

## Attachment A

### **In relation to Schedule 2 of the Telecommunications Legislation Amendment Bill 2018 —temporary facilities.**

**What is the role of the ACMA in enforcing compliance breaches under Schedule 2? Please provide adequate detail.**

Schedule 2 to the Bill will amend Schedule 3 to the *Telecommunications Act 1997* (the Act) to enable temporary towers to be specified by the Minister for Communications as low-impact facilities in certain circumstances. The proposed changes would allow carriers to install temporary telecommunications facilities using carrier powers and immunities.<sup>1</sup>

When using their powers and immunities to install telecommunications facilities, carriers must comply with certain requirements. For example, carriers must:

- take all reasonable steps to ensure that they cause as little detriment and inconvenience, and do as little damage, as is practicable (clause 8)
- take all reasonable steps to ensure that land they enter is restored to a condition that is similar to its condition before the activity began (clause 9)
- manage their activities in accordance with specified minimum requirements (clause 10), and
- comply with applicable industry standards and with the *Telecommunications Code of Practice 2018* (clauses 12 and 15).

A contravention of the above requirements would constitute a contravention of clause 1 of Schedule 1 to the Act, which requires a carrier to comply with the Act and would also constitute a contravention of a carrier licence condition prescribed under section 68 of the Act.

The ACMA can investigate potential contraventions of these requirements under section 510 of the Act. Where it does so, and finds a contravention, the ACMA will take action that is commensurate with the breach.

For example, when the ACMA identifies possible non-compliance or minor issues of concern, it may alert the person/s involved and encourage them to address the issue/s. The ACMA may also accept a written commitment that particular action will be taken. In many matters, it will be appropriate and efficient for the ACMA to seek to resolve potential compliance issues through informal processes such as these.

However, where the ACMA has identified compliance breaches, the circumstances may be such that it is appropriate to take more formal action such as:

- > giving a formal warning,
- > accepting an enforceable undertaking, or
- > giving a remedial direction.

Where the compliance breaches of the obligations in Schedule 3 to the Act are serious, the ACMA may commence civil proceedings to obtain court orders, including for the payment of a civil penalty.

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<sup>1</sup> See p.20 of the Explanatory Memorandum to the Bill.

**How many compliance breaches were reported to the ACMA in 2015-16 and 2016-17 regarding temporary mobile infrastructure?**

No compliance breaches were reported to the ACMA about the obligations imposed on carriers under Schedule 3 to the Act regarding temporary mobile infrastructure in 2015-16 and 2016-17.

**How many were investigated?**

The ACMA did not investigate any potential compliance breaches of the obligations imposed on carriers under Schedule 3 to the Act regarding temporary mobile infrastructure in 2015-16 and 2016-17.

**How many actions were taken as a result?**

Not applicable.