

Optus Wholesale Mobile Fair Go Policy

The Optus Wholesale Mobile Fair Go™ Policy aims to ensure Optus is able to provide quality mobile services to all its Service Providers and their Customers, and no Service Provider or its customers are disadvantaged by the behaviour of others.

This policy applies where there is a level of free time on calls, or where there is a flat charge for part or all of a call, whether in connection with a specific promotion or rate plan, or a generally available rate plan. This includes for example, but without limitation, 'yes' Time, 'yes' Business, DayLight Saver, First 5 Mobile and First 5 Landline. This policy also applies where Service Provider Customers access content using Optus Web SMS, Optus Web MMS, Optus SMS Broadcast, Optus Zoo (via WAP CSD, WAP GPRS or 3G), Wireless Internet, BlackBerry from Optus or any MobileMail value added services as set out in section 6.

Free Time / Flat Charge on Calls: Excessive Use

To ensure the availability of Optus mobile services to all Service Providers and their customers, Optus may require Service Providers to request their customers who are excessive users of free time / flat charge call offers, to reduce their use of these calls (outgoing or incoming). If usage continues at an excessive level following this request, Optus may, at its option:

- (a) require the Service Provider to immediately refuse access to these offers by those customers; and/or
- (b) require the Service Provider to immediately disconnect or suspend any existing mobile services to those customers; or
- (c) with immediate effect on giving notice to the Service Provider, charge the Service Provider for Optus' mobile services at Optus' then current standard wholesale rates.

If the Service Provider fails to do as required by Optus under paragraphs (a) or (b) above, Optus may, without liability, immediately disconnect or suspend part or all of any Optus mobile service, including for an activated service number provided to a Service Provider's customer.

Optus currently considers "excessive" use to be usage of more than 2,000 minutes free or flat charge per month per mobile phone (Satellite SIM card).

Free Time / Flat Charge on Calls: Unreasonable Use

In addition, and without limiting Optus' rights under the Agreement between Optus and the Service Provider, where Optus considers a Service Provider customer's use of a free time / flat charge offer is unreasonable, then Optus may, at its option:

- (a) require the Service Provider to immediately suspend or refuse that customer access to that or any other free time / flat charge offer; and/or
- (b) require the Service Provider to immediately suspend or terminate any existing Optus mobile service to that Customer; or
- (c) with immediate effect on giving notice to the Service Provider, charge the Service Provider for Optus' mobile services at Optus' then current standard wholesale rates.

If the Service Provider fails to do as required by Optus under paragraphs (a) or (b) above, Optus may, without liability, immediately disconnect or suspend part or all of any Optus mobile service, including for an activated service number provided to a Service Provider's customer.

Without limiting the meaning of "unreasonable",

1. Optus supplies the mobile Services and each individual mobile Service to the Service Provider for resupply to its Customers for the purpose of Customers:

- (a) originating (making) calls or other mobile services on the Optus Network; and
- (b) terminating (receiving) calls or other mobile services on the Optus Network, which originate on the Optus Network or on the network of another Supplier with which Optus has a current interconnection arrangement.

2. Optus considers a Customer's use of the mobile Services, or an individual mobile Service, to be unreasonable if the Customer originates or terminates calls or other services on the Optus Network (or permits another person to do so) in connection with the mobile Services or an individual mobile Service other than as described in paragraph 1 above, without the prior written consent of Optus.

3. Optus also considers a Service Provider customer's use of an Optus mobile service to be unreasonable (even if otherwise permitted under paragraph 1 above) if the customer:

- (a) transits, refiles or aggregates domestic or international traffic on the Optus network in connection with that Optus mobile service; or
- (b) uses the mobile Services or an individual mobile Service (including any Satellite SIM Card) in connection with a device that switches or reroutes calls to or from the Optus Network or the network of any Supplier or other Optus Group Company, (or permits another person to do so), without the prior written consent of Optus.

4. Optus may give or withhold its consent in paragraphs 2 and 3, or make this consent subject to conditions, in each case in Optus' absolute and unfettered discretion.

5. Optus also considers a Customer's use of the mobile Services, or an individual mobile Service, to be unreasonable if the Customer sets up switch devices which overcome the time cap on free or flat call rates, thus keeping a line open potentially for hours and limiting the ability for other Customers to access the network.

6. Optus Web SMS, Optus Web MMS, Optus SMS Broadcast, Optus ZOO (Via Wap CSD, WAP GPRS or 3G), Wireless Internet, Blackberry from Optus or Mobilemail – Acceptable Use

(a) If the Service Provider Customer uses Optus Web SMS, Optus Web MMS, Optus SMS Broadcast, Optus Zoo (via WAP CSD, WAP GPRS or 3G), Wireless Internet, BlackBerry from Optus or any MobileMail value added services, the Service Provider Customer must comply with the provisions of this section 6. If the Service Provider Customer fails to comply, Optus may suspend or cancel the Service Provider Customer's use of the Service or Value Added Service Feature.

(b) Service Provider must comply with, and do all things reasonably necessary to assist Optus in complying with, the Internet Industry Association Codes for Industry Co-Regulation in Areas of Internet and Mobile Content (pursuant to the requirements of the Broadcasting Services Act 1992), including the requirements regarding minors opening internet access accounts and limiting access to prohibited or restricted content.

(c) The Service Provider Customer must not use the Service in a manner which interferes with the rights of other users. For example, the Service Provider Customer must not:

- (i) provide false user information to Optus or other users,
- (ii) send large amounts of unsolicited or unwanted emails or message to individuals or individual business accounts, or
- (iii) gain access to a person's private information (or attempt to do so).

(d) In using the Service, the Service Provider Customer must not break any laws or infringe the rights of other persons. For example, they must not:

- (i) distribute or make available indecent, obscene, offensive, illegal or confidential material,
- (ii) defame, harass or abuse anyone or violate their privacy,
- (iii) contravene any applicable laws,
- (iv) distribute or make available material that is misleading or deceptive as to their identity,
- (v) infringe any person's intellectual property rights,

(vi) monitor data or traffic on any network or system if the Service Provider Customer does not have the authorisation of the owner of the network or system to do so, or
(vii) interfere or disrupt the Service, any computer system access through it or any other person's use of it.

(e) The Service Provider Customer must comply with any rules imposed by any third party whose content or service is accessed using the Service.

(f) Except to the extent the Service Provider Customer has validly obtained a licence for the commercial use of the content the Service Provider Customer may only use any content accessible through the Service for personal and non-commercial purposes. The Service Provider Customer may not otherwise copy, publish, re-publish, re-distribute, re-communicate or otherwise commercially exploit such content in any form or by any method whatsoever. For the avoidance of doubt, this prohibition includes framing, linking, posting in news groups and any other form of copying by persons other than as approved by the content provider.

(g) Service Provider acknowledges and agrees that to detect and deal with breaches of this policy and to ensure compliance with any relevant Industry Code of practice, notification or direction by any relevant regulatory authority, Optus:

- (i) will co-operate with other carriage service providers to control unacceptable user behaviour,
- (ii) may require Service Provider to give details of the Service Provider Customer to the police and to other law enforcement agencies if the Service Provider Customer is suspected of breaking any laws in connection with the use of the Service,
- (iii) may implement technical mechanisms to prevent behaviour which breaches this policy (for example, which block multiple postings before they are forwarded to their intended recipients),
- (iv) may exercise any rights we have under the Agreement, including suspending or cancelling use of the service,
- (v) may remove any content from Optus' servers,
- (vi) may filter the content made available to Service Provider Customers via the Service or restrict the Service Provider Customer's access to a particular site,
- (vii) may take any other action Optus considers reasonably necessary.

Clawbacks

If a Service is suspended or disconnected in accordance with the terms of the Optus Wholesale Mobile Fair Go Policy, the Service Provider must pay to Optus commission clawbacks in accordance with Appendix 2.