

# Preventing Unexpected High Bills: Credit Management in the Telecommunications Industry

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An ACA discussion paper regarding credit management measures that the telecommunications industry has in place or is developing to address unexpected high bills for carriage or content services.

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*The Australian Communications Authority is  
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# **I Introduction**

## **I.1 Background**

In recent years the range of content and carriage services provided by carriage service providers (CSPs) in the telecommunications industry has been ever expanding. New services are constantly appearing, many of which raise a considerable potential for customers to receive bills at a level well beyond those traditionally associated with a fixed telephone service. Broadband services, premium short message service (SMS), multi-media messaging (MMS) and proprietary content services provided over mobile networks are relatively recent service options, at least in terms of widespread usage or take-up. M-Commerce is another emerging service which could result in high bills in short time periods. When these services are added to the more consolidated telecommunications services, such as mobile, dial-up Internet and premium voice services, it is possible for consumers who receive or use these services to run up a high telecommunications bill for what may be considered an average usage of each respective service.

Concerns about credit management in the telecommunications industry have been expressed for a number of years, with much attention being directed to services with high bill volatility. A particular concern has been the potential for consumers with a dial-up Internet connection to rapidly run-up a high bill when accessing a service through an Internet dialler, which is connected to a service incurring a high call charge rate. This discussion paper examines these services in some depth, and sets out actions taken by the industry to address the problem of unexpected high bills on these services. However, recent experience with emerging services such as premium rate SMS indicates that bill volatility is becoming more widespread, with premium SMS sometimes being charged at rates of \$5 per transaction, compared with 25 cents or lower for standard SMS.

As discussed in more detail in this paper, the former Minister for Communications, Information Technology and the Arts (the 'Minister') directed the ACA to report to him by 13 October 2004 on the credit management measures that the telecommunications industry has in place or is developing to address unexpected high bills for carriage or content services. The ACA is required to report on specific credit management measures, such as the offering of credit or billing limits. Each of these measures is referenced in this discussion paper and comment is sought on the appropriateness and effectiveness of the measure as a credit management option for consumers. Comment is also sought on the relative importance of each credit management measure within the broader context of all available measures offered by industry or those intended for the near future.

The ACA is particularly interested in views on the appropriateness of the approach to credit management of the telecommunications industry when compared to that of other industries, such as the banking sector. For example, customers of some telecommunications companies are able to run up bills of many thousands of dollars, where on many occasions considerably lower credit limits would apply to such

expenditure if made through a credit card. This issue is discussed in section 4.5.1 of this paper.

Another area of interest is whether a different credit management approach should be adopted for different types of service, dependent on how essential a service is to consumers. For example, the 'standard telephone service' is specified in 'universal service' telecommunications legislation as a service of such importance that it should be reasonably accessible to all people in Australia on an equitable basis, wherever they reside or carry on business. This paper seeks comment on whether it is appropriate to adopt a generic credit management approach to telecommunications services that will potentially deny access to this essential service, as a consequence of ineffective credit management of high cost but arguably less essential services, such as premium rate services.

Finally, the ACA is interested in exploring whether the widespread use of mobiles by young people, combined with their lack of experience in contractual arrangements or consumer rights and higher costs for mobile use compared to fixed phone services, is significantly increasing youth phone debt.

The Minister's direction requires the ACA to report on the adequacy of the credit management measures implemented by industry and whether any additional regulatory measures may be desirable to address the problem of unexpected high bills for carriage and content services. Consistent with the focus of telecommunications legislation in encouraging industry self-regulation, the ACA encourages the telecommunications industry to develop a comprehensive strategy and suite of measures to address the fundamental consumer issue of effective credit management. Submissions are sought from industry that detail how the required credit management outcomes will be delivered to consumers. The clear implication of an ineffective response from industry will be a recommendation to the Minister that the ACA develop an industry standard, with the prescriptive outcomes that such an approach would achieve.

Issues of 'hardship' are touched on in the paper in discussing those who might be described as 'vulnerable' to unexpected or excessive high bills and in relation to the approach of the financial services sector to credit management. However, the ACA notes that the Minister has not sought advice on current post debt actions taken by providers nor existing hardship policies and thus the ACA is not seeking comments on hardship issues in submissions.

The Consumer Interests Team of the ACA is separately working with industry participants to facilitate the development of comprehensive policies to ensure that customers experiencing financial hardship have access to processes and procedures that will enable continued access to services. This work is in its early stages and will also include the development of a package of information materials to assist customers experiencing financial hardship.

## **1.2 Minister's direction**

Following consideration of the sorts of issues raised above, on 13 April 2004, the Minister made the *Australian Communications Authority (Service Provider Determination) Direction 2004 (No.1)* (the Direction). The Direction has three key elements:

1. The ACA is required to make a service provider determination setting out a number of rules to be complied with by carriage service providers. These rules will require provision of information to customers of 190 or international premium services on the risks of accruing high bills associated with those services and actions that customers can take to avoid unexpectedly high bills. The ACA issued the *Telecommunications Service Provider (Premium Services) Determination 2004 (No.1)* on 19 May 2004.
2. The ACA is required to make a similar determination to that described in (1). This determination must set out a number of rules to be complied with by carriage service providers requiring provision of information to customers about premium services available on the 191, 193, 194, 195, 196, 197 and 199 number ranges and on proprietary networks accessed using mobile devices. Carriage service providers will be required to inform their customers of the risks of accruing high bills associated with those services and actions they can take to avoid unexpectedly high bills. A discussion paper on this Determination was released on 22 June 2004, which is the subject of a separate consultation process.
3. The ACA must investigate and report to the Minister by 13 October 2004 on actions taken by carriage service providers to address Internet dumping involving the use of geographic or international numbers and credit management measures the telecommunications industry has put in place or is developing to address the issue of unexpected high bills for carriage or content services.

**The focus of this discussion paper is the investigation mentioned at item (3).**

A copy of the Direction is provided at Attachment B and the accompanying letter from the Minister to the ACA is at Attachment A.

### **1.3 Purpose of this discussion paper**

The ACA is seeking written submissions from industry participants, regulatory and consumer bodies and other interested parties on the issues and options set out in this discussion paper.

This discussion paper seeks to identify the central issues to be considered prior to the ACA making its recommendations to the Minister and sets out the background material intended to help stimulate consideration of these issues. Submissions are welcome from all interested persons.

The ACA will consider all submissions before making its report to the Minister.

### **1.4 Submissions**

Submissions must be in writing. They may be in the form of letters or emails, or more substantial documents.

### **1.5 Closing date for submissions**

The closing date for submissions is close of business, **Monday 13 September 2004.**

## **1.6 Contact information to be included in submissions**

All submissions must clearly identify:

- the name of the party making the submission;
- the organisation or interest group represented by the submission (where relevant); and
- the contact details—including telephone number, facsimile number, postal address and email address (if available).

## **1.7 Confidentiality of submissions**

The ACA will treat all submissions as public submissions (ie. non-confidential information). Parties claiming confidentiality are requested to clearly mark their submissions (or parts thereof) as such and to separately provide written reasons supporting their claim for confidentiality.

Any party may provide separate ‘public’ and ‘commercial in confidence’ submissions but should note all submissions provided will be subject to the *Commonwealth Freedom of Information Act 1982*, which means they may be wholly or partially exempt depending upon the nature of the information contained in the submission.

## **1.8 Address for submissions and additional contact information**

All submissions are to be forwarded to the following address:

Manager  
Mobile Content & Credit Management Project Team  
Australian Communications Authority  
PO Box 13112  
Law Courts  
MELBOURNE VIC 8010

Submissions can be lodged electronically to **[creditmanagement@aca.gov.au](mailto:creditmanagement@aca.gov.au)**

*Note: The ACA prefers attachments in Microsoft Word 2002 but can convert other formats if necessary.*

## **1.9 Further information**

For more information about the issues canvassed in this discussion paper, contact Mark Dossetor on tel: (03) 9963 6995, or Andrew Westmorland on tel: (03) 9963 6959, or email [creditmanagement@aca.gov.au](mailto:creditmanagement@aca.gov.au).

For more information about the federal government’s policy on premium services and related issues, see the Department of Communications Information, Technology and the Arts’ (DCITA) website at [www.dcita.gov.au](http://www.dcita.gov.au), using the easyfind keyword ‘premium services’.

## **1.10 Glossary of definitions**

### **Asymmetrical Digital Subscriber Line (ADSL)**

ADSL provides a high speed digital link using the existing copper telephone cables. It can provide voice, facsimile and 24 hour high speed internet access from a single telephone line.

### **Australian Communications Industry Forum (ACIF)**

ACIF is an industry body which implements and manages communications self-regulation within Australia. Its primary role is to develop and administer technical Standards and Industry Codes and provide Industry Facilitation services that promote both the long-term interests of end-users and the efficiency and international competitiveness of the Australian communications industry.

### **Broadband Internet**

High speed Internet services via ADSL, cable or satellite. The connection speed of these services is usually much higher than that of a basic dial-up connection, and most forms of broadband Internet allow simultaneous use of the existing telephone service.

### **Carriage Service Provider (CSP)**

A CSP is a person who supplies or proposes to supply, certain carriage services.

### **Carrier**

A carrier is the holder of a carrier licence issued by the Australian Communications Authority.

### **Dial up Internet**

A computer dialling up the telephone number of an ISP, via a modem through the PSTN, for a temporary connection to permit access to the Internet.

### **Integrated Services Digital Network (ISDN)**

An ISDN is a network which incorporates a number of digital transmission services including speech, data and facsimile.

### **Internet Service Provider (ISP)**

An ISP is a CSP which supplies a carriage service which enables an end user to access the Internet.

### **Premium Services**

Premium services are defined in the *Telecommunications Regulations 2001* as:

- (a) a carriage service or content service using a number with a prefix starting with '190';
- (b) a carriage service used to supply:
  - (i) a content service; or
  - (ii) another service by way of a voice call....using a number that includes an international access code.

On 13 April 2004 these regulations were amended to effectively include carriage or content services supplied by way of a call to numbers with prefixes commencing with 191; 193-7 or 199, or a public mobile telecommunications service that enables an end user to access a proprietary network.

Charges for domestic premium services can be at a fixed rate or per minute rate. Such services can include live information, sports results, astrology services, competitions and recorded voice services. International premium services are charged at the normal international direct dialling (IDD) timed accounting rates applicable to the destination. They offer a variety of information and entertainment but the majority of these services are adult entertainment and information only.

### **Public Switched Telephone Network (PSTN)**

Public telecommunications network operated by a carrier to provide services to the public.

### **Telecommunications Industry Ombudsman (TIO)**

The TIO is an industry alternative disputes resolution body responsible for resolving complaints about the standard telephone, a public mobile telecommunications service or a carriage service that enables an end user to access the internet.

### **Telecommunications Information Service Standards Council (TISSC)**

TISSC is an industry self regulatory body that set standards for the content and advertising of 190 premium rate services through its Code of Practice.

### **Telecommunications Numbering Plan**

A plan produced by the Australian Communications Authority for the numbering of carriage services in Australia and the use of numbers in connection with the supply of such services.

*\* Other definitions are contained in the Minister's Direction at Attachment B.*

## 2 ACA position statement

This discussion paper provides a broad overview of credit management arrangements currently in place in the telecommunications industry. These arrangements vary substantially between CSPs, with arguably the most effective tools and timely information being provided by CSPs with newer and less comprehensive billing systems (for example, mobile carriers that don't bill for fixed or broadband services as part of the one bill.)

A number of CSPs have indicated in discussions with the ACA that more flexible and innovative billing and credit control systems are 'in the pipeline'. It is considered likely that such systems will emerge in the next few years—largely because of competitive pressures—although it is by no means certain that these systems will contain a comprehensive suite of credit management tools for consumers. The ACA considers that it is critical that the development of these new systems contain these tools, such as expenditure warnings and 'hard' caps that control cyclical expenditure (whether determined by the CSP or the customer).

The ACA is reluctant to promote a credit management solution that in effect prescribes billing system requirements. Such an approach has the potential to distort the marketplace by inhibiting innovation and through promoting solutions that inevitably favour some CSPs—whose systems are more amenable to modification or already contain the prescribed requirements—over CSPs operating in a different system development phase or focus.

Despite the ACA's preference to allow the industry to self-regulate, it seems inappropriate to allow consumers to run up extremely high bills—'unexpected' in many cases—where they would not be allowed to run up large amounts of credit in other market sectors. It is important that the industry introduces credit management practices that align more directly with those provided in sectors such as the financial services industry in order to protect consumers.

An important driver for improved credit management is the development of more sophisticated debt management tools. In the development of this discussion paper, a number of CSPs indicated that their debt management had improved in recent years, with the consequent outcome that customers were not running up the same large amounts of debt as had occurred in previous years. Many CSPs stated they now have debt management teams that work around the clock tracking customer expenditure, in order to take action when specified parameters are reached, such as expenditure well above normal patterns. To counterbalance these statements, however, the Telecommunications Industry Ombudsman (TIO) has noted that:

while some companies have systems in place to catch high-unexpected bills, each such case is subsequently placed in a queue to be manually assessed prior to barring or customer contact being made. This means that there is often a delay in taking steps to reduce a customer's exposure to debt.

The ACA considers that a multi-pronged industry strategy is required in order to prevent consumers from receiving unexpected high bills, which will involve:

- more sophisticated and effective credit management tools, which will also be required by industry to better align the management of credit availability with the availability of credit in other market sectors;
- more efficient industry debt management practices;
- the provision of instructive, targeted information to consumers on ways to control their expenditure, with a particular focus on the burgeoning youth market for mobile services; and
- a co-ordinated, effective industry approach to ‘internet dumping’ (discussed in section 3).

The ACA is seeking comments from interested parties on the appropriateness of the elements of this strategy and how it might best be achieved.

### 3 Internet dumping

Internet dumping or ‘modem jacking’ takes place when, unknown to the user, an Internet dialler within a customer’s equipment under direction from an Internet service disconnects the user from their Internet service provider (ISP), which is usually accessed using an untimed local call, and then reconnects the user to a 0011 international number in a distant country which has a high calling charge.

An Internet dialler is a piece of software that is either automatically downloaded to the user’s computer from a website or one the user agreed to download by clicking on an icon or radio button on the screen.

Internet dumping or ‘modem jacking’ is restricted to dial up modems and does not apply to broadband users. A broadband user could potentially be subject to modem jacking if they had a dial up modem connected as a back up.

Many websites ask the user to give their permission before being transferred to a more expensive call, but this request can be hidden amongst promises of access to new or free content or the site is busy with pop up windows or banners confusing the user. In these circumstances, the user can unknowingly agree to conditions that have transferred them to an international number.

The Telecommunications Industry Ombudsman (TIO) investigates complaints about charging for fixed, mobile and Internet services, including investigating complaints concerning Internet diallers. The TIO is an office of last resort and requires consumers to attempt to resolve their complaint with their CSP or ISP before a complaint is investigated.

The Telephone Information Services Standards Council (TISSC) also has a role with Internet dialler complaints, as described below. TISSC is an industry self regulatory body that sets standards for the 190 premium rate services industry through its Code of Practice (the TISSC code). TISSC assesses complaints about alleged breaches of the TISSC code that relate to the message content and advertising of domestic telecommunications services with the prefix 190.

The TIO investigates complaints about Internet dumping, although it has found few cases of verified dumping. Where the TIO has investigated and was able to visit websites—usually adult websites, or games and music websites—he has generally discovered that there was some form of notice on the website advising the user that higher call charges could be expected.

When the TIO receives Internet dialler complaints relating to premium rate services on the 190 prefix, these complaints are referred to TISSC if they concern insufficient information being provided on call charges. In such cases the TIO will refer the complainant to the telephone provider that has billed them for the 190 charges to register a complaint in relation to the disputed amount, and also to TISSC for confirmation that the website complied with the TISSC code.

Complainants are also advised that they can recontact the TIO once TISSC's investigation is complete if they are not satisfied with the outcome.

The TIO has received complaints about Internet diallers operating on both 190 prefix number ranges and international numbers. A significant number of complaints about the 190 prefix numbers were received by the TIO until Telstra withdrew Internet diallers from 190 prefix number ranges in September 2003. Until that time, there were relatively few complaints about Internet diallers on international number ranges.

The TIO's March 2004 quarterly bulletin, *TIO Talks*, reported that this situation has significantly changed.

Not surprisingly complaints about dumping to 190 numbers (190 data complaints) declined significantly this quarter, down from 1,173 in September to 417. Telstra ceased carriage of data services via 190 numbers in September 2003 and there is clear evidence that some Internet diallers moved offshore to avoid prospective price capping of these services. So, we can expect complaint numbers in this category to continue to decline steadily over time.

By way of contrast, complaints about dumping to international numbers (international data complaints) rose dramatically in this quarter, from just 85 in the September quarter to 736 in the December quarter.

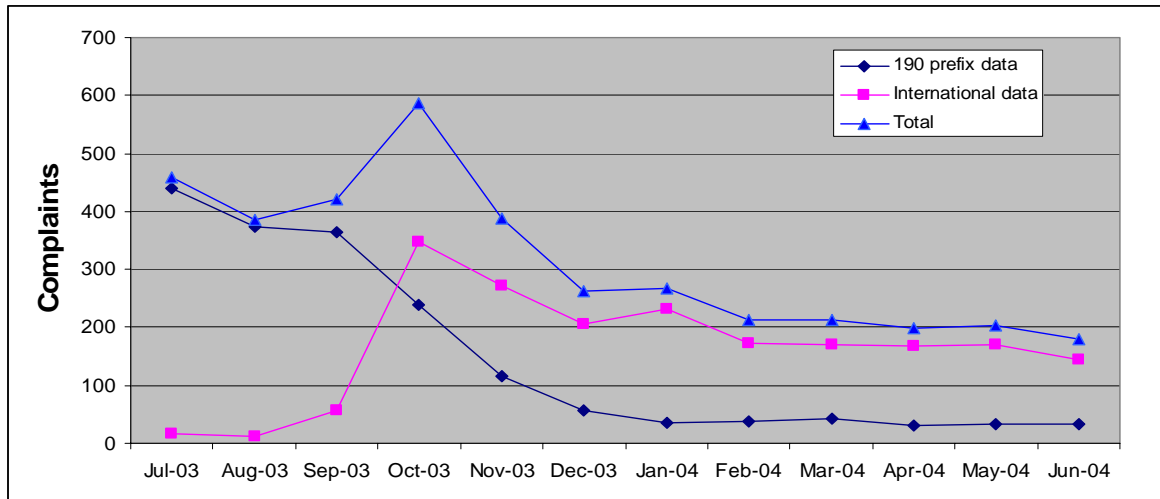
The TIO has issued advice on Internet dumping and the actions that a customer can take to prevent Internet dumping as well as a position statement setting out how he will deal with complaints about Internet dumping. This information can be accessed from the TIO website at [www.tio.com.au](http://www.tio.com.au).

Figure 1 shows the contrasting situation with Internet dialler complaints on the 190 prefix and international number ranges. The number of 190 prefix Internet dialler complaints in 2003-04 was 1807, compared with 1969 complaints concerning international numbers. While the number of 190 prefix Internet dialler complaints has decreased significantly from October 2003 onwards—TISSC data in Figure 3 indicates a particularly rapid decrease from around this time—the number of international Internet dialler complaints to the TIO increased over the last nine months of the year compared to previous complaints levels. However, TIO complaints concerning international Internet diallers have not attained the level of 190 prefix Internet dialler complaints in the July to September 2003 period, and have remained constant at around 170 complaints per month for the last six months of the year.

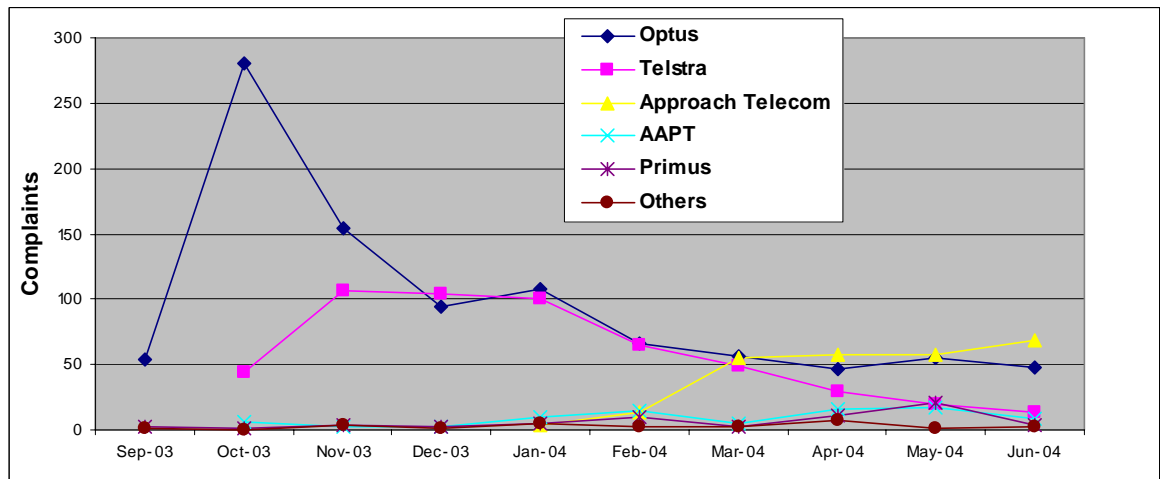
While this trend suggests that complaints concerning international numbers are unlikely to reach the level of 190 prefix complaints that occurred prior to Telstra withdrawing Internet diallers from the 190 prefix number ranges in September 2003, this assumption is dependent on there being no significant change in the activities of carriers, consumers and international content providers. However, a break-down of TIO data on international Internet dialler complaints by CSP over the period 1 September 2003 to 30 June 2004 (Figure 2) indicates that there is a considerable variation in the number of complaints between providers, with one provider emerging over this period as a significant source of complaints.

This volatility suggests that there is considerable scope for international Internet dialler complaints to continue to be a significant complaints problem and cause of unexpected high bills. The ACA will continue its ongoing monitoring of international Internet dialler complaints and will undertake additional monitoring where appropriate to determine future trends. One factor that is likely to diminish such complaints over time, however, is the increasing substitution of broadband services for dial-up Internet services. (As stated previously, Internet diallers do not operate on broadband services.)

**Figure 1: Monthly TIO Internet dialler complaints; 2003-04**



**Figure 2: Monthly TIO international Internet dialler complaints by CSP; Sept. 2003 to June 2004**

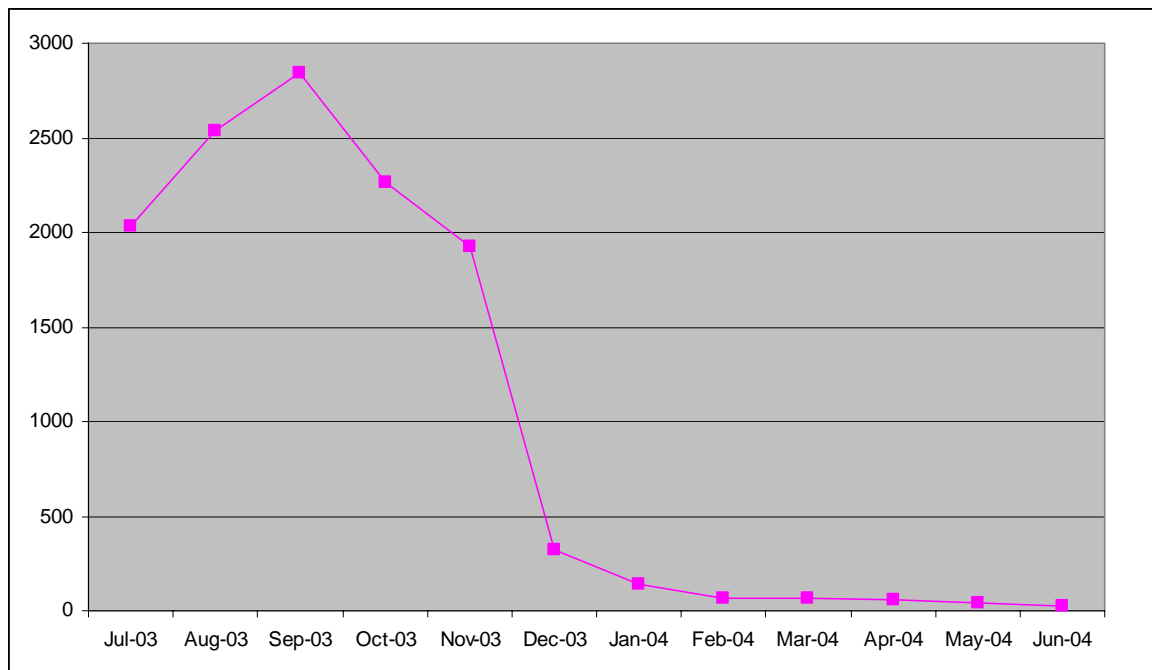


Member	Total Complaints - Sept 2003 to June 2004
Optus	963
Telstra	529
Approach Telecom	256
AAPT	84
Primus	64
Others (14 CSPs)	28

Note: Published TIO quarterly complaints numbers may differ from monthly figures in Figure 2, due to complaints being escalated, upgraded or downgraded in subsequent months- as such the figures provided are indicative only

Figure 3 illustrates the high level of Internet dialler complaints until December 2003 recorded by TISSC for 190 prefix services, followed by a rapid decrease of complaints for the remainder of the 2003-04 financial year. There was an average of 2,320 complaints per month in the five months between July and November 2003. Complaint numbers peaked at 2,840 complaints in the month of September 2003, which coincided with Telstra's withdrawal of Internet diallers on the 190 prefix number range during that month. While complaint numbers remained high in the two months following the withdrawal of Internet diallers, complaint numbers dramatically declined to an average of 51 complaints per month in the five months between February and June 2004. Internet dialler complaints on 190 prefixed numbers are expected to cease early in 2004-05.

**Figure 3: Monthly TISSC 190 prefix Internet dialler complaints for 2003-04**



Because Internet diallers are operating overseas they are largely outside the regulatory control of the Australian Government. Solutions to Internet dumping have been restricted to customer and CSP initiated actions. A customer can request their CSP to bar all international calls, use PIN access to turn their international call access on and off as required and can also install computer software to prevent access to certain sites associated with Internet dumping. (The operation of a call barring and PIN access for telecommunications services in general is discussed in more detail in section 4.7 of this paper.) A CSP is able to offer barring of all international number ranges for a customer and some CSPs are able to bar access to over-ride codes. Over-ride codes use the prefix 14xx, which, when dialled prior to an international access code such as 0011, enable the customer to use another CSP's network on a call by call basis. These codes cannot be used to access 190 numbers.

While barring of a customer's service to all international calls may seem the simplest solution, it is not always convenient to adopt this practice since a customer's service may provide access to both international voice calls as well as the dial up modem Internet connection. PIN access control is available from some CSPs for a monthly fee. It allows the customer to lock their phone so no one else can use it without the customer first unlocking the phone. PIN access is only effective where the PIN is used after an international call is concluded to ensure that the bar to international calls is re-established. Forgetting to re-establish the bar by using the PIN can allow international calls to be made from the service.

In early October 2003 Optus became aware that its over-ride code was being used by international Internet dialler services in Diego Garcia. This circumstance resulted in a number of complaints to Optus from customers concerning bills for services they believed they had not authorised, where these customers were preselected to another telephone company for their long distance calling. Optus discovered that some overseas Internet diallers had programmed the Optus over-ride code into their dialler software, with the customer in many cases not being aware of this programming. On 16 October 2003, Optus barred all direct dial calls to Diego Garcia to prevent the misuse of its over-ride code (operator connected calls were still available). (Figure 2 illustrates the high level of International Internet dialler complaints recorded by the TIO concerning Optus in October and November 2003, although not all of these complaints would relate to use of the over-ride code.)

In response to various international Internet dialler operations, Optus barred all direct dial calls to Guinea-Bissau and Sao Tome & Principe on 1 December and 5 December 2003 respectively. As of July 2004, Optus has also barred direct dial access to specific number ranges in the following 21 countries: Ascension, Canada, Central African Republic, Comoros Islands, Cook Islands, Dominican Republic, Estonia, Gambia, Guyana, Hong Kong, Liechtenstein, North Korea, Madagascar, Moldova, Panama, Sakhalin, San Marino, Spain, Tokelau, the United Kingdom and Vanuatu.

The high number of countries from which Internet diallers are generating complaints from Australian customers indicates the difficulty of controlling this activity. Optus has advised that Internet diallers are increasingly operating from higher traffic destinations than previously, making it harder to detect unusual traffic flows and more difficult and costly to implement remedial solutions, such as operator connect arrangements. International Internet dialler operators are often highly mobile, moving rapidly from one number range to another, compounding the difficulty of taking action to prevent their activities.

At the ACA's request, Optus recently examined a sample of international Internet dialler complaints and noted that there were a number of complaints from persons who received a bill for international dialler calls from Optus but had not preselected Optus for long distance calling. A number of these complaints were from people who had a bar on their service for international calls and did not realise that over-ride calls could still be made from their service. Comments from the customers accessing international websites suggested that they believed that the active international call bar on their service would prevent such calls. As noted above, a customer who had arranged a bar for their international calls from their pre-selected CSP would not be fully protected from

accessing such services, unless they had also arranged for their CSP to also bar access to international services through use of over-ride codes. Not all CSPs currently offer their customers this facility.

The ACA considers it likely that there is a very low level of customer awareness of the need to bar access to international services through use of over-ride codes in order to be fully protected from international Internet diallers or dumping, and considers that customers would benefit from this information being made readily available when information on barring is provided (where a CSP has this facility). Furthermore, the ACA considers that all CSPs should introduce a facility for barring international direct dial calls that prevents use of over-ride codes to gain international access through other CSPs.

In 2003 the ACA conducted an investigation into the further regulation of premium services and sought submissions from industry, regulators and the public and considered a range of options for dealing with the prevention of Internet dumping. The ACA report to the Minister for Communications, Information Technology and the Arts titled, *Investigation into the need for further regulation of premium services of July 2003* can be located on the ACA website at <http://www.aca.gov.au/telcomm/premium/premium.htm>.

Following the completion of the ACA report to the Minister, the ACA developed a fact sheet providing information to consumers on Internet dumping including what actions could be taken to reduce the risk of Internet dialler complaints and to whom a complaint could be made. This consumer information was advertised widely in national and regional newspapers in June 2004, and can be accessed on the ACA website at [http://www.aca.gov.au/consumer\\_info/fact\\_sheets/consumer\\_fact\\_sheets/index.htm](http://www.aca.gov.au/consumer_info/fact_sheets/consumer_fact_sheets/index.htm)

At the time of the ACA's July 2003 report, complaint numbers for Internet diallers operating on international number ranges were relatively low. Telstra advised the ACA at that time that the barring of selected number ranges in seven countries, which had been identified as the source of Internet dumping, had been effective in restricting Internet dumping. Telstra has recently advised the ACA that it has increased the number of countries with segments of their country code barred from seven to 13 countries. The number of Telstra international Internet dialler complaints has declined significantly, with only 13 complaints received in the month of June 2004 compared to an average of 100 complaints per month for the three months from November 2003 to January 2004.

As noted above, commencing in October 2003, Optus has barred direct dial access to selected number ranges in 21 international countries and has barred **all** direct dial calls to Diego Garcia, Sao Tome & Principe and Guinea-Bissau, with the consequent reduction in Optus International Internet dialler complaints illustrated by the TIO data in Figure 2.

Since the completion of the ACA report to the Minister, a number of carriers have provided information about Internet dumping on their websites alerting customers to the problem and the options that the carrier can provide for preventing their customers from being dumped.

Telstra has also approached the Australian Communications Industry Forum (ACIF) with a view to putting in place arrangements for the sharing of information between carriers providing access to international calls about international number ranges identified as the source of Internet dialler complaints. An ACIF working group has been established to

assist in this process and there have been two meetings to date. The working group is presently considering the process for information sharing between carriers.

While the ACIF process is likely to result in the development of a protocol for sharing information on number ranges associated with Internet dialler complaints between carriers, there is no obligation on a carrier to action the information once it has been supplied. Each carrier will be required to make up its own mind as to whether it will bar any international number ranges provided to it by other carriers. Additionally, not all carriers that provide international call services are members of ACIF and will not be bound or obligated to any extent by this arrangement.

The Minister's direction requires the ACA to investigate and report on the actions taken by CSPs to address Internet dumping on international numbers and to consider the appropriateness of a service provider determination that would require CSPs who provide international access to bar access to certain international numbers, or to a certain class or range of international numbers used to provide premium services. A service provider determination could potentially compel all international access providers to bar identified number ranges (whether identified by the ACA, ACIF or through some other mechanism) to reduce the risk of Internet dumping.

Australia is not the only country affected by Internet dumping complaints. The Independent Committee for the Supervision of Standards of Telephone Information Services (ICSTIS) which is the organisation that regulates the premium rate telephone services in the United Kingdom is reported to have experienced a significant rise in the number of such complaints from consumers about incurring costs that they were not aware of and did not agree to.

It is important to note that some of the potential solutions to the problems of international Internet dumping are generic solutions that apply to international and other services. For example, the existence of a set monthly call cap for all telephony calls would ameliorate the impact of Internet dumping, as customers that were dumped to an international number would only be able to run up bills to the capped amount. These solutions are discussed in more detail in section 4 of this paper.

**Comment is sought on:**

- ***the effectiveness of actions taken by CSPs to address the issue of Internet dumping involving the use of international numbers;***
- ***the costs and benefits of requiring all CSPs to offer international barring that will prevent the access of international numbers through the use of over-ride codes;***
- ***the need for and characteristics of a service provider determination under section 99 of the Act for CSPs who provide access to international numbers to bar access to certain international numbers or a range of international numbers used to provide premium services; and***
- ***any other approach to Internet dumping that might protect consumers from the risks of unexpected high bills associated with Internet dumping.***

## **4 Credit management in telecommunications**

### **4.1 What is an unexpected high bill?**

There will always be a level of subjectivity in determining what an ‘unexpected’ high bill is. Generally speaking, however, a bill could be considered unexpectedly high when it is significantly higher than the customer’s usual or anticipated charges for the particular telecommunications services.

The implications of receiving an unexpectedly high bill will also vary from a simple nuisance to having a serious financial impact for a customer or business, depending on the individual circumstances of each consumer. For example, even a small bill could be critical for someone on a limited or fixed income, while there are examples of unexpected high bills in the thousands of dollars.

There are many potential causes of unexpectedly high bills. Some of the key causes that have emerged in the ACA’s consultation and research are listed in the following section. Relevant case studies provided by the Telecommunications Industry Ombudsman (TIO), consumer groups and carriers have been included as examples of the problems that have arisen and the impact on customers. A number of the TIO case studies refer to complaints listed at various levels of the TIO’s and other complaints management processes. Information on the TIO process is available at: [www.tio.com.au/FAQ/comp\\_handling.htm](http://www.tio.com.au/FAQ/comp_handling.htm).

In providing initial input in the development of this Discussion Paper, the TIO noted that:

prior to coming to the TIO the telephone companies involved made no concessions in relation to the debt they were seeking, either in terms of reducing it or offering a flexible payment plan; and

even after TIO involvement the companies universally maintained that they held no responsibility for adopting measures to reduce customer exposure to high-unexpected bills.

The TIO stated that ‘In all of the cases presented by it as case studies in this discussion paper, the presence of a legislated capping mechanism would have avoided the accrual of charges in the first instance.’

### **4.2 Cases studies illustrating some causes of unexpected high bills**

#### **a) Lack of awareness of charging for various services**

It is clear that many customers are not aware of the charges associated with certain services. This can be caused by failing to read information provided with services but can also be attributed to inadequate, difficult to understand or incorrect information provided by CSPs, carriers or third party service providers. Problems also arise when the basis

for charging for a service alters during a billing cycle. In some cases customers may only find out about the level of charges for a service when they receive their bill.

Problems arising from a lack of awareness of charging arrangements can also be exacerbated by long billing cycles or a lack of expenditure warnings provided by CSPs.

The following three case studies, provided to the ACA by the TIO, illustrate some of the problems that can arise with a lack of awareness or misunderstanding by the customer of the basis for charging of their service.

*Case Study 1: \$14,000 bills for STD calls to Internet POP from landline*

As a result of difficulties with his Internet connection, as well as a change in Internet Service Providers, the complainant's dial in point of presence (POP) came to be changed from a local to an STD call. The complainant incurred a bill of over \$14,000 with his telephone company during a three-month period.

The TIO raised a formal Level 2, then 3, complaint against the complainant's telephone company, raising the issue of unlimited credit / over commitment, in line with the TIO's position statement on this issue (at Attachment D). The telephone company's response advised that it was not in a position to monitor usage of customer accounts and that the primary responsibility for doing this lay with the customer. This is despite the fact that the complainant was on a three month billing cycle (and was therefore unaware of the charges), and the company's system notes indicating that the complainant's account was 'routed for review' repeatedly during the period that the high unbilled charges accrued. The company maintained that the charges were to stand. Further, the company maintained that because *it had no policies or procedures in place to monitor high / unbilled accounts* (other than for fraud protection purposes) its lack of action in respect to contacting the complainant or barring the service should not be held against it.

The TIO is currently seeking an additional response from the company.

*Case Study 2: \$24,000 in ISDN calls from small business landline*

The complainant claimed to have changed their PSTN service to an ISDN service on the advice of their telephone company and vendor that calls made through the service would be capped at \$274 per month. However, the service was in fact set up with different capping and this led to a bill of in excess of \$24,000 accruing over a period of some six months (during which the matter was being disputed).

In response to the TIO's formal investigations, both Level 2 and 3 Complaints, the telephone company advised that it did not accept responsibility for the capping plan applied as it was acting on the advice of the complainant's vendor and it appeared that the vendor had not kept the complainant informed of necessary changes to the capping plan. The matter was resolved after the TIO escalated this complaint to Level 4. At this point the telephone company withdrew the disputed charges and the complainant was only required to pay the \$274 per month cap.

### *Case Study 3: \$800 bill for international calls from landline*

The complainant incurred a bill of approximately \$800 for four calls over a three-day period from her landline to overseas destinations. This bill was some three times greater than the complainant's usual monthly bills. The complainant was of the opinion that the calls in question would be capped at \$6.50 however, the \$6.50 cap applied to direct dial calls only and the complainant called overseas via the international operator. The complainant was not able to meet the minimum payments required by her telephone company and, despite making regular payments of what she could afford, her telephone service was disconnected and a debt collection fee of over 25 per cent was added to the outstanding amount.

The TIO is in the process of formally investigating this complaint. To date it has been established that the telephone company barred the complainant's telephone service after three days due to the high unexpected charges however, disagreement exists over the advice given to the complainant about overseas calling rates. The matter is currently under consideration for escalation to Level 4.

These three cases also underscore the benefits of CSPs having policies and procedures to monitor and act on high unbilled expenditure. In all cases the level of expenditure accrued by the complainants was very high, with case 1 in particular demonstrating that early advice to the customer may have reduced the high level of expenditure, which was exacerbated by the customer being on a three month billing cycle.

#### **b) Customer usage of service is extreme**

There are cases when, for various reasons, a customer's usage of a service may be excessive or extreme, leading to a credit over commitment by the customer. In some cases there may be a considerable difficulty for the customer in being able to pay the bill for usage of the service.

The reasons for extreme usage of service are complex. It is clear from the case studies provided below that in some cases an inordinately high bill has been accumulated because the customer is vulnerable to the characteristics of a particular service, arising from either a temporary or permanent personal circumstance or in some cases a form of addiction. Such cases may be exacerbated where the customer does not fully understand the charging of a particular service.

These cases illustrate the benefits of having unambiguous warnings of expenditure provided to customers, as well as set expenditure limits or bill 'caps'. As discussed in section 4.6, a number of CSPs currently offer various forms of caps—particularly for mobile services—although their availability is by no means universal.

The susceptibility of some customers to running up extremely high bills also raises issues concerning the legitimacy of the credit management practices of CSPs that permit such credit amounts to be provided to their customers. This issue is discussed in section 4.5 of this paper.

*Case Study 4: \$7,000 bill for SMS 188 prefix mobile to mobile calls*

The complainant's daughter incurred in excess of \$7,000 in 188 SMS charges over a period of about four weeks. She had responded to an advertisement in a popular young women's magazine for "Hot Text Chat". The advertisement in question contained small print advising "Max Cost \$2.20 per pair". The complainant claims that his daughter did not notice this wording and believed that the normal SMS charges of 15 cents per message applied. It also became apparent that the service operated so that the complainant's daughter was charged for incoming calls, the volume of which appeared to be uncontrollable. (The bills in question show calls coming in every few minutes over the four-week period.)

The complainant contacted the TIO because he wanted the telephone company to rerate the SMS charges to 15 cents each and wished to enter into a payment plan. He claimed that the company had refused to do this and, further, that it had terminated the mobile service in question and added an early termination fee. This was despite the complainant's daughter having had a mobile agreement with the telephone company in question since 1998 and paid all accounts on time.

The TIO referred the complainant to the TIO liaison area of the telephone company but the complainant returned advising that while the telephone company had now agreed to accept a payment arrangement of \$100 per week, it would not reduce the charges or investigate the SMS service in question.

The TIO raised a formal Level 2 investigation, in which it asked the telephone company to respond to the issue of unlimited credit / over commitment, in line with the TIO's position statement (at Attachment D). The company responded by advising that *it had no systems in place to monitor unexpected high bills* and that the responsibility for investigating and monitoring charges rested with the customer. The company further noted that there was *no legislation or industry code that related to credit limits on telephone services* and, accordingly, maintained that the charges were to stand.

The TIO has recently upgraded this case to a formal Level 3 Complaint, expressing its preliminary view that *the telephone company had an obligation to monitor the complainant's daughter's usage and alert her to high-unexpected bills.*

*Case Study 5: \$3,000 bill for 190 premium rate calls from landline*

The complainant, a disability pensioner with admitted telephone usage self control problems, had a history of InContact<sup>®</sup> (incoming call only) services prior to living with a flatmate, the latter of whom had a full-service connected in his name. When the complainant's flatmate moved out the complainant was able (through as yet unclear circumstances) to have an outgoing local call service put on and, subsequently, have the 190 bar removed a month later. Over the next five months the complainant was allowed to accrue a debt of close to \$3,000 *without the telephone company taking any credit control action, such as account suspension or barring.*

In response to a formal Level 2 TIO investigation the telephone company concerned advised that *there was no requirement that it contact its customers to advise them of unusually high bills and that if it chose to do so this was as a courtesy only.* (However, it should be noted that the system records provided with the telephone company's

response showed that the company's system had repeatedly identified high usage on this account and 'routed it for review' with only one attempt to contact the complainant being made and no barring taking place for several months after this.) The company offered to waive half of the debt in question as a goodwill gesture but maintained that the complainant was liable for the remainder of the account. The company made no comment about the complainant's prior poor payment history or present financial circumstances.

The TIO upgraded this case to a formal Level 3 Complaint but the company's position remained the same. The matter is currently under consideration for escalation to Level 4.

*Case Study 6: \$10,000 bill for 190 premium rate calls from landline*

The complainant, who has a history of mental illness, suffered a 'manic episode' (supported by a medical report), which led him to ring 190 chat services and incur a bill of over \$10,000 in a *nine-day period*. The calls only ceased when the complainant was admitted to hospital for professional treatment. The complainant's telephone service was subsequently barred, allowing incoming calls only; a situation that his doctor described as unreasonable given that the complainant suffers from agoraphobia and lives a very isolated life.

The TIO raised a Level 2, then 3, complaint against the complainant's telephone company. The telephone company advised that its *high unbilled call monitoring procedures were first and foremost to protect the company from fraud*. However, in this case it had fairly quickly identified the high-unbilled charges and placed a bar on the complainant's service. The bar was removed when the complainant called to complain about it, and because technically there were no 'overdue' charges, as the calls had not yet been billed. Some \$5,500 of charges were able to be accrued after the bar was lifted. The telephone company maintained that the charges would not be reduced or waived because they had been 'legitimately' accrued [no explanation given]. A request for further information from the telephone company in relation to the TIO's position statement about unlimited credit / over commitment did not elicit a different response and the case was escalated to Level 4.

At level 4 the telephone company maintained that 'the person who is in the best position to monitor usage and take steps to protect the security of the service is the customer, and this is where primary responsibility lies, and always will lie'. Nonetheless the company agreed to waive the charges incurred by the complainant after it lifted the 190 bar. After much deliberation the TIO determined that it was not in a position to pursue this matter further because the company had identified the high usage within three days of it beginning (and the TIO deemed this to be reasonable), and the complainant had not proven at law that he could not be held responsible for his actions.

The TIO stated that in this case, as with the others detailed in this summary, the automatic system barring of a service once it reached a certain threshold would have dramatically altered the outcome of this complaint.

The commentary under case study 4 refers to the absence of any legislation or industry code that relates to credit limits on telephone or telecommunications services. A central issue to be examined by the ACA in its credit management inquiry is whether a code or standard is required to prevent vulnerable consumers from running up inordinately high bills. A central question is whether it is a reasonable practice by companies to allow their customers to run up such high bills, and whether it should be incumbent on companies to monitor cases of exceptionally high expenditure. The issue is discussed in section 4.8.

**c) Family or friends using the service without the account holder's consent**

There is a range of consumers who, for a variety of reasons, may not be able to directly obtain telecommunications services such as mobile phones or Internet services. Where the problem relates to being under 18, parents or partners may sign contracts to allow their children or under-age partner to access such services. This may be for reasons such as security, social contact or to obtain employment. At other times, friends may use someone's phone or Internet services, whether authorised or not. Regardless of who has used the service, the responsibility for paying for that use resides with the account holder of the service. This is generally true even where companies are aware that the main user is a minor and where use has not been authorised and is the result of fraud, viruses or unintended high cost use by others.

Again, these cases illustrate the benefits of having unambiguous warnings of expenditure provided to customers, as well as set expenditure limits or bill 'caps'. As discussed in section 4.6, a number of CSPs currently offer various forms of caps—particularly for mobile services—although their availability is by no means universal.

*Case Study 7: Young Person's \$1200 Mobile Phone Debt (Legal Aid Queensland)*

A 16 year old girl's boyfriend entered a six month contract with a mobile phone service provider so that she could have use of a mobile phone. The boyfriend (who was over 18) signed the contract. The girl did not sign anything though it was understood by the mobile phone service provider that she would be the one using the phone. It was her first mobile phone. She proceeded to use the phone, mainly sending text messages rather than making calls.

It was not until her first month's mobile bill of \$628 arrived that she realised her flatmate had been using her phone without her knowledge, also primarily sending text messages. During that first month, 100 text messages would regularly be sent each day, and on one day there were over 140 text messages sent from her phone.

At 20 cents each, 100 text messages a day comes to \$20 a day, \$140 a week and \$560 a month. This expenditure, if continued on an on-going basis, is comparable to monthly loan repayments on a \$40,000 car loan over a five year term.

Despite not being the person who entered into the contract (her boyfriend did this) the girl wanted to pay off the debt. She had difficulty doing so given her financial situation where she was at school, and only working casually. The mobile phone company sought payments of \$214 per fortnight from her, which was significantly more than she could pay. After not being able to come to an agreement with the mobile phone service provider, the phone company sent the debt, which had risen to

over \$1200, to a debt collection agency which then commenced to pursue her for the debt.

**d) Internet dumping, hacking or theft of equipment**

Telecommunications companies maintain it is not their responsibility to protect customers against unauthorised or illegal use of their services and customers are still liable for any such use. Where SIM cards or phones are stolen, again the customer is generally liable for any illegal use until they inform the company regardless of when the customer themselves discovers the theft.

*Case Study 8: \$7000 bill for excess ADSL Internet usage*

The complainant was billed excess Internet usage charges of just over \$7,000 for a seven-day period. Prior to this bill the complainant had never exceeded his download limit or incurred excess usage charges.

The TIO formally investigated this complaint (at Level 2 and 3), asking the company whether it took action to advise the complainant of the high-unbilled charges. The company responded by advising that it was not its responsibility to advise customers of abnormal usage but, rather, that the customer was responsible for managing their own network and usage. The company also advised that it was of the view that it had no responsibility to assist customers protect themselves from viruses or hacking. Finally, the company confirmed that *it did not monitor customer usage and that it had no intention of doing so in future, maintaining that the costs of introducing such a system were prohibitive.*

This case remains in progress and has now been escalated to Level 4.

*Case Study 9: \$3,400 bill for calls made from stolen mobile SIM card*

The complainant's second, and seldom used, SIM card was stolen from his parent's car and before he realised the theft a total of \$3,400 in calls were made.

The TIO has carried out a formal investigation into this complaint (at Level 2 & 3) and the telephone company's response has been that it is not responsible for high charges incurred as a result of the theft of a SIM card. It has advised that although the charges in question did appear on the its high unbilled calls report, it decided that as the complainant had a good payment history [incorrect] and had had largish bills on his other services [also incorrect], that no intervention or customer contact was necessary because the complainant did not represent a credit risk. The company also advised that although it set a general point of \$500 at which a residential mobile bill would appear on its internal high unbilled charges report, it did not necessarily enforce this and determined on a case by case basis whether intervention was necessary.

While the company has offered to reduce the debt by some \$600 as a goodwill gesture, at this stage the TIO is not satisfied that this represents a reasonable outcome. The matter is under consideration for escalation to Level 4. It should be noted that the complainant is unemployed and his capacity to repay the debt is limited.

As with a number of other causes of unexpected high bills, these causes illustrate the benefits of CSPs having in place an active procedure for monitoring instances of exceptional customer usage. Given the claim in case study 8 that the 'cost of introducing such a system are prohibitive', the ACA is interested in comments from CSPs concerning the costs and benefits of such systems. Although having an expenditure cap will not suit all customers, as it may limit their usage of services when they have a capacity to pay their bill, the application of caps would presumably limit the costs of operating a system for actively monitoring exceptional customer expenditure, as such a system would not be required when caps were in place. These matters are discussed in more detail in section 4 of this paper.

#### **e) Failure to read or understand warnings on charging of Internet diallers**

Not all high charges associated with Internet use are Internet dumping but may result from the failure to read or recognise notification of the call charges.

Some advice can be difficult to distinguish from pop up or other advertising and advice may be ambiguous – for example 'no credit cards needed' (because bills will come in telephone accounts). Again, there may be no unambiguous warnings of expenditure provided to customers apart from arguably difficult to understand or possibly misleading advice, as well as no set expenditure limits or bill 'caps'.

##### *Case Study 10: \$2,000 bill largely for calls made to 1900 number (CSP)*

A woman rang the TIO to complain that her phone bill was over \$2,000 when it was usually no more than \$350. On checking her bill she found a large number of calls to a 1900 number. It was found that her son had been accessing a website that charged premium telephone connection rates. Because the TIO found that adequate notification was given of the call charges, the woman was required to pay the bill.

##### *Case Study 11: Calls to overseas destinations (CSP)*

A man was billed \$190 for calls to Moldova and Seychelles. He rang the TIO to say he didn't recognise the international phone numbers. The man's Internet log-on records showed that he was using the Internet at the times the calls were made. The man couldn't identify the sites he had visited to establish whether or not notification of the call charges was given. In the absence of evidence, the TIO could not investigate the case further and the phone company pursued the outstanding bill.

### **4.3 Options to prevent unexpected high bills**

Some of the major services on which unexpected high bills occur are the following:

- premium voice and data services on 190 prefix number ranges;
- Internet diallers operating on international number ranges;
- international and long distance voice or data calls;
- SMS, including multi-party SMS;

- broadband services, particularly for excess download costs beyond a set download limit and, in some cases, upload usage (eg. from peer to peer interaction) included in 'download' limits;
- services to which a modem is connected—particularly on ISDN services—where there is repeat dialling to try and connect to another service (such as an ISP).

Other emerging services that are likely to be sources of unexpected high bills are:

- new premium voice or data services on the 191, 193-197 and 199 number ranges;
- proprietary network services on mobile networks;
- m-commerce services, where billing of non-telecommunications products occurs on the customers telecommunications bill; such as: payment for car parking, parking meter and concert tickets;

In some situations usage of relatively inexpensive telecommunications services, such as local calls and SMS, can generate unexpected high calls for consumers.

There are a range of measures which could be effective in reducing the risks of consumers in accruing unexpectedly high bills. At the same time, some consumer groups suggest that open and accessible means of limiting unexpected debt, as occurs with the debt management practices of some utilities, could also assist telecommunications companies with customer retention as well as reduce company costs associated with managing complaints, debt recovery and bad debt write offs.

Subject to technical or cost-effectiveness limitations with existing delivery platforms or legacy systems for each company, the options for effective credit management that could be deployed include the following (a number of which are currently deployed by CSPs):

- a. a robust and comprehensive assessment of customer's ability to pay bills;
- b. offering of credit or billing limits;
- c. offering of options to bar access to higher cost services (e.g. international roaming);
- d. offering of a cap on individual services;
- e. offering of a cap on all telecommunications services;
- f. comprehensive monitoring of customer spending and measures to advise customers if the use is unusually high (or if approaching limits);
- g. more focus on advising newer customers about charges and bills until they have a proven payment record and experience using telecommunications services;
- h. improved information to customers on the risks of unexpected high bills for carriage and content services and actions they can take to lessen these risks;
- i. dedicated staff working on credit management and advice issues;
- j. offering of more frequent billing;

- k. throttling back of download speed on broadband services when a customer is approaching or has reached his or her monthly download limit (where excess costs would otherwise apply); and
- l. the removal of access to more expensive services (such as long distance or international calls) when a certain level of expenditure is reached, as an alternative to disconnection of all services.

Different companies offer different services which can assist restrict risks of unexpected high bills or access to certain services. Tables I summarises the sorts of services provided by a number of telecommunications and Internet companies, at 2 July 2004. It can be seen that only some of the options above are provided by any one company and, even where they are provided, such services may not be well publicised.

#### **4.4 Credit management options**

It is important that the range of credit management options currently available in the telecommunications industry is not considered in isolation. For example, limiting a customer's expenditure to a set monthly amount may obviate the need to place a limit or cap on the amount of expenditure permitted for a single call, or to monitor excessive expenditure or usage by that customer.

The following section discusses a range of credit management options currently available to consumers of telecommunication services, followed by a discussion of how these options fit together as a total package for consumers in terms of managing their telecommunications expenditure. The range and type of credit management options vary considerably between providers, as illustrated in Table I.

**Table 1: Credit management options provided by selected CSPs (at 2 July 2004)**

Option	Telstra	Optus	Vodafone	Virgin	Three	Orange
<b>Call barring / restrictions</b>						
<b>Local</b>	- Limited call barring offered (free) - Pin locking available (fee)*	- limited call barring offered (free) on Telstra resale lines only - Pin locking available on Telstra resale lines (fee)*	NA	NA	NA	NA
<b>Long distance</b>	Call barring offered (free). Pin locking available (fee)*	- Call barring offered free on Optus & Telstra resale lines - Pin locking available on Telstra resale lines (fee)*	- All ingoing and outgoing calls can be barred	NA	- Call plan options	- Call plan options
<b>International</b>	Call barring offered for free. Pin locking available (fee)*	-Call barring offered (free) on both landline and mobile services - Pin locking available on Telstra resale lines (fee)*	- Call barring offered - Access barred pre-paid - opt-in for post paid	- Opt-in access at activation - Access barred to high risk international destinations - Mandatory \$400 Credit Limit and fixed limit on unrated calls	Available on request – enable and disable	Available on request – enable and disable
<b>Operator Assisted ‘long distance’</b>	Offered as service option (at a cost)	NA	NA	NA	NA	NA
<b>Premium services &amp; proprietary services<sup>&amp;</sup></b>	- Call barring offered (free) for 190x numbers. - Pin locking available (fee)*	- Call barring offered for 190x numbers. - Pin locking available on Telstra resale lines (fee)*	- Call barring offered on 190X range - opt-in to activate access to GPRS & Vodafone Live!	- Most 190x prefix numbers barred (pre-paid)	Password access for premier content (adult content)	- 19x services not available
<b>International Roaming (mobiles)</b>	Call barring offered	Automatically barred. Service provided as ‘opt-in’ subject to credit rating assessment	Automatically barred pre and post paid. Service provided as ‘opt-in’ for post-paid customers only	Automatically barred (pre-paid) but can opt in with \$250 security deposit (tips on management high costs)	On request – enable and disable	Not available on Orange

\* Call Control offers pin access for \$3.30 per month – free for pensioners

& All CSPs providing access must provide opt in pin access to 1901 adult services.

Option	Telstra	Optus	Vodafone	Virgin	Three	Orange
<b>MMS / SMS</b>	NA	'Opt-in' bar available	- Customer must opt-in to activate GPRS for MMS - opt in SMS barring offered	- \$400/\$100 credit limit. - Outgoing SMS/MMS barred if limit reached	Restriction on certain 188 and 19x codes	Restriction on certain 188 and 19x codes
<b>User defined numbers or number ranges</b>	Option to bar calls to mobiles - Pin locking available (fee)*	NA	- Can bar 190x, overseas (0011), SMS or all incoming / outgoing calls	NA	NA	NA
<b>Override Codes</b>	Options to bar override codes - Pin locking available (fee)*	NA	NA	NA	NA	NA
<b>Pre paid mobiles (further management options)</b>	International Roaming unavailable Account balance available	NA	- Call barring offered free for international and 190x calls	- \$200 credit card top up limit per calendar month -no access to 1900/roaming - maximum \$200 credit at a time held per account - maximum \$100 recharge for vouchers	NA	NA (assume purchase credits not applicable)?
<b>Caps</b>						
<b>Bill</b>	\$99 soft cap for up to \$400 of calls on CDMA platform. - real time credit limits per M-commerce product (but can be waived by customer)	NA	No caps	- \$400 credit limit (proven high spend customers can apply to have waived) - \$100 limit mandatory for high risk customers (those who just fail credit checks).	\$99 soft cap for 'talk' up to 500 minutes of use per month per plan	Soft Cap plans available
<b>Premium Service</b>	- \$20 monthly limit for individual premium SMS + MMS (can be increased)	- \$100 cap per month on 3 <sup>rd</sup> party products - \$100 monthly limit for premium SMS.	No specific premium service caps	No specific premium service caps.	- \$15 soft cap for up to \$200 services on specified TXT and video content.	NA
<b>Customer nominated</b>	NA	NA	NA	NA	NA	NA

\* Call Control offers pin access for \$3.30 per month – free for pensioners

Option	Telstra	Optus	Vodafone	Virgin	Three	Orange
<b>Expenditure Warnings</b>						
<b>Verbal / text message at pre-set threshold</b>	- pre-set threshold at \$700 or \$900, if significantly higher than normal	NA.	Yes. TXT alert provided at various stepped levels.	- 3 SMS messages provided at 75%, 90%, and of spending limit	NA	NA
<b>Verbal / text advice on unusually high expenditure.</b>	Most customers get warning when expenditure per bill reaches \$700, if significantly higher than normal (customers can waive warnings)	- Credit alert system to contact customer if unusual spend within billing cycle	- Credit alert system to contact customer if unusual spend within previous 24 hrs	- All calls over 1000 secs checked by a fraud team – customer may be contacted - Roaming reports: customer called if spend has increased dramatically. - High usage on pre-paid; customers contacted if high call volumes identified - Customers generally contacted if usage 30% above average m'thly spend.	NA	NA
<b>Customer access to billing information (not real time)</b>	Available online (information is not real time).	Available (information is not real time).	- Online account management - Text messaging - Handset / verbal access to billing information	Online and handset access to billing information (information is not real time).	Available online	On request
<b>Customer nominated</b>	NA	NA	- Spend Friend TXT alert	NA	NA	NA
<b>Dial up Internet credit management option - call barring / restrictions</b>						
<b>Long distance</b>	Pin locking available (fee)*	NA	NA	NA	NA	NA
<b>International</b>	- Calls to certain countries restricted. - Pin locking available (fee)*	Calls to certain countries restricted.	NA	NA	NA	NA

\* Call Control offers pin access for \$3.30 per month – free for pensioners

Option	Telstra	Optus	Vodafone	Virgin	Three	Orange
<b>Dial up Internet credit management option - caps</b>						
<b>Bill</b>	Pre-paid plans available with unlimited downloads within hours of time purchased.	Unlimited downloads for specific number of hours use or unlimited time for <400MB use available. Costs occur thereafter.	NA	NA	NA	NA
<b>Dial up Internet credit management option - expenditure warnings</b>						
<b>Customer monitoring of download use</b>	Online access to download information available.	Online access to download information available.	NA	NA	NA	NA
<b>Broadband Internet credit management option - caps</b>						
<b>Bill</b>	Unlimited usage plans available (from July 04) #	See below.	NA	NA	NA	NA
<b>Shaping / throttling back download speed</b>	On unlimited use plans, download speed reduced to 64kbs once download limits reached	Flat fees on both Cable and ADSL broadband. Services slow to dial up speeds when monthly download limits reached.	NA	NA	NA	NA
<b>Broadband Internet credit management option - expenditure warnings</b>						
<b>Customer monitoring of download use</b>	- Online access to download information. - Emails issued when 25, 50 & 100% capacity reached	Online access to download information	NA	NA	NA	NA
<b>High level of excess warning</b>	Most customers have warning provided when expenditure per bill reaches \$900	NA	NA	NA	NA	NA

# Unlimited download plans only introduced in July 2004. Almost all internet customers currently on plans with costs for downloads beyond nominated level.

Option	AAPT	Primus	Dodo (internet & mobile only)	Ozemail (Internet only)	IINet (Internet & fixed services)	Netspace (Internet only)
<b>Call barring / restrictions</b>						
<b>Local</b>	Call barring offered (free) Pin locking available (fee)*	NA	Complete outgoing bar available (mobiles)	NA	NA	NA
<b>Long distance</b>	Call barring offered (free) Pin locking available (fee)*	Call barring offered (free)	Complete outgoing bar available (mobiles)	NA	NA	NA
<b>International</b>	Call barring offered (free) Pin locking available (fee)*	Call barring offered (free)	Outgoing bar on by default -opt out available for mobiles	NA	NA	NA
<b>Operator assisted 'long distance'</b>	Available through Telstra (can be arranged by AAPT)	NA	NA	NA	NA	NA
<b>Premium services &amp; proprietary services</b>	Call barring offered (free) Pin locking available (fee)*	Call barring offered (free)	NA	NA	NA	NA
<b>International Roaming (mobiles)</b>	Available through Vodafone (AAPT organises for customer)	Call barring offered (free)	Bar on by default – Opt out available.	NA	NA	NA
<b>User defined numbers or number ranges</b>	Pin locking available (fee)*	NA	NA	NA	NA	NA
<b>Override Codes</b>	Pin locking available (fee)*	NA	NA	NA	NA	NA
<b>Pre paid (further management options)</b>	NA	NA	Post Paid billing option to bill customers if they exceed \$50	NA	NA	NA
<b>No access or opt in services</b>	As detailed above	NA	NA	NA	NA	NA

Option	AAPT	Primus	Dodo (internet & mobile only)	Ozemail (Internet only)	IINet (Internet & fixed services)	Netspace (Internet only)
<b>Caps</b>						
<b>Bill</b>	Opt in \$59 cap for long distance / certain international calls	NA	NA	NA	NA	NA
<b>Premium Service</b>	No specific caps	NA	NA	NA	NA	NA
<b>Customer nominated</b>	As in bill cap above.	NA	NA	NA	NA	NA
<b>Expenditure warnings</b>						
<b>Verbal / text message provided when pre-set threshold reached.</b>	High spend users monitored + contacted to inform about calling pattern and costs. Bars recommended or applied if customer unaware or until shows can pay for usage.	Monitor and advise of high usage and/or restrict access	Depending on plan, customers are notified by SMS or E-mail when total billing reaches \$50	NA	NA	NA
<b>Verbal / text advice on unusually high expenditure.</b>	As per above.	Monitor and advise of high usage and/or restrict access	On some plans, customers notified by SMS or E-mail when total billing reaches \$50	NA	NA	NA
<b>Customer access to billing info</b>	Available online and from call centre.	Available online.	Available online.	Available online.	Details of all calls made available online.	Available online.
<b>Customer nominated</b>	NA	NA	NA	NA	NA	NA
<b>Dial up Internet credit management option: call barring / restrictions</b>						
<b>Long distance</b>	Call barring offered (free) Pin locking available (fee)*	Local number dial up offered. Telco may bar	Barring/pin access may be available via Telco.		Barring/pin access may be available via Telco.	
<b>International</b>	Call barring offered (free) Pin locking available (fee)*	Local number dial up offered. Telco may bar	Barring or pin access may be available through Telco.		Barring or pin access may be available through Telco.	

\* Call Control offers pin access for \$3.30 per month – free for pensioners

Option	AAPT	Primus	Dodo (internet & mobile only)	Ozemail (Internet only)	IINet (Internet & fixed services)	Netspace (Internet only)
<b>Dial up Internet credit management option: call barring / restrictions: Caps</b>						
<b>Bill</b>	Unlimited usage plans available at fixed cost	Unlimited usage plans available at fixed cost	Unlimited usage plans available at fixed cost	- Unlimited usage plans available at fixed cost - pre-paid Internet plans available	No set limit , usage plans available at fixed cost.	Unlimited usage plans available at fixed cost
<b>Dial up Internet credit management options: expenditure warnings</b>						
<b>Customer monitoring of download use</b>	- Can check usage on line for limited download plans. - AAPT monitor only limited download plans.	Can monitor time and data usage on-line	Can monitor time and data usage on-line			
<b>Broadband Internet credit management options: caps</b>						
<b>Bill</b>	Unlimited usage plans available at fixed cost	Unlimited usage plans available at fixed cost	Unlimited usage plans available at fixed cost	Unlimited usage plans available at fixed cost	- 'No limit' usage plans offered at fixed cost - some services are capped	Unlimited usage plans offered at fixed cost
<b>Shaping / throttling back download speed</b>	On such plans, download rate reduced to 64kbit/s when limits reached	On such plans, download rate reduced to dial up rate when limits reached	NA	On such plans, download rate reduced to dial up speed when limits reached.	On flat rate plans, download rate reduced to 72kbit/s when limits reached	Download rate reduced to dial up rate when limits reached
<b>Broadband Internet credit management options: expenditure warnings</b>						
<b>Customer monitoring of download use</b>	- can check usage on line for limited download plans. - AAPT monitor only limited download plans.	Online access to billing information available.	Online access to billing information	Online access to billing information	Online access to billing information	Online access to billing information.
<b>High level of excess warning</b>	Once limits reached, an email is sent to inform the customer that their speed is being reduced and the reason why	Identified manually and customer advised/ suspended	NA			

## 4.5 Credit assessment of customers

### 4.5.1 Provision of credit in the sector

The use of credit is fundamental to the operations of the telecommunications sector given the significant proportion of post paid services in this sector. There is currently no overarching credit management standard or code that governs the circumstances under which CSPs can provide credit to their customers or through which consumers can gain access to credit. As discussed in section 5.2.4, the current industry credit management code deals largely with debt recovery and basic information provision to consumers.

A number of consumer bodies have argued that greater regulation of consumer access to credit is required in the telecommunications sector, particularly given the potential to sustain high charges in a short time with some services. Organisations such as the TIO, Legal Aid Queensland and the Consumer Law Centre in the ACT (CARE) have questioned whether it is appropriate to offer 'unlimited credit' without similar consumer protections to those provided in the financial services sector.

There is a national *Consumer Credit Code*, based on the *Consumer Credit (Queensland) Act 1994*, that applies to financial services such as personal loans, credit cards, overdrafts, housing loans, pay day loans, mortgages, hire of goods and continuing credit accounts. Among other things, it sets out the information that must be provided to consumers to enable them to make an informed choice on credit products and to be aware of the consequences of purchase of a product. It also provides a protection which allows courts to reopen unjust transactions if there were unconscionable or included unjust lending provisions (section 70). This protection includes providers needing to look at whether the consumer has the capacity to pay and taking measures to ensure that the customer understood the nature and implications of the transaction. (The national Code is available at: <http://www.creditcode.gov.au>.)

Criminal penalties apply to most breaches of the code. Also many breaches of the code have a "civil effect" which means usually that a person suffering loss or in some cases persons simply "affected" by the breach may obtain relief. There is also a special type of penalty called a "civil penalty" which may apply where the credit provider's documents do not disclose all the information which the Code says they must disclose.

The provisions of the *Consumer Credit Code* do not apply to the telecommunications sector, despite the access to some telecommunications services being akin to the provision of consumer credit, although without the charging of interest for these services. An essential issue for consideration in the provision of telecommunications credit is whether more formal regulation is required in line with that provided in the financial services sector, with the prospective benefit to consumers that such an approach would entail, or whether industry self-regulation can be relied on to provide comparable consumer protection.

In broad terms, credit management practices in the telecommunications sector appear to be primarily focussed on protecting providers from fraud and reduce exposure to bad debt, with significantly less effort directed at providing consumers with information, options and tools for managing their debt. There appears to be limited advice provided to consumers on the financial risks associated with many services and options for consumers to minimise those risks. The implementation of the service provider rules

referenced in section 1.2 of this paper, which relate to proprietary networks, international services and premium services provided on the 190, 191, 193-7, and 199 number prefixes, should assist in improving customer awareness of the potential risks of these services. However, Table I demonstrates that few telecommunications companies have established hard caps or limits to protect customers from high bills.

In examining what considerations may be appropriate in responsible credit assessment, Legal Aid Queensland suggests there are four key principles which should inform the credit assessment response across the whole industry:

- the telecommunications services and billing practices often result in products where 'unlimited credit' is on offer to a consumer, and that consumer protection mechanisms must be implemented to remove any detrimental effect of 'unlimited credit';
- telecommunications service providers bear some responsibility for ensuring that consumers do not suffer detriment resulting from the receipt of unexpectedly high bills;
- some groups of consumers are more vulnerable than others to detriment in response to unlimited credit and credit management practices should reflect this; and
- consumer protection measures must balance protection of consumers from high bills without unduly restricting a consumer's access to services.

As discussed in section 4.8, the TIO received over 30,000 billing and credit control complaints in 2002-03. Based on his extensive experience in handling such complaints, the TIO has issued two position statements on 'unlimited credit – overcommitment': one for premium rate services and one for other services. (These statements are provided at Attachment D.) These statements present issues the TIO will examine in complaints concerning uncharacteristically high bills, such as:

- the steps the carrier took to minimise or limit the customer's access to credit or exposure to debt once it became aware, or ought reasonably to have become aware that the customer was incurring an unusual amount of debt;
- what advice or warning the carrier may have given to the customer about the level of debt, including about options for call barring;
- what steps the customer took, or ought reasonably have taken, to limit any overcommitment on their part, including the use of call barring;
- whether a customer has agreed to use alternative products/services that may be available in the market place to obviate debt, (eg prepaid services);
- the usage and payment history of the customer;
- any restrictions on or rules relating to the accessibility of the service, including any laws relating to the legality of the service;
- whether the service discloses the costs which may accrue to a customer's account with a carrier;

- any demonstrated overcommitment by the customer or hardship to the customer as a result of enforcement of the debt including the size of the debt;
- the nature of the product, the manner in which it is marketed or promoted and any vulnerability of the customer.

#### **4.5.2 Vulnerable consumers and hardship policies**

A number of consumer advocate groups suggest that there seem to be a disproportionate number of people who might be described as ‘vulnerable’ for either physical or emotional reasons, whether permanent or temporary, who are affected by large bills. These bills are due primarily to premium rate services.

Under section 34.4 of the *ACIF Prices, Terms and Conditions (PTC) Code (C521:2001)*, a supplier does not need to comply with the provisions of Part III of the code in certain circumstances. (Part III requires a supplier to provide or offer to provide information to a customer before entering into, or at the time of entering into, a telecommunications supply contract.) These circumstances are essentially where a third party is providing the product, notwithstanding that the supplier may bill the customer for accessing that product.

Specifically excluded services include the use of override codes (which could in some circumstances bypass service bars), reverse charge calls, 1900 and at least some 190x number access. Usage of these services can give rise to high bills in short time periods. The PTC code is discussed in more detail in section 5.2.2.

The lack of controls and the use of disconnection of bundled telecommunications services by companies as a debt management tool are more problematic and consequential if core telecommunications services, such as a basic voice telephony service, are seen as an essential service rather than an accessory. Having access to a basic phone service is now critical for social contact, employment, contact in times of crisis and, if linked to Internet services, access to information.

This may be particularly true for young people. In July 2002, the Commonwealth Consumer Affairs Advisory Council published its report “*Consumer Issues & Youth: A Research Report Into Best Practice In Consumer Education Targeting Young Australians*”. This report stated that:

Mobile phones rank as probably the most important product for young people...

The security benefits of mobiles were important, but their biggest single benefit for adults, convenience, was only a minor consideration. The report said this underscored the aspirational and emotional nature of mobile phones for youth and highlighted the difficulty of persuading them to approach purchase and usage responsibly.

Importantly, ‘the research showed up a lack of understanding about phone plans and call costs and consumer rights generally.’ While these findings do not suggest that all mobile use is ‘essential’ for youth, the pressures related to perceived social acceptance combined with the lack of understanding of costs and inexperience in managing credit make many youth potentially vulnerable to debt.

The Youth Action & Policy Association (YAPA) is the peak community group working in the interests of young people and youth services in New South Wales and represents young people in the ACA's Consumer Consultative Forum. YAPA has noted that young people have very limited experience in making major financial decisions, in financial contractual arrangements, and they may not fully understand phone plans, call costs, or consumer rights and redress. YAPA has also stated that young people often use technology differently. The explosion of the SMS market is one such example and this can impact on what costs are incurred.

In a recent YAPA survey of 550 young mobile users in New South Wales (mostly under 18), it found that:

- 27 per cent had received phone bills that were higher than they expected;
- 20 per cent admitted mobile phone debt had caused them major problems;
- 40 per cent had received monthly bills of over \$200; and
- four per cent had received bills of over \$1,500.

Interestingly, YAPA found that about half of young people are refusing to use pre-paid accounts—favoured by some as a way of controlling debt—because it was claimed calls cost more than for regular post paid accounts. It seems likely that most of those receiving higher bills are utilising post paid accounts (presumably not directly as the account holder must be 18 or over) and thus the proportion exposed to unexpected high bills, problems with mobile phone debt and higher bills are using post paid accounts.

YAPA also noted that while 65 per cent of those surveyed had received phone bills that are about what they expected, it still might be a large bill that the person is unable to pay. Significantly, 35 per cent received a bill that was higher than expected. The question arises as to whether youth should be considered a 'vulnerable' group from a credit management perspective, requiring targeted information and credit management tools to avoid problems associated with overcommitment and debt.

If there is a greater risk of financial hardship or high bills faced by vulnerable individuals or groups associated with certain telecommunications products, the question arises is there a need for policies that will protect these individuals or assist them in their credit management. An example from another industry where such an approach has been adopted is the gambling industry, where it is recognised that problem gamblers can be vulnerable to unlimited credit and overcommitment. In this respect, legislators require gambling operators to take measures to reduce the risk of gambling. For example, in Victoria, responsible gaming measures are considered under Division 3 of the *Gambling Regulation Act 2003*. Measures include:

- banning large denomination note acceptors and autoplay facilities;
- spin rates (how fast games can be accessed);
- restricting access to credit;
- limiting withdrawals and advances from cash facilities.

These measures are in addition to limits on advertising and denial of access to premises for minors.

Such measures can be compared to limiting the cost per use of services, limiting the continued access to certain high cost services within a specified time period, limiting access to credit both overall and per service as well as consideration of the appropriateness of advertising of some products and services.

Some public discussion has taken place on the provision of telecommunications services for low income consumers. This does not necessarily encompass all those who consumer groups identify as 'vulnerable', nor do unexpectedly high bills always relate to low income customers. Telstra has established the Low Income Measures Assessment Committee (LIMAC) to specifically advise it on providing services to customers on low incomes.

Information on LIMAC activities, including the 'Access for Everyone' package developed by Telstra in conjunction with LIMAC can be found at:

<http://www.telstra.com.au/accessforeveryone/development.htm>

Included in the measures identified by LIMAC are a number of credit management options and low cost telephony products such as InContact® —a limited service that offers incoming calls but restricts outgoing calls. Other program details are at:

<http://www.telstra.com.au/accessforeveryone/access.htm>

Interestingly, the Telstra Consumer Consultative Council noted that:

A significant proportion of people on low income in all segments are not aware of the various contact avenues for information and assistance in times of financial difficulties and in respect to credit management. Most respondents would contact a telephone company or approach Centrelink or a welfare agency.

This seems to confirm the disconnection between the financial services sector and the provision of credit from the Telecommunications sector.

**Comment is sought on:**

- ***the benefits or costs associated with requiring providers to meet similar standards to the financial sector in considering whether the consumer has the capacity to pay and taking measures to ensure that the customer understands the nature and implications using the products being offered;***
- ***the benefits of 'responsible access measures' in the Telecommunications sector and how they might assist in credit management for telecommunications services;***
- ***the need for better links in the telecommunications sector to general information about the assistance available for those facing financial problems;***
- ***the costs or benefits of developing hardship policies in the Telecommunications sector; and***
- ***the appropriateness of differentiating access to a standard telephone service from other telephony or Internet services and any debts associated with non standard telephone service use.***

## **4.6 Bill limits and caps on specific services or calls.**

### **4.6.1 Capping**

A number of CSPs offer various forms of capping as a credit management measure. Caps can be a valuable tool for consumers in managing their telecommunications expenditure, while also assisting CSPs in their management of customer debt. The major forms of capping are referenced in this section.

### **4.6.2 Individual call cap**

Individual call caps are not commonly used by CSPs. In the context of this paper, an 'individual call cap' is where a maximum amount of expenditure is set for an individual call. This expenditure can be determined by a preset amount of expenditure or through a preset maximum call duration. The *TISSC Code of Practice No 1 of 1/1/02 –April 2004 Version* (the TISSC code) establishes a number of call caps through its provisions. However, these provisions relate only to calls to 190 prefix premium rate services.

Call charges for 190 prefix services are managed by the Telstra billing platform for 190 prefix services. Customers of other CSPs are able to access 190 prefix services through this platform, although not all CSPs enable this access to their customers. This is an important point in the context of establishing industry wide individual call cap arrangements, because the ability to cap individual calls may not be available through the billing platforms of all CSPs.

Section C.1.4 of the TISSC Code sets a maximum duration for calls made to 190 prefix premium rate numbers:

A premium rate service that is not charged at a fixed rate, other than a variable charge service, shall be disconnected after 60 minutes from the time of connection to the service. Where the charge is greater than \$4.40 per minute, the service shall be disconnected 30 minutes after the time of connection to the service.

In effect, this provision introduces two call cap bands, with the relevant band determined by the call charge rate. The first band has a maximum charge or cap of \$264 for a call where the charge is equal to or less than \$4.40 per minute. Where the charge for the call is greater than \$4.40 per minute, the maximum charge or cap of the second charging band is limited by the maximum charge of a 190 prefix call, with the bottom level of the call cap starting at \$132.

The TISSC code (section C.3.7) also specifies a maximum call charge for a service with the facility to be charged at a variable rate during a call. The maximum charge for such calls is \$165.

An important consideration when determining the credit management benefits of individual call caps is that they do not necessarily prevent the customer incurring a high bill. The caller can simply terminate their call and reconnect to the same service at a later time or date. It should be noted that the TISSC code requires information on call charging to be provided to the caller before proceeding with most premium rate calls, so the high bill in many cases should not be 'unexpected'. However, there are many

instances of calls made to premium services where the account holder for a service is unaware that their telephone service has been used by another person to access 190 premium rate services. In many such instances, the bill is often 'unexpected'.

There is another individual call cap contained in the TISSC code that is of particular interest, as it is directed at services intended for children. Children are defined in the code as persons under 14 years of age. Section C.7.1 of the TISSC code states:

- (a) Where a children's premium rate service is charged at a fixed rate, the total cost of a call must not exceed \$1.10;
- (b) Where a children's premium rate service is not charged at a fixed rate, the cost of a call must not exceed \$1.05 per minute and the total cost of the call must not exceed \$3.30.

It is noteworthy that the individual call caps that apply to premium rate services for children are markedly below those that apply to premium rate services for people 14 years or over. It is anticipated that an increasing number of SMS and MMS services provided on proprietary networks and on the recently introduced 191, 193-7 and 199 premium rate number ranges will be directed at children. This raises the issue of whether a different credit management approach is required for telecommunications services directed at children—particularly those services with high call charges—consistent with the approach adopted in the TISSC code.

Telstra applies a \$20 monthly limit for individual premium services, which can be increased through application to Telstra.

#### **4.6.3 Soft caps**

A number of CSPs offer their customers a 'soft cap' credit management option for certain services they provide. The term 'soft cap' in this context means a cap that applies when a customer has made a set amount of expenditure for a service over a specified period but is able to continue to use that service during the relevant period while incurring no additional expenses (subject to certain conditions).

An example of a 'soft cap' is the '3' '\$99 Talk Cap', which is offered under the conditions of 'Pay no more than \$99 a month...for up to \$500 worth of national voice calls'.

Telstra offers a similar product with its CDMA mobile network with a \$99 soft cap for up to \$400 of calls or \$125 for up to \$500 of calls.

Although 'soft caps' provide some means of controlling expenditure, there is usually a number of qualifications that apply to these services that enable a customer to receive an unexpected high bill. For example, the '3' '\$99 Talk Cap' does not include 'Videotalk, SMS, calls to special numbers (eg 1800, 13, directory and 3 Care) or premium numbers'. It also applies only to national calls and therefore does not include international calls.

While 'soft caps' clearly provide considerable benefits to consumers and potentially attractive service options, they appear to be of limited benefit in controlling unexpected high bills because of the exceptions that apply to the application of the cap.

It is also important that consumers understand the scope of 'soft caps' in terms of the range of services they cover—and that CSPs advertise this scope in a clear and

responsible manner—as ‘soft caps’ may be advertised in such a manner that indicates their scope is more comprehensive than is in fact the case.

#### **4.6.4 Hard caps**

Some CSPs offer their customers a ‘hard cap’ to enable them to manage their expenditure. The term ‘hard cap’ in this context means an effective ceiling on expenditure for usage of the service or set of services. Unlike a ‘soft cap’, there are generally no exceptions to the application of the cap that might cause the customer’s expenditure to go beyond the set cap amount.

An example of a ‘hard cap’ is the \$100 spend limit offered by Virgin Mobile on its Go Low service. This service is billed monthly. Customers receive an SMS when they are approaching their credit limit—at \$75 expenditure and \$90 expenditure. When the customer reaches the spend limit they are unable to make outgoing calls until the bill is reduced below \$100 but can receive incoming calls.

As identified in Table I, a number of CSPs offer the equivalent of billing limits or hard caps in Internet plans with fixed access charges and unlimited downloads, both for dial up and broadband services. In the case of broadband, services may throttle down access to dial up speeds once broadband download limits are reached but allow unlimited further downloads at those slower speeds at no additional cost to customers until the download limit. Speeds are then re-set at the commencement of each billing period.

There may be risks of further charges for dial up services through Internet dumping (as described in section 3), or the failure to read advice on charges, as described in case studies 8, 10 and 11. However, the use of other credit management tools such as call barring and appropriate virus protection in conjunction with unlimited download services offers consumers a high degree of confidence that their bills will be the contracted access charge for that service.

A disadvantage of hard caps can be that they may restrict access to certain services, particularly more expensive services. Special arrangements might be available in some cases to gain access to these services, such as through the payment of a deposit for accessing a particular service. Another potential disadvantage is that the particular hard cap limit that is specified may not suit all customers.

The ACA understand that not all CSPs or ISPs currently have billing systems that would support the introduction of hard caps. The capability to provide hard caps also becomes increasingly complex when a range of services are bundled together on one bill—for example, when mobile, fixed and Internet services are combined on the one bill.

Notwithstanding some of the drawbacks of hard caps, their availability would seem to be of considerable benefit to customers in managing their telecommunications expenditure and preventing unexpected high bills, particularly for customers with limited incomes.

#### **4.6.5 Pre-paid services**

A variation of a hard cap offering is a pre-paid service. Such services are commonly available for mobile telephony, through phone cards for fixed telephony and to a limited

extent for Internet usage. (Services offered by ISPs which are pre-paid but are subject to excess usage conditions are not discussed in this section, as the payment of the excess amount is effectively a post-paid arrangement with considerable volatility in the customer's expenditure.)

The main distinction between a hard cap offering and pre-paid services is that the former are 'post-paid', whereas the latter are 'pre-paid'. As with hard cap offerings, customers using phone cards may not be able to access some services, such as premium services on numbers commencing with the 190 prefix or mobile international roaming. For example, pre-paid phone cards can be used for local, long distance, international, calls to mobiles and in some cases faxes at differing rates depending on the particular card. Most phone cards require the entry of an access number to access the customer's account. Rates are generally cheaper if a local call access number is used but 1300 and 1800 access numbers provide for more widespread access to such cards with varying per minute surcharges. Pre-paid phone cards generally do not provide access to 190 prefix premium rate services.

Further details on pre-paid phone cards are provided in the ACA consumer factsheet at: [http://www.aca.gov.au/consumer\\_info/fact\\_sheets/consumer\\_fact\\_sheets/fsc82.htm](http://www.aca.gov.au/consumer_info/fact_sheets/consumer_fact_sheets/fsc82.htm).

Pre-paid mobile services are becoming increasingly popular—over 50 per cent of all mobile services are now pre-paid—and appear to be an effective means for customer's to manage their mobile expenditure. Pre-paid mobile services form a particularly significant section of the youth mobile market.

An issue raised in the ACA's consultation in preparing this discussion paper was that pre-paid mobile call charges are often more expensive than post-paid call charges. It was argued that pre-paid mobile customers are effectively discriminated against as they incur higher call charges relative to post-paid customers, with the pre-paid customer base being disproportionately comprised of the youth market and lower income users who are least able to afford these higher charges. The ACA has not undertaken any analysis of the charging rates that apply to post-paid and pre-paid services, although it is aware that some CSPs do not discriminate in their respective charging for post-paid and pre-paid services.

Many pre-paid mobile services are now linked to a customer's credit card account, with various credit 'top-up' arrangements and expenditure warnings provided for. It is understood that this method of payment for pre-paid customers is being increasingly encouraged by CSPs. This is an interesting development in the context of the matters being examined by this discussion paper, as such arrangements transfer the risks and consequences of an unexpected high bill to the customer's credit card provider, rather than their telecommunications provider. In these cases, credit management matters fall within the jurisdiction of the financial services industry. It is interesting to note, however, that the linking of the pre-paid service to a credit card account may diminish some of the credit management benefits of pre-paid mobile services, in that the payment of the credit card account in many cases will be post-paid.

Permutations of pre-paid mobile services are now entering the market, with some pre-paid services now linked to post-paid accounts. For example, Telstra's Mobile Link™

service links a Telstra Pre-Paid Plus service to a post-paid Telstra Mobile Plan service, with a set amount credited to the pre-paid service from the Mobile Plan service each month.

In summary, pre-paid services offer many credit management advantages to customers, with the main disadvantage of these services for mobile users being that they may not provide access to some service offerings available to post-paid mobile customers. Given the advantages of pre-paid mobile services, which appear to be recognised by an ever-increasing number of consumers, it is possible that such services should be strongly promoted by CSPs as a credit management option to their customers.

#### **4.6.6 Customer nominated hard cap**

The ACA is not aware of any CSP that allows a customer to set their own hard cap for their post paid mobile or fixed expenditure. Of course, a pre-paid mobile service is equivalent to a customer nominated hard cap, as the cap is in effect the pre-paid amount for the service.

Vodafone offers its customers the option of nominating their own amount of spending per billing cycle and receiving a text message within 36 hours of exceeding the amount they have nominated, which is a useful customer tool to assist in credit management.

The ACA is not aware of plans of CSPs to introduce a customer nominated hard cap, but would welcome advice from any CSP if such an option is planned for future availability.

#### **4.6.7 Caps on premium service numbers**

There are some other bill caps which are offered by CSPs which apply specifically to services provided on premium numbers. Optus currently has a \$100 monthly limit for each separate premium rate SMS/MMS service. However, Optus has indicated that when it introduces a new services and billing platform in the second half of 2004 it will have the ability to implement a cap across all customer spend on premium SMS/MMS services. Optus indicated that it expects to introduce a per customer cap (probably \$100) for all premium rate SMS/MMS services. Customers would then be able to subsequently opt-out of the capping arrangements subject to credit assessment procedures.

#### **4.6.8 Consideration of overall benefits to consumer of industry credit management options**

Some consumer groups have suggested that restrictions on specific services or types of services—such as premium rate services—may be necessary to protect vulnerable consumers from an over commitment on these services, particularly for consumers that may have difficulties in fully understanding the terms and conditions on which these services are provided.

A question arises as to whether it is necessary to offer an overall cap or billing limit or offer individual call caps as a safety net on particular services, or offer both options. Such considerations are clearly influenced by the level of the overall cap, as a small overall cap reduces the need for individual call caps.

What appears to be of importance in any overarching industry credit management strategy is having flexibility in credit management options offered by individual CSPs. For example, subject to an appropriate credit assessment rating, it would appear reasonable that customers are able to modify any spend limits for individual or aggregate services through further consultation with their service providers. The ACA notes that an upwards modification or waiving of limits already occurs for most companies after demonstration of a capacity to pay. However, no CSP allows a customer to nominate their own spend amount for any given billing cycle, although pre-paid mobile services allow customers full control of their mobile expenditure and unlimited download Internet services offer set price Internet access subject to protection against Internet dumping as described in Section 3.

**Comment is sought on:**

- ***the benefits of individual call caps and how they might assist in credit management;***
- ***the need for a different credit management approach for ‘children’s services’ (however defined), the benefits of such an approach and how it might be structured;***
- ***the benefits of ‘soft caps’ and how they might assist in credit management for telecommunications services;***
- ***the benefits of ‘hard caps’ and how they might assist in credit management for telecommunications services;***
- ***the benefits of pre-paid services and how they might assist in credit management for telecommunications services,***
- ***any potential disadvantages to consumers in being pre-paid customers as opposed to post-paid customers, and the implications of these disadvantages to an overall credit management strategy; and***
- ***whether pre-paid services need to be more actively promoted as a credit management option for telecommunications consumers.***

## **4.7 Barring or restricted access to services**

A number of CSPs offer various forms of barring as a credit management measure. Bars can be a valuable tool for consumers in managing their telecommunications expenditure, while also assisting CSPs in their management of customer debt. The major forms of barring are referenced in this section.

The ability to bar access to specific services, particularly high cost services, removes the risk of incurring charges from those services either by accident, by users other than the account holder and for users who may be more vulnerable to dependence on certain higher cost services (as discussed in 4.5.2).

#### **4.7.1 Permanent barring of services**

One means of removing the possibility of incurring charges from a service is to bar all access to that service. In terms of reducing the potential for unexpected high bills, this may commonly involve timed or higher cost services such as national, international and premium rate services (for example, 190x services). It also provides a means of reducing the risk of excessive use of particular services for 'vulnerable' consumers.

Unlike with voice services, the ACA understands that currently many CSPs do not have the technical capacity to selectively bar SMS on specified number ranges, although they can bar all SMS. This has the consequence of not being able to selectively bar premium rate or international SMS, and underscores the importance of other forms of capping or credit management, as discussed below.

For some consumers, such as those on low income or in share households, problems can arise even with the use of lower-cost services, such as local rate phone or SMS services, which again can be resolved by limiting access to such services.

Most CSPs offer free barring of national, international and premium rate services or, for mobile services, SMS services. Telstra and some resellers of Telstra services offer certain products such as InContact<sup>®</sup>, which provides very limited access to local calls.

Permanent barring of services may be an effective means of limiting the risk of incurring charges but also reduces the flexibility of consumers in using such services if needed depending on the ease in which bars can be lifted.

There is clearly a balance to be struck between making it easy for an authorised account holder to remove a bar (subject to credit management clearance) and the security arrangements adequately protecting the account holder against unauthorised lifting of such bars. In cases where a bar is provided to a customer who has been or may be assessed as 'vulnerable' (as discussed in section 4.5.2), the application of a bar may require a more stringent procedure to ensure that such customers are provided with appropriate credit management protection. For example, the ability to change the barring arrangements might require written authorisation.

In addition, as some providers do not require pre-registration to use pre-selected services, it may be possible to override a bar on long distance, international or fixed to mobile calls. (Pre-selection enables customers access to the long distance services of other CSPs by the use of override codes. Further details on pre-selection are available on the ACA website at: <http://www.aca.gov.au/telcomm/preselection.htm>.)

#### **4.7.2 Restricted access to services**

A more flexible means of restricting access to certain telecommunications services than permanent barring is through requiring pin access to these services. Where available, this facility offers protection against inadvertent or unauthorised use of telecommunications services, as long as the customer takes appropriate steps to protect the pin number.

As can be seen in Table I, a number of CSPs offer pin code access to different services. Pin access can also be an effective tool in preventing Internet dumping or inadvertent connection to high cost dialling services, although the use of override codes in some cases

has the potential to provide access to these services without a requirement to enter a pin.

As discussed above in relation to barring, for ‘vulnerable’ customers pin access may not protect against excessive use of premium services by ‘vulnerable’ users. In such cases pin access may not be a sufficient protection for such customers running up excessive bills.

**Comment is sought on:**

- ***the costs and benefits of service bars and how they might assist in credit management for telecommunications services; and***
- ***the costs and benefits of companies providing pin or other restricted access to services.***

#### **4.8 Monitoring of spending and expenditure advice to customers**

Most companies monitor excessive expenditure as part of their normal fraud control arrangements. As indicated in Table I, some companies provide information and advice to customers on their expenditure level when specified parameters are met, via text, email or phone contact. Different CSPs use quite different strategies but most seem to rely on a subjective assessment of what is ‘unusual spend’ or is based on consideration of the average spending patterns of the customer.

The TIO has noted that even where companies have systems in place to catch unexpected high bills, delays from manual assessment prior to barring or contact being made with the customer can affect the customer’s exposure to debt.

As such systems are not mandatory, customers cannot be certain that they will be contacted, or at least contacted early, in situations where they are accruing unusual charges or higher levels of charges. On some mobile plans, Dodo states that it provides mobile customers with SMS or email notices whenever their call charges reach or exceed multiples of \$50. Virgin suggests it contacts customers if charges are more than 30 per cent above their average monthly spend.

Telstra offers a courtesy call program when expenditure reaches \$700 (or \$900 for Internet usage) if this expenditure is significantly higher than normal. At present this is regarded as ‘a service rather than an obligation’ and no guarantees are made that warnings will be provided in all instances. Again there are delays of some days for telephone charges or up to a week for broadband charges. Nonetheless, Telstra has also suggested around 88 per cent of customers are happy to remain in the courtesy call program.

Credit control complaints to the TIO accounted for 11.2 per cent of its annual complaints in 2002-03. Billing complaints—which include a number of complaints that relate to credit management, such as complaints concerning debt and delayed charges—accounted for 36.2 per cent of the TIO’s complaints in 2002-03 (or 22,663 complaints). (A full list of statistics available for different complaint categories is available on the TIO website at: <http://www.tio.com.au/statistics.htm>.)

Table 2 provides TIO data on credit control for the last three financial years. (Data for 2003-04 is only available for the first nine months of the year, and has been prorated to the full year in order to allow comparison of complaints trends.) Changes in the TIO's methodology for recording mobile and fixed complaints from 2001-02 onwards does not allow for trend analysis for previous years.

The number of complaints received by the TIO is a broad indicator of complaints trends in the telecommunications industry, but indicates only a small proportion of the total number of complaints made by customers, as most complaints are dealt with by CSPs.

The TIO defines credit control complaints as those dealing with credit linked barring, suspension or disconnection of services; debt recovery; large debt liability and payment arrangements.

The complaint trends for TIO credit control complaints data from 2001-02 to 2003-04, when examined as a proportion of services in operation for the respective service types—fixed, mobile and Internet—indicates that:

- there has been a significant increase in credit control complaints concerning fixed services over this period;
- fixed services account for a substantially higher proportion of complaints than for mobile and, in particular, Internet services;
- even though the number of Internet complaints is relatively very small compared to the other services, the numbers are increasing rapidly;
- mobile services also appear to be rising rapidly;
- the total number of credit control complaints across all services has more than doubled since 2001/02.

**Table 2: Annual TIO Credit Control complaints**

<b>Complaints by service type</b>	<b>2001/02</b>	<b>2002/03</b>	<b>2003/04*</b>
Total complaints - fixed	2,374	4,317	<b>5,659</b>
Complaints per 10,000 users	2.08	3.73	<b>NA</b>
Total complaints - Internet	136	232	<b>412</b>
Complaints per 10,000 users	0.32	0.45	<b>NA</b>
Total complaints - mobile	1,597	2,374	<b>3,401</b>
Complaints per 10,000 users	1.26	1.66	<b>NA</b>
<b>Total complaints</b>	<b>4,104</b>	<b>6,923</b>	<b>9,472</b>

\* Figures cited have been prorated to an annual basis from data for the first three quarters of 2003-04.

Although there is no direct correlation of data, the total number of complaints received by the Banking and Financial Services Ombudsman (BFSO) was 6930 in the 2003 calendar year. This level of complaints is below those relating to credit control in the telecommunications sector as recorded by the TIO, and would presumably be significantly

below the level of BFSO complaints if those billing complaints relating to credit control were included in the credit control data.

What is certain from the TIO data is that credit control complaints are rising significantly, which underscores the need for the telecommunications industry to increase the number of credit management options available to customers and improve the effectiveness of its credit management more generally.

**Comment is sought on:**

- ***the benefits of monitoring of spending and expenditure warnings by CSPs and how these services might assist in credit management for telecommunications services.***

## **4.9 Information provision to customers**

### **4.9.1 Information accessibility**

The provision of readily available credit management information, including clear and consolidated advice on the costs of services, how charges accrue and any risks associated with using those services, would reduce the potential for consumers to unwittingly generate unexpected high bills. Nonetheless, telephone and Internet companies generally do not make such information readily available in a consolidated manner.

In addition, advice on specific credit management options such as call barring, pin access or warning services is generally hard to find and may not be available in public access media like Internet sites where searching for these options may produce no results, even where the company provides such services.

Some of the problems with unexpected high bills may be preventable by making information about services, charges and credit management options to limit risks of high bills more prominent and easier to access. If used in conjunction with bill or call caps, restricted access to services and warnings of higher expenditure, customers should be able to minimise the risk of getting large unexpected high bills.

### **4.9.2 Relevance of information**

Kildonan Child and Family Services is a welfare organisation of the Uniting Church in Australia. It provides a range of services for vulnerable children, young people and families in the northern corridor of Melbourne, including financial counselling and assistance with financial management.

A Kildonan analysis of Australian Bureau of Statistics data suggests that:

- 2.6 million people have very poor literacy and numeracy skills meaning they have considerable difficulty in using printed material in daily life;
- 3.6 million Australians have some difficulty in using printed material; and
- 4.8 million cope daily but not at a high level of proficiency.

This has implications for the level of understanding of information or promotional material in all sectors but which could be particularly relevant where information about products or services is either:

- a) dense, complex and lengthy, or
- b) short and marketing focussed.

Both sorts of information are regularly used in the telecommunications sector.

Getting quick and up to date information on spend behaviour and totals is one means of a customer being able to identify possible spending problems before these become a major issue. However, the ACA is not aware of any companies providing real time data and delays in obtaining some types of billing information can be significant.

#### **4.9.3 Billing cycles and access to information on spending levels**

Most CSPs now bill monthly. Where options exist for longer billing cycles (two-monthly or three-monthly) any abnormally high expenditure by a consumer has the potential to create larger problems than for shorter billing cycles. Currently, under section 30.1 of the ACIF PTC Code (described in more detail in 5.2) on the request of a customer, a supplier is only required to inform a customer of: the frequency of billing; the method of billing; permissible methods of payment; where applicable, the terms of the supplier's backbilling policy; any charges payable for billing services; and whether there are different options available for the billing details in the section from which the customer can choose.

While there may be technical reasons why real time billing cannot currently be provided, providing up to date information is one credit management tool that could assist *customers in monitoring their telecommunications spending levels. Given the availability of the level of current bill expenditure or usage from some CSPs, the ACA would be interested in information on the extent to which these services are used by consumers and what benefits they are considered to provide.*

#### **Comment is sought on:**

- ***the benefits of companies providing all details of their credit management options and how they work to customers in one consolidated document which is prominent, freely accessible to customers and made easily comprehensible;***
- ***the benefits of companies providing more detailed explanations of the risks of high charges associated with different services and how customers can use the company's credit options to minimise those risks; and***
- ***whether the current information is in a form that can be readily understood by most potential customers.***

## **5 Telecommunications sector regulatory arrangements covering credit management**

### **5.1 Dispute monitoring or resolution**

There are a number of bodies which are involved in regulation of Telecommunications services or dispute resolution involving consumers or small businesses and Telecommunications companies for telephony or Internet services.

Specific trade practices, competition or pricing issues are generally dealt with by the Australian Consumer and Competition Commission (ACCC). Further information on ACCC activities can be found at: <http://www.accc.gov.au/content/index.phtml/itemId/142>

The formal regulation of the provision of services, including the use of numbers and licensing of carriers and carriage service providers, is generally the responsibility of the ACA. Further information about the ACA's role and responsibilities is at: <http://www.aca.gov.au>

Other aspects of the telecommunications industry may be controlled by partial self regulation in the form of legally enforceable Codes and problems are often dealt with through dispute resolution by Ombudsman, Consumer advocacy groups and Industry groups.

A discussion of some of the key groups follows.

#### **5.1.1 Telecommunications Industry Ombudsman (TIO)**

The TIO is “an office of last resort”. This means that the service provider must be given a reasonable opportunity to settle a complaint with a customer before the TIO will become involved. The role and powers of the TIO are included in the *Telecommunications (Consumer Protection and Service Standards) Act 1999* and further information is available at the TIO website at <http://www.tio.com.au>

#### **5.1.2 Telephone Information Service Standards Council (TISSC)**

The Telephone Information Service Standards Council is an industry self regulatory body that sets standards for the 190 premium rate services industry through a Code of Practice. TISSC assesses complaints about alleged breaches of the TISSC Code of Practice (TISSC Code) that relate to the message content and advertising of domestic telecommunications services with the prefix 190X.

A copy of the TISSC Code can be accessed from the TISSC website at [www.tissc.com.au](http://www.tissc.com.au)

### **5.2 Current telecommunications codes and standards**

#### **5.2.1 Australian Communications Industry Forum (ACIF) Codes**

ACIF is an industry owned, operated and resourced company established in 1997 by the telecommunications industry to implement and manage communications self-regulation

within Australia whose primary role is to develop and administer technical Standards and Industry Codes and provide Industry Facilitation services.

Where the ACA registers an industry code, under Part 6 of the *Telecommunications Act 1997*, and the ACA considers that there has been a contravention of the code, it can direct the person to comply with the code or issue a formal warning. A failure to comply with a direction from the ACA can result in the imposition of financial penalties.

The current key ACIF codes associated with credit management are the 'customer information on prices, terms and conditions code' and the 'Credit management code'.

### **5.2.2 Customer Information on Prices, Terms and Conditions (PTC) (ACIF C521)**

ACIF describes the existing PTC Code as *specifying 'minimum requirements for suppliers to meet in informing customers about the prices, terms and conditions of goods on offer.'*

This code is designed to provide a minimum set of standards for service providers to meet when providing information to consumers about the products on offer, including to:

- better inform consumers about the industry and the products on offer;
- improve the fairness and accuracy of information provided;
- allow consumers to make informed purchasing decisions; and
- enhance customer confidence in the industry.

ACIF also states that the PTC Code is intended to ensure consumers are provided with accurate and timely information by carriers, CSPs, content service providers, and ISPs concerning telecommunications products, contributing to informed purchasing decisions.

### **5.2.3 Assessment of the credit management role of the PTC code**

The current PTC Code appears to focus more on ensuring providers comply with current laws such as Part V of the *Trade Practices Act 1974* and related state Fair Trading legislation. That is, attempting to ensure information is not misleading nor inaccurate. However, this does not necessarily mean fully informing consumers about the credit management issues associated with products on offer which could impact on a consumer's ability to make an informed purchasing decision.

While the provision of information on credit management options is covered in section 5.2 of the ACIF Credit Management Code (discussed below), it is arguably a deficiency of the code given many products provide access to large or what the TIO terms 'unlimited credit'. A requirement to provide clear and prominent advice on the financial risks associated with each product and the options that exist to reduce those risks would potentially assist customers in making an informed decision about the suitability of products for their own financial circumstances.

For example, in case study 4 above, it is unclear what advice was available about how to control or prevent incoming SMS messages, which were a substantial proportion of the cost incurred. It is possible that the problems arising in many of the case studies could

have been avoided if better information about the potential risks associated with using each product had been made available to the customer.

It is also unclear that consumers are always aware of the implications of limits or allowances associated and advertised with different products. For example, in an article by Kate Mackenzie in the Australian's Internet news site of 23 February 2004, discussing the then new low cost broadband products, it was noted that:

consumers could face a much larger bill than they expected because the cheapest broadband plans charge by data use. For example, the Telstra and iiNet plans both include 200 megabytes a month, less than one-third the amount of data that can be stored on a CD. After that, users will pay 15c for each megabyte downloaded – and, in Telstra's case, uploaded data, such as sending emails, also counts.

Many consumers are unaware of their likely download usage let alone what, practically speaking, a download allowance of 200 or 300 megabytes means for broadband Internet services. In such circumstances, the customer cannot make an informed choice and the minimum advertising standards would not seem to meet the needs of all consumers.

Even where a consumer may know their usage for dial up services, the TIO has indicated that many users access much more data via the Internet than previously with their dial-up accounts due to the speed and convenience of broadband Internet. This means many consumers will often be better off to select a plan with a higher limit that isn't used, than to select a plan with a lower limit and incur excess usage charges if the limit is exceeded.

Some of the 'cheap' plans may set some sort of limit for additional download costs or companies may allow customers to 'upgrade' to higher monthly cost plans which better reflect their Internet usage. However, a customer would be further disadvantaged where a company will not allow them, upon discovering that they require greater download usage, to at least upgrade to another product which better reflects their Internet usage.

***Comments are sought on how the current code is meeting its stated goals and whether there are any gaps in providing information to consumers about the prices, terms and conditions of products which is impacting on credit management outcomes in the Telecommunications Industry.***

#### **5.2.4 Industry Credit Management Code CMC - (ACIF C541)**

ACIF describes the existing CMC as: specifying 'minimum standards, where appropriate, for credit management procedures and provides guidance as to the promulgation of information regarding credit management policies.'

The code is designed to support the key operational context to the credit cycle (credit assessment, collection and recovery), outline in the one document a framework for a supplier's credit process to give consumers access to information and outline basic credit management processes that consumers can expect from their telecommunications suppliers.

The CMC mostly documents existing supplier processes and legal obligations for debt recovery with the code offering minor benefit for consumers in the form of information

provision about what they might expect as a result of credit checks, credit management action, or what they might do if they want to dispute credit management action.

As noted, under section 5.2 of the CMC, companies are required to inform customers about credit management options where such options exist. However, this information does not necessarily inform customers about the risks associated with different products and why the use of credit management options may be important in limiting their exposure to high bills.

The CMC does not provide consumers with any tools to limit the accumulation of debt and so better manage credit provision, other than when a supplier chooses to impose those measures. For example there is:

- no requirement for suppliers to offer a credit limit,
- no requirement for notification where bills exceed certain amounts; and
- no requirement for consumers to be offered options such as 'opt-in' or to 'bar' particular types of services such as premium rate services (although there is a requirement for customers to be offered options to stop unauthorised access).

The CMC is also looking somewhat dated in the sense that it does not contemplate any m-commerce issues and the consequent changing roll in the role of the mobile phone as a source of credit. In particular, there is no guidance in the code about what will happen should a customer wish to dispute a payment on the bill for an m-commerce service. Potentially, any failure to pay could trigger all the credit management provisions of the code which are mainly designed for telecommunications services.

***Comments are sought on how the current code is meeting its stated goals and whether there are any gaps in credit management procedures available to consumers and information about policies which is impacting on credit management outcomes in the Telecommunications Industry.***

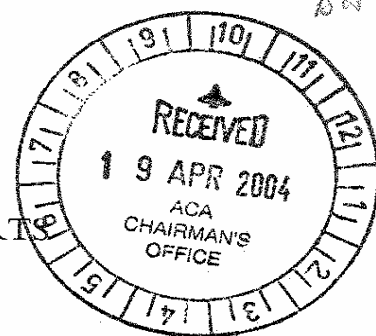
## **Attachments**

The following documents are attached to this discussion paper:

- A Letter of 13 April 2004 from the Hon Daryl Williams, Minister for Communications, Information Technology and the Arts, to Dr Robert Horton, Acting Chair, Australian Communications Authority.
- B. Australian Communications Authority (Service Provider Determination) Direction 2004 (No. 1)
- C. Premium Service Determination 2004 (No. 1)
- D TIO position statements on unlimited credit / overcommitment



MINISTER FOR COMMUNICATIONS  
 INFORMATION TECHNOLOGY AND THE ARTS  
 THE HON DARYL WILLIAMS AM QC MP



Dr Robert Horton  
 Acting Chair  
 Australian Communications Authority  
 PO Box 13112 Law Courts PO  
 MELBOURNE VIC 8010

13 APR 2004

Dear Dr Horton

I am writing to convey the enclosed direction to the Australian Communications Authority (ACA), made under subsection 12(1) of the *Australian Communications Authority Act 1997*. I also wish to provide you with a copy of a Ministerial determination, made under paragraph 3.12(1)(c) of the *Telecommunications Regulations 2001* (the Regulations).

These instruments were made in the light of advice provided by the ACA to the previous Minister on measures to address 'Internet dumping' and unexpected high bills for premium services. In particular, they respond to the ACA's report of 31 July 2003 entitled 'Investigation into the need for additional regulatory measures in relation to the supply of Premium Services' and the letter of 8 August 2003 from Mr Shaw, the previous Chair of the ACA, providing the previous Minister with a progress report on the development of a service provider determination.

The *Premium Service Determination 2004 (No. 1)* is intended to extend the ACA's powers, under Regulation 3.12(1) of the Regulations, to enable the ACA to make a service provider determination setting out rules that apply to service providers who supply premium rate mobile services on the 19X number range or proprietary networks.

The *Australian Communications Authority (Service Provider Determination) Direction 2004 (No. 1)* (the Direction):

- revokes the *Australian Communications Authority (Service Provider Determination) Direction 2003 (No. 1)* (the previous Direction), issued by the previous Minister on 13 March 2003;
- reinstates the direction to the ACA to make, as soon as practicable, a service provider determination in relation to provision of information to consumers of 190 or international premium services (subclauses 4(7) and (8) of the previous Direction);

- directs the ACA to make, as soon as practicable, another service provider determination in relation to provision of information to consumers of premium rate mobile services which will be supplied on the 19X number range and proprietary networks; and
- directs the ACA to investigate and report to the Minister within six months on a range of issues, including measures to address Internet dumping and unexpected high bills across carriage and content services in general.

The Direction endorses the strategy for dealing with unexpected high bills recommended in the ACA's reports of July and August 2003, namely focusing on a more generic solution to unexpected high bills that involves credit management measures across a wide range of services.

I note the advice provided by Mr Shaw in his letter of 8 August 2003 that the ACA expected that the service provider determination (now covered by clause 5 of the Direction) could be made within three or four weeks. I consider the service provider rules that have been proposed by the ACA in relation to provision of information to consumers of 190 or international premium services to be appropriate.

The service provider determination referred to in clause 6 of the Direction may take longer to implement, as consultation with stakeholders may be required. Again, however, I would like to see the determination made as soon as practicable.

I note that the ACA also intends to undertake its own broad consumer awareness campaign.

Paragraph 7(a) requires the ACA to report on actions taken by carriage service providers to address Internet dumping on both international numbers and geographic numbers. Paragraph 7(b) requires the ACA to report on the appropriateness of a determination by the ACA requiring carriage service providers who provide access to international numbers to bar access to specified numbers used to supply premium services.

Paragraphs 7(c) to 7(f) of the Direction set out matters on which the Government will require advice from the ACA in order to determine whether further regulatory action is appropriate in relation to credit management processes to address unexpected high bills across all telecommunications services.

I would like to emphasise that the Government considers it important that industry demonstrate an appropriate commitment to address the credit management issues set out in paragraph 7(c) of the Determination. I would appreciate the ACA closely monitoring industry action over the coming months and considering whether to exercise its statutory powers under Part 6 of the *Telecommunications Act 1997*. In particular, the ACA should consider whether to:


- request the industry to develop and submit an industry code dealing with these credit management issues;
- specify indicative target dates for achieving progress in the development of this code; and

- in the event that a satisfactory code is not submitted to the ACA for registration, make an industry standard dealing with these issues.

I would appreciate your advice, as a matter of priority, if you consider at any time that the industry has not shown an appropriate commitment to address credit management issues and the action that the ACA plans to take.

I agree to your releasing to the public both the report of 31 July 2003 and the letter of 8 August 2003 from the previous Chair.

Yours sincerely

A handwritten signature in cursive script that reads "Daryl Williams".

DARYL WILLIAMS

Commonwealth of Australia

*Australian Communications Authority Act 1997*

**Australian Communications Authority  
(Service Provider Determination)  
Direction 2004 (No. 1)**

I, DARYL ROBERT WILLIAMS, Minister for Communications, Information Technology and the Arts, make the following Direction under subsection 12(1) of the *Australian Communications Authority Act 1997* (the Act) in relation to the performance by the Australian Communications Authority (ACA) of its functions and the exercise by the ACA of its powers under sections 6 and 9 of the Act.

Dated *13 April* 2004

*Daryl Williams*

Minister for Communications, Information Technology and the Arts

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**1 Name of Direction**

This Direction is the *Australian Communications Authority (Service Provider Determination) Direction 2004 (No. 1)*.

**2 Commencement**

This Direction commences on gazettal.

**3 Revocation of the *Australian Communications Authority (Service Provider Determination) Direction 2003 (No. 1)***

The *Australian Communications Authority (Service Provider Determination) Direction 2003 (No. 1)* is revoked.

#### **4 Definitions**

In this Direction:

*ACIF* means the Australian Communications Industry Forum.

*Act* means the *Telecommunications Act 1997*.

*carriage service* has the same meaning as in the Act.

*carriage service provider* has the same meaning as in the Act.

*content service* has the same meaning as in the Act.

*geographic number* has the same meaning as in the *Telecommunications Numbering Plan 1997*.

*industry body* means a body or association that represents a particular section of the telecommunications industry.

*international number* means a number that includes an international access code.

*premium service* means:

- (a) a carriage service or content service using a number with a prefix starting with '190'; or
- (b) a carriage service used to supply:
  - (i) a content service; or
  - (ii) another service by way of a voice call (including a call that involves a recorded or synthetic voice);  
using a number that includes an international access code; or
- (c) another carriage service or content service determined in writing by the Minister for the purposes of paragraph 3.12(1)(c) of the Regulations.

*Regulations* means the *Telecommunications Regulations 2001*.

*telecommunications industry* has the same meaning as in the Act.

**5 Service provider rules – 190 and international services**

- (1) The ACA must make a service provider determination as soon as practicable under section 99 of the Act in accordance with this Direction in relation to:
  - (a) the matter specified in paragraph 3.12(3)(d) of the Regulations; and
  - (b) the matters specified in regulation 3.11 of the Regulations to the extent that they relate to the matter specified in paragraph 3.12(3)(d) of the Regulations.
- (2) The service provider determination must set out a rule requiring a carriage service provider to provide information to its customers about:
  - (a) the risks associated with those services covered by paragraphs (a) and (b) of the definition of *premium service* in clause 4; and
  - (b) the action that those customers can take to lessen the risk of unexpected high bills for those services.
- (3) The rule mentioned in subclause (2) may specify a method or way in which the carriage service provider must provide the information mentioned in that subclause.

**6 Service provider rules – Services determined by the Minister**

- (1) The ACA must make a further service provider determination as soon as practicable under section 99 of the Act in accordance with this Direction in relation to:
  - (a) the matter specified in paragraph 3.12(3)(d) of the Regulations; and
  - (b) the matters specified in regulation 3.11 of the Regulations to the extent that they relate to the matter specified in paragraph 3.12(3)(d) of the Regulations.
- (2) The service provider determination must set out a rule requiring a carriage service provider to provide information to its customers about:

- (a) the risks associated with those services covered by paragraph (c) of the definition of *premium service* in clause 4; and
  - (b) the action that those customers can take to lessen the risk of unexpected high bills for those services.
- (3) The rule mentioned in subclause (2) may specify a method or way in which the carriage service provider must provide the information mentioned in that subclause.

**7 Matters to be investigated, and reported on, by the ACA**

The ACA must investigate and report to the Minister within 6 months after the commencement of this Direction on:

- (a) actions taken by carriage service providers, either individually or through ACIF or other industry bodies, to address Internet dumping involving the use of geographic numbers or international numbers; and
- (b) the appropriateness of a service provider determination being made under section 99 of the Act to require carriage service providers who provide access to international numbers to bar access to certain international numbers, or to a certain class or range of international numbers, used to provide premium services; and
- (c) credit management measures that the telecommunications industry has in place or is developing to address unexpected high bills for carriage services or content services, including:
  - (i) a more comprehensive assessment of customers' ability to pay bills in relation to the supply of carriage services or content services; and
  - (ii) the offering of credit or billing limits; and
  - (iii) the offering of options to bar access to higher cost services; and
  - (iv) so far as is practicable, the offering of caps on charges for certain categories of service, such as premium services or calls to international numbers; and

- (v) so far as is practicable, the offering of a cap on the charge for an individual telephone call; and
  - (vi) more comprehensive monitoring of customers' spending on carriage services or content services and measures to advise customers if their use of such services is unusually high; and
  - (vii) improved information to customers about the risk of unexpected high bills for carriage services or content services and actions that customers can take to lessen this risk; and
  - (viii) the offering of monthly or more frequent billing as an option; and
- (d) the nature of plans developed by the telecommunications industry to implement the credit management measures specified in paragraph (c), including the implementation timetable; and
- (e) whether the ACA considers that the action and commitment of the telecommunications industry to implement the credit management measures specified in paragraph (c) have been adequate; and
- (f) any regulatory measures that may be desirable to ensure comprehensive and timely reform to address the problem of unexpected high bills for carriage services or content services.

## Commonwealth of Australia

*Telecommunications Regulations 2001***Premium Service Determination  
2004 (No. 1)**

I, DARYL ROBERT WILLIAMS, Minister for Communications, Information Technology and the Arts, make the following Determination under paragraph 3.12(1)(c) of the *Telecommunications Regulations 2001*.

Dated 13 April 2004



Minister for Communications, Information Technology and the Arts

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**1 Name of Determination**

This Determination is the *Premium Service Determination 2004 (No. 1)*.

**2 Commencement**

This Determination commences on gazettal.

**3 Definitions**

In this Determination:

*Act* means the *Telecommunications Act 1997*.

*carriage service* has the same meaning as in the Act.

*carriage service intermediary* has the same meaning as in the Act.

*carriage service provider* has the same meaning as in the Act.

*content service* has the same meaning as in the Act.

**eligible prefix** means a prefix of 191, 193, 194, 195, 196, 197 or 199.

**mobile carriage service provider** means:

- (a) a carriage service provider who supplies a customer with a public mobile telecommunications service; or
- (b) a carriage service intermediary who arranges for the supply by a carriage service provider to a customer of a public mobile telecommunications service.

**premium content service** means a content service where a charge for the supply of the service:

- (a) is expected to be included in a bill sent to a relevant customer of a mobile carriage service provider by or on behalf of that provider; or
- (b) is payable by a relevant customer to a mobile carriage service provider or any person acting on behalf of that provider:
  - (i) in advance; or
  - (ii) in any other manner.

**proprietary network** means a telecommunications network used by a mobile carriage service provider that enables customers of that provider to access a premium content service by way of a mobile device where that service is not otherwise generally available.

**public mobile telecommunications service** has the same meaning as in the Act.

**relevant customer** means a customer of a mobile carriage service provider in relation to the supply of a premium content service.

**telecommunications network** has the same meaning as in the Act.

**4**

**Determination**

The following services are determined for the purposes of paragraph 3.12(1)(c) of the *Telecommunications Regulations 2001*:

- (a) a carriage service supplied by way of a call to a number with an eligible prefix;

- (b) a content service supplied by way of a call to a number with an eligible prefix;
- (c) a public mobile telecommunications service that enables an end-user to access a proprietary network.

## TIO position statements

### Unlimited credit - overcommitment (not premium rate services)

The TIO commonly investigates billing complaints where the complainant has been billed for an uncharacteristically high value of telephone calls or Internet charges, and finds themselves in a position of overcommitment.

Overcommitment by consumers of telephone services most often arises as a result of calls to third-party services, including I90X premium rate services and other services accessed via an international prefix. This is dealt with specifically under the position statement [Unlimited Credit - Overcommitment \(premium rate services\)](#).

Overcommitment can also arise through calls to ordinary long distance and mobile numbers, and as a result of excess Internet usage charges. Where a consumer brings a complaint to the TIO about a bill(s) for an uncharacteristically high value of telephone calls or Internet charges, the TIO will consider investigating depending on the individual circumstances of the complaint. In deciding whether or not to investigate, and in resolving such complaints, the TIO will consider the law, good industry practice and what is fair and reasonable in all the circumstances having regard to:

- once the carrier became aware or ought reasonably to have become aware that the customer was incurring an unusual amount of debt, what steps the carrier took to minimise or limit the customer's access to credit or exposure to debt, including the existence of any systems or processes to monitor the level of debt of any customer and compliance with those systems or processes;
- once the carrier became aware or ought reasonably to have become aware that the customer was incurring an unusual amount of debt, what advice or warning the carrier may have given to the customer about the level of debt, including about call barring;
- what steps the customer took, or ought reasonably have taken, to limit any overcommitment on their part, including the use of call barring;
- whether a customer has agreed to use alternative products/services that may be available in the market place to obviate debt, eg prepaid services;
- the usage and payment history of the customer.

Last updated: 6 August 2003

### Unlimited Credit - Overcommitment (premium rate services)

There is currently no legislation or Industry Code which prescribes credit limits to be applied by carriers/carriage service providers in relation to customers being billed for a range of third-party services, including I90X premium rate services and other services accessed via an international prefix.

The Telephone Information Service Standards Council (TISSC) Code regulates the advertising of call rates for Premium Rate Services and Part 9A of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*, removes a provider's rights to charge for telephone sex services if specified requirements are not met. Apart from these provisions and relevant parts of applicable Consumer Codes, there is currently no specific regulation of credit for third-party billing.

Users of these services incur premium rate call charges, some component of which relates to the content or nature of the services. As these call charges are billed in arrears a carrier is effectively extending credit to its customers in circumstances where the only credit limits are those of a discretionary nature, ie those where access restrictions might be applied by the carrier from time to time or those self-imposed by customers. There are instances where customers become overcommitted financially in relation to use of these services.

The TIO has developed this Position Statement to cover situations where the legal lessee of a telephone service makes a complaint about liability for a debt incurred in relation to the use of such services. The Australian Communications Authority is currently considering whether to make a Determination relating to a price cap regime in relation to premium rate services. There are indications that this Determination will not be made.

In resolving complaints, the TIO will have regard to specific law and industry Codes such as Part 9A of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* and the TISSC Code. The TIO will also consider general laws that apply to matters of this nature, as well as what is good industry practice and what is fair and reasonable.

Whether or not it is fair and reasonable for a complainant to be held liable for a debt incurred in relation to the use of these services will depend on the circumstances of the complaint. In obtaining a fair and reasonable resolution to a complaint, the TIO may have regard to:

- once the carrier became aware or ought reasonably to have become aware that the customer was incurring an unusual amount of debt, what steps the carrier took to minimize or limit the customer's access to credit or exposure to debt, including the existence of any systems or processes to monitor the level of debt of any customer and compliance with those systems or processes;
- once the carrier became aware or ought reasonably to have become aware that the customer was incurring an unusual amount of debt, what advice or warning the carrier may have given to the customer about the level of debt, including about call barring;
- what steps the customer took, or ought reasonably have taken, to limit any overcommitment on their part, including the use of call barring;
- any restrictions on or rules relating to the accessibility of the service, including any laws relating to the legality of the service;
- whether the service discloses the costs which may accrue to a customer's account with a carrier;
- whether a customer has agreed to use alternative products/services that may be available in the market place to obviate debt, eg prepaid services;
- the usage and payment history of the customer;
- any demonstrated overcommitment by the customer or hardship to the customer as a result of enforcement of the debt including the size of the debt;
- the nature of the product, the manner in which it is marketed or promoted and any vulnerability of the customer.

**Last updated: 24 November 2003**