory Initiatives Grid, similar to the model adopted in the financial services sector.[9] This would involve a continuously

[9] Treasury. 2024 *Regulatory Initiatives Grid*

updated, biannual publication outlining a 24-month forward schedule of all regulatory initiatives with material implications for the digital infrastructure sector.

3.3.4 Such a grid would be expected to deliver significant benefits, including improved transparency around forthcoming regulatory changes, more effective and efficient deployment of regulatory resources, and enhanced collaboration and dialogue between industry stakeholders, departments, and regulators. The grid ought to be underpinned by new or updated Memoranda of Understanding, which could also articulate a lead regulator for specific types of regulation (and the investigation of breaches), for example in relation to data breaches, to reduce overlapping existing remits.

3.3.5 Against this background, we note the respective regulator responses to the Ministers' of the Treasury Portfolio request for new ideas to improve regulation and reduce unnecessary compliance burdens. We are yet to digest the detail of all responses relevant to our sector but positively note the ACMA's intention to publish its annual work program by the end of September 2025[10] (and annually thereafter, so we assume). We consider this a first and necessary step to implementing a harmonised approach to regulation in our sector through a regulatory grid.

3.3.6 Similarly, the DP REG forum can serve as a useful coordination and harmonisation instrument. While the DP REG is focused on matters relating to digital platforms, it ought to also serve to clearly delineate issues pertaining to digital platforms versus those that concern telecommunications providers as operators of the infrastructure through which content is being delivered. We welcome the ACMA's intention to continue to actively support the work of this group.[11]

3.3.7 Ultimately, Australia needs less and better regulation that is technology-neutral (including removing outdated legacy regulation), driven by rigorous and evidence-based analyses of costs vs benefits in an economy-wide context, and an appropriate risk focus.

3.3.8 The imperative for reform and a strategic shift toward a pro-growth regulatory ethos is gaining momentum internationally, with jurisdictions such as the United Kingdom (UK), European Union (EU), and New Zealand (NZ) recognising the necessity of such a pivot.[12] Australia must not lag behind, particularly as its principal trading partners recalibrate their regulatory settings to support innovation and economic expansion.

3.3.9 Importantly, in our view, the telecommunications sector ought to be a priority sector for any government efforts to improve productivity and minimise regulatory burden. Funds directly invested into upgrading networks and other digital infrastructure yield a higher economic return than those used to pay for regulation, lengthy and costly deployment, and spectrum licences. The pervasiveness of digital connectivity and its criticality for the productivity of Australia's economy result in a multiplier effect of capital invested in digital infrastructure that will be hard to match by other areas for investment. Not a single sector of our economy would function remotely with the same effectiveness and efficiency, i.e. productivity, without the networks that facilitate digital connectivity.

3.3.10 For example, studies have shown that "[t]he GDP benefit of the nbn network between 2012 and 2022 ($122 billion) equates to 4% of all growth in GDP, and one quarter of annual MFP [multifactor productivity] growth in the period."[13] While the roll-out of the nbn network is largely complete, the figures highlight the clear correlation between high-speed, ubiquitous, and reliable connectivity and MFP. This relationship will continue to be relevant or even grow in relevance in the future, for fixed-line, mobile and satellite

[10] Australian Communications and Media Authority. 2025 (p. 7). Letter to the Hon Jim Chalmers MP and Senator the Hon Katy Gallagher, *ACMA Actions to bolster productivity growth*

[11] Ibid (p. 9)

[12] In the UK, economic growth has been declared the Government's paramount objective (Department for Business and Trade (UK). 2024. *Invest 2035: the UK's modern industrial strategy*), prompting a direct mandate for the telecommunications regulator, Ofcom, to articulate its role in fostering nationwide economic development (Ofcom (UK). 2025. *Open letter How Ofcom contributes to UK growth*). Within the EU, regulatory streamlining is considered fundamental to enhancing competitiveness across all industries. The EU's newly introduced *Competitiveness Compass* sets ambitious benchmarks: a minimum 25% reduction in administrative burden for businesses overall, and at least 35% for small and medium-sized enterprises (European Union. 2025. *An EU Compass to regain competitiveness and secure sustainable prosperity*). These targets reflect a recognition that, notwithstanding the EU's commitment to better regulation, two-thirds of companies still regard regulatory complexity as the principal barrier to sustained investment (European Union. 2025. *A Competitiveness Compass for the EU*). In a parallel move, NZ has initiated a review of telecommunications regulation with the Minister for Regulation underscoring the urgency of reform, remarking that outdated regulatory frameworks impede innovation and elevate costs. The Minister highlighted that regulation effectively functions as a tax on growth in an economy already burdened by high costs, necessitating a renewed and comprehensive reassessment (New Zealand Government Beehive.govt.nz. 2025. *Government launches regulatory review into telecommunications*).

[13] Accenture (commissioned by nbn). 2024 (p.10). *The economic and social impact of investment in the nbn network*

connectivity alike.

3.3.11 The Australian Government itself also acknowledged the importance of telecommunications services on MFP. In 2023, the Bureau of Communications, Arts and Regional Research (BCARR) concluded:

> *"The productivity performance of IMT [Information, Media and Telecommunications] has been mixed since the start of the century. Growth was more subdued than the market sector more broadly up until around 2007–08. Since then, IMT has grown more strongly and has outperformed the market sector. This has been particularly noticeable since 2013, with IMT's MFP growing around 3 times faster than the market average.*
>
> *For the Telecommunications Services subdivision, BCARR has estimated MFP by assuming that movements in capital services at the IMT divisional level are a reasonable proxy for the subdivision level, given Telecommunications Services was by far the biggest contributor to capital services in IMT.*[14]
>
> *The results show MFP increased noticeably from around 2013, growing four times faster than the market sector overall. Telecommunications Services drove the relatively strong IMT performance during this period; no other IMT subdivisions grew as strongly.*
>
> *[…]*
>
> *The results for individual MFP indicators show that firms operating in industries where telecommunications-related activity is significant have made a positive contribution to the economy more broadly over the previous decade. BCARR estimates that from 2009–10 to 2019–20, total MFP growth for the period was 3.3 percentage points, with IMT contributing around 0.6 percentage points, or 18 per cent of MFP growth over that time – about 2.2 per cent of GDP.*[15]
>
> *Over the same period, Telecommunications Services contributed an estimated 0.5 percentage points of economy-wide MFP growth, or around 14.7 per cent of total MFP growth. This is a strong contribution from a relatively small sector of the economy and these results should be considered indicative."*[16]

3.3.12 Importantly, the BCARR notes that the positive effects on MFP from the telecommunications sector rest on the assumption of a relatively constant share of investment and capital income share of telecommunications within IMT.[17] Current returns on invested capital put these assumptions at risk.

Ends

[14] Australian Bureau of Statistics. 2015. 8681.0 - Information Media and Telecommunications Services, Australia, 2013-14. The ABS reported in 2015 that 'Of the $14.3 billion invested in total capital expenditure by the IMT industry in 2013-14, almost 85 per cent of this is attributed to the Telecommunications services subdivision.

[15] An industry's contribution to productivity growth need not be positive. It is possible for a subdivision to make a contribution larger than the whole division of which it is a part, for a period where the rest of the division has made a negative contribution.

[16] Department of Infrastructure, Transport, Regional Development and Communications. 2023. *Telecommunications Services and productivity*

[17] Ibid

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