Mobile Phones, Young People and Consumer Protection

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A Snapshot of Youth Usage

1999 Report “Mobile Matters - Young People and Mobile Phones” revealed that:

- 33% of 16-19 year olds own or use a mobile phone;
- 25% had experienced some difficulty with payments;
- 9% based usage on prepayment cards;
- 18% did not read the contract;
- 7% read contract but did not understand;
- 17% reported some anxiety/depression associated with difficulties paying the bill.

Recent anecdotal evidence suggests a significant increase in usage of prepayment cards.
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In the Beginning - Marketing

• Telcos concentrated on the need for market share;
• Handsets were given away with costs recouped over an 18-24 month period;
• Sales were driven by commission based agents and dealers operating in fiercely competitive market.
Australian Competition and Consumer Commission (ACCC) prosecutions and registered undertakings revealed:

• A telco gave undertakings to correct misleading conduct in the promotion of rates;

• A telco gave undertakings to correct variations that introduced a $12 per month access fee to a contract advertised as a zero access fee;

• A telco was prosecuted by the ACCC for misleading advertisements that offered “free” mobile phones when the contract required a 15-18 month contract with charges of $336.
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In the Beginning - Contracts with young consumers revealed:

• A failure to acknowledge the common law protection of minors;

• Friends and relatives tricked – told they were guarantors or witnesses but signed up as purchasers;

• A failure to acknowledge the unlimited liability for mobile phone services.
The Telecommunications Industry Ombudsman (TIO) and Legal Aid Services revealed:

- A 79 year old grandfather was asked to be a guarantor for his grandson but signed a contract as purchaser and was alleged to owe in excess of $1500;

- An 18 year old with an intellectual disability was asked to sign a contract as guarantor for a 16 year old friend but signed as the purchaser and was alleged to owe $1800;

- A 15 year old asked her illiterate Koori mother to attend a shop front to witness her contract. The mother signed as purchaser and was alleged to owe $1200.
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The Cause of the Problems:

• Staff were desperate for sales;
• Telco’s did not train staff on legal and consumer protection requirements;
• Telco’s did not impose ethical standards or good industry practice;
• Regulators ignored poor practices to allow new entrants to obtain market share.
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The Effect of the Problems:

A breakdown in family relationships;

• Homelessness and isolation;
• Humiliation with their peer group;
• Adverse credit record for long term.

A Youth Advocacy Response:

• Production of the education kit “Listen Up”;
• The Streetwise Comics for youth;
• NSW Children’s Commission Forum.
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The Market Matures

The Telecommunications industry has acknowledged the need to:

• Reduce overcommitment;
• Disclose fees and charges;
• Improve transparency in terms and conditions.

Safeguards have been introduced through:

• Imposition of credit limits on mobile phones;
• Increased promotion of prepayment cards;
• Codes of Practice and education campaigns.
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The Problems Continue:

However ACCC, TIO and Legal Aid cases have revealed new problems including:

- Continued widespread abuse of trade practices law
  The ACCC prosecuted a Telco in May 2002 for misleading and deceptive conduct by advertising mobile packages that failed to reveal the full cash price or termination costs.

- Credit limits prove to be illusory
  A Telco has acknowledged the failure to uphold the credit limits disclosed on a mobile contract. The Telco waived more than $1,000 debt for a young person after initially stating the credit limit was for “internal use” only.
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• Prepayment Card Abuse

The TIO has warned consumers, and especially young people, that some prepayment cards have gone into debt due to late billing of SMS messages. A Telco waived a $60 debt for an under-18 person for this reason.

• SIM Unlock Fees

The TIO has warned that some prepaid phone packages contain a condition to require payment of a SIM unlock fee despite advertisements that indicated no monthly fees or charges.
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The Future Market

As technology improves, mobile phones present new opportunities including:

• Access to non-telecommunications goods and services;
• Access to credit.

The key questions are:

• Will the mobile phone become a credit card?
• Will Telco’s become credit providers?
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The obvious problem is “overcommitment”.

- Other industries have addressed the issue;
- Consumer Credit Code imposes an obligation to assess capacity to pay.
- Banking Ombudsman will consider “Maladministration” in provision of credit.
- TIO has recently moved towards introduction of an Overcommitment policy.
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Recommendations:

The way forward in the provision of better customer service and protection:

• The use of technology to assist young consumers – in conjunction with youth advocacy bodies;

• Avoidance of anti-competitive practices designed to inhibit switching;

• Acknowledgement and compliance with trade practices law;

• Industry commitment and development of ethical standards.