



Australian
Competition &
Consumer
Commission



TELECOMMUNICATIONS COMPETITIVE SAFEGUARDS FOR
2010–11

CHANGES IN THE PRICES PAID FOR TELECOMMUNICATIONS
SERVICES IN AUSTRALIA 2010–11

ACCC telecommunications reports 2010–11

This publication contains two reports:

Report 1 Telecommunications competitive safeguards for 2010–11

Report 2 Changes in prices paid for telecommunications services
in Australia, 2010–11

Australian Competition and Consumer Commission
23 Marcus Clarke Street, Canberra, Australian Capital Territory, 2601

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2 May 2012

Senator Stephen Conroy
Minister for Broadband, Communications and the Digital Economy
Parliament House
CANBERRA ACT 2600

Dear Minister

A handwritten signature in black ink that reads "Stephen".

The Australian Competition and Consumer Commission (ACCC) is required under the Competition and Consumer Act 2010 (CCA) to review and report annually on:

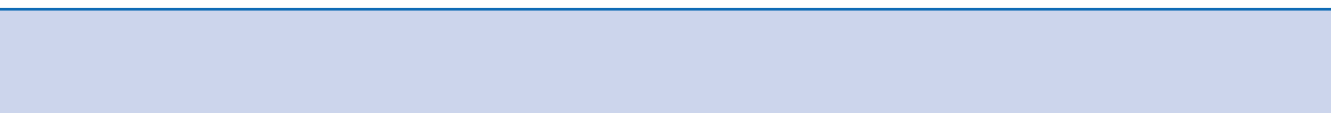
- competitive safeguards within the Australian telecommunications industry under subsection 151CL(1) of the CCA and
- changes in the prices paid by consumers for telecommunications services under subsection 151CM(1)(a) of the CCA.

Enclosed are the two reports for the 2010–11 financial year. As you are aware, subsections 151CL(5) and 151CM(3) of the CCA require you to table both reports in each house of parliament within 15 sitting days of receipt.

Yours sincerely

A handwritten signature in black ink that reads "Rod Sims".

Rod Sims
Chairman



List of shortened forms

3G	third generation mobile communications
ABS	Australian Bureau of Statistics
AD	access determination
ACCC	Australian Competition and Consumer Commission
ACL	Australian Consumer Law
ACMA	Australian Communications and Media Authority
ACT	Australian Competition Tribunal
ADSL	asymmetric digital subscriber line
ADSL2+	currently deployed version of ADSL
ASIC	Australian Securities and Investment Commission
BBMs	building block models
BCS	basic carriage service
CACS Act	<i>Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Act 2010</i>
CAN	customer access network
CBD	central business district
CCA	<i>Competition and Consumer Act 2010</i> (replaced the <i>Trade Practices Act 1974</i>)
CDMA	code division multiple access
CPI	consumer price index
CSP	carriage service provider
DOCSIS 3.0	data over cable service interface specification 3.0
DSL	digital subscriber line
DSLAM	digital subscriber line access multiplexer
DTCS	domestic transmission carriage service
ESA	exchange service area
FAD	final access determination
FHoA	Financial Heads of Agreement
FTTH	fibre-to-the-home also referred to as FTTP (fibre-to-the-premises)
GB	gigabyte
GSM	global system for mobile communications
GST	goods and services tax
HFC	hybrid fibre coaxial

HHI	Herfindahl-Hirschman Index
HSPA	high speed packet access (generic)
IAD	interim access determination
IP	internet protocol
IPTV	internet protocol television
ISP	internet service provider
Kbps	kilobits per second
LCS	local carriage service
LSS	line sharing service
LTE	long term evolution
LTIE	long-term interests of end-users
Mbps	megabits per second
MDF	main distribution frame
MHz	megahertz
MPS	mobile premium services
MSAN	multi-service access node
MTAS	mobile terminating access service
MVNO	mobile virtual network operator
NBN	national broadband network
Access Act	<i>Telecommunications Legislation Amendment (National Broadband Network Measures–Access Arrangements) Act 2011</i>
NBN Co	National Broadband Network Co Limited
NPTC	non-price terms and conditions
OSP	operational separation plan
POIs	points of interconnect
PSTN	public switched telephone network
PSTN OA	public switched telephone network originating access
PSTN OTA	public switched telephone network originating/terminating access
PSTN TA	public switched telephone network terminating access
RAF	regulatory accounting framework
RSP	retail service provider
RKR	record-keeping rule
SAO	standard access obligation
SAU	special access undertaking

SFAA	standard form of access agreement
SSU	structural separation undertaking
SIOs	services in operation
SMS	short messaging service
SoE	Statement of Expectations
TB	terabyte
TCP	Telecommunications Consumer Protection Code
TEA	Telstra efficient access (Telstra cost model)
Telecommunications Act	<i>Telecommunications Act 1997</i>
TIO	Telecommunications Industry Ombudsman
TPA	<i>Trade Practices Act 1974 (now the Competition and Consumer Act 2010)</i>
TSLRIC	total service long run incremental cost
TSLRIC+	total service long run incremental cost plus an allocation of common and indirect costs
ULLS	unconditioned local loop service
VoIP	voice over internet protocol
WACC	weighted average cost of capital
WiMAX	worldwide interoperability for microwave access (a wireless broadband family of technologies)
WLR	wholesale line rental

Telecommunications competitive safeguards for 2010–11

Report to the Minister for Broadband, Communications and the Digital Economy

Contents

List of shortened forms	v
Telecommunications competitive safeguards for 2010–11	xi
1 Executive summary	1
1.1 State of competition	1
1.2 ACCC telecommunications regulatory activities	2
2 State of competition in telecommunications markets	7
2.1 Overview	7
2.2 Competition in telecommunications markets	13
2.3 Telecommunications complaints	32
3 Anti-competitive conduct provisions	35
3.1 Investigations conducted in 2010–11	35
3.2 Exemption orders	37
3.3 Third line forcing notifications	37
4 Consumer safeguard provisions	39
4.1 Investigations conducted in 2010–11	39
4.2 Broadband speed claims	42
4.3 Review of unfair contract terms in the telecommunications industry	42
4.4 Other activities	42
5 Monitoring and reporting	45
5.1 Ongoing and new monitoring and reporting activities	45
6 Access to telecommunications network services	51
6.1 Legislative amendments	51
6.2 Declaration of telecommunications services	53
6.3 Exemptions	54
6.4 Access agreements	55
6.5 Special access undertakings	55
6.6 Binding rules of conduct	56
6.7 Access determinations	56
6.8 Access disputes	57
7 NBN and superfast networks provisions	59
7.1 NBN Companies Act	59
7.2 Points of interconnection	60
7.3 Non-discrimination	60
7.4 Uniform pricing objectives	61
7.5 Level playing field exemptions	61

8	Telecommunications Act provisions	63
8.1	Structural separation of Telstra	63
8.2	Operational separation of Telstra	64
8.3	Number portability	64
8.4	Industry alliance	65
8.5	Access disputes under the Telecommunications Act	65
8.6	International rules of conduct	65
9	Radiocommunications Act provisions	67
Appendix A:	Types of internet platforms	68
Appendix B:	ACCC declared services	69

List of Tables

Table 2.1:	Selection of infrastructure investment recently undertaken, completed or announced	11
Table 2.2:	Telstra retail and wholesale Public Switched Telephone Network (PSNT) and ULLS provided over the Telstra copper CAN, 2005–06 to 2010–11	18
Table 2.3:	Percentage of ESAs with Telstra DSLAM presence	24
Table 2.4:	Percentage of ESAs with access seeker DSLAM presence	25
Table 2.5:	Access seekers' DSL SIOs as percentage of total DSL SIOs	29
Table 2.6:	TIO complaints received by service type	33
Table 6.1:	Arbitration of access disputes 2010–11	58

List of Figures

Figure 2.1:	Number of fixed and mobile voice SIOs (millions), 2008–09 to 2010–11	14
Figure 2.2:	RAF reporting companies: fixed and mobile call minutes 2005–06 to 2010–11	15
Figure 2.3:	Retail fixed voice service shares by subscriber numbers 2007–08 to 2009–11	17
Figure 2.4:	Total 2G and 3G connections 2005–2011	20
Figure 2.5:	Retail Market shares of major mobile carriers 2007–08 to 2010–11	21
Figure 2.6:	Dial-up, DSL and total internet service subscribers December 2007 to June 2011	26
Figure 2.7:	Volume of data downloaded (TB) per quarter December 2009–June 2011	27
Figure 2.8:	Fixed-line broadband market shares 2008–09 to 2010–11	28
Figure 2.9:	Number of ULLS and LSS SIOs across all bands and quarterly change—December 2008 to December 2011	30
Figure 2.10:	Wireless broadband market share 2008–09 to 2010–11	31
Figure 2.11:	Number of complaints received by the TIO from 2004–05 to 2010–11	32

1 Executive summary

Under Part XIB, Division 11, subsection 151CL (1) of the *Competition and Consumer Act 2010* (the CCA), the ACCC is required to provide the Minister for Broadband, Communications and the Digital Economy (the Minister) with an annual report on competitive safeguards within the Australian telecommunications industry.

This report covers the financial year 2010–11 and major developments occurring in the 2011 calendar year. All of the ACCC publications referred to in this report are available at <http://www.accc.gov.au>.

The key outcomes over the 2010–11 period contained within this report are outlined below.

1.1 State of competition

Consumers have benefitted greatly from the introduction of competition

It has now been two decades since competition began to be introduced to the Australian telecommunications industry. There is little doubt that this has been an overall success, with consumers better off by most measures. Real prices for fixed-line and mobile services have approximately halved since 1997–98.¹ The functionality of mobile phones and internet connections have improved significantly. The availability of services has also increased, through both the expansion of mobile networks and the capacity of these networks for broadband connectivity.

The greatest success has been in relation to mobile services, where the relatively lower cost of network rollout (compared to fixed-line networks) has led to greater infrastructure competition. In contrast, the development of competition in fixed-line services has relied more heavily upon regulatory intervention.

Despite these benefits to consumers, there has been a sense of delayed opportunity. Structural impediments such as the vertical and horizontal integration of Telstra have, to an extent, acted as a restraint on competitor activity and the emergence of fully effective competition.

Recent structural reforms

Parliament has attempted to address some of these impediments through various structural reforms introduced in recent years.

- The rollout of the wholesale only, fibre-to-the-home National Broadband Network (NBN) began in 2010–11, but to this point the focus has been on establishing an appropriate legislative and regulatory framework. The new network will operate as a monopoly and regulatory oversight will be required to ensure that NBN Co cannot misuse its market power.
- One element of legislation introduced in December 2010 was aimed at addressing competition concerns associated with Telstra's involvement in both wholesale and retail markets. Telstra submitted an undertaking that proposes a migration form of structural separation where Telstra will progressively

¹ Australian Competition and Consumer Commission, *Changes in the prices paid for telecommunications services in Australia 2010–11*, ACCC, <http://intranet.accc.gov.au/content/index.php/ml/itemId/806814>

disconnect customers from its networks as the NBN is rolled out. The ACCC assessed whether to accept the undertaking and approve the draft migration plan in accordance with the legislative criteria².

- There have also been reforms made to the telecommunications access regime under Part XIC of the CCA. The new arrangements see the ACCC setting prices for regulated services upfront, as well as introducing new regulatory mechanisms such as binding rules of conduct.

Industry trends

The industry is changing as a result of not just regulatory reforms, but technological and social developments. In the past there have been very clear boundaries between different types of telecommunications services, but now convergence has put the sector in a state of flux.

- Consumers continue to flock to wireless devices for both voice and internet services. While this appears to have contributed to a decrease in call minutes on fixed-line networks, trends in fixed-line connections and downloads suggest significant complementary aspects to the relationship between wireless and fixed-line services.
- With the growth in bundling and the ability to sell supplementary services, there has been jostling within the broader communications sector for the primary relationship with the customer. This scenario is playing out between a wide range of companies, including network owners, service providers, content providers, content rights owners, device manufacturers and online companies.
- There has been a continuation of recent industry rationalisation as companies sought economies of scale or better capability to expand into new services. iiNet has been most active in this regard, in recent years acquiring AAPT's consumer division, TransACT and Internode (to be finalised in 2012).
- Australians are taking advantage of their broadband connections to download increasing amounts of content. The Australian Bureau of Statistics (ABS) reported data that indicate total downloads were 76 per cent higher in the June 2011 quarter than they were a year earlier.

1.2 ACCC telecommunications regulatory activities

Anti-competitive conduct and consumer safeguards

In 2010–11 the ACCC undertook three investigations into alleged anti-competitive conduct under Part IV or Part XIB of the CCA. All three of these investigations were concluded because the ACCC's inquiries suggested that there was insufficient material to substantiate the alleged conduct, so no action was required under Part XIB of the CCA.

During the year, Part V of the *Trade Practices Act 1974* (TPA) was replaced with the Australian Consumer Law (the ACL), which is incorporated as Schedule 2 of the CCA. The ACCC undertook 16 major investigations during 2010–11 regarding misleading and deceptive conduct by the telecommunications industry under Part V and the ACL. One of these investigations led to the Federal Court finding that Optus advertisements for certain broadband plans were misleading and deceptive. The carrier was ordered to pay a penalty of \$5.26 million.³

² The ACCC accepted the structural separation undertaking and approved the draft migration plan in February 2012.

³ Optus appealed and the hearing was heard on 13 and 14 February 2012. The Full Federal Court allowed the appeal and set aside the penalties originally ordered. Optus was ordered to pay \$3.61 million in civil pecuniary penalties.

The ACCC received a total of 4080 complaints about the telecommunications industry in 2010–11. About 33 per cent of the complaints did not fall within the ACCC's areas of responsibility and therefore complainants were referred to more appropriate bodies, such as the Telecommunications Industry Ombudsman (TIO). The ACCC remains concerned about the number of complaints and the high level of consumer dissatisfaction in the telecommunications industry.

Third line forcing is a specific form of exclusive dealing prohibited outright by the CCA. The ACCC received a number of third line forcing notifications from participants in the telecommunications industry in 2010–11. All but one of these notifications was allowed to stand on public benefit grounds. The remaining notification was withdrawn.

Monitoring and reporting under Part XIB

The ACCC collects information to monitor the behaviour of telecommunications industry participants and to develop appropriate regulatory responses. The ACCC undertook a number of activities in accordance with its responsibilities, including:

- reporting on changes in the prices paid for telecommunications services in Australia
- reporting on Telstra's compliance with its retail price controls
- collecting information provided by the industry under record-keeping rules (RKR), including those related to Telstra's customer access network, access to Telstra's exchanges for competitors, and the geographic location of telecommunications infrastructure
- reporting information on Telstra's accounts on both a current and historical cost basis and
- reporting as part of the accounting separation of Telstra, including imputation testing which indicates whether margins on certain fixed-line services are sufficient to allow efficient firms to compete with Telstra.

Access to telecommunications services under Part XIC

Regulated access is required to provide competition to parts of the sector where the high cost of building networks means that there would otherwise be only one or a small number of operators. Part XIC of the CCA provides for the industry specific access regime for the telecommunications industry that is administered by the ACCC.

Declaration of services

The telecommunications access regime only applies to 'declared' services. Once a service is declared, the access provider is required to comply with standard access obligations. Standard access obligations facilitate access to the declared service in order for access seekers to provide carriage or content services using the declared service.

- In November 2011, the ACCC released a draft final report that sought comments prior to the declaration of a Layer 2 bitstream service, as required by the CCA.⁴
- In December 2011, the ACCC commenced an inquiry into the declaration of wholesale ADSL services.⁵

4 The ACCC made the decision to declare the local bitstream access service on 22 February 2012. The declaration commenced on 12 April 2012.

5 The ACCC declared the wholesale DSL service in February 2012.

- As at 31 December 2011, NBN Co had published four standard forms of access agreement. This had the effect of declaring the services covered by the agreements.

SAU

Carriers are able to propose terms and conditions for supply of access to services through special access undertakings (SAU). The CCA sets out the criteria by which the ACCC must use in deciding whether to accept or reject an SAU.

NBN Co lodged an SAU to the ACCC in December 2011 for what it terms the NBN Access Service. The ACCC began consultation as part of its assessment of the SAU.

Access determinations

Access determinations are written determinations made by the ACCC that set out price and non-price terms relating to access to a declared service.

- The ACCC made final access determinations for various declared fixed-line services in July 2011. These determinations incorporated the 2009 decision by the Australian Competition Tribunal to grant exemptions from regulation in certain geographic areas. However, following further consultation, the ACCC varied the final access determinations in December 2011 to remove these exemptions.
- The ACCC made a final access determination for the mobile terminating access service (MTAS) service in December 2011.
- In April 2011, the ACCC issued an interim access determination which set regulated prices for the domestic transmission carriage service (DTCS) for the first time. The interim access determination was backdated to commence on 1 January 2011.

Access disputes

In previous years, the ACCC has been responsible for the arbitration of many disputes where parties could not agree on the terms and conditions of access to regulated services. However, *Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Act 2010* (CACS Act) repealed the provisions regarding arbitrations from 1 January 2011. In their place the CACS Act inserted provisions that require the ACCC to set terms and conditions of access upfront through access determinations.

The ACCC does, though, continue to hear several ongoing access disputes under transitional provisions. Six access disputes were finalised in August 2010 and six access disputes were withdrawn during 2010–11. As at 30 June 2011, the ACCC continued to arbitrate 13 access disputes in relation to the line sharing service (LSS) and unconditioned local loop service (ULLS).

Activities in relation to the NBN and superfast networks

As mentioned above, the ACCC began its assessment of NBN Co's SAU. The ACCC also had other responsibilities in relation to the NBN.

A point of interconnection (POI) is the connection point that allows retail and wholesale service providers to connect to the NBN. In late 2010, the ACCC provided advice to government on an appropriate number and location of initial POIs. In May 2011, the ACCC published an indicative list of 121 POIs that met the criteria in its advice.

NBN Co and other superfast network operators are prevented from discriminating between access seekers, except in limited circumstances. As part of its obligations, the ACCC issued draft guidelines in December 2011 to inform industry about how it plans to enforce the non-discrimination requirements.

Telecommunications Act provisions

The ACCC has a number of roles under the *Telecommunications Act 1997* (the Telecommunications Act). The Telecommunications Act sets out the framework for the ACCC's assessment of Telstra's structural separation undertaking, which was submitted in July 2011.

Radiocommunications Act provisions

The ACCC monitored compliance by digital radio multiplex operators with undertakings that determine the terms and conditions by which radio stations can obtain access to the digital radio multiplex service.

2 State of competition in telecommunications markets

2.1 Overview

Consumers have benefitted greatly from the introduction of competition

There have now been two decades since competition began to be introduced to the Australian telecommunications industry, and consumers were first given a choice of service provider.

There is little doubt that the introduction of competition has been an overall success. Consumers are now significantly better off by most measures. Real prices for fixed-line and mobile services have approximately halved since 1997–98.⁶ The coverage of mobile networks has expanded to reach the vast majority of the population. Consumers have responded as one would expect, and now there are more mobile devices than people and most households have internet access.

The most obvious success has been in relation to mobile services, where the relatively lower cost of network rollout (compared to fixed-line networks) has led to greater infrastructure competition. The competition between the three (or four at one time) network operators has created incentives for them to expand coverage, upgrade to more capable networks, and more recently offer broadband internet connectivity. Such infrastructure competition has meant that competition has emerged without the need for much regulatory intervention. The main policy focus has instead been on the availability of sufficient spectrum to further improve the quality of services.

In contrast, the development of competition in fixed-line services has relied more heavily upon regulatory intervention. Telstra's ownership of its ubiquitous copper network has provided it with considerable advantages over competitors, who have not been able to establish effective alternative networks on a broad scale. As a result, competition has largely developed through regulated access to Telstra's network via the unbundling of the local loop. It was in the mid-2000s when competitors first began to install their own infrastructure in Telstra's local exchanges, which enabled them to introduce ADSL2+ services in Australia. Telstra then responded with ADSL2+ services of its own.

Competition in these fixed-line services has not, however, spread to all parts of Australia evenly. High economies of scale have largely kept competitive infrastructure to metropolitan and the more densely populated regional areas. Universal service obligations on Telstra and government subsidies have therefore attempted to ensure that services in rural areas do not fall too far behind those in the cities.

Although competition—including rapid technological progress—has delivered substantial benefits to Australian consumers over this period, there has been a sense of delayed opportunity. Structural impediments such as the vertical and horizontal integration of Telstra have to an extent acted as a restraint on competitor activity and the emergence of fully effective competition.

⁶ Australian Competition and Consumer Commission, *Changes in the prices paid for telecommunications services in Australia 2010–11*, ACCC, <http://intranet.accc.gov.au/content/index.php/ml/itemId/806814>.

However, the industry is not fully meeting the demands of consumers

Despite the incentives created by competition, there are signs the telecommunications industry is still to fully meet the demands from consumers.

Issues with customer service are a primary example. Consistently high numbers of complaints to the Telecommunications Industry Ombudsman (TIO) led to the Australian Communications and Media Authority (ACMA) initiating a public inquiry in July 2010, titled 'Reconnecting the Customer'. Common problems faced by consumers include difficulty in contacting their service provider, the time taken to resolve problems, and inconsistent advice about services. The ACMA said that if sufficient steps were not taken by the industry to resolve these problems through its Telecommunications Consumer Protection Code, the ACMA would consider other options such as developing its own rules.

Over the years there have been situations where a failure by a company to adequately invest in its infrastructure has led to consumer detriment. A recent example is VHA appearing to underestimate the rapid growth in demands on its mobile network, leading to customers experiencing dropped calls, bad reception and poor data performance.

Another concern has been misleading advertising practices. Some of the poor practices include the inaccurate use of terms such as 'free' and 'unlimited', not disclosing certain charges, and claims (such as price and network data-rates) that could not be substantiated. The ACCC has attempted to clean up these practices through concerted enforcement action, information workshops and enforceable undertakings from industry leaders.

National Broadband Network

As noted above, industry structure has in the past limited the potential level of competition in the telecommunications industry. Parliament has attempted to address some of these impediments through various significant structural reforms introduced in recent years.

The most high profile of these is the National Broadband Network (NBN). Telstra first proposed a fibre-to-the-node network in 2006. Despite the offer of government funding for such a network during a tender in 2008, no compelling plans were submitted. Consequently, the government announced in 2009 that it would build a national, wholesale-only network with a combination of fibre-to-the-home, fixed wireless and satellite technologies.

While the rollout of the NBN began in 2010–11, to this point the focus has been on establishing an appropriate legislative and regulatory framework. The new network will operate as a monopoly and strong regulatory oversight will be required to ensure that NBN Co cannot misuse this market power.

Much of this regulatory oversight has been introduced by the government through legislation. NBN Co is not permitted to provide retail services, there are ownership limits to prevent vertical integration, its services are automatically captured by access regulation, and it must not discriminate between customers.

The ACCC has a number of roles in relation to the NBN. In December 2011, the ACCC began consultation on whether it should accept the SAU submitted by NBN Co. The SAU proposes terms and conditions for access to services provided over NBN Co's fibre, wireless and satellite networks until June 2040.

Structural separation of Telstra

A key structural reform that will have more immediate consequences for consumers was introduced by the *Competition and Consumer Safeguards Act 2010* (the CACS Act) in December 2010. One element of this legislation was aimed at addressing competition concerns associated with Telstra's involvement in both wholesale and retail markets.

Telstra has submitted an undertaking that proposes a migration form of structural separation whereby Telstra will progressively disconnect customers from its networks as the NBN is rolled out. The ACCC must decide whether to accept the undertaking and approve the draft migration plan in accordance with the legislative criteria. As a part of its assessment, the ACCC is required to consider whether the proposed undertaking provides for appropriate and effective equivalence and transparency in relation to Telstra's supply of services to its wholesale customers and its retail business units. These equivalence and transparency measures relate to the supply of services over Telstra's legacy networks during the period of transition to the NBN.

The undertaking responds to the longstanding competition concerns that have arisen from Telstra's vertical integration across fixed-line access networks and downstream service provisioning. Should the undertaking come into force, it would be expected that consumers would benefit from the changes to market conditions that are likely to arise from the removal of this vertical integration.

Streamlined access regime

Finally, the CACS Act also attempted to address concerns with the effectiveness of the telecommunications access regime under Part XIC of the CCA. The reforms represent a move away from the 'negotiate-arbitrate' model which resulted in significant delays for parties attempting to obtain access to bottleneck infrastructure. The new arrangements will see the ACCC setting prices for regulated services upfront (in access determinations), as well as new regulatory mechanisms such as binding rules of conduct.

The ACCC has already made use of the new arrangements to provide greater certainty to industry participants. In July 2011, it issued final access determinations which set out prices for regulated fixed-line services until June 2014. The determinations took advantage of the new ability to include fixed principles provisions. These provisions locked in the assessed value of Telstra's assets and the framework for setting prices for the following 10 years.

Industry is also changing as a result of technological and social developments

While industry participants are changing their strategies in response to the structural reforms, other changes within the industry are being driven by factors such as technological and social developments.

Arguably the most significant trend over the past few years has been the rapid adoption of wireless devices. Mobile wireless is now the most common form of broadband connection in Australia, while somewhat surprisingly, the number of mobile handsets continues to grow strongly despite a penetration rate above 100 per cent.

However, data suggests that consumers are not simply dumping their fixed-line service in favour of wireless. It does appear that the rapid growth in call minutes from mobile phones appears to be primarily

responsible for the significant falls in call minutes from fixed-line phones. However, despite the rapid take-up of wireless broadband, DSL broadband connections have continued to grow and fixed-line connections account for an increasing share of download volumes.⁷ This suggests that many people are using a wireless broadband service as a complement to a fixed-line broadband service, rather than necessarily being directly substituted.

Australians are taking advantage of their broadband connections to download increasing amounts of content. The ABS reported data that indicated total downloads were 76 per cent higher in the June 2011 quarter than they were the previous year.⁸ From a residential consumer perspective, this growth is being driven by consumption of video content through emerging platforms such as YouTube and IPTV services.

The demand for bandwidth-rich content and applications is pushing carriers to invest in the capability and capacity of their networks. The industry has increasingly shifted from providing data services over networks designed for voice, to providing voice services over data networks. This is evident in table 2.1 below, which shows that virtually all major investment projects are designed primarily to improve the performance of data connectivity.

⁷ Australian Bureau of Statistics, *Internet Activity Australia* (8153.0), viewed 19 April 2012, <http://www.abs.gov.au/ausstats/abs@.nsf/mf/8153.0>

⁸ *Ibid*

Table 2.1: Selection of infrastructure investment recently undertaken, completed or announced

Wireless access	Fixed-line access	Transmission / backhaul
<p>In May 2011, Telstra announced that it has integrated 4G technology into their existing wireless network. The first 4G base stations, using LTE technology, have been switched on in Sydney, Melbourne and Brisbane in May 2011. (Telstra media release 24 May 2011.)</p>	<p>In mid 2010, Optus upgraded its HFC network in Sydney, Melbourne and Brisbane to provide consumers with peak data rates of 100 Megabits per second (Mbps). (Delimitter media release 23 November 2011)</p>	<p>DBCDE—Regional Backbone Blackspots Program (RBBP): construction along all five RBBP links—Geraldton, South West Gippsland, Victor Harbor, Broken Hill and Darwin—has been completed. (DBCDE website.)</p>
<p>In September 2011, Telstra launched its 4G LTE network in capital city CBDs and more than 30 regional and metropolitan centres. (Telstra media release 27 September 2011.)</p>	<p>In late 2011, Telstra completed a similar upgrade to its HFC network in Melbourne in March 2011. (Telstra media release 21 March 2011). A subsequent upgrade was completed in Adelaide, Brisbane, Gold Coast, Sydney and Perth in November 2011. (Telstra media release 24 November 2011.)</p>	
<p>In September 2011, Optus announced that it invested in migration programs which will provide 3G coverage boost to capital cities. Optus announced that it will also expand the HSPA+ technology to increase network speeds. To this end, Optus introduced 500 additional mobile sites and completed infrastructure upgrades at more than 2500 mobile sites. (Optus media release 15 September 2011.)</p>	<p>Digital subscriber line access multiplexer (DSLAM) equipment allows carriers to provide DSL services from telephone exchanges. Investment in DSLAMs slowed and the reach of ADSL services only expanded by an exchange service area or two each month. Government funding for backhaul links in some regional and rural areas contributed to this investment in DSLAMs. (Telstra CAN RKR data.)</p>	
<p>In September 2011, Optus announced its 4G network rollout in the 1800 MHz spectrum band. From April 2012, Optus will deliver its first LTE services to Newcastle, Port Stephens, the Hunter Valley and Lake Macquarie areas. 4G services will be delivered to Sydney, Melbourne and Perth from mid-2012, with other capital cities to follow. (Optus media release 15 September 2011.)</p>		
<p>In February 2011, VHA announced it had brought forward its \$1 billion network investment. The investment would be used to build or upgrade 2500 sites, bringing with it more capacity and more coverage. (VHA media release 22 February 2011.)</p>		
<p>In February 2011, VHA announced that it would replace around 5800 existing 2G and 3G base station sites with Huawei's SingleRAN solution, which is capable of delivering 2G, 3G and, later, 4G or LTE from a single base station site. (VHA media release 22 February 2011.)</p>		
<p>In November 2011, VHA announced that there were 900 new sites in the 850MHz network built for smartphones and data and 2000 sites in the existing network replaced with new equipment. 4G capable equipment is also being introduced as part of the network upgrade. (VHA media release 9 November 2011.)</p>		

Industry strategies for dealing with new challenges

Industry participants are adopting new strategies in response to the changing consumer preferences and competitive landscape highlighted above.

Service bundling is one such strategy. Service providers have found bundles popular with consumers and the trend also reflects the blurring of boundaries between different services. Internet Service Providers (ISPs) now typically sell voice services (often through VoIP), while mobile operator VHA was reportedly exploring an expansion into fixed-line services via the NBN.⁹ Content is also becoming an increasingly common feature including in addition to other communications service offerings, such as that via Fetch TV, Telstra's T-Box and Optus' TV Now product. While in general bundling offers service differentiation and innovation benefits, there are risks that providers that are dominant in one service could use bundling as a way of extending market power into other services. This could impede competition and innovation.

Meanwhile, ISPs have also changed how they are designing their internet plans. ISPs are now more likely to sell tiers of ADSL plans that vary by download allowances, rather than different data rates.

Battle for primary relationship to the customer

With the growth in bundling and the ability to sell supplementary services, there has been jostling within the broader communications sector for the primary relationship to the customer. This scenario is being played out between a wide range of companies, including network owners, service providers, content providers (e.g. FOXTEL), content rights owners (e.g. AFL), device manufacturers (e.g. Apple) and online companies (e.g. Google, Facebook).

This battle between companies that may have previously operated in quite different industries is potentially very beneficial to consumers. However, the ACCC must remain alive to bottlenecks emerging that prevent this competition from reaching its full potential. For example, it may be possible for some of the key players to look to extend market power in their traditional service into a broader range of services.

Industry rationalisation

2010–11 saw a continuation of recent industry rationalisation as companies sought economies of scale or better capability to expand into new services. A previous example of this rationalisation was the merger of Hutchison/3 and Vodafone in 2009. iiNet has been most active in this regard in recent years, acquiring AAPT's consumer division, TransACT and Internode (to be finalised in 2012). Pay TV operator FOXTEL also proposed an acquisition of Austar in May 2011, which is currently being assessed by the ACCC as to whether it raises competition concerns.

Mergers can have negative or positive implications for consumers. Fewer suppliers can mean there is less competition and that consumers have less choice if they are not satisfied with their existing provider. However, rationalisation can benefit consumers if it better enables smaller companies to achieve economies of scale, scope and/or density (which are then passed on in the form of lower prices) or invest in new services. In the telecommunications sector, it may be the case that niche players increasingly offer tailored products to particular customer groups, while larger providers drive innovation.

⁹ VHA, *Vodafone connects first NBN trial customers*, 19 December 2011, viewed 19 April 2012, <http://www.vodafone.com.au/stelprd/groups/webcontent/documents/webcontent/pdf-voda-nbntrial.pdf>

2.2 Competition in telecommunications markets

The following sections look at competitive developments concerning particular telecommunications services over the reporting period, including infrastructure developments, service take-up and usage, market concentration and price trends.

For ease of understanding, telecommunications services have been grouped into two broad categories: voice and data services. However, it is recognised that the distinction between the two categories is not as clear as in the past, and many consumers now buy a bundle of telecommunications services that include elements of both.

Section 2.2.1 discusses the state of competition in voice services. Section 2.2.2 turns to a similar discussion around data and connectivity.

2.2.1 Voice Services

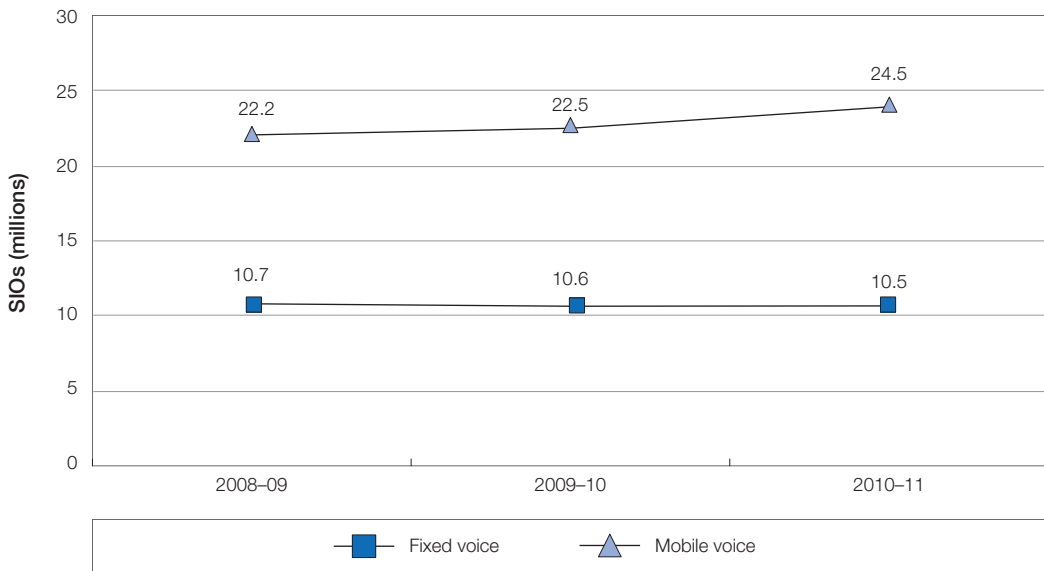
While most developments within the telecommunications industry over the past decade have centred on the provision of data services, many consumers still put greater value on the ability to pick up a telephone and call family, friends and emergency services.

During the 2010–11 period, retail voice services offerings used various fixed and mobile network based supply platforms. Despite traditional fixed and mobile voice services continuing to represent a majority of end-user consumption, the take-up and usage of VoIP, in its various forms, continues to grow.

Figure 2.1 shows the take-up of fixed voice services and mobile voice handsets over the last three years. The decline in fixed voice SIOs was 0.5 per cent in 2010–11, which compares to the decline of 3 per cent in 2009–10.¹⁰

10 Australian Communications and Media Authority, *Communications Report 2010–11*, ACMA, Melbourne 2011, p.33.

Figure 2.1: Number of fixed and mobile voice SIOs (millions), 2008–09 to 2010–11



Source: ACMA Communications report 2010–11.

While there were 1.08 mobile voice SIOs for every Australian resident in June 2011, the rate of growth of mobile voice SIOs increased.¹¹ During 2010–11, mobile voice SIOs increased by approximately 9 per cent, which compares to approximately 1.4 per cent in the previous 12 months.¹²

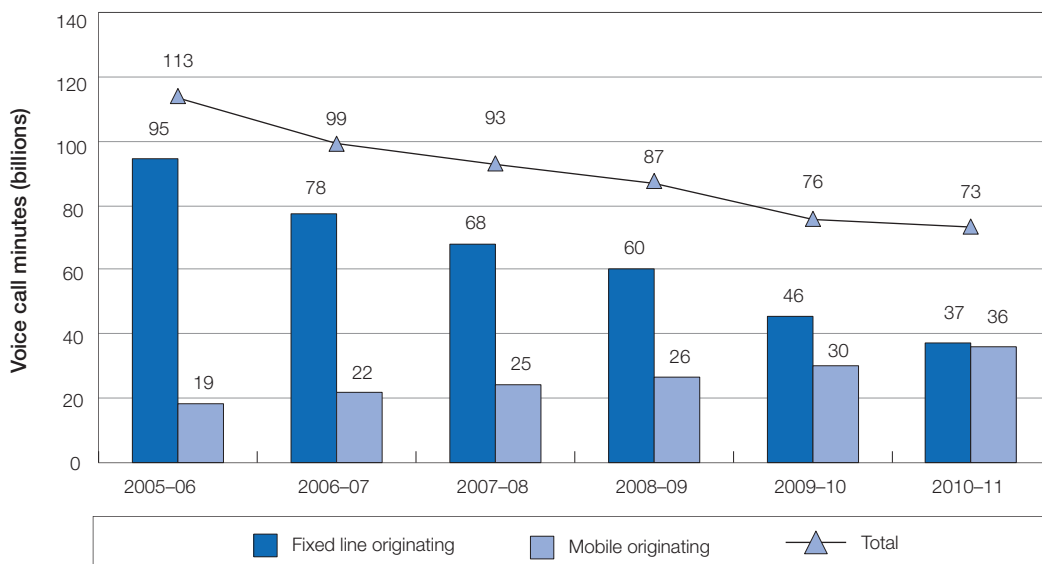
Figure 2.2 draws on data from the Regulatory Accounting Framework (RAF) to show fixed, mobile and combined call minutes on an annual basis. The RAF does not capture data on most forms of VoIP usage and this is reflected in Figure 2.2.¹³ Over the five year period between 30 June 2006 and 30 June 2011, combined call minutes have fallen by 35 per cent. The effect of VoIP’s increased take up and usage is discussed below.

11 Australian Bureau of Statistics, June 2010, *Population by Age and Sex, Regions of Australia* (3235.0), ABS, viewed 22 February 2012, <http://www.abs.gov.au/ausstats/abs@.nsf/mf/3235.0>

12 Australian Communications and Media Authority, *Communications Report 2010–11*, ACMA, Melbourne 2011, p.39.

13 Figure 2.2 draws from the Regulatory Accounting Framework (RAF), under which service providers are required to report to the ACCC on revenue, cost and usage information for wholesale and retail services. Only Telstra, Optus, Vodafone, AAPT and Primus are required to report highly aggregated data under the RAF. For this reason Figure 2.2 does not include most forms of VoIP usage.

Figure 2.2: RAF reporting companies: fixed and mobile call minutes 2005–06 to 2010–11



Source: ACCC RAF RKR reports 2005–06 to 2010–11 and Telstra annual reports.

However, recent acceleration in the growth of mobile call minutes meant that the fall in total minutes was not as pronounced in this reporting period. In 2010–11, mobile call minutes grew by close to 18 per cent. This rate of growth of mobile voice usage compares to 15 per cent in 2009–10 and 8 per cent in 2008–09.

Figure 2.2 also shows fixed call minutes decreased by 18 per cent in 2010–11. This compares to decreases of around 24 per cent in 2009–10 and 11 per cent in 2008–09. Discussion of the trend in fixed and mobile call minutes continues below.

Fixed voice services

‘Fixed voice services’ generally refers to voice services provided over a dedicated access line on a fixed network, plus the provision of one or more of the following calling functions:

- local calls,
- national long-distance calls,
- international calls, and
- fixed to mobile calls.

The vast majority of fixed voice services are provided via Telstra’s copper customer access network (CAN). Optus also provides some fixed voice services over its hybrid fibre coaxial (HFC) network.

Infrastructure developments

Infrastructure developments relating to fixed voice services are now rarely ‘stand-alone’ fixed voice developments. Instead, developments that may impact on the delivery of fixed voice services will typically relate to investment designed to provide higher broadband data rates.

There was limited significant investment in fixed voice networks in 2010–11. The NBN will provide both fixed data and voice services, with the latter likely to be provided through various IP based solutions. However, the NBN is currently limited to its trial sites, which presently only provide fixed data services.

Take-up and usage

As highlighted earlier, the number of fixed-line voice SIOs in Australia continued its gradual decline in the reporting period. There were 10.5 million fixed voice services in operation (SIOs) in Australia at 30 June 2011, down 0.5 per cent from the previous year.¹⁴

Notwithstanding the above, total fixed-line voice SIOs are still significant. Much of this reflects the requirement for Telstra customers to take a fixed-line voice service when they wish to take a bundle of services. Furthermore, some categories of customers are more likely to be resistant to substituting of fixed-line voice services for VoIP and mobile services. For example,

- businesses that utilise EFTPOS/fax/alarms/complex services often need to make significant investment to move to an IP based service¹⁵ and
- elderly and vulnerable customers are likely to be less inclined to substitution of VoIP and mobile services due to lifestyle habits.¹⁶

While the number of fixed-line SIOs has remained high, the number of call minutes made from these phones has fallen considerably. There were 37.3 billion fixed originating voice call minutes in 2010–11. This represents an 18 per cent decline over the reporting period, and 61 per cent over five years.

While growth in mobile and social media take-up and usage is likely to have resulted in some decline of fixed originating voice call minutes, there are additional contributing factors. One explanation for the reduction of fixed originating voice call minutes is the continuing decline of dial-up internet subscriptions. In June 2011, dial-up SIOs had fallen to 0.57 million, or roughly one third of those in June 2008.¹⁷ For the duration of internet use, dial-up internet services require a simultaneous fixed voice call. Such calls are normally longer than the average fixed-line voice call.

Some contribution to the decline in fixed originating voice call minutes may also be attributed to the growth of VoIP services, which, as explained earlier, are largely not captured in these figures. At June 2011, the ACMA reported that approximately 3.8 million Australians aged 14 years or more used some form of VoIP service at home, compared to 2.9 million at June 2010, an increase of 31 per cent.¹⁸ Further, 30 per cent of small and medium enterprises were estimated to be using VoIP as at April 2011.¹⁹

Concentration

The number of providers offering retail fixed voice services decreased from 306 at 1 July 2010 to 287 at 30 June 2011.²⁰ This represents a 6.2 per cent decline which is less than the 21.7 per cent decline witnessed over the previous year.

¹⁴ Australian Communications and Media Authority, *Communications Report 2010–11*, ACMA, Melbourne 2011, p.33.

¹⁵ ACCC, *Inquiry into varying the exemption provisions in the final access determinations for the WLR, LCS and PSTN OA services—Final Report (Public version)*, December 2011, pp. 59–60.

¹⁶ Ibid.

¹⁷ Australian Bureau of Statistics, June 2011, *Internet Activity Australia* (8153.0), viewed 19 January 2012, <http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/8153.0June%202011?OpenDocument>

¹⁸ Australian Communications and Media Authority, *Communications Report 2010–11*, ACMA, Melbourne 2011, p.35.

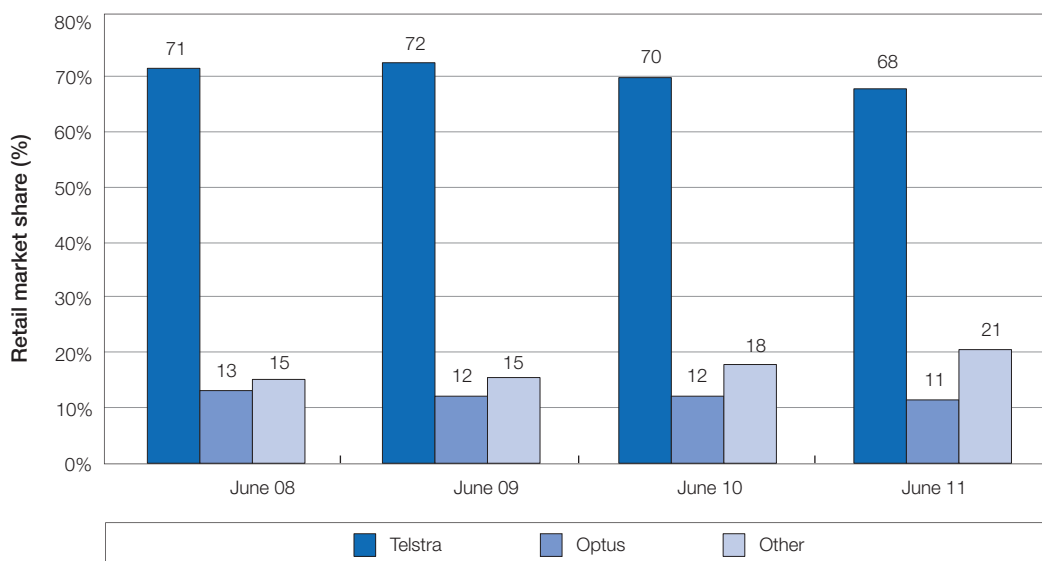
¹⁹ Ibid, p.36.

²⁰ Ibid, p.24.

The trend highlighted above suggests that retail consolidation is slowing amongst smaller providers. However, consolidation among larger providers is being led by iiNet in particular. As reported in 2009–10, iiNet acquired AAPT’s residential business in late 2010.²¹ In late 2011, iiNet announced that it was acquiring both TransACT and Internode. While this is likely to have particular implications for data services, the provision of such services is often through a bundle with voice services. Therefore, some consequential consolidation will likely occur in the provision for fixed voice services.

Figure 2.3 depicts operators’ shares of total retail fixed voice SIOs. Telstra’s continued dominance with the retail fixed voice market is evident here. From 2009–10 to 2010–11, Telstra’s market share dropped modestly by around 2 per cent to 68 per cent. Over the same period, Optus’ market share fell by just over 0.5 per cent. These falls have resulted in other providers capturing an approximate 3 per cent increase in market share.

Figure 2.3: Retail fixed voice service shares by subscriber numbers 2007–08 to 2009–11



Sources: ACCC RKR data and ACMA, *Communications report 2010–11*.

The degree of competition within fixed-line voice services depends greatly on how those services are supplied. Telstra operates a near-ubiquitous customer access network from the exchange building to the premises, therefore, Telstra’s dominance in the retail market can be linked to its ownership of the copper network. Other competitors rely on obtaining either wholesale or unbundled services from Telstra in order to be able to compete. As at 30 June 2011, approximately nine out of ten fixed-line voice services were provided using Telstra’s CAN.²² This is unlikely to substantially change until services migrate across to the NBN.

21 iiNet, *iiNet shareholders overwhelmingly vote in favour of the acquisition of AAPT’s Consumer Division; iiNet will become the clear leading challenger brand in telecommunications*, 29 September 2010, viewed 24 April 2012, <http://www.iinet.net.au/press/releases/20100929-shareholder-vote-appt.pdf>.

22 Australian Competition and Consumer Commission, *Telstra CAN RKR quarterly snapshots*, ACCC, <http://intranet.accc.gov.au/content/index.phtml/itemId/1000831>; Australian Communications and Media Authority, *Communications Report 2010–11*, ACMA, Melbourne 2011, p.25.

Table 2.2 shows the extent to which services provided over Telstra's copper CAN are Telstra retail, Telstra wholesale or the ULLS. Telstra's retail share had a recent peak in 2008–09 before declining modestly over the last two years.

Table 2.2: Telstra retail and wholesale Public Switched Telephone Network (PSNT) and ULLS provided over the Telstra copper CAN, 2005–06 to 2010–11

Type of service	2005–06	2006–07	2007–08	2008–09	2009–10	2010–11
Telstra retail SIOs	77%	78%	79%	80%	78%	76%
Telstra wholesale SIOs	21%	20%	15%	13%	13%	13%
ULLS SIOs	1%	2%	5%	7%	9%	11%

Source: Telstra financial reports and Telstra CAN RKR data.

Table 2.2 shows decreases in the proportion of Telstra wholesale SIOs from 21 per cent at 30 June 2006 to 13 per cent at 30 June 2011.

Since 2005–06, there has been a consistent increase in the proportion of ULLS SIOs. During the 2010–11 period, the number of ULLS services rose by 20.7 per cent to 998 621 SIOs. Similarly, there were increases over the 2009–10 and 2008–09 periods of 19.5 per cent and 32.9 per cent respectively.²³

The total number of Exchange Service Areas (ESAs) which have at least one access seeker using ULLS was relatively stable during 2010–11. Further, access seekers' recent increases in market share appear to have been obtained through increased ULLS growth in ESAs that already had an access seeker presence.

Price trends

The ACCC reports on changes in the price of fixed voice services in Chapter 4 of its *Changes in the prices paid for telecommunications services in Australia 2010–11* report.²⁴

In 2010–11, average real prices for fixed voice services declined by 7.3 per cent.²⁵ This fall is larger than the 5.8 per cent decline in 2009–10. Prices for fixed-line services in 2010–11 were 42.6 per cent lower than in 1997–98.²⁶

Notably, retail basic access prices decreased by 4.2 per cent in 2010–11. This decrease was significantly greater than the 2.0 per cent decrease in 2009–10. The price of basic access is likely to have been influenced by the unbundled and wholesale prices that the ACCC set through the March 2011 interim access determinations for the ULLS and wholesale line rental (WLR) services.

During the 2010–11 reporting period, real prices fell more dramatically for local (8.6 per cent), national long distance (7.9 per cent), international (14.5 per cent) and fixed to mobile calls (12.4 per cent).²⁷ One explanation for this may be due to the increasing penetration of subscription plans that offer various forms of untimed or unlimited calls.

²³ Australian Competition and Consumer Commission, *Telstra CAN RKR quarterly snapshots*, ACCC, <http://intranet.accc.gov.au/content/index.phtml/itemId/1000831>.

²⁴ Australian Competition and Consumer Commission, *Changes in the prices paid for telecommunications services in Australia 2010–11*, ACCC, <http://intranet.accc.gov.au/content/index.phtml/itemId/806814>.

²⁵ *Ibid.*

²⁶ *Ibid.*

²⁷ *Ibid.*

The decline in local call prices is likely to also have been affected by the ACCC's interim access determination for the local carriage service (LCS), which were approximately half of the ACCC's previous indicative prices. By contract, the decline in international call prices may be a symptom of competing VoIP services such as Skype. In addition, fixed-to-mobile call prices fell, despite the regulated price for the mobile terminating access service (MTAS) remaining unchanged during the 2010–11 reporting period.

Mobile voice services

A mobile voice service has the advantage of mobility over a fixed voice service, allowing end-users to move around while operating their voice service. Consumers value the convenience afforded by this mobility and their increasing demand for mobile services generally continue to drive significant investment in mobile networks.

Infrastructure developments

In 2010–11, all major mobile network operators continued to upgrade their networks to meet consumer demand (for voice and data).

Telstra stated that its 3G networks now cover approximately 99 per cent of the population.²⁸ In September 2011, Telstra launched its first 4G mobile network in capital city CBDs and more than 80 regional and metropolitan centres.²⁹ Within 4G coverage areas, typical download speeds range from 2 Mbps to 40 Mbps. Customers outside of 4G coverage areas are able to switch onto Telstra's 3G network.³⁰

VHA and Optus have also upgraded their networks to extend their 3G network coverage to a claimed 94 per cent and 97 per cent of the population respectively.³¹ In that respect, Optus said that it introduced 500 additional mobile sites and completed major infrastructure upgrades at more than 2500 mobile sites.³²

VHA also invested heavily in new infrastructure, following a period of network performance problems. According to VHA, strong growth in the popularity of smartphones and mobile broadband led to a sharp increase in data use in some areas, which 'could have been better supported by earlier coverage and capacity upgrades'.³³ VHA acknowledged the gravity of the problem and informed its customers that it has taken steps to improve customer service and network performance. To this end, VHA announced that it planned to give customers better signal strength, faster data and better coverage by investing heavily in the network.³⁴

Investment in mobile networks is also discussed under data services in section 2.2.2.

28 See Telstra's webpage for network coverage, <http://www.telstra.com.au/mobile-phones/nextg-network/>

29 Telstra, *Telstra opens super-fast 4G network to Pre-Paid customers, launches nation's first 4G tablet*, 28 February 2012, viewed 14 March 2012, <<http://www.telstra.com.au/abouttelstra/media-centre/announcements/telstra-opens-4g-network-for-prepaid-and-releases-sam-gal-tab-4g.xml>>.

30 Ibid.

31 Australian Communications and Media Authority, *Communications Report 2010–11*, ACMA, Melbourne 2011, pp. 37–39.

32 Ibid.

33 VHA, *Plans accelerated to improve network performance and customer service*, 22 February 2011, viewed 24 January 2012, <http://www.vodafone.com.au/personal/aboutvodafone/mediacentre/mediareleases/index.htm>

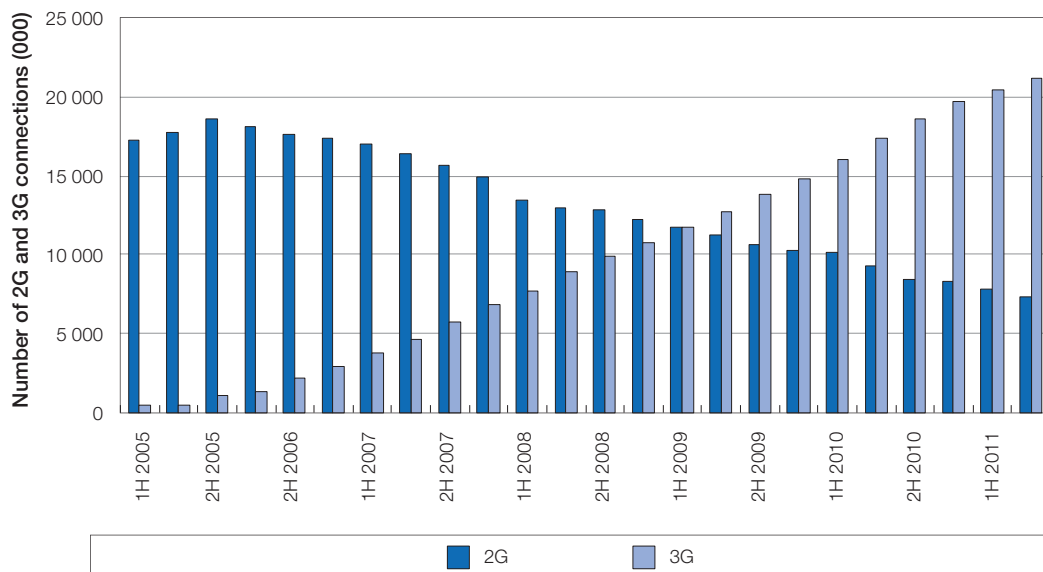
34 Ibid

Take-up and usage

There were 24.5 million mobile voice SIOs in Australia at the end of June 2011, up 9 per cent on the previous year.³⁵ The penetration of mobile voice services continues to increase and is now around 108 per cent of the total population. The growth rate in mobile handsets accelerated in 2010–11, despite penetration already being above 100 per cent. Ovum attributes this acceleration to Telstra investing heavily to grow and retain its customers during 2010–11. Telstra's strategy was to spend heavily on handset subsidies. In the second half of 2010, Telstra spent A\$457m on handset subsidies for post paid users which was significantly higher than the A\$317m and A\$281m it invested in the two previous halves.³⁶

There is also evidence of a clear shift away from 2G mobile services to 3G mobile services. This is illustrated by the Ovum data in Figure 2.4, which includes both handsets and broadband (e.g. dongles) connections.

Figure 2.4: Total 2G and 3G connections 2005–2011



Source: OVUM Australian Mobile Market Statistics and Analyzer 2011.

Mobile voice service use is also on the increase. In 2006–07, the total number of call minutes from mobile phones totalled 21.6 million³⁷. In 2010–11, the total number of calls minutes made from mobile voice services totalled 35.7 million. This represents a significant increase in the total number of call minutes made from mobile voice services (65 per cent over five years from 2006–07 to 2010–11). It appears unlikely that this increase is caused by customers purchasing their first mobile phones. Rather, this increase in mobile phones use might be attributed to a decline in the number of customers using their fixed phones or more customers taking on subscription plans. Subscription plans allow customers to make extra calls on their mobile phones without an additional cost.

³⁵ Australian Communications and Media Authority, *Communications Report 2010–11*, ACMA, Melbourne 2011, p. 25.

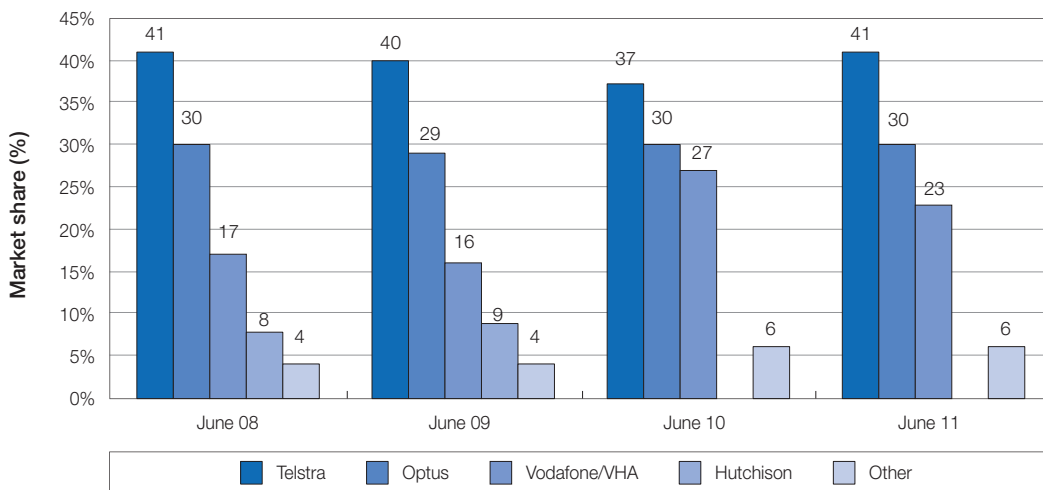
³⁶ Ovum, *Australian 3G/4G Update - A Lot Can Change in a Year—Network Strategy, Reach, and Reliability are as Crucial as Ever*, 2012, p. 13.

³⁷ Data obtained from the Regulatory Accounting Framework (RAF) RKR.

Concentration

The provision of retail mobile services is dominated by the three mobile network operators: Telstra (41 per cent), Optus (30 per cent) and VHA (23 per cent).³⁸ Mobile virtual network operators (MVNO) and resellers accounted for the remaining 6 per cent.³⁹ These providers purchase wholesale services from the three mobile network operators and include Macquarie Telecom, Dodo, TPG, People Telecom, AAPT, Comtel and TransACT, Woolworths, Amaysim and Lycamobile. figure 2.5 shows the respective market shares for the provision of mobile services.

Figure 2.5: Retail Market shares of major mobile carriers 2007–08 to 2010–11



Source: ACCC Division 12 RKR reports and data from carriers.

* Vodafone and Hutchison merged during 2009–10 to form VHA.

Telstra remained the carrier with the largest number of subscribers (around 9.6 million), with its market share increasing from 37 per cent to 41 per cent in 2010–11. Subscribers of Telstra's 3G services accounted for 81 per cent of Telstra's mobile subscribers in 2010–11, up from 75 per cent in 2009–10.⁴⁰ Telstra continued to gain market share during 2010–11, gaining additional customers following VHA's network issues. Telstra's network quality and extensive coverage appeared to provide a degree of product differentiation over its rivals. In addition, Telstra announced its intention to significantly increase its operational expenditure, aimed at winning back market share (particularly in mobile) and spent A\$457 million on post-paid handset subsidies during 2010–11.⁴¹

Optus' market share remained constant compared to the previous financial year at around 30 per cent. It would appear that Optus has been less able than Telstra to capitalise on VHA's network issues during 2010–11.

38 Data obtained from division 12 RKR 2010–11 and from carriers.

39 Estimates based on data collected under ACCC Division 12 RKR 2010–11.

40 Estimates based on data collected under ACCC Division 12 RKR 2010–11.

41 Ovum, *Australian 3G/4G Update - A Lot Can Change in a Year—Network Strategy, Reach, and Reliability are as Crucial as Ever*, 2012, p. 13.

VHA's market share decreased from 27 per cent to 23 per cent over the course of 2010–11. This is most likely due to VHA's network issues early in 2011 which resulted in many of VHA customers switching providers. During the first half of 2011, VHA lost 375 000 prepaid customers with a total of 7.2 million remaining. VHA fared better in the post-paid customer category, losing around 29 000 customers during the first half of 2011. Around 4.2 million customers remain with the network as at 30 June 2011.⁴² This number may change when contracts for post-paid services conclude and decrease further if customers begin to shop around during 2012.

Price trends

The ACCC reports on average retail price changes for mobile services in Chapter 5 of *Changes in the prices paid for telecommunications services in Australia 2010–11*⁴³. It should be noted that the current methodology for estimating price changes does not take into account changes in service quality or functionality.

The average real price for mobile services decreased by 4.6 per cent in 2010–11 compared to an increase of 1.8 per cent in the previous financial year.

The average real price for post-paid 3G services declined by 2.7 per cent and 10.7 per cent for prepaid 3G services. This compares with declines over 2009–10 of 3.8 per cent for post-paid services and 0.3 per cent for prepaid services.

Telstra charged a price premium for voice services over its rivals. Research by Ovum comparing post paid subscriptions plans for the three main carriers demonstrated that Telstra charged a 15 per cent premium on post paid subscription plans. Ovum reported that this is due to Telstra's 'more extensive, faster and more reliable network' for which customers are willing to pay a premium.⁴⁴

2.2.2 Data and connectivity

In addition to voice services, the other broad category of telecommunications services relate to services which provide data access and connectivity to the internet. There are a range of technology platforms capable of delivering these services including the following:

- Dial-up
- Digital Subscriber Line (DSL), including asymmetric DSL (ADSL)
- Hybrid Fibre Coaxial (HFC)
- Fibre
- Wireless broadband services which are offered through both mobile and fixed wireless retail services
- Satellite broadband

See appendix A for an explanation of the above terms.

⁴² VHA pummelled: Telco reports multi million dollar loss, 2 August 2011, viewed 8 March 2012, http://www.arnnet.com.au/article/395747/vha_pummelled_telco_reports_multi-million_dollar_loss/

⁴³ Australian Competition and Consumer Commission, *Changes in the prices paid for telecommunications services in Australia 2010–11*, ACCC, <http://intranet.accc.gov.au/content/index.phtml/itemId/806814>.

⁴⁴ Ovum, *Australian 3G/4G Update -: A Lot Can Change in a Year—Network Strategy, Reach, and Reliability are as Crucial as Ever*, 2012, p. 20.

Infrastructure developments

Industry investment over 2010–11 continued to focus on building network capacity to meet increased demand for data and data-intensive applications. Of course, the investment project with the highest profile in 2010–11 was the NBN. While the commencement of the rollout of fibre in selected locations around Australia represented a significant development for the nation's telecommunications industry, the impact on consumers and competition will only start to be felt in years to come.

However, there were a number of other investments during the period that had or will have a more immediate effect on a larger number of consumers.

In March 2011, Telstra completed an upgrade to its HFC network in Melbourne⁴⁵ and subsequently in Adelaide, Brisbane, Gold Coast, Sydney and Perth in November 2011.⁴⁶ This upgrade allows customers to access higher download speeds into the home and may allow sharing across multiple users in a household.⁴⁷ In May 2011, Telstra announced that it has switched on its first 4G mobile equipment. The first 4G base stations, using Long Term Evolution (LTE) technology, have been switched on in capital city CBDs.⁴⁸ Telstra said that LTE technology will provide higher data rates and faster response times for consumers using mobile applications and the internet.⁴⁹ In September 2011, Telstra launched its 4G LTE network in capital city CBDs and more than 30 regional and metropolitan centres.⁵⁰

In September 2011, Optus announced that it had invested in migration programs which would increase 3G coverage in capital cities and ensure customers can get improved Optus 3G signals in more places.⁵¹ At the same time, Optus commenced a next stage improvement program to its mobile infrastructure, increasing capacity and depth to the Optus Open Network. Optus introduced 500 additional mobile sites and completed major infrastructure upgrades at more than 2500 mobile sites. Optus also revealed it is rolling out HSPA+ technology to increase potential data speeds on its mobile network. Optus has upgraded more than 700 mobile sites across the country to HSPA+ and continues to extend its HSPA+ footprint.⁵² In mid-2010, Optus upgraded its HFC network in Sydney, Melbourne and Brisbane to provide consumers with higher data rates.⁵³

45 Telstra, *New Bigpond Cable Ultimate Plans deliver lightning fast speeds*, 21 March 2011, viewed 9 March 2012, <http://www.telstra.com.au/abouttelstra/media-centre/announcements/new-bigpond-cable-ultimate-plans-deliver-lightning-fast-speeds.xml>.

46 Telstra, *Bigpond Cable customers set to enjoy speed upgrade*, 24 November 2011, viewed 24 January 2012, <http://www.telstra.com.au/abouttelstra/media-centre/announcements/bigpond-cable-customers-set-to-enjoy-speed-upgrade.xml> and Telstra, *New Bigpond Cable Ultimate Plans deliver lightning fast speeds*, 21 March 2011, viewed 24 January 2012, <http://www.telstra.com.au/abouttelstra/media-centre/announcements/new-bigpond-cable-ultimate-plans-deliver-lightning-fast-speeds.xml#Links>

47 Ibid

48 Telstra, *Telstra switches on first 4G mobile equipment, 24 May 2011*, viewed 23 February 2012, <http://www.telstra.com.au/abouttelstra/media-centre/announcements/telstra-switches-on-first-4g-mobile-equipment.xml>

49 Telstra, *Telstra and HTC launch Australia's first 4G smartphone*, 24 January 2012, viewed 22 February 2012, <http://www.telstra.com.au/abouttelstra/media-centre/announcements/telstra-and-htc-launch-australias-first-4g-smartphone.xml>

50 Telstra, *A new era of telecommunications – Telstra lights up 4G mobile services in Australia*, 27 September 2011, viewed 15 March 2012, <http://www.telstra.com.au/abouttelstra/media-centre/announcements/telstra-lights-up-4g-mobile-services-in-australia.xml>.

51 Optus, *Consumers and businesses to connect faster and smarter as Optus unveils new mobile network plans*, 15 September 2011, viewed 24 January 2012, <http://www.optus.com.au/aboutoptus/About+Optus/Media+Centre/Media+Releases/2011/ci.Consumers+and+businesses+to+connect+faster+and+smarter+as+Optus+unveils+new+mobile+network+plans>.

52 Ibid.

53 Delimiter, *Telstra 100Mbps HFC Cable goes National*, November 2011, viewed on 27 February 2012, <http://delimiter.com.au/2011/11/23/telstra-100mbps-hfc-cable-goes-national/>

Following a number of complaints from customers regarding inadequate network performance, VHA announced in early 2011 that it had brought forward its \$1 Billion network investment. The investment would be used to build or upgrade 2500 sites, bringing with it more capacity and more coverage.⁵⁴ At the same time, VHA announced that it would replace around 5800 existing 2G and 3G base station sites with Huawei's SingleRAN solution, which is capable of delivering 2G, 3G and, later, 4G or LTE from a single base station site.⁵⁵ In November 2011, VHA announced that there were 900 new sites in the 850MHz network built for smartphones and data and 2000 sites in the existing network replaced with new equipment. 4G capable equipment is also being introduced as part of the network upgrade.⁵⁶

Other investment within the industry was associated with the installation of DSLAM equipment in Telstra's exchanges, which allows the operator to provide DSL services.

Each ESA is categorised into one of four 'bands'. Each band refers to the population density and, therefore implicitly, geographic location of the ESA:

- Band 1: selected central business districts
- Band 2: predominantly metropolitan areas; also includes large regional towns
- Band 3: regional and rural areas, and
- Band 4: remote areas that contain small populations.

Table 2.3 shows the proportion of ESAs with a Telstra DSLAM presence. Telstra offers DSL services to 60 per cent of exchanges other than those in rural areas. Its footprint in Band 4 ESAs has not grown significantly (50 ESAs) over the last four years.

Table 2.3: Percentage of ESAs with Telstra DSLAM presence

	Band 1 (%)	Band 2(%)	Band 3 (%)	Band 4 (%)	All bands (%)
June 2008	100	99.8	99.3	44.8	59.4
June 2009	100	99.8	99.3	45.1	59.7
June 2010	100	99.8	99.3	45.8	60.1
June 2011	100	99.8	99.3	46.2	60.4

Source: Telstra CAN RKR data and/or Telstra's wholesale document⁵⁷.

Table 2.4 shows the proportion of ESAs with at least one access seeker DSLAM installed. This table shows the extent to which basic ULLS competition is developing.

54 VHA, *Plans accelerated to improve network performance and customer service*, 22 February 2011, viewed 24 January 2012, <http://www.vodafone.com.au/personal/aboutvodafone/mediacentre/mediareleases/index.htm>

55 VHA, *Vodafone announces improvements to national mobile network*, 22 February 2011, viewed 29 March 2012, <http://www.vodafone.com.au/stelprd/groups/webcontent/documents/webcontent/2011-feb-national-mob-network.pdf>

56 VHA, *Vodafone Update - Network Investment Impact—reaches milestone site targets*, 9 November 2011, viewed 15 February 2012, <http://www.vodafone.com.au/personal/aboutvodafone/mediacentre/mediareleases/index.htm>

57 Telstra's wholesale document at: <http://www.telstrawholesale.com.au/download/document/access-broadband-adsl-en-ex.xls>

Table 2.4: Percentage of ESAs with access seeker DSLAM presence

Financial year	Band 1 (%)	Band 2(%)	Band 3 (%)	Band 4 (%)	All bands (%)
2007–08	100	72.6	9.2	0.8	18.9
2008–09	100	75.5	9.6	0.8	19.5
2009–10	100	76.9	11.1	0.8	20.1
2010–11	100	78.4	12	0.8	20.6

Source: Telstra CAN RKR data.

The greatest presence of access seekers is in ESAs in Bands 1 and 2. Expansion of the collective reach of competitive DSLAM deployments has slowed significantly in recent years—with growth of only one to two ESAs per month. The cost of backhaul infrastructure in regional and rural areas is likely to represent a considerable barrier to entry for DSLAM deployment. The two factors which are likely to inhibit backhaul investment in regional and rural areas are: the size of the market that could be served by the infrastructure and the cost to build the route.⁵⁸ In many rural and regional areas the addressable market is small, and may be unlikely to provide the necessary scale for more than one provider to spread sunk costs.⁵⁹

Due to these factors, Telstra still controls the infrastructure by which the majority of fixed broadband services are provided and because of its position, Telstra enjoys a strong position in fixed broadband services.⁶⁰ Moreover, Telstra’s network provides it with significant market power in the supply of wholesale and retail fixed-line broadband services.⁶¹

Nevertheless, the government’s Regional Backbone Blackspots Program (RBBP) contributed to the recent increase in access seeker DSLAMs in areas of Band 3 that were specifically covered by backhaul links funded by RBBP during 2009–10 and 2010–11.⁶² All five RBBP links were completed during the 2010–11 reporting period. Recent analysis has also indicated that the completion of the remaining links in late 2011 has led to some further infrastructure investment in the access seekers’ combined DSLAM footprint.⁶³ Furthermore, during 2010–11, the ACCC set regulated prices (on an interim basis) for backhaul services for the first time. This may lead to some additional investment over the years prior to the NBN.

58 ACCC, *Declaration of wholesale ADSL service under Part XIC of the Competition and Consumer Act 2010, Final decision*, February 2012, p. 22.

59 *Ibid*, pp. 22–23.

60 *Ibid*, p. 29.

61 *Ibid*.

62 Australian Competition and Consumer Commission, *Telstra CAN RKR quarterly snapshots*, ACCC, <http://intranet.accc.gov.au/content/index.phtml/itemId/1000831>; Department of Broadband, Communications and the Digital Economy website, viewed 20 February 2012, http://www.dbcde.gov.au/funding_and_programs/national_broadband_network/national_broadband_network_Regional_Backbone_Blackspots_Program.

63 Australian Competition and Consumer Commission, *Telstra CAN RKR quarterly snapshots*, ACCC, <http://intranet.accc.gov.au/content/index.phtml/itemId/1000831>; Department of Broadband, Communications and the Digital Economy, viewed 9 March 2012, http://www.dbcde.gov.au/funding_and_programs/national_broadband_network/national_broadband_network_Regional_Backbone_Blackspots_Program.

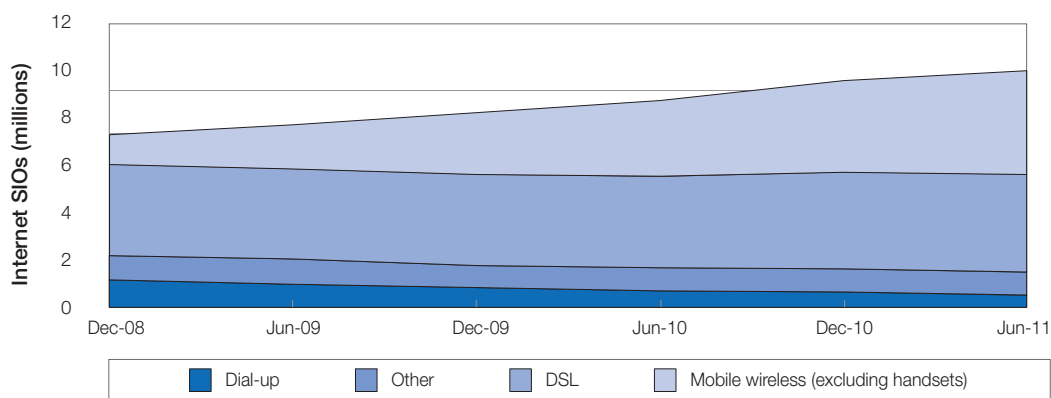
Take-up and usage

During 2010–11, the number of consumers accessing the internet via mobile networks continued to increase, underpinning growth in internet subscriber numbers. The internet continued to be the foundation of the developing digital economy, with increasing online participation and more services offered online. More Australians accessed the internet, spent more time online and downloaded more data.⁶⁴

There were 10.9 million internet subscribers in Australia (excluding internet connections through mobile handsets) at the end of June 2011. This represents annual growth of 14.8 per cent and is consistent with growth over the previous three years. This growth was primarily driven by substantial increases in the take-up of mobile wireless internet SIOs, which increased by 39 per cent during the 12 months to 30 June 2011.⁶⁵

Figure 2.6 shows the breakdown of internet connections between dial-up, DSL, mobile wireless (excluding handsets) and other access technologies. Mobile wireless became the predominant access technology with almost 44 per cent of connections, compared to just over 41 per cent for DSL.⁶⁶ DSL SIOs increased marginally by 0.7 per cent. There was a fall in dial-up SIOs of 20 per cent.

Figure 2.6: Dial-up, DSL and total internet service subscribers December 2007 to June 2011



Source: Australian Bureau of Statistics.

Australians appear to be enjoying increasingly faster broadband services. Despite relevant ABS statistics not reflecting the actual data rates received by consumers, it still provides guidance on general trends.

During the 2010–11 reporting period, Australians continued to consume internet services with faster advertised download data rates. Internet SIOs with an advertised data rate of ‘24mbps or greater’ grew by 56 per cent in the 12 months to June 2011.⁶⁷ This is likely to be a reflection of both Telstra and Optus upgrading their HFC networks to offer higher peak data rates to consumers. Additionally, the phasing out of

64 Australian Communications and Media Authority, *Communications Report 2010–11*, ACMA, Melbourne 2011, p. 17.

65 Australian Bureau of Statistics–Internet activity, Australia, June 2011, *Internet Activity Australia* (8153.0), ABS, viewed 24 January 2012, <http://www.abs.gov.au/ausstats/abs@.nsf/mf/8153.0>

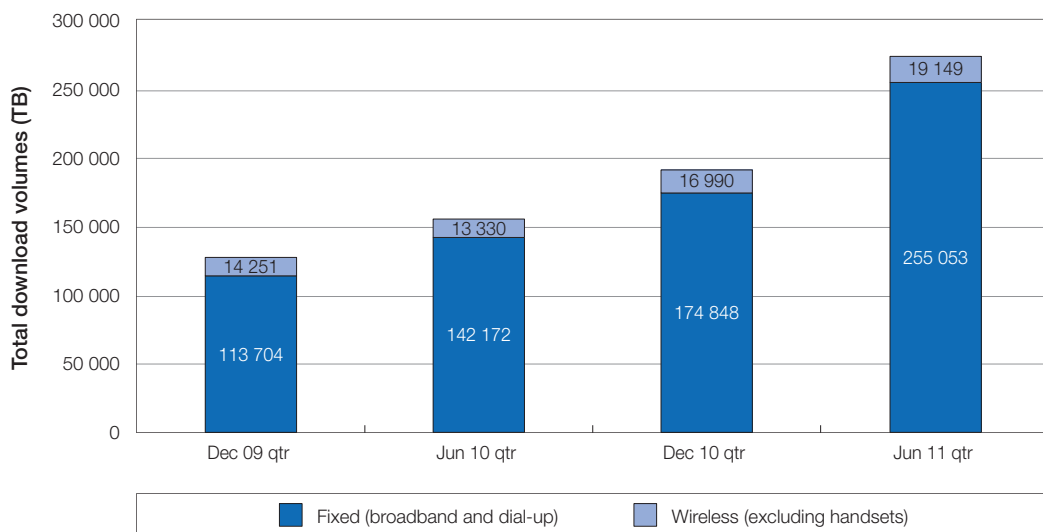
66 Australian Bureau of Statistics, June 2011, *Internet Activity Australia* (8153.0), ABS, viewed 24 January 2012, <http://www.abs.gov.au/ausstats/abs@.nsf/mf/8153.0>

67 Australian Bureau of Statistics, June 2011, *Internet Activity Australia* (8153.0), ABS, viewed 24 January 2012, <http://www.abs.gov.au/ausstats/abs@.nsf/mf/8153.0>

dial-up internet connections continued, with 95 per cent of internet connections being classed by the ABS as ‘broadband’ in June 2011.⁶⁸

Figure 2.7 illustrates the total download volumes per quarter, as reported on an indicative basis by the ABS. In 2010–11, the total volume of data downloaded increased by approximately 77 per cent. Notably, the volume of data downloaded through fixed (broadband and dial-up) and wireless (excluding handsets) access mediums increased by approximately 79 per cent and 44 per cent respectively. This continues the rapid growth experienced in recent years.⁶⁹

Figure 2.7: Volume of data downloaded (TB) per quarter December 2009–June 2011



Source: ABS, *Internet Activity Australia* (8153.0).

While wireless data only services are the fastest growing subscription type, the greatest volume of data download still occurs over fixed broadband networks. Fixed broadband was responsible for 93 per cent of total data downloads during the quarter ending 30 June 2011. This compares with 91 per cent 12 months earlier.⁷⁰

It was observed earlier that recent increases in mobile wireless broadband SIOs do not appear to have resulted in decreases in fixed broadband SIOs. When teamed with the proportion of data downloads over fixed-line networks growing, it appears that fixed and wireless data services are being used in different ways. This may lead to the conclusion that, to a significant extent, consumers are using mobile wireless broadband services to complement their existing fixed data service.

68 Australian Bureau of Statistics—Internet activity, Australia, June 2011, *Internet Activity Australia* (8153.0), ABS, viewed 28 March 2012, <http://www.abs.gov.au/ausstats/abs@.nsf/mf/8153.0>

69 Australian Bureau of Statistics, December 2010, *Internet Activity Australia* (8153.0), ABS, viewed 28 March 2012, <http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/8153.0Jun%202010?OpenDocument>.

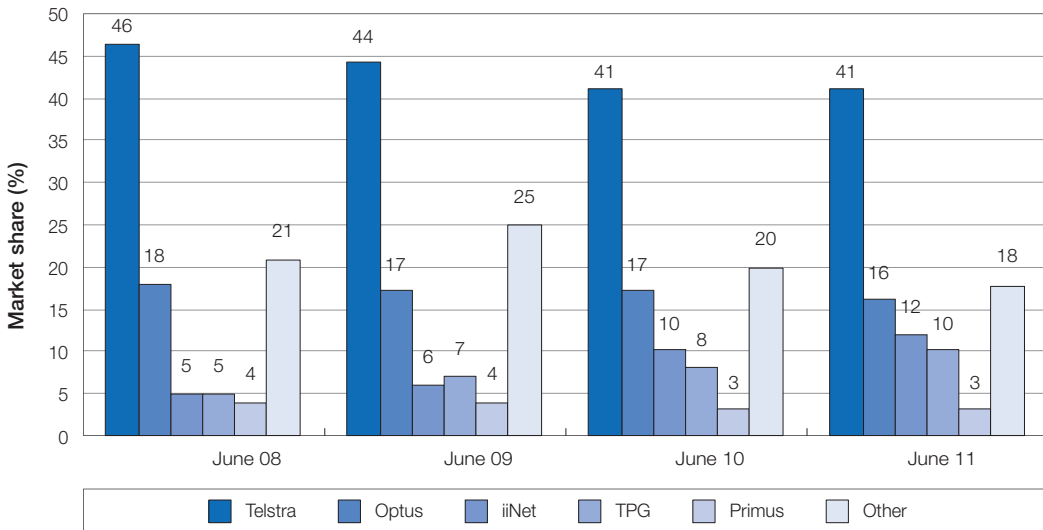
70 Australian Bureau of Statistics, December 2010, *Internet Activity Australia* (8153.0), ABS, viewed 28 March 2012, <http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/8153.0Jun%202010?OpenDocument>.

Concentration

Fixed-line broadband

Telstra continues to account for a high share of fixed-line broadband services in Australia. Figure 2.8 shows that when both DSL and HFC broadband services are taken into account, Telstra supplied around 41 per cent of retail fixed broadband services in 2010–11, followed by Optus with a 16 per cent share. Telstra market shares remained constant in 2010–11 whereas Optus' market share decreased slightly from 17 per cent to 16 per cent.

Figure 2.8: Fixed-line broadband market shares 2008–09 to 2010–11



Source: ACCC Division 12 RKR reports, Telstra CAN RKR reports, and data from carriers.

As for voice services, the level of competitive pressure between fixed-line broadband providers also depends on the degree to which they are supplying services over their own infrastructure. This is because it provides the operators with flexibility to supply innovative services, offer different pricing structures, obtain greater margins and minimise reliance on another carrier.

Telstra operates a near-ubiquitous customer access network from the exchange building to the premises. Telstra and other service providers use the customer access network to supply a range of fixed-line services—including DSL services—to end-user premises. Telstra retains a dominant position in both retail and wholesale DSL markets.

The second main form of competing fixed-line infrastructure is HFC cable. Telstra and Optus own the two major HFC networks in Australia, predominantly covering the east coast metropolitan areas. Telstra's HFC network passes 2.7 million premises. Optus' HFC network passes 2.4 million premises, of which 1.4 million premises are serviceable.⁷¹ A handful of smaller cable networks are owned by other carriers.

⁷¹ NBN Co, *Corporate Plan 2011–13*, 17 December 2010, p. 42. Optus HFC does not serve multiple dwelling units and some hard to reach single dwelling units, hence serviceable premises is approximately 1.4 million.

Access seekers can provide ADSL services by purchasing ULLS or LSS and investing in their own DSL (e.g. DSLAMs) and backhaul networks. However, the supply of wholesale ADSL services remained highly concentrated with Telstra as the dominant provider. At a wholesale level, Telstra supplied around 63 per cent of all ADSL SIOs.⁷² At a retail level, Telstra has a fixed-line broadband market share of approximately 45 per cent at 30 June 2011.⁷³ Telstra currently supplies wholesale ADSL to access seekers in 60 per cent ESAs.

During 2010–11, it appeared that access seekers' strategies for competition focussed on 'deepening' their coverage by increasing capacity at exchanges where they already have equipment installed and where it is efficient to do so, rather than 'broadening' their footprint by deploying DSLAMs in new ESAs.⁷⁴ While expansion into new ESAs has slowed, access seekers have increased the number of DSL services they provide over the past three years, predominantly in Bands 1 and 2. Over 68 per cent of total ADSL SIOs in Band 1 and over 48 per cent of retail ADSL SIOs in Band 2 are provided by access seekers on unbundled lines (see table 2.5 below). In contrast, less than five per cent of ADSL SIOs in Band 3 and less than one per cent of ADSL SIOs in Band 4 are provided by access seekers on unbundled lines.

Table 2.5: Access seekers' DSL SIOs as percentage of total DSL SIOs

Financial year	Band 1 (%)	Band 2 (%)	Band 3 (%)	Band 4 (%)	All bands (%)
2007–08	53.4	30.4	1.8	0.3	23.0
2008–09	60.4	39.0	2.7	0.4	29.2
2009–10	66.7	45.9	4.1	0.4	34.7
2010–11	68.3	48.1	4.5	0.4	36.5

Source: Telstra CAN RKR reports.

Over the reporting period, the total number of ULLS and LSS SIOs increased by 9 per cent to 1.7 million. Similar to the trend in the previous financial year, the greater part of this growth occurred in Band 2, with an increase of 10 per cent (to 1.6 million SIOs) over 2010–11.⁷⁵ Figure 2.9 below illustrates the number of ULLS and LLS SIOs across all bands and quarterly change from December 2008 to December 2011.

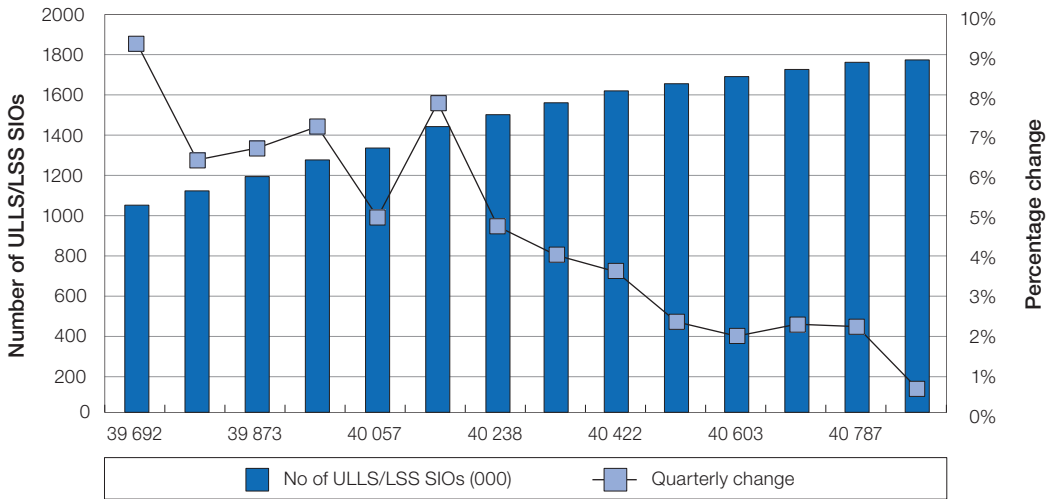
⁷² Australian Competition and Consumer Commission, *Telstra CAN RKR quarterly snapshots*, ACCC, <http://intranet.accc.gov.au/content/index.phtml/itemId/1000831>, December 2011.

⁷³ Telstra, *Annual Results Announcements*, 11 August 2011, <http://www.telstra.com.au/abouttelstra/investor/calendar/annual-results-announcement-4.xml>

⁷⁴ Australian Competition and Consumer Commission, *Telstra CAN RKR quarterly snapshots*, ACCC, <http://intranet.accc.gov.au/content/index.phtml/itemId/1000831>; Telstra ADSL enabled exchange list as at September 2010, www.telstrawholesale.com/products/data/adsl-reports-plans.htm.

⁷⁵ Australian Competition and Consumer Commission, *Telstra CAN RKR quarterly snapshots*, ACCC <http://intranet.accc.gov.au/content/index.phtml/itemId/1000831>.

Figure 2.9: Number of ULLS and LSS SIOs across all bands and quarterly change—December 2008 to December 2011



Source: Telstra CAN RKR data.

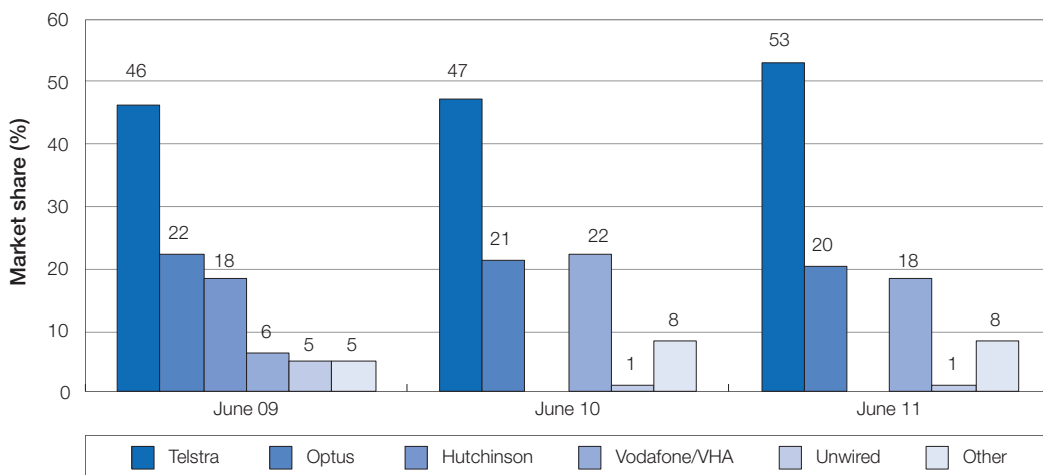
Wireless broadband

Figure 2.10 illustrates the market shares for wireless broadband. Telstra increased its market share for the provision of wireless broadband services to 53 per cent of total subscribers as at June 2011. In 2010–11, Optus regained its position over VHA as number two provider with a 20 per cent market share, with VHA's market share decreasing from 22 per cent in June 2010 to 18 per cent in June 2011. Other carriers made up the remaining market share.

The increase in Telstra's market share (53 per cent) may be attributed to the quality of service given that it has a higher number of base stations compared to its competitors. According to Ovum, more than 7100 Next G base stations have been deployed, giving Telstra a higher density of base stations and therefore providing more extensive coverage than its competitors.⁷⁶

⁷⁶ Ovum, *Australian 3G/4G Update—A Lot Can Change in a Year, Network Strategy, Reach, and Reliability are as Crucial as Ever*, 2012, p. 17.

Figure 2.10: Wireless broadband market share 2008–09 to 2010–11



Source: ACCC Division 12 RKR data, and data from carriers.

* Vodafone and Hutchison merged during 2009–10 to form VHA.

Price trends

The ACCC reports on changes in the price of internet services in Chapter 6 of its *Changes in the prices paid for telecommunications services in Australia 2010–11* report.⁷⁷ For dial-up internet services, price changes are estimated using revenue yields.

The average real price paid for internet services fell by 3.6 per cent during 2010–11. The individual price indices for DSL, cable and wireless services all fell by a similar amount. These falls indicate that nominal prices have changed little over the year given that inflation was also 3.6 per cent. This suggests an industry practice of designing internet plans to meet certain nominal price points. The current methodology does not take into account changes in service quality.

Average real prices have been falling for all types of internet services for a number of years. For dial up services, the average real price fell by 11.4 per cent in 2010–11, following a decrease of 13.1 per cent observed in 2009–10. Both total revenue and the subscription numbers of dial up internet services for all reporting companies decreased in 2010–11.

Overall, Telstra charges a price premium for data services over its rivals in relation to mobile broadband services. Research undertaken by Ovum comparing mid-range data plans between the three main carriers demonstrated that Telstra’s mobile broadband services are up to 25 per cent more expensive than its rivals. Ovum reported that this is most likely due to ‘Telstra’s more extensive, faster and more reliable network’ for which customers are willing to pay a premium.⁷⁸

77 Australian Competition and Consumer Commission, *Changes in the prices paid for telecommunications services in Australia 2010–11*, ACCC, <http://intranet.accc.gov.au/content/index.phtml/itemId/806814>.

78 Ovum, *Australian 3G/4G Update - A Lot Can Change in a Year—Network Strategy, Reach, and Reliability are as Crucial as Ever*, 2012, p 20.

2.3 Telecommunications complaints

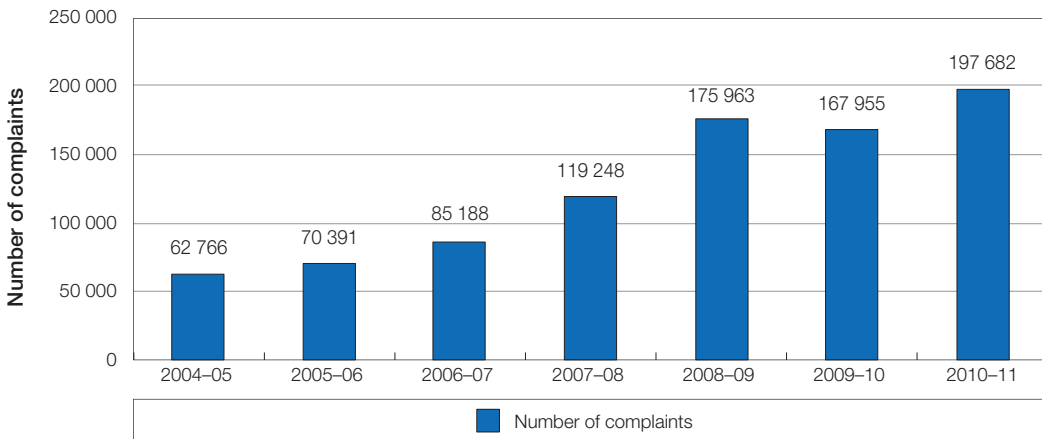
The ACCC receives numerous complaints relating to competition and consumer issues across all industries. The ACCC recorded 4080 complaints during the reporting period in relation to the telecommunications industry, down 18 per cent from the previous year.

About 33 per cent of the contacts received by the ACCC were referred to the more appropriate bodies such as the TIO. The ACCC will refer a complaint to the TIO if the complainant is a small business or residential customer who has an isolated complaint about their telephone or internet service, including complaints about billing or faults.

During this period, there were 16 major investigations into consumer protection issues in the telecommunications industry. More detail regarding the ACCC investigations can be found within chapter 4 of this report.

Figure 2.11 shows the number of complaints that the TIO has received in the last seven years. The TIO's 197 682 new complaints in 2010–11 represented a substantial 17.8 per cent increase compared to the previous year.

Figure 2.11: Number of complaints received by the TIO from 2004–05 to 2010–11



Source: Telecommunications Industry Ombudsman 2011 Annual report.⁷⁹

The increasing number of complaints over the years may be because customers are becoming more aware of the TIO and are taking advantage of this service. However, the high number of complaints also suggests that the industry is a long way from fully meeting the needs of consumers. It also suggests that competition in the industry could be more effective. Switching providers may be difficult for customers due to lack of competitors and high switching costs, resulting in carriers having weaker incentives to provide high quality service. Customers may accordingly be more inclined to complain to the TIO.

Consistent with the growth in the 2010–11 mobile phone subscriptions, more than half the complaints the TIO received this year (112 376) were exclusively about mobile phone services, an increase of

⁷⁹ These figures from 2006–07 have been revised by the TIO as stated in their 2009–10 annual report. It has adopted a new approach to reporting statistics which highlights the number of new complaints received by the TIO, thereby representing the individual consumers whose complaints have not been resolved by service providers. The figures provided in figure 2.11 from 2006–07 onwards are the number of complaints from individuals whose complaints have not been resolved by service providers and where the TIO has not yet intervened in the complaints resolution. http://www.tio.com.au/__data/assets/pdf_file/0003/8868/AnnualReport2010Highlights.pdf

51.4 per cent from the previous year. This was followed by complaints relating to fixed voice, internet and mobile premium services as shown in table 2.6.

Table 2.6: TIO complaints received by service type

Type of service	2008–09	2009–10	2010–11
Mobile premium services	8%	2%	1%
Internet	24%	25%	19%
Mobile	37%	44%	57%
Fixed voice+	32%	28%	23%
Total number	175 963	167 955	197 682

+ The TIO refers to 'landline' services.

Source: Telecommunications Industry Ombudsman 2011 Annual report.

The TIO suggested that the increase in complaints about mobile services was largely caused by two important factors: VHA's network issues and the increased market share of smart phones. The TIO stated that new complaints about VHA's mobile services almost tripled in 2010–11 to 32 744. They peaked in January 2011 with a total of 5712 new complaints, coinciding with the provider's much publicised network and customer service issues.⁸⁰ There has also been an increase in billing disputes in mobile phone services (apart from complaints relating to VHA's network issues). The top three issues were disputes about the total of a bill, termination fees and internet usage from a mobile phone.⁸¹

In contrast, new disputes about internet services were down 13.1 per cent to 37 092. The TIO stated that customers are less likely to complain about inaccurate or high bills due to the industry offering affordable internet plans with generous data allowances, either as part of bundled packages or standalone deals. Complaints about landline services have declined slightly by 1.7 per cent, coinciding with a decline in overall landline subscriptions.⁸²

The TIO stated that there are some recurring issues that present challenges that the telecommunications industry must respond to such as:

- customer service, such as inadequate assistance and quality of attention given to consumers (25 per cent of total new complaints);
- complaint handling, such as service providers not acting on the promises they make (21 per cent), and
- service providers failing to refer dissatisfied consumers to the TIO (18 per cent).

However, the TIO reported the good news that there has been a decrease in cases that the TIO needs to investigate as a result of improved responsiveness from service providers to the TIO's referrals and other changes to the TIO's processes.

A key focus of the TIO is to monitor the trends in complaints about unusually high debts and bill shock. These issues have the power to cause significant detriment to consumers, particularly vulnerable and disadvantaged ones.

⁸⁰ Telecommunications Industry Ombudsman, *Telecommunications Industry Ombudsman 2011 Annual Report*, p. 8.

⁸¹ Ibid.

⁸² Ibid, p 9.

The key matters on which customers complained were:

- unusually high bills where the cause is not clear
- failure from the service provider to advise their customers about higher than average bill
- disconnection of services without proper notice
- collection agents acting on behalf of the service providers and
- customers who were default listed by their service provider without notice.

In July 2010, the ACMA initiated its public 'Reconnecting the Customer' inquiry in response to the significant complaint numbers recorded by the TIO. Throughout 2010–11, the ACCC actively participated in the inquiry and made public submissions in October 2010⁸³ and August 2011.⁸⁴ In its submissions, the ACCC agreed that there was a need for such an inquiry and endorsed the ACMA's preference to regulate these issues directly, through industry-specific regulation such as service provider determinations and industry standards. The ACCC considered that the ACMA will be well placed to effect real changes to the culture of compliance in the telecommunications industry if the industry-specific regulation is introduced. The ACMA released the final inquiry report in September 2011. The report contained a range of recommendations aimed at materially improving consumer experiences.

83 Australian Competition and Consumer Commission, *Reconnecting the Customer: Australian Communications and Media Authority public inquiry, ACCC submission*, 19 October 2010.

84 Australian Competition and Consumer Commission, *Reconnecting the Customer: Australian Communications and Media Authority public inquiry, ACCC response to Inquiry Draft Report*, 4 August 2011.

3 Anti-competitive conduct provisions

This chapter examines activities undertaken by the ACCC in 2010–11 in dealing with anti-competitive behaviour under the CCA both under telecommunications specific and general provisions.

The telecommunications specific anti-competitive conduct provisions are contained under Part XIB of the CCA. These provisions prohibit a carrier, carriage service provider (CSP) or content service provider from engaging in anti-competitive conduct—this prohibition is also known as the ‘competition rule’. Section 151AJ of the CCA sets out the two circumstances where a carrier, CSP or content service provider is considered to have contravened the competition rule.

The first of these circumstances is where a carrier or CSP takes advantage of a substantial degree of market power in a telecommunications market with the effect, or likely effect, of substantially lessening competition in that or any other telecommunications market. It is not necessary to examine the purpose of the conduct under the competition rule, unlike the general section 46 misuse of market power provision (in Part IV of the CCA).

The second circumstance is where a carrier or CSP engages in conduct relating to a telecommunications market that contravenes the general anti-competitive conduct provisions in Part IV of the CCA. In particular, these provisions include:

- s. 45—contracts, arrangements or understandings that restrict dealings or affect competition
- s. 45B—covenants affecting competition;
- s. 46—misuse of market power;
- s. 47—exclusive dealing; and
- s. 48—resale price maintenance.

3.1 Investigations conducted in 2010–11

The ACCC undertook three investigations into alleged anti-competitive conduct under Part IV or Part XIB of the CCA during the reporting period. All three of these investigations were concluded because the ACCC’s inquiries suggested that there was insufficient material to substantiate the alleged conduct under Part XIB of the CCA.

One investigation related to Telstra’s provision of wholesale ADSL services. In response to allegations of vertical price squeeze conduct by Telstra, the ACCC considered commencing a Part XIC declaration inquiry. Further information regarding this matter is at section 3.1.1.

The ACCC also investigated allegations of misuse of market power regarding Telstra’s terms and conditions of supply in the South Brisbane ESA following announcement of a planned closure of the exchange building. This matter is discussed at section 3.1.2.

The third investigation is ongoing and the ACCC will not publish details at this stage.

3.1.1 Wholesale ADSL service

During 2010, the ACCC received complaints from a number of wholesale ADSL access seekers regarding alleged vertical price squeeze conduct by Telstra in the supply of fixed broadband and voice services. The ACCC investigated the conduct under Part XIB of the CCA.

In October 2010, the ACCC wrote an open letter to Telstra and several ISPs outlining its concerns and raising the possibility of a Part XIC declaration inquiry in respect of wholesale ADSL services in rural and regional areas. The ACCC received responses to that letter from Telstra and 16 other interested parties.

In April 2011, following further consultation with industry participants, the ACCC decided not to commence a declaration inquiry at that time. The ACCC advised it was adopting a 'wait and see' approach given recent industry and regulatory developments which may have had an effect on the need for access regulation under Part XIC. In particular, there was evidence of some further infrastructure investment as a result of the Regional Backbone Blackspots Program (RBBP) and the potential for further investment as a result of the interim access determinations for the ULLS and DTCS services. The ACCC also noted that there had been some improvement in the level of Telstra's wholesale ADSL pricing, and there appeared to be potential for commercial negotiations to result in further improvement. However, access seekers continued to raise competition concerns with the ACCC about the terms and conditions on which Telstra supplied wholesale ADSL services. It had become apparent that commercial negotiations have not resolved the issues mentioned above.

Accordingly, in December 2011, the ACCC commenced an inquiry into whether to declare the wholesale ADSL service. Further information is provided at section 6.2.3.

3.1.2 South Brisbane (QLD) exchange closure

In July 2010, Telstra announced that it would be upgrading its existing copper network in South Brisbane to a fibre-to-the-premises network. The proposed upgrade followed the sale and closure of the South Brisbane telephone exchange building to make way for a new children's hospital.

From August to October 2010, the ACCC received a number of complaints from ULLS and LSS access seekers regarding the adequacy and timing of information being provided by Telstra in relation to the closure. This was followed in late 2010 by further complaints regarding the terms and conditions of supply for the replacement wholesale fibre based services. In particular, it was alleged that the terms and conditions being imposed for access to the new fibre network in South Brisbane were anti-competitive.

Throughout 2011, the ACCC engaged in discussions with Telstra regarding the terms of access for wholesale services in South Brisbane. In November 2011, Telstra advised that it would be offering improved terms of access for wholesale customers transitioning from ULLS and LSS to fibre-based services. This revised pricing substantively addressed concerns regarding the likely effect on competition when the copper based wholesale inputs are withdrawn.

The ACCC subsequently discontinued its investigation but has undertaken to consider any new issues in the migration to Telstra's South Brisbane fibre network if they arise.

3.1.3 Competition and advisory notices

The ACCC's primary objective in administering the competition notice provisions of the CCA is to stop and prevent anti-competitive conduct. Under the CCA, the ACCC may issue either a Part A or B competition notice in response to alleged anti-competitive conduct by a carrier or CSP, when it has reason to believe that the carrier or CSP has engaged, or is engaging in, anti-competitive conduct and has contravened the competition rule. When exercising this discretion the ACCC must consider the guidelines it has issued under subsection 151AP(2) of the CCA and any other matters it considers relevant.

The ACCC may also issue a notice advising a carrier or CSP of the action that it should take, or consider taking, to ensure that it either ceases to engage or does not commence to engage in anti-competitive conduct. This is known as an advisory notice.

The ACCC did not issue any competition or advisory notices to carriers, CSPs or content service providers in the 2010–11 financial year.

3.2 Exemption orders

A carrier or CSP proposing to engage in conduct that may normally breach the competition rule can apply to the ACCC for an exemption order. An exemption order may be granted if the ACCC is satisfied that:

- the resulting public benefit outweighs any public detriment of lessened competition, and
- the conduct will not breach the competition rule.

An exemption order means that the conduct specified will not be anti-competitive for the purpose of the competition rule.

To date, the ACCC has not received any applications for a competition rule exemption.

3.3 Third line forcing notifications

Third line forcing is a specific form of exclusive dealing prohibited outright by the CCA. It is not subject to the substantial lessening of competition test. It involves the supply of goods or services on condition that the purchaser buys goods or services from a particular third party, or a refusal to supply because the purchaser will not agree to that condition.

Third line forcing conduct can be notified under Part VII of the CCA and authorised by the ACCC on public benefit grounds. Subsections 47(6) and 47(7) of the CCA make third line forcing a per se breach of the CCA unless it relates to products or services provided by a related body corporate.

The ACCC received a number of third line forcing notifications from participants in the telecommunications industry in 2010–11. All but one of these notifications was allowed to stand on public benefit grounds. The remaining notification was withdrawn.

4 Consumer safeguard provisions

This chapter provides a brief summary of the ACCC's investigations into potential breaches of the consumer protection provisions contained in Part V of the *Trade Practices Act 1974* (TPA) and in the Australian Consumer Law (ACL).

As of 1 January 2011, the TPA was renamed the *Competition and Consumer Act 2010* (CCA) and Part V of the TPA was replaced by the ACL, which is incorporated as Schedule 2 to the CCA.

The sections relevant to potential breaches of consumer protection include sections 52 and 53 of the TPA and sections 18 and 29 of the ACL. section 18 of the ACL (formerly section 52 of the TPA) prohibits a corporation in trade or commerce from engaging in misleading or deceptive conduct or conduct that is likely to mislead or deceive. Section 29 of the ACL (formerly section 53 of the TPA) prohibits a corporation in trade or commerce from making false or misleading representations in connection with the promotion or supply of goods or services.

The ACL does not contain consumer protection provisions specific to the telecommunications sector. The ACCC's enforcement and compliance work in this area is informed by engagement with a number of organisations and a range of sources of information. This includes contacts and complaints to the ACCC's Infocentre, complaints from traders within the sector, information from the TIO based on its handling of complaints as well as engagement with other regulators and representative groups including Choice and ACCAN.

In 2010–11, the ACCC registered a total of 4080 complaints about the telecommunications industry. This was an 18 per cent decrease from the 4970 complaints and inquiries received in the previous year. About 33 per cent of contacts raised concerns that were referred to more appropriate bodies, such as the TIO (see section 2.1 for further information). A complainant may be referred to the TIO if the complainant is a small business or residential customer who has an isolated complaint about their telephone or internet service, including complaints about billing or faults.

4.1 Investigations conducted in 2010–11

The ACCC undertook 16 major investigations under Part V and the ACL during 2010–11, down from 23 in the previous year. Eight of these investigations were on foot at the start of the reporting period and eight of these investigations began during 2010–11.

The ACCC continued to monitor advertising practices against court-enforceable undertakings given in 2009 by Telstra, Optus Pty Ltd and VHA (representing Vodafone and 3 mobile brands) to change their advertising and marketing practices. Where matters could not be resolved administratively, the ACCC took enforcement action. The undertakings expired in September 2011.

The following major ACCC investigations were conducted during 2010–11.

4.1.1 Broadband download quotas

In September 2010, the ACCC instituted proceedings in the Federal Court against Optus, alleging that advertising by Optus promoting certain 'Think Bigger' and 'Supersonic' broadband plans was misleading and deceptive. Optus failed to sufficiently disclose that, once the peak period allowance had been exceeded, the customer's speed would be limited to 64kbps for the remainder of the month. This meant that a consumer would not receive the plan's promised headline total allowance of broadband usage. In July 2011, the Federal Court found that Optus had engaged in misleading and deceptive conduct and ordered that Optus pay a penalty of \$5.26 million. Other outcomes included an injunction restraining Optus from engaging in similar conduct for three years and corrective advertising orders including in-store posters and website notices.

4.1.2 Pricing

In November 2010, the ACCC instituted proceedings in the Federal Court against TPG Internet Pty Ltd. The ACCC alleged that advertising by TPG promoting its \$29.99 Unlimited ADSL2+ plan was false and misleading as it represented that consumers could acquire the broadband service for \$29.99 per month. In fact, the service was only available when purchased together with home phone line rental from TPG at an additional cost of \$30 per month. The ACCC also alleged that TPG did not disclose the obligation to pay additional up-front charges and did not prominently specify the minimum charge. In November 2011, the Federal Court found that TPG had engaged in false and misleading conduct. A relief hearing took place on 19 and 20 December 2011.

In December 2010, Dodo Australia Pty Ltd paid a penalty of \$26 400 due to its false and misleading advertising of its Unlimited ADSL2+ broadband plan. In the ACCC's view, Dodo's advertisements represented that customers could purchase the ADSL2+ broadband service alone for \$39.90 per month, when in fact customers could only purchase that plan if they also purchased a home telephone plan which cost an additional \$29.90 per month.

4.1.3 Mobile services

In August 2010, the ACCC instituted legal proceedings in the Federal Court against EDirect Pty Ltd, which also trades as VIPtel Mobile. The ACCC alleged that EDirect engaged in false and misleading conduct by telemarketing mobile phone contracts to consumers in areas where EDirect was unable to supply its services due to a lack of network coverage. The Federal Court is expected to hand down its judgment in this matter in 2012.

In May 2011, the ACCC issued infringement notices in relation to Optus' advertisements for its 'Max Cap' plans. Optus paid a penalty of \$178 200. The ACCC considered that the advertisements gave the impression that a consumer could purchase these cap plans and expect to pay a maximum specified amount per month, when in fact the specified amount was the minimum the consumer would pay each month. In addition, a number of the advertisements also gave the impression that the consumer could use their call credit to call 'anyone', when in fact only certain call types were included.

In December 2011, the ACCC instituted proceedings against Excite Mobile, alleging that Excite Mobile had engaged in false and misleading conduct by telemarketing mobile phone contracts to consumers in areas where Excite Mobile was unable to supply its services due to a lack of network coverage. The ACCC also alleged that Excite Mobile had engaged in unconscionable conduct in respect of its sales techniques, contract terms and enforcement of those terms.

4.1.4 Mobile phone retail warranties

In January 2011, Optus Mobile Pty Ltd provided court enforceable undertakings to the ACCC, following an investigation into alleged misrepresentations about consumers' rights and remedies for faulty mobile phones. As part of the undertakings, Optus undertook not to mislead consumers regarding their statutory rights and to continue providing a 24 month extended repair warranty for mobile phone handsets it supplies on 24 month fixed contracts, including Apple iPhones.

4.1.5 Mobile premium services

In 2008, the ACCC commenced an integrated approach to address problematic advertising practices in the mobile premium services industry. The strategy has used the ACCC's education and enforcement functions as well as its role in contributing to the implementation and subsequent reviews of the Mobile Premium Services Industry Code. To date, the ACCC has taken action against ten traders involved in the industry. These traders include Clarion Marketing Australia and Star Promotions Club for their respective scratch card promotions and Teracomm Limited for its advertisements in teen magazines.

In October 2010, the ACCC instituted proceedings against Global One Mobile Entertainment Limited and 6G Pty Limited alleging that the respondents engaged in false and misleading and deceptive conduct as to the nature and cost of the service in their television advertisements for mobile premium services. The advertisements featured subscription services for the video games Space Invaders and Doodle Jump, the ringtone for Justin Bieber's One Time and the MobileGold Superquiz. Final Orders handed down in June 2011 included penalties totalling \$375 000 following a preliminary judgment in the ACCC's favour. The respondents appealed the court's decision. Judgment is pending.

The ACCC's other work in the mobile premium services area during the 2010–11 period included:

- educating consumers and industry about the ACCC's concerns;
- working with the Australian Communications and Media Authority (ACMA) and the TIO to address consumer complaints, and
- participating in the scheduled review of the Mobile Premium Services Industry Code, which commenced in mid-2011. In October 2011, the ACCC made a submission to the review recommending additional safeguards to ensure consumers did not unwittingly sign up to expensive ongoing 'subscription' services.

Although there has been a decline in complaints about mobile premium services, the ACCC considers that there are risks to consumers from new services in the online environment (for example, internet pop ups, including those promoted in smart phones applications) that adopt the mobile premium services business model. The ACCC is monitoring those emerging services.

4.2 Broadband speed claims

The ACCC released an information paper in July 2011 to provide guidance to ISPs on their obligations under the CCA when making claims regarding the data transfer rates (i.e. 'speeds') available to acquirers of HFC and fibre-to-the-premises (including NBN) services. The aim of this publication was to ensure that ISPs do not mislead consumers when marketing the performance of their services. The release of the paper was followed by industry engagement seminars in both Sydney and Melbourne in late July 2011.

4.3 Review of unfair contract terms in the telecommunications industry

A review of the publicly available standard form consumer contracts offered by 11 major telecommunications businesses commenced in December 2010. The review was part of the ACCC's review of unfair contract terms in the telecommunications industry.

The review of contracts identified a range of issues and concerns commonly occurring in the telecommunications industry. These issues and concerns included terms to unilaterally vary the contract without an accompanying notice, providing the customers with the right to terminate the contract, and terms enabling the business to terminate the contract without payment of a penalty or refunding pre-paid credits.

The ACCC met with the 11 telecommunication businesses that were part of the review about both specific terms and industry-wide consumer protection issues. The ACCC was able to bring about greater compliance with the unfair contract terms laws by negotiating changes to standard form consumer contracts. This phase of the review has seen positive changes to over 50 telecommunications consumer contract terms.

4.4 Other activities

4.4.1 Telecommunications Consumer Protection Code review

The ACCC continued to participate in Communications Alliance's review of the Telecommunications Consumer Protection Code (TCP Code).

A key issue for the ACCC has been ensuring the revised TCP Code is supported by a strong enforcement and compliance monitoring framework capable of quickly identifying non-compliance and allowing direct enforcement action.

In December 2011, the ACCC made a public submission to the TCP Code review, noting that industry's proposed compliance framework was not sufficiently strong to deter non-compliance. The submission supported the ACMA introducing direct regulation, such as Industry Standards and implementing the key consumer protection recommendations from its Reconnecting the Customer public inquiry.

4.4.2 The ACMA's Reconnecting the Customer Inquiry

In the ACCC's view, the ACMA's Reconnecting the Customer public inquiry was a significant opportunity to investigate and address underlying market and regulatory issues that contribute to poor consumer outcomes in the telecommunications sector.

Throughout 2010–11, the ACCC actively participated in the inquiry and made public submissions in October 2010 and August 2011.

The ACMA released the final inquiry report in September 2011. The report contained a range of recommendations aimed at materially improving consumer experiences. The ACCC supports the substance of these recommendations and their implementation via ACMA-created Industry Standards.

5 Monitoring and reporting

The ACCC collects information to monitor the behaviour of communications industry participants and to develop appropriate regulatory responses. The ACCC has the power to establish RKR's which define the data and information that telecommunications carriers are required to keep and provide to the ACCC on an ongoing basis. The ACCC also has the power under section 155 of the CCA to obtain information and documents from the carriers in relation to a communications matter.

The Minister can require that the ACCC monitor and report on various aspects of competition within the industry.

5.1 Ongoing and new monitoring and reporting activities

5.1.1 Telstra's compliance with its retail price controls

Since 1989, Telstra has been subject to arrangements that limit its ability to increase its retail prices. The controls are set by government through ministerial determination and were most recently amended in June 2010.

The central framework of Telstra's retail price control arrangements consists of a series of price caps that apply to specified 'baskets of services'.

- The first basket of services consists of local calls, trunk calls (which include national long-distance and fixed-to-mobile calls), international calls and line rentals. This basket is subject to a price cap of consumer price index (CPI)–CPI per cent. This means that Telstra is entitled to change the individual prices of the services within the basket as it wishes, but the aggregate price of all services in the basket must not increase in nominal terms.
- The second and third baskets consist of Telstra's most basic line rental product offered to residential customers and to business customers respectively. In 2010–11 these baskets were subject to a price cap of CPI–0 per cent.
- The fourth basket consists of connection services and is subject to an annual price cap of CPI–0 per cent.

All PSTN services are subject to the price caps, except those supplied to large business customers on individual contracts. If Telstra prices below the maximum level permissible, the difference may be carried forward as a credit into the next price cap period. The price control arrangements also require the charges for Telstra's most basic line rental product and untimed local calls to be broadly similar for metropolitan and non-metropolitan end-users, and for Telstra to comply with other specific pricing and notification requirements.

The ACCC is required to report annually to the Minister on the adequacy of Telstra's compliance with its obligations. In March 2011, the ACCC reported that it was satisfied that Telstra complied with its obligations for the 2009–10 period.

5.1.2 Communications infrastructure

The ACCC requires telecommunications network infrastructure data to inform its regulatory decisions. This information is gathered under two RKR:

- The Telstra customer access network (CAN) RKR requires Telstra to provide key information about the number of services provided over its copper network. The services include voice, DSL, ULLS and LSS. The ACCC publishes summary data from the Telstra CAN RKR periodically.
- The Audit of Telecommunications Infrastructure Assets RKR requires 21 specified carriers to report on the locations of their core network and CAN infrastructure. The purpose of this RKR is to provide the ACCC with a consistent and coherent database to inform regulatory decisions. Seventeen responses were received from industry during the 2010–11 period.

The ACCC collected information under both RKRs in 2010–11. This information was used internally, although some data collected under the CAN RKR was made public.

5.1.3 Accounting separation

The aim of accounting separation is to increase competition by making the comparative treatment of the retail business and wholesale customers more transparent. In 2002, the government made provision for an enhanced accounting separation of Telstra's wholesale and retail operations with the passage of the *Telecommunications Competition Act 2002*. In accordance with this Act, the Minister made a direction instructing the ACCC to issue RKRs requiring Telstra to provide reports on:

- current and historical costs under the telecommunications industry accounting framework;
- imputation analysis comparing Telstra's retail prices and the costs faced by access seekers in buying core telecommunications services—LCS, public switched telephone network originating/terminating access (PSTN OTA) and ULLS—from Telstra, to indicate whether margins are sufficient to allow efficient firms to compete against Telstra in the retail market, and
- key performance indicators on non-price terms and conditions (NPTC) that compare Telstra's customer service performance in specified retail and wholesale supplied services.

The ACCC reports on a biannual basis for current cost accounting and on a quarterly basis for imputation and NPTC.

The ministerial direction also provided for the ACCC to report on competition in the provision of services to corporate customers. Following instructions from the Minister in 2005–06 to defer any activities that may place undue burden on industry, the ACCC identified that collecting this data from industry created a significant burden and ceased reporting on corporate competition.

5.1.4 Annual report on retail telecommunications prices

Published jointly with this report, the ACCC also reports on telecommunications prices as part of monitoring and reporting requirements outlined under Part XIB (Division 12) of the CCA. This report covers movement in prices for retail voice, dial-up and broadband services.

5.1.5 Bundled services RKR

Since 2003, the ACCC has monitored the bundling arrangements that Telstra offers to its residential customers. This monitoring requirement grew from a concern about the effects of bundling on competition in telecommunications markets. Telstra supplies quarterly reports on its bundling arrangements, including data on the number of customers on each arrangement. However, the ACCC does not provide any public reports based on the bundling data.

5.1.6 Access to Telstra exchange facilities RKR

In order to provide DSL services via the ULLS or LSS, access seekers need to install DSLAM equipment in Telstra's exchanges. In 2007, there were concerns from access seekers about delays in obtaining access to exchanges, as well as a lack of oversight of Telstra's decisions about whether an exchange had run out of room ('capped').

In 2008, the ACCC issued an RKR requiring Telstra to keep and retain records and give reports to the ACCC relating to access to Telstra exchange facilities. The RKR requires Telstra to give monthly reports to the ACCC about decisions to cap and uncap exchanges and the amount of space in an exchange reserved by Telstra for its own anticipated future requirements. The RKR also requires Telstra to report on the details of queued access seekers, their position in the queue and any progress in the queue.

The ACCC considers that the RKR provides independent oversight of Telstra's processes to ensure that access is not unreasonably denied. The RKR is also intended to provide confidence to access seekers investing in competitive DSLAM infrastructure about the accuracy of Telstra's processes.

The ACCC also issued a disclosure direction to Telstra to publicly disclose certain RKR information on a monthly basis. The information to be disclosed included both:

- the number of capped exchanges, and
- the types of construction works required to access specific exchanges, and the queued access seekers at exchanges.

These monthly reports are published on the ACCC website. The reports show that the number of queued exchanges decreased significantly from 148 to 25 over the 12 months to 30 June 2011. There were no capped exchanges at 30 June 2011, although 22 exchanges were potentially capped if out-of-ordinary works were not completed.

5.1.7 Tariff filing

Tariff filing refers to the provision of certain information about changes in prices. The ACCC's tariff filing powers can be divided into two distinct parts:

- general telecommunications tariff filing (Part XIB, Division 4 of the CCA), and
- Telstra-specific tariff filing (Part XIB, Division 5 of the CCA).

Tariff filing directions

Under Part XIB (Division 4) of the CCA, the ACCC may direct a carrier or CSP to provide information on charges for specified carriage services and/or ancillary goods and services, or information on its intentions regarding those goods or services. The ACCC may request this information if it is satisfied that the carrier or CSP has a substantial degree of market power in a telecommunications market.

During the 2010–11 period, there were no tariff filing directions in force.

Tariff filing by Telstra

Part XIB (Division 5) of the CCA requires Telstra to provide the ACCC with a written statement setting out any proposed pricing changes for a basic carriage service (BCS) seven days before the change occurs. A BCS allows for communication between two or more distinct places, supplied by fixed-line or satellite-based facilities, but does not include the supply of customer equipment.

A strict interpretation of Division 5 would require Telstra to provide complete details of all offerings, both standard and individualised (non-standard), along with all variations. However, in order to reduce the administrative burden of this requirement on Telstra and the ACCC, both parties have agreed that relevant information would be provided only for those BCSs identified by the ACCC as assisting to detect potential anti-competitive behaviour.

Under the agreement:

- Telstra is to provide its standard form of agreement on a weekly basis, along with a list of all amendments (additions, variations, and withdrawals) that have taken place during that week.
- Telstra is to provide a monthly summary report of any non-standard form of agreement entered into for that calendar month.
- Telstra is to brief the ACCC if it has introduced, varied or withdrawn an offer for a BCS and considers that change to be significant.
- The ACCC may also request a briefing to obtain information about any amendments to Telstra's standard form of agreement or about a non-standard form of agreement.

During the 2010–11 period, Telstra complied with the requirements to give the ACCC tariff filing information.

5.1.8 Regulatory accounting framework

Accounting separation allows information relating to the retail and wholesale businesses of telecommunications services carriers to be obtained by the ACCC. This in turn assists the ACCC with investigations of anti-competitive conduct, arbitration of access disputes and the establishment of access prices. The regulatory accounting framework (RAF) specifies the information that carriers are required to report on, how these reports are prepared and the timeframes associated with preparation and lodgement of reports. The RAF RKR was established to meet the objective of facilitating the accounting separation regime by targeting carriers who have vertically integrated operations and who can exercise market power.

The RAF RKR consists of 23 rules that detail the financial reporting requirements that apply to a carrier notified by the ACCC. The reporting carriers at this time are AAPT, Optus, Primus, Telstra and VHA.

The RAF RKR applies a vertical and horizontal accounting separation model that allows revenue and cost information for wholesale and retail services to be reported. The RAF RKR also requires notified carriers to report on service usage information, such as the number of local calls and the number of national long distance minutes.

The core financial reports required by the RAF RKR are:

- capital adjusted profit and loss statements
- capital employed statements
- fixed asset statements
- weighted average cost of capital (WACC) report
- service usage reports.

Only Optus and Telstra are required to prepare all the core financial reports. AAPT, Primus and VHA are required to prepare only profit and loss statements, fixed asset statements and service usage reports.

All reporting carriers are also required to prepare a Regulatory Accounting Procedures Manual that provides a detailed explanation of how the carrier will comply with the RAF RKR.

RAF RKR data has also been used by the ACCC in assessing undertakings and establishing indicative prices for regulated services. The RAF RKR data has been used to determine cost and asset values as part of determining prices under the Building Block Model framework.

5.1.9 Media content monitoring

The ACCC recognises that access to compelling content may be a critical factor in developing a viable business case in existing and emerging media markets. In 2010–11, the ACCC continued to review and analyse content markets in the course of both its transactional activities (such as its assessment of the proposed FOXTEL/Austar merger under section 50 of the CCA) and contributions to government regulatory review processes (such as its submission to the Convergence Review).

6 Access to telecommunications network services

This chapter outlines how the ACCC regulated access to telecommunications networks during the reporting period. Regulated access is required to provide competition in parts of the sector where the high cost of building networks means that there would otherwise be only one or a small number of operators.

Part XIC of the CCA provides for the industry specific access regime for the telecommunications industry that is administered by the ACCC. The primary objective of the telecommunications access regime is to promote the long-term interests of end-users by:

- promoting competition in telecommunications markets
- achieving any-to-any connectivity (ensuring communication between end-users, whether or not the end-users are connected to the same network)
- encouraging the economically efficient use of, and investment in:
 - infrastructure by which listed services are supplied; and
 - any other infrastructure by which listed services are, or are likely to become, capable of being supplied.

Section 6.1 discusses legislative amendments that have occurred during 2010–11. The rest of the chapter discusses how the ACCC has regulated access to the telecommunications networks through the numerous legislative instruments.

6.1 Legislative amendments

There were two significant rounds of legislative amendments during the 2010–11 financial year that related to regulated access to services. Two relevant pieces of legislation were the:

- *Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Act 2010* (CACS Act); and the
- *Telecommunications Legislation Amendment (National Broadband Network Measures–Access Arrangements) Act 2011* (NBN Access Act).

Firstly, the CACS Act implemented considerable changes to the role of the ACCC under Part XIC of the CCA and brought greater clarity as to the regulatory framework under which it is to operate into the future.

Secondly, the NBN Access Act amended the CCA and the Telecommunications Act to introduce new access, transparency and non-discrimination obligations relating to the supply of wholesale services by an NBN corporation (such as NBN Co), as well as ‘level playing field’ provisions for designated superfast telecommunications networks.

6.1.1 Part XIC of the CCA

While the objectives of the telecommunications access regime in Part XIC of the CCA remain the same, the amendments made by the CACS Act introduce a hierarchy of regulatory access mechanisms. The regulatory mechanisms are the following (in descending order):

- access agreements;
- special access undertakings;
- binding rules of conduct, and
- access determinations.

Each of these is explained later in this chapter.

6.1.2 Additional access arrangements for NBN Co and operators of superfast networks

The legislative amendments also created a number of specific obligations for NBN Co and operators of designated superfast telecommunications networks, in relation to the provision of access to their services supplied on the NBN and designated superfast telecommunications networks.

As explained under section 6.2, services are only subject to standard access obligations and regulatory oversight under Part XIC if they are 'declared'. The legislative amendments prohibit NBN Co from supplying eligible services unless they are declared.

Part XIC provides for NBN Co to formulate and publish open offers to provide access to its services. The terms and conditions that comprise these offers are known as Standard Forms of Access Agreement (SFAA). If a SFAA is available on NBN Co's website, NBN Co is obliged to enter into an access agreement on request by an access seeker on the terms and conditions contained in that SFAA. Publication of a SFAA by NBN Co on its website also has the effect of declaring the relevant service.

In general, NBN Co must provide open and non-discriminatory access to its services.

The legislative amendments also introduce level playing field requirements for non-NBN superfast networks. These provisions require designated superfast telecommunications networks to supply superfast broadband on broadly the same basis as NBN Co: wholesale only, open access and on a non-discriminatory basis between access seekers.

Further information on the regulatory framework that applies to the NBN and the ACCC's activities within this framework are provided in Chapter 7.

6.2 Declaration of telecommunications services

The Part XIC access regime applies to declared services only. Services can be declared via the following methods:

- the ACCC declares a service after holding a public inquiry
- the ACCC accepts a special access undertaking for the service or
- in the case of NBN Co only, publishes an SFAA in relation to the service on its website.

Once a service is declared, the access provider is required to comply with standard access obligations. Standard access obligations facilitate access to the declared service in order for access seekers to provide carriage or content services using the declared service. Standard access obligations include the obligations to supply either a declared service upon request and interconnection to facilities upon request.

Telecommunications services—declaration provisions: A guide to the declaration provisions of Part XIC of the TPA (now the CCA) explains the ACCC's approach to declarations, including the matters that it must consider and how it will consider them. The guide also contains a section dealing with procedural issues, such as the public inquiry process.⁸⁵

The ACCC undertook a number of activities in 2010–11 in relation to the declaration of services.

6.2.1 Local bitstream access service declaration

The NBN Access Act introduced amendments to both the Telecommunications Act and the CCA regarding Layer 2 bitstream services. These amendments set out a regime to regulate the provision of Layer 2 bitstream services to ensure that these services are offered on an open and equivalent access basis.

The new subsection 152AL(3C) of the CCA provides that the ACCC must declare a Layer 2 bitstream service (referred to as the local bitstream access service or LBAS) as soon as practicable after the provision commences. This declaration cannot be varied or revoked at any time after it is declared. The declaration will not have an expiry date and will continue indefinitely.

In August 2011, the ACCC commenced a public consultation process about the service description for the LBAS. In November 2011, the ACCC released a draft final report giving industry and key stakeholders a further opportunity to comment before the declaration is made. The ACCC declared the service on 22 February 2012, which took effect on 12 April 2012.

⁸⁵ Australian Competition and Consumer Commission, *Telecommunications services—declaration provisions: A guide to the declaration provisions of Part XIC of the TPA*, ACCC, <http://intranet.accc.gov.au/content/index.php/html/itemId/324247>.

6.2.2 NBN bitstream service declaration

As discussed above, publication of a SFAA by NBN Co on its website has the effect of declaring the relevant service.

As at 31 December 2011, NBN Co had formulated and published four Standard Forms of access agreement:

- the First Release Sites Trial Agreement;
- the First Release Satellite Service (Trial) Agreement;
- the Interim Satellite Service Agreement (First Release), and
- the Wholesale Broadband Agreement (WBA).

The publishing of these agreements by NBN Co means that the services covered by these agreements are declared and subject to regulation by the ACCC.

6.2.3 Wholesale ADSL inquiry

In December 2011, the ACCC commenced an inquiry into the declaration of wholesale ADSL services. This inquiry was initiated because access seekers were concerned that a lack of regulated access to wholesale DSL services impeded their ability to compete with Telstra.

The inquiry comes after an ACCC investigation of allegations of vertical price squeeze conduct by Telstra in 2010, as discussed in section 3.1.1.

In deciding whether to declare wholesale ADSL, the ACCC must consider whether declaration would promote the long-term interests of end-users (LTIE) of carriage services, or of services supplied using carriage services. The ACCC will also consider matters such as the extent to which effective competition is likely to develop over competing networks, and whether other regulation (in particular Telstra's proposed structural separation undertaking) is likely to redress potential competition concerns.

6.2.4 Variation of the declaration for the domestic transmission carriage service (DTCS)

In September 2010, the ACCC issued a final report varying the DTCS declaration. The ACCC decided to vary the DTCS service description to cover all commonly used network interfaces used on transmission networks in Australia, including Ethernet.

6.3 Exemptions

The CACS Act repealed certain exemption provisions of the CCA. As a result of these changes, 'ordinary individual exemptions' and 'ordinary class exemptions' from the standard access obligations for declared services are no longer available. Anticipatory exemptions are still available where a service has not yet been declared.

There were no ordinary individual exemption applications or ordinary class exemption applications made or decided with regard to the declared services in 2010–11.

However, the ACCC can still effectively grant exemptions from regulations when it sets the terms and conditions of access, through what are known as access determinations (see section 6.7 for further information). As part of the ACCC's final access determinations for the declared fixed-line services, the ACCC incorporated the following exemption orders from the Australian Competition Tribunal:

- the individual exemption order made in August 2009 in relation to the wholesale line rental (WLR) service;
- the individual exemption order made in August 2009 in relation to the local carriage service (LCS);
- the individual exemption order made in September 2009 in relation to the PSTN originating access service (PSTN OA), and
- the individual exemption order made in September 2009 in relation to the PSTN OA service in CBD areas.

The number of ESAs exempted through these orders was 181 as of 30 June 2011.

In September 2011, the ACCC commenced a public inquiry into varying the geographic exemptions from regulation for WLR, LCS and PSTN services. Such an inquiry was foreshadowed by the ACCC when it made final access determinations for these services. The arrangements meant that geographic areas became exempt when certain conditions for the competitive supply of resale services were met. The ACCC released a final decision in December 2011 to remove the exemption provisions, effectively re-regulating the services in the relevant areas.

6.4 Access agreements

Parties are free to negotiate and enter into commercially agreed terms and conditions of access to declared services. From 1 January 2011, providers of declared services are required to lodge with the ACCC all commercial agreements (access agreements) relating to access to a declared service. Access agreements made or varied after 1 January 2011 are required to be lodged within 28 days after the day on which the agreement was entered into, or the service is declared, as relevant.

While the ACCC is not required to approve access agreements, compliance with the lodgement requirements is a carrier licence condition and service provider rule. The requirement to lodge access agreements with the ACCC was introduced by the CACS Act and is intended to assist ACCC regulatory decision making under Parts XIB and XIC of the CCA.

6.5 Special access undertakings

Previously, carriers were able to propose terms and conditions of supply for access to a declared service through access undertakings. These terms and conditions would apply if the undertaking was approved by the ACCC.

The ability of parties to lodge ordinary access undertakings has been removed, but the ability to lodge special access undertakings (SAU) has been retained. An SAU relates to a service that has not yet been declared and for which no access determination is in place.

An SAU may now include terms and conditions known as 'fixed principles' in order to provide greater certainty for the carrier. If the SAU is approved, such fixed principles are locked in and the ACCC is limited from using these terms as a basis for rejecting a future SAU.

Another change is that there is greater flexibility for a carrier to vary an SAU in response to ACCC concerns, rather than the ACCC rejecting an unsuitable SAU and requiring the submitter to restart the lodgement process.

NBN Co submitted a Special Access Undertaking to the ACCC on 5 December 2011. The ACCC began consultation as part of its assessment of the SAU.

6.6 Binding rules of conduct

The ACCC now has the power to make binding rules of conduct (BROC) for the supply of a declared service where it considers that there is an urgent need to address problems relating to the supply of the service. BROCs operate temporarily either in advance of, or as a type of variation of, an access determination. The duration of a BROC is limited to a maximum of 12 months.

The ACCC did not make any BROCs in 2010–11.

6.7 Access determinations

Access determinations are written determinations made by the ACCC which set out a base set of price and non-price terms relating to access to a declared service. Access seekers can rely on an access determination if they are unable to come to an agreement with an access provider on the terms and conditions of access to a declared service. If parties do come to an agreement on terms and conditions of access, their access agreement will prevail over the access determination to the extent of any inconsistency. Access determinations require a public consultation process and a final access determination must be in place within six months of a service becoming declared. Access determinations may specify any or all terms and conditions for compliance with any or all applicable standard access obligations.

Access determinations largely replace the role that the ACCC had in arbitrating disputes between parties over access to declared services. The transitional provisions of the CACS Act allows an access seeker or access provider to notify an access dispute in relation to a declared service until an FAD has come into force relating to that declared service. However, after an FAD for a declared service has come into force, no access disputes can be notified in relation to that declared service. The ACCC made a number of interim access determinations (IADs) and FADs in 2010–11 (see below).

The ACCC also set out a proposed change to the 1997 access pricing principles for declared fixed-line services. However, the ACCC suspended this review in December 2010 as the power to make access pricing principles was removed from Part XIC of the CCA by the new legislation.

6.7.1 Fixed-line services

The ACCC made final access determinations (FADs) for declared fixed-line services in July 2011. These services are the LCS, LSS, PSTN OA, PSTN terminating access service (PSTN TA), ULLS and WLR.

The FADs were backdated to the 1 January 2011 and incorporated the orders of the Australian Competition Tribunal in regards to exemptions for the WLR, LCS and PSTN OA declared services (see section 6.3 above). They also included prices set in the interim access determinations made in March 2011. The interim access determinations had been effective from 1 January 2011.

As discussed in section 6.3, the ACCC varied these final access determinations to remove geographic exemptions in December 2011.

6.7.2 Mobile terminating access service

The domestic mobile terminating access service (MTAS) is a wholesale input used by providers of fixed-to-mobile and mobile-to-mobile calls to allow their customers to call mobile subscribers. The ACCC made a FAD for the MTAS in December 2011. The FAD reduced the regulated MTAS rate from 6 cents per minute on 1 January 2012 to 3.6 cents per minute on 1 January 2014. It will expire in June 2014.

6.7.3 Domestic transmission capacity service

The domestic transmission capacity service (DTCS) is the service which provides connectivity between both fixed and wireless access networks and upstream services such as internet connectivity and interconnection with other networks. Following public consultation on DTCS pricing conducted earlier in 2010, the ACCC issued a position paper in November 2010 announcing a domestic benchmarking approach to determining prices for the DTCS.

In April 2011, the ACCC issued an IAD which set regulated prices for the DTCS for the first time. The IAD was backdated to commence on 1 January 2011.

In June 2011, the ACCC commenced a public inquiry into making an FAD for the service. The consultation process included a discussion paper on price and non-price terms, the publication of a draft regression model and a public industry forum. The ACCC published a draft DTCS FAD in December 2011 and expects to complete the inquiry and issue an FAD for the DTCS by 30 June 2012.

6.8 Access disputes

The CACS Act repealed the arbitration provisions in the CCA from 1 January 2011.

Once a final access determination for a particular declared service has come into force, no access disputes can be notified in relation to that declared service. However, under transitional provisions, the ACCC can continue to hear an ongoing access dispute.

6.8.1 Arbitration of access disputes

Table 6.1 outlines the access disputes that were before the ACCC for arbitration during the 2010–11 period. The ACCC was notified of a further 13 access disputes for arbitration during the reporting period, seven of which related to the LSS and six related to the WLR.

Table 6.1: Arbitration of access disputes 2010–11

Service	1 July 2010	New disputes lodged	Disputes finalised	Disputes withdrawn	30 June 2011
ULLS	3	6	2	1	6
LSS	0	7	0	0	7
DTCS	0	0	0	0	0
LCS	2	0	2	0	0
WLR	3	0	2	1	0
PSTN TA	0	0	0	0	0
PSTN OA	0	0	0	0	0
MTAS	4	0	0	4	0
Total	12	13	6	6	13

Six access disputes (relating to the LCS, ULLS and WLR declared services) were finalised in August 2010. The ACCC used the indicative price provided under the relevant pricing principles for these disputes. Six access disputes were withdrawn by parties during the year, with four in relation to the MTAS.

The ACCC continues to arbitrate 13 access disputes in regard to ULLS and LSS that were notified prior to the making of the final access determination for the declared fixed-line services.

6.8.2 Publications made

The ACCC may decide to publish an interim or final determination that it has made in an arbitration where it considers that doing so would be likely to facilitate the operation of Part XIC of the CCA. A statement of reasons for the determination may also be published.

During the 2010–11 period, the ACCC published eight final determinations and statements of reasons in relation to disputes concerning the LCS, LSS, ULLS and WLR.

7 NBN and superfast networks provisions

Two key pieces of legislation relating to the NBN were introduced in April 2011:

- the *National Broadband Network Companies Act 2011* (NBN Companies Act); and
- the *Telecommunications Legislation Amendment (National Broadband Network Measures—Access Arrangements) Act 2011* (NBN Access Act).

The NBN Companies Act sets out key obligations that limit NBN corporations, such as NBN Co, to wholesale-only telecommunications.

As outlined in Chapter 6, the NBN Access Act amended the CCA and the Telecommunications Act to provide a regulatory framework for the NBN. Amongst other changes, the NBN Access Act sets out provisions to ensure non-discriminatory access to services provided by NBN Co and designated superfast telecommunications networks, as well as other ‘level playing field’ requirements for these designated superfast telecommunications networks.

The NBN Access Act also introduced changes to the CCA which reflect the outcomes of the ACCC and NBN Co’s joint process in 2010–11 to establish points of interconnection to the NBN Co network. Further information is provided in section 7.2 below.

7.1 NBN Companies Act

The NBN Companies Act provides the regulatory framework for the wholesale only structure of NBN corporations (such as NBN Co) and addresses issues of government ownership and the arrangements for the eventual sale of the Commonwealth’s stake in NBN corporations. The objects of the NBN Companies Act, when read together with Part XIC of the CCA, are to:

- ensure that the supply of an eligible service by an NBN corporation is on a wholesale only basis;
- ensure that an NBN corporation does not supply a content service or a non-communications service;
- ensure that an NBN corporation does not supply goods that are not for use in connection with the supply of an eligible service by an NBN corporation;
- restrict the investment activities of NBN corporations;
- provide a framework for the functional separation of NBN corporations and a framework for the divestiture of assets of NBN corporations, and
- ensure that an NBN corporation provides open access to eligible services on a non-discriminatory basis.

An NBN corporation will operate as a wholesale only telecommunications company in terms of the services and goods that it supplies, as well as the investments that it makes. NBN corporations are wholly Commonwealth owned, and are prescribed as a government business enterprise.

The government may impose conditions on an NBN corporation’s carrier licence that require it to supply a specified telecommunications service (a ‘mandatory service’), or prohibit it from supplying a specified carriage service (a ‘prohibited service’).

The ACCC must be consulted prior to making these licence conditions.

The government may also require the functional separation of NBN corporations, and/or direct an NBN corporation to transfer or divest its assets. The ACCC has an advisory role in relation to these actions.

The government will retain full ownership of NBN corporations until all of the following have occurred:

- the Communications Minister declares the NBN to be built and fully operational;
- the Productivity Minister has tabled in Parliament a Productivity Commission report into the regulatory framework for the NBN, and
- the Finance Minister declares conditions are suitable to carry out an NBN Co sale scheme.

The NBN Companies Act enables the making of regulations that limit private ownership and control when NBN corporations are no longer wholly Commonwealth owned. The ACCC must be consulted before these regulations are made. These regulations can confer a power to make a decision of an administrative nature on the ACCC.

Reporting obligations will be imposed on NBN corporations when they are no longer wholly Commonwealth-owned.

7.2 Points of interconnection

A point of interconnection (POI) is the connection point that allows retail service providers (RSP) and wholesale service providers (WSP) to connect to the NBN.

In October 2010, following the government's request for advice, the ACCC released a discussion paper on the number and location of initial POIs to the NBN that would best meet the long-term interests of end-users.

In December 2010, the ACCC released its advice to government on the number and location of the initial POIs based on a set of competition criteria. Assisted by the ACCC, NBN Co developed network planning rules in accordance with these competition criteria and in December 2010 identified a list of 120 initial POIs to the NBN.

In December 2010, the ACCC commenced a public confirmation process in respect of the 120 POIs. As an outcome of this process, NBN Co proposed amendments to the original list of POIs in consultation with the ACCC. The revised list of 121 POIs was published by the ACCC in May 2011. The final step in the process will be the formal publication by the ACCC of a 'list in force' pursuant to section 151DB of the CCA.

7.3 Non-discrimination

The NBN Access Act introduced non-discrimination provisions into the CCA. These provisions, amongst other things, prevent NBN Co and other superfast telecommunications network owners from discriminating between access seekers. There are limited exceptions to these provisions. For example, discrimination on the basis that the access seeker is not creditworthy or has failed to comply with similar terms and conditions that other access seekers have complied with, is permitted.

The NBN Access Act makes the Federal Court the final arbiter of what behaviour by NBN Co or other designated network owners constitutes discrimination. Nonetheless, the ACCC plays several key roles in relation to the provisions.

Firstly, the ACCC is required to publish on its website explanatory material to provide guidance to industry on the ACCC's views on the operation of the non-discrimination provisions of the CCA. The ACCC commenced a public consultation process on the draft explanatory material in the second half of 2011 and expects to finalise the explanatory material in the first half of 2012.

Secondly, the ACCC is required to maintain a register of statements of differences between individual access agreements and any SFAA, SAU or access determinations relating to NBN Co. The ACCC is also required to maintain a register of statements of difference between individual access agreements and an SAU or an access determination relating to the LBAS. This will enable access seekers to monitor what variations to standard terms and conditions are available. The registers of the statements of difference are available on the ACCC website.

Thirdly, the ACCC also has an enforcement function with regard to non-discrimination. The ACCC may seek an order from the Federal Court to rectify or compensate an affected party for discrimination by NBN Co or other relevant network owners. Similarly, affected parties can seek orders directly from the Federal Court to enforce the non-discrimination obligations of NBN Co and other relevant network owners.

7.4 Uniform pricing objectives

Part XIB of the CCA establishes a special regime for regulating anti-competitive conduct in the telecommunications industry, in addition to Part IV of the CCA. Part XIB provides that a carrier must not engage in anti-competitive conduct which may occur when a carrier has a substantial degree of power in the telecommunications market and takes advantage of this power to engage in conduct leading to a substantial lessening in competition.

However, NBN Co is authorised under Part XIB of the CCA to engage in conduct that is reasonably necessary to achieve uniform national pricing of eligible services provided by NBN Co. Further, Part XIC contains provisions specifying that the ACCC must not reject a SAU containing price related terms and conditions reasonably necessary to achieve uniform national pricing of eligible NBN services.⁸⁶

7.5 Level playing field exemptions

The NBN Access Act inserts new Parts 7 and 8 into the Telecommunications Act, which are collectively referred to as the 'level playing field provisions'. The provisions are intended to ensure that non-NBN networks capable of supplying a superfast carriage service, wholly or principally to residential or small business customers, must not be used unless:

- a Layer 2 bitstream service is available for supply, and
- services supplied on the network are supplied on a wholesale only basis.

⁸⁶ *Competition and Consumer Act 2010*, s. 152CBD(5A)(c).

The provisions will apply to a network that came into existence, or was upgraded, on or after 1 January 2011. The provisions commenced on 12 April.

A superfast carriage service is defined as a carriage service that enables end-users to download communications where the download transmission speed is normally more than 25 Mbps. The service must also be supplied using a line to premises occupied or used by an end-user. Therefore, these provisions only apply to services supplied over fixed-line networks. The provisions do not apply to services provided over wireless, satellite or NBN networks.

7.5.1 Exemptions

Network controllers, subject to certain conditions, are exempt from the obligation to provide services on a wholesale only basis to utilities including transport authorities, electricity and gas supply bodies, water supply bodies, sewerage services bodies, stormwater drainage service bodies and state or territory road authorities.

Subject to certain conditions, statutory exemptions may apply to:

- extensions to existing superfast networks within current real estate developments;
- extensions to existing network footprints no more than one kilometre from a point on the infrastructure of the existing network, as the network stood immediately before 1 January 2011, and
- specified extensions of a telecommunications network.

In addition to statutory exemptions, the Minister may exempt specified networks, local access lines or owners from the Layer 2 bitstream requirement and/or the wholesale-only requirement. The Minister must consult with the ACCC and the ACMA before granting an exemption.

8 Telecommunications Act provisions

8.1 Structural separation of Telstra

The reforms to the Telecommunications Act introduced by the CACS Act set out the framework for the ACCC's assessment of any structural separation undertaking (SSU) and draft migration plan given by Telstra.

The structural separation of Telstra is intended to address Telstra's vertical integration. In its SSU, Telstra has committed to cease supplying fixed-line carriage services over networks that it controls. However, certain services and networks were exempted by the *Telecommunications (Structural Separation—Networks and Services Exemption) Instrument (No. 1) 2011*.

In June 2011, Telstra announced that it had signed Definitive Agreements with NBN Co. The Definitive Agreements prescribe how Telstra will progressively cease providing broadband and telephony services over its copper and HFC networks as the NBN fibre access network is rolled out throughout Australia. Telstra is currently required to complete its structural separation by 1 July 2018. However, the legislation provides that the Minister for Broadband, Communications and the Digital Economy may specify a later date.

Telstra's SSU must provide for transparency and equivalence in relation to Telstra's supply of regulated services to wholesale customers during the interim period in an appropriate and effective manner. The 'interim period' is the period from the date the SSU comes into force until the date by which its separation must be completed. In addition, the SSU must also provide for the ACCC to monitor Telstra's compliance with the undertaking.

In deciding whether to accept Telstra's SSU the ACCC must apply the criteria set out in the Telecommunications Act, including having regard to the matters set out in the *Telecommunications (Acceptance of Undertaking about Structural Separation—Matters) Instrument 2011*.

Telstra's migration plan is required to specify the action that Telstra will take to cease to supply fixed-line carriage services over its networks and commence to supply fixed-line carriage services over the NBN through setting out a timetable or a method for determining a timetable. The legislation requires the ACCC to approve the draft migration plan if it is consistent with the migration plan principles set out in the *Telecommunications (Migration Plan Principles) Determination 2011*.

Telstra submitted an SSU to the ACCC for assessment in July 2011 and a revised draft migration plan in August 2011.

In August 2011, the ACCC released a discussion paper where it expressed its preliminary view that Telstra's SSU could not be accepted in its current form and that important changes would be required in order for it to become capable of acceptance. The ACCC invited submissions from the public in relation to Telstra's proposed SSU and draft migration plan.

Telstra submitted a revised SSU in December 2011 and the ACCC released an additional public consultation in relation to the revisions. The ACCC expects to make a final decision on the SSU and draft Migration Plan early in 2012.

8.2 Operational separation of Telstra

A framework for the operational separation of Telstra was introduced on in 2006 under the Telecommunications Act.

Operational separation is designed to address concerns that arise from Telstra's ownership of the infrastructure which other telecommunications companies need to access and interconnect with to provide services to consumers. It seeks to promote greater equivalence and transparency in Telstra's supply of certain designated wholesale services. It also aims to provide ongoing assurance that Telstra is not favouring its retail business units by implicitly supplying services to itself at prices that are unjustifiably lower or of higher quality than those offered to downstream competitors.

The role of the ACCC is to monitor and report on Telstra's compliance with its Operational Separation Plan (OSP). If Telstra fails to comply with any aspect of the OSP, ministerial intervention is required before the ACCC can take direct action pursuant to the OSP framework to prevent discrimination continuing. This can be by either amending the OSP or by enforcing the provisions of an existing OSP. Accordingly, the OSP can be seen as a 'two strikes' policy, given that the ACCC can only take enforcement action when a 'rectification plan' has been contravened and that a rectification plan will only exist where the minister has first required Telstra to prepare such a plan and has accepted it.

In 2010–11, the ACCC continued to monitor implementation of the OSP, including the price equivalence framework which was established under it. This framework is used to test the revenue margin resulting from changes in wholesale and/or retail prices as a guide to identifying possible anti-competitive pricing conduct by Telstra. It is intended for this framework to provide competitors, and the public, with an assurance that Telstra's pricing of services is equivalent to that provided to its own retail business. It is also intended to provide Telstra with increased certainty that its pricing decisions do not contravene the CCA.

Structural reforms provided for in the CACS Act will result in the repeal of the current operational separation regime following the coming into force of a structural separation undertaking or a functional separation undertaking.

8.3 Number portability

Number portability allows end-users to change their service provider and retain the same number.

Part 22, Division 2 of the Telecommunications Act requires the ACMA to develop a numbering plan outlining the allocation and use of numbers in connection with the supply of carriage services.

Under the Telecommunication Act, the ACCC has statutory powers to direct the ACMA on number portability. The ACMA cannot insert rules about number portability in the *Telecommunications Numbering Plan 1997* unless directed to do so by the ACCC, and any rules the ACMA includes relating to number portability must be consistent with any directions by the ACCC.

The Numbering Plan is for the numbering of carriage services in Australia and the allocation and use of numbers in connection with the supply of such services.

During 2010–11 the ACCC did not give the ACMA any directions on number portability.

8.4 Industry alliance

During 2010–11, the ACCC continued to observe and in some cases participate in a number of panels and working committees convened by the Communications Alliance, including the:

- Telecommunications Consumer Protection (TCP) Code Review Steering Group—responsible for overseeing the review and revision of the TCP Code and Guideline;
- Consumer Issues Reference Panel—responsible for identifying and reviewing industry issues likely to affect consumers and recommend appropriate action for the ongoing efficient industry response to these issues;
- Network Reference Panel—responsible for overseeing and advising on network (i.e. PSTN, IP, mobile and broadband) related matters;
- Operations Reference Panel—responsible for overseeing and advising on inter-operator issues, and
- Mobile Number Portability Administration Group—responsible for ensuring the efficient operation of mobile number portability within the scope of the Mobile Number Portability Industry Code.

8.5 Access disputes under the Telecommunications Act

In addition to its role as an arbitrator of access disputes under Part XIX of the CCA, the ACCC arbitrates disputes under the Telecommunications Act. Disputes covered by the Telecommunications Act relate to matters such as:

- access to telecommunications transmission towers and underground facilities
- access to supplementary facilities (such as exchanges)
- provision of pre-selection and number portability.

In June 2009, Pipe Networks Pty Ltd notified the ACCC under the Telecommunication Act of a dispute with Telstra about charges for access to Telstra's ducts and related works. The ACCC arbitrated the dispute during 2009–10 and in November 2010 the parties withdrew the dispute.

8.6 International rules of conduct

Division 3 of Part 20 of the Telecommunications Act sets out a mechanism for the government to deal with unacceptable conduct by international operators.

An international telecommunications operator is considered to be engaging in unacceptable conduct if it:

- uses its market power in a manner that is, or is likely to be, contrary to the national interest
- uses any legal rights or legal status that it has as a result of foreign laws in a manner that is, or is likely to be, contrary to the national interest; and
- engages in any other conduct in a manner that is, or is likely to be, contrary to the national interest.

The Minister is empowered by the Telecommunications Act to make rules of conduct to prevent, mitigate or remedy any unacceptable conduct by an international telecommunications operator. The Minister introduced such rules in 1997. The rules of conduct:

- authorise the ACCC to make determinations of a legislative nature imposing requirements, prohibitions or restrictions on carriers or CSPs;
- authorise the ACCC to give directions to carriers or CSPs of an administrative nature that impose requirements, prohibitions or restrictions;
- require carriers and CSPs to comply with ACCC determinations and administrative directions, and
- authorise the ACCC to make information available to the public, a specified class of persons or a specified person.

The ACCC did not conduct any investigations into unacceptable conduct by an international carrier during 2010–11.

9 Radiocommunications Act provisions

The ACCC had some limited responsibilities under the *Radiocommunications Act 1992* during 2010–11. This included monitoring compliance by digital radio multiplex operators with undertakings that determine the terms and conditions by which radio stations can obtain access to the digital radio multiplex service.

Appendix A: Types of internet platforms

Dial-up: uses the voice band frequency to transmit internet data over the copper network and has a headline data download transmission rate at a theoretical maximum of 56 kilobits per second (Kbps).

DSL, including asymmetric DSL (**ADSL**): like dial-up, uses the copper network to provide an internet service. DSL operates at higher frequencies than voice services, and therefore is a form of broadband which operates independently of and simultaneously with the provision of traditional voice services over the same copper pair.

HFC cable: is a combination of optical fibre and coaxial cable, which can be used to provide high-speed broadband services, in addition to pay TV and voice services.

Fibre: refers to optical fibre which can be used to provide high-speed broadband services by transmitting information as light pulses. Optical fibre is capable of carrying much more information than conventional copper wire and is in general not subject to electromagnetic interference and the need to retransmit signals.

Wireless broadband services are offered through both mobile and fixed wireless retail services:

- **Mobile wireless** services have evolved from mobile phone technology, which uses various portions of the radio frequency spectrum. Mobile network technologies allow users to both move between geographic areas or cells and roam between different mobile networks. Users can access mobile wireless broadband networks using 2G, 3G or 4G voice handsets or non-voice service equipment such as USB modems or datacards.
- **Fixed wireless** networks use similar technology to that used in mobile wireless networks. Significantly higher data rates and/or longer transmission distances can be attained from these networks by using fixed directional antenna only (that is, mobility is not supported by these networks).

Satellite broadband: uses geostationary orbiting satellites to relay data signals sent and received via a satellite dish by isolated end-users to and from a ground station connected to a broadband network.

Appendix B: ACCC declared services

The ACCC has issued the following current declarations under subsection 152AL(3) of the CCA:

Domestic transmission capacity service (DTCS)

DTCS is the service which provides connectivity between both fixed and wireless access networks and upstream services such as internet connectivity and interconnection with other networks.

Local bitstream access service (LBAS)

LBAS is a point to point service for the carriage of communications in digital form between a network-network interface and a user-network interface supplied using a designated superfast telecommunications network that is:

- a Layer 2 bitstream service, and
- a superfast carriage service.

Line sharing service (LSS)

LSS is a service that allows access seekers to provide high-speed broadband services to end-users via access to the higher frequency part of the copper line, while the access provider supplies the underlying Public Switched Telephone Network (PSTN) voice service over the same copper line. At this time, Telstra remains the sole supplier of the declared LSS to access seekers.

Unconditioned local loop service (ULLS)

ULLS is a service for access to unconditioned cable, usually a copper wire pair, between an end-user and a telephone exchange. The ULLS gives an access seeker the use of the copper pair without any dial tone or carriage service. This allows the access seeker to use its own equipment in an exchange to provide a range of services, including traditional voice services and high speed internet access to end-users connected to that exchange.

Local carriage service (LCS)

The LCS is a service for the carriage of telephone calls from customer equipment at an end-user's premises to separately located customer equipment of an end-user in the same standard zone. The service is used by Telstra's competitors to resell local calls.

Public switched telephone network originating access (PSTN OA)

PSTN OA is the carriage of telephone calls from the calling party (the A-party) to a point of interconnection (POI) with an access-seeker's network. A POI is usually located at a trunk (or transit) exchange.

Public switched telephone network terminating access (PSTN TA)

PSTN TA is the carriage of telephone calls from a POI within an access seeker's network to the party receiving the call.

Wholesale line rental (WLR)

WLR is a service providing line access to customers, but sold on a wholesale rather than retail basis.

LCS, PSTN OA and WLR are declared services typically purchased by access seekers as a wholesale bundled voice product. When bundled, these services allow access seekers to provide end-users with a fixed voice service package to make local, national, long-distance, international and fixed to mobile telephone calls. These services are traditionally provided by Telstra over its customer access network (CAN).

Mobile terminating access service (MTAS)

MTAS is a wholesale input used by providers of fixed-to-mobile and mobile-to-mobile calls to allow their customers to call mobile subscribers.

Wholesale asymmetric digital subscriber line (ADSL)

The wholesale ADSL service is an internet-grade, best efforts point to point service for the carriage of communications in digital form between a point of interconnection and an end-user network boundary that:

- is supplied by means of Asymmetric Digital Subscriber Line (ADSL) technology over a twisted metallic pair that runs from the end-user network boundary to the nearest upstream exchange or RIM or CMUX, and
- uses a static Layer 2 tunnelling protocol (L2TP) over a transport layer to aggregate communications to the point of interconnection.

Changes in prices paid for telecommunications services in Australia, 2010–11

Report to the Minister for Broadband, Communications and the Digital Economy

Contents

Key results	76
1 Executive summary	77
2 Introduction	81
2.1 Purpose of the report	81
2.2 Structure of the report	81
2.3 Limitations of the methodology	81
3 Telecommunications services index	83
3.1 Main changes	83
4 PSTN voice services index	85
4.1 Main changes	85
4.2 PSTN residential index	87
4.3 PSTN business index	90
4.4 Small business index	93
4.5 Other business index	95
5 Mobile services index	99
5.1 Main changes	99
5.2 GSM services	100
5.3 3G services	103
5.4 Points contribution	104
6 Internet services index	105
6.1 Main observations	105
6.2 Points contribution	106
6.3 DSL internet services	106
6.4 Wireless internet services	106
6.5 Cable internet services	107
6.6 Dial-up internet services	107
7 Tables	109
8 Methodology for determining price change	115
8.1 Index model	115
8.2 Other methodology issues	117
ACCC contacts	119

List of Tables

Table 1.1:	Percentage changes in the PSTN services indexes by service and consumer group, 2010–11 and since base year	77
Table 1.2:	Percentage changes in the mobile services index by user group, 2010–11 and since base year	78
Table 1.3:	Percentage changes in the internet service index by service type, 2007–08 to 2010–11	79
Table 4.1:	Year-on-year percentage change in the PSTN service index by service type over the last decade	86
Table 4.2:	Year-on-year percentage change in the PSTN service index by consumer group over the last decade	87
Table 4.3:	Year-on-year percentage change in the PSTN residential index over the last decade	88
Table 4.4:	Year-on-year percentage changes in the PSTN business index over the last decade	91
Table 4.5:	Year-on-year percentage change in the PSTN business index by business type over the last decade	93
Table 4.6:	Year-on-year percentage change in the PSTN small business index by service type over the last decade	94
Table 4.7:	Year-on-year percentage changes in the PSTN other business index by service type over the last decade	96
Table 5.1:	Year-on-year percentage changes in price indexes for mobile services over the last decade	99
Table 5.2:	Year-on-year percentage changes in price indexes for 3G services	103
Table 6.1:	Year-on-year percentage changes in price indexes for internet services	105
Table 7.1:	Telecommunications services index, 1997–98 to 2010–11	109
Table 7.2:	PSTN services index by service; residential and business, 1997–98 to 2010–11	109
Table 7.3:	PSTN business services index, small and other business 1997–98 to 2010–11	110
Table 7.4:	Mobile services index, 1997–98 to 2010–11	111
Table 7.5:	Mobile services index by network type and user group, 1997–98 to 2010–11	111
Table 7.6:	Internet services index by network type and user group, 2006–07 to 2010–11	112
Table 7.7:	Points contribution to telecommunications services index, 2000–01 to 2010–11	113
Table 7.8:	Points contribution to PSTN services indexes by service, residential and business, 1998–99 to 2010–11	113
Table 7.9:	Points contribution to mobile services index, 2000–01 to 2010–11	114
Table 7.10:	Points contribution to internet services index, 2007–08 to 2010–11	114

List of Figures

Figure 2.1:	Structure of the report and telecommunications index	82
Figure 3.1:	PSTN services index and mobile services index, 1997–98 to 2010–11	83
Figure 3.2:	Points contribution of the PSTN and mobile services indexes to the all telecommunications index, 2010–11	84
Figure 4.1:	PSTN services index by residential and business consumer group, 1997–98 to 2010–11	85
Figure 4.2:	Comparison of share of total consumer PSTN expenditure by service, 1997–98 and 2010–11	86
Figure 4.3:	Points contribution of PSTN services to the PSTN index, 2010–11	87
Figure 4.4:	Index for PSTN services for residential consumers, 1997–98 to 2010–11	88
Figure 4.5:	Year-on-year percentage changes in the price index by PSTN service for residential consumers, 2006–07 to 2010–11	89
Figure 4.6:	Points contributions by individual PSTN services to the residential index, 2010–11	89
Figure 4.7:	PSTN business services index for all business, by small and other businesses, 1997–98 to 2010–11	91
Figure 4.8:	Year-on-year percentage changes in the price index by PSTN service for business consumers, 2006–07 to 2010–11	92
Figure 4.9:	Points contributions by individual PSTN services to the all business index, 2010–11	92
Figure 4.10:	Points contributions by small and other business to the PSTN business index, 2010–11	93
Figure 4.11:	Index for PSTN services for small business consumers	94
Figure 4.12:	Year-on-year percentage change in the price index by PSTN service for small business consumers, 2006–07 to 2010–11	95
Figure 4.13:	Index of PSTN services for other business consumers, 1997–98 to 2010–11	96
Figure 4.14:	Price changes for individual PSTN services for other business consumers, 2006–07 to 2010–11	97
Figure 5.1:	Overall mobile services index, 1997–98 to 2010–11	100
Figure 5.2:	GSM mobile services index, 2000–2001 to 2010–11	101
Figure 5.3:	Year-on-year percentage change in the price index for GSM post-paid services by user group, 2006–07 to 2010–11	102
Figure 5.4:	Year-on-year percentage change in the price index for GSM prepaid services by user group, 2006–07 to 2010–11	102
Figure 5.5:	Year-on-year percentage changes in the price index for 3G post-paid services by user group, 2007–08 to 2010–11	103
Figure 5.6:	Year-on-year percentage changes in the price index for 3G prepaid services by user group, 2007–08 to 2010–11	104
Figure 5.7:	Points contribution by GSM and 3G indexes to the mobile services index 2010–11	104
Figure 6.1:	Points contribution by dial-up, DSL and cable indexes to the internet services index 2010–11	106

Key results

Average real prices for all telecommunications services decreased by 6.0 per cent in 2010–11, and were 17.9 per cent lower compared to 2006–07.

- Prices for fixed-line services in 2010–11 were 42.6 per cent lower than in 1997–98
- Prices for mobile services in 2010–11 were 50.6 per cent lower than in 1997–98
- Prices for internet services in 2010–11 were 17.9 per cent lower than in 2006–07.

Average real prices for PSTN fixed-line services decreased by 7.3 per cent in 2010–11.

- Average real prices for basic access decreased by 4.2 per cent in 2010–11:
 - average real prices for basic access have increased by 60.8 per cent since 1997–98.
- Average real prices for local calls decreased by 8.6 per cent in 2010–11 :
 - average real prices for local calls have decreased by 64.9 per cent since 1997–98.
- Average real prices for national long-distance calls decreased by 7.9 per cent in 2010–11:
 - average real prices for national long-distance calls have decreased by 62.0 per cent since 1997–98.
- Average real prices for international calls decreased by 14.5 per cent in 2010–11:
 - average real prices for international calls have decreased by 80.5 per cent since 1997–98.
- Average real prices for fixed-to-mobile calls decreased by 12.4 per cent in 2010–11:
 - average real prices for fixed-to-mobile calls have decreased by 58.7 per cent since 1997–98.

Average real prices for mobile services decreased by 4.6 per cent in 2010–11.

- Average real prices for global system for mobiles (GSM) services decreased by 9.3 per cent in 2010–11:
 - average real prices for GSM services have decreased by 51.5 per cent since 1997–98.
- Average real prices for third-generation mobile (3G) services decreased by 3.5 per cent in 2010–11:
 - average real prices for 3G service have decreased by 14.2 per cent since 2006–07.

Average real prices for internet services decreased by 3.6 per cent in 2010–11.

- Average real prices for dial-up services decreased by 11.4 per cent in 2010–11.
- Average real prices for DSL broadband services decreased by 3.4 per cent in 2010–11.
- Average real prices for cable broadband services decreased by 3.5 per cent in 2010–11.
- Average real prices for wireless broadband services decreased by 3.5 per cent in 2010–11.

1 Executive summary

The average real prices paid for telecommunications services decreased by 6.0 per cent in 2010–11. The fall in the overall price index reflects the following changes in the average real prices paid by consumers:

- Prices for fixed-line services decreased by 7.3 per cent
- Prices for mobile services decreased by 4.6 per cent
- Prices for internet services decreased by 3.6 per cent.
- All prices referred to in the report are 'real prices'.⁸⁷

PSTN fixed-line voice services

The average price for public switched telephone network (PSTN) services fell by 7.3 per cent in 2010–11. The price for each type of PSTN service also decreased over the same period.

Since 1997–98, the average PSTN price has fallen by 42.6 per cent, while the price for basic access has risen by 60.8 per cent over the same period. However, most of the increases in the basic access occurred before 2005–06. Prices for basic access have declined every year since 2005–06 with the exception of 2009–10. The decline in the average PSTN prices was a result of the decrease in the prices for all types of PSTN fixed-line calls offsetting the increase in the prices for basic access.

Residential consumers and business consumers both continued to experience decreases in the average prices for PSTN fixed-line services in 2010–11. Prices for basic access also decreased for both residential consumers and business consumers in that period.

Table 1.1: Percentage changes in the PSTN services indexes by service and consumer group, 2010–11 and since base year*

	Residential		Business		Overall	
	2010–11	Base year	2010–11	Base year	2010–11	Base year
Basic access	-4.1	80.4	-4.4	28.7	-4.2	60.8
Local calls	-11.5	-65.9	-4.7	-63.6	-8.6	-64.9
National long-distance	-2.5	-57.9	-15.5	-68.1	-7.9	-62.0
International	-13.8	-79.7	-16.6	-82.4	-14.5	-80.5
Fixed-to-mobile	-13.4	-55.6	-11.3	-61.5	-12.4	-58.7
Overall	-6.9	-37.8	-7.9	-49.9	-7.3	-42.6

Note: *Base year is 1997–98

87 This is done by adjusting nominal prices for the effects of inflation using the Australian Bureau of Statistics consumer price index.

Mobile services

The average price for mobile services decreased by 4.6 per cent in 2010–11, and has fallen by 50.6 per cent since 1997–98. Third generation mobile communications (3G) consumers and global system for mobile communications (GSM) consumers both experienced decreases in prices for post-paid and pre-paid services in 2010–11.

Table 1.2: Percentage changes in the mobile services index by user group, 2010–11 and since base year*

	**Very low		Low		Average		High		Very High		All	
	2010–11	Base year	2010–11	Base year	2010–11	Base year	2010–11	Base year	2010–11	Base year	2010–11	Base year
GSM:												
post-paid	-3.2	-71.2	-3.1	-55.4	-5.4	-34.0	-6.2	-47.8	-8.7	-59.7	-7.1	-50.6
prepaid	2.3	-71.8	-1.3	-33.9	-4.9	-46.0	-4.8	-32.3	-17.8	-46.6	-11.4	-48.9
All GSM											-9.3	-51.5
3G:												
post-paid	0.6	2.7	-3.1	-9.1	-3.6	-16.9	-2.6	-2.3	-2.7	-1.8	-2.7	-12.7
prepaid	-4.4	-5.8	-3.8	-9.2	-3.0	-24.4	-4.2	-16.1	-17.4	-35.7	-10.7	-26.2
All 3G											-3.5	-14.2
Overall											-4.6	-50.6

Note: *Base year for GSM post-paid is 1997–98; base year for GSM prepaid is 1998–99; base year for 3G is 2006–07.

**Very low user group: occasional consumers making 5–8 calls a week; low user group: occasional to regular consumers making 9–11 calls a week; average user group: regular to frequent consumers making 2–3 calls a day; high user group: frequent consumers who make 4–5 calls a day; very high user group: very frequent consumers who make 6–10 calls a day.

Prices for code division multiple access (CDMA) services were excluded from the mobile service index in 2008–09 due to service withdrawal.

Internet services

In 2010–11, the average price of internet services fell by 3.6 per cent. The price index for each of the four types of internet technology fell in 2010–11.

Wireless internet services were first included in the internet services index in 2008–09.

Table 1.3: Percentage changes in the internet service index by service type, 2007–08 to 2010–11

	2007–08	2008–09	2009–10	2010–11
Dial-up	-11.0	-13.8	13.1	-11.4
DSL	-5.2	-0.4	-2.0	-3.4
Cable	-5.9	0.5	-1.1	-3.5
Wireless	n.a	-18.5	-14.7	-3.5
Overall	-6.2	-4.6	-4.9	-3.6

Data in report

This report is prepared based on information collected from carriers using a combination of the current Division 12 Record-Keeping Rule (RKR) and information informally requested from carriers by the Australian Competition and Consumer Commission (ACCC).

2 Introduction

2.1 Purpose of the report

The ACCC is required to report each year to the Minister for Broadband, Communications and the Digital Economy on prices paid by Australian consumers for telecommunications services.

This report provides an indication of how average prices paid by consumers for prevailing telecommunications services changed during 2010–11; both on an overall basis and for particular services and groups of consumers.

2.2 Structure of the report

Figure 2.1 shows the structure of the report and each component of the telecommunications services index used to derive the estimates for price changes.

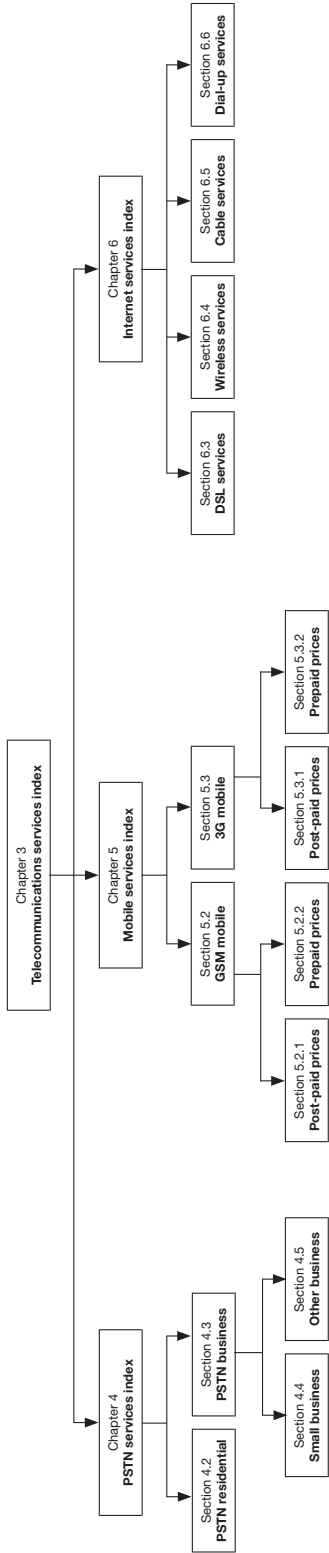
Aggregate results across all reported services are presented in chapter 3. Public switched telephone network (PSTN) services, mobile services, and internet services are discussed in chapters 4, 5, 6 respectively. Data tables are presented in chapter 7. The methodology used to determine price changes is discussed in chapter 8.

2.3 Limitations of the methodology

The methodologies used for calculating prices differ across the service types. For PSTN and dial-up internet services, price changes are estimated using revenue yields. For mobile and internet services (except dial-up internet), price changes are based on determining the average spend of five types of customers, and monitoring the change in price of the most appropriate plan for each group. The latter approach has certain limitations as it relies on matching actual plans to average spends, and a small change in average spend can lead to a sizeable jump (up or down) to a new most appropriate plan.

Further details on the methodology are contained in section 8.

Figure 2.1: Structure of the report and telecommunications index



3 Telecommunications services index

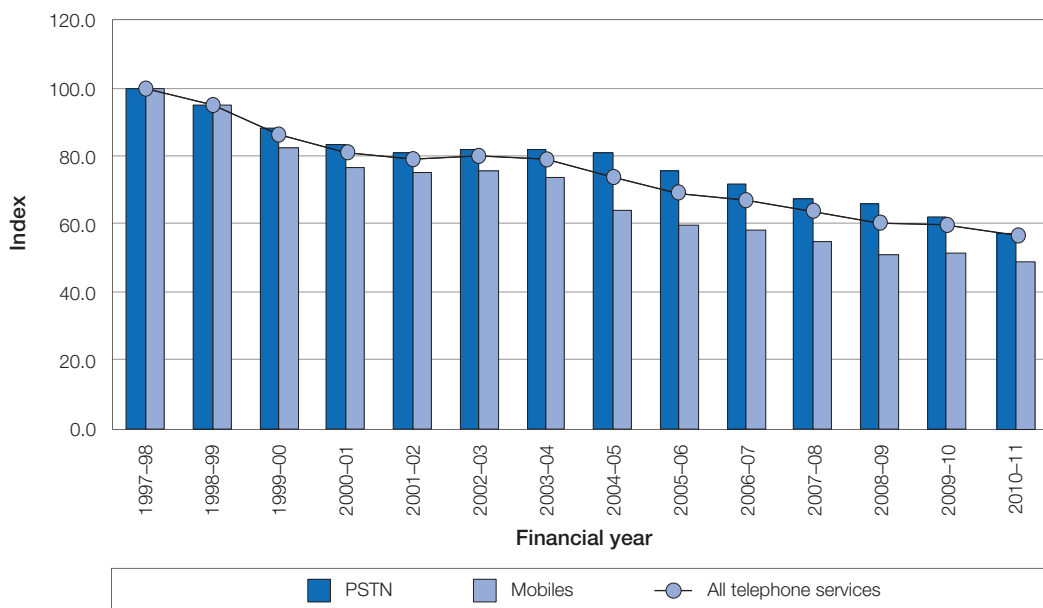
The telecommunications services index shows how average prices have changed for consumers over a certain period of time across public switched telephone network (PSTN) services, mobile services, and internet services.

A number of adjustments have been made over the years to the telecommunications services index including the introduction of an internet services index and the inclusion of third-generation mobile communications (3G) services in the mobile services index in 2007–08. As a result, any comparison of the telecommunications services index or movements in price indexes or sub-indexes between years needs to be qualified.

3.1 Main changes

The average prices for telecommunications services in Australia continued to decrease in 2010–11. This was due to declines in prices across PSTN fixed-line services, mobile services and internet services (figure 3.1).

Figure 3.1: PSTN services index and mobile services index, 1997–98 to 2010–11

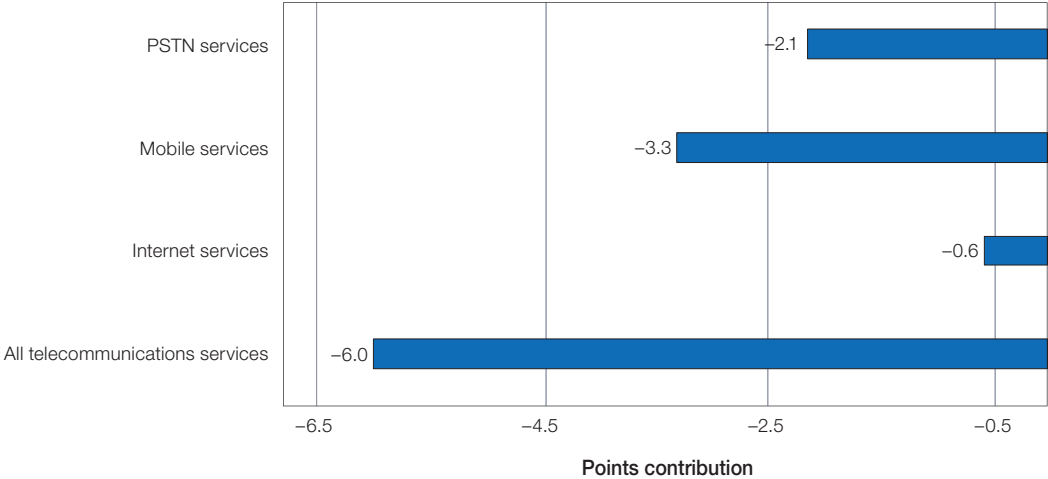


Note: Base year is 1997–98.

Points contribution analysis indicates how much (in terms of percentage points) each service in the telecommunications services basket contributes to the movement in the overall index.

In 2010–11, mobile services contributed the most to the overall decline in the telecommunications services index, followed by PSTN services and internet services (figure 3.2).

Figure 3.2: Points contribution of the PSTN and mobile services indexes to the all telecommunications index, 2010–11



Note: The sum of the components' points contribution may not add up to the net index change due to rounding.

4 PSTN voice services index

The public switched telephone network (PSTN) services index measures price changes in PSTN fixed-line services across business (including ‘small business’ and ‘other business’) and residential consumer groups.⁸⁸ The PSTN business index is calculated from ‘small business’ and ‘other business’ indexes.

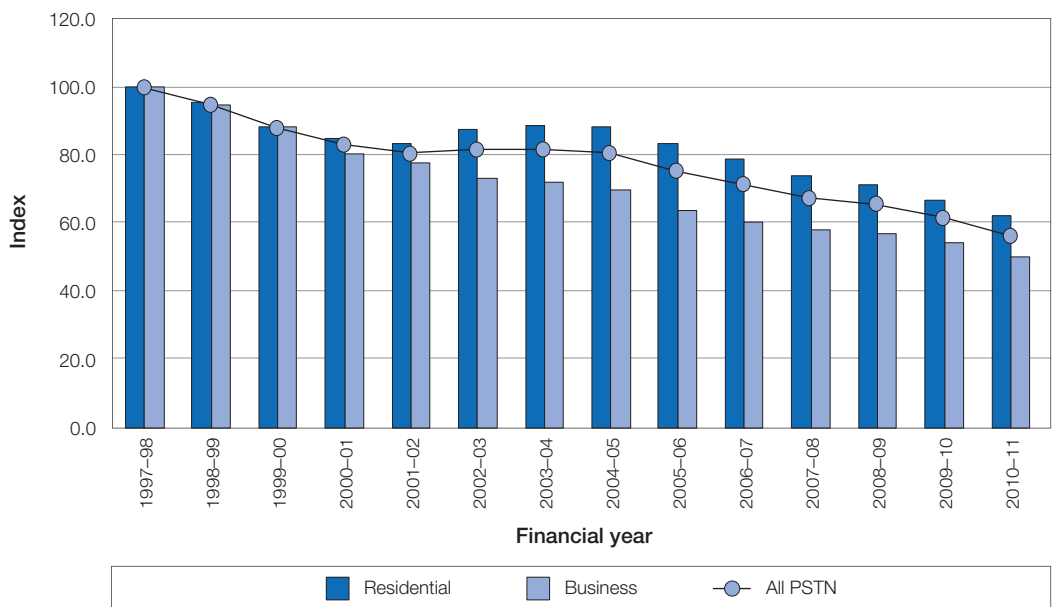
The ACCC derives the index by calculating the weighted average price change of each PSTN service for business users and residential consumers. The price changes for each PSTN fixed-line service are then aggregated into a single PSTN services index.

4.1 Main changes

The average prices for PSTN fixed-line services decreased by 7.3 per cent in 2010–11 (table 4.1). Since the base year of the index (i.e. 1997–98), the PSTN fixed-line index has declined by 42.6 per cent.

The average price for PSTN fixed-line services for residential consumers has been continually declining since 2004–05. The downward trend for business consumers extends further back to 1997–98 (figure 4.1).

Figure 4.1: PSTN services index by residential and business consumer group, 1997–98 to 2010–11



Note: Base year is 1997–98.

In 2010–11, consumers experienced lower prices for every type of PSTN service (i.e. basic access, local calls, national long-distance calls, international calls, and fixed-to-mobile calls).

⁸⁸ Some carriers may report revised figures (post-year adjustments) in the following reporting periods. These adjustments are not used to revise the indexes as they are typically quite small with insignificant impact on the indexes.

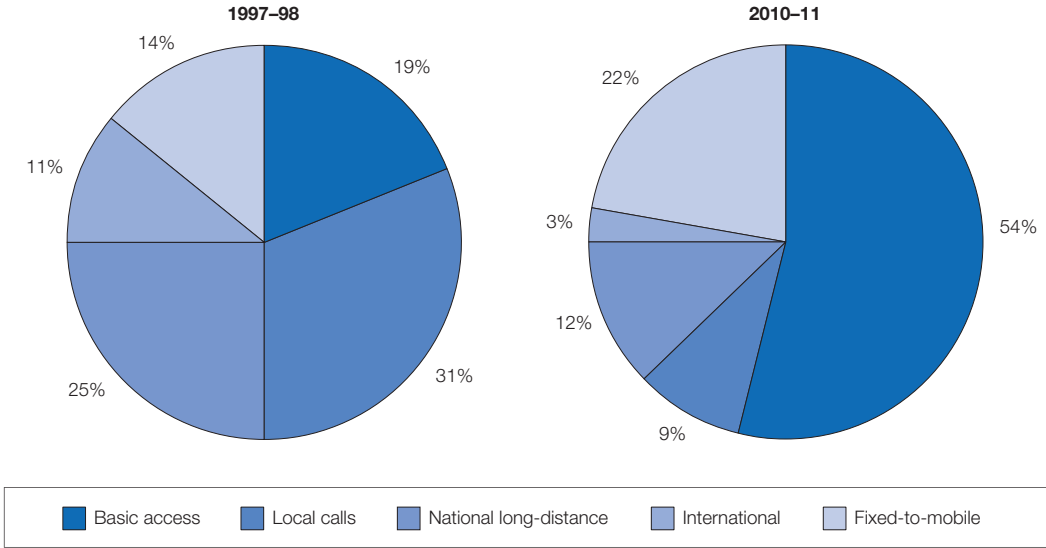
Table 4.1 shows that, with the exception of basic access, prices for all PSTN service types have declined every year over the last decade.

Table 4.1: Year-on-year percentage change in the PSTN service index by service type over the last decade

	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11
Basic access	13.2	12.4	6.9	5.1	-2.4	-1.4	-1.6	1.1	-2.0	-4.2
Local calls	-11.7	-3.8	-3.3	-7.9	-9.5	-6.7	-10.1	-2.5	-7.5	-8.6
National long distance	-8.7	-4.7	-1.9	-3.0	-6.9	-10.9	-10.9	-6.7	-9.0	-7.9
International	-15.3	-5.8	-6.1	-4.1	-8.8	-4.8	-7.7	-3.9	-13.8	-14.5
Fixed to mobile	-3.2	-2.4	-2.2	-3.9	-10.5	-7.6	-6.4	-6.8	-9.7	-12.4
PSTN services index	-2.6	1.0	0.3	-1.3	-6.6	-5.4	-5.5	-2.6	-5.8	-7.3

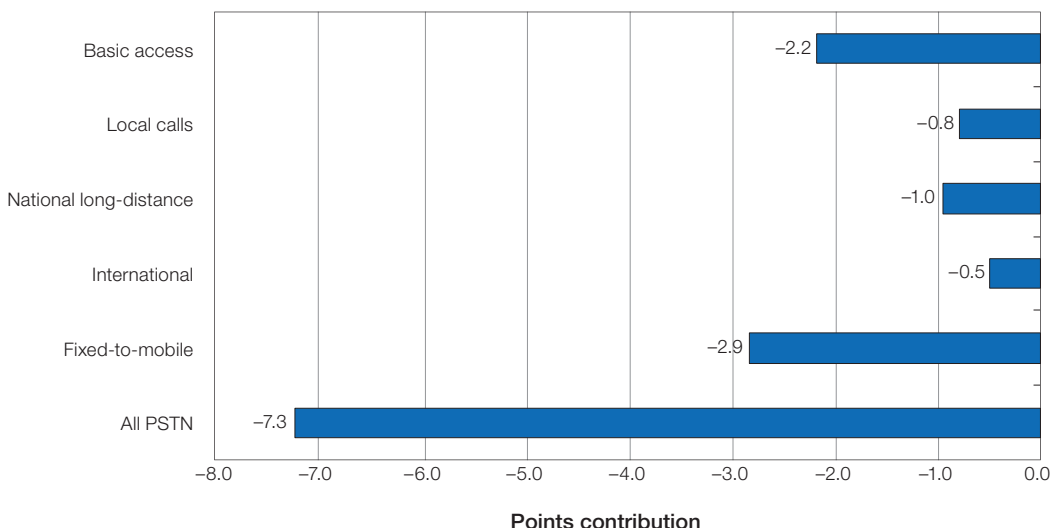
Figure 4.2 shows that the expenditure on both basic access and fixed-to-mobile calls as a proportion of total expenditure by consumers has increased significantly since 1997-98. In contrast, the shares of local calls, national long-distance calls and international calls have all decreased.

Figure 4.2: Comparison of share of total consumer PSTN expenditure by service, 1997-98 and 2010-11



Fixed-to-mobile calls contributed the most to the decrease in the PSTN services index in 2010-11, followed by basic access (figure 4.3).

Figure 4.3: Points contribution of PSTN services to the PSTN index, 2010–11



Note: The sum of the components' points contribution may not add up to the net index change due to rounding.

In 2010–11, the prices of PSTN services paid by business and residential consumers fell by 7.9 and 6.9 per cent respectively (table 4.2). The prices paid by business users have fallen every year since 2001–02. In contrast, residential consumers experienced price increases in 2002–03 and 2003–04, despite exhibiting an overall downward trend over the last decade.

Table 4.2: Year-on-year percentage change in the PSTN service index by consumer group over the last decade

	2001–02	2002–03	2003–04	2004–05	2005–06	2006–07	2007–08	2008–09	2009–10	2010–11
Residential	-2.2	5.0	1.4	-0.4	-5.5	-5.4	-6.4	-3.1	-6.4	-6.9
Business	-3.2	-5.8	-1.6	-2.9	-8.6	-5.5	-4.0	-1.7	-4.7	-7.9
PSTN services index	-2.6	1.0	0.3	-1.3	-6.6	-5.4	-5.5	-2.6	-5.8	-7.3

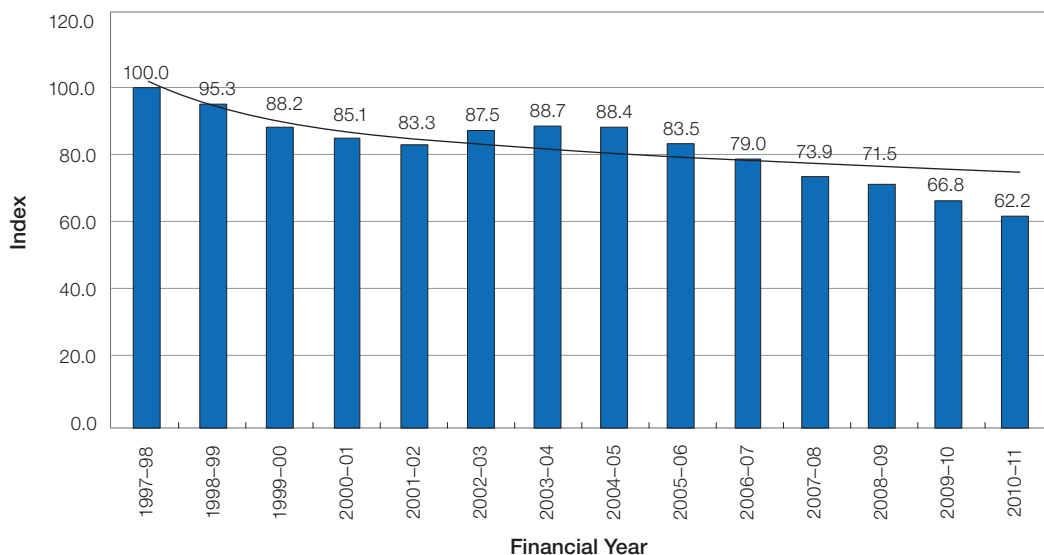
4.2 PSTN residential index

The PSTN residential services index is derived from prices of five PSTN services—basic access, local calls, national long distance calls, international calls, and fixed-to-mobile calls.

4.2.1 Main changes

In 2010–11, the average price of PSTN residential services continued its downward trend since 2004–05. Since 1997–98, the average price of PSTN residential services has fallen every year except between 2002–03 and 2003–04 (figure 4.4).

Figure 4.4: Index for PSTN services for residential consumers, 1997–98 to 2010–11



Note: Base year is 1997–98.

4.2.2 Price changes by PSTN service for residential consumers

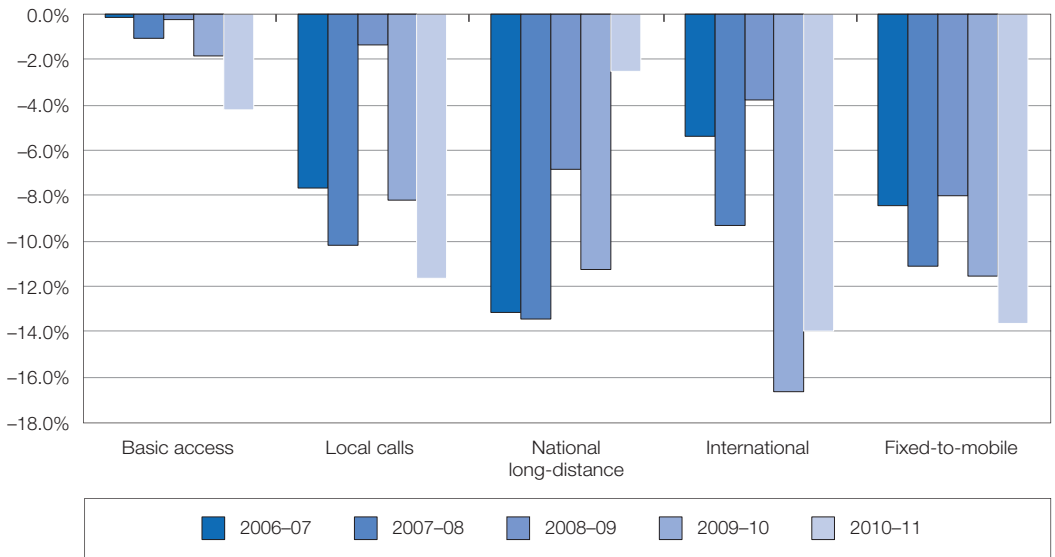
Table 4.3 shows that in 2010–11, the average prices paid by residential consumers decreased for every type of PSTN service. The prices of international calls, fixed-to-mobile calls, and local calls declined more significantly compared with national long distance calls and basic access services.

Table 4.3: Year-on-year percentage change in the PSTN residential index over the last decade

	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11
Basic access	15.0	16.6	7.5	7.4	-1.5	-0.1	-1.0	-0.3	-1.8	-4.1
Local calls	-10.9	-1.2	-3.9	-11.2	-9.0	-7.6	-10.1	-1.3	-8.1	-11.5
National long distance	-8.5	-2.4	0.8	-1.7	-5.6	-13.0	-13.2	-6.7	-11.1	-2.5
International	-15.6	-3.5	-6.2	-3.4	-8.4	-5.3	-9.2	-3.7	-16.4	-13.8
Fixed to mobile	-4.8	5.0	0.1	-1.7	-9.3	-8.3	-10.9	-7.9	-11.4	-13.4
PSTN residential	-2.2	5.0	1.4	-0.4	-5.5	-5.4	-6.4	-3.1	-6.4	-6.9

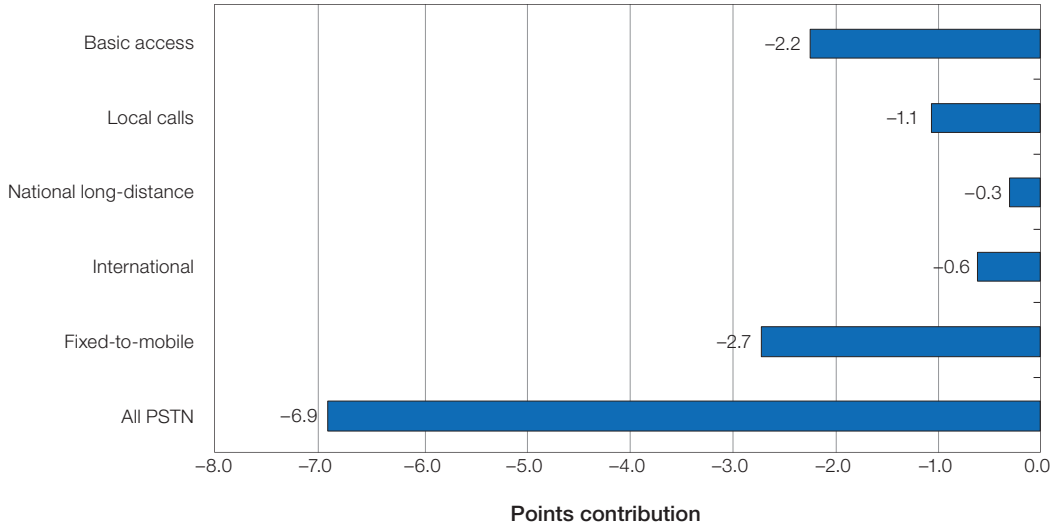
The prices for every type of PSTN service for residential consumers have declined every year since 2006–07. In 2010–11, prices for international calls, fixed to mobile calls and local calls fell by more than 10 per cent. Prices for basic access services declined by around 4 per cent in 2010–11, the greatest decrease in the last five years (figure 4.5).

Figure 4.5: Year-on-year percentage changes in the price index by PSTN service for residential consumers, 2006–07 to 2010–11



In 2010–11, fixed-to-mobile calls and basic access contributed the most to the decrease in average price of the PSTN services paid by residential consumers (figure 4.6).

Figure 4.6: Points contributions by individual PSTN services to the residential index, 2010–11



Note: The sum of the components' points contribution may not add up to the net index change due to rounding.

4.3 PSTN business index

The index for PSTN business services is calculated from the 'small business' and 'other business' sub-indexes. Each sub-index is comprised of five PSTN services: basic access, local calls, national long-distance calls, international calls, and fixed-to-mobile calls.

4.3.1 Definition of business type

The definitions for 'small business' and 'other business' can vary across carriers. Certain types of consumers may be classed as 'small business' by one carrier, but treated as 'other business' by another carrier. In addition, some carriers may change the definitions they use over time, which may result in revenues and/or usage being shifted between consumer categories and between time periods. These factors make it difficult to compare prices between business types and across carriers, and year-on-year changes within business categories.

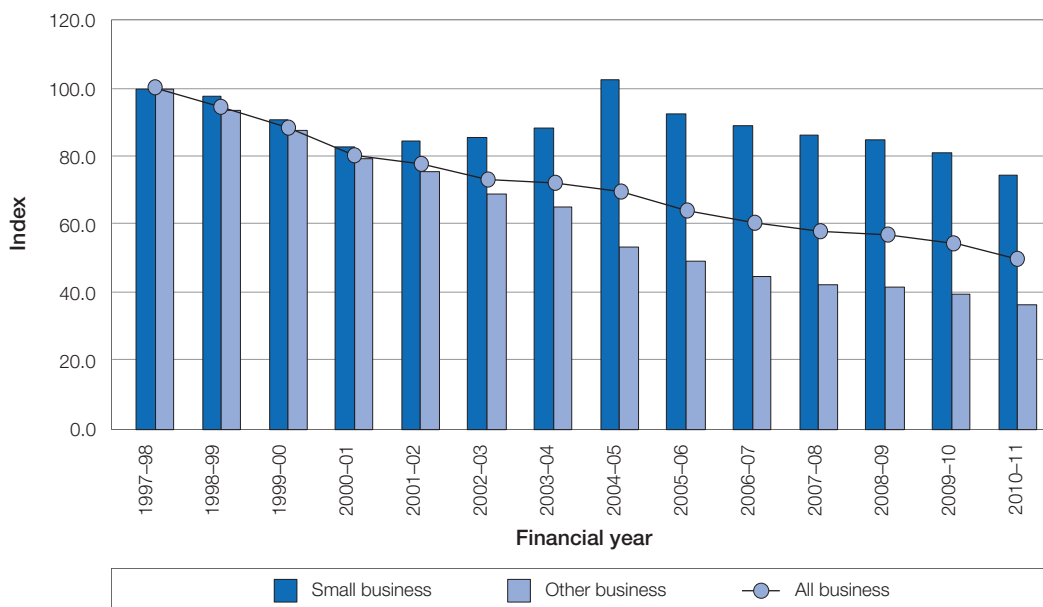
Given this, the ACCC considers that the aggregate PSTN business index is the most relevant indicator of price changes for business consumers because it includes revenue and usage data for all business consumers regardless of carriers' definition changes. However, the ACCC also considers that the 'small business' and 'other business' sub-indexes still provide useful information on price trends between business consumers of different sizes, and continues to include information on these sub-indexes in this report.

4.3.2 Main changes

In 2010–11 the average price for overall business customers decreased by 7.9 per cent (table 4.4). The decline in the overall price index reflects the decreases in the average prices paid by both 'small business' consumers and 'other business' consumer for PSTN services.

'Other business' consumers experienced price decreases every year since 1997–98. In comparison, average prices paid by 'small business' consumers for PSTN services increased between 2001–02 and 2004–05, and have decreased each year since then (figure 4.7).

Figure 4.7: PSTN business services index for all business, by small and other businesses, 1997–98 to 2010–11



Note: Base year is 1997–98.

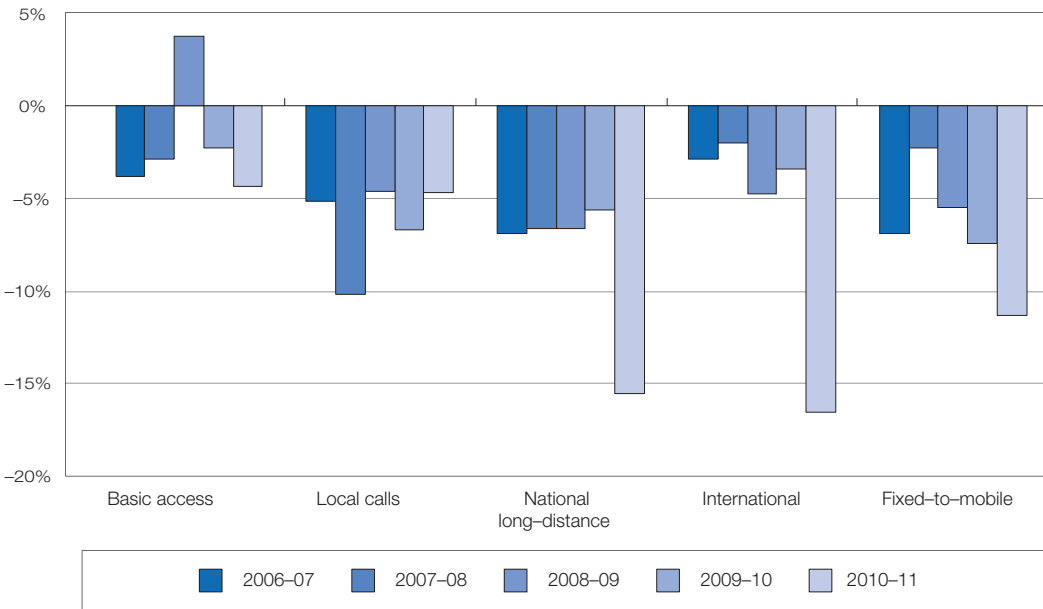
In 2010–11, the prices for every types of PSTN service declined. The prices for national long distance calls, international calls and fixed to mobile calls fell by over 10 per cent, which are some of the largest declines seen for a number of years. Prices for basic access and local call services declined by over four per cent (table 4.4).

Table 4.4: Year-on-year percentage changes in the PSTN business index over the last decade

	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11
Basic access	10.0	4.2	5.8	0.9	-4.2	-3.8	-2.8	3.8	-2.3	-4.4
Local calls	-13.0	-9.2	-2.3	-0.6	-10.4	-5.2	-10.2	-4.4	-6.7	-4.7
National long distance	-8.9	-8.6	-6.8	-5.6	-9.6	-6.9	-6.6	-6.6	-5.6	-15.5
International	-13.3	-14.3	-5.8	-7.6	-10.4	-2.9	-2.0	-4.7	-3.4	-16.6
Fixed to mobile	-1.8	-9.7	-4.7	-6.5	-12.0	-6.9	-2.3	-5.5	-7.5	-11.3
PSTN business	-3.2	-5.8	-1.6	-2.9	-8.6	-5.5	-4.0	-1.7	-4.7	-7.9

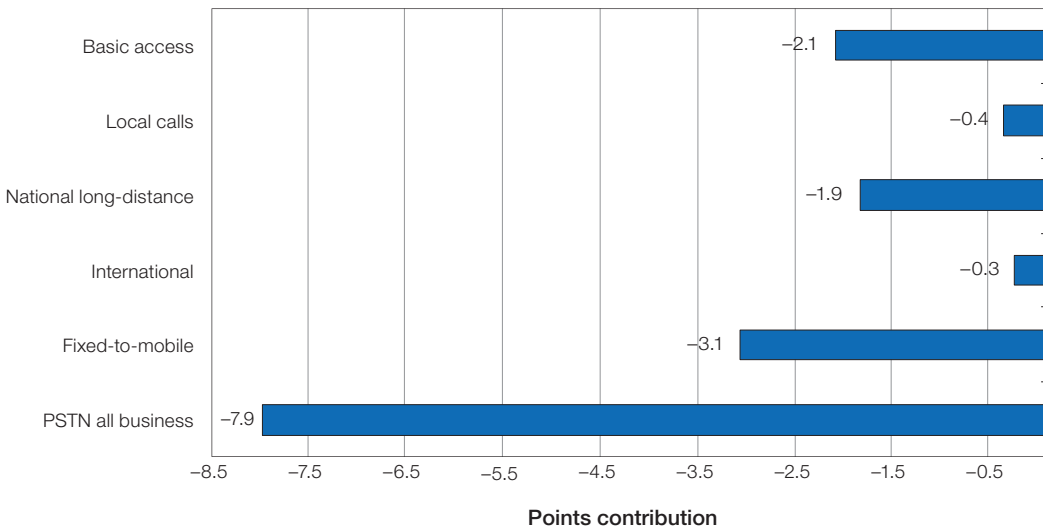
Figure 4.8 shows that business consumers have experienced annual price decreases for local calls, national long-distance calls, international calls, and fixed-to-mobile calls since 2006–07. By comparison, there does not appear to be any apparent trend in prices of basic access services.

Figure 4.8: Year-on-year percentage changes in the price index by PSTN service for business consumers, 2006–07 to 2010–11



In 2010–11, fixed-to-mobile calls and basic access contributed the most to the overall decline in the PSTN business index (figure 4.9).

Figure 4.9: Points contributions by individual PSTN services to the all business index, 2010–11



Note: The sum of the components' points contribution may not add up to the net index change due to rounding.

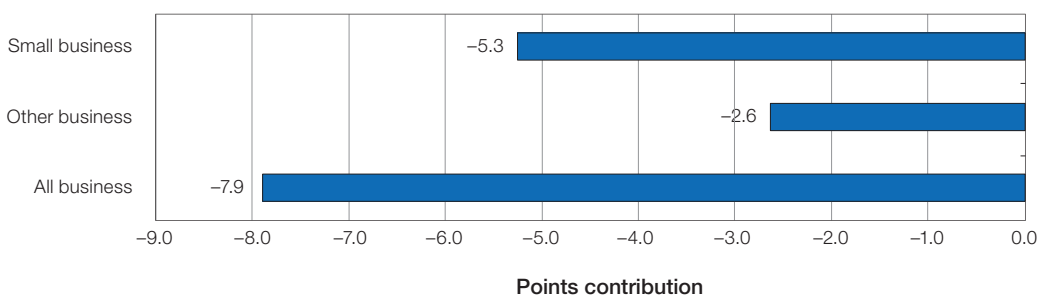
Table 4.5 shows that in 2010–11 the overall PSTN business index declined by 7.9 per cent. ‘Small business’ and ‘other business’ consumers experienced a price decline of 7.7 and 8.2 per cent respectively. These price drops are some of the largest declines seen in a number of years.

Table 4.5: Year-on-year percentage change in the PSTN business index by business type over the last decade

	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11
Small business	2.4	1.1	3.1	15.9	-9.6	-3.6	-3.3	-1.5	-4.7	-7.7
Other business	-4.7	-8.6	-5.6	-18.2	-7.7	-8.8	-5.4	-1.9	-4.7	-8.2
PSTN business index	-3.2	-5.8	-1.6	-2.9	-8.6	-5.5	-4.0	-1.7	-4.7	-7.9

In 2010–11, the decrease in PSTN ‘small business’ index contributed the most to the decrease in the overall PSTN business index (figure 4.10).

Figure 4.10: Points contributions by small and other business to the PSTN business index, 2010–11



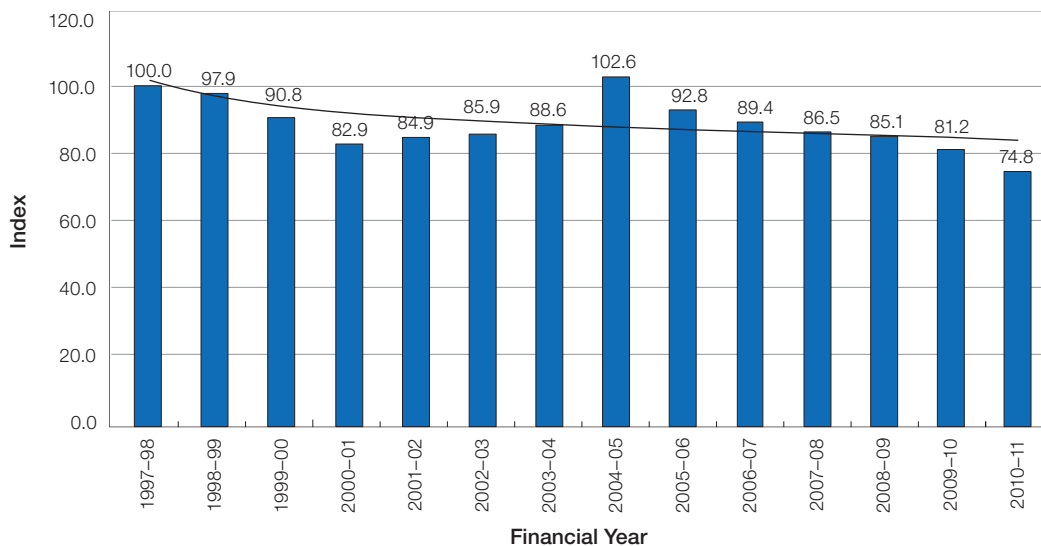
Note: The sum of the components’ points contribution may not add up to the net index change due to rounding.

4.4 Small business index

4.4.1 Main changes

Figure 4.11 shows that in 2010–11, the PSTN index for ‘small business’ services continued to decline following a series of increases between 2001–02 and 2004–05. The index decreased by 7.7 per cent in 2010–11 (table 4.6) and is now around 25 per cent below the base year of 1997–98 (figure 4.11).

Figure 4.11: Index for PSTN services for small business consumers



Note: Base year is 1997-98.

4.4.2 Price changes by PSTN service for small business consumers⁸⁹

Table 4.6 shows that in 2010-11, prices for small business consumers decreased across all types of PSTN service. Prices for national long distance calls, international calls and fixed to mobile calls all fell significantly. This may reflect an increased use of subscription plans where the consumers pay a monthly charge that includes a certain (and/or unlimited) amount of calls.

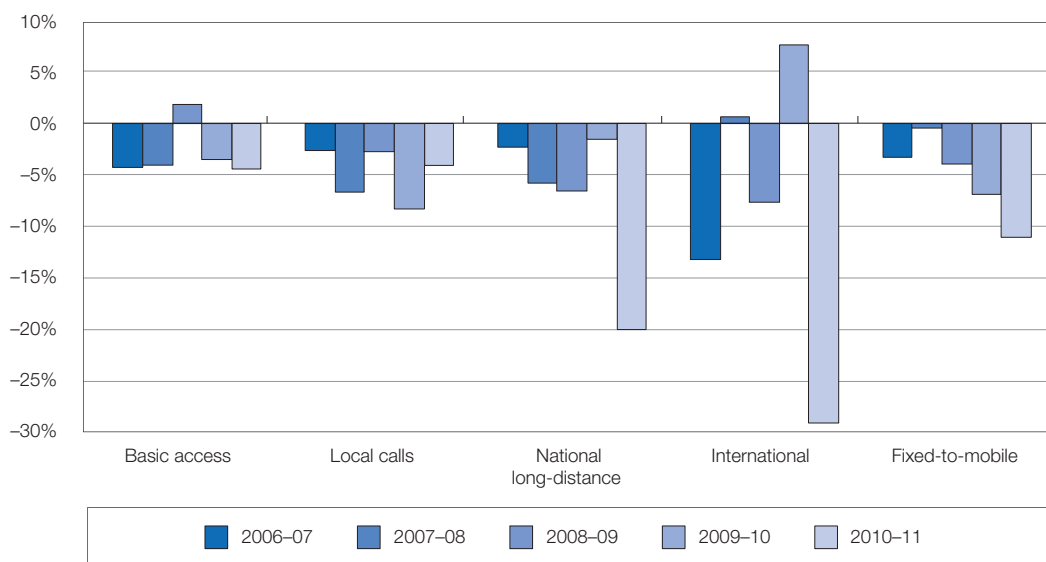
Table 4.6: Year-on-year percentage change in the PSTN small business index by service type over the last decade

	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11
Basic access	16.2	7.5	7.7	14.5	-9.3	-4.3	-4.0	1.8	-3.5	-4.2
Local calls	-3.0	-3.7	-3.0	17.8	-9.0	-2.6	-6.7	-2.4	-8.3	-3.8
National long distance	-6.6	-6.8	5.3	10.3	-8.5	-2.3	-5.8	-6.6	-1.5	-18.9
International	-13.4	-7.3	-4.4	14.1	-8.0	-13.2	0.7	-7.7	7.7	-27.5
Fixed to mobile	-0.8	-4.3	1.4	19.8	-11.0	-3.3	-0.4	-3.9	-6.9	-10.4
PSTN small business	2.4	1.1	3.1	15.8	-9.6	-3.6	-3.3	-1.5	-4.7	-7.7

Figure 4.12 shows that the downward trend in price is broadly consistent across all PSTN service types for small business consumers since 2006-07, except that basic access increased in 2008-09, and prices for international calls increased in 2007-08 and 2009-10.

⁸⁹ 'Small business consumer' means a business customer that is designated by a carrier or carriage service provider, for its internal reporting purposes, as a small business customer.

Figure 4.12: Year-on-year percentage change in the price index by PSTN service for small business consumers, 2006–07 to 2010–11



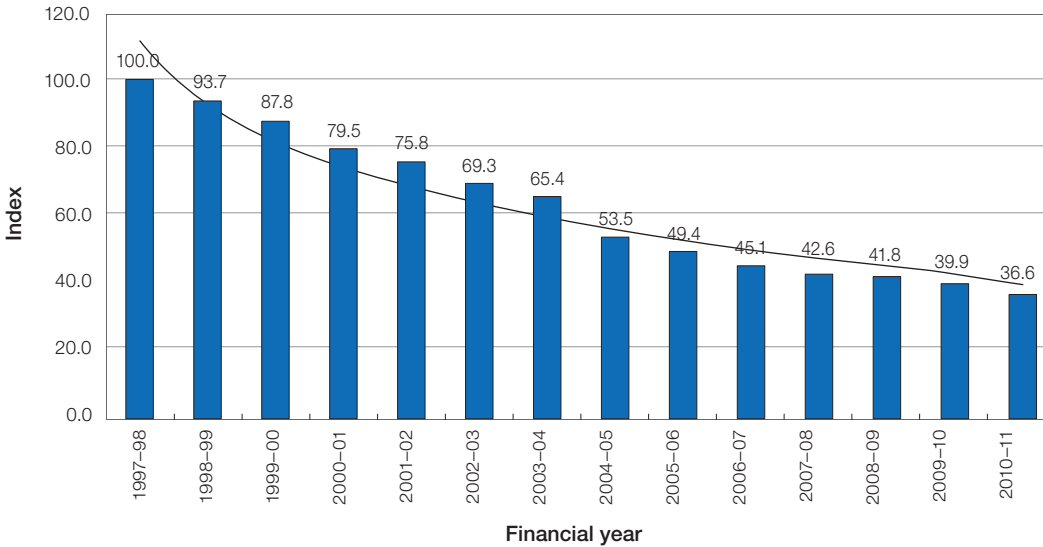
4.5 Other business index

4.5.1 Main changes

In 2010–11, the average price paid by ‘other business’ customers⁹⁰ for PSTN fixed-line services fell by 8.2 per cent. This is the largest fall since 2006–07 (table 4.7). The index is now 63.4 per cent below the base year of 1997–98 (figure 4.13).

⁹⁰ Other business customer means a business customer that is not a small business customer and may include charities and not-for-profit organisations.

Figure 4.13: Index of PSTN services for other business consumers, 1997–98 to 2010–11



Notes: Base year is 1997–98.

4.5.2 Price changes by PSTN service for other business consumers

Table 4.7 shows that in 2010–11, the prices paid by ‘other business’ consumers fell across every type of PSTN service. National long distance calls, international calls and fixed to mobile calls all experienced price declines at around or more than 10 per cent, continuing their downward trends.

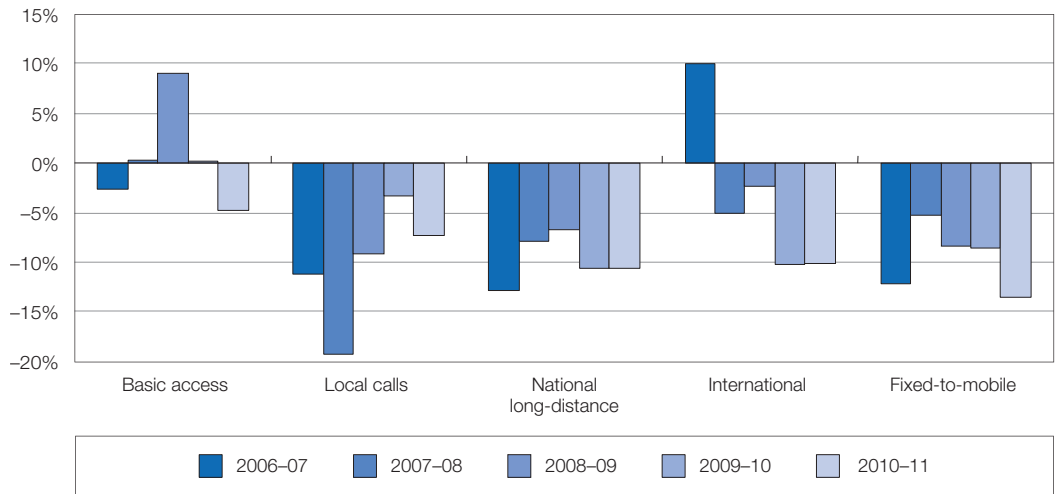
Table 4.7: Year-on-year percentage changes in the PSTN other business index by service type over the last decade

	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11
Basic access	7.9	0.6	3.7	-14.7	1.5	-2.6	0.3	9.0	0.2	-4.7
Local calls	-15.4	-10.7	-1.6	-18.9	-11.9	-11.1	-19.0	-9.0	-3.2	-7.2
National long distance	-9.5	-9.1	-14.8	-16.1	-10.3	-12.6	-7.8	-6.6	-10.4	-10.5
International	-13.4	-15.7	-6.8	-21.8	-12.0	9.9	-5.0	-2.3	-10.1	-10.0
Fixed to mobile	-2.0	-10.9	-8.5	-21.3	-12.6	-12.0	-5.2	-8.2	-8.5	-13.3
PSTN other	-4.7	-8.6	-5.6	-18.2	-7.7	-8.8	-5.4	-1.9	-4.7	-8.2

Figure 4.14 shows that the prices of all types of calls exhibit similar downward trends since 2006-07 except for international calls, which experienced an increase in price in 2006–07.

Prices for basic access on the other hand do not show any apparent trend over the five year period.

Figure 4.14: Price changes for individual PSTN services for other business consumers, 2006–07 to 2010–11



5 Mobile services index

The mobile services index indicates how average prices change for consumers of GSM, 3G and CDMA prepaid and post-paid mobile services.⁹¹ The index is calculated from sample prices for bundles of mobile services that represent the expenditure patterns of consumers with 'very low', 'low', 'average', 'high', and 'very high' expenditure on mobile services.⁹²

Sub-indexes are derived for post-paid and prepaid GSM and 3G services. The sub-indexes are weighted in the index using revenue weights for each of the mobile services.

CDMA services have not been included in the mobile services index since 2008–09 as these services have been withdrawn by the carriers.

5.1 Main changes

In 2010–11, average prices for all mobile services decreased by 4.6 per cent (table 5.1).

Prices for GSM services decreased by 9.3 per cent while the prices for 3G services fell by 3.5 per cent. GSM and 3G prepaid services posted greater price drops than their respective post-paid services (table 5.1).

Table 5.1: Year-on-year percentage changes in price indexes for mobile services over the last decade

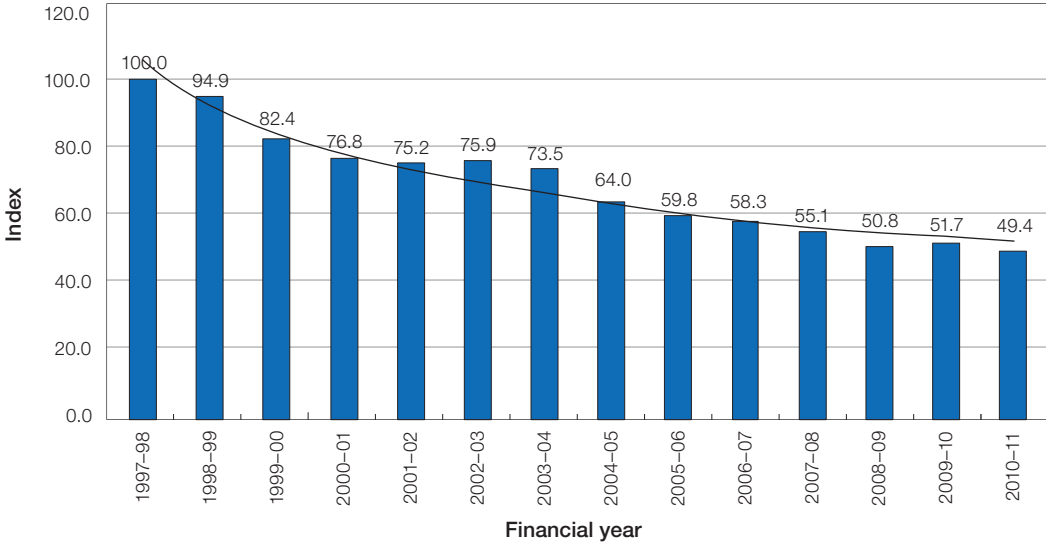
	2000–01	2001–02	2002–03	2003–04	2004–05	2005–06	2006–07	2007–08	2008–09	2009–10	2010–11
GSM:											
post-paid	-5.4	-0.9	2.2	-1.0	-15.3	-10.2	-6.9	-9.3	-7.4	14.7	-7.1
prepaid	-13.7	-5.1	-0.9	-5.6	-5.6	-0.8	1.8	-2.8	-14.3	5.9	-11.4
All GSM	-6.8	-2.0	1.1	-3.2	-12.9	-6.7	-3.1	-6.3	-10.8	10.5	-9.3
CDMA:											
post-paid			-2.0	-1.5	-14.2	-0.3	2.9	-3.5	n.a.	n.a.	n.a.
prepaid			-3.6	-4.3	-12.4	2.7	2.1	-3.3	n.a.	n.a.	n.a.
All CDMA			-2.3	-2.2	-13.9	0.4	2.6	-3.5	n.a.	n.a.	n.a.
3G:											
post-paid								-3.5	-3.3	-3.8	-2.7
prepaid								-7.3	-10.5	-0.3	-10.7
All 3G								-3.7	-4.2	-3.6	-3.5
Overall	-6.8	-2.0	0.9	-3.2	-13.0	-6.5	-2.5	-5.4	-7.8	1.8	-4.6

⁹¹ GSM stands for global system for mobile communications; 3G stands for third-generation of telecommunications standards and technology for mobile networking; CDMA stands for code division multiple access. All are digital cellular networks.

⁹² *Very low user group*: occasional consumers making 1–2 calls a week; *low user group*: occasional to regular consumers making 5–7 calls a week; *average user group*: regular to frequent consumers making 2 calls a day; *high user group*: frequent consumers who make 4–5 calls a day; *very high user group*: very frequent consumers who make 8–10 calls a day.

As shown in figure 5.1, prices for all mobile services overall are on a downward trend, having declined every year since 1997–98 except 2002–03 and 2009–10. The average price for all mobile services in 2010–11 was 50.6 per cent lower compared to 1997–98.

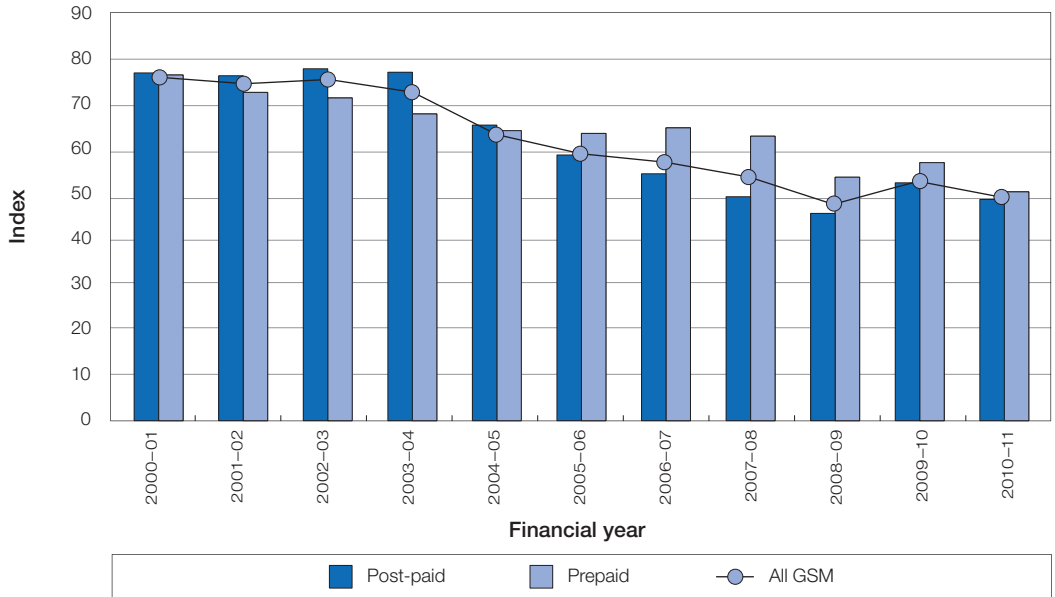
Figure 5.1: Overall mobile services index, 1997–98 to 2010–11



5.2 GSM services

In 2010–11, the average price for overall GSM services fell in contrast to the year before. Both post-paid and prepaid GSM service indexes declined following price increases observed for those two types of services in the previous year (figure 5.2).

Figure 5.2: GSM mobile services index, 2000–2001 to 2010–11



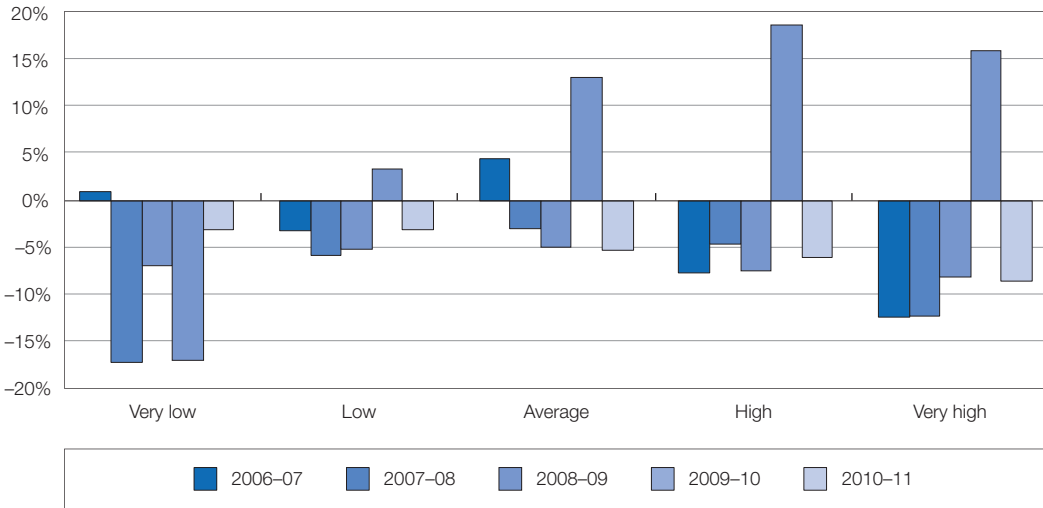
Note: Indexes and price changes are calculated in real price terms.

Base year is 1997–98.

5.2.1 Post-paid prices

Figure 5.3 shows that in 2010–11, every customer expenditure group experienced price decreases for post-paid GSM services. The ‘Very High’ users experienced the greatest decrease. The ‘very low’ user group has had price declines every year since 2007–08.

Figure 5.3: Year-on-year percentage change in the price index for GSM post-paid services by user group, 2006–07 to 2010–11

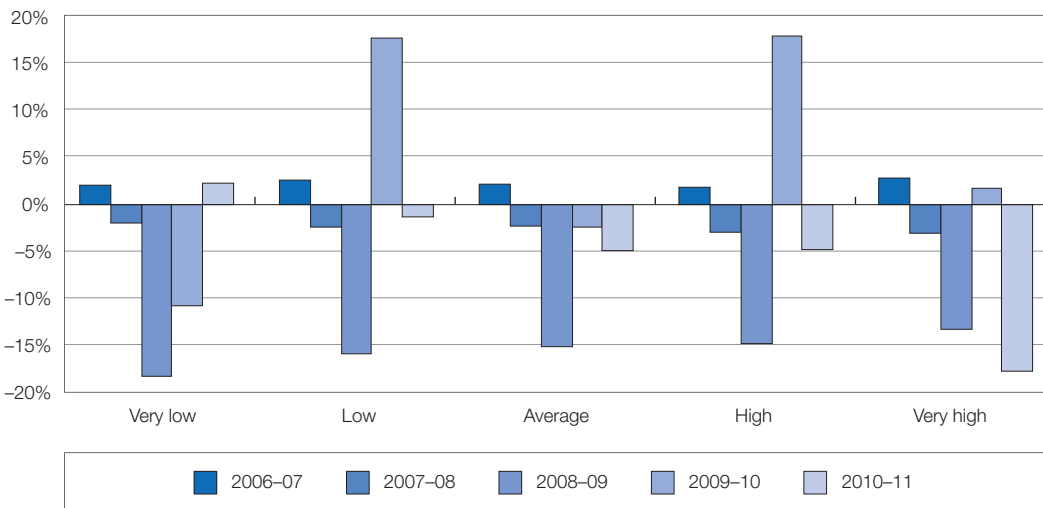


Note: Indexes and price changes are calculated in real price terms.

5.2.2 Prepaid prices

In 2010–11, the average prices of GSM prepaid services decreased for all user groups except the ‘very low’ user group, with the ‘very high’ user group experiencing the greatest decline in price. The ‘average’ user group has had price declines every year since 2007–08.

Figure 5.4: Year-on-year percentage change in the price index for GSM prepaid services by user group, 2006–07 to 2010–11



Note: Indexes and price changes are calculated in real price terms.

5.3 3G services

In 2010–11, the average price for 3G services declined by 3.5 per cent (table 5.2). This reflects lower prices for both prepaid and post-paid services. 3G prepaid services experienced a much greater price decline than post-paid services. Data usage allowances for both post-paid and prepaid capped plans for 3G services continued to increase.

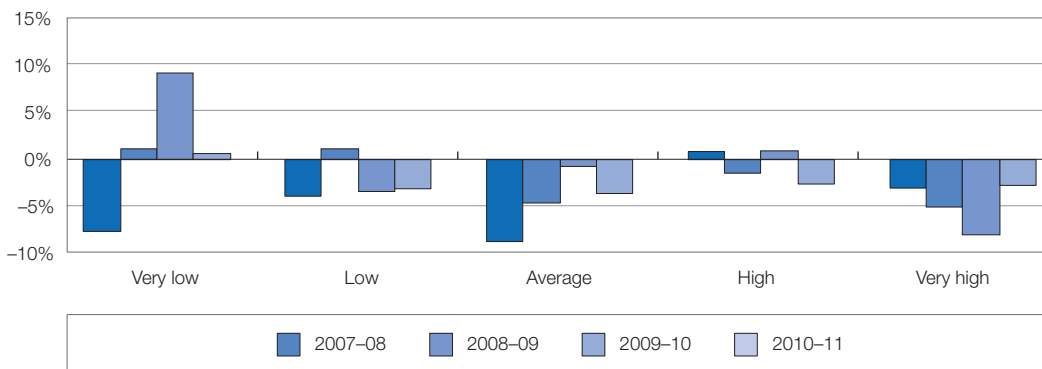
Table 5.2: Year-on-year percentage changes in price indexes for 3G services

	2007–08	2008–09	2009–10	2010–11
Post-paid	-3.5	-3.3	-3.8	-2.7
Prepaid	-7.3	-10.5	-0.3	-10.7
All 3G	-3.7	-4.2	-3.6	-3.5

5.3.1 Post-paid prices

In 2010–11, every user groups of post-paid services experienced a decline in price, except for the ‘very low’ user group, which saw price increase every year over the last three years. The ‘average’ and ‘very high’ user groups have both experienced yearly price decline since 2007–08 (figure 5.5).

Figure 5.5: Year-on-year percentage changes in the price index for 3G post-paid services by user group, 2007–08 to 2010–11

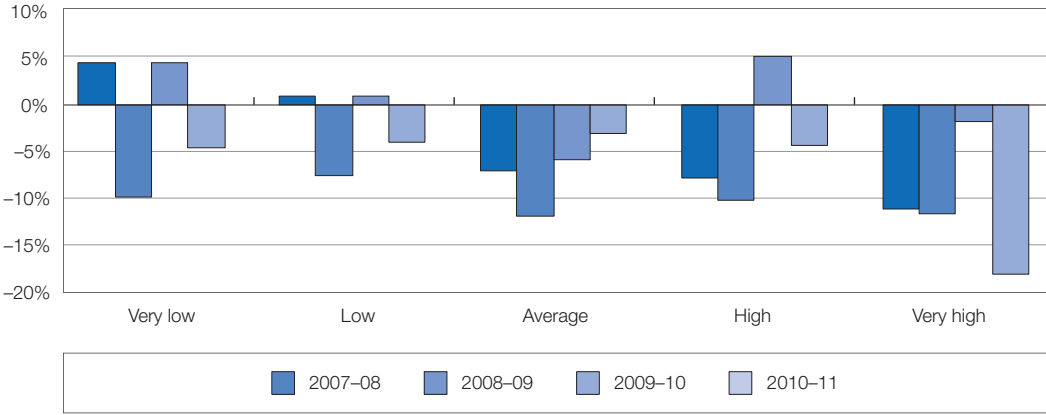


Note: Indexes and price changes are calculated in real price terms.

5.3.2 Prepaid prices

Figure 5.6 shows that in 2010–11, every user group experienced decreased prices for 3G prepaid services, with the ‘very high’ user group experiencing the greatest decline by more than 15 per cent. The ‘average’ and ‘very high’ user group both have seen their prices decline every year since 2007–08.

Figure 5.6: Year-on-year percentage changes in the price index for 3G prepaid services by user group, 2007–08 to 2010–11

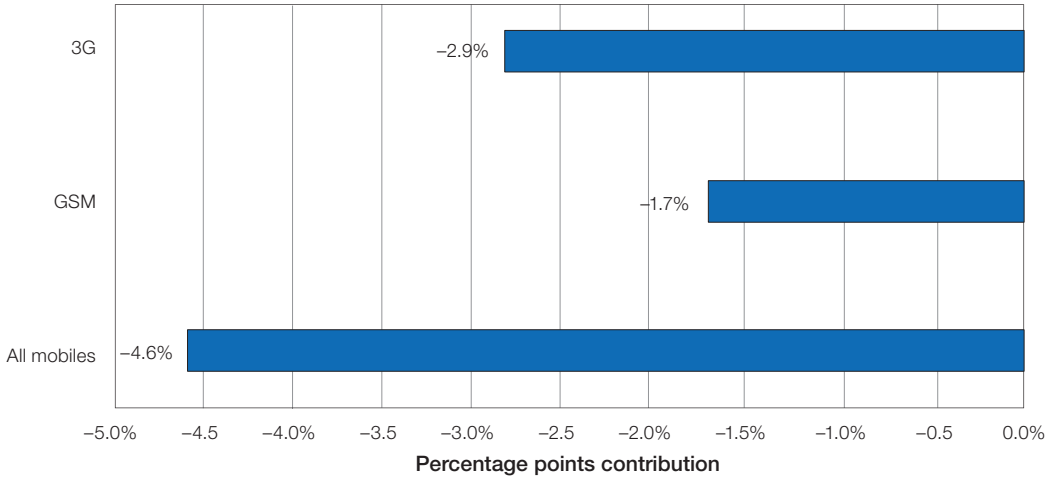


Note: Indexes/price changes are calculated in real price terms.

5.4 Points contribution

In 2010–11, both 3G and GSM services contributed to the decline of the overall mobiles service index (figure 5.7).

Figure 5.7: Points contribution by GSM and 3G indexes to the mobile services index 2010–11



Note: The sum of the components' points contribution may not add up to the net index change due to rounding.

6 Internet services index

The internet services index measures movements in the average prices for consumer-grade dial-up, fixed-line (digital subscriber line (DSL)), cable, and wireless internet services.

Wireless internet was added to the internet services index in 2008–09. For the purpose of this report, wireless internet services are those that permit internet connectivity to a laptop or other computers over a wireless access network (typically a 3G network). They are distinguished from 3G services by using customer equipment (universal series bus (USB) modem key or wireless card) independent of a mobile phone handset; by being supplied independent of a mobile voice service; and by having plan terms more aligned with those prevailing for other (fixed) broadband internet services.

Consumer-grade services account for the majority of internet services. The DSL, cable and wireless internet sub-indexes are calculated by comparing prices for the bundle of services (initial connection, subscription and excess usage) observed at the beginning and end of each reporting period. The prices for cable, DSL and wireless services are estimated based upon published plan prices and representative usage profiles for consumers in each expenditure quintile.

The dial-up internet services index is derived based on the average monthly expenditure by consumer.

Sub-indexes for each service type (dial-up, DSL, cable, and wireless) are then aggregated to derive an overall price index for internet services.

6.1 Main observations

Table 6.1 shows that the average price for internet services declined by 3.6 per cent in 2010–11, reflecting declines in real prices across all types of internet services. The fall in the overall index appears broadly consistent with the downward trend since 2007–08.

Table 6.1: Year-on-year percentage changes in price indexes for internet services

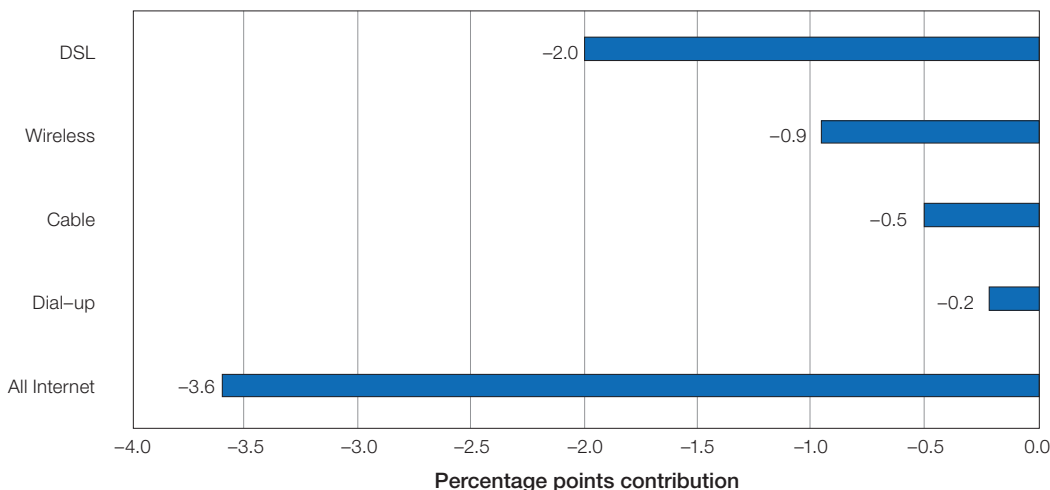
	2007–08	2008–09	2009–10	2010–11
DSL	-5.2	-0.4	-2.0	-3.4
Wireless	n.a	-18.5	-14.7	-3.5
Cable	-5.9	0.5	-1.1	-3.5
Dial-up	-11.0	-13.8	13.1	-11.4
Overall	-6.2	-4.6	-4.9	-3.6

Note: Price changes are calculated in real price terms.

6.2 Points contribution

In 2010–11, DSL internet services made the largest contribution to the decrease in the overall internet services index followed by wireless internet services.

Figure 6.1: Points contribution by dial-up, DSL and cable indexes to the internet services index 2010–11



Note: The sum of the components' points contribution may not add up to the net index change due to rounding.

6.3 DSL internet services

In 2010–11, prices for DSL internet services fell by 3.4 per cent. DSL prices continued a downward trend since 2007–08 (table 6.1).

There were no significant changes in nominal DSL plan prices during 2010–11 for most service providers. Most service providers also offered higher data download allowances.

6.4 Wireless internet services

Table 6.1 shows that in 2010–11, prices for wireless internet services declined by 3.5 per cent, continuing a downward trend since 2008–09.

There were no significant movements in the nominal prices of wireless internet plans offered by service providers. However, providers were generally offering higher data quotas.

Observable differences remained between plans for wireless internet and fixed broadband services. Comparable wireless internet plans were still not commonly available to heavier users (exceeding 10 to 20 gigabyte data transfer). Also, excess usage fees were likely to apply (rather than speed throttling) to consumers on a wireless internet plan who exceed their download quotas.

6.5 Cable internet services

In 2010–11, prices for cable internet services decreased by 3.5 per cent. This is the third time prices have fallen for cable internet services since 2007–08 (table 6.1).

There were no significant movements in nominal cable internet plan prices in 2010–11. However, data quotas on many plans increased significantly.

Although prices for cable and DSL internet services are now broadly similar, headline speeds of cable services tend to exceed those for the most comparable DSL internet plans.

Cable internet plans are available regardless of whether the consumer acquires a PSTN voice service. In general, across broadband internet services, prices tend to be higher for unbundled plans than plans that bundle internet and PSTN voice services together.

6.6 Dial-up internet services

Table 6.1 shows that in 2010–11, average prices paid for dial-up internet services fell by 11.4 per cent, reversing the price increase observed in 2009–10. Both total revenue and the subscription numbers of dial-up internet services for all reporting companies decreased in 2010–11, clearly showing this service is approaching obsolescence.

7 Tables

Table 7.1: Telecommunications services index, 1997–98 to 2010–11

	1997–98	1998–99	1999–00	2000–01	2001–02	2002–03	2003–04	2004–05	2005–06	2006–07	2007–08	2008–09	2009–10	2010–11
PSTN services	100.0	95.0	88.4	83.2	81.0	81.9	82.1	81.1	75.8	71.6	67.7	65.9	62.0	57.4
Mobile services	100.0	94.9	82.4	76.8	75.2	75.9	73.5	64.0	59.7	58.3	55.1	50.8	51.8	49.4
Internet services										100.0	93.8	89.5	85.1	82.1
All services (old series)	100.0	95.0	86.4	81.1	79.1	79.9	79.0	73.8	69.0	67.1				
All services (new series)*										100	94.5	88.7	87.3	82.1

Note: Base year for old series is 1997–98.
*Includes internet services.

Table 7.2: PSTN services index by service; residential and business, 1997–98 to 2010–11

	1997–98	1998–99	1999–00	2000–01	2001–02	2002–03	2003–04	2004–05	2005–06	2006–07	2007–08	2008–09	2009–10	2010–11
All PSTN														
Basic access	100.0	99.2	108.9	125.4	142.0	159.6	170.5	179.4	175.2	172.8	170.0	171.8	167.9	160.8
Local calls	100.0	99.5	90.3	74.1	65.4	62.9	60.8	56.1	50.7	47.3	42.5	41.7	38.6	35.1
National long-distance	100.0	93.6	84.7	79.4	72.5	69.1	67.8	65.7	61.2	54.5	48.6	45.3	41.2	38.0
International	100.0	79.3	57.9	48.0	40.7	38.3	36.1	34.5	31.5	29.9	27.6	26.4	22.8	19.5
Fixed-to-mobile	100.0	94.7	87.3	81.9	79.2	77.3	75.6	72.7	65.0	60.1	56.2	52.2	47.1	41.3
All PSTN	100.0	95.0	88.4	83.2	81.0	81.9	82.1	81.1	75.8	71.6	67.7	65.9	62.0	57.4
PSTN residential														
Basic access	100.0	99.4	110.4	128.1	147.4	171.9	184.4	198.3	195.4	195.1	193.1	192.5	188.2	180.4
Local calls	100.0	99.0	88.7	74.1	66.0	65.2	62.7	55.7	50.7	46.8	42.1	42.0	38.6	34.1
National long-distance	100.0	94.8	85.0	82.4	75.4	73.6	74.2	72.9	68.8	59.9	52.0	48.5	43.1	42.1
International	100.0	80.2	59.1	50.5	42.6	41.1	38.7	37.3	34.1	32.3	29.4	28.2	23.5	20.3
Fixed-to-mobile	100.0	95.6	87.7	86.7	82.6	86.7	86.8	85.2	77.3	70.9	63.1	57.9	51.3	44.4
All residential	100.0	95.3	88.2	85.1	83.3	87.5	88.7	88.4	83.5	79.0	73.9	71.5	66.8	62.2

	1997-98	1998-99	1999-00	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11
PSTN business														
Basic access	100.0	98.9	106.4	120.9	133.0	138.5	146.6	148.0	141.9	136.5	132.6	137.6	134.5	128.7
Local calls	100.0	100.5	92.9	74.1	64.4	58.5	57.2	56.8	50.9	48.2	43.3	41.4	38.6	36.4
National long-distance	100.0	91.7	84.3	74.5	67.8	62.0	57.8	54.5	49.3	45.9	42.9	40.0	37.8	31.9
International	100.0	77.4	55.4	41.4	35.9	30.8	29.0	26.8	24.0	23.3	22.9	21.8	21.0	17.6
Fixed-to-mobile	100.0	94.1	86.9	78.3	76.9	69.5	66.2	61.9	54.5	50.7	49.6	46.9	43.4	38.5
All business	100.0	94.7	88.5	80.3	77.7	73.2	72.0	69.9	64.0	60.5	58.0	57.1	54.4	50.1

Note: Base year is 1997-98.

Table 7.3: PSTN business services index, small and other business 1997-98 to 2010-11

	1997-98	1998-99	1999-00	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11
Small business														
Basic access	100.0	94.7	105.6	114.6	133.2	143.2	154.2	176.6	160.1	153.2	147.0	149.7	144.6	138.5
Local calls	100.0	107.2	98.4	75.5	73.2	70.5	68.4	80.6	73.4	71.4	66.6	65.0	59.4	56.4
National long-distance	100.0	98.2	89.5	86.4	80.7	75.2	79.2	87.4	80.0	78.2	73.6	68.8	67.8	55.0
International	100.0	90.7	59.7	39.7	34.4	31.9	30.5	34.8	32.0	27.8	28.0	25.8	27.8	20.2
Fixed-to-mobile	100.0	92.4	87.4	79.9	79.3	75.9	77.0	92.3	82.2	79.5	79.1	76.0	70.8	63.4
All small business	100.0	97.9	90.8	82.9	84.9	85.9	88.6	102.6	92.8	89.4	86.5	85.2	81.2	74.8
Other business														
Basic access	100.0	100.5	106.7	123.1	132.8	133.7	138.7	118.2	120.0	116.9	117.3	127.8	128.0	122.0
Local calls	100.0	98.6	91.4	73.7	62.3	55.6	54.7	44.4	39.1	34.8	28.2	25.6	24.8	23.0
National long-distance	100.0	89.4	82.5	70.4	63.8	58.0	49.4	41.4	37.2	32.5	29.9	28.0	25.0	22.4
International	100.0	69.0	51.8	40.2	34.9	29.4	27.4	21.4	18.8	20.7	19.7	19.2	17.3	15.5
Fixed-to-mobile	100.0	94.5	86.8	77.9	76.4	68.0	62.2	49.0	42.8	37.7	35.7	32.8	30.0	26.0
All other business	100.0	93.7	87.8	79.5	75.8	69.3	65.4	53.5	49.4	45.1	42.6	41.8	39.9	36.6
PSTN business	100.0	94.7	88.5	80.3	77.7	73.2	72.0	69.9	64.0	60.5	58.0	57.1	54.4	50.1

Note: Base year is 1997-98.

Table 7.4: Mobile services index, 1997–98 to 2010–11

	1997–98	1998–99	1999–00	2000–01	2001–02	2002–03	2003–04	2004–05	2005–06	2006–07	2007–08	2008–09	2009–10	2010–11
GSM:														
post-paid	100.0	94.9	82.2	77.7	77.0	78.7	78.0	66.1	59.1	55.2	50.1	46.4	53.2	49.4
prepaid		100.0	89.6	77.3	73.3	72.7	68.6	64.8	63.9	65.4	63.5	54.4	57.6	51.1
All GSM	100.0	94.9	82.4	76.8	75.2	76.0	73.6	64.1	59.5	57.9	54.3	48.4	53.5	48.5
CDMA:														
post-paid					100.0	98.0	96.6	82.8	82.6	85.0	82.0	n.a.	n.a.	n.a.
prepaid					100.0	96.4	92.1	80.7	82.8	84.6	81.8	n.a.	n.a.	n.a.
All CDMA					100.0	97.7	95.6	82.3	82.7	84.8	81.9	n.a.	n.a.	n.a.
3G:														
post-paid										100.0	96.5	93.3	89.7	87.3
prepaid										100.0	92.7	83.0	82.7	73.8
All 3G										100.0	96.3	92.2	88.9	85.8
All mobile services	100.0	94.9	82.4	76.8	75.2	75.9	73.5	64.0	59.7	58.3	55.1	50.8	51.7	49.4

Table 7.5: Mobile services index by network type and user group, 1997–98 to 2010–11

	1997–98	1998–99	1999–00	2000–01	2001–02	2002–03	2003–04	2004–05	2005–06	2006–07	2007–08	2008–09	2009–10	2010–11
GSM post-paid:														
very low	100.0	80.5	57.2	47.6	44.0	46.0	49.6	48.9	46.4	46.8	38.6	35.9	29.7	28.8
low	100.0	92.4	73.9	63.6	59.6	59.5	58.4	56.5	51.6	49.9	47.0	44.5	46.0	44.6
average	100.0	98.3	84.0	74.4	67.7	67.0	66.7	64.6	63.9	66.8	64.8	61.6	69.8	66.0
high	100.0	93.3	81.5	76.5	73.6	72.7	72.4	59.5	57.6	53.1	50.6	46.7	55.6	52.2
very high	100.0	95.9	84.3	82.0	83.7	86.7	84.9	66.8	54.1	47.3	41.4	37.9	44.1	40.3
GSM prepaid:														
very low		100.0	92.0	62.3	41.2	41.5	39.8	38.6	38.9	38.6	37.9	30.9	27.6	28.2
low		100.0	87.7	78.7	78.9	76.9	72.3	67.9	67.5	69.3	67.6	56.9	67.0	66.1
average		100.0	88.3	79.8	76.9	78.4	73.9	68.0	68.9	70.2	68.6	58.2	56.8	54.0
high		100.0	90.5	85.7	86.4	83.4	77.8	70.5	71.5	72.8	70.7	60.2	71.1	67.7
very high		100.0	89.4	80.1	83.4	85.7	79.1	78.9	73.9	76.0	73.7	63.9	65.0	53.4
CDMA post-paid:														
very low					100.0	107.9	104.0	101.7	91.2	90.0	87.5	n.a.	n.a.	n.a.
low					100.0	102.7	106.4	96.6	95.0	94.0	97.2	n.a.	n.a.	n.a.
average					100.0	106.3	110.1	102.1	104.1	103.6	96.9	n.a.	n.a.	n.a.
high					100.0	88.7	92.3	82.3	96.4	104.7	101.7	n.a.	n.a.	n.a.
very high					100.0	97.2	89.9	68.7	61.5	63.2	60.5	n.a.	n.a.	n.a.
CDMA prepaid:														
very low					100.0	97.6	90.3	76.8	78.7	80.2	77.1	n.a.	n.a.	n.a.

	1997-98	1998-99	1999-00	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11
low				100.0	99.3	93.9	80.3	83.0	85.0	81.5	n.a.	n. a.	n. a.	n. a.
average				100.0	97.6	94.5	82.8	85.9	88.2	85.7	n.a.	n. a.	n. a.	n. a.
high				100.0	94.3	93.4	84.8	86.5	88.1	85.6	n.a.	n. a.	n. a.	n. a.
very high				100.0	91.8	89.3	78.7	80.2	81.7	79.3	n.a.	n. a.	n. a.	n. a.
3G post-paid:														
very low										100.0	92.3	93.4	102.1	102.7
low										100.0	96.1	97.2	93.9	90.9
average										100.0	91.2	86.9	86.3	83.1
high										100.0	100.9	99.4	100.3	97.7
very high										100.0	96.9	91.9	84.5	82.2
3G prepaid:														
very low										100.0	104.4	94.4	98.5	94.2
low										100.0	100.9	93.6	94.4	90.8
average										100.0	93.2	82.5	77.9	75.6
high										100.0	92.5	83.4	87.6	83.9
very high										100.0	89.3	79.3	77.9	64.3

Table 7.6: Internet services index by network type and user group, 2006-07 to 2010-11

	2006-07	2007-08	2008-09	2009-10	2010-11
Dial-up	100.0	89.0	76.7	86.8	76.9
DSL:					
very low	100.0	98.6	99.0	97.7	97.0
low	100.0	99.1	98.8	98.2	97.6
average	100.0	99.5	99.3	98.7	98.1
high	100.0	98.7	98.5	98.4	97.7
very high	100.0	98.9	98.8	99.5	98.8
Cable:					
very low	100.0	97.6	99.2	100.2	99.5
low	100.0	99.1	98.9	98.0	97.3
average	100.0	99.1	98.9	98.0	97.3
high	100.0	99.1	98.8	98.0	97.3
very high	100.0	99.1	98.8	98.0	97.3
Wireless:					
very low		100.0	97.4	95.9	96.3
low		100.0	95.7	90.2	88.4
average		100.0	95.7	90.2	90.5
high		100.0	96.4	95.6	94.9
very high		100.0	96.4	95.5	94.0

Note: There is no breakdown of consumer groups for dial-up.

Table 7.7: Points contribution to telecommunications services index, 2000–01 to 2010–11

	2000–01	2001–02	2002–03	2003–04	2004–05	2005–06	2006–07	2007–08	2008–09	2009–10	2010–11
PSTN services	-3.6	-1.6	0.6	0.2	-0.7	-3.6	-2.9	-2.2	-1.1	-2.0	-2.1
Mobile services	-2.5	-0.8	0.4	-1.3	-5.8	-2.9	-1.2	-2.7	-4.5	1.2	-3.3
Internet services	n/a	n/a	n/a	n/a	n/a	n/a	n/a	-0.6	-0.5	-0.8	-0.6
All telecommunications services	-6.1	-2.5	1.0	-1.1	-6.6	-6.5	-4.0	-5.5	-6.1	-1.5	-6.0

Notes: The sum of the components' points contribution may not add up to the net index change due to rounding.

Table 7.8: Points contribution to PSTN services indexes by service, residential and business, 1998–99 to 2010–11

	1998–99	1999–00	2000–01	2001–02	2002–03	2003–04	2004–05	2005–06	2006–07	2007–08	2008–09	2009–10	2010–11
PSTN:													
Basic access	-0.2	1.9	3.3	3.7	3.7	2.2	1.8	-0.9	-0.5	-0.7	0.5	-1.0	-2.2
Local calls	-0.1	-2.8	-5.0	-2.6	-0.8	-0.7	-1.4	-1.5	-0.9	-1.2	-0.3	-0.8	-0.8
National long-distance	-1.6	-2.3	-1.5	-1.9	-0.9	-0.4	-0.5	-1.1	-1.7	-1.6	-1.0	-1.2	-1.0
International	-2.3	-2.6	-1.5	-1.1	-0.4	-0.3	-0.2	-0.4	-0.2	-0.3	-0.1	-0.5	-0.5
Fixed-to-mobile	-0.7	-1.3	-1.1	-0.7	-0.5	-0.5	-0.9	-2.7	-2.0	-1.8	-1.7	-2.3	-2.9
All PSTN	-5.0	-6.9	-5.9	-2.6	1.1	0.2	-1.2	-6.6	-5.4	-5.5	-2.6	-5.8	-7.3
PSTN residential:													
Basic access	-0.1	2.3	3.7	4.4	5.1	2.5	2.6	-0.6	-0.1	-0.5	-0.1	-0.9	-2.2
Local calls	-0.3	-3.3	-4.7	-2.4	-0.3	-0.8	-2.1	-1.5	-1.1	-1.3	-0.2	-0.8	-1.1
National long-distance	-1.3	-2.6	-0.7	-1.9	-0.5	0.1	-0.3	-1.0	-2.2	-2.0	-0.9	-1.4	-0.3
International	-2.5	-2.9	-1.6	-1.5	-0.3	-0.4	-0.2	-0.4	-0.3	-0.4	-0.2	-0.8	-0.6
Fixed-to-mobile	-0.4	-0.9	-0.2	-0.8	0.9	0	-0.3	-0.2	-1.8	-2.3	-1.7	-2.4	-2.7
All residential	-4.7	-7.5	-3.5	-2.1	5	1.4	-0.3	-5.5	-5.4	-6.4	-3.1	-6.4	-6.9
PSTN business:													
Basic access	-0.2	1.3	2.7	2.5	1.1	1.7	0.3	-1.5	-1.4	-1.0	1.6	-1.0	-2.1
Local calls	0.1	-2.2	-5.5	-2.9	-1.7	-0.4	-0.1	-1.5	-0.7	-1.2	-0.5	-0.7	-0.4
National long-distance	-2.1	-1.8	-2.5	-2.0	-1.7	-1.2	-0.9	-1.5	-1.0	-0.9	-1.0	-0.7	-1.9
International	-2.0	-2.1	-1.3	-0.4	-0.5	-0.2	-0.2	-0.2	-0.1	0	-0.1	-0.1	-0.3
Fixed-to-mobile	-1.2	-1.8	-2.6	-0.5	-3.0	-1.5	-2.1	-3.9	-2.4	-0.8	-1.6	-2.1	-3.1
All business	-5.3	-6.5	-9.3	-3.2	-5.8	-1.6	-2.9	-8.6	-5.5	-4.0	-1.7	-4.7	-7.9

Table 7.9: Points contribution to mobile services index, 2000–01 to 2010–11

	2000–01	2001–02	2002–03	2003–04	2004–05	2005–06	2006–07	2007–08	2008–09	2009–10	2010–11
GSM:			1	-3.0	-11.3	-6.3	-2.5	-4.2	-5.9	4.1	-1.7
CDMA			-0.1	-0.2	-1.7	-0.2	0.2	-0.2	n.a.	n.a.	n.a.
3G								-1.0	-1.9	-2.2	-2.9
All mobile services			0.9	-3.2	-13.0	-6.5	-2.3	-5.4	-7.8	1.8	-4.6
GSM:											
post-paid	-4.6	-0.6	1.4	-1.9	-6.6	-6.4	-3.9	-5.0	-3.7	7.7	-3.4
prepaid	-2.2	-1.4	-0.3	-1.3	-6.3	-0.3	1.3	-1.5	-7.2	2.8	-5.9
All GSM	-6.8	-2.0	1.1	-3.2	-12.9	-6.7	-2.7	-6.5	-10.9	10.5	-9.3
CDMA:											
post-paid			-1.1	-1.3	-9.9	-3.1	2.4	-3.1	n.a.	n.a.	n.a.
prepaid			-1.5	-0.9	-3.9	-0.2	0.2	-2.9	n.a.	n.a.	n.a.
All CDMA			-2.7	-2.2	-13.8	-3.3	2.6	-5.9	n.a.	n.a.	n.a.
3G:											
post-paid								-3.2	-2.9	-3.6	-2.4
prepaid								-6.8	-9.2	0.0	-1.1
All 3G								-10.0	-12.1	-3.6	-3.5

Note: The sum of the components' points contribution may not add up to the net index change due to rounding.

Table 7.10: Points contribution to internet services index, 2007–08 to 2010–11

	2007–08	2008–09	2009–10	2010–11
Dial-up	-1.6	-1.4	0.4	-0.2
DSL	-3.4	-0.2	-1.1	-2.0
Cable	-1.2	0.1	-0.2	-0.5
Wireless	n/a	-3.2	-4.0	-0.9
All internet services	-6.2	-4.6	-4.9	-3.6

8 Methodology for determining price change

8.1 Index model

Since 1999–2000, a basket approach has been used to measure the prices consumers pay for telecommunications services. This approach was developed by the Communications Research Unit (CRU) of the former Department of Communications, Information Technology and the Arts,

Index numbers are used to analyse movements in the prices paid for a 'basket' of telecommunications services. An index number measures the price of the services in one period relative to another. It reflects price changes over time, but not price levels.

The price indexes are constructed using revenue, quantity and pricing plan data collected by the ACCC from several telecommunications service providers. They are then aggregated to derive an overall index.

The ACCC uses a different methodology to derive the public switched telephone network (PSTN) services index and the dial-up internet services index from the one used for the mobile service index and broadband internet services index. These methodologies are explained later in this chapter.

Changes to the constitution of the indexes and sub-indexes are made from time to time, which should be taken into account when comparing the indexes constructed in different time periods. The major changes include:

- The internet services index was included as a component of the telecommunications service index in 2007–08. In 2008–09 wireless internet services were first included in the internet services index.
- The methodology used to calculate the mobile services index has changed over time. In 2007–08, third-generation mobile communications (3G) services were included for the first time. In 2008–09, the code division multiple access (CDMA) services sub-index was discontinued when the service was withdrawn and its customers migrated to either 3G or global system for mobile communications (GSM) services.

8.1.1 The PSTN services index

Data on actual PSTN prices paid by consumers is not readily available without undertaking regular and expensive sampling. Tariff documents may not include information on discounts and short-term specials increasingly offered by carriers. In addition, many discount plans take effect only after a threshold value or certain number of calls has been reached. It is therefore extremely difficult to estimate the actual prices paid by consumers for particular services.⁹³ In order to capture the effects of discounts and specials on prices paid, carrier revenue and usage data are used to derive a yield as a proxy for price in the form of an estimate of the average price paid for a unit of a telecommunications service.

Participating carriers regularly provide separate revenue and usage estimates for five PSTN services: basic access, local calls, national long-distance calls, international long-distance calls and fixed-to-mobile calls. Each of these is further disaggregated into three consumer groups: residential, small business and other business consumers.

⁹³ The difficulty in obtaining data on prices paid meant that the standard or list prices were used to construct the weighted averages for each service reported in the first two Division 12 reports, but at a cost. Standard prices are the maximum consumers pay—they exclude all discounts and short-term specials.

Using this data, a yield is derived for every PSTN service by consumer group for each year. These yields are then converted into real terms⁹⁴ and used to construct a series of price indexes that show how prices paid for individual PSTN services by different consumer groups change over time. Individual carrier indexes for each PSTN service and consumer group category are then combined to derive indexes for PSTN services consumed by these three consumer groups. These three indexes are then aggregated to form an overall index for all PSTN services for all consumers.

As with all aggregated indexes, the expenditure share of a service determines its importance in the overall index. For a given change in price, the index is influenced most by those services on which consumers as a group spend the most money.

8.1.2 The mobile services index

The mobile services index measures prices paid by consumers for mobile services provided on the GSM and 3G networks, which include both prepaid and post-paid (billed) services. In contrast to the PSTN index, yield data has not been used to construct the indexes for mobile services, reflecting the differences in the pricing structures of PSTN and mobile services. For example it is less common to include handsets in a fixed-line plan than it is with respect to mobile plans. However due to the increasing penetration of fixed-line subscription plans (i.e. bucket plans), the distinction is becoming less clear.

Mobile plans may contain a degree of cross-subsidisation. When carriers offer low up-front charges for handsets, these costs are recovered through higher charges for monthly access or outgoing calls. When choosing which plan to use, consumers can further trade off higher access charges for lower call charges and are increasingly choosing an array of discount options to suit their calling preferences.

The mobile services index was constructed by using samples of 385 bills for each mobile carrier to construct average usage 'bundles' consumed by 'very low', 'low', 'average', 'high' and 'very high' spend customers.

For this report, the usage bundles include additional services introduced in 2007–08:⁹⁵

- domestic voice calls (number and duration)
- international voice calls (number and duration)
- message retrieval calls (number and duration)
- text messages—SMS (number)
- data usage (megabytes)
- content services (number and dollar amount)
- handset charges (dollar amount)
- other charges (dollar amount).

Separate indexes are constructed to compare the cost of each bundle over time. These indexes—GSM, and 3G, post-paid and prepaid—are then aggregated using a revenue-weighting process to form an overall mobile service index. The mobile service index for 2007–08 included 3G services for the first time and in 2008–09 CDMA services ceased to form part of the index due to service withdrawal.

⁹⁴ In the index model, revenue and price data for PSTN services are expressed in 1999–2000 dollars, and in 2002–03 dollars for mobile services. The nominal values are adjusted by using the Australian Bureau of Statistics (ABS) consumer price index (CPI).

⁹⁵ The data items that were collected for each service are listed in parenthesis.

8.1.3 Internet services index

The internet services index was introduced in 2007–08 and comprises sub-indexes for dial-up internet, DSL and cable broadband, and wireless internet services. Sub-indexes for consumer type are not included. Plans for residential consumer-grade services are monitored, as they represent the vast majority of internet services.

The DSL, cable and wireless internet indexes are calculated by comparing prices for the bundle of services (initial connection, subscription and excess usage) observed at the commencement and end of the period for service providers included in the study.

For each of the cable, DSL and wireless services, representative consumer profiles were developed for each service provider by expenditure quintile derived from bill samples. Average price changes for each consumer profile and service provider were then calculated, with price changes for service provider weighted by its revenue share to give the net price movement for that service type. This approach has certain limitations as it relies on matching actual plans to average spends, and a small change in average spend can lead to a sizeable jump (up or down) to a new most appropriate plan.

In contrast, price changes for dial-up internet services are estimated based upon a yield methodology. This reflects the very large number of pricing plans on offer for dial-up internet, and hence the difficulty of selecting the plans to monitor; as well as the declining importance of these services to the net internet service index.

8.2 Other methodology issues

8.2.1 Real prices

Price changes in the report are derived using ‘real’ prices, which are obtained by adjusting nominal prices for the effects of inflation using the ABS CPI.

8.2.2 The goods and services tax

The goods and services tax (GST) affects the prices paid by consumers for telecommunications services. This affects business and residential consumers differently. While business consumers can claim a GST input credit on telecommunications services, residential consumers cannot.

As a result, the estimated prices paid by business consumers for PSTN services are GST-exclusive while those paid by residential consumers include GST.⁹⁶ The prices for mobile services and internet services are GST-inclusive, as information is not available to estimate the proportion of these services used exclusively or partly for business.

⁹⁶ As the GST was not in operation in Australia before 1 July 2000, no services included a GST component in their prices before 2000–01.

8.2.3 Quality of service

'Quality' means all non-price attributes of a product or service, including performance, reliability, and features of the product or service. The estimates in this report do not take into account the effect of quality changes on price and consumer usage of the services because of the difficulty in quantifying such changes.

This is particularly relevant with respect to services in the sectors that experience rapid changes e.g. mobile and internet services. In those sectors, innovation and competition continue to drive improvement in the quality of services (e.g. data rates, data download quotas) and as a result consumers can benefit from higher quality services even without lower prices.

If changes in quality are not taken into account when analysing price changes for telecommunications services, those estimated price changes will not fully reflect pure price changes—that is, price changes where quality remains unchanged.

On the other hand, it is very difficult to make adjustments for quality changes without introducing other types of bias, which is why quality changes have not been factored into price change estimates. It is therefore necessary to acknowledge that there may be a bias in some of the results presented in this report.

8.2.4 Percentage changes and points contribution

The percentage changes used in this report are based on changes in the price indexes constructed for each of the services analysed. A complete set of index numbers for the telecommunications services covered is included in the tables in chapter 7. Percentage changes are useful when summarising and analysing price movements over time.

The points contribution of an index component is the number of points that a component contributes to the net change in an index in a particular year. For example, analysis might show that, of a 10 percentage point increase in the price index for a certain basket of services, 4 percentage points are due to an increase in the price of a given individual service. The points contribution for a component of a given index is calculated by multiplying the revenue share of a component in a basket by the value of the index in a particular year. Analysis of points contribution provides an insight into the underlying dynamics in the price of the basket and shows the effects of different price changes within the basket on the index.⁹⁷

8.2.5 Record keeping rules for the Division 12 report

In December 2004, after consulting with industry, the ACCC implemented a record keeping rule (RKR) for the Division 12 report. Under s. 151BU of the Competition and Consumer Act (CCA) (formerly known as the *Trade Practice Act 1974*), the ACCC has the power to make an RKR by written instrument and require that carriers and carriage service providers comply with it. The rules may specify what records are kept, how reports are prepared and when these reports are provided to the ACCC. The ACCC cannot require the keeping of records unless they contain information relevant to its responsibilities. These responsibilities include the operation of Parts XIB and XIC of the TPA (now CCA). Under Part XIB, Division 12, s. 151CM(1)(a), the ACCC is required to monitor and report each financial year on charges paid by consumers for telecommunications services.

Further information about the Division 12 RKR is available on the ACCC website at www.accc.gov.au.

⁹⁷ ACCC, *Changes in the prices paid for telecommunications services in Australia 1999–2000*.

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