

Mobile Phones, Young People and Consumer Protection

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Workshop - Children, Mobile Phones and the Internet

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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 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.**