

## Commerce Commission's pre-paid phone card guidelines – useful for all other Telco/ISP services

December 2012

*As to the Fair Trading Act, the Commission prioritises Telcos when dealing with Fair Trading Act compliance. Any breach means prosecution is much more likely. Added this month to the broadband guidelines are these new guidelines with tips extending beyond pre-paid phone cards.*

There's no doubt that Telcos and ISPs run a big risk if they ignore Fair Trading Act (FTA) obligations. The Commission has telegraphed this by focussing on them including by:

- Saying that to the industry (meaning the industry has been warned: see those points in our article, *Managing Fair Trading Act complaints - a great example*);<sup>1</sup>
- High profile prosecutions at the big end of town (such as Vodafone and Telecom): they can be held out by the Commission as examples;
- Prosecution of smaller players to encourage others (such as the two pre-paid card providers);
- Commission Guidelines on claims as to broadband performance;
- Now there's the Pre-paid phone card guidelines<sup>2</sup> with plenty of helpful material applicable to other pricing of most other services such as pre- and post-paid mobiles, internet, etc.

The broadband guidelines focus on performance claims. The pre-paid guidelines focus on pricing. Both can be applied to all Telco services, including beyond broadband and pre-paid phone cards.

### ***The big takeaway from both guidelines?***

There is a strong prospect that the FTA is breached where the fine print materially affects the headline claims; second chances to get this right are not likely given the history above. Telco services can be complex and so it can be challenging to get a strong marketing message on websites, etc, when there are so many qualifications. But it must be done (and in our experience can often be done by choosing the right words and approach).

The pre-paid guidelines signal that the Commission won't tolerate things where customers end up paying more to Telcos, unexpectedly, due to what is in the fine print. The Commission expects the industry to upfront the payment obligations.

For a good example of how the rules apply, see our article, *\$189 FARESTO SYDNEY!! Yeah Right*.<sup>3</sup>

1. <http://wigleylaw.com/assets/Uploads/Fair-Trading-Act-breach.pdf>.
2. See media release at <http://www.comcom.govt.nz/media-releases/detail/2012/new-guidelines-for-prepaid-phone-card-industry>.
3. <http://wigleylaw.com/assets/pdfs/2006/-fares-to-sydney-yeah-right.pdf>.

Wigley+Company

PO Box 10842  
Level 7/107 Customhouse Quay, Wellington  
T +64(4) 472 3023 E [info@wigleylaw.com](mailto:info@wigleylaw.com)

and in Auckland  
T +64(9) 307 5957

[www.wigleylaw.com](http://www.wigleylaw.com)

*We welcome your feedback on this article and any enquiries in relation to its contents. This article is intended to provide a summary of the material covered and does not constitute legal advice. We can provide specialist legal advice on the full range of matters contained in this article.*