

Sort it

Mobile phone,
credit card
& other disputes



This booklet contains some cases the Telecommunications Industry Ombudsman and the Banking and Financial Services Ombudsman have dealt with.

We haven't used real names because cases which come to us are treated confidentially but the case studies give examples of the kinds of disputes we look at, how we approach them and the outcome that can be achieved.

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Case Studies from the Banking and Financial Services Ombudsman (BFSO)

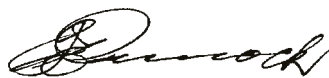
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This special Bulletin shows the sorts of problems that can occur for young people with mobile phone and credit card contracts and debts. We thought it would be useful to put together case studies of real disputes both our organisations have considered so you could see the things that can go wrong and how they can be sorted out.

Mobile phone and credit card debts can be crippling. If something has happened that is not your fault it's important to know that there are a number of places, including our organisations, where you can go for help in sorting it out. This will involve having the issue looked at independently and may result in you getting some compensation or reaching another acceptable arrangement with the service provider. Both the TIO and the BFSO are **free** to access and you don't need a lawyer.

If you need general advice about how to manage your finances or avoid getting into strife with your phone bills or credit cards, we have listed some good resources on the last page. Your State consumer affairs or fair trading agency should also be able to help you sort out problems with retailers and other companies. There are lots of places that can help so don't hesitate to ask.



John Pinnock
Telecommunications Industry Ombudsman



Colin Neave
Banking & Financial Services Ombudsman

Telecommunications Industry Ombudsman case study



Premium Text Messages

Mobile phones enable you to ‘buy’ a range of services over the phone. You can download ring tones, wallpapers, logos and even songs or videos. You can use your phone to vote on television programs and to sign up to text chat services. But these services are often charged at higher than normal rates and can be very expensive. It is easy to get into debt very quickly without realising it - until your phone bill arrives.

Before you use your mobile to sign up for downloads or text chat, find out whether you are receiving a one-off service, like a single ring tone download, or a subscription service like membership of a text chat club. If you subscribe to an on-going service, make sure you know how to cancel it. Read advertisements closely and if you are not sure about the cost of the service find out before you go ahead. Don’t sign up to anything you do not clearly understand.

Trang's mother approached the TIO after failing to resolve a problem about premium-rate text messages on behalf of her 17-year-old daughter.

As Trang was under 18, the account had been opened in her mother's name. Trang's mother said she had approached the phone company and asked that premium text messages her daughter was receiving be stopped. She said that her daughter had not asked for the services and should not have to pay for them.

Soon after her mother's approach to the phone company Trang received a notice of demand and disconnection. This included total charges of almost \$1,700, including:

- A plan payout fee of \$600;
- A plan cancellation fee of \$132; and
- A debt collector's fee of almost \$400.

Trang's mother said her daughter was still receiving premium rate text messages nine months after she had requested they be stopped even though she had locked the phone away.

Trang

How the TIO investigated this case

The TIO wrote to the phone company asking for its perspective on Trang's complaint. It replied that Trang had been billed for premium text services from three content providers; two of which were subscription services and the other an 'on-demand' service. It provided evidence that she had ordered content from all three services. She had incurred \$8 in charges from the on-demand service and several hundred dollars worth of services from the subscription content providers.

The phone company said that it would waive all the charges from one of the subscription services as Trang had tried to stop the messages soon after subscribing. The stop message was unsuccessful because she had texted through the wrong stop code.

It proposed waiving some of the charges for the second subscription service as Trang had subscribed and unsubscribed to the service several times. The most recent message the content provider had received from Trang was a resubscribe message. The phone company said Trang was liable for the \$8 incurred for the on-demand service.

The phone company said that as Trang's mother's contract was still operating, no cancellation fees would apply. TIO accepted the phone company's response, which was to ask the Trang's mother to pay the \$350 still outstanding on the account.

What the TIO did next

The TIO advised Trang's mother to accept the resolution proposed by the phone company. However, she said was not satisfied with this outcome because she said her daughter had not ordered the premium services. The TIO closed the case.

Kim &



Telecommunications Industry Ombudsman case study

Peer Group Pressure/ Signing Contracts for Friends

Generally, a person under 18 cannot enter into a legally binding contract unless special circumstances apply. As a consequence, many young people rely on parents or friends to enter into mobile phone contracts for them. If you sign a contract for a friend, you are still *legally responsible* for paying the bills, even if your friend agreed to cover all the costs.

Dealing with pressure to sign a contract from a friend can be tough. Having the strength to say no may not be easy. For advice about dealing with peer pressure and bullying see: www.reachout.com.au.

& Pravina

Kim and Pravina were best friends. Pravina had just turned 18 while Kim's 18th birthday was not for another two months. Kim wanted a mobile service but knowing that you needed to be over 18 to sign the contract, she asked Pravina to sign a contract for a mobile service on her behalf.

In a Statutory Declaration Pravina stated that when she was asked to sign the contract, she had asked the dealer whether her signature on the contract would make her responsible for any charges. She maintained that the dealer assured her that her signature was purely for the purpose of verifying her friend's identity.

CONTRACT SIGNING

Pravina also stated that because she was inexperienced with contractual matters she did not read the entire document before signing. Kim supplied a Statutory Declaration which verified Pravina's account. In her statement, Kim said that she thought Pravina was just being asked to sign the contract as a 'signee'.

As Kim was the user of the service, her address was listed on the contract.

The mobile phone was stolen two months after the contract had been signed and three months later, Pravina was contacted by a debt collector. The telephone company advised her that she was responsible for the bills and that it would not release her from her contractual obligations because she was over 18 when she signed the contract. It said that it was her responsibility to read the contract before signing it. The amount in dispute was over \$700.

How the TIO investigated this case

The TIO raised the complaint with the company and asked it to obtain a Statutory Declaration from the dealer involved outlining his recollection of the sale. The TIO also questioned the company about the training it provided to its dealers who negotiated contracts with minors and young people. The TIO also asked the company to consider releasing Pravina from the contract on the basis of the seriousness of the situation.

The phone company provided its dealer's Statutory Declaration which indicated that he had properly advised Pravina of her responsibility for any charges associated with the mobile service. In his sworn statement, the dealer also outlined a conversation between the complainants in which Pravina advised Kim: "You had better pay it!" The dealer believed this indicated that she understood her obligations under the contract. The phone company's position was based largely on the dealer's sworn statement. Therefore, the company refused to release Pravina from the contract.

What the TIO did next

The TIO decided to pursue the complaint after additional information was received from Pravina contradicting the statement made by the dealer.

The TIO argued that the dealer had failed in his duty of care to Pravina by not explaining the terms and conditions of the contract and by only providing a copy of the contract to her friend Kim.

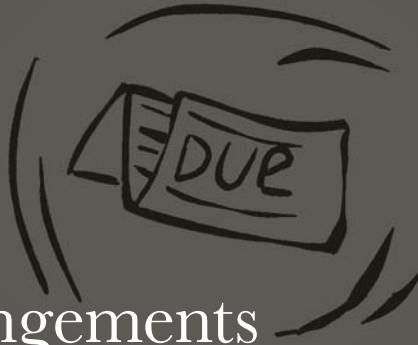
While the phone company advised that it was usual practice to provide the terms and conditions of the contract to the user of the phone, the TIO did not accept that this was reasonable in these circumstances, particularly given the age of the complainants.

Further, the TIO did not accept the company's argument that it was common practice for adults to sign contracts on behalf of minors. The TIO advised that, in its opinion, the circumstances of this complaint were very different from those where a parent might sign a contract on behalf of a child. In this case, Pravina was not in a financial position to accept responsibility for her friend's phone charges. The phone company maintained its position and refused to release Pravina from the contract.

The outcome

The TIO disagreed with the company and the matter was finally resolved with the Ombudsman issuing a Determination (binding decision on the company). The Ombudsman determined that the company should waive all charges associated with the disputed service based on his view that, in this case, there was no legally binding contract.

Telecommunications Industry Ombudsman case study



Payment Arrangements

If you find yourself in a situation where you can't afford to pay your mobile phone bill by the due date, contact your phone company straight away and say you would like to negotiate a repayment arrangement.

If your bill is not paid by the due date you may be barred from making calls on your phone, your contract may be cancelled (sometimes requiring you to pay a hefty cancellation fee) and a default listing may be made on your credit file. Information about credit reporting is included at the end of this Bulletin.

If you are having trouble negotiating an affordable repayment plan with your phone company, contact the TIO.

Mrs Tobin signed a contract for two mobile phone services in mid 2004. She allowed her 16-year-old daughter, Carla, to use one of the mobile services. Carla made a larger than normal amount of calls over the 2004 Christmas period and received a bill for \$683.93. Mrs Tobin is a single parent and was unable to pay the charges by the due date.

Consequently, both the services were barred from making calls. Mrs Tobin called the phone company to request a payment arrangement to repay the debt. She offered to pay \$50 immediately and then \$100 per fortnight after that. The company refused her payment arrangement and requested she pay \$140 immediately and then \$75 per fortnight.

CANCELLATION CHARGE

Despite advising the company that she couldn't afford \$140 straight away, the company insisted on this arrangement. As she could not meet this arrangement, the services were disconnected and Mrs Tobin was charged \$1,500 in cancellation charges in addition to the original debt.

During the process of her complaint, the company continued to demand full payment of the debt despite Mrs Tobin's clear advice that she was unable to pay the debt in one lump sum. Once the charges were more than 60 days overdue, the company lodged a default listing on Mrs Tobin's credit file. The default will remain on her credit file for five years, making it virtually impossible for her to obtain a credit card or a loan from a bank. Mrs Tobin called the TIO requesting the services be reinstated, the cancellation fee waived, a reasonable payment arrangement established and the default listing removed.

How the TIO investigated this case

The TIO raised the complaint with the phone company on the basis of its position statement on financial hardship. The TIO believes that phone companies should assist customers who claim they are experiencing financial hardship by agreeing to a feasible payment arrangement.

The TIO also raised Mrs Tobin's allegation that the phone company continued its credit management procedures, including making a listing on Mrs Tobin's credit file, while the complaint was ongoing.

The TIO requested that the company provide copies of its computer system notes in order to show what discussions Mrs Tobin had with the company and the credit management action that the company took to recover the debt. The phone company responded by agreeing to remove the default listing on her credit file.

The phone company stated that it disconnected the service because Mrs Tobin requested that it do so. With regard to the remaining issues, it offered Mrs Tobin the following options:

- Waive the cancellation fees as long as Mrs Tobin agreed to pay the remaining access fees (without reconnecting the service);
- Leave the matter as it is; or
- Reconnect the service and refund the cancellation fee, provided that Mrs Tobin paid all call charges outstanding upfront.

What the TIO did next

The TIO put these options to Mrs Tobin. Mrs Tobin rejected them all, stating that she told the phone company that she did not want her daughter to have access to the mobile service and that the phone company had originally advised that she would need to cancel the service. She claimed that the phone company did not warn her that by agreeing to cancel the service, she would incur further charges. The TIO wrote to the phone company again, advising that in the circumstances it believed it was reasonable for it to remove the cancellation fees.

The outcome

The company agreed to remove the cancellation fees on the provision that Mrs Tobin paid the remaining handset charges (given she agreed to keep the two handsets). The company also agreed to accept Mrs Tobin's payment plan and offered \$100 credit from the charges owing in light of the inconvenience Mrs Tobin had experienced.

Carla

Capped Mobile Plans

A capped plan can seem like a good way to manage how much you spend on your mobile bills. Rather than pay for each call and SMS the usual way, you only pay a certain amount per month for ordinary calls provided your usage doesn't exceed a maximum value. For example, a plan marketed as a '\$49 monthly capped plan' may include \$200 worth of calls. But you would have to pay for any calls made in excess of \$200 and you need to look out for other services that are not covered by the 'cap', like long distance calls, photos, downloads and premium numbers. They can really add up.



Benji

Benji signed a contract for a two-year \$29 monthly ‘capped’ mobile phone plan, which included \$120 worth of calls with a minimum monthly expenditure of \$20. The phone company said this plan ensured that customers would not get any ‘nasty surprises at bill time’. Benji also agreed to pay \$10 a month for a new phone.

Benji used the phone for connecting to the internet as well as making calls. He said he was told by the phone company’s agent, who sold him the phone, that internet access was included in the capped deal.

After about a fortnight, Benji’s account was suspended. He contacted the company and was told that he had incurred a \$1,700 bill. This included \$29 for calls and the rest for internet usage, which had been charged at \$4 a megabyte. When he didn’t pay the bill, it was sent to a debt collection agency, which sought a further \$500 to pay out the rest of the installments on the phone.

The debt collector refused Benji’s offer to repay the debt at \$50 a month. Benji then contacted the TIO.

What the TIO did next

The TIO believes that products should be marketed as ‘capped’, ‘unlimited’ or ‘free’ only when those products are in fact capped, unlimited or free in the everyday sense of those words. In the case of the word capped, the meaning is generally held to mean that you cannot spend more than the capped limit.

When considering complaints about capped plans, the TIO considers several factors including:

- The complexity of the product’s terms and conditions;
- What the customer was told about the product at the point of sale;
- Any exceptions to the capped limit and how this information was provided to the customer;
- Whether there was a mechanism by which the customer could monitor their usage and expenditure, whether the customer was made aware of this mechanism and how accurate and user friendly the tool was;
- What information was provided to the customer to let them know if they were about to or had reached a limit and what would happen if they did; and
- Whether it was reasonable in the circumstances for the customer to believe they would not be charged more than the capped amount.

If, after investigating a complaint, the TIO finds that a provider gave a customer inadequate or misleading information about the way that a capped plan worked or the charges that could be incurred, the TIO may direct a provider to:

- Waive any excess charges;
- Release the customer from their contract; and/or
- Take appropriate action to ensure that a customer is no worse off financially.

The TIO wrote to the provider seeking its response to Benji’s claim that he was misled at the time that he agreed to the contract as to what would or would not be included in the capped plan.

The outcome

The provider did not dispute any of the claims and proposed to resolve the case by:

- Applying a \$129 mobile broadband plan to the account, which would reduce the amount for outstanding calls/data from about \$1,700 to \$129; and
- Waiving the remaining handset charges, providing Benji returned the handset.

Banking and Financial Services Ombudsman case study



An Internet scam

Scams have been around for a long time. You see an offer that sounds too good to be true and then you find out to your cost that too good to be true is exactly what it was.

Scams are designed to steal money from you. Scammers are very inventive and new scams seem to appear every day! Scams vary from self-employment scams to million dollar ‘winning tickets’ in lotteries you have never entered. You may have received emails from someone who wants to access your bank account in order to transfer millions of dollars overseas from an African country or who says they need your bank account details and password to fix a computer problem at the bank. The simple rule is don’t give them your bank account details.

Some scams (money-laundering scams) are designed to get stolen money out of the country using your bank account to pass the money through – one of the warning signs for this sort of this scam is that you get more money than you should be getting and you are asked to pass some of it on to someone else - usually someone in another country. There’s good information about different kinds of scams, and how to protect yourself from them, on www.scamwatch.gov.au.

Tim

Tim saw an ad for casual employment on a job hunting website. Tim visited the company's website and applied for a job. Tim didn't realise that the job and the website were part of a sophisticated scam.

THE COMPANY

The company's website said that it was an international organisation with over 80,000 employees. Each employee had to have a bank account with one of the company's 'partner banks'. The company said it made a profit by generating transfers between partner banks. The website was pretty convincing.

WHAT WAS TIM ASKED TO DO?

Tim had a bank account with one of the partner banks listed on the website. The 'work' he had to do was to transfer money he received into his bank account into another employee's bank account. Each time he transferred money he was allowed to keep a 10% commission. For Tim, this seemed like an easy way to make money.

A few days after becoming a member, Tim received an email saying that \$1,500 had been deposited into his account. Tim was directed to transfer this money to a person in Estonia in accordance with his employment contract. Tim checked his account using internet banking and confirmed that he had received the money; he then withdrew \$1,350 and sent the funds via a money transfer to Estonia and kept \$150 commission.

What went wrong?

The next day, Tim received a letter from his bank saying that the transfer of \$1,500 to his account had been reversed because it had not been authorised by the person whose account it had come out of. This meant that Tim was out of pocket by \$1,350. When he tried to get in touch with the company he did not receive a response. The company's website had also been removed from the web.

Tim's complaint to the BFSO

Tim felt that it was unfair that the bank took \$1,500 from his account without his permission. In his view, the bank should not have transferred money into his account without proper authorisation. Tim went to see a solicitor at the legal centre at his university who assisted Tim to make a complaint to the BFSO.

What was the outcome?

The bank had transferred the money to Tim by mistake, believing that the transfer had been made by the person who owned the account it came from. In fact, it had been stolen from that person's account by the people behind the company. These people wanted to get it out the country and, by paying it through Tim's bank account, were able to make it look like a legitimate transfer. This is called 'money-laundering'. When Tim's bank found out that the money had been stolen, they reversed the credit to Tim's bank account, leaving him with an overdrawn account.

Normally, Tim would have to repay the overdrawn amount and not keep the benefit of the original credit. This is because you can't usually keep money that has been paid to you by mistake. However, because in this case the BFSO accepted that Tim had only done what he thought he had to do under his employment contract and genuinely believed that the company and its operations were legitimate, he was able to rely on a legal defence that he had paid away the money in good faith. This defence applies in limited cases and the decision would have been against Tim if the BFSO had concluded that Tim had realised that there was something dodgy about the scheme.

The BFSO found that in this case the bank had to reimburse Tim \$1,350.

Li'

Banking and Financial Services Ombudsman case study

Taking out a loan for someone else

You should think very carefully before you agree to borrow money on behalf of someone else, even if you have a good relationship with them and they assure you they will pay it back. It can be the fastest way for a good relationship to go bad – so never feel pressured to agree.

Ask yourself – why isn't that person able to borrow the money themselves? Maybe it's because they don't have enough income to make the repayments or perhaps they have borrowed money and not paid it back in the past. If the bank or credit provider believes that it is too risky to lend that person money then perhaps you should too! If you do take out a loan for someone else in your name, be realistic. That person may let you down and you will be legally responsible for making the repayments. Think about it – can you afford to lose that much?

yen

Li'yen was 19 and had been working full time for 10 months. Her boyfriend Ken persuaded her to take out two \$5,000 personal loans on the basis that he would make the repayments.

APPLYING FOR THE LOANS

When Li'yen applied for the first loan, she told the bank she was going to use the money to buy a car. Instead, Li'yen put the money into her bank account and whenever Ken needed money, she gave him her debit card and PIN number and he withdrew it from her account.

Before the money from the first loan had completely run out, Li'yen applied for the second loan. She told the bank that she was going to use the money to buy a better car. Li'yen also said that she was still working full time. The truth was that Li'yen had been retrenched and would finish work a few days later.

WHAT HAPPENED TO THE MONEY?

The money from the first loan was mainly spent by Ken. When Li'yen applied for the second loan, the bank wanted to pay the money directly to the seller of the car Li'yen said she was buying. Li'yen gave the bank Ken's name and said that he was the seller. Li'yen then gave the cheque from the bank straight to Ken.

END OF THE RELATIONSHIP

Not long after Li'yen provided Ken with the cheque, the relationship ended and Ken did not repay the money. Li'yen was left with a big debt, which was accumulating interest, and nothing to show for it. Because she had been retrenched, Li'yen could not meet the repayments on the loan herself.

Li'yen's complaint to the BFSO

Li'yen authorised her father to make a complaint on her behalf. In the complaint, Li'yen's father said that it was irresponsible and bad practice for the bank to have lent Li'yen \$10,000 because she was just 19 years old and had only worked full time for a short time. Li'yen's father said that Li'yen should not have to repay the money.

What did the bank say?

The bank pointed out that when Li'yen applied for the first loan, her income was enough to cover her repayments and other living expenses. When she applied for the second loan, Li'yen had misled the bank about the fact she had been retrenched. This meant that the bank could not properly work out whether Li'yen could afford the loan. The bank also had no way of knowing that Li'yen was providing the loan money to Ken and was not using it to buy, and upgrade, a car for herself.

What was the outcome?

The BFSO found that the bank had properly assessed Li'yen's loan applications taking into account the information she provided to the bank as well as information confirming her income provided by Li'yen's employer. Therefore, Li'yen was responsible for repaying the debt. After the BFSO sent out its decision, Li'yen's father asked the bank if it would accept \$5,000 to settle the debt. The bank agreed.



Rebecca Banking

‘I didn’t pay for this!’ – charging back credit card transactions

If your credit card is charged for something you didn’t buy, or if you have been charged twice for the same thing, the bank may be able to ‘chargeback’ the transaction. A chargeback is when a credit card payment that has been made to a shop or business is reversed and the money paid back to the credit card holder.

So, for example, if you notice on your credit card statement a purchase that you didn’t make you should contact your bank and ask them to chargeback the

Rebecca noticed there was a \$2,000 purchase on her credit card statement. The purchase was made in a town in rural Victoria. Rebecca, who lives in Western Australia, had never heard of the town or the shop where the purchase was made. Rebecca was certain that she had not made the purchase and she rang the bank and reported it straight away.

REPORTING THE UNAUTHORISED TRANSACTION

Once Rebecca reported the transaction, the bank sent her a ‘chargeback request form’ to complete and return. Rebecca did not return the form until four months later. The bank said that because of Rebecca’s delay in returning the form, it had lost its ability to chargeback the transaction.

transaction. You will need to fill in a disputed transaction form with truthful information and you will need to do it quickly because the bank can only process a chargeback within certain time limits.

The bank probably won’t chargeback a transaction if the only problem is the quality of what you bought. That is usually something you need to sort out directly with the shop or business. If you need help doing that you can contact the Government consumer affairs or fair trading office in your State/Territory.



and Financial Services Ombudsman case study

REBECCA'S COMPLAINT TO THE BFSO

Rebecca complained about the bank's decision to the BFSO. Rebecca said she had been unaware of any time limit to return the form and had not received clear advice from the bank.

WHAT WAS THE BANK'S RESPONSE?

The bank said that under its agreement with Rebecca's credit card provider it has a strict time frame for dealing with disputed transactions. Once it received the form from Rebecca outside that time frame, the bank said that it tried to process the late chargeback on a good faith basis but the merchant's bank refused to process the chargeback and there was nothing else it could do.

BFSO's investigations

During the BFSO's investigation of the dispute, Rebecca contacted the shop where the purchase had been made. She discovered that the transaction was made online from Indonesia. This meant that the Electronic Funds Transfer (EFT) Code applied. The EFT Code is a code that sets out who is to bear the loss when an electronic transfer of money from an account is unauthorised – which means the account holder didn't make the transfer and didn't give permission for it to happen.

Under the EFT Code, the cardholder can only be liable for an unauthorised transaction in particular circumstances. In this situation, where the transaction was made without Rebecca's card but using her credit card number and expiry date only, Rebecca could not be liable for the transaction.

What was the outcome?

Even though Rebecca had delayed in returning the chargeback request form and it was too late to charge the transaction back, she was still protected by the EFT Code. Under the EFT Code, Rebecca was not liable for the transaction. The BFSO found that the bank had to refund Rebecca \$2,000 plus interest. The bank agreed to do this, and Rebecca was happy with the outcome.

Getting into debt

Just because the bank is prepared to give you a credit card doesn't mean you can afford it in the long run. Buying new clothes, upgrading your mobile phone, paying for concert tickets can feel good at the time but paying off the debt can be a long and painful process.

When a bank gives you a credit card, the bank doesn't require you to pay your entire credit card balance in full every month. Instead the bank asks that you make at least a minimum monthly repayment. For a debt of \$500, that can be as little as \$7.50 a month. You might be able to afford to make the minimum repayment but if you want to avoid high interest charges you need to be able to repay the whole balance each month. The Australian Securities and Investments Commission has a credit card calculator on its consumer website www.fido.gov.au – if you enter your account balance, interest rate, repayment amount and the amount of credit you owe, it will calculate how long it will take you to pay off your credit card and how much interest you will pay over that period. For example, if you owed \$2,000 on a card with a 16.5% interest rate and you were required to make a minimum payment of 2% of the balance, or \$20, whichever is the greater, it will take over 16 years to repay the \$2,000 plus interest of over \$2,900 assuming you only pay the minimum amount (and never use the credit card again!).

So before you use a credit card to buy something just check – can you repay the whole amount by the next due date? If not, add credit card interest to the price – it might not be such a good buy and the debt might be hanging around for a long time.



Marco

Marco was 22 and working full time as a metal worker. In order to get to and from work, he decided to buy a second hand car. When Marco applied for the car loan, the bank also invited him to apply for a credit card. Marco wrote on the credit card application that he wanted a limit of \$600 but the bank gave him a limit of \$10,000.

PROBLEMS WITH MARCO'S CAR LOAN

Soon after receiving his car loan, Marco had a car accident and his car was written off. He received a payout from his insurance company but instead of using this money to pay off the entire car loan, he put it into his savings account and used it to make payments on his car loan, his credit card and to pay for personal expenses. Marco still needed a car to get to work, so he purchased another car and obtained a second car loan through the car yard where he bought the car.

MARCO LOSES HIS JOB

A few months later, Marco lost his job. He couldn't meet the repayments on his car loans and he had maxed out his credit card buying expensive clothes, catching taxis and eating out at restaurants. Marco lived with his family, and he was embarrassed about the constant calls from the bank and the car finance company asking him when he was going to repay his debts.

MARCO'S COMPLAINT TO THE BFSO

Marco provided his father with authority to make a complaint on his behalf about the credit card. Marco's father said that the bank should have given Marco a limit of \$600 because that was what Marco requested. Marco's father also thought it was irresponsible to give Marco a \$10,000 limit when he had only been working full time for a few months and, before that, had been unemployed for 12 months.

THE BANK'S RESPONSE TO MARCO'S COMPLAINT

When the bank received Marco's credit application, it made its own assessment that Marco could afford a \$10,000 limit. The bank then wrote to Marco to let him know that his application had been successful and that his limit would be \$10,000. Marco said that he didn't receive this letter and thought his credit limit was \$600, but the bank pointed out that within a few days of receiving the card, Marco had spent well over \$600, including \$750 in one transaction, and that Marco did not contact the bank to request a lower limit.

The bank's offer

The bank acknowledged that it did not take into account Marco's request for a limit of \$600 and made an offer to reduce his debt by half and refund all interest, fees and charges. Marco decided not to accept the bank's offer and asked the BFSO to investigate the matter.

What was the outcome?

The BFSO investigated the dispute and found that the bank had not acted properly in giving Marco a \$10,000 limit. The bank should have taken into account Marco's request for a \$600 limit and his erratic employment history. To compensate Marco, the BFSO found that the bank should refund all interest it had charged on Marco's credit card for any amount over \$600. However, Marco was still responsible for repaying the bank all the money he had spent. In the circumstances, the bank's offer was a better outcome for Marco. Marco was not happy with the decision and asked the Ombudsman to review it. The Ombudsman completed a review and decided to uphold the original finding. Marco declined to accept the bank's offer and his case was closed. Marco has the option of taking action against the bank in a Court.

credit

Your credit file

Before banks lend you money, or phone companies enter into a mobile phone contract with you, they look at your credit file to assess whether you have a good credit record.

file

What is a credit file?

A credit file is a report which records information about your credit history. It includes your personal details, credit applications you have made over the past 5 years and overdue accounts which have been listed against your name. If you have applied for credit, or purchased goods or services where payment is deferred by a minimum of 7 days, for example, telephone, gas and electricity connection, credit providers are allowed to access your credit file.

The information on your credit file helps credit providers decide if you are a good credit risk (i.e. are you likely to pay your bills on time). Banks, retailers and utility companies all rely on your credit file when deciding whether to lend you money or provide you with a service.

If you have never applied for credit you may not have a credit file yet. As soon as you apply for credit for the first time a credit file will be opened by a credit reporting agency (such as Veda Advantage). Credit files are maintained by credit reporting agencies.

What happens if I have an overdue (unpaid) account?

If you have an account which remains overdue for 60 days or more, the service provider may put a record of the overdue amount on your credit file. Before the service provider lists the debt, it must have asked you to pay the outstanding amount.

Even if you later pay the account in full, the fact that you didn't pay the account until well over the due date will remain on your credit file for 5 years.

If you are in a dispute with the service provider about the account, you can request that the account listing be investigated by the credit reporting agency. The listing will be marked 'disputed' until the matter is resolved.

An overdue account will only ever be removed from your credit file before the 5 years is up if it has been listed in error.

How do I get a copy of my credit file?

You can obtain a copy of your credit file for free within 10 working days by contacting Veda Advantage at www.mycreditfile.com.au (alternatively, you can pay a fee to have your credit file delivered more quickly).

What if something on my credit file is wrong?

If you believe that a bank or phone company has unfairly listed an overdue account on your credit file, you should contact them and ask for an explanation. If you are not happy with the explanation you receive, call the BFSO or the TIO .

assets

resources

General

Consumer Stuff! at www.consumer.vic.gov.au. **Consumer Affairs Victoria** has produced a package of information and educational resources for young consumers which aim to give them the skills to become independent, informed and in control of their money. The **Consumer Stuff!** resources include advice on mobile phone contracts, buying a first car, borrowing money, renting and other life skills matters, as well as information and advice on consumer rights, for example, how to get a refund and write a letter of complaint.

Money Stuff! is a website produced by the **NSW Office of Fair Trading** which provides information and resources to assist young people to become better informed and independent consumers. **Money Stuff!** has information and educational resources about buying cars, computers, credit, mobile phones, renting and working and has some useful links: www.moneystuff.net.au.

Have a look at the **Youth Central** website, and in particular the sections '**Know your Rights**' and '**Managing Money**' at www.youthcentral.vic.gov.au, where the information and advice is written by a team of young writers.

Consumers Online includes links to all State and Territory consumer affairs and fair trading websites: www.consumersonline.gov.au.

For information on dealing with difficult life decisions like moving out of home, standing up to bullies, dealing with peer pressure and looking for work have a look at the **Reach Out** website: www.reachout.com.au. The purpose of the site is to help young people help themselves through tough times and it includes lots of information on dealing with stress, relationships and mental well being.

If you receive an email, a letter or see a job advertised which sounds too good to be true check out the **Scamwatch** website. Scamwatch has information on all sorts of scams, including the latest ones, and can tell you what warning signs to look for and how to protect yourself: www.scamwatch.gov.au.

The **Australian Consumers Association** (ACA) has information about mobile phones, credit cards and consumer rights generally on its website: www.choice.com.au.

Mobile Phones

The **Australian Communications and Media Authority** (ACMA) is a government agency with responsibility for regulating the media and telecommunications industries in Australia: www.acma.gov.au. ACMA have an information portal called **My Tool Kit** to help you understand which mobile products and services will suit you best: www.toolkit.acma.gov.au.

The **Australian Mobile Telecommunications Association** (AMTA) is an industry body representing Australia's mobile telecommunications industry. The ATMA site www.mindyourmobile.com provides information on reporting the theft of your phone and call blocking.

Credit Cards

The **Australian Securities and Investments Commission** (ASIC) is a government agency with responsibility for regulating financial services. Its consumer website **fido** has information about choosing and managing your credit card, dealing with debt, scams and a list of financial counselling organisations you can contact if you get into trouble: www.fido.gov.au. Check out their publication '**To The Max**' available for download on the young adult part of the fido website. It is a comic-format story about getting mobile phone and credit card debts back under control.

The **Consumer Credit Code** governs many credit transactions taking place in Australia. The Code requires credit providers such as banks, building societies, credit unions, finance companies and businesses to tell you what your rights and obligations are in any credit arrangement including the interest rates, fees and commissions which apply. Information about the **Consumer Credit Code** can be found at: www.creditcode.gov.au.



This Bulletin is a collaboration between the Telecommunications Industry Ombudsman and the Banking and Financial Services Ombudsman and is an update of the BFSO's Special Bulletin on Youth and Banking Issues (March 2001).

You are free to send it on to someone else if you think it would be useful to them. If it has helped you, or you would like more copies, let us know.

Our thanks to the Education & Information Branch at Consumer Affairs Victoria for their advice and feedback.

Contact information



Telecommunications
Industry Ombudsman

TELECOMMUNICATIONS INDUSTRY OMBUDSMAN

The Telecommunications Industry Ombudsman (TIO) is an independent dispute resolution body, which handles complaints from consumers and small businesses about telephone or internet service providers. We are an office of last resort, so you must try to resolve your complaint with your provider before coming to us.

Our website has information about particular types of complaints and contains a section which outlines some of our position statements. These can help you see the kinds of outcomes we seek. Our position statements can be found at: www.tio.com.au/policies/indexc.htm.

**Our website including
online complaint form:** www.tio.com.au

Writing to us: PO Box 276,
COLLINS STREET WEST
VIC 8007

Calling us (freecall): 1800 062 058

Sending a fax (freefax): 1800 630 614

TTY: 1800 675 692

**Translator and
interpreter service:** 131 450



BANKING AND FINANCIAL SERVICES OMBUDSMAN

The Banking and Financial Services Ombudsman (BFSO) resolves disputes between individuals or small businesses and banks or other financial services providers, such as disputes about credit cards, loans, deposit accounts, Internet banking and ATMs.

You can call us to find out if we can consider your dispute or check our website. We may put you in touch with the dispute resolution professionals at the company to see if they can resolve your dispute first and we will encourage you to try to sort it out with them but, if you can't, we will look at the dispute and investigate it if necessary.

**Our website including
online dispute form:** www.bfso.org.au

Writing to us: GPO Box 3
MELBOURNE VIC 3001

Calling us (local rate): 1300 78 08 08

Sending a fax: (03) 9613 7345

info