

Care Financial Counselling Service

25 February 2005

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

& by email: mobilecontent@aca.gov.au

(Attention: Mr Mark Dossetor, Senior Policy Analyst)

Dear Mr Dossetor,

**Re: The Australian Communications Authority -
Determination for Regulation of Mobile Premium Services**

Thank you for your communications regarding the Authority's work on the above Determination.

Care has been provided with a copy of and endorses the comments of the Australian Consumers' Association. We offer the following further specific comments in respect of the issue of the cost of Premium Service transactions, including the manner in which consumers are informed about costs and the options and actions available to protect consumers against unreasonably and unfairly high bills. The comments also have regard to the "Report on Preventing Unexpectedly High Bills: Credit Management in Telecommunications", presented to the Minister in October 2004 and released in February 2005.

Care and the co-located Consumer Law Centre of the ACT, joined a number of other consumer groups in making written submission to the Unexpected High Bills consultation, in September 2004. I note we still prefer "Unsafe and Unfair" as a more accurate description of market behaviour to the less emotive title chosen - "Unexpected". The written submission followed a variety of discussions directly with service provider agencies like ours.

The consumer comment on high bills evidenced a growing sense of frustration with the failure or refusal of industry to make proper or any assessment of consumer capacity to pay. That coupled with a range of products designed and delivered to take maximum advantage of disadvantage and no commitment to fair and reliable complaint handling, leaves the consumers who seek assistance from Care and the Consumer Law Centre with few and difficult options. We were also sharply critical of the Authority's reluctance to provide

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policy leadership, or of more immediate importance, to act as a regulator and enforce the law.

As other groups have done, we welcomed the commitment the Authority exhibited in 2004 to understanding the nature of consumer detriment and industry failure. Neither the Determination, nor the Report to the Minister have in our view given sufficient assurance that the commitment to listen will translate to action. In reaching this view, we have applied the following logic:

- Although only recently released, the Preventing High Bills report preceded the Determination. The discussion and recommendations in the report in relation to credit management issues, starts reasonably well. It acknowledges the failure of industry players to behave properly. It concludes that remedial action is necessary. In presenting options however, it fudges and prevaricates, presenting already failed and discredited elements of the framework as potential solutions. Most disappointingly, there is no commitment express or implied for real compliance monitoring and enforcement.
- The Determination gives no more comfort, adding further weight to a conclusion that the Authority is at risk of missing its opportunity and obligation to behave as a regulator and tackle clear market failure. We acknowledge that the document deals with cost description and price impact as only a peripheral item. Where it does however, the course proposed is based on information disclosure. There is reference to the consideration of high bills, but nothing that suggests that poor industry practice may be investigated and punished.

We remain hopeful that the interpretation described above is incorrect. Our clients desperately need the Authority to assert and exert its powers to tackle an industry that has shown no inclination to act unless pushed.

Yours sincerely,

David Tennant,
Director.