

The Auditor-General  
Auditor-General Report No. 46 2023–24  
Performance Audit

# **Compliance with Gifts, Benefits and Hospitality Requirements in the Australian Communications and Media Authority**

[Australian Communications and Media Authority](#)

© Commonwealth of Australia 2024

ISSN 1036–7632 (Print)

ISSN 2203–0352 (Online)

ISBN 978-1-76033-947-0 (Print)

ISBN 978-1-76033-948-7 (Online)

Except for the content in this document supplied by third parties, the Australian National Audit Office logo, the Commonwealth Coat of Arms, and any material protected by a trade mark, this document is licensed by the Australian National Audit Office for use under the terms of a Creative Commons Attribution-NonCommercial-NoDerivatives 3.0 Australia licence. To view a copy of this licence, visit <http://creativecommons.org/licenses/by-nc-nd/3.0/au/>.

You are free to copy and communicate the document in its current form for non-commercial purposes, as long as you attribute the document to the Australian National Audit Office and abide by the other licence terms. You may not alter or adapt the work in any way.

Permission to use material for which the copyright is owned by a third party must be sought from the relevant copyright owner. As far as practicable, such material will be clearly labelled.

For terms of use of the Commonwealth Coat of Arms, visit the *Australian honours system* website at <https://www.pmc.gov.au/honours-and-symbols/australian-honours-system>.

Requests and inquiries concerning reproduction and rights should be addressed to:

Chief Operating Officer  
Corporate Management Group  
Australian National Audit Office  
GPO Box 707  
Canberra ACT 2601

Or via email:

[communication@anao.gov.au](mailto:communication@anao.gov.au).



Canberra ACT

25 June 2024

Dear President  
Dear Mr Speaker

In accordance with the authority contained in the *Auditor-General Act 1997*, I have undertaken an independent performance audit in the Australian Communications and Media Authority. The report is titled *Compliance with Gifts, Benefits and Hospitality Requirements in the Australian Communications and Media Authority*. I present the report of this audit to the Parliament.

Following its presentation and receipt, the report will be placed on the Australian National Audit Office's website — <http://www.anao.gov.au>.

Yours sincerely



Rona Mellor PSM  
Acting Auditor-General

The Honourable the President of the Senate  
The Honourable the Speaker of the House of Representatives  
Parliament House  
Canberra ACT

## **AUDITING FOR AUSTRALIA**

The Auditor-General is head of the Australian National Audit Office (ANAO). The ANAO assists the Auditor-General to carry out their duties under the *Auditor-General Act 1997* to undertake performance audits, financial statement audits and assurance reviews of Commonwealth public sector bodies and to provide independent reports and advice for the Parliament, the Australian Government and the community. The aim is to improve Commonwealth public sector administration and accountability.

For further information contact:  
**Australian National Audit Office**  
**GPO Box 707**  
**Canberra ACT 2601**

**Phone: (02) 6203 7300**  
**Email: [ag1@anao.gov.au](mailto:ag1@anao.gov.au)**

Auditor-General reports and information about the ANAO are available on our website:  
<http://www.anao.gov.au>

### **Audit team**

Yardstick Advisory  
Jonathan Muller  
Corinne Horton

# Contents

---

Summary and recommendations.....	7
Background .....	7
Conclusion .....	9
Supporting findings.....	9
Recommendations.....	11
Summary of entity response.....	11
Key messages from this audit for all Australian Government entities .....	12
<b>Audit findings.....</b>	<b>13</b>
1. Background .....	14
Introduction.....	14
Rationale for undertaking the audit .....	15
2. Arrangements for managing gifts, benefits and hospitality .....	17
Has ACMA identified appropriate arrangements for managing the risks of gifts, benefits and hospitality? .....	18
Has ACMA developed fit-for-purpose policies and procedures for the acceptance and provision of gifts, benefits and hospitality? .....	21
Has ACMA developed effective training and education arrangements to promote compliance with managing gifts, benefits and hospitality?.....	32
Has ACMA established appropriate monitoring and reporting arrangements for gifts, benefits and hospitality? .....	32
3. Implementation and effectiveness of arrangements for managing gifts, benefits and hospitality .....	34
Does ACMA have effective preventative controls for the management of gifts, benefits and hospitality? .....	35
Does ACMA have effective detective controls for the management of gifts, benefits and hospitality? .....	48
Does ACMA have effective processes for managing identified non-compliance?.....	49
Has ACMA implemented a sound and evidence-based assurance framework for gifts, benefits and hospitality? .....	50
<b>Appendices .....</b>	<b>51</b>
Appendix 1     Entity response .....	52
Appendix 2     Improvements observed by the ANAO .....	53



# Audit snapshot

## Auditor-General Report No.46 2023–24

*Compliance with Gifts, Benefits and Hospitality Requirements in the Australian Communications and Media Authority*



### Why did we do this audit?

- ▶ The giving or receiving of gifts, benefits and hospitality can create the perception that an official is subject to inappropriate external influence.
- ▶ The audit is one of a series of performance audits in relation to gifts, benefits and hospitality which continues the ANAO's examination of integrity in Commonwealth entities.
- ▶ This audit was conducted to provide assurance to the Parliament that the Australian Communications and Media Authority (ACMA) has complied with gifts, benefits and hospitality requirements.



### What did we find?

- ▶ ACMA's management and control of risks associated with giving and receiving gifts, benefits and hospitality in accordance with the APSC Guidance and ACMA's policy requirements are partly effective.
- ▶ Management arrangements, policies and controls for complying with gifts, benefits and hospitality within ACMA are largely effective.
- ▶ There have been deficiencies in enforcing the requirements supporting compliance with gifts, benefits and hospitality, including: making declarations of gifts, benefits and hospitality; completion of mandatory training; and completion of conflicts of interest declarations.



### Key facts

- ▶ ACMA is the Australian Government entity that regulates communications and media services in Australia.
- ▶ There were 138 items reported on ACMA's gifts, benefits and hospitality register for the period 1 July 2021 to 30 September 2023.



### What did we recommend?

- ▶ The Auditor-General made three recommendations to ACMA to improve its risk management, policies, enforcement of its policy requirements for gifts, benefits and hospitality.
- ▶ ACMA agreed to all recommendations.

138

items of gifts, benefits and hospitality declared by ACMA staff in 2021–23.

\$14,400

value of received gifts, benefits and hospitality declared by ACMA staff in 2021–23 (excluding items of unknown value).

525

number of ACMA employees at 30 June 2023 working in Canberra, Melbourne and Sydney.

# Summary and recommendations

---

## Background

1. The *Public Service Act 1999* requires that Australian Public Service (APS) employees, agency heads and statutory office holders abide by the APS Code of Conduct. The APS Code of Conduct, consistent with duties under the *Public Governance, Performance and Accountability Act 2013* (PGPA Act), requires officials to declare the receipt of gifts, benefits and hospitality. Collectively, these requirements establish obligations for officials and Commonwealth entities in relation to how they manage the provision and receipt of gifts, benefits and hospitality.

2. Section 27 of the PGPA Act states that an official must not improperly use their position to gain, or seek to gain, a benefit to themselves or another person, or to cause, or seek to cause, detriment to the entity, the Commonwealth, or any other person.<sup>1</sup> The *National Anti-Corruption Commission Act 2022* also contains provisions against conduct that adversely affects (or could adversely affect) the honest and impartial exercise of any public official's powers, functions or duties.<sup>2</sup>

3. The Australian Public Service Commission (APSC) publishes *Guidance for Agency Heads – Gifts and Benefits*. The principles underpinning this guidance are that:

- agency heads are meeting public expectations of integrity, accountability, independence, transparency and professionalism in relation to gifts and benefits; and
- there is consistency in relation to agency heads' management of gifts and benefits across APS agencies and Commonwealth entities and companies.

4. The Australian Communications and Media Authority (ACMA), established under the *Australian Communications and Media Authority Act 2005*<sup>3</sup> (ACMA Act), is a non-corporate Commonwealth entity covered by the *Public Service Act 1999*. ACMA is the Australian Government regulator for a range of legislation covering Australia's telecommunications, broadcasting, radiocommunications, unsolicited communications and certain online content. The ACMA Act establishes ACMA as a Commonwealth statutory authority and the ACMA Chair as the accountable authority.<sup>4</sup> The *Online Safety Act 2021* establishes the eSafety Commissioner as a statutory office holder<sup>5</sup>, supported by ACMA, and sets out the eSafety Commissioner's functions and powers. In accordance with section 184 of the *Online Safety Act 2021*, ACMA must make available members of the staff of ACMA to assist the eSafety Commissioner to perform their functions and exercise their powers and are subject to the directions of the eSafety

---

1 *Public Governance, Performance and Accountability Act 2013*, section 27.

2 *National Anti-Corruption Commission Act 2022*, paras 8(1)(a) and 201(2)(b).

3 *Australian Communications and Media Authority Act 2005*, section 6.

4 *ibid.*

5 *Online Safety Act 2021*, section 27.

Commissioner. As at 30 June 2023, ACMA had 525 staff working in Canberra, Melbourne and Sydney.<sup>6</sup>

### Rationale for undertaking the audit

5. Section 27 of the PGPA Act states that an official must not improperly use their position to gain, or seek to gain, a benefit to themselves or another person, or to cause, or seek to cause, detriment to the entity, the Commonwealth, or any other person. Public service entities must meet public expectations of integrity, accountability, independence, transparency, and professionalism. Acceptance of a gift or benefit that relates to an official's employment can create a real or apparent conflict of interest that should be avoided.<sup>7</sup>

6. Public confidence in Commonwealth entities and the APS can be damaged when gifts and benefits that create a conflict of interest are accepted or not properly declared. APSC states in its publication, *APS Values and Code of Conduct in practice*, that the risk of the appearance of a conflict can be damaging to public confidence:

The appearance of a conflict can be just as damaging to public confidence in public administration as a conflict which gives rise to a concern based on objective facts.<sup>8</sup>

7. This audit provides assurance to the Parliament that ACMA has complied with gifts, benefits and hospitality requirements.

### Audit objective and criteria

8. The objective of the audit was to assess whether ACMA had complied with gifts, benefits and hospitality requirements.

9. To form a conclusion against the objective, the ANAO adopted the following two high-level audit criteria.

- Did ACMA have effective arrangements in place to manage gifts, benefits and hospitality?
- Were ACMA's controls and processes for gifts, benefits and hospitality operating effectively in accordance with policies and procedures?

10. The audit examined the management of gifts, benefits and hospitality within ACMA over the period from 1 July 2021 to 30 September 2023.

---

6 ACMA Annual Report 2022-23, pages 76 and 78, available from <https://www.acma.gov.au/sites/default/files/2023-10/ACMA%20and%20eSafety%20Commissioner%20annual%20report%202022-23.pdf> [accessed 13 May 2024].

7 National Anti-Corruption Commission, *Towards Integrity Maturity: Mapping the Commonwealth integrity landscape*, NACC, Canberra, 2022, available from [https://www.nacc.gov.au/sites/default/files/documents/2023-08/CIMF-towards-integrity-maturity-mapping-the-commonwealth-integrity-landscape\\_0.pdf](https://www.nacc.gov.au/sites/default/files/documents/2023-08/CIMF-towards-integrity-maturity-mapping-the-commonwealth-integrity-landscape_0.pdf) [accessed 29 April 2024].

8 Australian Public Service Commission, *APS Values and Code of Conduct in practice*, Section 5: Conflict of Interest, APSC, 2024, available from <https://www.apsc.gov.au/publication/aps-values-and-code-conduct-practice/section-5-conflict-interest> [accessed 19 March 2024].



## Conclusion

11. ACMA is partly effective in managing and controlling the risks associated with giving and receiving gifts, benefits and hospitality. ACMA's policies are largely in place to manage gifts, benefits and hospitality. The implementation of its policies is partly effective, with deficiencies in enforcing the requirements for: making declarations of gifts, benefits and hospitality; complying with declaration timeframes; and the completion of mandatory training and conflicts of interest declarations.

12. ACMA has established largely fit-for-purpose arrangements to manage the compliance requirements and risks associated with the management of gifts, benefits and hospitality. ACMA has implemented policies for gifts, benefits and hospitality that include an internal declaration process to support the public reporting requirements for all officials including the agency head. The policies also identify business functions where the acceptance or provision of gifts, benefits and hospitality may create increased risk of conflicts of interest, impacting on ACMA's integrity and independence as the Australian Government regulator for communications and media services. ACMA's policy does not include the requirement in the APSC Guidance to declare items based on their market value and items accepted by the agency head's immediate families and dependants where it is related to the agency head's official duties. ACMA's suite of mandatory training covers obligations relating to gifts, benefits and hospitality. Risks associated with the acceptance or provision of gifts, benefits and hospitality, and the controls in place to manage them, have not been identified, assessed, and documented in ACMA's Strategic Risk Register, fraud and corruption risk register, and divisional risk registers.

13. ACMA's controls are partly effective in supporting its compliance with gifts, benefits and hospitality requirements. Analysis identified 19 instances of gifts, benefits and hospitality that were not declared in accordance with ACMA's policy requirements. Of ACMA's declarations of gifts, benefits and hospitality, 42 per cent did not meet ACMA's declaration timeframe of 14 days. Mandatory training and conflicts of interest declarations were not completed as required in ACMA's policies. For Senior Executive Service (SES) officers' conflicts of interest declarations that were completed in 2022 and 2023, ACMA could not provide evidence that the ACMA Chair as the accountable authority had reviewed these as required by ACMA's policy.

## Supporting findings

### Arrangements for managing gifts, benefits and hospitality

14. ACMA's Strategic Risk Register contains an assessment of an integrity-related risk and controls such as declarations of conflicts of interests, training, enhanced identity authentication checks, and awareness of the National Anti-Corruption Commission. The risk assessment does not identify and assess controls to address potential impacts to integrity from gifts, benefits and hospitality. ACMA's fraud and corruption risk register makes no reference to risks or controls arising from the provision or acceptance of gifts, benefits and hospitality. ACMA's divisional risk registers, including for the Office of the eSafety Commissioner, do not identify controls to manage and reduce risks to its integrity, particularly where the provision and acceptance of gifts, benefits and hospitality may create conflicts of interest for specific functions and positions. (See paragraphs 2.6 to 2.14)

15. ACMA has established requirements for its staff pertaining to being offered, accepting and offering gifts, benefits and hospitality. ACMA's policy framework aligns with the APSC Guidance except in the areas of reporting items at market value, and the declaration of items received by the agency head's immediate families and dependants where it is associated with the agency head's official duties. ACMA's policy framework could be strengthened to cover the range of circumstances of gifts, benefits and hospitality impacting conflicts of interest, particularly given ACMA's role as a regulator of communications and media services. (See paragraphs 2.18 to 2.51)

16. ACMA has established mandatory training arrangements that include learning relating to the Commonwealth Resource Management Framework, fraud awareness and the APS Values and Code of Conduct. These topics include the potential conflicts of interest impacts from gifts, benefits and hospitality. (See paragraphs 2.53 to 2.55)

17. ACMA has established policy and processes that centralise the reporting of receipt and provision of gifts, benefits and hospitality declarations. The process supports the collation of items that are reportable under the APSC Guidance and ACMA's policy framework for reporting gifts, benefits and hospitality. (See paragraphs 2.56 to 2.60)

### **Implementation and effectiveness of arrangements for managing gifts, benefits and hospitality**

18. ACMA has implemented preventative controls through its policies and declarations for gifts, benefits and hospitality, mandatory staff training, conflicts of interest declarations and delegations. ACMA's preventative controls do not enable ACMA to effectively manage its risks relating to gifts, benefits and hospitality. ACMA relies on staff knowing its policy requirements and declaring all gifts, benefits and hospitality in a timely manner. ACMA has relied on staff to have undertaken the training and declaring potential conflicts of interest as its key preventative controls. Measures for staff training, conflicts of interest declarations and the timeliness of declaring gifts, benefits and hospitality within 14 days have not been effectively enforced to ensure compliance. (See paragraphs 3.2 to 3.33)

19. ACMA has establish detective controls through its bi-annual PGPA Management Assurance Survey and quarterly reminders to relevant officials as the key mechanisms to detect non-compliance with its policy requirements. ACMA's quarterly email reminders and conflicts of interest declaration process support detection for its management of gifts, benefits and hospitality requirements. (See paragraphs 3.38 to 3.40)

20. When non-compliance with gifts, benefits and hospitality policy requirements is identified, ACMA seeks the staff member involved to make the declaration for collation and publication, where applicable, onto the gifts, benefits and hospitality register on ACMA's website. (See paragraphs 3.41 to 3.43)

21. The ACMA Chair reviews the quarterly gifts, benefits and hospitality register and approves its publication on ACMA's website. These declarations are reliant on staff knowing the declaration requirements within ACMA's Official Hospitality and Business Catering Guide or from having received the quarterly reminder emails, rather than assurance arrangements that validate control effectiveness for its gifts, benefits and hospitality requirements. (See paragraphs 3.44 to 3.48)

## Recommendations

- Recommendation no. 1** Australian Communications and Media Authority:  
**Paragraph 2.15**
- (a) update the Strategic Risk Register and fraud and corruption risk assessment to include consideration of risks and controls in relation to gifts, benefits, and hospitality; and
  - (b) ensure that divisional risk assessments, including for the Office of the eSafety Commissioner, are completed for all business divisions and reflect the risks associated with gifts, benefits and hospitality, particularly for those functions with heightened risk.

**Australian Communications and Media Authority response:**  
*Agreed.*

- Recommendation no. 2** Australian Communications and Media Authority review its policy framework for gifts, benefits and hospitality and implement amendments to align with the APSC Guidance for the requirements to declare items at current market value and the declaration of any service or item received by the family of the agency head, where there is a clear link with the agency head's official duties.  
**Paragraph 2.38**

**Australian Communications and Media Authority response:**  
*Agreed.*

- Recommendation no. 3** Australian Communications and Media Authority establish governance and reporting arrangements to monitor and enforce its policy requirements for compliance with gifts, benefits and hospitality that include the completion of:  
**Paragraph 3.34**

- declarations of offers, acceptance and the provision of gifts, benefits and hospitality within the stipulated time according to ACMA's policy framework and delegations;
- mandatory training; and
- conflicts of interest declarations and management of actual or potential conflicts.

**Australian Communications and Media Authority response:**  
*Agreed.*

## Summary of entity response

22. The proposed audit report was provided to ACMA. ACMA's summary response to the audit is provided below and its full response is at Appendix 1.

The ACMA, including the Office of the eSafety Commissioner (eSafety), acknowledges the ANAO's findings and agrees with, and has already taken steps to implement, the three recommendations identified in the Report. The ACMA remains committed to strengthening our controls for managing

the risks associated with the giving and receiving of gifts, benefits and hospitality, including managing real and perceived conflicts of interest.

The ACMA will also implement all the additional opportunities for improvement identified in the Report in line with government best practice. Actions arising from the ANAO's audit will include improved processes to ensure compliance with updated internal policies, additional reviews and cross-checking to avoid omissions and errors and better documentation of the assessment of conflicts of interest and actions to be taken where conflicts are identified. The ACMA thanks the ANAO audit team, who were professional and collaborative during their engagement with our staff.

### **Key messages from this audit for all Australian Government entities**

23. This audit is part of a series of performance audits reviewing compliance with gifts, benefits and hospitality in selected non-corporate Commonwealth entities:

- Australian Communications and Media Authority;
- Department of the Treasury; and
- Murray Darling Basin Authority.

24. Key messages from this audit series will be outlined in an ANAO Insights product available on the ANAO website.

# Audit findings

# 1. Background

---

## Introduction

1.1 The *Public Service Act 1999* requires Australian Public Service (APS) employees and agency heads to uphold the APS Values and Code of Conduct.<sup>9</sup> The APS Code of Conduct, consistent with duties under the *Performance and Accountability Act 2013* (PGPA Act), requires officials not to improperly use their duties, status, power or authority to gain, or seek to gain, a benefit for themselves or any other person, or to cause, or seek to cause, detriment to the entity, the Commonwealth, or any other person. Collectively, these requirements establish obligations for officials and Commonwealth entities in relation to how they manage the provision and receipt of gifts, benefits and hospitality.

1.2 The *National Anti-Corruption Commission Act 2022* contains provisions against conduct that adversely affects (or could adversely affect) the honest or impartial exercise or performance of a public official's powers, functions or duties.

1.3 The Australian Public Service Commission (APSC) publishes *Guidance for Agency Heads – Gifts and Benefits*.<sup>10</sup> The principles underpinning this guidance are that:

- agency heads are meeting public expectations of integrity, accountability, independence, transparency, and professionalism in relation to gifts and benefits; and
- there is consistency in relation to agency heads' management of gifts and benefits across the APS agencies and Commonwealth entities and companies.<sup>11</sup>

1.4 Agency heads must publish a register of gifts and benefits, valued at over \$100 (excluding GST), they accept on a quarterly basis. A link to the register must also be provided to APSC for publication on APSC's website.

1.5 In the course of their official duties, APS employees may interact with many individuals and organisations, and may receive offers of gifts, benefits and hospitality as part of these interactions. The acceptance of such offers can pose risks to public confidence in entities and the APS more broadly, particularly in meeting the APS Values and the public's expectations of integrity, accountability, independence, transparency and professionalism.<sup>12</sup>

1.6 The Australian Communications and Media Authority (ACMA), established under the *Australian Communications and Media Authority Act 2005*<sup>13</sup> (ACMA Act), is a non-corporate Commonwealth entity covered by the *Public Service Act 1999*. ACMA is the Australian Government regulator for a range of legislation covering Australia's telecommunications, broadcasting, radiocommunications, unsolicited communications and certain online content. The ACMA Act

---

9 *Public Service Act 1999*, section 10 and section 13.

10 Australian Public Service Commission, *Guidance for Agency Heads Gifts and Benefits*, APSC, 2021, available from <https://www.apsc.gov.au/working-aps/integrity/integrity-resources/guidance-agency-heads-gifts-and-benefits> [accessed 18 October 2023].

11 Australian Public Service Commission, *Guidance for Agency Heads Gifts and Benefits*, APSC, 2021, paragraph 3, available from <https://www.apsc.gov.au/working-aps/integrity/integrity-resources/guidance-agency-heads-gifts-and-benefits> [accessed 18 October 2023].

12 *ibid.*

13 *Australian Communications and Media Authority Act 2005*, section 6.

establishes ACMA as a Commonwealth statutory authority and the ACMA Chair as the accountable authority.<sup>14</sup> The *Online Safety Act 2021* establishes the eSafety Commissioner as a statutory office holder<sup>15</sup>, supported by ACMA, and sets out the Commissioner's functions and powers. In accordance with subsection 184 of the *Online Safety Act 2021*,<sup>16</sup> ACMA must make available members of the staff of ACMA to assist the eSafety Commissioner to perform their functions and exercise their powers and are subject to the directions of the eSafety Commissioner.

## Previous reports

1.7 Auditor-General Report No. 47 2017–18 *Interim Report on Key Financial Controls of Major Entities* reviewed the gifts and benefits policies of 26 major Australian Government entities, including all departments of state.<sup>17</sup> This report identified:

- the merit of developing a whole of government gifts and benefits policy setting the minimum requirements for entities to include within their policies;
- regular review and monitoring of entities' gifts and benefits policies increases accountability;
- centrally maintained gifts, benefits and hospitality registers assist entities in meeting accountability and transparency obligations; and
- transparency is enhanced through the publication of entities' gifts and benefits registers on the internet.

1.8 The Australian Public Service Commissioner issued guidance on 18 October 2019 for reporting of gifts and benefits. The ANAO reviewed the status of the implementation of the guidance as part of Auditor-General Report No. 38 2019–20 *Interim Report on Key Financial Controls of Major Entities*. The report found that all 24 entities covered by the report had established a register of gifts and benefits, and that, except for one entity, all had recorded gifts and benefits received by the agency head which exceed \$100. Publication of received gifts and benefits was undertaken by approximately 79 per cent of entities.<sup>18</sup>

## Rationale for undertaking the audit

1.9 Section 27 of the PGPA Act states that an official must not improperly use their position to gain, or seek to gain, a benefit to themselves or another person, or to cause, or seek to cause, detriment to the entity, the Commonwealth, or any other person. Public service entities must meet public expectations of integrity, accountability, independence, transparency, and professionalism. Acceptance of a gift or benefit that relates to an official's employment can create a real or apparent conflict of interest that should be avoided.

---

14 *ibid.*

15 *Online Safety Act 2021*, section 27.

16 *ibid.*

17 Auditor-General Report No. 47 2017–18, *Interim Report on Key Financial Controls of Major Entities*, ANAO, Canberra, 2018, paragraphs 9, 1.24–1.32 and Appendix 2, available from <https://www.anao.gov.au/work/financial-statement-audit/interim-report-key-financial-controls-major-entities-2017-18> [accessed 30 April 2024].

18 Auditor-General Report No. 38 2019–20, *Interim Report on Key Financial Controls of Major Entities*, ANAO, Canberra, 2020, Table 1.1, available from <https://www.anao.gov.au/work/financial-statement-audit/interim-report-key-financial-controls-major-entities-2019-20> [accessed 1 May 2024].

1.10 Public confidence in Commonwealth entities and the APS can be damaged when gifts and benefits that create a conflict of interest are accepted or not properly declared. APSC states in its publication, *APS Values and Code of Conduct in practice*, that the risk of the appearance of a conflict can be damaging to public confidence:

The appearance of a conflict can be just as damaging to public confidence in public administration as a conflict which gives rise to a concern based on objective facts.<sup>19</sup>

1.11 This audit provides assurance to the Parliament that ACMA has complied with gifts, benefits and hospitality requirements.

### **Audit objective, criteria and scope**

1.12 The objective of the audit was to assess whether ACMA had complied with gifts, benefits and hospitality requirements.

1.13 To form a conclusion against the objective, the ANAO adopted the following two high-level audit criteria:

- Did ACMA have effective arrangements in place to manage gifts, benefits and hospitality?
- Were ACMA's controls and processes for gifts, benefits and hospitality operating effectively in accordance with its policies and procedures?

1.14 The audit examined the management of gifts, benefits and hospitality within ACMA over the period from 1 July 2021 to 30 September 2023.

### **Audit methodology**

1.15 To address the audit objective, the audit methodology included:

- examining ACMA's documentation including its policies, procedures, risk assessments, registers, assurance and reporting activities relating to the management of gifts, benefits and hospitality;
- meetings with ACMA staff regarding the control frameworks and assurance activities in place to manage risks relating to gifts, benefits and hospitality; and
- testing the effectiveness of ACMA's control framework for gifts, benefits and hospitality and assessing members' and officials' compliance with ACMA's control framework using ACMA's system tools<sup>20</sup> to review and analyse emails and other files.

1.16 The audit was conducted in accordance with ANAO Auditing Standards at a cost to the ANAO of approximately \$368,481.

1.17 The team members for this audit were Yardstick Advisory, Jonathan Muller and Corinne Horton.

---

19 Australian Public Service Commission, *APS Values and Code of Conduct in practice*, Section 5: Conflict of Interest, APSC, 2024, available from <https://www.apsc.gov.au/publication/aps-values-and-code-conduct-practice/section-5-conflict-interest> [accessed 19 March 2024].

20 ANAO used ACMA's Microsoft Purview eDiscovery tool to assist with analysing ACMA information and records.



## 2. Arrangements for managing gifts, benefits and hospitality

---

### Areas examined

This chapter examines whether the Australian Communications and Media Authority (ACMA) has effective arrangements in place to manage gifts, benefits and hospitality.

### Conclusion

ACMA has established largely fit-for-purpose arrangements to manage the compliance requirements and risks associated with the management of gifts, benefits and hospitality. ACMA has implemented policies for gifts, benefits and hospitality that include an internal declaration process to support the public reporting requirements for all officials including the agency head. The policies also identify business functions where the acceptance or provision of gifts, benefits and hospitality may create increased risk of conflicts of interest, impacting on ACMA's integrity and independence as the Australian Government regulator for communications and media services. ACMA's policy does not include the requirement in the APSC Guidance to declare items based on their market value and items accepted by the agency head's immediate families and dependants where it is related to the agency head's official duties. ACMA's suite of mandatory training covers obligations relating to gifts, benefits and hospitality. Risks associated with the acceptance or provision of gifts, benefits and hospitality, and the controls in place to manage them, have not been identified, assessed, and documented in ACMA's Strategic Risk Register, fraud and corruption risk register, and divisional risk registers.

### Areas for improvement

The ANAO made two recommendations aimed at ensuring that ACMA's policies and procedures are aligned with the APSC Guidance, and to review its risk assessments to ensure that impacts and controls for gifts, benefits and hospitality are considered and aligned with ACMA's role and functions.

The ANAO identified five improvement opportunities for ACMA to update conflicts of interest declaration forms for grant programs to draw staff's attention to the requirements of the Official Hospitality and Business Catering Guide and conflicts of interest policies in administering grants, and to review its suite of policies to ensure that references to conflicts of interest declaration and management are stipulated. Improvements were also identified to establish reporting of declined offers so that the public is informed of ACMA's interactions with its stakeholders; and to update its Official Travel Guide to reflect the Whole of Australian Government Travel Arrangement's requirements regarding airline promotional offers and to review its declared items against ACMA's risk framework and other policy requirements.

2.1 Section 16 of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act)<sup>21</sup> requires accountable authorities of Commonwealth entities to establish and maintain appropriate systems of risk oversight, management and internal control for the entity.

2.2 Section 27 of the PGPA Act states that an official must not improperly use their position to gain, or seek to gain, a benefit to themselves or another person, or to cause, or seek to cause,

---

21 *Public Governance, Performance and Accountability Act 2013*, section 16.

detriment to the entity, the Commonwealth, or any other person. Public service entities must meet public expectations of integrity, accountability, independence, transparency, and professionalism. Acceptance of a gift or benefit that relates to an official's employment can create a real or apparent conflict of interest that should be avoided.

2.3 The Commonwealth Risk Management Policy<sup>22</sup> supports the implementation of section 16 of the PGPA Act, by requiring non-corporate Commonwealth entities (including ACMA) to: formalise their approach to managing risks<sup>23</sup>; embed risk management into the culture and work practices<sup>24</sup>; define staff's risk management responsibilities<sup>25</sup>; and review the effectiveness of controls.<sup>26</sup>

2.4 Commonwealth officials must also uphold and promote the Australian Public Service (APS) Values and Employment Principles and abide by the Code of Conduct contained in the *Public Service Act 1999* (PS Act).

2.5 The audit assessed the alignment of ACMA's arrangements for managing gifts, benefits and hospitality with the PGPA Act and APSC *Guidance for Agency Heads – Gifts and Benefits*, as well as examining whether training and education was available to officials.

## Has ACMA identified appropriate arrangements for managing the risks of gifts, benefits and hospitality?

ACMA's Strategic Risk Register contains an assessment of an integrity-related risk and controls such as declarations of conflicts of interests, training, enhanced identity authentication checks, and awareness of the National Anti-Corruption Commission. The risk assessment does not identify and assess controls to address potential impacts to integrity from gifts, benefits and hospitality. ACMA's fraud and corruption risk register makes no reference to risks or controls arising from the provision or acceptance of gifts, benefits and hospitality. ACMA's divisional risk registers, including for the Office of the eSafety Commissioner, do not identify controls to manage and reduce risks to its integrity, particularly where the provision and acceptance of gifts, benefits and hospitality may create conflicts of interest for specific functions and positions.

2.6 ACMA has established Accountable Authority Instructions (September 2023)<sup>27</sup> (AAs), the Risk Management Policy and Guide (November 2021), and a Fraud and Corruption<sup>28</sup> Control Plan (November 2021), which set out ACMA's risk management approach and requirements of its staff. This includes: the requirement to undertake and document risk assessments; the requirement to implement controls and treatments to address risks; information to staff about the risk management process; staff's risk management responsibilities; and the availability of risk training.

22 Finance, *Commonwealth Risk Management Policy: Element Five*, available from <https://www.finance.gov.au/government/comcover/risk-services/management/commonwealth-risk-management-policy> [accessed 29 February 2024].

23 *ibid.*, *Commonwealth Risk Management Policy: Element Two*.

24 *ibid.*, *Commonwealth Risk Management Policy: Element Three*.

25 *ibid.*, *Commonwealth Risk Management Policy: Element Four*.

26 *ibid.*, *Commonwealth Risk Management Policy: Element Five*.

27 ACMA's Risk Management AA has been in place since November 2021.

28 The Commonwealth's revised Fraud and Corruption Control Framework comes into effect from 1 July 2024.

2.7 In accordance with ACMA's Risk Management Policy and Guide, and Fraud and Corruption Control Plan, ACMA's risk assessments are documented in its Strategic Risk Register, fraud and corruption risk register and divisional risk registers.

2.8 ACMA's Strategic Risk Register (dated 24 October 2023)<sup>29</sup> includes an integrity-related risk, which is described as: 'public trust in the ACMA is adversely impacted by perceived or real integrity issues.' This risk assessment identifies ACMA's controls and treatments for the integrity risk, which are as follows.

- Conflict of interest declarations are required from staff and contractors for each specific procurement process in which they are involved.
- Provide comprehensive training to employees involved in identity proofing processes ...
- Implement strong authentication mechanisms, such as biometrics, one-time passwords, or smart cards, to enhance the verification process and reduce the risk of impersonation ...
- Enhanced focus on integrity elements through recruitment processes.
- As part of the onboarding process conduct criminal history, identity and employment referee checks for all new starters.
- The ACMA will proactively inform staff about the role and responsibilities of the National Anti-Corruption Commission (NACC) as an independent federal integrity commission tasked with investigating and reporting on serious or systemic corruption conduct.
- Ethical standards and codes of conduct will outline the principles of ethical and moral conduct and the expectations for behaviour and decision making.
- Internal Audit program includes coverage of areas of integrity risk including credit card usage, travel and leave management, gifts and hospitality and fraud arrangements.
- Implementation of the SES Performance Leadership Framework, an initiative out of the APS Reform to achieve 'an APS that embodies integrity in everything it does.'

2.9 The integrity risk assessment does not describe controls for gifts, benefits and hospitality as a means of managing conflicts of interest (actual or apparent) that have the potential to impact ACMA's integrity. ACMA has established controls for managing gifts, benefits and hospitality that apply to all officials, Authority members and the eSafety Commissioner.<sup>30</sup> The following controls are not included in the Strategic Risk Assessment.

- ACMA's policies and procedures to support its compliance with the management of gifts, benefits and hospitality – ACMA's Official Hospitality and Business Catering Guide, the People Management Instruction – Workplace Behaviour and Review, and the Human Resources Guide – Identifying and Managing Conflicts of Interest (analysis of these policies is outlined from paragraphs 2.18 to 2.45).
- ACMA's Official Hospitality and Business Catering Guide includes the controls for all staff to make declarations of gifts, benefits and hospitality that have been offered and accepted

29 ACMA's Strategic Risk Register has been in place since November 2022.

30 Staff who support the eSafety Commissioner are ACMA employees. The eSafety Commissioner is not an agency head for the purposes of the APSC Guidance. ACMA publishes its gifts, benefits and hospitality register for all ACMA officials, and provides support in publishing a separate gifts, benefits and hospitality register for the eSafety Commissioner.

by ACMA staff and gifts, benefits and hospitality provided by ACMA to external parties. It also requires a delegate's review and approval of the declaration, to assist in identifying conflicts of interest and addressing the potential impacts to ACMA's integrity from the offer and acceptance of gifts, benefits and hospitality.

- ACMA's People Management Instruction – Workplace Behaviour and Review, and the Human Resources Guide – Identifying and Managing Conflicts of Interest specify the requirements for all staff to make annual declarations of conflicts of interest, including those that may arise from gifts, benefits and hospitality. While the risk assessment refers to conflicts of interest declarations for procurement activities, it does not refer to this annual declaration requirement.
- Training courses for staff are provided under ACMA's policies People Management Instruction – Performance and Development and the Organisational Capability Framework. Related to the management of gifts, benefits and hospitality, mandated training modules cover the Commonwealth Resource Management Framework, fraud awareness and Integrity in the APS which includes the Values and Code of Conduct.

2.10 The risk assessment identifies a treatment relating to an internal audit of gifts and hospitality. An internal audit of gifts and hospitality has not been conducted, was not in ACMA's internal audit programs for 2021–23 and is not planned to occur as part of ACMA's internal audit work program for 2023–26.

### **ACMA's fraud risk assessments**

2.11 ACMA's fraud and corruption risk register (May 2023)<sup>31</sup> documents ACMA's identification and assessment of its fraud and corruption risks. It does not refer to risks or controls arising from providing, accepting or being offered gifts, benefits and hospitality. For example, one fraud risk which is titled 'Administrative', has one source: 'Exploit business processes for personal benefit'. The risk register does not specify which business processes could be exploited and how, or outline controls that address gaps and vulnerabilities.

### **ACMA's divisional risk assessments**

2.12 ACMA's divisional risk registers do not identify or assess risks to integrity and conflicts of interest from the giving and receiving of gifts, benefits and hospitality. The risk registers do not refer to the impacts of gifts, benefits and hospitality to ACMA's integrity, or document controls for managing gifts, benefits and hospitality to avoid actual or apparent conflicts of interest.

2.13 The APSC's APS Values and Code of Conduct in Practice identifies the following 'agency activities with heightened risk of conflict of interest'<sup>32</sup>:

- regulating individual or business activities;
- procurement and recruitment;

---

31 The Fraud and Control Register was last reviewed in May 2022.

32 APSC *APS Values and Code of Conduct in Practice*, paragraph 5.2.11, Table 1 [Internet], APSC, available from <https://www.apsc.gov.au/publication/aps-values-and-code-conduct-practice/section-5-conflict-interest> [accessed 27 February 2024].

- distribution of goods, services or funds (such as the allocation of grants); and
- making binding decisions.<sup>33</sup>

2.14 As the regulator of communications and media services under a range of legislation<sup>34</sup>, ACMA's business functions include all of the above activities with heightened risk of conflicts of interest. ACMA's risk assessments and controls, including for the Office of the eSafety Commissioner, do not reflect the nature of such heightened risks.

### Recommendation no. 1

2.15 Australian Communications and Media Authority:

- update the Strategic Risk Register and fraud and corruption risk assessment to include consideration of risks and controls in relation to gifts, benefits, and hospitality; and
- ensure that divisional risk assessments, including for the Office of the eSafety Commissioner, are completed for all business divisions and reflect the risks associated with gifts, benefits and hospitality, particularly for those functions with heightened risk.

**Australian Communications and Media Authority response:** *Agreed.*

2.16 *The ACMA has updated its Strategic Risk Register and Fraud and Corruption Risk Register to include consideration of risks and controls for gifts, benefits and hospitality.*

2.17 *All ACMA Divisions and eSafety will action this item by updating their risk assessments in the development of business plans for 2024-25.*

## Has ACMA developed fit-for-purpose policies and procedures for the acceptance and provision of gifts, benefits and hospitality?

ACMA has established requirements for its staff pertaining to being offered, accepting and the offering of gifts, benefits and hospitality. ACMA's policy framework aligns with the APSC Guidance except in the areas of reporting items at market value, and the declaration of items received by the agency head's immediate families and dependants where it is associated with the agency head's official duties. ACMA's policy framework could be strengthened to cover the range of circumstances of gifts, benefits and hospitality impacting conflicts of interest, particularly given ACMA's role as a regulator of communications and media services.

2.18 The APSC Guidance establishes the requirement that agency heads are to publish a register of gifts, benefits and hospitality that have been accepted and are above \$100.<sup>35</sup> This disclosure includes gifts, benefits and hospitality accepted by their immediate families and dependants where

<sup>33</sup> *ibid.*

<sup>34</sup> According to ACMA's Regulatory Guides, it is empowered to review and investigate compliance and enforce legislation that includes: the *Australian Communications and Media Authority Act 2005*, the *Broadcasting Services Act 1992*, *Interactive Gambling Act 2001*, *Radiocommunications Act 1992*, *Telecommunications Act 1997*, the *Telecommunications (Consumer Protection and Service Standards) Act 1999*, *Do Not Call Register Act 2006*, *Spam Act 2003*: ACMA, Regulatory guides [Internet], available from <https://www.acma.gov.au/regulatory-guides> [accessed 14 February 2024].

<sup>35</sup> APSC, *Guidance for Agency Heads – Gifts and Benefits* [Internet], paragraph 4, available from <https://www.apsc.gov.au/working-aps/integrity/integrity-resources/guidance-agency-heads-gifts-and-benefits> [accessed 14 February 2024].

it is related to the official duties of the agency head.<sup>36</sup> The APSC Guidance also stipulates a ‘strong expectation<sup>37</sup>’ that items received by staff are also published on the register. Further, the APSC’s APS Values and Code of Conduct in Practice provides that ‘agencies may require the employees to disclose offers which were not accepted, for example, where the offer could be perceived as a bribe’.<sup>38</sup>

2.19 ACMA’s Official Hospitality and Business Catering Guide requires officials to ‘estimate the value of any hospitality, gift or benefit received or declined, and record it using Declaration of Receipt of Official Hospitality, Gifts and Benefits Form’. ACMA’s Official hospitality and Business Catering Guide does not require the publication of offers declined by officials that have been recorded and reported.

**Opportunity for improvement**

2.20 ACMA stipulate in its policy framework that offers that have not been accepted are to be included in ACMA’s gifts, benefits and hospitality register so that the public is informed of ACMA’s interactions with its stakeholders.

2.21 ACMA has established, through its AAls and its Official Hospitality and Business Catering Guide (policy framework), its requirements for its staff in managing gifts, benefits and hospitality. This policy framework stipulates the conditions for being offered, accepting and offering gifts, benefits and hospitality; the requirements for making declarations when being offered, accepting and offering gifts, benefits and hospitality; the circumstances for managing items over certain financial thresholds; and the internal delegations for approving the provision and acceptance of gifts, benefits or hospitality. Table 2.1 sets out ACMA’s policy framework’s acceptance, approval and reporting thresholds.

**Table 2.1: ACMA’s policy thresholds for acceptance, approval and reporting**

Type	Acceptance threshold	Reporting requirements	Approval	Must NOT be accepted
Official hospitality	On full consideration if there is a potential to create a perceived or real conflict of interest: <ul style="list-style-type: none"> <li>Less than \$300 may be accepted.</li> <li>More than \$300 can</li> </ul>	Less than \$20 — no reporting required.	No approval required.	<ul style="list-style-type: none"> <li>Any hospitality, gifts or benefits that may have the potential to create a perceived conflict of interest.</li> <li>Cash, payment in kind, gift vouchers, shares, store credit in any form, including those provided by another ACMA official.</li> </ul>
		\$20 to \$300 — reported by email to the Official Hospitality inbox and copied to the relevant supervisor.	No approval required.	
		More than \$300 — the signed Form and relevant approvals to be reported by email to the Official Hospitality inbox and copied to the relevant supervisor.	Written approval in advance from the Chair or the CEO is required.	

36 *ibid.*, paragraph 10.

37 *ibid.*, paragraph 13.

38 APSC *APS Values and Code of Conduct in Practice*, paragraph 5.2.18, APSC, available from <https://www.apsc.gov.au/publication/aps-values-and-code-conduct-practice/section-5-conflict-interest> [accessed 29 April 2024].

Type	Acceptance threshold	Reporting requirements	Approval	Must NOT be accepted
Benefits	be accepted with written approval by the Chair or the CEO in advance.	Less than \$20 — no reporting required.	No approval required.	<ul style="list-style-type: none"> <li>• Subsidised flights or accommodation including international travel, except where provided by a government agency.</li> <li>• Any Hospitality, Benefits or Gifts from an entity:                             <ul style="list-style-type: none"> <li>– quoting or tendering to the ACMA for goods/services;</li> <li>– who is subject to an ACMA investigation or enforcement action;</li> <li>– who is likely to be a participant in a competitive allocation process (e.g. a spectrum auction/grants program underway); and/or</li> <li>– appearance of improper influence.</li> </ul> </li> </ul>
		\$20 to \$300 — reported by email to the Official Hospitality inbox and copied to the relevant supervisor.	No approval required.	
		More than \$300 — the signed Form and relevant approvals to be reported by email to the Official Hospitality inbox and copied to the relevant supervisor.	Written approval in advance from the Chair or the CEO is required.	
Gifts	Less than \$100 — can be accepted and retained.	Less than \$20 — no reporting required.	No approval required.	<ul style="list-style-type: none"> <li>– who is subject to an ACMA investigation or enforcement action;</li> <li>– who is likely to be a participant in a competitive allocation process (e.g. a spectrum auction/grants program underway); and/or</li> <li>– appearance of improper influence.</li> </ul>
	Less than \$100 — can be accepted and retained.	\$20 to \$100 — reported by email to the Official Hospitality inbox and copied to the relevant supervisor.	No approval required.	
	More than \$100 — can be accepted and becomes the property of ACMA.	More than \$100 — the signed Form and relevant approvals to be reported by email to the Official Hospitality inbox and copied to the relevant supervisor.	Relevant financial delegate can approve retention and display by ACMA or the method of disposal (sale/donation etc.).	

Source: ACMA's Official Hospitality and Business Catering Guide, paragraph 3.2 and within this document's Table 1.

2.22 Where gifts are more than \$100 and the items become the property of ACMA, the Official Hospitality and Business Catering Guide requires staff to seek approval to retain or to dispose via sale or donation. The treatment is required to be documented in the declaration form for gifts, benefits and hospitality and recorded on ACMA's internal gifts, benefits and hospitality register. Analysis of ACMA's and eSafety Commissioner's internal gifts, benefits and hospitality register and compliance with threshold approval requirements are outlined at paragraph 3.32.

2.23 ACMA's policy framework has established delegations for reviewing the offering and acceptance of gifts, benefits or hospitality. ACMA does not have a process or delegations for reviewing declarations of offers that have been declined, particularly to review such offers for risks to conflicts of interest.

2.24 Authority members travelled interstate to attend events such as: gala dinners, studio openings, and industry awards dinners which were declared. The total cost to ACMA of attending a gifted event is not considered when approving attendance. ACMA's Official Hospitality and Business

Catering Guide does not require officials to specify what the cost of flights, accommodation, meals and incidentals will be incurred by ACMA for attending gifted hospitality events, and weigh these against the perceived benefit to its operations. Further, it does not prompt officials to consider what other business could be conducted at the same time and location, if travel to the event is required. ACMA's Official Travel Guide states that 'official travel must only be undertaken where there is a demonstrated business need and where other communication tools, such as teleconferencing and videoconferencing, are not an effective option'. Declarations of gifts, hospitality and benefits submitted by Authority members did not document the business need of attending the event to justify travel.

#### Opportunity for improvement

2.25 ACMA stipulate in its policy framework that offers and acceptances of gifts, benefits and hospitality are reviewed against its risk framework and other ACMA policy requirements.

2.26 ACMA's policy framework establishes the types of items which should not be accepted and the conflicts of interest situations where the gift, benefit or hospitality is not to be accepted.

2.27 The Official Hospitality and Business Catering Guide states that: 'ACMA officials must not accept offers of hospitality, gift or benefit that may lead to a real or perceived conflict of interest or a perception that ACMA is favouring the organisation.' This includes:

- offers of sponsored travel including transport, accommodation or living expenses paid for by private organisations;
- offers from entities that are tendering for services to ACMA, are subject to ACMA's investigations, or are participants in spectrum auctions; and
- offers of cash or equivalents such as gift vouchers or gifts of property ... in particular those offered by another ACMA official.

2.28 The ANAO's analysis of the implementation of ACMA's Official Hospitality and Business Catering Guide is outlined at paragraph 3.10.

2.29 ACMA's policy framework establishes requirements for providing gifts and official hospitality. Official hospitality at an ACMA event may be provided if:

- the meal or event being provided is for the purpose of establishing or maintaining relationships with key non-Commonwealth stakeholders;
- non-Commonwealth attendees outnumber the combined number of ACMA and Commonwealth attendees at the event; and
- ACMA delegates have approved entering into an arrangement to purchase the official hospitality, gift or benefit. These delegates are ACMA's Chair, the Chief Executive Officer, General Manager — Corporate and Research, the Chief Finance Officer, the Authority Secretariat, the eSafety Commissioner and three ACMA staff supporting the eSafety Commissioner.

2.30 In relation to the provision of hospitality, the Official Hospitality and Business Catering Guide states that 'public money must not be spent on staff functions' such as: 'routine section, branch or divisional meetings, celebratory or farewell lunches, and morning and afternoon teas, flowers for farewells, condolences, or other occasions related to a staff member'.



2.31 For Authority members<sup>39</sup>, the Authority Code of Conduct<sup>40</sup> stipulates that they ‘should not accept gifts, subsidised travel and official hospitality where that acceptance could be perceived as improper influence’.<sup>41</sup> Authority members ‘may accept customary official gifts, hospitality, tokens of appreciation and similar formal gestures’.<sup>42</sup> The Authority Code of Conduct also includes that, ‘as a general rule, benefits should not be accepted from parties that have an active matter before the Authority ... or during competitive processes for the allocation of grant funding or other resources (such as spectrum auction processes). At other times, the acceptance or provision of a benefit will be a matter for individual judgement’.<sup>43</sup>

2.32 Table 2.2 compares the APSC Guidance and ACMA’s policy and practices for gifts, benefits and hospitality:

**Table 2.2: ACMA policy and practices — alignment with APSC guidance**

APSC guidance	Aligned	ACMA Official Hospitality and Business Catering Guide
Disclose all gifts or benefits accepted and valued at \$100 excl GST <sup>a</sup>	✓	Included in ACMA’s Official Hospitality and Business Catering Guide.
Register published quarterly (including nil receipts if applicable) <sup>b</sup>	✓	Included in ACMA’s Official Hospitality and Business Catering Guide.
Provide a link to the register for APSC’s website <sup>c</sup>	✓	Included in ACMA’s Official Hospitality and Business Catering Guide.
Collect and store the relevant information for the gift register <sup>d</sup>	✓	Included in ACMA’s Official Hospitality and Business Catering Guide.
Update the register within 31 days of receiving a gift or benefit	✓	Included in ACMA’s Official Hospitality and Business Catering Guide.
Declarations made by agency heads and their immediate families and dependants, for items related to or consequential to the official duties of agency heads <sup>e</sup>	✗	ACMA’s policy framework does not stipulate that gifts, benefits and hospitality received by immediate family members and dependent children that are consequential to the official duties of the agency head should be included in the gifts, benefits and hospitality register that is publicly reported.
Valuation: based on wholesale (tax free) value in country of origin of the donor of the gift and converted to Australian Dollars or current market value in Australia <sup>f</sup>	✗	ACMA’s policy framework does not contain provisions for how the value of gifts and benefits should be quantified.

39 ACMA Authority members are Nerida O’Loughlin PSM (ACMA Chair), Creina Chapman (Deputy Chair), Adam Suckling, Samantha Yorke and Carolyn Lidgerwood. ACMA part-time Associate Members are Anna Brakey and Catriona Lowe: ACMA, *The Authority* [Internet], available from <https://www.acma.gov.au/authority> [accessed 1 March 2024].

40 ACMA, *Authority Code of Conduct* [Internet], available at <https://www.acma.gov.au/publications/2019-06/guide/authority-code-conduct> [accessed 14 February 2024].

41 *ibid.*, page 9.

42 *ibid.*

43 *ibid.*

APSC guidance	Aligned	ACMA Official Hospitality and Business Catering Guide
Strong expectation that agency heads will also publish gifts and benefits received by staff (same \$100 threshold) <sup>g</sup>	✓	Included in ACMA's Official Hospitality and Business Catering Guide.
Gifts and benefits received below \$100 are to be dealt with in accordance with agency policy <sup>h</sup>	✓	Included in ACMA's Official Hospitality and Business Catering Guide.

Key: ✓ ACMA's policy and practices meet the APSC Guidance × ACMA's policy and practices do not meet the APSC Guidance.

Note a: APSC *Guidance for Agency Heads – Gifts and Benefits* [Internet], paragraph 2, available from <https://www.apsc.gov.au/working-aps/integrity/integrity-resources/guidance-agency-heads-gifts-and-benefits> [accessed 26 February 2024].

Note b: *ibid.*, paragraph 4.

Note c: *ibid.*; APSC, *Agency Head gifts and benefits registers* [Internet], available from <https://www.apsc.gov.au/agency-head-gifts-and-benefits-registers> [accessed on 2 March 2024].

Note d: APSC *Guidance for Agency Heads – Gifts and Benefits* [Internet], paragraph 2, available from <https://www.apsc.gov.au/working-aps/integrity/integrity-resources/guidance-agency-heads-gifts-and-benefits> [accessed 26 February 2024].

Note e: APSC, *Guidance for Agency Heads – Gifts and Benefits* [Internet], paragraph 10, available from <https://www.apsc.gov.au/working-aps/integrity/integrity-resources/guidance-agency-heads-gifts-and-benefits> [accessed 26 February 2024].

Note f: *ibid.*, paragraph 19.

Note g: *ibid.*, paragraph 13.

Note h: *ibid.*, paragraph 22.

Source: APSC and ACMA Official Hospitality and Business Catering Guide.

## Valuation of gifts, benefits and hospitality

2.33 ACMA's and eSafety Commissioner's internal gifts, benefits and hospitality registers recorded 131 items that had been accepted by officials for the reporting period 1 July 2021 to 30 September 2023. Analysis of 78 items<sup>44</sup> recorded in ACMA's and the eSafety Commissioner's gifts, benefits and hospitality registers found one instance where staff estimated the value of the received items, one instance where the declared value was below market value, and one instance where the declaration did not include sufficient detail to determine the market value of the gift. Table 2.3 provides details of these instances.

**Table 2.3: Gifts declared where declared value is below market value, or market value cannot be determined**

Gift declared	Value declared	Market or advertised value
Two tickets to a charity fundraising event gifted by the Australian Football League (AFL)	\$150 per ticket	\$1,000 per ticket
Two tickets to the 2023 AFL Grand Final, including lunch in the Olympic Room	\$150 per ticket	\$495 per ticket
Bottle of wine, chocolates, and condiments	\$80	Unknown

Source: ACMA Gifts, Benefits and Hospitality Register.

<sup>44</sup> The ANAO reviewed the estimation basis for 78 items valued at \$40 and above within ACMA's and eSafety Commissioner's gifts, benefits and hospitality registers.

2.34 In relation to the charity fundraising event gifted by the Australian Football League (AFL), the event's tickets were advertised at \$1,000 per person (at a table with the market value of \$10,000 for 10 attendees). Two tickets to this event were accepted by ACMA officials supporting the Office of the eSafety Commissioner and were reported as \$150.00 per person in value.<sup>45</sup> The internal declaration form had initially declared these items at \$1,000 each. On review of the declaration form, the Head of Business Operations within ACMA's Office of the eSafety Commissioner discussed the event with the declaring official and amended the declared value of the lunch to \$150 each. The item was reported in ACMA's gifts, benefits and hospitality register at the revised value of \$150 each.

2.35 In relation to the two tickets to the 2023 AFL Grand Final, the declared value appeared to be lower than market value, based on a previous occurrence of the same event and analysis of publicly available information.<sup>46</sup> In this instance, two tickets to the AFL Grand Final (including lunch in the Olympic Room) were declared with a value of \$150 each. ACMA advised the ANAO on 26 February 2024 that the value of \$150 each was advised by the AFL following a telephone call. On 26 February 2024, ACMA advised the ANAO that the eSafety Commissioner's gifts, benefits and hospitality register would be updated to reflect the market value, in line with the APSC Guidance. Two tickets to the previous year's 2022 AFL Grand Final accepted by the eSafety Commissioner were recorded on the eSafety Commissioner's gifts, benefits and hospitality register at a total value of \$920.00. As of 13 May 2024, the eSafety Commissioner had not updated their gifts, benefits and hospitality register to disclose the AFL Grand Final 2023 tickets at market value.

2.36 The bottle of wine, chocolates and condiments declared at a value of \$80 could not be verified, as there were no details about the products received in the declaration. In other declarations, the brand and type of wine was identified allowing an independent review of market value against the declared value.

2.37 Lack of guidance on quantification of values, and the ability for staff to estimate the value of a gift or benefit received, increases the risk that values may be under-reported and/or avoid the requirement for delegate pre-approval.

---

45 ACMA *Official Hospitality, Gifts and Benefits Register* [internet], items dated 18/08/2023 described as 'AFL fundraising lunch for the Go Foundation', available from <https://www.acma.gov.au/official-hospitality-gifts-and-benefits-register> [accessed 26 February 2024].

46 Publicly advertised prices for the Olympic Room corporate packages: Dynamic Australia, *The Olympic Room: Onsite Dining with Tickets* [Internet], available from <https://www.corporateboxhire.com.au/package/olympic-room-standard-matches/> [accessed 7 March 2024].

## Recommendation no. 2

2.38 Australian Communications and Media Authority review its policy framework for gifts, benefits and hospitality and implement amendments to align with the APSC Guidance for the requirements to declare items at current market value and the declaration of any service or item received by the family of the agency head, where there is a clear link with the agency head's official duties.

**Australian Communications and Media Authority response:** *Agreed.*

2.39 *The ACMA has updated its Official Hospitality and Business Catering Guide to align with the APSC Guidance. This Guide also applies to staff that support the eSafety Commissioner.*

### Conflict-of-interest policies

2.40 ACMA has established a People Management Instruction – Workplace behaviour and review (January 2019) and a Human Resources Guide – Identifying and Managing Conflicts of Interest (January 2024<sup>47</sup>) (conflicts of interest policies). The conflicts of interest policies highlight to staff the statutory requirements to avoid conflicts of interest and the following management processes:

- all staff are to make conflicts of interest declarations on commencement, annually thereafter and on changes to personal circumstances;
- staff to make conflicts declarations associated with certain activities and decisions, such as procurement or recruitment;
- line managers' sign off on the declarations and, where relevant, conflict management strategies; and
- SES officers declarations and management strategies to address real or apparent conflicts are provided to ACMA's Chair for review.

2.41 ACMA's Human Resources Guide – Identifying and Managing Conflicts of Interest includes the following examples that could create potential conflicts of interest:

- receiving gifts or hospitality from, or giving gifts and hospitality to, third parties;
- financial interests, including shares, directorships or commercial/business interests;
- family, personal, and social relationships;
- affiliations or contacts with professional lobbyists;
- political affiliations and activities;
- membership of or affiliations with community groups and non-government organisations;
- secondary employment outside the APS, including unpaid and voluntary work; and
- moving from the APS to outside employment in a similar field.

2.42 ACMA's People Management Instruction – Workplace Behaviour and Review states that 'ACMA employees should take all reasonable steps to avoid conflicts of interest. Steps which an employee may take may include:

---

47 The People Management Instruction – Workplace behaviour and review was in effect from January 2019 to December 2023.

- not accepting any gift, benefit or hospitality from external stakeholders, licensees, suppliers or contractors except in accordance with ACMA's AAI or the Official Hospitality and Business Catering Guide;
- divesting shares in a company which is likely to be affected by action or inaction by ACMA in the area in which the employee usually works (for example, shares in a media company while working in the media control section); and
- disclosing any personal relationships or affiliations with prospective providers when involved in a procurement process.'

2.43 ACMA's annual self-assessment and declaration of interests is supported by ACMA's human resources information management system, which maintains the records of: staff's interest declarations; the proposed management actions to address actual or apparent conflicts (where applicable); and their manager's approvals for staff, or the Chair's approval for SES officers.

2.44 The APSC's APS Values and Code of Conduct in Practice identifies that agency heads must monitor compliance with the agency's policy for disclosing and managing conflicts of interest.<sup>48</sup> ACMA's Official Hospitality and Business Catering Guide does not refer to ACMA's conflicts of interest policies, particularly to declare any actual or perceived conflicts of interest that may arise from being offered or accepting gifts, benefits or hospitality. This would support the monitoring of correlations between potential conflicts of interest and other business activities such as procurements or regulatory decisions. ACMA's conflicts of interest and gifts, benefits and hospitality register processes operate separately in different business areas within ACMA — the conflicts of interest declarations sit within ACMA's human resources function, while the official hospitality and gift declarations and reporting sit within ACMA's finance function.

2.45 Analysis of the application of the conflict-of-interest policies is outlined at paragraphs 3.15 to 3.26.

### Other related policies

2.46 As outlined in paragraph 2.13, the APSC's APS Values and Code of Conduct in Practice identifies business functions that have a heightened risk of conflicts of interest, including those that may arise from gifts, benefits and hospitality.<sup>49</sup> ACMA has established:

- conflicts of interest declaration requirements for recruitment, which requires staff who are on recruitment panels to declare any actual or apparent conflicts of interest;
- AAls for procurement and contracting, the Procurement and Contract Management Guide, ACMA's Procurement Process Checklist and templates to support procurement documentation. Staff undertaking a procurement are required to identify and declare any actual or apparent conflicts of interest, and procurement templates outline conflict-of-interest sign-off requirements from procurement evaluators and the delegate; and

48 APSC, *APS Values and Code of Conduct in Practice* [Internet], Section 5 – Conflicts of Interest, available from <https://www.apsc.gov.au/publication/aps-values-and-code-conduct-practice/section-5-conflict-interest> [accessed 26 February 2024].

49 APSC, *APS Values and Code of Conduct in Practice* [Internet], available from <https://www.apsc.gov.au/publication/aps-values-and-code-conduct-practice> [accessed 1 March 2024].

- an investigations policy to support how it investigates whether broadcasters, telecommunications companies and other businesses are following the law. ACMA’s investigations policy does not refer to conflicts of interest or the potential impact of gifts, benefits or hospitality in ACMA’s investigations activities.

2.47 ACMA managed the Regional and Small Publishers Innovation Fund (which ended at 30 June 2023) and continues to provide grants related to the National Plan to End Violence Against Women and Children – Online Safety Community Grants Program through ACMA’s Office of the eSafety Commissioner. ACMA developed a conflicts of interest policy for the Regional and Small Publishers Innovation Fund grant program which covered conflicts arising from the acceptance gifts, services or benefits. ACMA developed grant opportunity guidelines and conflicts declaration forms for the Preventing Tech-based Abuse of Women (PTAW) Grants Program and the Online Safety Grants Program (OSGP) delivered through ACMA’s Office of the eSafety Commissioner. The grant opportunity guidelines and conflicts declaration forms refer to financial benefits that could create actual or perceived conflicts. They do not draw staff’s attention to ACMA’s Official Hospitality and Business Catering Guide, and the actual or perceived conflicts that could arise from receiving gifts, benefits and hospitality from grant recipients.

#### Opportunities for improvement

2.48 ACMA:

- update conflict of interest declaration forms for grant programs to draw staff’s attention to the Official Hospitality and Business Catering Guide, and
- review and update its suite of policies to ensure that references to conflicts of interest declaration and management of actual and perceived conflicts of interest are stipulated in relevant business policies.

#### Policy for benefits associated with official travel

2.49 The Whole of Australian Government Travel Arrangements<sup>50</sup> (Travel Arrangements) establish the mandatory policy requirements for official travel for approximately 140 entities, including ACMA.<sup>51</sup> The Travel Arrangements establish the policy requirement that entities must select the lowest priced airfare that meets the practical business needs of the traveller and must not select fares or flights based on a traveller’s personal preference for a particular carrier.<sup>52</sup> In relation to benefits associated with official travel, the Travel Arrangements establish the following requirements.

50 Finance, *Whole of Australian Government Travel Arrangement* [Internet], available from <https://www.finance.gov.au/government/travel-arrangements> [accessed 14 February 2024].

51 Finance’s website on the Travel Arrangements stipulates that participation in the Travel Arrangements is mandatory for non-corporate Commonwealth entities.

52 Finance, *Whole-of-Australian-Government Travel Arrangements Advice* [Internet], page 1 ‘Lowest Practical Fare’, available from <https://www.finance.gov.au/sites/default/files/2020-01/2014-07-improved-efficiencies-for-arranging-official-travel.pdf> [accessed 26 January 2024].

- Frequent flyer points — the accrual of frequent flyer points on official travel is not permitted.<sup>53</sup>
- Status credits — the accrual of airline status credits is permitted on official travel.<sup>54</sup>
- Promotional offers for bonus status credits or bonus frequent flyer points — promotional offers from airlines, such as bonus status credits or bonus frequent flyer points, should not be accepted. The Travel Arrangements stipulate that government officials should not obtain a benefit from Commonwealth funded activities, and that the acceptance of such an offer may influence the choice of airline for air travel.<sup>55</sup>

2.50 The Remuneration Tribunal is the independent statutory body that administers the remuneration of key commonwealth offices<sup>56</sup>, including the offices for ACMA’s Chair, Deputy Chair, Authority members and the eSafety Commissioner.<sup>57</sup> The Remuneration Tribunal (Official Travel) Determination 2023<sup>58</sup> provides:

- at section 14, that office holders are encouraged to use their agency’s travel-related provider arrangements where they exist; and
- at section 15, that frequent flyer points accrued at the Commonwealth’s expense are not to be used for private purposes.

2.51 ACMA has established an AAI for Official Travel and ACMA’s Official Travel Guide which includes the Travel Arrangements’ requirements relating to lowest practical fare, not accruing frequent flyer points, and the allowance to accrue status credits. It does not include the requirement that promotional offers from airlines on bonus status credits and bonus frequent flyer points should not be accepted.

#### Opportunity for improvement

2.52 ACMA consider updating its Official Travel Guide to reflect the requirement that airline promotions of bonus status credits and bonus frequent flyer points are not to be accepted.

53 Finance, *Whole-of-Australian-Government Travel Arrangements Advice* [Internet], page 2, available from <https://www.finance.gov.au/sites/default/files/2020-01/2014-07-improved-efficiencies-for-arranging-official-travel.pdf> [accessed 26 January 2024].

54 *ibid.*

55 Finance, *Whole-of-Australian-Government Travel Arrangements frequently asked questions* [Internet], available from <https://www.finance.gov.au/government/travel-arrangements/faqs-airlines-and-travel-management-services> [accessed 26 January 2024].

56 The Remuneration Tribunal, *About Us* [Internet], available from <https://www.remtribunal.gov.au/about-us> [accessed 1 March 2024].

57 The Remuneration Tribunal, *Remuneration Tribunal (Remuneration and Allowances for Holders of Full-time Public Office) Determination (No. 2) 2023*, 28 August 2023.

58 The Remuneration Tribunal, *Remuneration Tribunal (Official Travel) Determination 2023*, 11 August 2023.

## Has ACMA developed effective training and education arrangements to promote compliance with managing gifts, benefits and hospitality?

ACMA has established mandatory training arrangements that include learning relating to the Commonwealth Resource Management Framework, fraud awareness and the APS Values and Code of Conduct. These topics include the potential conflicts of interest impacts from gifts, benefits and hospitality.

2.53 ACMA has established its staff training arrangements through its People Management Instructions – Performance and Development and its Organisational Capability Framework. These documents establish the policy requirement that staff undertake training to support their knowledge of their workplace responsibilities.

2.54 ACMA has implemented training through ‘Learnhub’ where staff can access APS-wide training courses. Under ACMA’s Organisational Capability Framework, ACMA’s mandatory training regime for all staff includes the following courses.

- Commonwealth Resource Management Framework — covers the duties of officials, and managing and expending public resources.
- Fraud Awareness — covers officials’ obligations in relation to fraud prevention, detection and reporting.
- Integrity in the APS — covers the APS integrity framework and the APS Values and Code of Conduct, including conflicts of interest, and scenarios and examples relating to gifts and benefits that impact conflicts of interest risks.

2.55 Analysis of ACMA’s implementation of these training and education arrangements is outlined in paragraphs 3.2 to 3.4.

## Has ACMA established appropriate monitoring and reporting arrangements for gifts, benefits and hospitality?

ACMA has established policy and processes that centralise the reporting of receipt and provision of gifts, benefits and hospitality declarations. The process supports the collation of items that are reportable under the APSC Guidance and ACMA’s policy framework for reporting gifts, benefits and hospitality.

2.56 The APSC’s APS Values and Code of Conduct in Practice identifies, at section 5.3, that agency heads must monitor compliance with the agency’s policy for disclosing and managing conflicts of interest.<sup>59</sup>

2.57 ACMA’s Official Hospitality and Business Catering Guide requires all staff to declare and report accepted gifts, benefits and hospitality worth over \$20 (see Table 2.1) within 14 days. Declared items are reported to a centralised gifts, benefits and hospitality reporting function within ACMA’s Chief Finance Officer’s team. The Chief Finance Officer’s team sends emails on a quarterly basis to executive assistants supporting SES officers and Authority members, and administration

59 APSC, *APS Values and Code of Conduct in Practice* [Internet], section 5 — Conflicts of Interest, available from <https://www.apsc.gov.au/publication/aps-values-and-code-conduct-practice/section-5-conflict-interest> [accessed 27 February 2024].



officers, about the declaration requirements for gifts, benefits and hospitality. This process serves as a reminder to review the past quarterly period and to submit the approved declarations for gifts, benefits and hospitality.

2.58 To support its compliance with the reporting requirements outlined in the APSC Guidance, ACMA's Chief Finance Officer's team collates the declarations and the gifts, benefits and hospitality register on a quarterly basis in line with the APSC Guidance. ACMA's Chair reviews and approves the release of the gifts, benefits and hospitality register. ACMA's Chief Finance Officer is responsible for the public reporting of ACMA's gifts benefits and hospitality register on its website.

2.59 ACMA has published a gifts, benefits and hospitality register on a quarterly basis on its website since the inception of the gifts, benefits and hospitality register publication requirements established by the APS Commissioner in October 2019. As the APSC Guidance requires agency heads to publish their gifts, benefits and hospitality registers on a quarterly basis, it may take up to three months to publish gifts, benefits and hospitality publicly. ACMA's published gifts, benefits and hospitality register includes items valued above \$100.00 declared by ACMA officials, including ACMA officials supporting the Office of the eSafety Commissioner. The eSafety Commissioner has also published a separate gifts, benefits and hospitality register since October 2019 on the eSafety Commissioner's website.

2.60 For the period 1 July 2021 to 30 September 2023, the total value of declared gifts, benefits and hospitality received by ACMA and eSafety Commissioner was \$14,400.48 excluding items listed as 'unknown' in value, which are the Qantas Chairmans Lounge and Virgin Australia lounge membership. Declarations of airline lounge memberships were first declared by the ACMA Chair and the eSafety Commissioner on 30 June 2023 and 1 July 2023, further details are provided in paragraph 3.6.

2.61 The ANAO's analysis of instances of gifts, benefits and hospitality that would have met ACMA's policy requirements for recording and reporting and were not declared is presented in paragraphs 3.12 to 3.14.

### 3. Implementation and effectiveness of arrangements for managing gifts, benefits and hospitality

---

#### Areas examined

This chapter examines whether the Australian Communications and Media Authority (ACMA) has implemented effective preventative and detective controls and processes for the management of gifts, benefits and hospitality in accordance with its policies and procedures.

#### Conclusion

ACMA's controls are partly effective in supporting its compliance with gifts, benefits and hospitality requirements. Analysis identified 19 instances of gifts, benefits and hospitality that were not declared in accordance with ACMA's policy requirements. Of ACMA's declarations of gifts, benefits and hospitality, 42 per cent did not meet ACMA's declaration timeframe of 14 days. Mandatory training and conflicts of interest declarations are not completed as required in ACMA's policies. For Senior Executive Service (SES) officers' conflicts of interest declarations that were in 2022 and 2023, ACMA could not provide evidence that the ACMA Chair as the accountable authority had reviewed these as required by ACMA's policy.

#### Areas for improvement

The ANAO made one recommendation aimed at establishing governance and reporting arrangements to monitor and enforce ACMA's policy requirements related to the management of gifts, benefits and hospitality.

The ANAO identified three improvement opportunities for ACMA to review its declarations of gifts, benefits and hospitality to ensure that any actual or perceived conflicts of interests have been appropriately declared and managed, to follow up staff who have not met the conflicts of interest declaration requirement in accordance with ACMA policy, and to document its procedures for assessing Authority members' declared interests to be reported to the Minister for Communications.

3.1 Section 16 of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act) requires accountable authorities of Commonwealth entities to establish and maintain appropriate systems of internal control.<sup>60</sup> Implementation of effective controls aim to manage identified risks.<sup>61</sup> In accordance with the APSC's APS Values and Code of Conduct in practice, compliance with the requirements for gifts, benefits and hospitality supports agencies to manage actual or perceived conflicts of interest.<sup>62</sup>

---

60 *Public Governance, Performance and Accountability Act 2013*, section 16.

61 Department of Finance, Commonwealth Risk Management Policy: Element 4, Department of Finance, 2024, available from <https://www.finance.gov.au/government/comcover/risk-services/management/commonwealth-risk-management-policy> [accessed on 18 March 2024].

62 Australian Public Service Commission, *APS Values and Code of Conduct in practice*, Section 5: Conflict of Interest, APSC, Canberra, 2024, available from <https://www.apsc.gov.au/publication/aps-values-and-code-conduct-practice/section-5-conflict-interest> [accessed 19 March 2024].

## Does ACMA have effective preventative controls for the management of gifts, benefits and hospitality?

ACMA has implemented preventative controls through its policies and declarations for gifts, benefits and hospitality, mandatory staff training, conflicts of interest declarations and delegations. ACMA's preventative controls do not enable ACMA to effectively manage its risks relating to gifts, benefits and hospitality. ACMA relies on staff knowing its policy requirements and declaring all gifts, benefits and hospitality in a timely manner. ACMA has relied on staff to have undertaken the training and declaring potential conflicts of interest as its key preventative controls. Measures for staff training, conflicts of interest declarations and the timeliness of declaring gifts, benefits and hospitality within 14 days have not been effectively enforced to ensure compliance.

### Control for enforcing staff training

3.2 As outlined at paragraphs 2.53 to 2.55, ACMA has established mandatory training and the use of the 'Learnhub' platform to support staff's learning and awareness of: the Commonwealth resource management framework, fraud awareness and the Commonwealth integrity framework, including the APS Values and Code of Conduct. This includes conflicts of interest and the potential impacts to conflicts from gifts, benefits and hospitality.

3.3 ACMA did not analyse data on training completion rates among its staff and has not enforced the mandatory training components in accordance with ACMA's Organisational Capability Framework. The Organisational Capability Framework outlines mandatory training requirements for officials. ACMA was unable to demonstrate that its staff have met its mandatory training requirements.

3.4 Table 3.1 sets out ANAO's analysis of the completion rates of ACMA's mandatory training. Staff have met mandatory training requirements, with 71 per cent completing the integrity related training, while the SES officers' completion rate is at 65 per cent. ACMA Authority members have not completed the integrity training.

**Table 3.1: ANAO's analysis of completion rates for ACMA mandatory training**

ACMA groups	Integrity in the APS (%)	Commonwealth Resource Management Framework (%)	Fraud Awareness (%)	Australian Government Payment Card (%)
Authority members	0	33	33	37.5
SES officers	65	77	81	54
Staff	71	83	84	64 <sup>a</sup>

Note a: ANAO tested completion rates for APS officials who held an Australian Government Payment Card during 1 July 2021 to 30 September 2023.

Source: ACMA Human Resources team.

## Control for travel-related benefits

3.5 Travel-related benefits may include the earning of loyalty reward points, such as airline frequent flyer points and status credits.<sup>63</sup> In line with the Whole of Australian Government Travel Arrangements<sup>64</sup> and as outlined at paragraph 2.49, ACMA's Official Travel Guide stipulates that all travellers are not to earn frequent flyer points and that they are permitted to earn status credits. ACMA's Official Travel Guide does not specify that staff are not to accept airlines' promotional offers for bonus status credits or frequent flyer points.

3.6 On 20 October 2023, the APSC Guidance was amended to include the reporting of exclusive memberships such as airline lounges.<sup>65</sup> During the period of 1 July 2021 to 30 September 2023, ACMA and the eSafety Commissioner reported airport memberships listed in Table 3.2.

**Table 3.2: Airport lounge memberships reported**

#	Date of offer	Date recorded	Received by	Presented by
1	30/06/2023	30/06/2023	ACMA Chair	Qantas
2	15/06/2023	26/06/2023	ACMA Chair	Virgin Australia
3	01/07/2023	01/07/2023	eSafety Commissioner	Qantas
4	15/04/2023	01/07/2023	eSafety Commissioner	Virgin Australia

Source: ACMA information.

3.7 Under the Travel Arrangements, ACMA uses the stipulated travel management services supplier. This arrangement generally limits staff's ability to accrue frequent flyer points on official travel from any airline.

3.8 The ANAO's review of ACMA records and official travel bookings identified one ACMA official who registered to receive bonus status credit offers from an airline in 2018, 2020, 2021 and 2022. Correspondence from the airline to the official outlined information about promotional offers of double status credits or double frequent flyer points for bookings made within a promotional period. The relevant official had signed up to the promotional offer to receive double status credits with that airline, and made nine bookings involving 19 flights for official travel with that airline within the promotion periods for 2018, 2020, 2021 and 2022. ACMA's flight booking records show that seven of the nine bookings did not select the 'best fare of the day', equating to \$3,518.00 of potential savings.

3.9 In accordance with Department of Finance's guidance on the Travel Arrangements<sup>66</sup>, such bonus offers are not consistent with the Travel Arrangements and should not be taken, because

63 Such benefits are as referenced within the Travel Arrangements, which stipulates how such benefits are to be treated, according to Finance's *Travel Arrangements Advice (2014/07)* [Internet], section headed 'Frequent Flyer Points' (including Status Credits), page 2, available from <https://www.finance.gov.au/sites/default/files/2020-01/2014-07-improved-efficiencies-for-arranging-official-travel.pdf> [accessed 1 March 2024].

64 *ibid.*

65 *APSC Guidance for Agency Heads – Gifts and Benefits* [Internet], paragraph 16, available from <https://www.apsc.gov.au/working-aps/integrity/integrity-resources/guidance-agency-heads-gifts-and-benefits> [accessed 30 April 2024].

66 National Indigenous Australians Agency, *NIAA Gifts and Benefits Register* [Internet], item dated 26/10/2022 — \$100 'Dinner voucher' from 'eSafety Commissioner staff', available from <https://www.niaa.gov.au/who-we-are/accountability-and-reporting/niaa-gifts-and-benefits-register> [accessed on 1 March 2024].

travellers' 'acceptance of such an offer may influence the choice of airline for future official air travel'.<sup>67</sup> The acceptance of these benefits from Australian Government funded activity incentivise officials to preference specific airlines and limits ACMA's ability to demonstrate that it has booked the cheapest practical airfare and has achieved value for money in these bookings.

### **Controls for declaring gifts, benefits and hospitality**

3.10 ACMA's controls for identifying gifts, benefits and hospitality for declaration in its quarterly gifts, benefits and hospitality register require staff's knowledge of the requirements for self-declaration. This is supported by a quarterly email to executive assistants for SES officers, and secretariat support staff of the Authority, seeking declarations in line with the quarterly reporting requirements.

3.11 ACMA's official hospitality, gifts and benefits register has been published on its website since October 2019.<sup>68</sup> In line with ACMA's Official Hospitality and Business Catering Guide, items of gifts, benefits and hospitality above \$20 are reported internally, and include a range of hospitality from communications and media industry bodies and companies, hospitality at fundraising events, hospitality at industry awards dinners, gifts such as tickets to sports events (including the AFL grand finals), and airline chairman's lounge memberships.

3.12 ANAO analysis of events attended by SES officers and Authority members identified 19 additional gifts or hospitality events received by officials which were not disclosed via ACMA's and eSafety Commissioner's official hospitality, gifts and benefits registers. These items include: AFL Women's Season Launch; AFL game tickets; and hospitality provided by regulated entities such as the Australian Broadcasting Corporation and Telstra. Based on the 131 instances of gifts, benefits and hospitality declared by ACMA and eSafety Commissioner, 19 undeclared instances represented a 13 per cent non-compliance rate. ACMA and the Office of the eSafety Commissioner confirmed to the ANAO during the period February 2024 to April 2024, that eight items (of the 19 instances) were not declared. These items are outlined in Table 3.3.

3.13 The ANAO's review of SES officers' calendars and email records identified 11 offers of events which were accepted by officials. The offers of these events would meet ACMA's declaration and reporting requirements in ACMA's Official Hospitality and Business Catering Guide. ACMA and the Office of the eSafety Commissioner advised the ANAO in April 2024 that these were instances of:

- staff attending and reported that they did not consume food or beverages, or had paid for their own meals;
- staff had accepted the invitation and did not attend; and
- for staff who had left the entity so attendance could not be confirmed.

Details of these events are provided in Table 3.4.

---

67 Finance, *Whole-of-Australian-Government Travel Arrangements frequently asked questions* [Internet], available from <https://www.finance.gov.au/government/travel-arrangements/faqs-airlines-and-travel-management-services> [accessed 26 January 2024].

68 ACMA *Official hospitality, gifts and benefits register* [Internet], available from <https://www.acma.gov.au/official-hospitality-gifts-and-benefits-register> and for years prior to 2023: <https://www.acma.gov.au/previous-official-hospitality-gifts-and-benefits-registers> [accessed 27 February 2024].

**Table 3.3: Gifts, benefits and hospitality received but not reported**

#	Date of event	Itemisation of gift, benefit or hospitality	Received by (agency contact if not received directly by agency head)	Presented by (giver's name, organisation/country)	Occasion
1	22/07/2022	Hospitality	ACMA Chair	Australian Broadcasting Corporation (ABC)	ABC 90 <sup>th</sup> Anniversary Gala Dinner
2	24/08/2022	Hospitality	ACMA Chair	Telstra	Telstra Chief Executive Officer farewell
3	17/08/2022	Hospitality	eSafety Commissioner	Australian Football League (AFL) Commission	AFL Women's Season Launch
4	22/07/2022	Gift	eSafety Commissioner	Australian Football League (AFL) Commission	Acknowledging AFL & eSafety Commissioner Memorandum of Understanding
5	14/08/2023	Hospitality	eSafety Commissioner	International Institute of Communications	Dinner
6	18/06/2022	Hospitality	General Manager Office of the eSafety Commissioner, ACMA	International Justice Mission <sup>a</sup>	IJM Fundraiser
7	11/07/2022	Hospitality	General Manager Office of the eSafety Commissioner, ACMA	Jewelrock <sup>b</sup>	Book Launch: Checkmate Humanity: the how and why of Responsible AI
8	29/08/2023	Hospitality	General Manager Office of the eSafety Commissioner, ACMA	6 Degrees Media <sup>c</sup>	Female Force Multipliers — the Business Mandate

Source: ANAO analysis of ACMA information

Note a: International Justice Mission's website describes the International Justice Mission as 'a global organisation with a plan to eliminate the slave trade everywhere' [Internet], <https://ijm.org.au/our-work/> [accessed on 9 May 2024].

Note b: Jewelrock's website lists its services as: roundtables, summits, forums, gala events and out-of-the-box events [Internet], available from <https://www.jewelrock.com.au/services.html> [accessed on 9 May 2024].

Note c: 6 Degrees Media's LinkedIn profile page describes 6 Degrees Media as 'a full-service events and conference company' [Internet], available from <https://au.linkedin.com/company/6-degrees-media> [accessed on 9 May 2024].

**Table 3.4: Gifts, benefits and hospitality offered and not reported**

#	Date Received	Itemisation of gift, benefit or hospitality	Received by (agency contact if not received directly by agency head)	Presented by (giver's name, organisation/country)	Occasion	Entity response
1	18/07/2023	Hospitality	General Manager, Office of the eSafety Commissioner ACMA	Accenture	Cyber Symposium	On 26 February 2024, ACMA advised the ANAO that the General Manager spoke at this event and left and did not consume any food or beverages.
2	22/11/2022	Hospitality	eSafety Commissioner and staff in the Office of the eSafety Commissioner ACMA	Academic from Stanford University	Dinner	On 26 February 2024, ACMA advised the ANAO that the eSafety Commissioner and staff attended but paid for their own meals.
3	5/03/2022	Hospitality	Executive Manager Office of the eSafety Commissioner ACMA	United Nations Women Australia	International Women's Day Lunch	On 26 February 2024, ACMA advised the ANAO that the official's attendance at the event could not be confirmed as the official had left the entity.
4	22/11/2022	Benefit / Hospitality	Executive Manager Office of the eSafety Commissioner ACMA	British Consulate-General Sydney	Private screening: No Time To Die (film)	On 26 February 2024, ACMA advised the ANAO that the official's attendance at the event could not be confirmed as the official had left the entity.
5	18/11/2021	Hospitality	Executive Manager Office of the eSafety Commissioner ACMA	Australian Communications Industry (ACCOM) Awards	ACCOM Awards Dinner 2021	On 26 February 2024, ACMA advised the ANAO that the official's attendance at the event could not be confirmed as the official had left the entity.
6	16/11/2022	Hospitality	General Manager Office of the eSafety Commissioner ACMA	CIO ANZ	CIO ANZ November event	On 26 February 2024, ACMA advised the ANAO that the General Manager spoke at this event and left and did not consume any food or beverages.

#	Date Received	Itemisation of gift, benefit or hospitality	Received by (agency contact if not received directly by agency head)	Presented by (giver's name, organisation/country)	Occasion	Entity response
7	6/10/2023	Hospitality	eSafety Commissioner	Microsoft	Dinner in Kyoto	On 10 April 2024, ACMA advised the ANAO that the eSafety Commissioner attended and paid for their dinner privately.
8	23/03/2022	Hospitality	Deputy Chair/CEO	Australian Mobile Telecommunications Association (AMTA) 5G Unleashed Report — Deloitte Access Economics	Report launch and lunch	On 26 March 2024, ACMA advised the ANAO that the Deputy Chair / CEO attended the launch and did not accept any hospitality.
9	8/02/2022	Hospitality	ACMA Official	Customer Owner Banking Association	Annual Cocktail Reception	On 26 March 2024, ACMA advised the ANAO that the event was accepted and staff did not attend the event.
10	10/03/2022	Hospitality	ACMA — Authority member	Regulating the Game 2022 — Gala Dinner	Dinner	On 26 March 2024, ACMA advised the ANAO that the event was accepted and staff did not attend the event.
11	7/12/2021	Hospitality	ACMA General Manager	Law Council of Australia Media and Communications Law Committee End of Financial Year Lunch	Lunch	On 26 March 2024, ACMA advised the ANAO that the event was accepted and staff did not attend the event.

Source: ACMA information.



3.14 Analysis also identified one gift provided by an ACMA official supporting the Office of the eSafety Commissioner to another entity was not declared in accordance with ACMA's Official Hospitality and Business Catering Guide.<sup>69</sup>

### Controls for conflicts of interest

3.15 ACMA's conflicts of interest policies identify that gifts, benefits and hospitality have the potential to impact staff's conflicts of interest. While staff in receipt of gifts, benefits and hospitality may make the declaration of the gift, benefit or hospitality, there is no reconciliation process to identify whether an actual or apparent conflict of interest arising from the gift, benefit or hospitality has also been declared as part of the conflicts of interest declarations managed within ACMA's Human Resources team.

3.16 ACMA's conflicts of interest policies establish a requirement for all staff and SES officers to complete an annual self-assessment of interests and record their assessment of any conflicts of interest by 15 April each year. Analysis of the timeliness of the annual self-assessment is presented in Table 3.5.

**Table 3.5: Timeliness of responses to the annual conflicts of interest declarations**

Completion assessment	2021		2022		2023	
	Staff (%)	SES (%)	Staff (%)	SES (%)	Staff (%)	SES (%)
Within timeframes	46	82	64	78	79	94
Outside timeframes	54	18	36	22	21	6
Number of staff who did not respond	5	–	9	–	34	–

Source: ANAO analysis of ACMA documentation.

#### Opportunity for improvement

3.17 ACMA establish a process to follow up on staff who have not met the self-assessment and conflicts declaration requirement within ACMA's conflicts of interest policies.

3.18 ACMA's conflicts of interest policies state that the ACMA Chair reviews interests disclosed by SES officers. For 2022 and 2023, ACMA could not provide documentary evidence of the Chair's review of, and decisions made on, SES officers' interests and agreed conflict management actions.

3.19 Review of ACMA's gifts, benefits and hospitality register identified instances of gifts accepted from external parties who were also awarded contracts; or who were existing suppliers to ACMA. Staff had disclosed receiving gifts, benefits and hospitality from four suppliers (of which one supplier is also an industry body). Table 3.6 outlines these identified instances.

69 National Indigenous Australians Agency (NIAA) – NIAA Gifts and Benefits Register [Internet], item dated 26/10/2022 — \$100 'Dinner voucher' from 'eSafety Commissioner staff', NIAA, available from <https://www.niaa.gov.au/who-we-are/accountability-and-reporting/niaa-gifts-and-benefits-register> [accessed 5 March 2024].

**Table 3.6: Gifts accepted from external parties who were also awarded contracts or grants**

Supplier/grantee	Relationship with ACMA	Supplier contract period	Original value of contract	Total value of contract	Relevant variations	Gift date(s)	Reported gift item(s)	Reported gift value	Reported treatment	
The Architecture Practice	Contracted supplier of services to ACMA <sup>a</sup> (computer services)	1 July 2021 to 30 June 2024	\$80,960.00	\$1,872,112.00 <i>inclusive of 22 amendments</i>	7 December 2021	21 December 2021	Bottle of wine, chocolates and condiments.	\$80.00	Retained by staff	
						13 January 2023	13 December 2022	Christmas hamper, wine, chocolate, tea.	\$60.00	Donated to charity
						24 January 2023	5 January 2023	F1 diecast model (car) and helmet model.	\$80.00	Donated to charity
						N/A	18 December 2023	Christmas hamper, wine, chocolate, tea, gingerbread.	\$80.00	Donated to charity
TechnologyOne	Contracted supplier of services to ACMA <sup>b</sup> (software upgrade)	18 August 2022 to 17 August 2027	\$2,052,637.40	\$3,823,534.75 <i>inclusive of one amendment</i>	N/A	12 October 2022	TechnologyOne Showcase event of upcoming improvements	\$50.00	Retained (hospitality)	
Free TV	Contracted supplier of services to ACMA <sup>c</sup> (and media industry body)	11 April 2023 to 14 July 2023	\$363,814.00	\$383,614.00 <i>inclusive of one amendment valued at \$19,800.00</i>	15 June 2023	14 December 2022	Deputy Chair and CEO attend Free TV End of Year Industry Lunch	\$120.00	Retained (hospitality)	
						1 June 2022	Stakeholder engagement — CEDA Lunch	\$358.00	Retained (hospitality)	

Supplier/ grantee	Relationship with ACMA	Supplier contract period	Original value of contract	Total value of contract	Relevant variations	Gift date(s)	Reported gift item(s)	Reported gift value	Reported treatment
						6 September 2022	Stakeholder engagement — 2022 Free TV Industry Report Launch plus showbag	\$100.00	Retained (hospitality). Light blanket retained. The remainder donated to ACMA Social Club.
						6 September 2022	Stakeholder engagement — 2022 Free TV Industry Report Launch plus showbag	\$100.00	Retained (hospitality). Candle and notebook retained. The remainder donated to ACMA Social Club.
						14 December 2022	Free TV End- of-year Industry lunch	\$120.00	Retained (hospitality)
						16 March 2023	Stakeholder engagement lunch in Sydney	\$60.00	Retained (hospitality)
						6 July 2023	Complimentary lunch invitation to attend end of term event	\$120.00	Retained (hospitality)

Supplier/grantee	Relationship with ACMA	Supplier contract period	Original value of contract	Total value of contract	Relevant variations	Gift date(s)	Reported gift item(s)	Reported gift value	Reported treatment
Intelligent Business Research Services	Contracted supplier of services to ACMA (Strategic Advice Research) <sup>d</sup>	8 February 2022 to 7 February 2024	\$32,670.00	\$107,690.00 <i>inclusive of two amendments</i>	N/A	4 August 2023	Gifts — umbrella, drink bottle, notepad/pen	\$50.00	Retained

Source: ACMA Master Gifts, Benefits and Hospitality Register, information on ACMA contracts on AusTender (tenders.gov.au).

Note a: The Architecture Practice contract with ACMA: AusTender, *Contract Notice View – CN3789848* (inclusive of the 22 amendments) [Internet], available from <https://www.tenders.gov.au/Cn/Show/a16fdcef-bfac-4d4c-a7eb-b32d706d928e> [accessed 5 March 2024].

Note b: TechnologyOne contract with ACMA (software / SaaS Upgrade), AusTender, *Contract Notice View – CN3907731* [Internet], available from <https://www.tenders.gov.au/Cn/Show/00eeb977-1dff-4129-b580-1e66894278f9>, [accessed 5 March 2024].

Note c: Free TV Australia Limited contract with ACMA (TV Receiver Performance Testing): AusTender, *Contract Notice View – CN3964309* [Internet], available from <https://www.tenders.gov.au/Cn/Show/e97900f6-9a01-499d-acca-6ca563a71ada>, [accessed 5 March 2024].

Note d: Intelligent Business Research Services contract with ACMA (strategic advice research), AusTender, *Contract Notice View – CN3847604*, available from <https://www.tenders.gov.au/Cn/Show/169e4a31-4d9b-4b61-ba8d-76040cc72b0b>, [accessed 5 March 2024].

3.20 From the instances outlined at Table 3.6, the ANAO found two instances where a perceived or potential conflict could arise due to senior officials accepting hospitality and gifts during or immediately after tender and procurement processes. These instances include:

- An Authority member had attended an end-of-year lunch hosted by Free TV Australia<sup>70</sup> during an open tender period. Free TV Australia was successful in the tender and awarded a contract of \$383,614.<sup>71</sup> The Authority member was not a member of the procurement panel, and the PGPA delegate who approved the procurement evaluation report was the Chief Financial Officer.
- An official who was on the evaluation panel for The Architecture Practice procurement had accepted four gifts from the supplier between December 2021 to December 2023. On three occasions, the official had also approved a change order within one month of receiving the gift. The internal declarations submitted by the official stated that three of the gifts would be provided to ACMA's Social Club and one gift would be retained, consistent with ACMA's Official Hospitality and Business Catering Guide, due to the gifts being valued at below \$100 in each of the four instances. The original value of the supplier's contract was \$80,960 (in July 2021).<sup>72</sup> As at December 2023, the contract value (through 22 published amendments<sup>73</sup>) is \$1,872,112.<sup>74</sup>

3.21 ACMA's Official Hospitality and Business Catering Guide states that:

ACMA officials must not accept offers of hospitality, gift or benefit that may lead to a real or perceived conflict of interest or a perception that the ACMA is favouring the organisation. This includes: ... offers from entities tendering for services to the ACMA, subject to the ACMA investigations, participants in spectrum auctions, or any entities that could create a conflict of interest.

3.22 No disclosures of potential conflicts were evident in relation to the Authority member who attended the hospitality event hosted by Free TV, or in relation to gifts provided to the official by The Architecture Practice.

#### Opportunity for improvement

3.23 ACMA consider reviewing its quarterly declarations of gifts, benefits and hospitality to ensure that any actual or perceived conflicts of interest are formally declared in the conflicts of interest declaration process, with manager's approval of the approach to address the conflict of interest.

70 ACMA prior years' gifts, benefits and hospitality registers [internet], item dated 14/12/2022 described as 'Free TV end of year Industry Lunch', available from <https://www.acma.gov.au/previous-official-hospitality-gifts-and-benefits-registers> [accessed 26 February 2024].

71 Free TV contract as published by ACMA: AusTender, *Contract Notice View – CN3964309* [internet], available from <https://www.tenders.gov.au/Cn/Show/59a8e4a7-8b52-4ecd-866e-daebd507dff0> [accessed 26 February 2024].

72 The Architecture Practice contract information as published by ACMA: AusTender, *Contract Notice View – CN3789848* [internet], available from <https://www.tenders.gov.au/Cn/Show/a16fdcef-bfac-4d4c-a7eb-b32d706d928e> [accessed 26 February 2024]

73 *ibid.*, which lists 22 amendments from an original value of \$80,960.

74 *ibid.*

3.24 ACMA's Human Resources Guide – Identifying and Managing Conflicts of Interest does not specify the level of detail required from staff in relation to their declarations. The conflicts of interest policies say that 'financial interests, including shares' should be declared, however, they do not specify what entities or types of entities would be relevant to the declaration.

3.25 ACMA conflicts of interest declarations show that 40 officials (staff and SES officers) have declared that they own shares in regulated entities such as Telstra, a major telecommunications company regulated by ACMA. Of these disclosures, there were four instances where three staff and one SES officer did not disclose the value or quantity of the shareholdings.

3.26 For SES officers' disclosures, the People Management Instruction – Workplace Behaviour and Review document states that disclosures 'will be reviewed by the Chair who will discuss any issues raised and take appropriate action to manage the conflict of interest, including recording any agreed action with regard to identified conflicts.' One SES officer's disclosure relating to shares in a regulated entity identified that the disclosure was reviewed by the Authority Secretary rather than the Chair. On 3 April 2024, ACMA advised the ANAO that the Office of the ACMA Chair maintains a register of SES conflicts of interest. On 29 May 2024, ACMA provided an email from the Authority secretary to the Chair's stating that SES conflicts declarations for 2021 were ready for their review. There is no evidence that ACMA's Chair had reviewed the SES register of conflicts of interest for 2022 and 2023.

### Declarations of interests to the minister

3.27 Subsection 29(1) of the ACMA Act states that 'a disclosure by a member or associate member under section 29 of the PGPA Act (which deals with the duty to disclose interests) must be made to the Minister'.<sup>75</sup> The APSC's APS Values and Code of Conduct in Practice outlines that the APS Code of Conduct requires all employees to disclose details of any material personal interest of the employee in connection with their employment, and that this requirement is analogous with section 29 of the PGPA Act.<sup>76</sup>

3.28 Analysis of disclosures submitted to the Minister for Communications<sup>77</sup> found that not all personal interests declared by Authority members had been reported. On 16 February 2024, ACMA advised the ANAO that 'the Chair of the ACMA will assess, through discussions with the Member, the materiality of the [share] holding' to determine the items to be reported to the minister. The process for making this determination was not formally documented.

#### Opportunity for improvement

3.29 ACMA document and publish its process for how it assesses interest declarations made by Authority members for reporting to the portfolio minister under subsection 29(1) of the ACMA Act.

75 ACMA Act, subsection 29(1).

76 APSC, *APS Values and Code of Conduct in Practice* [Internet], section 5 — Conflicts of Interest, paragraph 5.1.6, available from <https://www.apsc.gov.au/publication/aps-values-and-code-conduct-practice/section-5-conflict-interest> [accessed 27 February 2024].

77 ACMA reported to the Minister for Communications, Urban Infrastructure, Cities and the Arts in 2021 and to the Minister of Communications from 2022.

### Timeliness of declarations of gifts, benefits and hospitality

3.30 ACMA's Official Hospitality and Business Catering Guide requires all staff to make declarations of gifts, benefits and hospitality within 14 days, while the APSC Guidance requires declarations to be made within 31 days.

3.31 Analysis of ACMA's compliance with these declaration timeframe requirements is outlined in Table 3.7.

**Table 3.7: ACMA compliance with declaration timeliness requirements**

	Percentage of declarations made within the required timeframe (%)	Percentage of declarations not made within the required timeframe (%)
Declarations of gifts, benefits and hospitality made within 14 days (ACMA policy framework)	57.55	42.45
Declarations of gifts, benefits and hospitality made within 31 days (APSC Guidance)	84.17	15.83

Source: ACMA and the eSafety Commissioner internal gifts, benefits and hospitality register.

### Pre-approving the acceptance of hospitality above the \$300 threshold

3.32 ACMA's Official Hospitality and Business Catering Guide requires all staff to obtain the delegate's pre-approval before accepting hospitality valued at above \$300. Between 1 July 2021 and 30 September 2023, there were six instances of hospitality valued at above \$300 accepted and declared by ACMA staff, where one instance was pre-approved, two instances were attended by a delegate, and three instances that were not pre-approved in accordance with ACMA's Official Hospitality and Business Catering Guide. In one instance involving an Authority member, the official hospitality declaration form noted that while the delegate was aware of the event and the event was verbally approved at an Authority meeting before the event, written pre-approval was not sought from the delegate because the value of the event was determined to be in excess of \$300 after the event. The acceptance of two tickets to a fundraising event from the AFL which were reported as \$150.00 would have required written pre-approval from ACMA's Chair or Deputy Chair/CEO as the market value of these tickets was \$1,000 each.

### Provision of official hospitality

3.33 ACMA's Official Hospitality and Business Catering Guide states that officials must not enter into an arrangement to provide any hospitality, gift or benefit or incur business catering expenses unless they have been delegated to do so and the proposed expenditure is within their delegation. A review of ACMA's internal gifts register identified seven instances where the provision of official hospitality had been declared. In two of these instances a delegate was attending the event and four instances were pre-approved. In one instance the approval date from the delegate as recorded in the register is after the event which is not compliant with ACMA's requirements.

### Recommendation no. 3

3.34 Australian Communications and Media Authority establish governance and reporting arrangements to monitor and enforce its policy requirements for compliance with gifts, benefits and hospitality that include the completion of:

- declarations of offers, acceptance and the provision of gifts, benefits and hospitality within the stipulated time according to ACMA's policy framework and delegations;
- mandatory training; and
- conflicts of interest declarations and management of actual or potential conflicts.

**Australian Communications and Media Authority response:** *Agreed.*

3.35 *The ACMA notes its current stipulated policy for declaration of 14 days is below the current APSC best practise reporting threshold of 31 days. The ACMA has updated its current policy to align with the APSC best practice reporting requirements and will increase the frequency of monitoring and enforcement to ensure ongoing ACMA and eSafety staff's compliance with policy.*

3.36 *The ACMA will review current processes for tracking and monitoring the compliance levels of ACMA and eSafety officials in completing the mandatory e-learning training, with a view to increasing reporting to managers on non-compliance. The ACMA will supplement the process further through quarterly compliance reporting to ACMA and eSafety branch managers.*

3.37 *The ACMA and eSafety will establish processes to cross reference the results from Public Governance Performance and Accountability (PGPA) Management Assurance surveys with entries recorded in the Official Gifts and Benefits Register and Conflict of Interest declarations. Reporting will be established on a biannual basis to coincide with the PGPA Management Assurance processes. Reporting will be provided to the Audit and Risk Committee to inform its consideration of the ACMA's and eSafety's systems of risk management and internal control. Improved documentation of the assessment of Conflict of Interest declarations is currently being implemented.*

### Does ACMA have effective detective controls for the management of gifts, benefits and hospitality?

ACMA has established detective controls through its bi-annual PGPA Management Assurance Survey and quarterly reminders to relevant officials as the key mechanisms to detect non-compliance with its policy requirements. ACMA's quarterly email reminders and conflicts of interest declaration process support detection for its management of gifts, benefits and hospitality requirements.

### PGPA Management Assurance Survey

3.38 ACMA requires SES officers to complete a bi-annual PGPA Management Assurance Survey (survey). The survey includes a question on non-compliance with gifts, benefits and hospitality requirements. The survey aims to detect instances of gifts, benefits and hospitality that may not have been previously reported. On 26 March 2024, ACMA advised the ANAO that the survey is based on a self-assessment and the accuracy of responses is not reviewed. Any exceptions from the



survey are reported to the ACMA Chair. For five (of the 19) instances of undeclared items identified by the ANAO, the relevant SES officer did not report non-compliance via their responses to the survey. Details of the 19 instances of undeclared items are outlined in paragraphs 3.12 to 3.14.

### **Other detective controls**

3.39 As outlined at paragraph 3.10, ACMA sends a quarterly email to executive assistants for SES officers, and secretariat support staff of the Authority, seeking declarations in line with the quarterly reporting requirements. The quarterly email reminder supports ACMA to detect gifts, benefits and hospitality that may not have been reported within its 14-day timeframe.

3.40 As outlined in paragraphs 3.15 and 3.16, ACMA's conflict-of-interest declaration processes also support the detection of potential conflicts that may not have already been disclosed or declared through the gifts, benefits and hospitality reporting process. Improved conflicts of interest processes could support the detection process. Issues relating to undeclared items have been outlined in paragraphs 3.12 to 3.14.

### **Does ACMA have effective processes for managing identified non-compliance?**

When non-compliance with gifts, benefits and hospitality policy requirements is identified, ACMA seeks the staff member involved to make the declaration for collation and publication, where applicable, onto the gifts, benefits and hospitality register on ACMA's website.

3.41 ACMA's process for identifying non-compliance is its quarterly emails to executive assistants supporting SES officers and Authority members, and administration officers, to remind officials to submit their declarations for gifts, benefits and hospitality. The timing of the quarterly email reminders aligns with the quarterly public reporting requirement in the APSC Guidance. These quarterly reminders have assisted ACMA in engaging senior executive support staff in reviewing declarations and identify items that have not been declared. There have been other instances where staff have self-identified at a later point in time, that they had not submit a gift, benefit or hospitality declaration. ACMA's process for identified non-compliance involves enforcing the policy requirement for recipients or providers of gifts, benefits and hospitality to document the matter in a declaration and seek the appropriate delegate's approval. Where these items are estimated to be over \$100, these are publicly reported through the gifts register in line with the APSC Guidance.

3.42 As outlined at paragraph 3.38, ACMA uses the bi-annual PGPA Management Assurance to report and detect non-compliance with obligations and reports exceptions to the Chair. On 26 March 2024, ACMA advised that the bi-annual reports are also provided to the Audit and Risk Committee (ARC). The ARC reviews the PGPA Management Assurance survey year-end report as part of reviewing ACMA's financial statements.

3.43 As outlined at paragraph 2.44, ACMA does not have processes for identifying potential conflicts of interest that may have arisen in the gift recipient's decisions, such as regulatory, investigatory, grant or procurement decisions related to the gift provider.

## Has ACMA implemented a sound and evidence-based assurance framework for gifts, benefits and hospitality?

The ACMA Chair reviews the quarterly gifts, benefits and hospitality register and approves its publication on ACMA's website. These declarations are reliant on staff knowing the declaration requirements within ACMA's Official Hospitality and Business Catering Guide or from having received the quarterly reminder emails, rather than assurance arrangements that validate control effectiveness for its gifts, benefits and hospitality requirements.

3.44 The ACMA Chair reviews the quarterly gifts, benefits and hospitality register and approves its publication on ACMA's website.

3.45 ACMA's management of gifts, benefits and hospitality does not include internal reporting for management on control effectiveness. Further, there is no enforcement of control requirements for mandatory training (paragraphs 3.2 to 3.4) and for conflicts of interest declarations (paragraphs 3.15 to 3.22). The policy requirements did not have assurance arrangements to monitor training completion rates and conflicts of interest declaration completion rates. There has been no specific management reporting about control effectiveness and enforcement to support assurance over ACMA's policy compliance.

3.46 As outlined at paragraph 2.44, ACMA does not have review processes for its gifts register to assess the conflicts of interest risk associated with offerors. For example, a gift offeror may be directly linked with a grantee, supplier or a regulated entity. As a result, there is no risk-based reporting or discussion undertaken at the senior management level about the potential impact of gifts, benefits and hospitality. This also limits the effectiveness of controls supporting conflicts of interest and gift management.

3.47 ACMA requires SES officers to complete a bi-annual PGPA Management Assurance Survey. The survey includes a question about compliance with gifts, benefits and hospitality requirements. Non-compliance with gifts, benefits and hospitality requirements has not been detected by the assurance survey for the period reviewed during the audit. On 26 March 2024, ACMA advised the ANAO that the survey is based on a self-assessment and the accuracy of responses are not reviewed. Any exceptions from the survey are reported to ACMA's Chair.

3.48 ACMA does not maintain assurance mechanisms to monitor the active management of declared conflicts from being offered or accepting gifts, benefits and hospitality; or from other potential conflicts (such as 40 ACMA staff having declared that they own shares in regulated entities).



Rona Mellor PSM  
Acting Auditor-General

Canberra ACT  
25 June 2024

# Appendices

## Appendix 1 Entity response



Australian  
Communications  
and Media Authority

**Chair and Agency Head**

Ms Rona Mellor PSM  
Acting Auditor-General for Australia  
Australian National Audit Office  
GPO Box 707  
Canberra Act 2601

ACMA file reference:

Dear Auditor-General

### **Audit Report on Compliance with Gifts, Benefits and Hospitality**

Pursuant to section 19 of the *Auditor-General Act 1997*, I refer to the Australian National Audit Office's (ANAO's) correspondence dated 20 May 2024 providing the Australian Communications and Media Authority (ACMA) the proposed audit report (the Report) on Compliance with gifts, benefits and hospitality for comment.

The ACMA, including the Office of the eSafety Commissioner (eSafety), acknowledges the ANAO's findings and agrees with, and has already taken steps to implement, the three recommendations identified in the Report.

As a regulatory agency, the ACMA must maintain the highest standards of integrity and be transparent to its regulated entities and the Australian public. We therefore intend to implement all the additional opportunities for improvement identified in the Report to strengthen our policies, processes, and guidance in line with government best practice.

I remain committed to strengthening our controls for managing the risks associated with the giving and receiving of gifts, benefits and hospitality, including managing real and perceived conflicts of interest. Actions arising from the ANAO's audit will include improved processes to ensure compliance with updated internal policies, additional reviews and cross-checking to avoid omissions and errors and better documentation of the assessment of conflicts of interest and actions to be taken where conflicts are identified.

I would like to thank the ANAO audit team, who were professional and collaborative during their engagement with our staff. The ACMA's response to the three audit recommendations is provided separately for inclusion in the audit report.

Yours sincerely

Nerida O'Loughlin PSM  
17 June 2024

Encl: Attachment A – ACMA, including the Office of the eSafety Commissioner, Response to ANAO Audit Report

---

PO Box 78, Belconnen ACT 2616  
OfficeoftheChair@acma.gov.au | acma.gov.au

## Appendix 2 Improvements observed by the ANAO

1. The existence of independent external audit, and the accompanying potential for scrutiny improves performance. Improvements in administrative and management practices usually occur: in anticipation of ANAO audit activity; during an audit engagement; as interim findings are made; and/or after the audit has been completed and formal findings are communicated.

2. The Joint Committee of Public Accounts and Audit (JCPAA) has encouraged the ANAO to consider ways in which the ANAO could capture and describe some of these impacts. The ANAO's Corporate Plan states that the ANAO's annual performance statements will provide a narrative that will consider, amongst other matters, analysis of key improvements made by entities during a performance audit process based on information included in tabled performance audit reports.

3. Performance audits involve close engagement between the ANAO and the audited entity as well as other stakeholders involved in the program or activity being audited. Throughout the audit engagement, the ANAO outlines to the entity the preliminary audit findings, conclusions and potential audit recommendations. This ensures that final recommendations are appropriately targeted and encourages entities to take early remedial action on any identified matters during the course of an audit. Remedial actions entities may take during the audit include:

- strengthening governance arrangements;
- introducing or revising policies, strategies, guidelines or administrative processes; and
- initiating reviews or investigations.

4. During the course of the audit, the ANAO observed that ACMA had initiated a review of its Strategic Risk Register and controls to manage integrity risks.