

# **ACCC telecommunications reports**

**2001–02**



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## 2001–02

This publication contains three reports:

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| Report 1 | Telecommunications competitive safeguards                                  |
| Report 2 | Changes in the prices paid for<br>telecommunications services in Australia |
| Report 3 | Telstra's compliance with price control arrangements                       |



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16 June 2003

Senator the Hon. Richard Alston  
Minister for Communications,  
Information Technology and the Arts  
Parliament House  
CANBERRA ACT 2600

Dear Senator Alston

Under the *Trade Practices Act 1974* (the Act) the Australian Competition and Consumer Commission (the ACCC) is required to annually review and report on:

- competitive safeguards within the Australian telecommunications industry (sub-section 151CL(1) of the Act);
- changes in prices paid by consumers for telecommunications services (sub-section 151CM(1)(a) of the Act); and
- Telstra's compliance with the price control arrangements (sub-section 151CM(1)(b) of the Act).

Enclosed are the telecommunications reports for financial year 2001-02. As you are aware, sub-section 151CL(5) and 151CM(3) of the Act require you to table these reports in each House of Parliament within 15 sitting days of receiving them.

These reports have been provided to you later than usual due to delays in the finalisation of the report into Telstra's compliance with the price control arrangements – this was due to delays in the passage of the ministerial determination governing price controls on Telstra and extensive consultations with Telstra.

I have highlighted the key messages in each report below.

*Report 1 – Telecommunications competitive safeguards*

Overall, the ACCC assesses that while there was some progress towards effective competitive markets in financial year 2001-02, this is now slowing with little change in the number and size of industry players in the last few years and slowing price decreases. Competition has clearly not developed as extensively as was expected following the opening of telecommunications markets in 1997.

E X E C U T I V E   O F F I C E



As in previous years, the 2001-02 financial year saw continued signs of competition in the provision of national long-distance and mobile services. However, the ACCC still does not regard the markets for these services as being effectively competitive. Further, it considers that the markets for local call and fixed-to-mobile services are a long way from being effectively competitive. There also appears to be an increasing number of competition issues in relation to internet services.

There was also an increase in the number of consumer and anti-competitive conduct complaints brought before the ACCC in financial year 2001-02.

Consumer complaints totalled 6862 in financial year 2001-02, up from 3232 in the previous financial year. Of these complaints, 37 per cent did not fall within the ACCC's jurisdiction and many complaints could be grouped together as relating to a similar issue – for example One.Tel entering receivership generated many hundreds of individual complaints. Thus the ACCC focused its enforcement resources on 18 specific issues.

A total of 210 anti-competitive conduct complaints were received by the ACCC in 2001-02 up from 60 in the previous year. Of these complaints, 13 progressed to substantive investigation, five were ongoing at the end of the year, and the remainder did not raise issues requiring action under Part XIB of the Act.

In terms of the scope of regulation, during the year the ACCC declared one new service (line sharing services) and broadened the scope of the general services for mobile declaration to make it technology neutral. It also reduced some regulation by issuing individual and class exemptions for access obligations regarding the local carriage service.

The number of active access disputes declined significantly. At the beginning of 2001-02, there were 21 disputes being arbitrated, however, going into 2002-03 only two cases had not been resolved – both relate to pay TV. The reason for the sudden decline in arbitrations is that the vast majority of these cases (16 arbitrations) were withdrawn by the parties following the signing of commercial agreements. In most cases this occurred after the ACCC had significantly narrowed the issues in contention via the arbitration process or where it had made its likely final position clear.

In order to improve market information the ACCC released a range of indicative prices and pricing principles and guidelines during the year.

Telstra also withdrew its appeal to the Australian Competition Tribunal regarding the ACCC's final determination in the public switched telephone network originating and terminating access disputes, following commercial agreement between the parties. Despite the withdrawal of the appeal ahead of the commencement of substantive hearings, the appeal consumed significant ACCC resources as the Tribunal had conducted preliminary hearings and received detailed submissions and evidence on behalf of the parties over an eighteen month period.

## *Report 2 – Changes in prices paid for telecommunications services in Australia*

The ACCC assesses that while the overall average price paid by consumers for telecommunications services decreased in real terms during the 2001-02 financial year, the rate of decrease is the lowest since 1998-99. This trend can be seen in terms of both PSTN and mobile telephony consumers.

With regard to the PSTN services, the ACCC expects this is largely due to the continued process of ‘rebalancing’ that appears to have been occurring with regard to the structure of prices for PSTN services in recent years. The ACCC is also mindful of the impact of the exit of One.Tel from all telecommunications markets in May 2001, which may have contributed to the larger price falls in the previous years that this analysis has been conducted (1997-98 onwards).

Further, not only have price falls slowed on average for PSTN services, the ACCC found that the distribution of the price decreases for PSTN services was not uniform across consumers groups. In particular, whilst large business consumers have enjoyed a significant fall in the average price of PSTN services, small business consumers experienced an increase for the first time since the ACCC began compiling changes in the price paid for PSTN services in 1996-97. In addition, the fall in the average price of PSTN services for large business is more than double that of residential consumers. The relatively large decrease in the average price of PSTN services for large business consumers is likely to reflect their ability to better negotiate “off-tariff” discounts with suppliers of PSTN services.

With regard to changes in the price of mobile telephony services, two key conclusions emerge. First, while the rate of take-up of postpaid mobile telephony services seems to have stagnated during the 2001-02 financial year, the rate of growth of prepaid services has been steadily growing since 1998-99. Second, the rate of decrease with regard to the average price of mobile telephony services has, like that of PSTN services, been in decline. These observations indicate that while the Australian mobile industry has been characterised by high penetration rates since 1996, the level of growth has slowed such that in 2001-02, the Australian mobile industry appears to be reaching saturation in the growth of postpaid subscriber numbers. However, mobile carriers are still competing for new prepaid customers, which is reflected in the falling rate of decline of postpaid prices compared to the larger decline in prepaid prices in recent years.

Further, it is also important to note that, unlike previous reports, the ACCC was forced to exclude data provided by Optus for the residential and small business indexes as it was incompatible with data it provided in previous years. While the exclusion of Optus’ data is likely to affect the results at the margin for the residential and small business indexes, it is unlikely to change the direction of overall price movements, or significantly affect their magnitude. This is because Optus’ market share is not large enough for it to be the key driver of these indexes. Further, it should be noted that these problems were not encountered with the data for business and mobile consumers as this information is drawn from different systems. Hence, when the residential and small business indexes are aggregated with larger business and mobile indexes to estimate overall price movements, any impact from excluding some of Optus’ data would be watered down.

Optus has assured the ACCC that this is a one-off problem related to the introduction of a new reporting system for its consumer and multi-media division and that in the future it will be able to provide its data in a form consistent with this year's for easier comparison.

*Report 3 – Telstra's price control compliance*

Telstra's 2001-02 price control compliance report was carefully assessed by the ACCC after an extensive consultation with Telstra. From this process there have emerged important issues for your consideration which are detailed in the body of the Report.

The 2001-02 Report fulfils the recommendations stemming from the previous year's Ministerial price control compliance report. It has undergone a thorough analysis by the ACCC and the independent auditor, based on a much more consistent and transparent process. This report confirms it as an effective and credible means of carrying out the Government's regulatory policies.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Allan Fels', written in a cursive style.

Professor Allan Fels AO  
Chairman

# Overview

The Australian Competition and Consumer Commission (ACCC) is an independent statutory body responsible for competition regulation of telecommunications within Australia. Its responsibilities include regulating access to telecommunication services declared by it and enforcing the telecommunications-specific anti-competitive conduct provisions, under Parts XIB and XIC of the *Trade Practices Act 1974*, respectively.

The ACCC also has functions and responsibilities under the *Telecommunications Act 1997*, including the power to direct its co-regulator, the Australian Communications Authority (ACA), regarding electronic addressing; to develop an interconnection standard; to hold a public inquiry; and to mandate number portability. In addition, under the Telecommunications Act, the ACCC has the power to make facilities access codes and is responsible for enforcing the international rules of conduct.

The ACCC carries out these responsibilities, where possible, by encouraging self-regulatory processes. This is consistent with the general policy guiding the telecommunications regulatory provisions as provided in s. 4 of the Telecommunications Act. However, where intractable disagreements arise or anti-competitive conduct occurs, the ACCC will use its regulatory powers efficiently and effectively.

The ACCC currently has three annual telecommunications reporting requirements under the Trade Practices Act.

- Part XIB, Division 11, sub-section 151CL(1) of the Act requires the ACCC to review and report each financial year on competitive safeguards within the Australian telecommunications industry.
- Part XIB, Division 12, paragraph 151CM(1)(a) requires the ACCC to monitor and report each financial year on charges paid by consumers for telecommunications services.
- Part XIB, Division 12, paragraph 151CM(1)(b) requires the ACCC to report each financial year on Telstra's compliance with the price control arrangements.

The ACCC has combined all three annual reporting requirements into this one publication to facilitate the Government's and Parliament's consideration of telecommunication matters.



# Glossary

ABS	Australian Bureau of Statistics
ACA	Australian Communications Authority
ACCC	Australian Competition and Consumer Commission
ACIF	Australian Communications Industry Forum
ACT	Australian Competition Tribunal
ADC	access deficit contribution
ADSL	asymmetrical digital subscriber line
AMPS	analogue mobile phone system
ATM	asynchronous transfer mode
AUP	acceptable user policy
Basic access	the line rental or annual charge paid by consumers for access to a PSTN network
BCS	basic carriage service
CAN	customer access network
Carrier	holder of a carrier licence granted under the <i>Telecommunications Act 1997</i>
Carryover	if Telstra makes greater reductions in prices than is required to meet the price cap for the reporting year, the resulting price cap credit may be carried over into the following year
CDMA	code division multiple access (an access technique for digital wireless communications, including mobile phone and satellite services)
Community call	calls charged at a cheaper rate than standard national long distance calls—for calls between non-adjacent charging zones in metropolitan areas and between metropolitan and particular country zones and other zones that have 'community access' to each other
CPI	consumer price index
CRU	Communications Research Unit (a research unit within the Commonwealth Department of Communications, Information Technology and the Arts)
CSP	carriage service provider
GSM	global systems for mobiles (wireless network technology)
GST	Good and Services Tax
HFC	hybrid fibre-coaxial cable
IAP	internet access provider

ISDN	integrated services digital network (ISDN services enable end-users to send and receive information at faster speeds and with greater reliability than is possible using the standard PSTN carriage service)
ISP	internet service provider
Leased line	transmission capacity along a particular route in a carrier's network which is leased to a single customer end-user
Line rental	charge for the ongoing supply of a standard telephone service at a location required by a customer
LTIE	long-term interests of end-users
Metropolitan	inter carrier charge area for Sydney, Melbourne, Brisbane, Perth and Adelaide
MNP	mobile number portability
OFTEL	Office of Telecommunications (UK telecommunications regulator)
Pastoral call	calls charged at a cheaper rate than standard national long distance calls —for calls within and between certain charge zones in country areas
PSTN	public switched telephone network (standard fixed-line telephone network)
RKRs	record keeping rules
SMS	short message service
TAF	Telecommunications Access Forum
ToLI	telecommunications on-line initiative
ULLS	unconditioned local loop service
XDSL	refers to the 'family' of digital subscriber line services (i.e. ADSL, HDSL, etc.)