



**Australian  
Competition &  
Consumer  
Commission**

# **Regulation Impact Statement**

**Draft Record-keeping rules in relation to the Commission's annual  
Division 12 report**

**December 2004**

## **Background**

### *The Australian Competition and Consumer Commission (ACCC)*

The ACCC is an independent statutory authority created under the *Trade Practices Act 1974* (the Act). For the most part, its functions simply involve putting into effect the provisions of the Act.

### *The Commission's functions in relation to telecommunications services*

The Australian Competition and Consumer Commission (the Commission) assumed the primary role for competition and economic regulation in the Australian telecommunications market in July 1997 when the market was opened up to competition. The Commission's responsibilities in the telecommunications market are centred on access provisions under Part XIC of the *Trade Practices Act 1974* (the Act) and enhanced competitive safeguards under Part XIB of the Act.

The Commission's main powers under Part XIB are enforcing the telecommunications specific anti-competitive conduct provisions including:

- issuing competition notices for contraventions of the competition rule;
- issuing tariff filing directions; and
- issuing record-keeping rules.

The Commission's main powers under Part XIC include:

- declaration of services;
- approval of an access code;
- approval of access undertakings; and
- arbitrating access disputes.

In addition to the above powers, the Commission is also required to administer certain provisions under other telecommunications legislation.

### *Record keeping rules issued by the Commission*

The Commission has issued record-keeping rules in relation to: bundling; internet interconnection; accounting separation; and the Regulatory Accounting Framework (RAF). Copies of these RKR's can be viewed at [www.accc.gov.au](http://www.accc.gov.au).

The most recent version of the accounting separation RKR was issued on 29 September 2004. This RKR was issued in response to a direction from the Minister directing the Commission to enact record-keeping rules applicable to Telstra in respect of accounting separation.

The RKR in relation to bundling took effect on 18 March 2003. It requires Telstra to make records and provide copies of them to the Commission, in relation to the bundled products it sells to its customers.

The internet interconnection RKR's were issued to internet services providers in July 2004, pursuant to the Commission's inquiry into internet interconnection services. ISPs were required to make a single submission of information relating to periods between 2001 and 2004. ISPs were required to provide information to the Commission in relation to their revenues, costs, customers, suppliers, and other aspects of their business.

The Commission is now proposing to issue a further RKR in relation to the Internet interconnection issue. A draft of this RKR is attached to the Commission's Draft Report on internet interconnection, which was issued in October 2004. The draft RKR proposes to seek information from 17 internet service providers (ISPs). The information sought would include:

- details of the criteria to be applied by ISPs that provide transit services, in deciding whether to negotiate an interconnection service contract;
- details of interconnection agreements entered;
- details of the volume of internet traffic transmitted pursuant to such arrangements; and
- details of the costs and revenues of traffic transmitted under these arrangements.

Information would be supplied on a quarterly basis, for periods ending on 30 September, 31 December, 31 March and 30 June, of 2004, 2005 and 2006. Information would need to be supplied by the 20<sup>th</sup> day after the end of a reporting period.

The most recent version of the Regulatory Accounting Framework (RAF) RKR was issued to carriers and carriage service providers in October 2003. Carriers and carriage service providers are required to provide information relating to their revenues, costs and the value of their assets. This information must be audited by an independent auditor, accompanied by sign-off from the company's CEO and CFO, and must be provided to the Commission within one month after the reporting carrier or carriage service provider is required to provide its annual financial statements to the Australian Securities and Investments Commission (ASIC).

#### *The Division 12 report*

Division 12 of Part XIB of the Act requires that the ACCC monitor and report each financial year to the Minister for Communications, Information Technology and the Arts (the Minister) on prices paid by Australian consumers for telecommunications services. The 2002-03 report was entitled, "Changes in prices paid for telecommunications services in Australia", and is referred to here and elsewhere as "the Division 12 report".

The Division 12 report is a valuable source of information on the dynamics of the Australian telecommunications industry for the Commission's internal regulatory and enforcement functions, for the Minister and the Department of Communications, Information Technology and the Arts (DCITA), for industry and Government stakeholders and analysts, and for the Australian public.

The Division 12 report estimates year-on-year changes in the prices paid for baskets of fixed-line (also referred to as public switched transmission network or PSTN) and mobile telephony services, and from 2004-05 will also estimate changes in the prices paid for internet services.

For PSTN services, the Division 12 report estimates changes in the prices paid by residential, small business and other business consumers. Changes in the prices paid in relation to basic access, local calls, national long distance calls, international calls and fixed-to-mobile calls are also estimated. These sub-indexes are then aggregated into indexes that reflect overall changes in the average prices paid by PSTN consumers.

The mobiles index estimates changes in the average prices paid by very low, low, average, high and very high users of mobile telephony services. Indexes are provided in relation to global systems for mobiles (GSM) and code division multiple access (CDMA) prepaid and post-paid services. These indexes are aggregated into an index that estimates changes in the average prices paid for mobile services.

The PSTN and mobiles indexes are also aggregated into an index for all telecommunications services.

In the future, the Commission intends to include an internet services index in the Division 12 report. This index would report on average changes in the prices paid by consumers of dial-up and broadband internet services.

The information published in the Division 12 report is derived from calculations performed by the Commission on data submitted by carriers to it. Carriers submit data on quantities and revenue in relation to each of the indexes published. The Division 12 report does not report on average changes in the prices of telecommunications services provided by any particular carrier. Each index reflects data collected from at least two carriers.

The Minister has indicated to the Commission that he would like the Division 12 report to be published in a more timely manner, which the Commission has interpreted as a wish for the Division 12 report to be completed before the Christmas following the financial year to which the report relates. That is, for the financial year ending on 30 June 2004, the Division 12 report should be published by 25 December 2004.

#### *Record-keeping rules*

The Commission derives its power to issue an RKR from s. 151BU of the Act. Section 151BU(1) provides:

The Commission may, by written instrument, make rules for and in relation to requiring one or more specified carriers or one or more specified carriage service providers to keep and retain records. Rules under this subsection may also require those carriers or carriage service providers to prepare reports consisting of information contained in those records. Rules under this subsection may also require those carriers or carriage service providers to

give any or all of the reports to the Commission. Rules under this subsection are to be known as “**record-keeping rules**”

The rules must relate to one of the criteria outlined in s. 151BU(4), which include (c), “the operation of this Part” (i.e. Part XIB). The Division 12 report fulfils a requirement outlined in Division 12, Part XIB of the Act, and therefore meets this requirement.

## **Problem and issue identification**

The raw data for previous Division 12 reports has been provided by carriers to the ACCC on a voluntary basis. Each year, the ACCC has written to carriers outlining the information it sought.

The Commission has asked carriers to provide information on their revenue and quantities for different categories of service. That information has been analysed by the Commission, and parts of the resulting analysis have been published in the Division 12 report

In recent years, however, the Commission has experienced significant difficulties in acquiring reliable and relevant information from most carriers in a timely fashion. While some carriers have provided timely and reliable data, others have not. For instance, for the past two Division 12 reports, the Commission has decided to exclude some of the data submitted by Optus from the indexes published in the report, owing to concerns over the accuracy of the information it provided to the Commission. For the 2001-02 report, Optus’s residential and small business PSTN data were excluded, while for the 2002-03 report, its small business PSTN data in relation to basic access and local calls were excluded. On both occasions, the Commission expressed in the Division 12 report its disappointment with Optus for failing to provide reliable information.

Likewise for the 2002-03 Division 12 report, AAPT was two and a half months late in providing its initial data set for the Commission’s consideration. This data was then found to contain several inaccuracies. Consequently, it had to be resubmitted. Staff only received a final version of the data on 22 January 2004.

In gathering the information for the 2003-04 Division 12 report, the Commission has again experienced significant difficulties in obtaining timely and accurate information from most reporting carriers.

Some carriers, notably Telstra, submitted late information. Staff felt compelled to write to most reporting carriers requesting them to resubmit their information, to correct deficiencies in the information originally submitted. In Telstra’s case, the initial information submitted was of such poor quality that it implied price movements grossly inconsistent with those provided in other reports, such as its Annual Report, and other internal Commission reporting processes. In response to the Commission’s concerns, Telstra resubmitted its information on 1 December 2004. Hence, although it formally requested information from reporting carriers in late August 2004, the Commission did not receive reliable information until 1 December 2004 – some two and a half months after it was requested.

Vodafone did not provide final information until 6 December 2004. Late provision of information by carriers has again delayed publication of the Division 12 report for 2003-04.

This has contributed to previous Division 12 reports being presented to the Minister much later than is ideal.

### **Specification of objectives**

It should be emphasized that the primary objective of the Commission in compiling the Division 12 report is to comply with its legislated responsibilities under s. 151 CM of the Act. This section requires the Commission to report annually to the Minister on the prices paid by Australian consumers for telecommunications services.

Furthermore, it is the Commission's objective to provide the Division 12 report to the Minister within a timeframe which the Minister considers acceptable. The Minister has indicated to the Commission that the Division 12 report should be provided earlier than has previously occurred. Fulfilling this aim necessitates the Commission imposing tight time deadlines on the carriers who provide the information on which the Division 12 report is based.

Implicit in these objectives is the need for the information contained in the Division 12 report to be reliable and robust. The Commission considers that any deficiency in this regard would reflect a failure by the Commission to fulfil adequately its legislated duties under the Act. The Commission believes it should take all steps necessary to ensure the integrity of this process. From this view springs the Commission's concern with the quality of the information supplied to it by reporting carriers. The Commission considers that, if it is to provide a comprehensive and robust Division 12 report to the Minister by Christmas annually, reporting carriers must submit information to the Commission that is reliable, and is provided within tight timeframes.

In broader terms, and giving some attention to the policy considerations that might have impelled the legislature to enact s. 151 CM of the Act, the Division 12 report seeks to inform telecommunications industry stakeholders, which include the Minister, DCITA, the ACA, the Commission itself, industry players and analysts, and the public generally, about the prices paid by consumers for telecommunications services. Specifically, the Division 12 report provides information to these stakeholders on changes in the average prices paid by various consumers for a range of telecommunications services provided during the previous financial year.

In pursuing this broad objective, the Commission seeks to enhance the information available to the Government, industry and the community generally in relation to telecommunications services, in order to:

- enhance the pursuit of the Government's public policy objectives in relation to the telecommunications industry;
- assist industry players in making decisions in relation to the future provision of telecommunications services, or services that utilise telecommunications services;

- ensure that public debate in relation to telecommunications industry reform is conducted on a platform of sound and accurate information relating to the industry; and
- enhance the efficiency of the telecommunications industry and the Australian economy generally through improving the information available to all stakeholders.

As well as ensuring the Commission fulfils its statutory responsibilities, any measures employed by the Commission to gather more reliable and timely information in relation to the Division 12 report would seek to enhance the degree to which the Division 12 report satisfies the objectives specified above.

Should the measures contemplated by the Commission elicit more reliable provision of information by carriers, the Division 12 report itself should provide information that is more reliable, and hence more useful to stakeholders.

Furthermore, should these measures lead to more timely information provision by carriers, the Commission would be able to publish the report on a date that is closer to the financial year to which the report relates. This should enhance the relevance and usefulness of the Division 12 report.

## **Identification of options**

The Commission has given considerable thought to the issue of how the problem of deficient reporting by carriers should be addressed. The Commission has identified the following options to address this issue:

- (a) continue to gather the relevant information on a voluntary basis;
- (b) gather the necessary information from other sources;
- (c) implement a RKR but without audit requirement or CEO/ CFO sign off;
- (d) implement a RKR without audit requirement but with sign off from CEO or CFO; or
- (d) implement a RKR with audit requirements.

## **Impact analysis**

### *Stakeholders*

The main stakeholders of the Division 12 report are the Minister and his Department, telecommunications industry participants, the ACCC, other Government agencies, and the public more broadly.

Information about the Department of Communications, Information Technology and the Arts (DCITA) may be obtained from DCITA's website at [www.dcita.gov.au](http://www.dcita.gov.au)  
Information in relation to the ACCC is available from [www.accc.gov.au](http://www.accc.gov.au)

The main fixed-line telecommunications providers are Telstra, Optus, AAPT and Primus. Other smaller infrastructure providers exist, such as TransAct in the Australian Capital Territory (ACT), and Neighbourhood Cable in Victoria.

There are currently four wholesale mobile carriers operating six networks – Telstra, Optus, and Vodafone operate Global Systems for Mobiles (GSM) networks; Telstra and Hutchison (through its ‘Orange’ brand) operate CDMA networks; and Hutchison operates a 3G mobile network under its ‘3’ brand. Hutchison has recently proposed a joint venture between itself and Telstra in relation to the Radio Access Network (RAN) infrastructure necessary to provide 3G mobile telephony services. Optus and Vodafone have also proposed a 3G infrastructure sharing arrangement.

In addition to the major infrastructure based mobile carriers, there are at least two Mobile Virtual Network Operators (MVNOs) (Virgin Mobile and Macquarie Corporate Telecommunications ) and numerous end-to-end resellers of 2G mobile services. AAPT has recently announced its intention to resell 3G mobile services.

An MVNO sells mobile services to its customers using a combination of its own network infrastructure, and the infrastructure provided by a mobile network provider. The MVNO does not own spectrum. It generally brings a well-known ‘brand’ to the marketplace, and is able to use its infrastructure to differentiate its services from other retail mobile network providers, including the carrier whose infrastructure it uses.

An end-to-end resellers generally repackages a complete mobile telecommunications service, which it purchases from an infrastructure based provider, and sells to retail customers. End-to-end resellers do not own spectrum, and own very little network infrastructure.

The remainder of this section evaluates, in turn, the likely impact of each of the options indicated above.

#### *Current use of the Division 12 report*

The current uses of the Division 12 report are described in the ‘Specification of Objections’ section of this RIS. Generally, the Commission finds the information it gathers pursuant to the Division 12 report to be useful for its internal purposes. This usefulness, however, is limited by the Commission’s current concerns in relation to the reliability and timeliness of the information it receives.

The Commission has not sought direct feedback from industry stakeholders on the extent to which they rely on the findings of the Division 12 report. However, the Commission considers that the Division 12 report’s usefulness to its principal stakeholders is reflected in the fact that:

- the report is required, by Part XIB, Division 12 of the Act to be tabled annually in Parliament;
- the Minister’s wish for the Division 12 report to be provided earlier than previously; and
- the fact that the press frequently refers to the Division 12 report following its release.



### *Cost of compiling the Division 12 report*

The Commission has not formally estimated its internal cost of producing the Division 12 report. When the Commission engaged the Communications Research Unit (CRU) of DCITA to compile the report, this cost in the vicinity of c-i-c.

Based mainly on the amount of staff time consumed in compiling the Division 12 report, staff estimates an internal cost of approximately \$45,000.

### *Option 1: Continue to gather information on a voluntary basis*

The Commission could continue the practice of previous Division 12 reports and gather the necessary information on a voluntary basis. The significant point associated with this option is that reporting carriers would collect the bulk of the information required by the Division 12 report for their own internal purposes.

This method of collecting information is likely to lead to the continuation of problems identified above. These problems are twofold: the reliability and timeliness of information received. Reporting carriers are likely to continue submitting information that is late and unreliable.

Should some carriers continue to submit information whose reliability is questionable, this could potentially compromise the integrity of future Division 12 reports. Furthermore, the current timeliness with which reporting carriers submit information makes it more difficult than under the other options discussed below for the Commission to provide the Division 12 report within timeframes acceptable to DCITA.

While voluntary provision of information is likely to impose some costs on reporting carriers, this is likely to be minimal, because most (if not all) carriers would collect this information for their internal purposes already.

However, collecting the information using this means has an impact on users of the Division 12 report, such as the Minister, DCITA, the Commission, and industry stakeholders generally. The Commission considers it important that the Division 12 report maintains its robustness, in order to provide valuable information to these stakeholders. In particular, continuing to collect the information on a voluntary basis could diminish the timeliness and reliability of the information contained in the report. The Commission notes in this regard the failure of Optus, for two successive years, to provide complete and reliable information for use in the Division 12 report.

*Option 2: Gather information from other sources*

Rather than seeking information from carriers in relation to the quantity and revenue from specific services, the Commission could seek to obtain this information from other sources. For example, it could gather information on the prices of plans available to consumers in the marketplace, and collate this into the relevant indexes.

However, it is unclear to what extent gathering information by this means would enable the Commission to meet the requirement of s. 151 CM (1)(a) to report on the prices **paid** by consumers for listed carriage services. While using this survey technique could provide information on the prices that are offered to consumers, it would not reveal what prices they actually paid for such services. This could raise particular difficulties in relation to the prices paid for telecommunications services by large corporate customers, as these frequently deviate from 'standard list' prices.

This method of gathering the information would have little or no impact on carriers, as they would not be required to submit information to the Commission.

Obtaining the information for the Division 12 report in this manner would impose minimal costs on carriers.

Another option for the Commission would be use the information collected from the RAF for compiling the Division 12 report. This would impose few incremental costs on carriers reporting under the RAF.

However, RAF information is unsuited to this purpose, for three primary reasons:

1. RAF information is not disaggregated by small business and other business users, which is the preferred format for the PSTN index in the Division 12 report.
2. Some carriers provide RAF information for different financial years. For example, some carriers report RAF information on a September 30-March 31 financial year. It would be difficult to use this information to generate price change estimates for a year ending on 30 June.
3. Audited RAF submissions are required from reporting carriers on either 20 October or 20 November annually, depending on whether or not the reporting carrier is a 'disclosing entity' for the purposes of the *Corporations Law*. Given that the Minister has indicated to the Commission that the Division 12 report should be provided in a more timely manner than has previously been the case, information received within these timeframes would be too late for the purposes of the Division 12 report.

Consequently, the Commission considers that sourcing the Division 12 information from RAF submissions from reporting carriers would not be appropriate.

The Commission has also considered integrating the internet services component of the Division 12 RKR with the proposed RKR for internet interconnection. However, there are several fundamental differences between the two information requests. For example:

- The Division 12 RKR seeks information on sample bills, and narrative details of price changes, which the internet interconnection RKR would not;
- The Division 12 RKR would seek revenue and quantity information that was disaggregated by dial-up or broadband, and by prepaid or post-paid, which would not be provided by the internet interconnection RKR; and
- The internet interconnection RKR would apply only during 2004, 2005 and 2006. By contrast, the first information submission for the Division 12 RKR would be in September 2005, after which the RKR would remain in force indefinitely.

Consequently, the Commission considers it appropriate to keep these two information requests separate.

*Option 3: Implement a RKR but without auditing requirements or CEO/CFO sign off*

This would ensure that information is received from carriers in a timely manner. If a carrier did not provide information by a date specified in the RKR, it would be in breach of the RKR. If the Commission is able to receive timely information from carriers, this should enable it to present the Division 12 report to the Minister earlier. As a result, the Division 12 report should be published on a date that is closer to the financial year to which it relates. This would significantly increase the relevance and usefulness of the Division 12 report.

Carriers who would be required to submit information under the RKR have generally indicated that, apart from the auditing requirements, the reporting required under the RKR does not impose onerous requirements. In the case of several carriers, this is because the information required is collected anyway for carriers' internal requirements. Furthermore, imposition of the RKR itself is not likely to impose additional costs on carriers, since they already provide the information to the Commission on a voluntary basis.

One party indicated that there would be additional costs of compliance apart from the auditing requirement. However, it appears this view is partly based on a mistaken interpretation of the RKR. Furthermore, this view is difficult to maintain given that the information sought under the RKR is essentially the same as has previously been sought under a voluntary format.

Overall, the Commission considers that imposition of the RKR without auditing requirements or CEO/CFO sign-off would not impose significant costs on reporting carriers.

In addition, the Division 12 report will be more relevant to stakeholders if it is published within six months after the financial year to which it relates. This will increase the relevance of its findings. Such a reality is recognised by many private sector corporations, which endeavour to publish their Annual Report within a matter of months following the end of the financial year. For example, Telstra's Annual Report for the 2003-04 financial year was published on 12 August 2004 – less than two months after the end of the previous financial year.

However, the lack of an audit requirement or sign off from CEO or CFO could diminish the capacity of the Commission to ensure the accuracy of information submissions.

*Option 4: Implement a RKR with CEO or CFO sign off but without auditing requirements*

Under this option, the Chief Executive Officer (CEO) or Chief Financial Officer (CFO) would be required to sign a declaration to the effect that the information provided for use in the Division 12 report is accurate.

Some reporting carriers and carriage service providers have indicated that this would impose additional time burdens on them, or is impractical for other reasons. However, the Commission considers that provision of the relevant information, with sign-off from the CEO or CFO, within a three month timeframe is feasible. This is because, as discussed earlier, many public corporations publish their annual reports within several months after the end of a financial year. This is likely to be a much more lengthy process than compiling information that is signed off by the company's CEO or CFO, as this includes an external audit.

Adding this requirement to the provision of information can be expected to improve the quality of information provision. This is because CEO or CFO sign off will provide reporting carriers and carriage service providers with an incentive to submit accurate information in order to avoid liability under either the *Corporations Law* or the *Trade Practices Act 1974* for making incorrect statements.

There is some possibility that requiring reporting carriers and carriage service providers to obtain CEO or CFO sign off would impose additional costs, as compared with the existing method of acquiring the relevant information, in terms of ensuring the information is accurate. However, this is only likely in the case of reporting carriers who were previously providing information whose accuracy was not robust. For carriers whose previous Division 12 submissions were accurate and robust, the prospect of liability under the Corporations Law or the Act is likely to be remote.

Given that additional costs are only likely to be imposed on carriers who had previously provided questionable information, any such additional costs are likely to be justified in terms of increased accuracy of reporting.

For carriers who have not previously provided Division 12 information, the imposition of the requirement for CEO/CFO sign off should not impose significant additional cost. Both of the new reporting carriers who made submissions indicated that providing the information in itself would not impose significant costs. One reporting carrier indicated that it collects the data anyway for its own internal purposes. To the extent that such information is robust and can be relied upon, the Commission considers the imposition of a requirement for CEO/CFO sign off should not impose significant additional cost.

### *Option 5: Implement a RKR with auditing requirements*

Implementation of a RKR with auditing requirements will have varying impacts on the following classifications of stakeholders.

#### Organizations relying on the Division 12 report

As indicated above, this group includes the Minister and his Department, other Government agencies including the Commission, a variety of industry organizations, and the public generally.

Audited information from carriers is likely to be more reliable. This in turn would enhance the reliability of the Division 12 report. Furthermore, if the Commission can have a greater degree of confidence in the information it receives from carriers, it will not need to conduct further discussions with carriers to verify the information. This would enable the Commission to present the Division 12 report to the Minister sooner.

#### Reporting carriers

All submissions indicated that the auditing requirements would impose significant costs on reporting carriers. One reporting carrier estimated the audit would cost \$100,000. This is particularly the case given the cost of auditing other information submissions, such as information submitted pursuant to the Regulatory Accounting Framework (RAF). Unfortunately, given the need to complete the Division 12 report by Christmas or thereabouts, information needs to be submitted to the Commission by 30 September of each year, so that the Commission has sufficient time to prepare the report. In consequence, it would not be possible for reporting carriers and carriage service providers to synchronise their audit of the Division 12 information with their audit of RAF data and their annual reporting information for ASIC. Consequently, if the Division 12 information were to be audited, much of the same information would need to be audited again subsequently for the RAF and for ASIC.

While the Commission is cognisant of the likely benefits to the accuracy of the Division 12 report of receiving audited information from carriers, equally it does not favour imposing a requirement on carriers that would lead to the same information being audited multiple times.

In addition, the Division 12 report will be more relevant to stakeholders if it is published within six months after the financial year to which it relates. This will increase the relevance of its findings. Such a reality is recognised by many private sector corporations, which endeavour to publish their Annual Report within a matter of months following the end of the financial year. For example, Telstra's Annual Report for the 2003-04 financial year was published on 12 August 2004 – less than two months after financial year-end.

### **Consultation**

The Commission has consulted with interested parties by providing a draft RKR for comment to carriers who would be required to report under the RKR. The

Commission also placed a copy of the draft RKR on its website. The Commission received comments from seven reporting carriers and carriage service providers.

#### *Comments received from carriers and carriage service providers*

Carriers and carriage service providers were divided on whether 3 months is an adequate timeframe within which to provide the requisite information. Some indicated that more time might be needed to obtain sign-off from CEO/CFO. Most comments from carriers focussed on the auditing requirements. Carriers indicated these were likely to impose significant cost, and might also result in some degree of duplication. Carriers also made other minor comments in relation to the format of the report.

#### *Response of the Commission to comments from carriers*

The Commission has considered all the submissions from carriers. In response to the views of the carriers in relation to the auditing requirements, the Commission decided to remove the auditing requirements. The Commission considered that sign off of the information submissions at the CEO/CFO level should be adequate to ensure reliable reporting. The Commission also took note of the suggestions of reporting carriers and carriage service providers in relation to the format of the rules.

### **Conclusion and recommended option**

The Commission's preferred option is option (d), to implement an RKR without auditing requirements, but with a requirement for the company CEO or CFO to sign off on the information provided. This would ensure that the information submissions received from carriers are both timely and reliable. Implementation of this option should address most of the Commission's previous concerns in relation to the provision of inaccurate information by carriers.

However, it would achieve this outcome in a way that would impose a minimum degree of costs on reporting carriers. This is for several reasons, as discussed above. Firstly, most of this information is already submitted to the Commission by reporting carriers on a voluntary basis. Second, reporting carriers collect this information anyway for their own internal purposes. Thirdly, the imposition of a requirement for CEO/CFO sign-off should impose minimal burden on reporting carriers who collect and provide accurate information.

### **Implementation and review**

The Commission intends to issue the RKR by publishing it on its website. This is likely to occur during December 2004. Carriers would be required to make their first information submission by 30 September 2005.

The Commission intends to continue reviewing its information requirements pursuant to the Division 12 report, in order to ensure that the information for the report is collected using the most appropriate method. Specifically, if implementation of option (d) above did not elicit the desired improvements in the accuracy of carriers'

information submissions, the Commission could review its decision not to introduce auditing requirements in relation to the Division 12 report RKR.

The Commission does not consider it appropriate to combine the reporting requirements of this RKR with those of other RKRs, given their different scope and reporting timeframes. Additionally, none of the other RKRs currently in force seeks the information required by the Commission in the present instance. As a further point, it would not be appropriate to combine the reporting requirements of the RAF and Division 12 RKRs, because they impose different timeframes for the provision of information, as outlined previously.