



Australian Government

Australian Communications Authority

# Preventing Unexpectedly High Bills: Credit Management in Telecommunications

**October 2004**

A report to the Minister for Communication, Information Technology and the Arts regarding Internet dumping and credit management in the telecommunications sector

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# Executive Summary

This report provides information and recommendations to the Minister regarding significant problems that have emerged in the telecommunications market related to:

- Internet dumping, where a customer's modem connection to the Internet is taken over by software, known as an Internet dialler, and re-established using an expensive call service; and
- Unexpectedly high bills received by customers relating to a variety of services and due to a variety of causes.

## Internet Dumping

The ACA concludes in this report that the problem of Internet dumping has significantly reduced in scale since the use of 190 premium rate numbers for Internet diallers ended in September 2003. Internet diallers have since moved to using international numbers, generally to countries associated with high international termination rates. Although these have become the source of a significant number of complaints to the Telecommunications Industry Ombudsman (TIO), the level of complaints is substantially lower than that for 190 premium rate numbers in the second half of 2003.

Actions already taken by individual carriage service providers (CSPs) to block calls to international numbers used by Internet diallers are expected to be enhanced under a protocol developed by the Australian Communications Industry Forum (ACIF) for sharing information among CSPs about international numbers identified as potentially associated with Internet diallers. The ACA has reservations about the effectiveness of this protocol. However, because complaints regarding Internet diallers have fallen to a manageable level, and because there is a reasonable prospect that the ACIF protocol will produce some positive results, the ACA considers that regulatory intervention is not justified at this time.

Notwithstanding this position, the ACA proposes to:

- Evaluate the success of recent service provider rules determined by the ACA requiring provision of information to customers about premium services and Internet dumping; and
- Obtain an evaluation of the success of regulatory measures which require blocking of international numbers believed to be associated with Internet diallers that have been introduced in other countries, notably recent measures adopted in Ireland; and

- Continue to monitor the level of problems that emerge relating to Internet diallers.

## Unexpectedly High Bills

In respect of problems of unexpectedly high bills, the ACA concludes in this report that these problems show every sign of worsening, as reflected in the level of complaints to the TIO and various other consumer complaint handling bodies, and in default listings received by the credit reference agency, Baycorp Advantage, about the telecommunications sector.

Of even greater concern is that there is little sign that CSPs appreciate the nature and scope of the problem in their own sector. The ACA believes that this lack of understanding imperils any efforts to address the deteriorating problem of unexpectedly high bills. Moreover, the general paucity and low standard of credit management tools made available by many carriage service providers to prevent or reduce the impact of unexpectedly high bills is itself a reflection of this poor appreciation of the problem.

Consequently, the ACA's assessment is that these defects are causing profoundly adverse social consequences. Given this, the ACA considers it appropriate that steps are taken to remedy this state as quickly as possible.

In this report, the ACA:

- Identifies the following key outcomes which it considers should be achieved in order to bring credit management practice in the telecommunications sector to a reasonably satisfactory state –
  1. That consumers possess a reasonable understanding of the telecommunications products and services that they use, and have certainty about the costs of telecommunications services, the associated risks and their expenditure on these services
  2. That consumers have the means to properly manage their expenditure on telecommunications services
  3. That the expenditure by consumers on telecommunications services is limited in line with their preferences or their ability to pay;
- Proposes a framework in which credit management tools of a satisfactory level of effectiveness are made available by CSPs to achieve each of these outcomes; and
- Concludes that implementation of this framework by CSPs should be secured via suitable regulatory or other measures, and proposes five possible strategies for implementing the framework, relying on:
  1. Enhancement of the existing industry codes, or

2. Establishing a voluntary national standard and using a standards mark to publicise compliance with the standard, or
3. Individual implementation plans prepared by each carriage service provider and approved by the regulator, or
4. Detailed specification of requirements for implementation of the framework via regulation, or
5. A hybrid solution, involving detailed specification of requirements for implementation of the framework via regulation with an option open to CSPs to prepare individual implementation plans which are approved by the regulator.

The ACA considers each of the above strategies to be feasible. Based on its experience of stimulating the development of industry codes and ensuring compliance with these codes, the ACA is predisposed to regard the first of these strategies as the most difficult to secure the desired outcomes. By comparison, the ACA's experience in implementing similar strategies to the last one listed above leads us to regard this strategy as the one which may most easily bring about an achievement of these outcomes.



# 1. Introduction and Background

## 1.1 Direction by the Minister

The previous Minister for Communications, Information Technology and the Arts issued the *Australian Communications Authority (Service Provider Determination) Direction 2004 (No. 1)* (the Direction) on 13 April 2004 (at Appendix A). The Direction requires the ACA to develop two service provider rules requiring carriage service providers (CSPs) to provide information to their customers about the risks associated with using premium services and the actions those customers can take to lessen the risk of unexpectedly high bills for those services.

Additionally, the ACA is directed to investigate and report to the Minister within six months after the Direction commenced on actions taken by CSPs, either individually or through the Australian Communications Industry Forum (ACIF) or other industry bodies, to address Internet dumping involving the use of geographic numbers or international numbers. As part of this investigation, the ACA was asked to assess the appropriateness of a service provider rule to require CSPs who provide international call services to bar access to certain international numbers or to a class or range of international numbers that are used to provide premium services.

Finally, the ACA was also directed to consider the credit management measures that the telecommunications industry has in place or is developing to address the problem of unexpectedly high bills for carriage services or content services, the adequacy of these measures, and the possible need for regulatory action to ensure an appropriate response to the problem.

The first of the service provider rules, the *Telecommunications Service Provider (Premium Services) Determination 2004 (No. 1)*, which applies to premium services using numbers with the prefix 190 and international numbers, was made on 19 May 2004 and commenced on 19 August 2004. The second service provider rule, the *Telecommunications Service Provider (Premium Services) Determination 2004 (No. 2)*, which applies to premium messaging services which use the short message service (SMS) or multi-media messaging (MMS) and to content accessed via mobile carrier portals (or 'proprietary networks'), was made on 8 September 2004 and will commence on 15 December 2004. In both cases the ACA has deferred the commencement of the Determinations to allow CSPs time to prepare the information for their customers.

The development of the service provider rules is closely linked to the investigation of credit management matters since the rules will require CSPs to identify the tools they are able to offer to their customers to prevent unexpectedly high bills. This information will make customers aware of the options available to them in choosing the most appropriate means of protecting themselves from unexpectedly high bills.

As part of the process of preparing this report, the ACA released a discussion paper on credit management in the telecommunications industry and invited submissions

on the issues raised in the paper. Public meetings were subsequently held in a number of cities. The ACA also liaised with a number of Australian and overseas organisations and undertook research on Internet dumping and credit management issues. Details of these activities are provided in Appendix B to this report.

## 1.2 Relationship to other ACA work

The failure of credit management processes, regardless of any issue of fault, can lead to consumer debt. How CSPs deal with customers who fall into debt is particularly relevant where credit management processes are deemed to be inadequate and problems associated with repaying debt raise issues of hardship. The Minister has not sought advice on current post-debt actions taken by CSPs nor on existing hardship policies. However, the ACA notes that it would be appropriate for financial hardship to be considered in an industry-wide approach to credit management.

The ACA is separately working with CSPs to develop policies aimed at ensuring that customers experiencing financial hardship are provided with information to assist them, and that they have procedures that will enable continued access to telecommunications services. The formation of such a policy is considered a natural progression following the implementation of enhanced measures to improve credit management practices across the telecommunications sector.

Consumer law bodies noted that hardship policies introduced in the Victorian water sector have had a demonstrable effect on preventing disconnection and/or restriction of this essential service, and have become a regulatory requirement in the Victorian energy sector. Evidence has also been presented to the ACA from bodies such as Yarra Valley Water that these policies have resulted in decreased costs and increased repayment of debt for the utilities involved.

In this respect, the ACA supports the TIO position that:

Although the TIO supports the development and distribution of hardship policies specific to the telecommunications sector, it would be preferable that any such policies are aimed at preventing customers from falling into a situation of hardship rather than aimed at dealing with financial problems after the fact.

## 2. Internet Dumping

### 2.1 What is Internet dumping?

Internet dumping or ‘modem hijacking’ takes place when, unknown to an end user, software that has been downloaded to his or her computer disconnects the existing dial-up connection from the computer to the end user’s Internet service provider (ISP)—which is usually made via an untimed local call—and reconnects the computer to a different ISP via an international call or, in the past, via a call to a premium rate (or 190) number. The purpose of the new connection is to provide access to content on websites which are only accessible via the new connection, and to include the charge for accessing this content in the charge for the call. Internet dumping is most usually associated with websites offering adult content but can also be associated with websites offering access to music and games.

The software which disconnects an existing dial-up connection and reconnects a computer to a new, more expensive connection is known as an Internet dialler.

To the extent that the ACA has been able to determine, most websites associated with Internet diallers ask the end user for permission before the Internet connection is broken and re-established via a more expensive call. However, this request may be hidden amongst information promising access to new or free content, or the request may appear among numerous pop-up windows or banners which have the effect of confusing the end user, or information on pop-up windows is mislabelled so that, for example, the button with the accept function is labelled ‘close’ or ‘unsubscribe’. In these circumstances, end users can easily and unwittingly agree to the transfer of their Internet connection to a more expensive call.

Internet diallers which initiate international calls tend to prefer international destinations—countries and territories—for which high international settlement rates apply. For example, São Tomé and Príncipe, Diego Garcia, and Guinea-Bissau appear to be frequently used as destinations for calls originated by Internet diallers, and Telstra’s standard rates for calls to these destinations start at \$1.60, \$1.90, \$1.95 per minute respectively. By comparison, Telstra’s standard rates for calls to destinations such as New Zealand and the United States start at \$0.21 per minute. It is not yet apparent to the ACA how providers of content accessed via Internet diallers receive a share of the revenue from call charges.

Internet diallers can only operate successfully where a customer is connected to the Internet and has a modem attached to his or her computer. The Australian Bureau of Statistics records that there are 4 million services operating dial up modems in Australia.

This chapter examines:

- the extent of problems associated with Internet dumping and whether the scale of the problem is changing;
- the options that are available for preventing Internet dumping;
- the actions taken by carriage service providers (CSPs), either individually or collectively, to address Internet dumping; and

- the possible need for a service provider rule to ensure the effectiveness of one approach in preventing Internet dumping by blocking calls to certain international numbers or destinations.

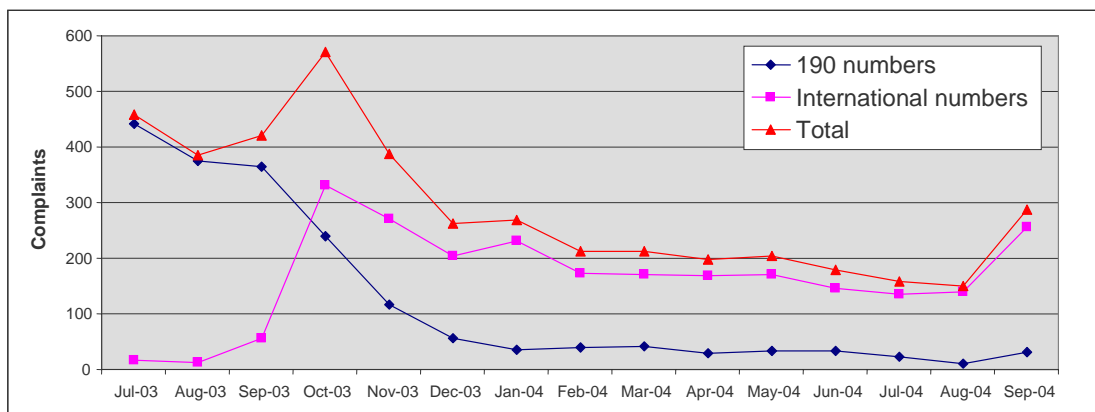
## 2.2 How extensive is the problem?

### *Internet diallers using 190 numbers and international numbers*

For the purpose of this report, the ACA has examined the levels and nature of complaints about Internet diallers made to the TIO and the Telephone Information Services Standards Council (TISSC). The former is an organisation funded by CSPs to investigate complaints about charging for fixed, mobile and Internet services which cannot be resolved directly with the relevant provider. TISSC is an organisation funded by Telstra and supported by content providers and consumer bodies that sets standards for premium rate services using 190 numbers, relating primarily to the content and advertising of the services, through a Code of Practice (the TISSC Code). TISSC also assesses complaints about alleged breaches of the TISSC Code.

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

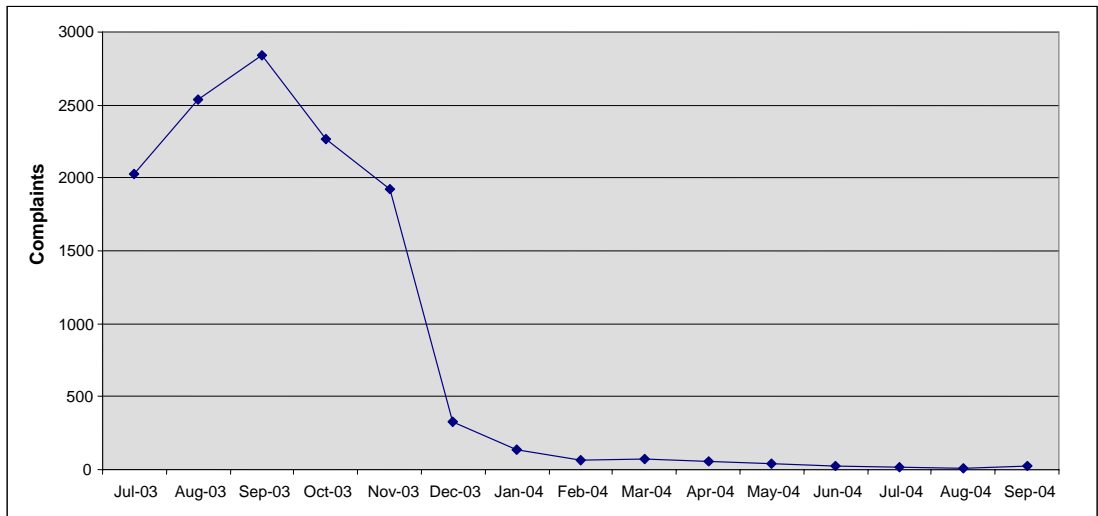
Figure 1 contrasts the level of complaints received by the TIO relating to Internet diallers using 190 numbers and those using international numbers. The total number of 190 Internet dialler complaints in 2003-04 was 1807, compared with 1969 complaints concerning international numbers.



**Figure 1 – Monthly complaints received by the TIO regarding Internet diallers: July 2003 to September 2004**

However, following September 2003 when Telstra terminated the use of 190 numbers by Internet diallers, the level of complaints received by the TIO relating to Internet diallers using 190 numbers decreased significantly. TISSC experienced a

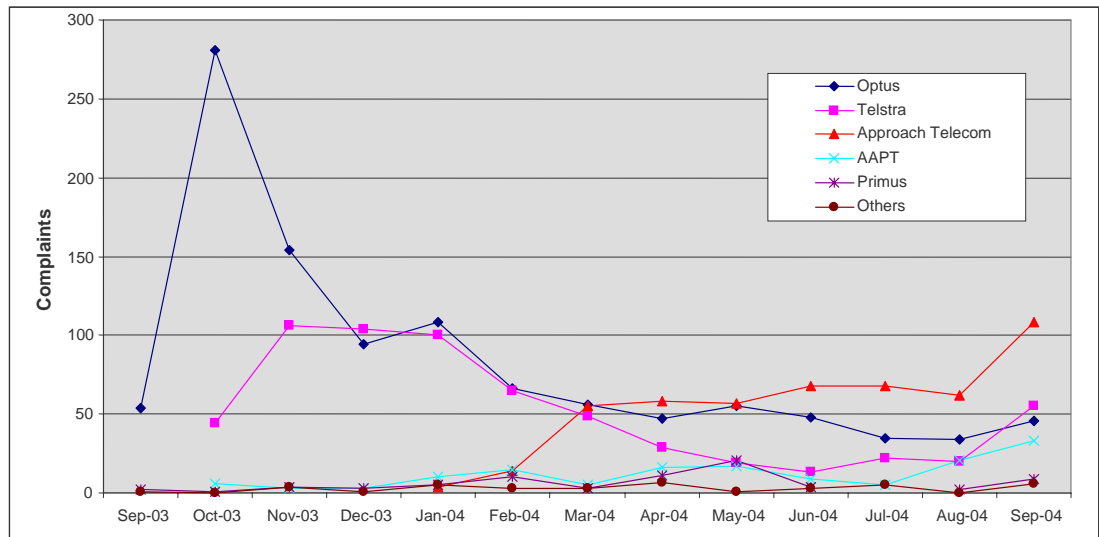
similar fall in the number of complaints related to 190 Internet diallers at the same time, from a peak of 2,840 complaints in September 2003 to an average of 51 complaints per month between February and June 2004 (see Figure 2).



**Figure 2 – Monthly complaints received by TISSC regarding Internet diallers using 190 numbers: 2003 to 2004**

Complaints concerning Internet diallers using international numbers have continued to be received by the TIO, but these have not reached the peak level of complaints for 190 Internet diallers that occurred in July to September 2003 and have remained constant at around 176 complaints per month for the last nine months.

Whether complaints—and the underlying problems with Internet diallers—have genuinely stabilised may depend on the activities of CSPs, consumers and international content providers. However, a closer analysis of complaints received by the TIO regarding international Internet diallers, represented in Figure 3, indicates there is a considerable variation in the number of complaints between providers. In fact, one provider, Approach Telecom, emerged during this period as a significant source of complaints. This volatility suggests that there is considerable scope for Internet diallers using international numbers to continue to be a significant problem and cause of unexpectedly high bills.



**Figure 3 – Monthly complaints received by the TIO regarding Internet diallers using international numbers, by CSP: September 2003 to September 2004**

Nonetheless, the TIO’s investigations of complaints relating to Internet diallers have revealed few verified cases of Internet dumping. Instead, where the TIO has visited the websites that are the subject of the complaints, he has usually identified that some form of notice was provided advising the end user that higher call charges could be expected.

### **Conclusion**

The ACA should continue its monitoring of international Internet dialler complaints, and undertake additional monitoring as appropriate to identify future trends in Internet dumping.

### *Internet diallers operating from Australia using international numbers*

In August 2004, the ACA became aware of the operations of the company Approach Telecom (a subsidiary of Quadrant Iridium) which provides carriage of calls initiated by Internet diallers. The calls are dialled using the international access code ‘0014’ assigned to Primus Telecommunications. The websites accessed by the Internet dialler provide adult content which the ACA understands is sourced from Hong Kong based content providers.

Calls carried by Approach Telecom cost between \$3 and \$5 per minute. The ACA has been advised by Approach Telecom of the following features of its services:

- The maximum cost that can be incurred in a single bill is \$300, and bills are issued weekly;
- After the maximum bill amount is reached, further calls are barred until the account is paid;

- An individual login session cannot exceed 20 minutes (which at the maximum charge of \$5.50 per minute would amount to \$110);
- A website is available which provides explanations of the service and how it operates;
- A customer care centre is available to answer telephone enquiries;
- In cases where customers deny that calls were made from their service or in cases of unintentional usage, the account is waived and the service is barred to prevent future access; and
- In cases of non-payment of an account, the account is usually written off and the service is barred to prevent future access.

The TIO has received complaints regarding Approach Telecom since January 2004 when it commenced operation. There has been a steady increase in complaint numbers from 73 in the March quarter to 238 in the September quarter. Since April 2004, Approach Telecom has been the subject of the highest number of international dialler complaints of any CSP.

Because most complaints relating to Approach Telecom are resolved by the company waiving charges and barring future access to its services, the TIO considers that there is no justification for conducting a systemic complaint investigation into Approach Telecom.

The Australian Competition and Consumer Commission (ACCC) has received 47 complaints regarding Approach Telecom, some of which, as appropriate, have been raised by the ACCC directly with Approach Telecom to seek a resolution. The ACCC is also not considering any specific action in respect of Approach Telecom.

The ACA notes that any extension of barring of international calls, as proposed later in this chapter, to encompass calls made via over-ride codes and international access codes other than 0011—would allow customers to be protect themselves against calls initiated by Internet diallers associated with Approach Telecom.

### **Conclusions**

The ACA should continue its monitoring of complaints regarding Approach Telecom, and in particular evaluate the impact on the level of complaints of the recent service provider rule made by the ACA that requires CSPs to provide information to their customers about the risks of unexpectedly high bills from premium services, including those accessed via international numbers, and the actions customers can take to minimise these risks.

Given Approach Telecom's policy of waiving disputed charges and subsequently barring future access to its services, no regulatory intervention in relation to Approach Telecom's service is justified at this time.

### *Internet diallers using Australian geographic numbers*

In January 2004, the ACA became aware of a large number of complaints received by the TIO and the ACCC regarding the actions of Australian Internet Billing (AIB), a company providing Internet dialler services on a Sydney number. Users of the service were charged for the cost of the call (whether local or long distance) on their telephone account, but a separate bill was issued by AIB for the cost of Internet access at a charge of several dollars per minute.

The TIO was not able to take any direct action in respect of AIB because it did not register with the TIO until April 2004. The ACCC undertook an investigation into the complaints it received about AIB but, as the amounts of money were quite small and AIB did not pursue consumers if they did not pay, the ACCC did not progress the investigation. AIB has subsequently ceased operation.

The ACA is not aware of any other cases of Internet diallers operating on Australian geographic numbers.

#### **Conclusion**

Given there is no evidence of current use of Australian geographic numbers by Internet diallers, there is no need for regulatory action or intervention in relation this practice at this time.

### *Internet diallers using Norfolk Island numbers*

The ACA has very recently become aware that the territory of Norfolk Island has been identified by the Irish telecommunications regulator, ComReg, as one of thirteen international destinations referred to in complaints it has received about Internet diallers using international numbers. Subsequently, ComReg has taken action to oblige network operators in Ireland to block international direct dial calls to these destinations. If Norfolk Island numbers are being used by Internet diallers, this may be because of the high international termination rates for calls to Norfolk Island (approximately \$6 per minute from the Irish incumbent network operator, Eircom).

Although the ACA has no formal jurisdiction over the telecommunications market in Norfolk Island, it is disturbing that telephone numbers administered by an Australian territory might be used by Internet diallers. To date, the ACA has found no evidence that Norfolk Island numbers have been used by Internet diallers initiating calls from Australian customers. However, the ACA has sought to determine whether Internet diallers are genuinely using Norfolk Island numbers and, if so, under what circumstances. The ACA understands that the Norfolk Island Administration is also investigating the use of Norfolk Island numbers by Internet diallers.

#### **Conclusions**

The ACA should liaise with the Norfolk Island Administration and, as appropriate, the Department of Transport and Regional Services to understand the circumstances under which Internet diallers may be using Norfolk Island numbers.

The ACA should liaise with authorities in other countries responsible for handling complaints related to Internet diallers to determine if Australian numbers or numbers administered by an Australian territory have been identified as possibly being used by Internet diallers.

## 2.3 Options for prevention of Internet dumping

Because Internet diallers use numbers that are not under Australian control, and are generally downloaded from websites that are hosted outside Australia, they would appear to be outside Australian legal jurisdiction. Consequently, legal actions to restrict or regulate Internet diallers directly do not appear to be feasible. Solutions to prevent Internet dumping have, to date, been restricted to actions initiated by customers and CSPs. These options for preventing Internet dumping are discussed below.

It is important to note that some of the potential solutions to the problems of Internet dumping are generic solutions that apply to international and other services. For example, the existence of a hard cap for all telephone calls—as discussed in the next chapter—would ameliorate some of the impact of Internet dumping, as customers would only be able to accrue charges for calls associated with Internet diallers up to the capped amount. This and other like solutions are discussed in more detail in the next chapter.

### *Barring of international calls*

Customers may request that their CSP bar international calls. Some CSPs limit such barring only to calls dialled starting with the usual international access code, 0011. Other CSPs extend such barring to calls dialled with an over-ride code (14nn) followed by 0011, which selects a CSP other than the one pre-selected by the customer, and to calls dialled with an international access code other than 0011. Barring of all international calls may not always be convenient since a customer's telephone service may provide access to both international voice calls as well as dial up Internet connections.

An alternative approach to barring of international calls is for customers to have the ability to switch barring of international calls on and off as and when required, via the use of a PIN. PIN-controlled barring is available from some CSPs for a monthly fee. However, PIN-controlled barring is only effective when customers remember to immediately re-instate barring after they have switched it off in order to make a normal international voice call.

### *Blocking of international numbers known to be associated with Internet dumping*

CSPs are able to block direct dial calls to international numbers known to be associated with Internet dumping. The usual method of identifying these numbers is via complaints from customers.

Depending on the capabilities of its switches, a CSP may have limited capacity to block individual numbers. Consequently, CSPs may block direct dial calls to entire ranges of numbers in which one or more numbers are believed to be used by Internet diallers or, in some cases, block direct dial calls to entire countries, as this approach is simpler to implement. Such an approach makes it more difficult, and possibly more expensive, for customers to make calls unrelated to Internet diallers to these destinations, as the calls must be made via an operator instead of being dialled direct.

#### *Anti-dialler software*

Computer software is available to prevent access to certain sites known to be associated with Internet dumping, or to prevent Internet diallers seizing control of a modem connected to a computer. Examples of such software include Norton Internet Security, Ad-aware, PestPatrol, SpyBot and Spywareblaster.

Such software tools are unfortunately not standard features of current releases of operating systems, such as Microsoft Windows, and are certainly not incorporated in older operating system versions. Hence, to be protected via this software, end users must be aware of the risks to which they are open, then to obtain and install the software, and to ensure it is active and up to date.

#### *Approaches in other countries to Internet dumping*

The ACA has examined the implementation of solutions to Internet dumping adopted in several countries. All of the methods described above are in use or are promoted elsewhere in the world. By far the most favoured approach is for network operators to block calls to international numbers, or to entire number ranges or countries, associated with Internet dumping. This has been adopted to some extent in at least Canada, Denmark and Ireland. In particular, in Ireland, ComReg has recently directed network operators in Ireland to suspend direct dialling facilities to thirteen international destinations from which it considers the majority of the current Internet dialler problems arise. The suspension is to be evaluated after six months.

The provision of free anti-dialler software, or advice on such software, is also common. Network operators in at least Sweden and Switzerland offer free or low cost anti-dialler software.

It is still too early to conclude whether either approach has been effective in the countries in which it has been adopted.

It is worth noting that authorities that are responsible for handling complaints related to premium rate numbers, including Internet diallers in a number of European countries, share information about Internet dialler problems, to enable them to learn from each other's experience.

#### **Conclusions**

The ACA should participate in the international network of authorities responsible for handling complaints about Internet diallers in order to identify new sources of problems related to Internet diallers and possible solutions.

The ACA should obtain the results of ComReg's evaluation of the suspension of direct dialling facilities from Ireland to certain international destinations.

## 2.4 Actions by CSPs to address Internet dumping

### *Actions by individual CSPs*

In October 2003, Optus became aware that its over-ride code was being used to make calls associated with Internet diallers using numbers from Diego Garcia, after it received complaints from customers pre-selected to CSPs other than Optus concerning bills for services that customers believed they had not authorised. In some of these cases, customers had arranged for international calls to be barred and did not realise it was possible to continue to make international calls by dialling an over-ride code. In response, Optus blocked all direct dial calls to Diego Garcia to prevent this misuse of its over-ride code. Subsequently, Optus blocked all direct dial calls to Guinea-Bissau and São Tomé and Príncipe, and direct dial calls to specific ranges of numbers in a further 21 countries. Telstra has similarly blocked direct dial calls to specific ranges of numbers in 20 countries.

These actions have resulted in the number of Optus and Telstra-related complaints received by the TIO about calls associated with Internet diallers declining significantly from the end of 2003 and the start of 2004, to the middle of 2004. The ACA is concerned, however, about an increase in the number of Internet dialler complaints in September 2004 relating to Approach Telecom, Telstra, and Optus.

The ACA observes that blocking direct dial calls to selected international destinations has been reasonably effective in reducing the scale of the Internet dialler problem.

Details about Internet dumping, including how over-ride codes can be used to circumvent barring of international calls, is expected to be included in information provided by CSPs to their customers under a service provider rule made by the ACA in May 2004 (in response to a direction by the previous Minister in April 2004).

### *Collective action by CSPs*

In January 2004, Telstra approached ACIF (an industry owned, operated and resourced body that implements and manages communications self-regulatory initiatives) proposing that it establish arrangements for sharing of information between CSPs providing international call services about international numbers or destinations identified as the source of Internet dialler complaints. Subsequently, ACIF has developed a protocol for sharing of information between CSPs about international numbers or destinations for which there is a reasonable belief that outgoing traffic is of a suspicious nature. The protocol will be reviewed in six months with consideration being given to publishing it as an ACIF Guideline.

To date, Telstra, Optus, AAPT and Primus have indicated that they will subscribe to the protocol, these being—with the exception of Approach Telecom—the four CSPs which are the subject of the greatest number of Internet dialler complaints received by the TIO.

It is of note that, in advice to the ACA, the ACCC has indicated that it considers the protocol to be at risk of breaching provisions relating to restrictive dealings in section 45 of the *Trade Practices Act 1974*. It is consequently possible (though arguably unlikely) that third parties affected by collective action by CSPs to block calls to a particular international number will have a right of private action against the CSPs for breach of section 45.

*Adequacy of actions and commitment of CSPs to address Internet dumping*

To date, the only concrete actions by CSPs to address Internet dumping have been:

- The provision of information to customers about the risks of unexpectedly high bills from calls to premium rate and international numbers, and actions customers can take to mitigate those risks, in accordance with a service provider rule made by the ACA in May 2004; and
- The blocking of direct dial calls to selected international destinations by some individual CSPs.

The ACA recognises that the second of these actions may be enhanced under the protocol developed by ACIF for sharing of information about international numbers or destinations suspected of being associated with Internet diallers. Nevertheless, the ACA is not satisfied that these actions, of themselves, are sufficient to reduce the problem of Internet dumping to an acceptable level. The ACA considers that additional measures, such as –

- Ensuring that barring of international calls encompasses international calls that are dialled using an over-ride code or an international access code other than 0011; and
- Reinforcing the arrangements specified in the ACIF protocol to ensure that information is shared and blocking of calls put in place by those CSPs carrying the bulk of outgoing international calls from Australia

– would assist further in addressing the problem of Internet dumping.

In respect of barring of international calls dialled using over-ride codes, submissions from CSPs in response to the ACA's discussion paper were divided over whether this was worthwhile. One CSP indicated that:

...there is still a low level of awareness in the industry of the need to bar access to international services through the use of over-ride calls and ...a recommendation that all CSPs should introduce a facility for barring international calls that prevents the use of over ride calls [would be supported].

In contrast, another CSP argued that:

...the costs [of extending barring to the use of over-ride codes] far outweigh the benefits. ...the costs of introducing such an option to our network would be prohibitive. Furthermore, unless customers can opt in to this bar, its introduction could restrict competition and reduce the ability of consumers to choose the best call rate on a call by call basis.

On balance, the ACA is convinced that extending existing arrangements for barring of international calls to include calls dialled using an over-ride code is of benefit. In particular, this measure would reduce gaps in the protection from Internet diallers that may potentially be exploited by writers of Internet dialler software, and make it simpler for customers to manage their telephone services in such a way as to protect themselves from Internet diallers.

In respect of the ACIF protocol, the ACA is pleased that CSPs have taken this initiative. However, the ACA notes that there is no obligation on CSPs to subscribe to the protocol. Even where a CSP is a signatory to the protocol, it is expected to investigate the information received from other CSPs but is not obliged to block the numbers listed in the exchanged information.

The ACA considers that the protocol will be most useful if:

- Those CSPs carrying the bulk of international calls subscribe to the protocol; and
- CSPs which have subscribed to the protocol respond to information about international numbers or destinations provided under the protocol by actually blocking calls to those numbers or destinations.

The possible making of a service provider rule requiring CSPs to block calls to certain identified international numbers or destinations associated with Internet diallers, as a response to these possible imperfections, is discussed in the next section.

### **Conclusion**

Relevant CSPs should be required to offer a facility for barring international direct dial calls that prevents the use of over-ride codes or international access codes other than 0011 to circumvent this barring, that can be selected by customers to protect them from unauthorised calls associated with Internet diallers.

## 2.5 Need for a service provider rule

The Minister's direction to the ACA of April 2004 requested the ACA to consider the appropriateness of a service provider rule that would require all CSPs to block access to international numbers associated with Internet diallers.

Submissions from CSPs in response to the ACA's discussion paper expressed caution regarding the possibility of making such a service provider rule. One CSP noted that:

...there is ...[no] demonstrated need for a Service Provider Determination about barring international numbers/number ranges, particularly given the intercarrier process being currently developed via ACIF to share information on the numbers/number ranges that appear to be using internet diallers. (Additional regulation should only be implemented

where existing self-regulatory processes are not working – this is obviously not the case in this situation).

...industry cooperation and ongoing customer education are the most efficient and effective ways forward.

Another CSP suggested that the effectiveness of the ACIF protocol should be evaluated before considering making a service provider rule. It advised that:

...to be effective, such service provider determinations would need to be easily amended and updated, to take into account the fact that Internet dialler operators often change their number ranges or locations to avoid detection. ...the proposed industry intercarrier process seeks such flexibility. It may therefore be appropriate to first monitor the outcome of the intercarrier blocking process before developing a determination.

In advice to the ACA, the ACCC considered that a service provider rule would be a more effective tool than the current voluntary process in ensuring that the Government's objectives are met, and would eliminate the risk that the industry's information-sharing process might be in breach of the *Trade Practices Act 1974*.

It is of note that complaints received by the TIO over the past 12 months in relation to Internet diallers, as illustrated in Figure 3, have been almost entirely restricted to just five CSPs: Approach Telecom, Telstra, Optus, AAPT and Primus.

In the case of Approach Telecom, its business model differs from the way in which content providers normally obtain revenue from Internet diallers. Approach Telecom is directly responsible for carriage and billing of calls made by its customers for calls initiated by its Internet diallers. In all other cases of Internet diallers using international numbers, however, a customer's pre-selected or over-ride CSP is responsible for the carriage and billing of calls. The company providing the content associated with such calls usually obtains its revenue not from this CSP, but as a share of the high international termination rates for certain international destinations. Consequently, as Approach Telecom is responsible for its own calls, it would be little affected by any service provider rule that obliged a CSP responsible for carriage and billing of international calls to block calls to certain, usually high cost, international destinations.

Both Telstra and Optus have already blocked calls to international numbers and destinations that they have identified as associated with Internet diallers. Finally, AAPT and Primus have indicated that they intend to subscribe to the ACIF protocol for sharing information on international numbers associated with Internet diallers.

Accordingly, the ACA considers that, taking account of –

- The arrangements already put in place by Optus and Telstra to block calls to certain international numbers or destinations have had an effect in significantly reducing the level of complaints related to Internet diallers received by the TIO;
- The reasonable prospect that the ACIF protocol, despite some weaknesses, will strengthen and extend existing arrangements; and

- The regulatory policy articulated in the *Telecommunications Act 1997*, that telecommunications should be regulated in a manner that promotes the greatest practicable use of industry self-regulation, without imposing undue financial and administrative burdens on the telecommunications industry, and without compromising the effectiveness of regulation in promoting the long-term interests of end-users or the efficiency and international competitiveness of the industry
- the ACIF protocol should be given the opportunity to prove its effectiveness.

### **Conclusions**

Given the reasonable prospect that the ACIF protocol for sharing information related to international numbers associated with Internet diallers will have positive effects on the problems resulting from the use of international numbers by Internet diallers, a service provider rule requiring all CSPs to block access to international numbers associated with Internet diallers is not warranted at this time.

The ACA should evaluate the implementation of the ACIF protocol for sharing information related to international numbers associated with Internet diallers, within 12 months of its creation, in relation to:

- The number of CSPs that subscribe to the protocol;
- The extent to which CSPs share information;
- The extent to which CSPs block numbers or destinations identified in shared information; and
- Any reduction in the level of complaints received by the TIO in respect of international Internet diallers that can be attributed to the implementation of the protocol.

## 3. Credit Management Measures to Address Unexpectedly High Bills

### 3.1 The problem of unexpectedly high bills

In recent years the range of content and carriage services provided to customers has been expanding at a fast rate. New services or variations on existing services that are introduced may create 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 services (SMS), multi-media messaging services (MMS) and the provision of premium content services via mobile carrier portals (or 'proprietary networks') are relatively recent offerings, at least in terms of widespread usage. M-commerce, which relies on some of the services just mentioned to allow customers to make purchases using credit on their telephone account, could result in high bills in short time periods.

When these services are added to the more established 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 individual 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 more recent concern has been the potential for consumers with a dial-up Internet connection to rapidly accrue high bills when their connection is knowingly or unknowingly taken over by an Internet dialler, as discussed in the last chapter.

In order to provide advice to the Minister about deficiencies in credit management practices in the telecommunications sector and whether remedial action is needed (as requested of the ACA by the previous Minister in April 2004) this chapter will:

- Examine the extent of the problem of unexpectedly high bills and the impacts on consumers;
- Assess the level of commitment by carriage service providers (CSPs) to seek and implement measures to reduce risks of unexpectedly high bills;
- Assess the adequacy of the measures currently available;
- Take account of commitments by CSPs to improve currently available measures or introduce new measures; and
- Identify what options could work to address the problem, the pros and cons of each option, and any prerequisites to implementing the options.

The ACA considers that much of the risk of unexpectedly high bills stems from the complexity of telephone and Internet services, the difficulty for consumers to

understand this complexity, and the scarcity of simple but effective tools to help consumers avoid such bills. Accordingly, in examining the topics listed above, this report considered three overarching questions to gauge whether credit management across the telecommunications sector is adequate:

1. Do consumers possess a reasonable understanding of the telecommunications products and services that they use, and do they have certainty about the costs of telecommunications services, the associated risks and their expenditure on these services?
2. Do consumers have the means to properly manage their expenditure on telecommunications services?
3. Is the expenditure by consumers on telecommunications services limited in line with their preferences or their ability to pay?

### 3.2 The extent of the problem and the impacts being faced by consumers

#### *How unexpectedly high bills arise*

With assistance from the Telecommunications Industry Ombudsman (TIO), the ACA has examined some specific cases where consumers have been affected by unexpectedly high bills to understand the key elements which, individually or in combination, can lead to an unexpectedly high bill. These elements, together with a selection of illustrative cases, are presented below.

#### Lack of awareness of charging for services

Many customers are not aware of the charges or charging arrangements associated with certain services, either because they fail to read information provided with services or because such information is inadequate, difficult to understand or misleading. Problems may arise when the basis for charging for a service alters during a billing cycle, and can be exacerbated by long billing cycles or a lack of expenditure warnings provided by CSPs. In some cases customers may only find out about the level of charges for a service when they receive their bill.

\$24,000 in calls over six months were incurred by a small business whose service was supposedly capped at \$274 per month, with no advice to the customer on the charges accruing.

An \$800 bill for four international calls from a fixed service was incurred by an elderly consumer who was not advised that operator-connected calls were not capped at \$6.50 in the same way as direct dial calls.

### Extreme usage of service

For a range of reasons, a customer's usage of a service may be excessive or extreme, leading to a credit over-commitment by the customer to the point where a bill cannot be paid. The reasons for extreme usage of service are complex. 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 temporary or permanent personal circumstances 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.

The susceptibility of some customers to running up extremely high bills also raises concerns about the legitimacy of the credit management practices of CSPs that permit such credit amounts to be provided to their customers.

A \$7,000 bill for premium rate SMS messages was incurred by a young woman, charged at \$2.20 for each pair of messages which were received every few minutes over a period of a month. The effectiveness of advertising of the charges was under dispute. The TIO was concerned about the lack of effort by the CSP to alert the customer to the charges accruing.

A \$3,000 bill for 190 premium rate calls from a fixed service was incurred by a disability pensioner with a history of self-control problems. The cause of the problem appeared to be the absence of any credit assessment and the CSP's failure to advise the customer of charges accruing or to take action on charges accrued.

### Use of service by family or friends without consent of account holder

Some consumers, for a variety of reasons, may not be able to directly obtain telecommunications services such as mobile phones or Internet services. If under 18, parents or partners may sign contracts to allow their children or under-age partner to access such services for reasons such as security, social contact or to obtain employment. At other times, friends or family may use a phone or Internet service, whether authorised or not. Regardless of who uses the service, the account holder is generally held responsible for paying for that use by CSPs. This is generally true even in cases where CSPs are aware that the main user of a service is a minor or where use has not been authorised and is the result of fraud, viruses or unintended high cost use by others.

A \$1200 bill was incurred by a 16 year old, largely from standard SMS use, including unauthorised use by a flatmate. The mobile phone company sought fortnightly payments significantly more than she could pay and after no agreement was reached on a repayment plan, sent the debt to a debt collection agency.

### Internet dumping, hacking or theft

According to the TIO, CSPs generally maintain that it is not their responsibility to protect customers against unauthorised or illegal use of their services and that customers remain liable for any such use. Where SIM cards or phones are stolen, customers are generally liable for any illegal use up to the point that they inform the CSP, regardless of when they themselves discover the theft.

A \$7000 bill for excess dial up Internet usage was incurred over a seven day period, due to hacking. The CSP provided the customer with no warning of the high charges that were being accrued.

A \$3,400 bill for calls made from a stolen mobile SIM card was incurred before the theft was realised. No action was taken by the CSP to bar the SIM card or to warn the customer of the high charges accruing.

### Failure to see or understand warnings about Internet dialler charges

Not all high charges associated with Internet use are the result of Internet dumping; some may result from the failure to read or recognise notifications of call charges. Some advice can be difficult to distinguish from pop up windows or other advertising, and advice may be ambiguous; for example, a message that 'no credit cards needed' (because bills will come in telephone accounts).

A \$2,000 bill was incurred, largely for calls associated with accessing a website via a 190 premium rate number. It was not apparent whether the advice of the charge for access was clear. The TIO was concerned about the lack of effort by the CSP to warn the customer of the abnormally high spend.

A \$190 bill was incurred for calls to overseas destinations, probably through an Internet connection. The customer was unable to identify the websites visited to determine whether advice of the applicable charges was given.

### *What impacts unexpectedly high bills have*

The potential impact of an unexpectedly high bill can range from simple annoyance to, in situations where the customer is unable to pay the charges, potentially devastating consequences for the customer involved.

Many of the credit control complaints received by the TIO indicate the potential severity of the financial impacts on customers of unexpectedly high bills. Furthermore, customers who are unable to keep up with payments for such bills may face loss of other assets and/or be default listed with a credit reference agency, leading to longer-term difficulties in obtaining credit for many years and/or increased credit costs.

Several submissions from consumer advocacy and complaint handling bodies asserted that, given the appropriate set of circumstances, **every** consumer is potentially at risk of receiving a bill which is unmanageable; that is, the size of debt exceeds the consumer’s capacity to repay at a given time. Clearly a small extra charge for someone on a fixed income, such as a pensioner or student, can be equivalent to a bill in the hundreds or thousands of dollars for another individual or business.

The TIO and others suggest this is because many CSPs are essentially giving customers access to unlimited credit via their telephone service, and because the telecommunications sector is not subject to the obligations of, nor do customers benefit from, the provisions of state utilities laws (where applicable) or the Uniform Consumer Credit Code (UCCC). Notably such provisions of the latter can include that:

- If a customer’s financial situation changes, the company is obliged to restructure debt repayments, or a contract can be assessed by the courts in relation to whether or not it is unfair, and if judged unfair, set aside; and
- Merchants must demonstrate the charges were accrued by the customer.

Disturbingly, the telecommunications sector is responsible for a significant number of credit default listings, as shown in Table 1. Such listings are generally for an average debt of less than \$687 (in 2003-04). In comparison, the average debt for listings from the banking and financial services sector is approximately \$5,000.

**Table 1 – Default listings in the telecommunications sector: 2000/2001 to 2003/2004**

<b>Financial Year</b>	<b>Volume of Defaults</b>	<b>Value of Defaults</b>
2000/2001	94,541	\$91,897,141
2001/2002	240,659	\$152,183,403
2002/2003	502,979	\$331,517,226
2003/2004	363,068	\$249,220,046

Given the ongoing implications for affected consumers in terms of restricted access to credit or increased costs when accessing credit after such a default listing, the ACA finds the quantity of default listings an indicator of a high level of adverse social consequences affecting telecommunications users. Given the average debt involved, we consider that a prima facie case for remedial action is demonstrated.

*Vulnerable groups*

The TIO has indicated that problems associated with unexpectedly high bills are widespread. Nonetheless, some consumers are more at risk of being exposed to unexpectedly high bills than others. These more vulnerable sectors of the community include:

- People suffering from poor mental health (both permanent and temporary);
- People with intellectual disabilities;
- People who are vulnerable as a result of personal trauma or tragedy;
- Young people with limited experience of telecommunications services or of managing personal finances;
- People living in share houses; and
- Parents whose children, or friends of children, access telecommunications services without authority.

The ACA would accept that it is not possible to protect all such people against all risk of unexpectedly high bills, particularly for those whose circumstances change. There is also a need to guard against discriminatory practices in the sector. Nonetheless, it is clear that appropriate (and, as necessary, ongoing) assessments of customer credit risk, and providing or recommending appropriate credit management tools would reduce the risks for consumers in the above categories.

For example, tools that rely on customer action, such as PIN-controlled access to telecommunications services or customer controlled barring of services, may work to prevent access to the services by people who are not authorised. However, they will not be effective where account holders suffer from an addictive problem, because they can simply access the otherwise restricted service or overturn the bar. Complexities in the way certain types of services are provided may mean that customers need comprehensive advice to ensure all avenues of access to premium rate services are able to be barred or restricted. For example, in a submission in response to the ACA's discussion paper from various legal aid centres, a case was cited in which:

Barring of 190 premium rate services was applied after a customer's son used such services to incur a telephone bill for over \$5,000. Owing to a failure to advise that similar services were available on 0011 international numbers, these were not barred and a subsequent bill for an additional \$5,000 was incurred.

#### *Extent of the problem*

In its submission to the ACA's discussion paper, the TIO noted that:

The TIO has been dealing with consumer complaints about telecommunications services for over 10 years. For many years, credit related complaints consistently constituted a relatively small proportion of the complaints received by the TIO. However, in the last 2 years, the TIO has seen an inordinate rise in credit complaints, as well as an upsurge in billing complaints related to premium services.

Complaints received by the TIO indicate that while high charge services are becoming more readily available because of their ubiquity and because providers are extending virtually unlimited credit, providers' credit policies are becoming increasingly intransigent. Consumers are therefore in the unenviable position of being able to accrue higher cost bills, but have less flexibility in making payment arrangements.

The number of credit control complaints is rising quickly in real terms across each of fixed, mobile and Internet services (see Figure 4), and is the fastest growing area of complaints received by the TIO. Indeed, while overall complaint numbers fell between 2001-02 and 2002-03, credit control complaint numbers rose by nearly 69 per cent during the same period, and rose a further 37 per cent from 2002-03 to 2003-04. Allowing for increased subscriber numbers, the adjusted rise for credit control complaints over the 2001-02 to 2003-04 period was 71 per cent in real terms for mobile services, 229 per cent for fixed services, and 244 per cent for Internet services (the latter, though, rising from a low base). As the rise in credit control complaints is in both total numbers and per user across fixed, mobile and Internet services, it suggests that the cause is not the influence of new services in any one sector, such as 3G mobile.

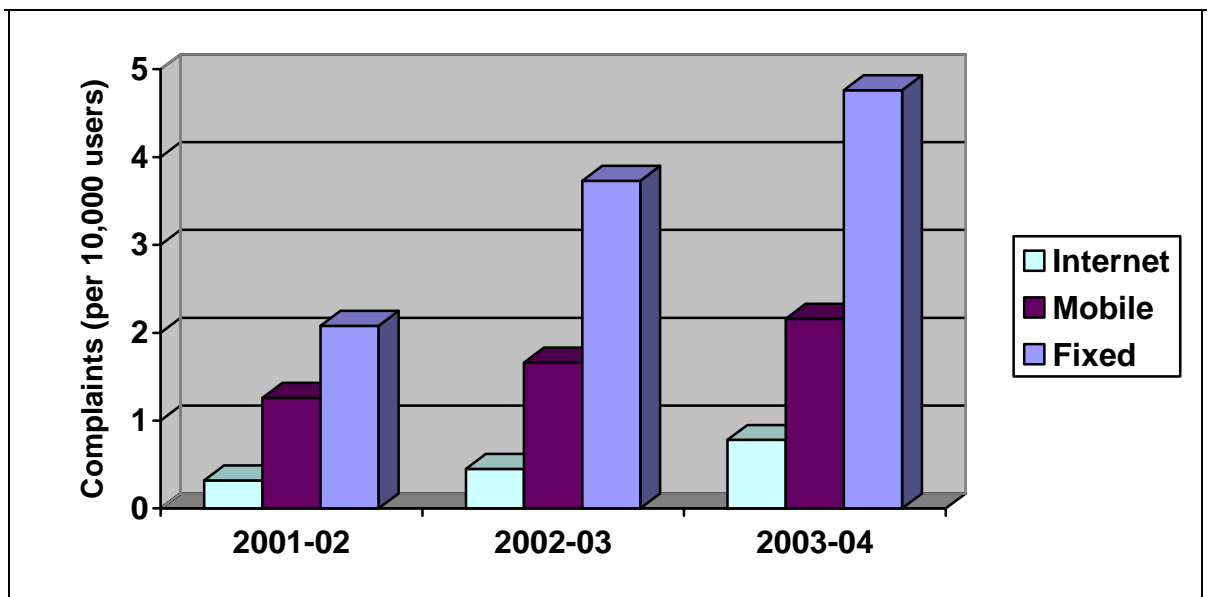


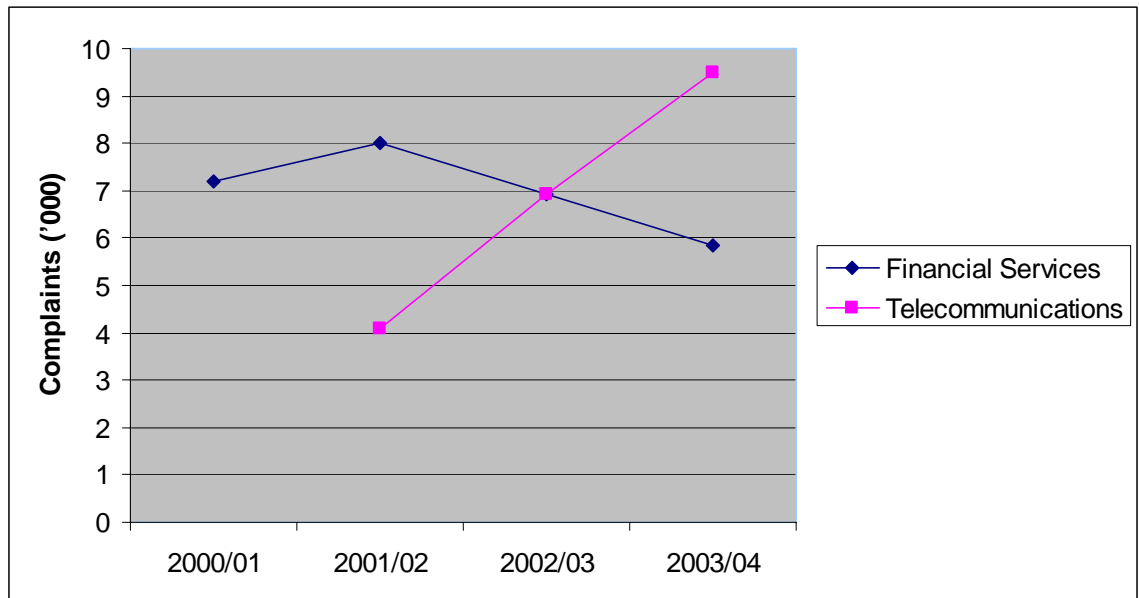
Figure 4 – Annual TIO credit control complaints per 10,000 users

Taking into account subscriber numbers, the number of TIO credit control complaints might be considered low, with incidences of 0.78 to 4.76 per 10,000 users. However, while the number of complaints received by the TIO is a broad indicator of complaints trends in the telecommunications industry, it should be noted that these are only a small proportion of the total number of complaints made by customers of CSPs. Most complaints are dealt with directly by CSPs. Moreover, it is widely acknowledged that many customers whose complaints are not dealt with to

their satisfaction by their CSP do not escalate their complaints to the TIO because they are not aware of its existence.

The TIO has indicated to the ACA that a proportion of billing and other category complaints received by the TIO would also be related to credit control matters, but exactly how many more complaints this would be would require individual analysis; consequently, none of those complaints are included in the above figures.

To put the credit control complaint figures for the telecommunications sector in a broader context, the ACA compared the level of credit control complaints received by the TIO with the **total** number of complaints received by the Banking and Financial Services Ombudsman (BFSO). As shown in Figure 5, the total number of complaints to the BFSO have moved from being significantly higher than TIO **credit control** complaints in 2001-02, to 5859 complaints, which represents less than 62 per cent of the TIO's 9,484 credit control complaints in 2003-04.



**Figure 5 – Complaints to BFSO compared with credit control complaints to TIO**

It must be noted that this is despite the BFSO complaints almost certainly not all being credit management issues while the TIO complaints are only a small subset of the total range of complaints received by the TIO. The fact that complaint numbers in the financial sector are falling while corresponding complaint figures for telecommunications are rising suggests that this is a telecommunications trend rather than a broad problem with credit management.

TIO credit control complaint figures for the quarter ending 30 September 2004 (if extrapolated over the whole year) would represent a further rise in such complaints of over 11 per cent above 2003-04 figures, with complaints about mobiles rising the fastest, whereas BFSO complaints are continuing their downward trend in the same period.

Given the falling trend in complaints in the financial services sector, the ACA must necessarily conclude that there are significant and growing problems with credit management arrangements in the telecommunications sector and that the current range of credit management tools that are available are having insufficient impact. Moreover, current trends, such as the introduction of premium rate messaging services and the growth of mobile carrier portals, add to the risk of receiving an unexpectedly high bill from existing services. These circumstances indicate that consumers may not fully understand the costs associated with these services or how to manage those costs. Consequently, the ACA considers there is a significant potential for complaint figures to increase even further. The faster growth in credit control complaints relating to mobile services in the three months to 30 September 2004 may be a reflection of such a trend.

As mentioned previously, there are also significant credit default listings generated by the telecommunications sector with more than 1.1 million defaults listed in the last three financial years alone. Such defaults, which have ongoing and potentially very serious adverse consequences for affected consumers, would normally be employed as a last resort by responsible companies. As such, the number of default listings should represent merely some of the credit management problems in the telecommunications sector. The sheer volume of defaults reinforces the significance of the increasing trend in TIO credit control complaints in the sector and the view that such TIO complaints are only a fraction of those which exist in the sector.

### ***Conclusions***

Serious deficiencies exist with respect to existing credit management practices in the telecommunications sector, as demonstrated by:

- Extremely high credit default listings at relatively low debt levels;
- Rapidly increasing levels of credit control complaints to the TIO; and
- Numbers of complaints increasing in real terms taking account of subscriber numbers.

There is also a high probability that problems associated with credit management practices in the telecommunications sector will be exacerbated by new high cost products which are now becoming used more widely.

### 3.3 Industry responses to problems of unexpectedly high bills

The last section demonstrated that significant problems of unexpectedly high bills exist, are relatively widespread, and are increasing. This section examines how CSPs addressed this issue in submissions to the ACA's discussion paper.

#### *Responsibility for unexpectedly high bills*

The ACA observed in submissions from several CSPs and industry associations that companies tend to hold the position that it is consumers alone who are responsible for protecting themselves from the risk of unexpectedly high bills, rather than CSPs.

For example, one CSP stated that:

...some of these cases [presented in the ACA's discussion paper] cannot be said to have been totally "unexpected", and ...they could have been prevented if the **customer** had taken appropriate action. [our emphasis]

A submission to the ACA from an industry association argued that one of the cases presented in the ACA's discussion paper that provided an example of unauthorised use of a customer's mobile phone was simply a case of theft and that appropriate options exist to protect against unauthorised use.

The ACA is concerned by the premise in such remarks that customers are solely responsible for the risk of unauthorised use and are fully aware of options to protect their services, and that a risk of abuse of telecommunications services even in a customer's own home can be tolerated. In contrast, the ACA has sympathy with the view put in submissions from a number of consumer advocacy organisations, that telecommunications accounts are more susceptible to fraud or unauthorised third party use than are, for example, continuing credit contracts. This is because physical access to a handset is usually all that is needed for a third party to make unauthorised use of telecommunications services, and because telecommunications users do not have access to UCCC protections.

Notwithstanding industry's assertion that credit management is the responsibility of the consumer, the ACA considers that finding appropriate credit management information is reasonably difficult making it problematic for customers to take appropriate action.

#### *Value of credit management tools*

Submissions from several CSPs were critical of some of the credit management tools described in the ACA's discussion paper, arguing that they were unnecessary because:

- Problems of unexpectedly high bills were regarded as minor; and
- Implementation of the tools would increase costs and inconvenience customers.

With regard to this last point, one CSP suggested that:

The vast majority of consumers function successfully within the current system and will resist increased intervention and impacts on their commercial freedoms.

The ACA believes that this statement pre-supposes that more effective credit management tools would necessarily involve severe restrictions on customer use of telecommunications services and provide no flexibility about how protection is offered from unexpectedly high bills. The ACA does not share this presumption and the next section will demonstrate that credit management tools, including those that may involve more rigorous approaches to credit assessment, can be effective without necessarily being unduly restrictive or inflexible.

The ACA also notes submissions from CSPs did not suggest any robust and comprehensive strategies as alternatives.

#### *Handling of credit management problems by CSPs*

Submissions from both the TIO and consumer advocacy groups that have experience in handling complaints from customers of CSPs asserted that CSPs are generally inflexible in dealing with credit management problems experienced by consumers, have shown little commitment to improvements when responding to concerns about procedures or practices giving rise to complaints, and in many cases contend there are no significant problems in the sector. The TIO stated that:

...prior to [complainants] 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...

...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 ACA is concerned about the absence of a proper appreciation of the nature and scope of the problem of unexpectedly high bills reflected both in submissions from CSPs and industry associations and as reported in submissions of the TIO and consumer advocacy groups. The ACA considers that this lack of appreciation is likely to limit any interest among CSPs in addressing the problem of unexpectedly high bills.

#### **Conclusion**

An appreciation of the nature and scope of the problem of unexpectedly high bills appears to be largely absent among CSPs, with the effect that few CSPs have interest in addressing the problem of unexpectedly high bills.

### 3.4 The range of credit management tools

The last section showed that there is a poor appreciation of the nature and scope of the problem of unexpectedly high bills among many CSPs, and speculated that this may make it difficult for CSPs to constructively engage with the problem of unexpectedly high bills. This section examines the range of credit management tools that exist, in some form, across the Australian industry and in other countries, and evaluates the relative effectiveness of each tool.

The ACA considers that the following key outcomes need to be achieved in order to reduce the problem of unexpectedly high bills to a reasonable level:

1. Consumers possess a reasonable understanding of the telecommunications products and services that they use and have certainty about the costs of telecommunications services, the associated risks and their expenditure on these services;
2. Consumers have the means to properly manage their expenditure on telecommunications services; and
3. The expenditure by consumers on telecommunications services is limited in line with their preferences or their ability to pay.

Listed below, under each of these outcomes, are the main credit management tools identified by the ACA in its research or referred to by respondents to the ACA's consultation, and the ACA's evaluation of the relative effectiveness of each of the tools. It should be noted that no CSP currently provides more than a modicum of such tools. Although all of these tools, or facilities similar to the tools described below, are already available in Australia or in other countries, the ACA recognises it may not be cost-effective for every CSP to implement a given tool.

*Outcome 1: Consumers possess a reasonable understanding of the telecommunications products and services that they use and have certainty about the costs of telecommunications services, the associated risks and their expenditure on these services*

#### Information about products and services and about risks of high bills

Prominent and simple messages are provided by CSPs to assist consumers to understand the products and services that they use, the costs and charges associated with those services, and the risks of unexpectedly high bills. These messages also inform consumers of how and where they can obtain further advice or assistance.

Information provision is extensively used by CSPs, to meet both commercial objectives and various regulatory requirements. Although the provision of information can offer a basic level of transparency about services, charges and risks, the ACA considers this tool to be of **low to medium** effectiveness because the abundance of information provided to consumers by CSPs

reduces the impact of particular messages. Additionally, for particular vulnerable groups for which functional literacy may be low, little value is likely to be drawn from such material.

#### Advice of charge at start of call or session

Information about the charge applying to a call or Internet session is provided by CSPs at the start of the call or session.

The capability to display advice of charge information at the start of a call is specified in European Telecommunications Standards Institute (ETSI) standards for most types of services, with the notable exception of analogue fixed network services, but is enabled by few if any Australian CSPs. Audio advice of charge is generally provided as a standard feature at the start of calls to premium rate services in Australia.

The ACA considers this tool to be of **medium to high** effectiveness because it offers a reasonably high level of transparency of individual call or session charges and gives customers an opportunity to modify their calling behaviour or usage.

#### Advice of charge during call or session

Information about the cumulative charge applying to a call or Internet session is provided by CSPs during the course of the call or session.

The capability to display advice of charge information during a call is specified in ETSI standards for most types of services, but is enabled by few if any Australian CSPs).

The ACA considers this tool to be of **high** effectiveness because it offers a high level of transparency of actual call or session charges and gives customers the opportunity to limit the length of a call or session in the knowledge of their actual expenditure.

### *Outcome 2: Consumers have the means to properly manage their expenditure on telecommunications services*

#### Targeted help service for new customers

Special, customised attention is given by CSPs to new or inexperienced telecommunications customers to assist them in managing their telecommunications expenditure and avoiding debt.

The ACA considers this tool to be of **medium** effectiveness because it provides focussed attention to a sector of the community which is likely to need help in managing expenditure on telecommunications services.

### Targeted help service for vulnerable customers

Special, customised attention is given by CSPs to those identified as vulnerable to assist them in managing their telecommunications expenditure and avoid debt.

The ACA considers this tool to be of **medium** effectiveness because it provides focussed attention to a sector of the community which needs most help in managing expenditure on telecommunications services.

### Advice of charge at end of call or session

Information about the total charge applying to a call or Internet session is provided by CSPs at the end of the call or session.

The capability to display advice of charge information at the end of a call is specified in ETSI standards for most types of services, but is enabled by few if any Australian CSPs).

The ACA considers this tool to be of **medium** effectiveness because it offers a moderate level of transparency of actual call or session charges and gives customers knowledge based on which they can modify their calling behaviour or usage in the future, but without being able to adjust their past calling behaviour or usage.

### Real-time or near-real time account information

The real-time or near real-time status of a customer's account is provided by CSPs automatically to the customer on a regular basis or at defined expenditure levels (e.g. by e-mail, by telephone call or by SMS).

The ACA considers this tool to be of **medium** effectiveness because it provides consumers with information that is essential for them to manage their expenditure but provides no guarantee that customers actually receive account information or are warned of extreme expenditure.

### Monitoring of expenditure and warning of extreme expenditure: provided at request of customer

When requested by customers, high levels of usage or unauthorised usage which could lead to unexpectedly high bills or debt are identified by CSPs early, ideally within 24 hours. Based on this information, warnings of high expenditure are given to customers in order to make them aware of potential problems with the costs of certain types of calls or unauthorised use and to enable them to bring their expenditure under control.

The ACA considers this tool to be of **low to medium** effectiveness because customers are, in general, unlikely to appreciate the value of or need for such a facility until problems actually arise.

Monitoring of expenditure and warning of extreme expenditure: provided by default by carriage service provider

High levels of usage or unauthorised usage which could lead to unexpectedly high bills or debt are automatically identified by CSPs early. Based on this information, warnings of high expenditure are given to customers to make them aware of potential problems with the costs of certain types of calls or unauthorised use and to enable them to bring their expenditure under control.

The ACA considers this tool to be of **medium to high** effectiveness because it ensures that customers are informed when their expenditure reaches high levels and can assist in identifying unauthorised use of services.

*Outcome 3: The expenditure of consumers on telecommunications services is limited in line with their preferences or their ability to pay*

Hard cap across total bill: limit specified by customer

A maximum level of expenditure, selected by each customer, is applied across the total of the bill issued by a CSP to that customer, in order to provide greater certainty that the bill cannot exceed the specified amount and specific protection against unexpected bills beyond that amount.

This form of cap relies on customers recognising the value of or need for a cap before problems actually arise, and on each customer making an accurate assessment of the appropriate maximum level of expenditure.

It may remain possible for expenditure to exceed the cap in the case of services for which real-time billing is not implemented (e.g. premium rate services).

Because of this reliance on customers foreseeing problems and accurately assessing the appropriate level of their cap, the ACA considers this tool to be of **medium** effectiveness only.

Hard cap across total bill: uniform limit

A uniform maximum level of expenditure, determined by each CSP or by regulation, is applied across the total of all bills issued by CSPs to customers, in order to provide greater certainty that the bill cannot exceed the specified amount and specific protection against unexpected bills beyond that amount.

This form of cap, while simple, reduces flexibility to match the maximum level of expenditure to each customer's requirements and abilities to pay.

It may remain possible for expenditure to exceed the cap in the case of services for which real-time billing is not implemented (e.g. premium rate services).

The ACA considers this tool to be of **medium to high** effectiveness because it is likely to offer good protection for the majority of customers, even though it

may offer too much or too little protection for a significant minority of customers.

#### Hard cap across total bill: limit determined via credit assessment

A maximum level of expenditure, determined via an assessment of each customer's credit standing (possibly using a default limit when only a basic credit assessment is undertaken), is applied across the total of the bill issued by a CSP to that customer, in order to provide greater certainty that the bill cannot exceed the specified amount and specific protection against unexpected bills beyond that amount.

This form of cap allows the maximum level of expenditure to be matched to each customer's requirements and abilities to pay, but may require a detailed credit assessment.

The credit assessment may be valid only for a certain time as each customer's circumstances may change, and the credit assessment may need to be reviewed periodically or if a higher level of expenditure is allowed.

It may remain possible for expenditure to exceed the cap in the case of services for which real-time billing is not implemented (e.g. premium rate services).

The ACA considers this tool to be of **high** effectiveness because it is very likely to offer an amount of protection that is appropriate to each customer.

#### Hard cap on selected services only: limit specified by customer

A maximum level of expenditure, selected by each customer, is applied to certain services only (e.g. premium rate services), in order to provide greater certainty that expenditure on those services cannot exceed the specified amount.

This form of cap relies on customers recognising the value of or need for a cap before problems actually arise, and on each customer making an accurate assessment of the appropriate maximum level of expenditure.

Because this form of cap provides no certainty about the cost of using services to which it does not apply, it does not limit the risk of unexpectedly high bills caused by expenditure on other services.

For these reasons, the ACA considers this tool to be of **low to medium** effectiveness.

#### Hard cap on selected services only: uniform limit

A uniform maximum level of expenditure, determined by each CSP or by regulation, is applied across certain services only (e.g. premium rate services), in order to provide greater certainty that expenditure on those services cannot exceed the specified amount.

This form of cap, while simple, reduces flexibility to match the maximum level of expenditure to each customer's requirements and abilities to pay.

Because this form of cap provides no certainty about the cost of using services to which it does not apply, it will not limit the risk of unexpectedly high bills caused by expenditure on other services.

For this reason, and because it is likely to offer good protection for the majority of customers but too much or too little protection for a significant minority of customers, the ACA considers this tool to be of **low to medium** effectiveness.

#### Hard cap on selected services only: limit determined via credit assessment

A maximum level of expenditure, determined via an assessment of each customer's credit standing (possibly using a default limit when only a basic credit assessment is undertaken), is applied to certain services only (e.g. premium rate services), in order to provide greater certainty that expenditure on those services cannot exceed the specified amount.

This form of cap allows the maximum level of expenditure to be matched to each customer's requirements and abilities to pay, but may require a detailed credit assessment.

The credit assessment may be valid only for a certain time as each customer's circumstances may change, and the credit assessment may need to be reviewed periodically or if a higher level of expenditure is allowed. Because this form of cap provides no certainty about the cost of using services to which it does not apply, it will not limit the risk of unexpectedly high bills caused by expenditure on other services.

For these reasons, despite this tool offering an amount of protection that is appropriate to each customer, the ACA considers it to be of **medium** effectiveness.

#### Hard cap on individual calls only: limit specified by customer

A maximum level of expenditure, selected by each customer, is applied to each call only, in order to provide greater certainty that expenditure on that call cannot exceed the specified amount.

This form of cap relies on each customer making an accurate assessment of the appropriate maximum level of expenditure.

Because this form of cap provides no certainty about the cost of using services to which it does not apply, it does not limit the risk of unexpectedly high bills caused by repeat calls or high numbers of calls.

For this reason, the ACA considers this tool to be of **low** effectiveness.

#### Hard cap on individual calls only: uniform limit

A maximum level of expenditure, determined by each CSP or by regulation, is applied to each call only, in order to provide greater certainty that expenditure on that call cannot exceed the specified amount.

This form of cap, while simple, reduces flexibility to match the maximum level of expenditure to each customer's requirements and abilities to pay.

Because this form of cap provides no certainty about the cost of using services to which it does not apply, it does not limit the risk of unexpectedly high bills caused by repeat calls or high numbers of calls.

For this reason, the ACA considers this tool to be of **low** effectiveness.

#### Hard cap on individual calls only: limit determined via credit assessment

A maximum level of expenditure, determined via an assessment of each customer's credit standing (possibly using a default limit when only a basic credit assessment is undertaken), is applied to each call only, in order to provide greater certainty that expenditure on that call cannot exceed the specified amount.

This form of cap allows the maximum level of expenditure to be matched to each customer's requirements and abilities to pay, but may require a detailed credit assessment.

The credit assessment may be valid only for a certain time as each customer's circumstances may change, and the credit assessment may need to be reviewed periodically or if a higher level of expenditure is allowed. Because this form of cap provides no certainty about the cost of using services to which it does not apply, it does not limit the risk of unexpectedly high bills caused by repeat calls or high numbers of calls.

For this reason, despite this tool offering an amount of protection that is appropriate to each customer, the ACA considers this tool to be of **low** effectiveness.

#### Throttling back of download speed for broadband services

A limit applies to the amount of data available to be downloaded (corresponding to a fixed amount of expenditure) using a broadband service. When this limit is reached, downloading of data may continue without any further costs being incurred but the download speed is reduced to that of narrowband services.

This form of throttling back, while simple, provides flexibility to match the download limit and maximum expenditure to each customer's requirements and abilities to pay.

The ACA considers this tool to be of **medium to high** effectiveness because it offers a high level of protection up to the amount of expenditure corresponding to the download limit.

#### Soft cap

A uniform maximum level of expenditure, determined by each CSP, is applied across certain (usually standard) services, and provides a degree of comfort that the bill will not exceed the specified amount until the calling pattern reaches a high level.

This form of cap, while simple, does not provide protection against expenditure incurred above the ceiling specified for the soft cap, nor against expenditure incurred for types of calls not included within the soft cap.

In the absence of complementary tools such as monitoring of expenditure or real time account information, this tool is likely to provide minimal assistance in avoiding unexpectedly high bills.

For this reason, the ACA considers this tool to be of **low to medium** effectiveness.

#### Pre-paid account: chosen by customer

A customer chooses to pay an account in advance.

The service is not able to be used, at least for all but a very limited selection of outgoing calls in the case of telephone services, after the pre-paid amount has been expended and before fresh credit has been added.

In many cases, higher charges, limited or no access to certain services, or a short period within which credit must be used before it expires, apply to pre-paid services when compared with equivalent post-paid services.

The ACA considers this tool to be of **medium** effectiveness because, although it provides a high level of protection for customers up to the amount of credit that they have added to their account, pre-paid accounts commonly have less capabilities than equivalent post-paid accounts, and it remains possible to incur significant expenditure within a short period of time.

#### Pre-paid account: sole option provided by carriage service provider as result of credit assessment

A CSP provides the facility of paying an account in advance as the only option for obtaining telecommunications service as a result of an assessment of a particular customer's credit standing.

In the case of telephone services, the service is not able to be used after the pre-paid amount has been expended and before fresh credit has been added, at least for all but a very limited selection of outgoing calls.

In many cases, higher charges, limited or no access to certain services, or a short period within which credit must be used before it expires, apply to pre-paid services when compared with equivalent post-paid services.

Although pre-paid accounts typically have some drawbacks, the ACA considers them to be of **medium to high** effectiveness because they provide a high level of protection for customers up to the amount of credit that they have added to their account, and because the CSP has steered customers towards a product that is appropriate to their financial situation.

#### Barring of service: chosen by customer

A customer selects a particular category of calls (e.g. premium rate, international) which are barred for his or her account, in order to avoid

incurring charges for potentially expensive calls. Most CSPs have not implemented barring capabilities for all types of services; hence, it is not generally possible to apply a general bar to the use of mobile premium messaging services.

The effectiveness of barring can be limited because customers are able to have the bar temporarily or permanently lifted, without appreciating the consequences of doing so. Barring may also not prevent calls in the selected category being made by prefixing the dialled number with the over-ride code of a CSP to which the customer is not pre-selected.

For these reasons, the ACA considers barring of services to be of **medium** effectiveness.

These effectiveness ratings are utilised at the end of this chapter, where a framework for the provision of credit management tools is proposed.

### 3.5 Industry plans for implementation of improved credit management measures

The last section identified the range of credit management tools that are already implemented by Australian CSPs and in other countries, and evaluated the effectiveness of each of these tools. Carriage service providers were invited, in their submissions to the ACA's discussion paper on credit management issues, to provide information about any new or significantly enhanced measures that were planned. The ACA received advice of relatively few such measures in the five submissions received from CSPs.

This section provides details about those measures of which the advice given to the ACA was not identified as commercial-in-confidence. Information about planned measures that was given to the ACA on a commercial-in-confidence basis is provided to the Minister separately to this report.

#### Optus

A \$100 per month hard cap will be applied to premium content delivered through Optus' mobile carrier portal, Optus Zoo

#### Telstra

A hard cap, possibly of \$500 per month, is being considered for 190 premium rate services.

#### Hutchinson

- Soft cap plans for '3' will be introduced immediately; and
- A new capability for online viewing of accounts is expected to be introduced in the first quarter of 2005.

In summary, there are relatively few additional measures planned by CSPs, and most of these would be assessed by the ACA as being of no more than medium effectiveness. Many of the plans were also subject to a caveat of technical feasibility or the timeframe for implementation was uncertain.

As such, the ACA considers that these initiatives are, in general, best regarded as relatively minor extensions to current business practices, or, as in the case of the introduction of soft caps for mobile services, a reaction to concerns about loss of market share as a result of initiatives by competitors, rather than a reaction to problems experienced by customers of unexpectedly high bills.

### 3.6 Adequacy of industry action and commitment to implement credit management measures

The last section examined plans by CSPs to introduce new credit management measures on enhance or extend existing measures. This section evaluates the adequacy of:

- Current industry practices related to offering of credit and assessment of customers' credit risk;
- Currently available credit management tools;
- Codes related to credit management practices that have been developed by ACIF; and
- The new commitments discussed in the last section.

#### *Adequacy of current industry credit offering and credit assessment practices*

The practices of CSPs with respect to credit differ in many respects from the practices of companies in the financial services sector for which the offering of credit is often central to business. The ACA was presented with differing views in submissions about whether the offering of deferred payment of telecommunications services is equivalent to the offering of credit in the financial services sector. The TIO nonetheless argued in its submission that CSPs are effectively credit providers because, in the main, their services can be used before payment is made, and because customers can be credit default listed. Despite this, the TIO considers that CSPs make little assessment of a customer's capacity to pay. Therefore, part of the problem of unexpectedly high bills stems from the practice of there being no limit to the amount of credit that is allowed to be attained by many consumers.

The expansion of m-commerce, which permits the purchase of goods and services (many having little or no connection with telecommunications products and services), via credit associated with a mobile telephone account is likely to make it more difficult to distinguish between the provision of credit in the telecommunications and financial services sectors.

Several CSPs contended in their respective submissions that they apply sound credit assessment procedures at point of sale. From information obtained by the ACA from these CSPs, it appears that these procedures typically comprise:

- A 100-point identity check;
- A check that the person is over 18 years of age; and
- Collection of basic information about the prospective customer's employment status and address, for matching with records held by the credit reference agency, Baycorp Advantage.

The credit assessment procedure usually applies an established formula to advice received from the credit reference agency and to internal weightings, which may take into account issues such as stability of employment or residential location, from which a result is produced in a relatively short period. Such a process is generally completed over the counter or the phone.

The ACA is not clear how much protection this process provides to customers. In the ACA's assessment, the process calculates little more than the statistical probability of bad debt for someone with a given set of characteristics, rather than evaluating the individual credit risk of each customer. Consequently, credit assessments conducted by CSPs seem to provide merely a 'yes' or 'no' answer about whether to allow a post paid contract rather than leading to the offering of a graduated amount of credit based on the prospective customer's capacity to pay. Several CSPs acknowledged that the credit assessment process is primarily devised to protect them from bad debt and fraud.

The apparent limitations of the present credit assessment processes were highlighted by a case brought to the ACA's attention during the consultation on the ACA's discussion paper. A man with a mental disability and dependent on a pension was able, in his own name and at the same address, to purchase and establish post-paid accounts for more than 20 mobile phones from three CSPs with no apparent difficulty. At least 11 of these were with a single CSP.

#### *Adequacy of currently available credit management tools*

The following examines the adequacy of some prominent examples of credit management tools currently made available by CSPs.

##### Information about products and services and about risks of high bills

In its discussion paper, the ACA indicated that the ready availability of information about credit management issues for consumers, 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 unexpectedly high bills.

The ACA's recent service provider rules relating to premium services require CSPs to make such information available in respect of 190 premium rate services, premium rate messaging services, and international call services.

One CSP indicated in its submission to the ACA that it was willing to consider providing similar information for other services. The ACA considers it unfortunate that no other CSPs have expressed support for improving the provision of such information to consumers. Information about specific credit management tools such as call barring, PIN-controlled access or services to warn customers of high spending is generally hard to find.

#### Advice of charge at start of call or session

An industry association contended in its submission that the provision of detailed information about charges for premium rate calls, both in advertising and at the beginning of calls, has been a successful tool in ensuring customers have certainty about the costs of telecommunications services they use, and has reduced complaints for these services to a very low level. The ACA agrees that provision of information about call charges at the point that customers are made aware of the service and at the point at which they make a call is an effective and useful tool. On its own, however, such a tool may not prevent unexpectedly high bills, as the following case illustrates:

A \$10,000 bill for 190 premium rate calls from a fixed service was incurred over 9 days by a customer with a history of mental illness and who had a manic episode. \$5500 in charges was accumulated after a bar on the service, put in place by the CSP when it became concerned about the rapid accumulation of charges, but was lifted when the customer rang to complain about the imposition of the bar.

#### Real-time or near real-time account information, and monitoring of expenditure and warning of extreme expenditure

Obtaining up to date information on current levels of expenditure quickly and easily is a useful means for customers to identify possible spending problems before these become a major problem.

The ACA notes that collection of account data in real-time continues to be difficult for CSPs to achieve for many services. For some services, delays in charges being added to a given customer's account can be quite significant, frequently measured in days. Such deficiencies reduce the effectiveness of credit management tools that rely on the availability of such data, such as provision of real-time or near real-time account information, and monitoring of customer expenditure in order to provide warnings of extreme expenditure.

Even where account data is up to date, the provision of expenditure warnings is not without problems. Assessments of whether a particular level of expenditure is abnormal or significant are often subjective and it can be difficult to accurately identify genuine problems. Moreover, the process of contacting customers to advise them of an abnormal level of expenditure can be unreliable.

## Prepaid accounts

A number of CSPs suggested in their submissions to the ACA that pre-paid accounts are equivalent to or better than a hard cap. One CSP noted that:

Hard caps remove the ability for customers to choose how they use their service, what products they are happy to pay for and those that they do not want to use. The obvious answer to customers wishing to regulate their use and expenditure is to obtain prepaid services.

From an investigation by the ACA, however, certain limitations may apply to the prepaid offerings of some CSPs which may make them less attractive than post-paid accounts. Among such limitations are:

- Very limited periods within which credit must be used otherwise it will expire. This has the effect of setting a minimum monthly spend and may promote heavier use due to implicit pressure to 'use credit or lose it';
- Access to premium rate services may be restricted or unavailable; and
- Call charges may be more expensive than post-paid accounts.

The ACA also considers that the encouragement by CSPs of automatic re-charging of pre-paid accounts via savings accounts or credit cards—even where restrictions apply to how much or how often accounts can be re-charged—has the result of undermining the effectiveness of the chief credit management characteristic of pre-paid services, that they limit expenditure within a given period.

## *Adequacy of ACIF credit management related codes*

The Australian Communications Industry Forum (ACIF) has two primary codes dealing with industry practices related to unexpectedly high bills and credit management:

- *Customer Information on Prices, Terms and Conditions (ACIF C521:2001)*; and
- *Credit Management (ACIF C541:2003)*.

The first code focuses on ensuring that information provided to customers about prices, terms and conditions related to telecommunications services is neither misleading nor inaccurate from a trade practices or fair trading perspective. It is worth noting that the code does not seek to ensure consumers are informed about financial risks associated with products and services which could impact on their ability to make an informed purchasing decision.

The second code documents existing supplier processes and legal obligations for debt recovery. A part of the code is devoted to providing information to customers about what they can expect in respect of credit checks conducted by CSPs (and actions by CSPs to address problems of debt) and what they can do if they wish to dispute any such actions. The code does not seek to provide consumers with tools

to limit the accumulation of debt or to better manage credit provision, other than in those cases where a supplier imposes credit control measures.

The ACA was not made aware, via submissions or otherwise, of any plans or proposals to extend or enhance either of these codes to address problems of unexpectedly high bills although a revised PTC code dealing with other issues was put out for public comment in June 2004.

#### *Adequacy of planned credit management tools and practices*

The ACA is pleased that four CSPs indicated in their submissions that they are considering the introduction of new or enhanced credit management tools. In particular, the ACA is pleased that three of the four CSPs plan to introduce hard caps—which the ACA assessed in an earlier section of this chapter as being a quite effective credit management tool—although it should be recognised that only one of the hard cap proposals would apply across a total bill, the most effective form of hard cap. Nevertheless, the ACA is disappointed that such initiatives are confined to only a few CSPs.

In its discussion paper, the ACA encouraged CSPs to develop a comprehensive strategy and suite of measures to address the fundamental issue for consumers of effective credit management. Although some indications of improvements to existing credit management tools or the introduction of additional tools were given, it is regrettable that the comprehensive strategy and suite of measures sought by the ACA was not offered or discussed in any of the submissions.

#### *Commitment of industry to implement credit management measures*

The conclusion of the ACA is that the level of commitment among CSPs to implement credit management measures to address the problem of unexpectedly high bills is such that the following outcomes, articulated earlier in this chapter, are not being achieved and are unlikely to be achieved without remedial action:

1. Consumers possess a reasonable understanding of the telecommunications products and services that they use, and have certainty about the costs of telecommunications services, the associated risks and their expenditure on these services;
2. Consumers have the means to properly manage their expenditure on telecommunications services; and
3. The expenditure by consumers on telecommunications services is limited in line with their preferences or their ability to pay.

This conclusion is based on:

- The perception held by at least one industry association that a competitive market place is sufficient to ensure that credit management tools will be introduced if required by customers, although there are few signs that such tools are being introduced in a manner that is commensurate with the severity of the problem;

- The provision of individual credit management tools that are limited in their effectiveness, falling below what the ACA would regard as a minimum outcome in terms of protection against unexpectedly high bills;
- The general lack of any comprehensive suite of credit management tools that would provide a reasonable level of security against the risk of unexpectedly high bills, without trading off access to services or introducing other limitations;
- The reliance on unsophisticated credit assessment practices that do not take account of the individual circumstances of most consumers; and
- The paucity of readily available information about the risks of receiving an unexpectedly high bill and the steps consumers can take to reduce those risks.

### **Conclusions**

The range, quality and comprehensiveness of credit management tools and practices implemented or planned by CSPs fall short of achieving the outcomes for credit management practice that the ACA regards as essential.

Achievement of these outcomes is unlikely without remedial action.

## 3.7 Remedies

The last section considered the adequacy of industry action and commitment to implementing appropriate credit management tools, and concluded that this action and commitment is not sufficient to achieve essential outcomes for credit management practice, and that achievement of these outcomes is unlikely without remedial action. This section firstly proposes a framework for the provision of credit management tools and then sets out five possible strategies for implementing this framework.

### *Objectives and outcomes of reform of industry credit management practices*

The Minister's Direction of 13 April 2004 requested the ACA to consider the desirability of any regulatory measures that would ensure reform of industry practices in order to better address the problem of unexpectedly high bills.

Any intervention to ensure reform needs to achieve the outcomes that have been utilised throughout this chapter. In more specific terms, the ACA considers that any regulatory measures should ensure credit management tools are available that:

- Protect consumers from unexpectedly high bills and provide them with the maximum practicable certainty about the cost of calls, the cost of products and services, and the overall level of their bill;

- Achieve a reasonable understanding among consumers of the risks associated with particular products and services;
- Avoid imposing an undue cost on consumers to gather and evaluate information about products and services, any financial risks associated with using those products and services, and means of managing their expenditure;
- Protect consumers from unauthorised usage;
- Protect consumers from adverse impacts of having a substantial line of credit and give consumers an amount of credit that is appropriate to their ability to pay; and
- Protect consumers from excessively high bills or provide consumers with a means of modifying usage as a means of avoiding such bills.

Achieving these outcomes for consumers will also have the effects of reducing the costs to CSPs associated with bad debt, debt recovery, and handling of complaints.

#### *A framework for the provision of credit management tools*

It is recognised that a set of credit management tools that achieves the outcomes listed above is beyond—in some cases, well beyond—what is offered and available today from many, and probably most, CSPs. It is therefore appreciated that achieving these outcomes will necessarily involve a substantial upgrading of the standard and range of credit management tools available from a significant proportion of CSPs.

Despite this need for upgrading, the ACA is reluctant to recommend one or a small number of credit management tools as a ‘one size fits all’ solution to the problem of unexpectedly high bills, as proposed by some respondents to the ACA’s consultation. It is recognised that a single solution, due to its simplicity, might assist consumers in understanding and utilising the solution. However, because the needs of consumers vary markedly and because, in some respects at least, the products and services of CSPs also vary markedly, such an approach could create a degree of uniformity that would be at odds with the diverse character of the telecommunications market and could significantly disadvantage some market segments. Instead, the ACA believes it is acceptable and appropriate for different CSPs to have the choice to implement and offer different credit management tools.

However, the ACA also considers that the implementation and offering of these credit management tools needs to be within a defined framework which specifies the minimum outcome that should be met. Such a framework should provide flexibility to CSPs to implement and offer credit management tools that are appropriate to their particular customer base and their method of operating. At the same time, the framework should result in the overall standard of credit management practices and tools in the telecommunications sector being raised to a level that:

- Is appropriate to the complexity of the range of products and services that are available to consumers;

- Is appropriate to the significant scope that there exists for unexpectedly high bills; and
- Represents best industry practice.

The framework for the provision of credit management tools envisaged by the ACA would take account of:

- The range of credit management tools that are currently applied or available across the Australian market and in other countries, and tools that are technically and financially practicable to implement;
- The key outcomes that need to be achieved in credit management practice (as discussed earlier); and
- The relative effectiveness of the tools in achieving these outcomes.

Earlier in this chapter, the relative effectiveness of available credit management tools was evaluated. That evaluation is summarised in Table 2 below (the more stars, the more effective a particular tool is assessed as being).

**Table 2 – Credit management tools & their effectiveness**

***Outcome 1: Consumers possess a reasonable understanding of the telecommunications products and services that they use and have certainty about the costs of telecommunications services, the associated risks and their expenditure on these services***

<b>Credit management tool</b>	<b>Relative effectiveness</b>
Advice of charge during call or session	★★★★★
Advice of charge at start of call or session	★★★★
Information about products and services and about risks of high bills	★★

***Outcome 2: Consumers have the means to properly manage their expenditure on telecommunications services***

<b>Credit management tool</b>	<b>Relative effectiveness</b>
Monitoring of expenditure and warning of extreme expenditure: provided by default by CSP	★★★★
Targeted help service for new customers	★★★
Targeted help service for vulnerable customers	★★★
Advice of charge at end of call or session	★★★
Real-time or near-real time account information	★★★

<b>Credit management tool</b>	<b>Relative effectiveness</b>
Monitoring of expenditure and warning of extreme expenditure: provided at request of customer	★★

***Outcome 3: The expenditure of consumers on telecommunications services is limited in line with their preferences or their ability to pay***

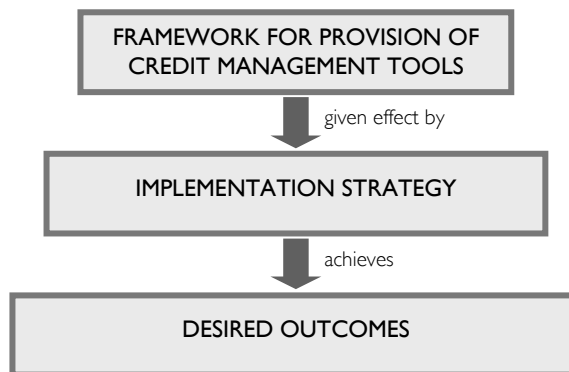
<b>Credit management tool</b>	<b>Relative effectiveness</b>
Hard cap across total bill: limit determined via credit assessment	★★★★★
Hard cap across total bill: uniform limit	★★★★
Throttling back of download speed for broadband services	★★★★
Pre-paid account: sole option provided by CSP as result of credit assessment	★★★★
Hard cap across total bill: limit specified by customer	★★★
Hard cap on selected services only: limit determined via credit assessment	★★★
Pre-paid account: chosen by customer	★★★
Barring of service: chosen by customer	★★★
Hard cap on selected services only: limit specified by customer	★★
Hard cap on selected services only: uniform limit	★★
Soft cap	★★
Hard cap on individual calls only: limit specified by customer	★
Hard cap on individual calls only: uniform limit	★
Hard cap on individual calls only: limit determined via credit assessment	★

To be effective in avoiding unexpectedly high bills for consumers, the ACA considers that the framework for the provision of credit management tools should stipulate that, both for each of the three outcome categories and for each of their fixed, mobile and Internet services, CSPs should make available a minimum of –

- One credit management tool with a high effectiveness rating (five stars)  
OR
- Two credit management tools with a medium to high effectiveness rating (four stars)  
OR
- Three credit management tools with a medium effectiveness rating (three stars).

### *Strategies to implement the framework for the provision of credit management tools*

In order to achieve the key outcomes for credit management practice in the telecommunications sector, the framework for the provision of credit management tools needs to be accompanied by an implementation strategy that is based on industry self-regulation, standards or regulation. This relationship between outcomes, framework and implementation strategy is represented in Figure 6 below.



**Figure 6 – Relationship between outcomes, framework & implementation strategy**

It is possible to implement the framework for the provision of credit management tools via a number of different strategies. The ACA has identified five alternative strategies which it considers feasible means of implementing the framework:

- Enhancement of existing industry codes;
- A voluntary national standard combined with compliance mark;
- Individual plans for each CSP for implementation of the framework for the provision of credit management tools;
- Detailed specification of requirements in regulation;
- A hybrid strategy – detailed specification of requirements in regulation with the option of individual plans for each CSP for implementation of the framework for the provision of credit management tools.

These five strategies are discussed in detail below.

To the extent that some of the five strategies would rely on regulatory measures, the ACA believes that consideration of their relative merits should take account of both:

- The regulatory policy articulated at the beginning of this section; and
- The conclusion reached in the last section that industry action and commitment to address the scale of the problem of unexpectedly high bills is, to date, inadequate.

The discussion of the strategies that follows includes an assessment of their respective discrete advantages and disadvantages, and the above considerations

are included in that assessment. The ACA recognises that some strategies may be more difficult to implement than others, but considers that all would be feasible if implemented in the form outlined here.

*Strategy 1: Enhancement of the existing industry codes to give effect to the framework for the provision of credit management tools*

The ACA would request the enhancement of the existing suite of codes developed by ACIF dealing with credit matters. This could potentially include any codes developed by other bodies that address credit-related matters in the telecommunications sector, such as the Telephone Information Services Standards Council code of practice. This would enable industry to properly address and achieve the three outcomes outlined in the last section, and give effect to the framework for the provision of credit management tools.

The enhancements would, in the view of the ACA, need to aim for industry best practice, and specify mechanisms to ensure compliance with the codes in an effective manner. This would include appropriate measures for remedy and restoration to consumers adversely affected by non-compliant practices.

In the event that enhancements to the suite of codes were not completed within a reasonable period (which the ACA considers might appropriately be six months), or the enhancements do not fundamentally address and achieve the three outcomes, it is envisaged that the ACA would develop an industry standard in accordance with sections 123 and 125 of the *Telecommunications Act 1997*.

This strategy would require the ACA to:

- Identify areas of deficiency in the relevant codes;
- Communicate to ACIF or any other relevant bodies an appropriate timeframe for review and redevelopment of the codes;
- Seek commitments from at least the major CSPs to implement improved information provision and credit management tools while the review and redevelopment of the codes is underway;
- Following completion of the redevelopment of the codes, monitor implementation, the extent of compliance by CSPs with the codes, and the impact of the codes on the overall levels of complaints related to credit control; and
- Review the effectiveness of the revamped codes after a reasonable period.

The advantages and disadvantages of this strategy are listed in Table 3 below.

**Table 3 – Advantages & disadvantages of Strategy 1**

<b>Advantages</b>	<b>Disadvantages</b>
Consistency with the regulatory objective, mentioned in the last	The success of enhancing the existing industry codes would require the

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**Advantages**

section, of promoting the greatest practicable use of industry self-regulation would be maintained.

Deficiencies in the existing codes would be addressed via a cooperative approach to the review and redevelopment among CSPs and potentially between CSPs and consumers.

A safety net—development of an industry standard by the ACA should the self-regulatory approach prove to be inadequate—would be available.

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**Disadvantages**

commitment of the majority of CSPs to addressing the problem of unexpectedly high bills. Given the modest achievements of the industry to date in addressing these problems, the success of this strategy may be questionable.

The strategy might be perceived, especially by consumer advocacy groups, as an overly light approach to the problem of unexpectedly high bills and likely to fail, consequently attracting strong criticism.

There appear to be few incentives for CSPs to develop effective and robust codes, even with the prospect of an industry standard being imposed by the ACA if the redeveloped codes are not satisfactory or completed in reasonable time, or another form of regulatory intervention.

The ACA has observed that there are widely differing perspectives between CSPs and groups representing consumers regarding the direction that industry codes which are intended to improve outcomes for consumers should take, and there is consequently some question as to whether CSPs and consumer groups could cooperate effectively in reviewing and redeveloping the existing codes.

To date, the development of only one ACIF industry code has involved equal representation of CSPs and groups representing consumers. There is a danger that sufficient weight will not be given to the views of consumers and adequate account taken of consumer needs, unless a balanced and cooperative approach is taken to the revamping of the codes.

Past experience suggests that the review and redevelopment of the codes could be

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Advantages	Disadvantages
	<p>protracted.</p> <p>It appears unlikely that the redeveloped codes would extend the currently limited capacity of the TIO to make restorative determinations in cases where consumers are adversely affected by non-compliant practices, and the ACA's powers to issue directions and warnings under sections 121 and 122 respectively of the <i>Telecommunications Act 1997</i> would remain inadequate to permit redress of serious financial detriment to individual customers. Consequently, a significant financial incentive for CSPs to comply with codes would not be available.</p>

The possible need to enhance the existing ACIF codes was referred to in the ACA's discussion paper, but no respondents expressed support for such an enhancement. Nevertheless, the ACA has not formally discussed the possibility of enhancing ACIF's suite of codes developed by ACIF dealing with credit matters, nor with other relevant bodies the possible review and redevelopment of their codes.

*Strategy 2: Voluntary national standard giving effect to the framework for the provision of credit management tools, combined with a compliance mark*

The ACA would seek the development by Standards Australia or another suitable national standards organisation, of a uniform credit management standard for the telecommunications sector that gave effect to the framework for the provision of credit management tools. The standard might be linked to the ISO 9000-series quality management standards.

Compliance with the standard would be voluntary. CSPs which wished to be accredited under the standard would submit to a stringent certification process, and would subsequently be entitled to display an appropriate compliance mark. If the standard was linked to the ISO 9000-series quality management standards, it might be feasible for this compliance mark to be the "five ticks" standards mark used by ISO 9000-series certified companies (see Figure 7).

Consumers would be encouraged to take account of the compliance mark in their purchase decisions related to telecommunications products and services.

This strategy would require the ACA to:



- Seek commitments from at least the major CSPs to implement improved information provision and credit management tools while the review and redevelopment of the codes is underway;
- Suggest appropriate performance indicators and outcomes against which compliance with the standard would desirably be measured to the relevant standards organisation; and
- Following completion of the standard, monitor the extent of accreditation with the standard and its impact on the overall levels of complaints related to credit control, followed by a review after a reasonable period of its effectiveness.

Figure 7 –  
Quality  
management  
standards  
mark

It might also be necessary for the ACA, or another body, to promote the standard among consumers and highlight the benefits of using the services of accredited CSPs.

Advantages and disadvantages identified by the ACA with this strategy are listed in Table 4 below.

**Table 4 – Advantages & disadvantages of Strategy 2**

<b>Advantages</b>	<b>Disadvantages</b>
Full control over the means of addressing the problem of unexpectedly high bills would be assigned to CSPs, which would ensure the implementation of the framework for the provision of credit management tools would be compatible with commercial practices.	Development of the standard could be very lengthy, thus leaving consumers unprotected from risks of unexpectedly high bills for an unacceptably long period.
Consumers would readily be able to identify whether a CSP offers a robust and effective range of credit management tools.	Because the ISO 9000-series standards emphasise consistency, CSPs might be able to achieve compliance with the standard by doing no more than being consistent with their procedures, irrespective of the quality of those procedures, instead of fundamentally re-aligning their practices in order to achieve the three outcomes.
The strategy would constitute a low regulatory impost, while offering reasonable safeguards to consumers.	The implementation of processes might be emphasised over the achievement of outcomes.
Compliance with the standard would, to a large extent, be assessed by external certification organisations, at each CSP's own cost.	A broadly uniform standard might not be compatible with some CSPs' business practices.
	There would be no guarantee that any CSP would actually seek accreditation under the standard.
	In areas where consumers have little or no

<b>Advantages</b>	<b>Disadvantages</b>
	choice of CSP, the standard would have no value if the one or few CSPs available to those consumers did not seek accreditation under the standard.

The ACA has not formally discussed with Standards Australia, or any other national standards body, the feasibility of creating a voluntary national standard related to credit management practices in the telecommunications sector. The possible use of the “five ticks” compliance mark has similarly not been discussed with Standards Australia.

It is noted that ACIF is planning the introduction of its own telecommunications-specific compliance mark. It is too early to predict the success of this initiative, but the ACA is only aware of one CSP indicating a desire to be certified to use the compliance mark at this point. It seems unlikely that the ACIF compliance mark will achieve the same level of recognition as the “five ticks” mark.

*Strategy 3: Individual implementation plans for each CSP giving effect to the framework for the provision of credit management tools*

The framework for the provision of credit management tools would be specified as a set of obligations on CSPs, via a service provider rule under section 99 of the *Telecommunications Act 1997* or another suitable legal instrument.

Each CSP would be required to develop an individual implementation plan giving effect to the framework for the provision of credit management tools within a specified timeframe. These plans would set out the specific programmes and tools that it would implement and its timetable for implementation. These plans would be lodged with the ACA, and the ACA would assess each plan to ensure it would achieve the three outcomes set out in the last section. The ACA would be able to reject plans that it considered would not adequately achieve the outcomes. The ACA would periodically audit the extent to which the implementation plans of selected CSPs had been fulfilled.

Given the number of CSPs operating in the market, the resources required by the ACA to assess and approve the individual implementation plans, and to audit their execution, are expected to be reasonably significant.

Advantages and disadvantages identified by the ACA with this strategy are listed in Table 5 below.

**Table 5 – Advantages & disadvantages of Strategy 3**

<b>Advantages</b>	<b>Disadvantages</b>
The achievement of outcomes would be emphasised over the implementation of processes.	The success of individual implementation plans for each CSP would rely on the majority of CSPs being genuine about addressing problems of unexpectedly high

Advantages	Disadvantages
<p>Each CSP would decide individually how to implement the framework for the provision of credit management tools and achieve the outcomes in a manner that is best-suited to its capabilities, service offerings and customer base, within a common framework.</p>	<p>bills.</p> <p>The ACA would be subject to a heavy administrative load in assessing and approving each CSP's individual implementation plan, and auditing a selection of the plans.</p> <p>Smaller CSPs might be subject to an initial heavy burden in developing individual implementation plans.</p> <p>The strategy might be perceived, especially by consumer advocacy groups, as too light an approach to the problem of unexpectedly high bills and consequently attract a high level of criticism.</p>

*Strategy 4: Detailed specification via regulation of requirements for implementation of the framework for the provision of credit management tools*

The framework for the provision of credit management tools would be specified as a set of specific and detailed requirements for implementation to be met by CSPs within a specified timeframe, via a service provider rule under section 99 of the *Telecommunications Act 1997* or another suitable legal instrument. The requirements would permit some flexibility in the choice of credit management tools to the extent allowed within the framework as specified in the previous section, but would specify in more detail the characteristics of the various credit management tools and the timetable for implementation of the framework.

Advantages and disadvantages identified by the ACA with this strategy are listed in Table 6 below.

**Table 6 – Advantages & disadvantages of Strategy 4**

Advantages	Disadvantages
<p>“Normalisation” of the telecommunications sector in relation to credit management practice would be achieved, in that the credit management practices of CSPs would be regulated in a similar manner to credit suppliers in the financial services sector.</p>	<p>Scope for flexibility in the implementation of credit management tools by CSPs would be limited.</p> <p>The detailed characteristics of credit management tools and the timetable for implementation of the credit management framework might be ill-suited to the capabilities, service offerings and customer base of some CSPs.</p> <p>The strategy might be perceived, especially by CSPs, as an unduly heavy</p>

<b>Advantages</b>	<b>Disadvantages</b>
	<p>regulatory approach to the problem of unexpectedly high bills and consequently attract a high level of criticism.</p> <p>A lowest common denominator solution might be promoted that allows little opportunity for the development of innovative solutions.</p>

*Strategy 5: Hybrid – Detailed specification via regulation of requirements for implementation of the framework for the provision of credit management tools, with the option of individual implementation plans for each CSP*

As per Strategy 4, the framework for the provision of credit management tools would be specified as a set of specific and detailed requirements to be met by CSPs within a specified timeframe, via a service provider rule under section 99 of the *Telecommunications Act 1997* or another suitable legal instrument. In addition to this default set of requirements, CSPs would have the alternative option of creating their own individual plans for implementation of the framework for the provision of credit management tools, as per Strategy 3, and submitting them for approval by the ACA. Each such plan would be assessed to ensure it would achieve the three outcomes. The ACA would periodically audit the extent to which such plans had been fulfilled.

The resources required by the ACA to assess and approve implementation plans (and to audit their execution) are expected to be significant (though less than that required for Strategy 3).

Advantages and disadvantages identified by the ACA with this hybrid strategy are listed in Table 7 below.

**Table 7 – Advantages & disadvantages of Strategy 5**

<b>Advantages</b>	<b>Disadvantages</b>
<p>A degree of “normalisation” of the telecommunications sector in relation to credit management practice would be achieved by indicating the standard of credit management tools that are expected to be provided by CSPs and by providing a safety net specifying the detailed requirements for implementation of the framework for the provision of credit management tools. At the same time, individual CSPs would have the ability to create alternative implementation plans where their operational arrangements or</p>	<p>If many CSPs were to opt for developing individual plans for implementation of the framework for the provision of credit management tools, the ACA would be subject to a heavy administrative load in assessing and approving individual implementation plans and auditing a selection of the plans.</p>

Advantages	Disadvantages
<p>capabilities or the characteristics of their customer bases would make execution of the default set of requirements difficult or onerous.</p> <p>A reasonable balance could be achieved between specifying detailed or stringent requirements, and avoiding favouring particular approaches to implementation of the framework for the provision of credit management tools that benefited some companies over others.</p>	

To reiterate, the ACA believes that all of the implementation strategies described above would be feasible in practice. Based on its experience of stimulating the development of industry codes and ensuring compliance with these codes, the ACA is predisposed to regard the first of the strategies as the most difficult approach to securing the identified outcomes. By comparison, the ACA's experience with respect to preparation and approval of standard marketing plans for primary and competing universal service providers, which has similarities to the last strategy, leads us to regard this last strategy as the one which may most easily bring about an achievement of these outcomes.

There would also be scope to commence with an implementation strategy that involved the specification of more heavily regulated requirements, and migrate later to a strategy relying more on self-regulation or the initiative of individual CSPs, as, over time, the market demonstrates its maturity in respect of credit management practices.

The ACA considers it is possible for the market to recover from the current failure to satisfactorily protect consumers from the very real risk of unexpected and substantial high bills, and to arrive at a more healthy state in a reasonable period of time. The ACA also considers that, in achieving this state, not only would benefits be provided for consumers, but CSPs would achieve ongoing savings through reducing costs and effort related to complaints management, bad debt and debt recovery.

The ACA considers the outcomes, framework of credit management tools, and implementation strategies set out in this section and the previous one provide a reasonable and secure path for arriving at this state.

### **Conclusions**

A framework for the provision of credit management tools is proposed, which would involve CSPs making available credit management tools that result in the following outcomes –

- Consumers possessing a reasonable understanding of the telecommunications products and services that they use, and having certainty about the costs of telecommunications services, the associated risks and their expenditure on these services;
- Consumers having the means to properly manage their expenditure on telecommunications services; and
- The expenditure of consumers on telecommunications services being limited in line with their preferences or their ability to pay

– and would achieve a specified and higher level of effectiveness in addressing the problem of unexpectedly high bills.

Implementation of the framework for the provision of credit management tools set out by the ACA in this report should be secured via one of the following regulatory or other measures, as a means of ensuring that the framework is implemented in an effective and verifiable manner and the identified outcomes are delivered:

- Enhancement of the existing industry codes, or
- Establishing a voluntary national standard and using a standards mark to publicise compliance with the standard, or
- Individual implementation plans prepared by each carriage service provider and approved by the regulator, or
- Detailed specification of requirements for implementation of the framework via regulation, or
- A hybrid solution, involving detailed specification of requirements for implementation of the framework via regulation with an option open to CSPs to prepare individual implementation plans which are approved by the regulator.

## 4. List of Conclusions and Recommendations

### 4.1 Internet dumping

The ACA should continue its monitoring of international Internet dialler complaints, and undertake additional monitoring as appropriate to identify future trends in Internet dumping.

The ACA should continue its monitoring of complaints regarding Approach Telecom, and in particular evaluate the impact on the level of complaints of the recent service provider rule made by the ACA that requires CSPs to provide information to their customers about the risks of unexpectedly high bills from premium services, including those accessed via international numbers, and the actions customers can take to minimise these risks.

Given Approach Telecom's policy of waiving disputed charges and subsequently barring future access to its services, no regulatory intervention in relation to Approach Telecom's service is justified at this time.

Given there is no evidence of current use of Australian geographic numbers by Internet diallers, there is no need for regulatory action intervention in relation this practice at this time.

The ACA should liaise with the Norfolk Island Administration and, as appropriate, the Department of Transport and Regions to understand the circumstances under which Internet diallers may be using Norfolk Island numbers.

The ACA should liaise with authorities in other countries responsible for handling complaints related to Internet diallers to determine if Australian numbers or numbers administered by an Australian territory have been identified as possibly being used by Internet diallers.

The ACA should participate in the international network of authorities responsible for handling complaints about Internet diallers in order to identify new sources of problems related to Internet diallers and possible solutions.

The ACA should obtain the results of ComReg's evaluation of the suspension of direct dialling facilities from Ireland to certain international destinations.

Relevant CSPs should be required to offer a facility for barring international direct dial calls that prevents the use of over-ride codes or international access codes other than 0011 to circumvent this barring, that can be selected by customers to protect them from unauthorised calls associated with Internet diallers.

Given the reasonable prospect that the ACIF protocol for sharing information related to international numbers associated with Internet diallers will have positive effects on the problems resulting from the use of international numbers by Internet diallers, a service provider rule requiring all CSPs to block access to international numbers associated with Internet diallers is not warranted at this time.

The ACA should evaluate the implementation of the ACIF protocol for sharing information related to international numbers associated with Internet diallers, within 12 months of its creation, in relation to:

- The number of CSPs that subscribe to the protocol;
- The extent to which CSPs share information;
- The extent to which CSPs block numbers or destinations identified in shared information; and
- Any reduction in the level of complaints received by the TIO in respect of international Internet diallers that can be attributed to the implementation of the protocol.

## 4.2 Credit management measures to address unexpectedly high bills

Serious deficiencies problems exist with respect to existing credit management practices in the telecommunications sector, as demonstrated by:

- Extremely high credit default listings at relatively low debt levels;
- Rapidly increasing levels of credit control complaints to the TIO; and
- Numbers of complaints increasing in real terms taking account of subscriber numbers.

There is a high probability that problems associated with credit management practices in the telecommunications sector will be exacerbated by new high cost products which are now becoming used more widely.

An appreciation of the nature and scope of the problem of unexpectedly high bills appears to be largely absent among CSPs or industry bodies, with the effect that few CSPs have interest in addressing the problem of unexpectedly high bills.

The range, quality and comprehensiveness of credit management tools and practices implemented or planned by CSPs fall short of achieving the outcomes for credit management practice that the ACA regards as essential.

Achievement of these outcomes is unlikely without remedial action.

A framework for the provision of credit management tools is proposed, which would involve CSPs making available credit management tools that result in the following outcomes –

- Consumers possessing a reasonable understanding of the telecommunications products and services that they use, and having certainty about the costs of telecommunications services, the associated risks and their expenditure on these services;

- Consumers having the means to properly manage their expenditure on telecommunications services; and
- The expenditure of consumers on telecommunications services being limited in line with their preferences or their ability to pay

– and would achieve a specified and higher level of effectiveness in addressing the problem of unexpectedly high bills.

Implementation of the framework for the provision of credit management tools set out by the ACA in this report should be secured via one of the following regulatory or other measures, as a means of ensuring that the framework is implemented in an effective and verifiable manner and the identified outcomes are delivered:

- Enhancement of the existing industry codes, or
- Establishing a voluntary national standard and using a standards mark to publicise compliance with the standard, or
- Individual implementation plans prepared by each carriage service provider and approved by the regulator, or
- Detailed specification of requirements for implementation of the framework via regulation, or
- A hybrid solution, involving detailed specification of requirements for implementation of the framework via regulation with an option open to CSPs to prepare individual implementation plans which are approved by the regulator.

# Appendixes

## Appendix A: Direction by the Minister to the ACA

### **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.

## Appendix B: Consultation and research

### *Consultation*

The ACA released its discussion paper on unexpectedly high bills on the 4<sup>th</sup> of August 2004. Public meetings were held in Sydney, Melbourne and Brisbane during August 2004.

A total of 15 submissions were received by the ACA on the discussion paper, from the following organisations:

- Australian Consumers Association
- Australian Mobile Telecommunications Association
- Banking and Financial Services Ombudsman
- Consumer Affairs Victoria
- Consumer Law Groups
- FreeTV Australia
- Hutchison Telecommunications Australia
- Optus
- Outback Digital Network
- Telstra
- TELSPA
- Telecommunications Industry Ombudsman
- Virgin Mobile
- Vodafone
- Youth Action & Policy Association

The submissions are available on the ACA website at [www.aca.gov.au/telcomm/premium/premium.htm#submissions](http://www.aca.gov.au/telcomm/premium/premium.htm#submissions).

In the course of developing the discussion paper and the report, the ACA held discussions with a number of individual CSPs, the TIO, consumer advocacy and complaint handling bodies, the Banking and Financial Services Ombudsman, the ACCC, the Telephone Information Services Standards Council, the Independent Committee for the Supervision of Standards of Telephone Information Services (UK), ComReg (Ireland), the National Telecom and IT Agency (Denmark), state government fair trading offices, and the Norfolk Island Administration.

### *Research*

Information for many of the case studies included in this report was provided by the TIO and consumer advocacy bodies.

Credit management tools available in a number of European countries and specified in standards produced by the European Telecommunications Standards Institute were investigated for the purposes of this report.