

A newsletter for consumers and the consumer movement

Want to make a complaint or inquiry? Contact the ACCC Infocentre on **1300 302 502**. Want to forward suggestions for future articles? Email the Consumer express team at express@accc.gov.au

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Consumer protection online

Internet dumping

What is it?

Internet dumping takes place when, unknown to the user, the Internet dialler software transfers the user from the current Internet Service Provider (ISP), which is usually accessed using an untimed local call, to a premium rate telephone number. In Australia that is usually a 190 number but sometimes 0011 international numbers are used.

The user is unaware that this has happened until they receive their next telephone bill!

How does it happen?

True Internet dumping is not common. More often the user has clicked on a pop-up window or has not read all the conditions on entering a new part of a site. The inexperienced user is most at risk—in particular children or those who have difficulties understanding the information on the screen.

Some websites are deliberately set up to confuse the user so that several windows will pop up making it hard to work out exactly what happened.

Me use porn sites ... never!

When consumers call the ACCC to complain about their unexpectedly huge phone bills they are usually surprised when asked if they have used any porn or similar sites.

Internet dumping is more likely to happen through porn and gambling sites. The sites are often very busy with many pop-up windows or banners making it easy to click on a window that will transfer the user from their initial dial-up number to a premium number.

Sometimes children in the household have unknowingly agreed to conditions that have transferred them to a premium rate number. The end result is that the parents receive a very large phone bill, sometimes up to \$4000.

Who can help?

- the Telecommunications Ombudsman—call 1800 062 058 or visit www.tio.com.au;
- 190complaints—a complaints service set up for complaints regarding 190 numbers—call 1300 139 955 or visit www.190complaints.com.au;
- state and territory fair trading agencies; or
- the ACCC via the ACCC Infocentre on 1300 302 502.

How to protect your household from dumping

An effective way to prevent Internet dumping is to have call barring set on the line for ID and 190 numbers. To find out your options call your telephone service provider.

Software that offers various levels of protection is also available. For more details contact a reputable software dealer.

The Federal Government has just announced proposed legislative changes designed to combat Internet dumping. For more details visit www.dcita.gov.au or www.aca.gov.au.

Website credibility causes global concern

Misleading, inaccurate and incomplete information on some websites is exposing consumers to risks, especially when they might be seeking health or financial help.

Consumers International and Consumer WebWatch recently announced the results of their assessment of the credibility of health and finance websites worldwide. They investigated sites providing information on breast cancer, prostate cancer and allergies; others providing information on financial services and products such as mortgages and life insurance; and 'deal-finder' sites comparing prices on computers, flights and car rental rates.

The study found that many sites failed to:

- give warnings on appropriate use of information (for example, to consult a professional before acting on the advice);
- disclose the authority or credentials of those giving the advice, or provide sources for the information;
- include privacy statements, information on how up-to-date their information was, or addresses and phone numbers; and
- distinguish between objective editorial comment and promotional content.

The results indicate consumers must use extreme caution when soliciting information from certain sites. Tips for consumers include:

- don't believe everything you read. Many websites hold out a exaggerated promises of great savings in time and money.
- don't rely exclusively on one site. Compare the information on several sites.
- check the site's background. If there is no background—sometimes called an 'About Us' page—consumers should be sceptical from the start. Look for a business name, a 'real-world' address, who owns the site, as well as partners and sponsors.
- if the site gives advice, look for the authority and credentials of the people behind the advice. If the site

recommends products and prices, check whether it explains how much of the market its searches cover.

- check what risks you might be taking by using the site. Consumers should provide only that personal information that they think is necessary to use the site or conduct the transaction. Read the site's privacy policy and always seek advice from a qualified professional if you are thinking of taking action as result of information from a website.

More information:

Consumers International's 'Credibility on the web' study:
<http://www.consumersinternational.org>.

Consumer WebWatch's latest research and its guidelines for improving web site credibility:
<http://www.consumerwebwatch.org>.

Consumers International press release: [International Survey: Web Credibility a global concern for consumers](#)

Mirror Opera House website

The ACCC has filed proceedings in the Federal Court, Sydney alleging Mr Richard Chen operated a website that fraudulently mirrored the Sydney Opera House official website.

The website, <www.sydneypopera.org>, allegedly purported to be the official booking site of the Sydney Opera House. The site is affiliated with other sites including www.witestar.com, www.worldsboxoffice.com and www.scholarscircle.com, all of which allegedly claim to be booking sites for various entertainment venues worldwide.

The ACCC alleges that several consumers from the United Kingdom and Europe tried to buy tickets through the imitation sites, and while their credit cards have been charged for tickets, they have either been overcharged or have not received them.

The ACCC alleges Mr Chen, a resident of New York, operates the site from US-based servers. So far he has not responded to the ACCC's proceedings.

The ACCC seeks to have the offending sites removed and has obtained interim court orders to this effect. The temporary orders also prohibit Mr Chen from creating, operating or maintaining similar sites.

People who wish to buy tickets online for events at the Sydney Opera House should visit the official website: <www.sydneypoperahouse.com.au>. More information: http://203.6.251.7/accc.internet/digest/view_media.cfm?RecordID=857

Recent actions

Harvey Norman

The ACCC has instituted proceedings against three companies in the Harvey Norman group, two Harvey Norman corporate group individuals and 15 Harvey Norman franchisees, alleging bait advertising and misleading and deceptive conduct.

It is alleged that before the June 2000 introduction of the GST, national advertising was conducted for Harvey Norman Computers & Communications stores which featured a promotion for GST related software, Quicken Quickbooks, for \$199 with a bonus software bundle valued at more than \$900. The ACCC alleges the Harvey Norman Quicken Quickbooks promotion was advertised when the parties were aware that quantities of the bonus software were insufficient to meet consumer demand, breaching the

misleading and bait advertising sections of the Act. The ACCC further alleges that advertising in the firm's catalogue misled consumers about the eligibility for taxation benefits associated with buying Quicken Quickbooks software and digital cameras before the introduction of the GST, contravening sections 52 and 53 of the Act.

The ACCC is seeking declarations, injunctions, corrective public notices, findings of fact and an independent audit of the companies' trade practices compliance program. A directions hearing is scheduled for 13 December 2002 in the Federal Court, Melbourne. More information: http://203.6.251.7/accc.internet/digest/view_media.cfm?RecordID=858

Pest Free Australia Pty Ltd: plug-in pest free device

The ACCC has instituted proceedings in the Federal Court, Sydney against Pest Free Australia Pty Ltd, a company that supplies a device that claims to rid premises of rats, cockroaches and other pests.

The ACCC alleges that Pest Free made false and misleading representations about its 'Plug In Pest Free' electronic device in various television and newspaper advertisements, on its website and in brochures and promotional material. These included claims that the device, when plugged into a normal power supply outlet within the person's premises, will:

- prevent any noxious or destructive insects and vermin (cockroaches, mice, rats etc.) eating or drinking when near the device;
- cause the death by dehydration and/or starvation of such pests if they can't escape the effects of the device;
- generate vibrations that repel insects and vermin;
- provide continued pest protection;
- break the breeding and feeding cycles of pests; and
- disorientate pests, making them easier to catch.

The ACCC alleges that the representations are false and misleading because the device does not work as claimed and Pest Free has no reasonable basis for making the claims.

The ACCC seeks court orders including declarations, corrective advertisements, injunctions, refunds to consumers, removal of the product from sale and costs. A directions hearing is scheduled for 6 December 2002 in the Federal Court, Sydney. More information: http://203.6.251.7/accc.internet/digest/view_media.cfm?RecordID=862

Recent outcomes

Wizard home loans

Wizard Mortgage Corporation Limited has been found by the Federal Court, Melbourne, to have engaged in misleading or deceptive conduct in a television advertisement for its home loan products. Justice Merkel also has made an order to restrain Wizard for 18 months from publishing or broadcasting advertisements for housing loans at specific interest rates with features the loans do not have.

The ACCC alleged that a television advertisement, broadcast in Melbourne, Brisbane and the Gold Coast during June and July 2001 for Wizard, misled consumers about the features that were available with Wizard's 'Rate

Breaker' 5.64 per cent interest rate housing loan. The features were: the capacity to have loan repayments directly credited from salary; the option of changing from monthly repayments to fortnightly or weekly repayments; and the absence of ongoing monthly fees. The features were only available to consumers who took out one of Wizard's other housing loans at a higher interest rate, not the Rate Breaker loan. More information:

http://203.6.251.7/accc.internet/digest/view_media.cfm?RecordID=842

Medical practitioners

Independent report backs ACCC views on rural doctors

The ACCC has welcomed the affirmation by an independent review committee that the *Trade Practices Act 1974* does not fetter doctors in rural practice.

The Wilkinson Committee, which reviewed the impact of the Act on the recruitment and retention of doctors in rural and regional Australia, has backed the ACCC view that:

- medical rosters do not breach the Act;
- doctors do not need legislative exemption from the Act, which applies to all businesses to protect consumers and other businesses; and
- the application of the Act is not affecting the recruitment and retention of rural doctors.

The ACCC, and now the review committee, have clearly stated genuine rosters to ensure the supply of medical services after hours and on weekends are not contrary to the competition laws.

In issuing the report, the Prime Minister's comments supported 'further action by the ACCC to ensure that it is widely understood that genuine rosters which aim to ensure the availability of services do not (and have never been found to) breach the [Trade Practices] Act', and that 'better understanding of and compliance with the Trade Practices Act result from the Wilkinson Report'.

The ACCC will now move to implement the government's response to the report. In particular, the ACCC will finalise its guide to the Act written specifically for general practitioners, taking into account comments made by the review. The guide has been drafted after extensive consultation with industry bodies and rural GPs, and will ensure general practitioners are correctly informed about the application of competition law to their practices. More information:

http://203.6.251.7/accc.internet/digest/view_media.cfm?RecordID=856

No-gap billing boycott breaches competition law

The Federal Court, Brisbane has granted consent orders finalising an ACCC action against three obstetricians, Dr Mark Leyden, Dr Stephen Robson and Dr Paul Khoo for a boycott of no-gap billing. The ACCC alleged Dr Leyden, Dr Khoo and Dr Robson made arrangements in December 2000 and January 2001 that none of them would provide private in-hospital obstetrics services to their patients on a no-gap billing basis.

The boycott resulted in about 200 patients having to pay a gap for the in-hospital medical expenses associated with the birth of their child that they would not have had to pay if the conduct had not occurred. As a result of the ACCC

action, almost \$97 000 will be repaid to affected patients in and around Rockhampton.

The Federal Court granted consent orders including findings that all three obstetricians contravened the *Trade Practices Act 1974* and/or the Competition Code of Queensland. The orders also included injunctions restraining similar future conduct, the publication of notices and contributions by the doctors to the ACCC's legal costs. More information:

http://203.6.251.7/accc.internet/digest/view_media.cfm?RecordID=844

Health insurance updates

Westfund Health Insurance

The Federal Court, Sydney has declared that Western District Health Fund Limited, trading as Westfund, has engaged in misleading and deceptive conduct in advertising its health insurance products to consumers.

In January 2002 the ACCC, under a delegation from ASIC, instituted proceedings against Westfund for advertising that appeared on television between February and September 2001 and for misleading or deceptive representations made on its website.

In both the television advertisement and on the website, Westfund stated that the fund would pay all hospital and medical expenses associated with all operations and that members would not be required to pay any excess or co-payment. In fact, Westfund could not pay all medical expenses for all operations and there were circumstances in which a member may have to pay an excess or a co-payment. These representations also included two fine print disclaimers which failed to detract from the overall impression conveyed by the advertisement that a Westfund member would not be required by the fund to make any payment to cover hospital or medical expenses associated with any operations.

As well as declaring that Westfund's conduct was misleading and deceptive, the other Federal Court orders, all made with Westfund's consent, include an order that Westfund write to consumers who bought health insurance from the fund between 15 February 2001 and 22 September 2001, informing them that they may have been misled by the advertisements and/or the website and that Westfund, for those members, offer to refund, to the extent possible:

- hospital expenses not paid by Westfund;
- certain medical expenses;
- any excess or co-payment paid by the member; and
- the cost of membership for those members who, as a result of having been misled, chose to leave Westfund.

The court also granted:

- an order that Westfund publish a corrective statement on its website;
- an injunction preventing Westfund from making representations in the future about health insurance benefits without clearly and prominently displaying the extent to which an insured person is required to make any payment in respect of hospital and/or medical expenses associated with operations; and
- an order requiring Westfund to establish, maintain and have audited, a trade practices compliance program.

More information:

http://203.6.251.7/accc.internet/digest/view_media.cfm?RecordID=834

Previous health insurance cases: updates

Medibank Private

The ACCC is seeking special leave to appeal to the High Court the decision of the Full Federal Court in September to uphold an application by Medibank Private to strike out aspects of the ACCC's claims for remedial orders. More information:

http://203.6.251.7/accc.internet/digest/view_media.cfm?RecordID=824

Medical Benefit Funds of Australia Limited (MBF) and John Bevins Pty Ltd

This case, which began in the Federal Court earlier this year, concerned print and television advertisements containing pregnancy-related images. The ACCC alleged that fine print in the advertisements—that the 12-month waiting period for pregnancy-related services would not be waived—was inadequate and unlikely to come to the attention of consumers.

The matter was heard in June 2002. Justice Hill handed down his decision on 9 September 2002 making an order that the respondents pay the ACCC's costs and indicating that he proposed to make orders that MBF undertake corrective advertising on television and in newspapers because the original television and billboard advertisements were misleading. The matter was stood over to 20 September 2002 to hear submissions from the parties as to the form of orders to be made. Following those submissions the Federal Court made orders for corrective advertising and this decision was appealed by MBF on 16 October 2002.

The Federal Court also found that John Bevins Pty Ltd, MBF's advertising agent, was knowingly concerned in the alleged contraventions. This aspect of the case was also appealed on 23 October 2002. More information: http://203.6.251.7/accc.internet/media/search/view_media.cfm?RecordID=251

NRMA/Saatchi & Saatchi (ad agency)

In July this year the Federal Court in Sydney made orders by consent against NRMA Health Pty Ltd (also trading as SGIC Health and SGIO Health) and NRMA Insurance Ltd about advertisements which appeared in various newspapers in September 2001 and on its website.

The ACCC also alleged that Saatchi & Saatchi, NRMA's advertising agency, was involved in the contraventions. On 3 October 2002 Justice Jacobsen dismissed the ACCC's application as it related to the involvement of Saatchi and Saatchi. An appeal to the Full Federal Court was filed on 24 October 2002. More information:

http://203.6.251.7/accc.internet/media/search/view_media.cfm?RecordID=815

November media releases

29 November 2002 Federal Court Declares FREE2AIR Misled, Harassed Consumers

28 November 2002 ACCC Interim Decision Allows Public Liability Insurance Scheme for Not-for-Profit Organisations

28 November 2002 ACCC Satisfied with Gas Transmission Ring Fencing Reports

28 November 2002 ACCC not to Oppose IAG Acquisition of Aviva's CGU Insurance

27 November 2002 ACCC Approves Change to Contracting Provisions to Cover Power Shortfalls

27 November 2002 ACCC Enables a Smooth Introduction of Full Retail Competition to S.A.

27 November 2002 ACCC Institutes Against S.A. Fire Protection Companies

25 November 2002 ACCC Takes Court Action Against Beauty Products Supplier

25 November 2002 QANTAS - Air New Zealand Proposal Requires 'Close Scrutiny': ACCC

22 November 2002 ACCC Clears But Will Monitor Airline E-Commerce Joint Venture

20 November 2002 Major Initiative to Inform Consumers How to Exploit Petrol Price Cycles Launched by ACCC

20 November 2002 Consumers' Attention Drawn to Copy Protected CDs

19 November 2002 ACCC Chairman, Professor Allan Fels, AO, to Step Down June 30 2003

18 November 2002 ACCC Issues Victorian Gas Transmission Decisions

15 November 2002 ACCC Institutes Against Pest Free Australia Pty Ltd Over its Plug-in Pest Free Device Alleging Misleading Conduct

15 November 2002 Telstra 'Freecall' Misled, Deceived Consumers: Say G'day Product: Supplementary Release*

15 November 2002 ACCC Rejects Caltex Claims, Confident in Challenge

15 November 2002 ACCC Cautions Against Industry-Specific Regulation in Energy Markets

15 November 2002 Telstra 'Freecall' Misled, Deceived Consumers

14 November 2002 ACCC Reviews Arrangements Between International Airlines – First Travel Agents, Next Air Cargo

13 November 2002 ACCC Accepts Foxtel-Optus Pay TV Deal

13 November 2002 ACCC Allows Telstra Proposed Pay TV Notification to Stand

12 November 2002 ACCC Institutes Against Harvey Norman Holdings Pty Ltd

11 November 2002 Mirror Opera House Website: ACCC Acts

11 November 2002 Prime Minister Issues Independent Review Report Which Backs ACCC Views on Doctors

8 November 2002 ACCC Interim Decision Allows Greenhouse Gas, Ozone Recovery Program in Time for Summer

8 November 2002 ACCC Facilitates Smooth Introduction of Full Retail Competition in S.A.

8 November 2002 ACCC Proposes to Allow CSR Concrete Cartage Protocols

7 November 2002 ACCC Approves Change to Contracting Provisions to Cover Power Shortfalls

7 November 2002 ACCC Proposes Extension of Technical Standards for Queensland Electricity Derogations

7 November 2002 High Court Overturns Full Federal Court Decision that Section 155 of Trade Practices Act 1974 Overrides Legal Professional Privilege

7 November 2002 ACCC Approves Changes to Transgrid's Revenue Cap

5 November 2002 Federal Court Fines Publisher for Wrongfully Accepting Payment for Advertising

4 November 2002 ACCC Issues Revised Portability Draft Report

1 November 2002 ACCC Institutes Against Baxter Healthcare Pty Ltd

1 November 2002 Guidance On Natural Gas Projects To Regional Communities