

File reference Y2002/88

Mr Michael Cosgrave
General Manager
Telecommunications
Australian Competition and Consumer Commission
Level 35
360 Elizabeth Street
MELBOURNE VIC 3000

Dear Mr Cosgrave

Model terms and conditions for core services

Thank you for your letter of 19 June 2003 inviting comment on the proposed model non-price terms and conditions for “core” services developed pursuant to section 152AQB of the *Trade Practices Act 1974*.

In previous consultation on these issues, the Australian Communications Authority (ACA) raised two substantive points. The first point concerned the need to have regard to industry performance standards specified under ACIF codes and guidelines. The ACA supports the principle outlined in the draft determination that where an ACIF code covers a particular matter, the Commission will treat that particular aspect of the ACIF code as representing the standard for the model terms and conditions.

The second point concerned the performance standards specified under the Customer Service Guarantee (CSG) Standard. In relation to liability provisions under the CSG, comments were invited on how claims relating to the CSG could be managed for the local call service. In principle, the ACA considers that the management of liability claims should be consistent with the range of remedies available under section 118A of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* (the Act).

On a related matter, section 118A of the Act imposes a 2-year limit in which action must commence by an access seeker that discharged a CSG liability caused by the actions of another provider. The CSG timeframe limits on liability may need to be reflected in the General Dispute Resolution Procedures outlined in section D of the draft Direction.

The ACA has a high level of interest in the development of proposed key performance indicators (KPIs) and in particular the interaction with CSG Standard timeframes, given the role of KPIs in supporting industry performance monitoring. I understand that there is further work underway in relation to the specification of KPIs to enable comparisons between Telstra's wholesale and retail performance on specified services. The ACA has a strong interest in the outcomes of this work, given there are potential implications for the ACA's ongoing monitoring of industry performance based on a KPI measures. The ACA would welcome further discussions with the ACCC about the specification of appropriate KPIs. The contact officer on this matter is Allan Major on (03) 9963 6955.

Yours sincerely

A J SHAW

July 2003