POSITION STATEMENT

Managing usage and expenditure on a service

Complaints we receive about managing usage and expenditure on a telecommunications service include claims that a provider:

- has not given a consumer enough information about available tools to help them monitor, limit or manage their usage or expenditure (**spend management tools**)
- offers spend management tools that do not work, for example, a usage meter is faulty
- did not alert the consumer about, or take reasonable steps to stop, unusually high usage or excessively high charges on their account.

Laws and codes of practice

The following laws and codes of practice are relevant to managing usage and expenditure on a service:

- Telecommunications Service Provider (Mobile Premium Services) Determination 2010 (No. 1)
- Telecommunications (International Mobile Roaming) Industry Standard 2013
- Telecommunications Consumer Protections (TCP) Code 2015
- Mobile Premium Services (MPS) Code 2011

Our approach

When we deal with complaints about managing usage and expenditure on a service we consider the law, good industry practice, and fairness in all the circumstances.

The law

The Mobile Premium Services Determination sets rules for providers offering mobile services, including:

- requirements to implement a service capable of barring all premium text and multimedia message services
- requirements if a customer or potential customer requests premium text and multimedia message services to be barred
- when the provider must stop barring premium text and multimedia message services
- the requirement to give information about barring premium text and multimedia message services, and when this information should be given.

The International Mobile Roaming Industry Standard sets rules for international mobile roaming (IMR) services, including:

- the provider must, before entering into a contract for IMR services, inform their customers of available spend management tools and how these can be accessed
- until 23 May 2016 a provider that does not have its own mobile network must give its customers a range of pre-departure information before or while supplying IMR on post-paid services, or on pre-paid services that are automatically topped up.

This position statement provides broad guidance on the law, good industry practice, and what the TIO may consider to be fair and reasonable in general circumstances. It is not a full statement of the law or good industry practice. The TIO considers each matter brought to it on its own particular merits.

Good industry practice

Rules in the Telecommunications Consumer Protections Code include:

A provider must make available, or apply, spend management tools to help the consumer take timely action to manage their usage and spend. For both pre-paid and post-paid services the provider must offer at least one spend management tool from the following:

- near to real-time access to usage information
- plans that limit use of a service to stop charges for that service exceeding an agreed spend
- optional call barring or restrictions on certain services
- usage charge advice provided before or during use of a high value service
- pre-paid services without an unlimited automatic top up
- hard caps
- reducing broadband internet download speed when a usage limit is reached
- any other spend management tool the provider may choose to offer.

When the provider is not providing the consumer with an internet service, the provider must offer at least one spend management tool which is not dependent on the consumer having internet access.

As well as the spend management tools above, a residential consumer with a post-paid included value mobile or internet service must receive free usage notifications within 48 hours of reaching 50%, 85%, and 100% of their allocated monthly spend for both voice/text and data allowance, unless the service is hard capped or unlimited. At 100% the provider must also tell the consumer:

- the charges applying now 100% of their allowance has been used
- that the information in the notification may be up to 48 hours old
- that the notification does not include calls or text and multimedia messages to overseas or usage outside Australia.

This does not apply for post-paid mobile plans that were available before 1 March 2012.

A provider may offer a consumer the choice of not receiving the notifications, receiving them at different usage points, or using a different platform - for example, email or text messages - as long as the provider keeps a record of the consumer's decision, and does not encourage the consumer to opt-out of notifications.

A provider must make sure a consumer can readily access at no cost all information about the provider's spend management and security tools. The information must be clear, accurate, free of material omissions, relevant, current and, in cases where information is provided, timely.

The MPS Code includes rules relating to managing a consumer's spend when using mobile premium services. For example:

- a content supplier must make sure that a consumer can access pricing information without requesting supply of the mobile premium service
- a provider must give Communications Alliance details of the measures it has available to limit a consumer's spend on mobile premium services, for publication on the website located at www.19sms.com.au
- a content supplier must send a spend update to a consumer
  (a) once the consumer has incurred $30 of premium fees per premium service per month
  (b) each time the consumer incurs an additional $30 of premium fees from using the same premium service.

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TIO view

Near to real-time consumer access to usage information

The Telecommunications Consumer Protections Code considers near to real-time information about usage to be ideally no older than 48 hours. When it is technically possible for a provider to make usage information available in a shorter time period, we encourage the provider to do this.

Any limitations of the spend management tool should be clearly explained, for example, on the provider's website or in store so consumers can then make allowances for the usual performance of the tool when they use the service.

Clarity of usage notifications

Usage notifications required by the Telecommunications Consumer Protections Code should be clear, and easy to read and understand. As far as possible, usage notifications should contain enough information to give the consumer confidence in how they should continue to use their service without requiring them to research their terms and conditions. For example, a usage notification that only shows the amount in dollars of included value used without also:

- showing the usage as a percentage of the total included value, or
- advising how much usage is remaining

will not be as effective as a notification that includes this information.

Usage notifications should not contribute to a consumer exceeding their usage allowance. For example, a notification advising that the consumer has used 100% of their included data allowance should not also advise the consumer to visit the provider's website using that service to purchase more data, unless:

- the consumer will not be charged for the data usage incurred by visiting the provider's website using that service, or
- there is a clear warning in the notification that excess data usage charges will apply.

Managing third party purchases billed by the provider

Some telecommunications services can be used to access or purchase digital services such as apps and in-app purchases, or other third party products. These third party purchases may sometimes be billed to the consumer through their telecommunications account. Providers should have appropriate spend management tools in place to assist the consumer to monitor and take timely action to manage their spend on these types of purchases. See our position statement Charges for more information on third party purchases billed by the provider.

Unexpected high debt

Both the provider and consumer share responsibility for preventing the consumer from accruing unexpected high debt.

Providers should have effective systems and processes to:

- monitor the consumer's usage and expenditure, taking into account the consumer's minimum regular charges for the service, usual or expected expenditure, and payment history
- promptly contact and engage with the consumer at appropriate times about any unexpected high expenditure that is accruing.

When the provider identifies that the debt for the service is getting to be unusually high, it should take effective steps to limit the consumer's exposure to more debt. These steps could include:

- giving the consumer additional notice about the unusually high debt
- giving the consumer options on how to avoid or limit additional unusually high debt
- restricting certain features of the service
- offering other plans or services that may be more appropriate.

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Consumers should pay attention to usage notifications sent by their provider, use the spend management tools made available or applied by their provider, and when appropriate modify their usage to prevent incurring charges they cannot afford.

Dealing with a dispute

To assess a complaint about managing usage and expenditure on a service we will assess the actions of both provider and consumer, and the individual circumstances of the complaint before deciding on who is responsible for the charges. We may ask for information or documents from the consumer and provider. This may include:

- details of spend management tools made available to the consumer
- usage records
- information about the cause of the excess usage or expenditure
- information about how long the provider had usage information before making it available to the consumer
- information about what steps the provider took to monitor the consumer's usage and debt, and how it responded to the issue.

Outcomes

When, in our view, the consumer has received an unexpected high bill or bills because of:

- a lack of spend management tools
- a lack of information about spend management tools
- spend management tools that didn't work or were not applied appropriately
- usage meters that gave information that was not provided within 48 hours of usage being incurred or a shorter period if this is technically possible
- a lack of effective systems or processes to monitor debt levels or limit the consumer's exposure to high debt

outcomes may include the provider:

- waiving some or all of the debt
- providing appropriate spend management tools
- providing effective systems to monitor and limit the consumer's exposure to more debt
- offering the customer an appropriate payment plan for any agreed debt
- offering the consumer a more appropriate plan or service.

When, in our view, the consumer contributed to their exposure to high debt, including when the consumer did not act on usage notifications, outcomes may include the consumer paying some or all of the charges.

Effective date: 11 March 2016

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