August 2, 2010

Mr John Stanton
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Dear John

Response to Mobile Premium Services Code (MPS) review

Telstra appreciates the opportunity to respond to the review of the MPS code and supports a revision of the MPS Code. We recognize that managing MPS issues has been an ongoing concern for Telstra, the industry, regulators and customers and Telstra continues to work to ensure that it delivers services that are valued by customers.

Measures Telstra has undertaken that are already in place to improve our customers' experience include:

- Opt-in barring of Premium SMS services. Available since 2003, customers can ring Telstra and place a bar on premium SMS service subscriptions.
- Double opt-in subscription processes that protect customers from unintentional subscriptions to Premium SMS services.
- In February 2009, Telstra began investing in third-party monitoring of premium SMS services in Australia. TV, print and web-based Premium SMS ads are now monitored to ensure they comply with both Telstra's and the industry's codes of conduct. SMS message flows generated during services opt-in and participation are also intercepted, audited and reported on.

Earlier this year Telstra welcomed the decision by the ACMA to introduce opt-in barring for premium SMS services across the industry. We think it strikes the right balance between customer choice and protecting consumers.

In Telstra's view the Code has contributed to a significant improvement in standards and behaviours across the industry and, as a consequence, a dramatic decline in the number of Premium SMS service related complaints.

Telstra formally agrees with the proposal to review the MPS Code.

Telstra considers the Code revision should take into the account the issues and further proposed improvements outlined below. The information provided is focussed on key issues

only and we will provide a more detailed analysis and examples during the Code review process.

1. Complaint handling

Carriers are currently required to refer customers making a complaint about Premium SMS services to the relevant Content Supplier. In some cases, it may be possible and even preferable for both the carrier and the customer to have the complaint resolved at the first contact without recourse to the Content Supplier. The key objective is that carriers are provided with the flexibility to resolve customers' issues quickly and appropriately based on the relevant circumstances. For example, by educating the customer about MPS services, by offering barring for premium SMS services, or where based on information available to it, the carrier determines that the complaint can be dealt with immediately at the first contact without asking the customer to go to the Content Supplier.

2. Simplification

The Code needs an appropriate balance between high level principles and prescriptive rules to ensure that consumers receive sufficient information about Premium SMS services before they decide to respond to any offers.

Telstra's experience in working with the requirements of the Code is that there would be significant consumer, regulator and industry benefits if many of the rules were rewritten in a way that was easier to understand and interpret by both industry and consumers. This could be achieved by including a plan English summary of consumer and industry rights and obligations as an introductory section to the Code. While recognising the benefits of a plain language approach to Code rules, Telstra remains committed to retaining the many consumer protections in the Code, for example, double opt-in requirements for Premium SMS subscriptions, information to be included in all Premium SMS messages, advertising, dealing with minors etc.

3. Compliance monitoring and enforcement

There is a range of stakeholders involved in monitoring compliance against the Code. For example:

- In late 2009, Telstra engaged WMC Global to monitor PSMS advertising and messages to our customers. Together with improvements in Telstra's own complaint handling processes, WMC's monitoring service has contributed to a significant decline in customer complaints and an improvement in industry behaviour;

- Optus have also announced they have made similar arrangements with WMC Global;

- The ACMA is accountable for Code compliance and is currently conducting an assessment of compliance against the Code. As part of this assessment, the ACMA has formally requested information and documents from carriers and service providers;

- The TIO routinely reports on PSMS complaints and has previously conducted its own investigations and the ACCC has publicly raised its concerns about the nature and conduct of the industry;

- The ACCC has publicly raised its concerns about the nature and conduct of the industry and has taken action against Premium SMS content providers for misleading advertising resulting in the banning of directors in one case.

Telstra considers it would be appropriate for the industry, potentially drawing on the resources of CA, to collaboratively consider a mechanism or a framework for proactively monitoring its own performance against the Code, to manage and/or pre-empt compliance issues, and thereby protect its own customers. Any such work would take place in an environment where reported TIO complaint figures have dropped dramatically and industry performance has improved. In addition, any such framework should be capable of broad application to other CA Code related compliance activities.

4. Proprietary Network Services

Given that the recipients of Telstra's BigPond mobile service are Telstra customers it does not make sense to include the same level of information requirements as required for providers of Premium SMS services. For example, information can be presented to customers of Telstra's BigPond portal via the user interface on the customer's device (either mobile or internet) to clearly provide the necessary subscription, information and pricing information before the customer chooses to purchase a service. BigPond portal customers are Telstra customers only and are able to contact Telstra via our normal helpline number or the mobile portal. Recent analysis of relevant TIO complaint data does not show any significant levels of consumer detriment that would warrant continued application of the Code to this area.

Telstra considers the Code should be modified to clarify and recognise the differences between premium SMS services and proprietary network services delivered on a carrier's network to its own customers. This would help alleviate the potential for customer confusion and ensure more helpful information is presented to the customer.

As indicated above Telstra can provide specific information during discussions. Please contact Dan Mandaru on 03 8649 2031 should you require further information.

Yours sincerely,

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