

Division 12 Report
DRAFT Record-Keeping and Reporting
Rules

Issued under section 151BU of the
Trade Practices Act 1974

September 2004

1. TITLE

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

2. COMMENCEMENT

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

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

3. INTERPRETATION

- 3G** means third generation mobile telecommunications, and has the same meaning as IMT-2000.
- AAPT** means AAPT Limited (ABN 22052082416).
- access charge** means the charge paid by a mobile consumer for ongoing access to a GSM or CDMA mobile network.
- Act** means the *Trade Practices Act 1974*.
- ADSL** means Asymmetrical Digital Subscriber Line.
- area code** has the same meaning as in the *Telecommunications Numbering Plan 1997*.
- auditor** has the same meaning as in the Corporations Law.
- Australian subsidiary** means a subsidiary that is registered with ASIC under section 118 of the Corporations Law.
- basic access** means:
- (a) establishing the supply of a standard telephone service at a location required by the person requesting the supply of the service, but does not include:
 - (i) in respect of a business requesting the service – the supply of materials or services to support the supply of a standard telephone service

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

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

broadband	means an internet connection that enables high speed usage with high capacity limits and download speeds of greater than or equal to 256 Kbps, provided by infrastructure such as copper (using ADSL technology), fibre optic or coaxial cable.
business consumer	means a consumer that has a contract with a carrier or carriage service provider for the supply of a standard telephone service for the purposes of carrying on a commercial, government, community, religious, non-profit organisation, an association or club, or a like organisation.
call charge	means a charge for calls made using a GSM or CDMA mobile service.
carriage service provider	has the same meaning as in the <i>Telecommunications Act 1997</i> .
carrier	has the same meaning as in the <i>Telecommunications Act 1997</i> .
Comindico	means Comindico Holdings Pty Ltd (ABN 89092630950)
Commission	means the Australian Competition and Consumer Commission.
connection charge	means a charge paid by a mobile consumer for connection to a GSM or CDMA mobile network. Connection charges include 'activation' charges for a service.

consumer	means a person who has a contract with a carrier or carriage service provider for the supply of a standard telephone service. It does not include a carriage service provider or carrier acquiring a standard telephone service in its capacity as a carriage service provider or carrier for the purposes of resale.
CDMA	means Code Division Multiple Access, and is an access technique for digital wireless communications, including mobile phone and satellite services.
dial-up	means an internet connection that involves using a dial-up modem to dial an ISP via a phone line.
financial year	has the same meaning as in the Corporations Law.
fixed-to-mobile call	means a call involving the use by the calling party of a fixed carriage service and the use by the called party of a mobile carriage service.
GSM	means Global System for Mobile communications, and is a digital cellular network for mobile telecommunications.
GST	means Goods and Services Tax.
Hutchison	means Hutchison Telecommunications (Australia) Limited (ABN 1500367727).
international call	means a call that is: <ul style="list-style-type: none"> (i) an operator-connected call between a place in Australia and a place outside of Australia; or (ii) a direct-dialled call between a place in Australia and a place outside Australia.
IMT-2000	means International Mobile Telecommunications – 2000, and is a term adopted by the ITU to refer to third generation mobile telecommunications services, and which aims to provide global mobile communications as well as broadband applications such as multimedia.
ISP	means internet service provider.
ITU	means the International Telecommunications Union, and is a specialised agency of the United Nations within which governments and the private sector coordinate global telecommunications networks and services, including radiocommunications.

Kbps	means kilobits per second, and is a data communications transmission rate of 1,000 bits per second.
local call	means a voice call between two consumers, both of whom are geographically located in Australia, and whose telephone numbers have the same area code.
MCI Worldcom	means MCI Worldcom Australia Pty Ltd (ABN 62081001194).
Mbit/s	means megabits per second, and is data communications transmission rate of one million bits per second.
national long-distance call	means a voice call between two consumers, both of whom are geographically located in Australia, and whose telephone numbers have different area codes.
prepaid services	means mobile telephony services for which a consumer is not billed regularly, but rather pays upfront for handset, access, call charges etc.
Primus	means Primus Telecommunications Pty Ltd (ABN 690 711911396).
PSTN	means Public Switched Telephone Network, and has the same meaning as specified in Deeming of Telecommunications Services under section 39 of the <i>Telecommunications (Transitional Provisions and Consequential Amendments) Act 1997</i> .
reporting carrier or carriage service provider	means a carrier or carriage service provider to which these rules apply, to the extent it is required to report.
other business consumer	means a business consumer that is not a small business consumer.
residential consumer	means a consumer that is not a business consumer.
Rules	means the Division 12 Report Record-Keeping and Reporting Rules.
Singtel Optus	means Singtel Optus Pty Ltd (ABN 90052833208).
small business consumer	means a business consumer that is designated by a carrier or carriage service provider, for its internal reporting purposes, as a small business consumer.

In defining a ‘small business consumer’, a carrier or carriage service provider must use a definition that is

consistent with the definition adopted by that carrier or carriage service provider for the purposes of previous Division 12 reports.

standard telephone service	has the meaning given by the <i>Telecommunications (Consumer Protection and Service Standards) Act 1999</i> .
subsidiary	has the same meaning as in the Corporations Law.
Telstra	means Telstra Corporation Limited (ABN 33051775556).
Vodafone	means Vodafone Australia Limited (ABN 86056161043).
WCDMA	means Wideband Code Division Multiple Access, and is a third generation mobile telecommunications technique that uses direct spreading of data. A direct sequence CDMA system where user data is multiplied with quasi-random bits derived from WCDMA spreading codes in two basic modes of operation – frequency division duplex and time division duplex. Supports images, mobile or portable voice, data and video communication at up to 2Mbit/s (local area access) or 384 kbits/s (wide area access).

4. APPLICATION

- (1) These Rules apply to:

Telstra Corporation Limited (ABN 33051775556)
Singtel Optus Pty Ltd (ABN 90052833208)
AAPT Limited (ABN 22052082416)
Primus Telecommunications Pty Ltd (ABN 69071191396)
Hutchison Telecommunications (Australia) Limited (ABN 15003677227)
Vodafone Australia Limited (ABN 86056161043)
MCI Worldcom Australia Pty Ltd (ABN 62081001194)
Comindico Holdings Pty Ltd (ABN 89092630950)
and their Australian subsidiaries.

5. RECORD KEEPING

- (1) Carriers and carriage service providers listed in paragraph 4(1) must keep and retain the records prescribed in **Schedule A**.
- (2) The information that must be contained in the records kept in accordance with **Schedule A**, and the manner and form in which it is to be kept, is specified in **Schedules B, C, D, E and F**.

- (3) A carrier or carriage service provider may, in writing to the Commission, request that the Commission vary the requirements of the Rules as they relate to that carrier or carriage service provider.

6. REPORTING REQUIREMENTS

- (1) Each carrier or carriage service provider listed in paragraph 4(1) must provide to the Commission for each year, commencing with the 2004/05 financial year, a report containing the information required to be kept in accordance with these Rules, except in the case of the information listed at (4) in Schedule A.
- (2) Each carrier or carriage service provider listed at (4) in Schedule E must provide to the Commission for each year, commencing with the 2005/06 financial year, a report containing the information described in Schedule E and required to be kept in accordance with these Rules.
- (3) A report required to be prepared in respect of a financial year must be lodged with the Commission within 3 months after the last day of that financial year.
- (2) If a carrier or carrier service provider in compiling this report varies their method of defining, recording and reporting data from the previous Division 12 reports then this must be explained.

7. MANNER AND FORM OF REPORTS

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

8. RECORD-KEEPING DECLARATIONS

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

9. AUDITING OF REPORTS

- (1) A reporting carrier or carriage service provider must engage, at their own expense, an external auditor to audit each report prepared in accordance with these Rules.
- (2) The audit must be conducted in accordance with the Australian Auditing Standards.

- (3) A reporting carrier or carriage service provider must provide an audit report to the Commission.
- (4) The audit report must include:
 - (a) an audit plan outlining the scope and coverage of the audit; and
 - (b) an expression of the auditor's opinion as to whether the carrier or carrier service provider has complied with the Rules.
- (5) The audit report must be provided to the Commission at the time the report is lodged pursuant to clause 6. The audit report will relate to the report for the previous financial year.
- (6) The carrier or carrier service provider must submit draft terms of reference to the Commission on or before the fourteenth day after the end of a financial year. The Commission may require changes to the submitted draft terms of reference to be used for the audit.
- (7) Following provision of the report the Commission may require the carrier or carrier service provider to undertake at its own expense a re-audit of a report prepared in accordance with these Rules, with further terms of reference specified by the Commission.
- (8) The Commission may specify the auditor to conduct the audit, or a pool of auditors from which the auditor is to be selected.

Schedule A

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

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

Schedule B

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

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

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

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

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

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

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

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

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

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

5. Revenue and traffic information for the PSTN network

a. Basic access

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

b. Local calls

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

c. National long distance calls

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

d. International calls

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

e. Fixed-to-mobile calls

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

- (5) Reporting carriers and carriage service providers must also record details of all changes to the price and terms and conditions of supply of the relevant services during the past financial year. This includes details of discounts and specials that occurred in the previous financial year, where a discount or special offer was available only for a limited time, to a limited number of customers, or subject to other limitations.

Schedule C

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

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

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

Notes:

¹ Services in operation as at 30 June.

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

³ For the purposes of this item, 'other services' refer only to services which are itemised on a customer's bill.

⁴ 'Free' minutes and calls must be included.

- (5) Reporting carriers and carriage service providers must provide details of all changes to the price and terms and conditions of supply of the relevant services during the past financial year. This includes details of discounts and specials that occurred in the previous financial year where a discount or

special offer was available only for a limited time, to a limited number of customers, or subject to other limitations.

Schedule D

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

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

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

Notes:

¹ Services in operation as at 30 June.

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

³ For the purposes of this item, 'other services' refer only to services which are itemised on a customer's bill.

⁴ 'Free' minutes and calls must be included.

- (5) Reporting carriers and carriage service providers must provide details of all changes to the price and terms and conditions of supply of the relevant services during the past financial year. This includes details of discounts and specials that occurred in the previous financial year where a discount or special offer was available only for a limited time, to a limited number of customers, or subject to other limitations.

Schedule E

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

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

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

Notes:

¹ Services in operation as at 30 June.

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

³ For the purposes of this item, 'other services' refer only to services which are itemised on a customer's bill.

⁴ 'Free' minutes and calls must be included.

- (5) Reporting carriers and carriage service providers must provide details of all changes to the price and terms and conditions of supply of the relevant services during the past financial year. This includes details of discounts and specials that occurred in the previous financial year where a discount or special offer was available only for a limited time, to a limited number of customers, or subject to other limitations.

Schedule F

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

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

a. Dial-up Internet access

	<i>Last FY</i>	<i>This FY</i>
Total dial-up Internet customers		
Total revenue from Internet access services		

b. Broadband Internet access

	<i>Last FY</i>	<i>This FY</i>
Total broadband Internet customers		
Total revenue from Internet access services		
Total revenue from broadband connections		

- (2) Reporting carriers and carriage service providers must provide details of all changes to the price and terms and conditions of supply of the relevant services during the past financial year. This includes details of discounts and specials that occurred in the previous financial year, where a discount or special offer was available only for a limited time, to a limited number of customers, or subject to other limitations.

Schedule G

Record-Keeping Declaration – Statement by CEO and CFO

(Date)
General Manager
Telecommunications
Australian Competition and Consumer Commission

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

We declare that:

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

Dated at this day of 20

Chief Executive Officer
(or delegated authority)

Chief Financial Officer
(or delegated authority)