

Division 12 Report

Record-Keeping and Reporting Rules

Issued under section 151BU of the
Trade Practices Act 1974

December 2004

1. TITLE

- (1) These Rules, made by the Australian Competition and Consumer Commission under section 151BU of the *Trade Practices Act 1974*, may be referred to as
- (a) the Division 12 Report Record-Keeping and Reporting Rules; or
 - (b) Rules.

2. COMMENCEMENT

- (1) These Rules will take effect on the date the Rules are issued by the Commission.

Note: The Commission will issue the Rules by making a public announcement and placing the Rules on its website.

3. INTERPRETATION

3G means third generation mobile telecommunications, and has the same meaning as IMT-2000.

AAPT means AAPT Limited (ABN 22052082416).

access charge means the charge paid by a mobile consumer for ongoing access to a GSM, CDMA or 3G/WCDMA mobile network.

Act means the *Trade Practices Act 1974*.

ADSL means asymmetric digital subscriber line, and is a broadband internet transmission technique.

area code has the same meaning as in the *Telecommunications Numbering Plan 1997*.

Australian subsidiary means a subsidiary that is registered with ASIC under section 118 of the Corporations Act.

basic access means:

- (a) establishing the supply of a standard telephone service at a location required by the person requesting the supply of the service, but does not include:
 - (i) in respect of a business requesting the service – the supply of materials or services to support the supply of a standard telephone service

from a main distribution frame to the location requested by the business; or

- (ii) the supply and connection of a telephone handset or other customer equipment; and
- (b) the ongoing supply of a standard telephone service at a location required by the person requesting the supply of the service, but does not include:
 - (i) in respect of a business requesting the service – the supply of materials or services to support the supply of a standard telephone service from a main distribution frame to the location requested by the business; or
 - (ii) the supply and connection of a telephone handset or other customer equipment.

broadband	means an internet connection that enables high speed usage with high capacity limits and download speeds of greater than or equal to 200 Kbits/sec, provided by infrastructure such as copper, fibre optic or coaxial cable.
business consumer	means a consumer that has a contract with a carrier or carriage service provider for the supply of a standard telephone service for the purposes of carrying on a commercial, government, community, religious, non-profit organisation, an association or club, or a like organisation.
call charge	means a charge for calls made using a GSM, CDMA or 3G/WCDMA mobile service.
carriage service provider	has the same meaning as in the <i>Telecommunications Act 1997</i> .
carrier	has the same meaning as in the <i>Telecommunications Act 1997</i> .
Commission	means the Australian Competition and Consumer Commission.
connection charge	means a charge paid by a mobile consumer for connection to a GSM, CDMA or 3G/WCDMA mobile network. Connection charges include 'activation' charges for a service.

consumer	means a person who has a contract with a carrier or carriage service provider for the supply of a standard telephone service. It does not include a carriage service provider or carrier acquiring a standard telephone service in its capacity as a carriage service provider or carrier for the purposes of resale.
CDMA	means Code Division Multiple Access, and is an access technique for digital wireless communications, including mobile phone and satellite services.
dial-up	means an internet connection that involves using a dial-up modem to dial an ISP via a phone line.
directly connected customer	means any person, business or other entity to whom an ISP provides an Internet service under a direct contractual relationship.
Division 12 report	means the report published annually by the Commission pursuant to its obligations under s. 151CM(1)(a) of the Act.
DSL broadband	means digital subscriber line, and is a broadband internet transmission technique.
financial year	has the same meaning as in the Corporations Act.
fixed-to-mobile call	means a call involving the use by the calling party of a fixed carriage service and the use by the called party of a mobile carriage service.
FY	means financial year.
GSM	means Global System for Mobile communications, and is a digital cellular network for mobile telecommunications.
GST	means Goods and Services Tax.
Hutchison	means Hutchison Telecommunications (Australia) Limited (ABN 1500367727).
international call	means a call that is: <ul style="list-style-type: none"> (i) an operator-connected call between a place in Australia and a place outside of Australia; or (ii) a direct-dialled call between a place in Australia and a place outside Australia.

Internet service	means a retail service supplied to directly connected customers and provided by means of an IP network.
iiNet	means iiNet Limited (ABN 48068628937).
IMT-2000	means International Mobile Telecommunications – 2000, and is a term adopted by the ITU to refer to third generation mobile telecommunications services, and which aims to provide global mobile communications as well as broadband applications such as multimedia.
IP network	means a facility consisting of equipment utilising: the Internet protocol stack; routers, whether domestic or international; and transmission links used primarily for transmission of Internet traffic, and includes Internet exchange points.
ISP	means an internet service provider.
ITU	means the International Telecommunications Union, and is a specialised agency of the United Nations within which governments and the private sector coordinate global telecommunications networks and services, including radiocommunications.
Kbits/sec	means kilobits per second, and is a data communications transmission rate of 1,000 bits per second.
local call	means a voice call between two consumers, both of whom are geographically located in Australia, and whose telephone numbers have the same area code.
MCI Worldcom	means MCI Worldcom Australia Pty Ltd (ABN 62081001194).
Mbit/sec	means megabits per second, and is a data communications transmission rate of one million bits per second.

national long-distance call	means a voice call between two consumers, both of whom are geographically located in Australia, and whose telephone numbers have different area codes.
postpaid dial-up internet	means dial-up internet services for which a customer pays a monthly upfront access charge (or a charge based on some other discrete time period) for the service, and a monthly (or some other time-based) fee in arrears for additional services used. Customers generally commit to purchasing a minimum number of hours per month (or other discrete time period).
prepaid revenue	means revenue derived from providing prepaid services.
postpaid services	means mobile telephony services for which a consumer contracts to pay a specified monthly charge (or a charge based on some other discrete time period) that includes a payment for a handset, access, subscription and some call usage. The consumer generally agrees to pay this amount for a minimum number of months (or other discrete time period). If the consumer consumes services during a particular month whose value exceeds the agreed minimum, the customer is generally billed an additional amount for the consumption of such services.
prepaid dial-up internet	means dial-up internet services that require the purchase of a 'kit' that includes a specified number of access hours. When these are used up, the customer can then purchase additional hours on an upfront basis. The customer does not commit to purchasing a minimum number of hours each month (or other time period).
prepaid services	means mobile telephony services for which a consumer is not billed regularly, but rather pays upfront for handset, access, call charges etc.
Primus	means Primus Telecommunications Pty Ltd (ABN 690 711911396).
PSTN	means Public Switched Telephone Network, and has the same meaning as specified in Deeming of Telecommunications Services under section 39 of the <i>Telecommunications (Transitional Provisions and Consequential Amendments) Act 1997</i> .

reporting carrier or carriage service provider	means a carrier or carriage service provider to which these Rules apply, to the extent it is required to report.
other business consumer	means a business consumer that is not a small business consumer.
residential consumer	means a consumer that is not a business consumer.
Rules	means the Division 12 Report Record-Keeping and Reporting Rules.
Singtel Optus	means Singtel Optus Pty Ltd (ABN 90052833208).
small business consumer	means a business consumer that is designated by a carrier or carriage service provider, for its internal reporting purposes, as a small business consumer. In defining a ‘small business consumer’, a carrier or carriage service provider must use a definition that is consistent with the definition adopted by that carrier or carriage service provider for the purposes of previous Division 12 reports.
standard telephone service	has the meaning given by the <i>Telecommunications (Consumer Protection and Service Standards) Act 1999</i> .
subsidiary	has the same meaning as in the Corporations Law.
SMS	means short message service, and is a mobile telecommunications data transmission service that allows users to send short text messages to each other using the keypad.
Telstra	means Telstra Corporation Limited (ABN 33051775556).
Virgin Mobile	means Virgin Mobile (Australia) Pty Limited (ABN 67092726442).
Vodafone	means Vodafone Australia Limited (ABN 86056161043).
WCDMA	means Wideband Code Division Multiple Access, and is a third generation mobile telecommunications technique that uses direct spreading of data. A direct sequence CDMA system where user data is multiplied with quasi-random bits derived from WCDMA spreading codes in two basic modes of operation – frequency division duplex and time division duplex. Supports images, mobile or portable voice, data and video communication at up to 2Mbit/s (local area access) or 384 kbits/s (wide area access).

4. APPLICATION

- (1) These Rules apply to:

Telstra Corporation Limited (ABN 33051775556);
Singtel Optus Pty Ltd (ABN 90052833208);
AAPT Limited (ABN 22052082416);
Primus Telecommunications Pty Ltd (ABN 69071191396);
Hutchison Telecommunications (Australia) Limited (ABN 15003677227);
Vodafone Australia Limited (ABN 86056161043);
Virgin Mobile (Australia) Pty Limited (ABN 67092726442);
MCI Worldcom Australia Pty Ltd (ABN 62081001194);
iiNet Limited (ABN 48068628937); and
their Australian subsidiaries.

- (2) Subject to Paragraph 5(3), these Rules also apply to a carrier or carriage service provider that supplies or uses a listed carriage service and has been notified in writing by the Commission that the Rules apply to that carrier or carriage service provider.

5. RECORD KEEPING

- (1) Carriers and carriage service providers listed in Paragraph 4(1), or to which Paragraph 4(2) applies, must keep and retain the records prescribed in **Schedule A**.
- (2) The information that must be contained in the records kept in accordance with **Schedule A**, and the manner and form in which it is to be kept, is specified in **Schedules B, C, D, E and F**.
- (3) A carrier or carriage service provider may, in writing to the Commission, request that the Commission vary the requirements of the Rules as they relate to that carrier or carriage service provider.

6. REPORTING REQUIREMENTS

- (1) Each carrier or carriage service provider listed in Paragraph 4(1) must provide to the Commission for each year, commencing with the 2004/05 financial year, a report containing the information required to be kept in accordance with these Rules, except in the case of the information listed in Category (4) of Schedule A.

Note: A reporting carrier or carriage service provider only needs to report on services actually provided by it or its Australian subsidiaries.

- (2) Each carrier or carriage service provider listed in Category (4) of Schedule A must provide to the Commission for each year, commencing with the 2005/06

financial year, a report containing the information described in Schedule E and required to be kept in accordance with these Rules.

- (3) A report required to be prepared in respect of a financial year must be lodged with the Commission within 3 months after the last day of that financial year.
- (4) If a carrier or carrier service provider, in compiling this report, varies their method of defining, recording and reporting information from the previous Division 12 reports then this must be explained. That carrier or carriage service provider must also provide the new method of defining, recording and reporting information, and must provide information using the new method of defining, recording or reporting information for both the current and previous financial years.

7. MANNER AND FORM OF REPORTS

- (1) A reporting carrier or carriage service provider must provide to the Commission a hard copy and an electronic copy of all reports prepared under these Rules.
- (2) Information provided by carriers and carriage service providers pursuant to **Schedule A** of these Rules must be prepared in the format outlined, as relevant, in **Schedules B, C, D, E or F**.

8. RECORD-KEEPING DECLARATIONS

- (1) At the time that a carrier or carriage service provider submits information to the Commission under Paragraph 6, the carrier or carriage service provider must submit a Record-Keeping Declaration signed by its Chief Executive Officer (CEO) or Chief Financial Officer (CFO) in accordance with **Schedule G**.

Schedule A

Categories of information to be recorded by carriers and carriage service providers under these Rules

<i>Category No.</i>	<i>Category name</i>	<i>Reporting carriers and carriage service providers</i>	<i>Reporting requirements outlined in:</i>
(1)	PSTN services information	Telstra, Singtel Optus, AAPT, Primus	Schedule B
(2)	GSM mobile services information	Telstra, Singtel Optus, Vodafone, Hutchison, AAPT, Virgin Mobile	Schedule C
(3)	CDMA mobile services information	Telstra, Hutchison, Singtel Optus	Schedule D
(4)	3G/WCDMA services	Telstra, Singtel Optus, Vodafone, Hutchison	Schedule E
(5)	Internet services information	Telstra, Singtel Optus, AAPT, Primus, MCI Worldcom, iiNet	Schedule F

Schedule B

PSTN services information to be reported by carriers and carriage service providers to the Commission

- (1) The carriers and carriage service providers listed in Category (1) of **Schedule A** must provide the information detailed at (4) and (5).
- (2) The information must be provided subject to the guidelines provided at (3) under ‘Preliminary comments’, and must be provided using the template provided at (4).
- (3) Preliminary comments
 - (a) Carriers and carriage service providers must provide a description of the consumer type. In particular, with regard to business consumers, the distinction between small business consumers and other business consumers must be specified.
 - (b) Carriers and carriage service providers must only report retail revenues. Wholesale revenues (i.e. services sold to another carrier or carriage service provider) must not be reported. These will be reported as the retail services of that carrier or carriage service provider. However, information relating to services bought from another carrier or carriage service provider and resold must be reported.
 - (c) Revenue information from business consumers must be GST exclusive, while revenue information for residential consumers must be GST inclusive.
 - (d) Revenue information must be provided net of any discounts, i.e. the effect of discounts must be included. If this is not possible, the amounts of all discounts must be provided on an itemised basis.
 - (e) The previous year’s information must also be provided to cross check information series consistency.
- (4) Information to be provided to the Commission

1. Community calls – revenue and traffic information for PSTN network

	<i>Residential</i>		<i>Small business</i>		<i>Other business</i>	
	Last FY	This FY	Last FY	This FY	Last FY	This FY
Call revenue						
Number of calls						
Call minutes						

2. Pastoral calls – revenue and traffic information for PSTN network

	<i>Residential</i>		<i>Small business</i>		<i>Other business</i>	
	Last FY	This FY	Last FY	This FY	Last FY	This FY
Call revenue						
Number of calls						
Call minutes						

3. Operator-assisted national long distance calls – revenue and traffic information for PSTN network

	<i>Residential</i>		<i>Small business</i>		<i>Other business</i>	
	Last FY	This FY	Last FY	This FY	Last FY	This FY
Call revenue						
Number of calls						
Call minutes						

4. Operator-assisted international calls – revenue and traffic information for PSTN network

	<i>Residential</i>		<i>Small business</i>		<i>Other business</i>	
	Last FY	This FY	Last FY	This FY	Last FY	This FY
Call revenue						
Number of calls						
Call minutes						

5. Revenue and traffic information for the PSTN network

a. Basic access

	<i>Residential</i>		<i>Small business</i>		<i>Other business</i>	
	Last FY	This FY	Last FY	This FY	Last FY	This FY
Revenue						
Services in operation						

b. Local calls

	<i>Residential</i>		<i>Small business</i>		<i>Other business</i>	
	Last FY	This FY	Last FY	This FY	Last FY	This FY
Call revenue						
Number of calls						
Call minutes						

c. National long distance calls

	<i>Residential</i>		<i>Small business</i>		<i>Other business</i>	
	Last FY	This FY	Last FY	This FY	Last FY	This FY
Call revenue						
Number of calls						
Call minutes						

d. International calls

	<i>Residential</i>		<i>Small business</i>		<i>Other business</i>	
	Last FY	This FY	Last FY	This FY	Last FY	This FY
Call revenue						
Number of calls						
Call minutes						

e. Fixed-to-mobile calls

	<i>Residential</i>		<i>Small business</i>		<i>Other business</i>	
	Last FY	This FY	Last FY	This FY	Last FY	This FY
Call revenue						
Number of calls						
Call minutes						

- (5) Reporting carriers and carriage service providers must provide details of all changes to the prices and terms and conditions of supply of the relevant services during the financial year for which information is submitted. This includes details of discounts and specials that were offered in that financial year.

Schedule C

GSM mobile services information to be reported by carriers and carriage service providers to the Commission

- (1) The carriers and carriage service providers listed in Category (2) of **Schedule A** must provide the information outlined at (4) and (5).
- (2) The information must be provided subject to the guidelines provided at (3) under 'Preliminary comments', and must be provided using the template provided at (4).
- (3) Preliminary comments
 - (a) Carriers and carriage service providers must specify how prepaid revenue is apportioned between connection charges, access charges, call charges and other services.
 - (b) Information must include retail services only.
- (4) Information to be provided to the Commission

	<i>Last FY</i>	<i>This FY</i>
Total services in operation ¹		
Total postpaid services		
Total prepaid services		
Total revenue from connection charges ²		
Total revenue from access charges ²		
Total revenue from call charges ²		
Total revenue from other services ³		
Total call minutes ⁴		
Total revenue from postpaid services		
Total revenue from prepaid services		
Total calls ⁴		

Notes:

¹ Services in operation as at 30 June.

² Revenue calculations must include all services in operation, whether postpaid or prepaid, and must be GST-inclusive.

³ For the purposes of this item, 'other services' refer only to services which are itemised on a customer's bill. It includes services such as voicemail services, but does not include handset charges.

⁴ 'Free' minutes and calls must be included.

- (5) Reporting carriers and carriage service providers must provide details of all changes to the prices and terms and conditions of supply of the relevant services during the financial year for which information is submitted. This includes details of discounts and specials that were offered in that financial year.
- (6) For the 2006/07 financial year, and for every third financial year thereafter, a reporting carrier or carriage service provider must include with its information submission a random sample of 385 bills issued to its customers for GSM mobile services. These will be used to construct the user-group 'bundles' of GSM mobile usage, which will then be priced. For each bill in the sample, the following is required:
- a number identifying each bill;
 - the time period billed (eg. monthly 03/03 to 04/03);
 - total bill spend;
 - total number of calls;
 - total number of minutes;
 - peak/off peak call breakdown;
 - total number of SMS; and
 - total SMS charges.

The sample bills must be provided in Microsoft Excel format.

Schedule D

CDMA mobile services information to be reported by carriers and carriage service providers to the Commission

- (1) The carriers and carriage service providers listed in Category (3) of **Schedule A** must provide the information outlined at (4) and (5).
- (2) The information must be provided subject to the guidelines provided at (3) under 'Preliminary comments', and must be provided using the template provided at (4).
- (3) Preliminary comments
 - (a) Carriers and carriage service providers must specify how prepaid revenue is apportioned between connection charges, access charges, call charges and other services.
 - (b) Information must include retail services only.
- (4) Information to be provided to the Commission:

	<i>Last FY</i>	<i>This FY</i>
Total services in operation ¹		
Total postpaid services		
Total prepaid services		
Total revenue from connection charges ²		
Total revenue from access charges ²		
Total revenue from call charges ²		
Total revenue from other services ³		
Total revenue from postpaid services		
Total revenue from prepaid services		
Total call minutes ⁴		
Total calls ⁴		

Notes:

¹ Services in operation as at 30 June.

² Revenue calculations must include all services in operation, whether billed or prepaid, and must be GST-inclusive.

³ For the purposes of this item, 'other services' refer only to services which are itemised on a customer's bill. It includes services such as voicemail services, but does not include handset charges.

⁴ 'Free' minutes and calls must be included.

- (5) Reporting carriers and carriage service providers must provide details of all changes to the prices and terms and conditions of supply of the relevant

services during the financial year for which information is submitted. This includes details of discounts and specials that were offered in that financial year.

(6) For the 2006/07 financial year, and for every third financial year thereafter, a reporting carrier or carriage service provider must include with its information submission a random sample of 385 bills issued to its customers for CDMA mobile services. These will be used to construct the user-group 'bundles' of CDMA mobile usage, which will then be priced. For each bill in the sample, the following is required:

- a number identifying each bill;
- time period billed (eg. monthly 03/03 to 04/03);
- total bill spend;
- total number of calls;
- total number of minutes;
- peak/off peak call breakdown;
- total number of SMS; and
- total SMS charges.

The sample bills must be provided in Microsoft Excel format.

Schedule E

3G/WCDMA mobile services information to be reported by carriers and carriage service providers to the Commission

- (1) The carriers and carriage service providers listed in Category (4) of **Schedule A** must provide the information outlined at (4) and (5).
- (2) The information must be provided subject to the guidelines provided at (3) under 'Preliminary comments', and at (4) under 'Notes', and must be provided using the template provided at (4).
- (3) Preliminary comments
 - (a) Carriers and carriage service providers must specify how prepaid revenue is apportioned between connection charges, access charges, call charges and other services.
 - (b) Information must include retail services only.
- (4) Information to be provided to the Commission:

	<i>Last FY</i>	<i>This FY</i>
Total services in operation ¹		
Total postpaid services		
Total prepaid services		
Total revenue from connection charges ²		
Total revenue from access charges ²		
Total revenue from call charges ²		
Total revenue from other services ³		
Total revenue from postpaid services		
Total revenue from prepaid services		
Total call minutes ⁴		
Total calls ⁴		

Notes:

¹ Services in operation as at 30 June.

² Revenue calculations must include all services in operation, whether postpaid or prepaid, and must be GST-inclusive.

³ For the purposes of this item, 'other services' refer only to services which are itemised on a customer's bill. It includes services such as voicemail services, but does not include handset charges.

⁴ 'Free' minutes and calls must be included.

- (5) Reporting carriers and carriage service providers must provide details of all changes to the prices and terms and conditions of supply of the relevant

services during the financial year for which information is submitted. This includes details of discounts and specials that were offered in that financial year.

(6) For the 2005/06 financial year, and for every third financial year thereafter, a reporting carrier or carriage service provider must include with its information submission a random sample of 385 bills issued to its customers for 3G/WCDMA services. These will be used to construct the user-group 'bundles' of 3G/WCDMA usage which will then be priced. For each bill in the sample, the following is required:

- a number identifying each bill;
- time period billed (eg. monthly 03/03 to 04/03);
- total bill spend;
- total number of calls;
- total number of minutes; and
- peak/off peak call breakdown.

The sample bills should be provided in Microsoft Excel format.

Schedule F

Internet services information to be reported by carriers and carriage service providers to the Commission

- (1) The carriers and carriage service providers listed in Category (4) of **Schedule A** must provide the following information.

a. Postpaid dial-up Internet services

	Last FY	This FY
Total dial-up Internet customers		
Total revenue from Internet services		

b. Prepaid dial-up Internet services

	Last FY	This FY
Total dial-up Internet customers		
Total revenue from Internet services		

c. DSL broadband Internet services

	Last FY	This FY
Total broadband Internet customers		
Total revenue from Internet services		
Total revenue from broadband connections		

- (2) Reporting carriers and carriage service providers must provide details of all changes to the prices and terms and conditions of supply of the relevant services during the financial year for which information is submitted. This includes details of discounts and specials that were offered in that financial year.
- (3) For their 2007/08 information submission, and for every third financial year thereafter, reporting carriers and carriage service providers must also provide a random sample of 385 bills issued to their customers for Internet services. These will be used to construct the user-group 'bundles' of Internet usage which will then be priced. For each bill in the sample, the following is required:
- a number identifying each bill;
 - whether the bill is for a postpaid dial-up, prepaid dial-up or DSL broadband service;
 - time period billed (eg. monthly 03/04 to 04/04);

- total charge for access;
- total hours used;
- total megabytes (MB) downloaded; and
- total of any additional charges.

The sample bills should be provided in MS Excel format.

Schedule G

Record-Keeping Declaration – Statement by CEO or CFO

(Date)
General Manager
Telecommunications
Australian Competition and Consumer Commission

Statement by CARRIER'S or CARRIAGE SERVICE PROVIDER'S Chief Executive Officer or Chief Financial Officer

I declare that:

- (a) the reports are prepared in accordance with the requirements of the Rules;
- (b) the reports are accurate in all material respects; and
- (c) the reports are consistent with the internal reporting procedures of (Company name)

Dated at this day of 20

Chief Executive Officer/ Chief Financial Officer
(or delegated authority)