

## M2 MOBILE FAIR USAGE POLICY

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## 1 ABOUT THIS POLICY

This is the M2 Mobile Fair Usage™ Policy. It only applies the M2 Digital Mobile Service as applicable to *you*, the individual user. '*Our network*' refers to any carrier network used for the delivery of mobile GSM services to M2 customers.

## 2 GENERAL

(a) This policy aims to ensure *we* are able to provide quality mobile services to all of *our* customers, and no customers are disadvantaged by the behaviour of others.

(b) This policy applies where:

(i) there is a:

(A) level of free time on calls, or

(B) flat charge for part or all of a call, whether in connection with a specific promotion or pricing plan, or a generally available pricing plan.

This includes, without limitation, Cap plans, Group Cap and Fleet plans offered by M2 to its customers. (see clauses 3 and 4 below),

(ii) *you* may send or receive text or multimedia messages, for example, without limitation, SMS, Optus MMS, SMS Broadcast and EmailSMS (see clause 5 below),

(iii) *you* may connect to and use information services on Optus Zoo (via WAP CSD, WAP GPRS) (see clause 5 below),

(iv) *you* may connect to the Internet using Wireless Internet (see clause 5 below),

(v) *you* use voice calling on the Optus Push to Talk *value added service feature* (see clause 6 below),

(vi) *you* use Optus Web SMS, Optus Web MMS, Optus SMS Broadcast, Optus Zoo (via WAP CSD, WAP GPRS), Wireless Internet, Email Alerts from Optus or MobileMail (see clause 7 below);

(vii) *you* use the Optus Mobile IM *value added service feature* (see clause 8 below);

(viii) *you* use the FindA Services under the Optus Zoo *value added service feature* (see clause 9 below); or

(ix) *you* use the Video Calling *value added service feature* (see clause 10 below).

### 3 FLAT CHARGE ON CALLS - EXCESSIVE USE

- (a) If *you* are an excessive user of flat charge call offers *we* may ask *you* to reduce *your* use of these calls (outgoing or incoming). If usage continues at an excessive level following this request and *you* are an M2 Digital Mobile Service customer, *we* may refuse *you* access to these offers. *You* will then be charged *our* standard rates for calls.-

*We* consider for international calls, 'excessive' use is more than 300 minutes per month per *service*.

### 4 FLAT CHARGE ON CALLS - UNREASONABLE USE

- (a) In addition, and without limiting *our* rights under the [consumer terms](#), the [SME terms](#), the [general terms](#), or the relevant *service description*, where *we* consider *your* use of a free time or flat charge offer is unreasonable, then *we* may:

- (i) suspend *your* access to that or any other flat charge offer, or
- (ii) suspend or *cancel the service* or *your* access to a *value added service feature*,

in each case immediately and without notice to *you*.

- (b) Without limiting the meaning of 'unreasonable', *we* supply the *service* and each of the value added services for the purpose of *you*:

- (i) making calls from the receiving calls to *your mobile phone*, and
- (ii) sending *content* from and receiving *content* to *your mobile phone*

on *our network* for *your* own personal or business use.

- (c) *We* consider *your* use of the *service* or a *value added service feature*, to be unreasonable if *you*:

- (i) make or receive calls or send or receive *content* on *our network* other than for *your* own personal or business use, as described in paragraph (b) above,
- (ii) wholesale any service (including transit, refile or aggregate domestic or international traffic) on *our network*, or
- (iii) use the *service* (including any *Optus SIM card*) in connection with a device that switches or reroutes calls to or from *our network* or the *network* of any *supplier*,

without obtaining *our* written consent first. *We* may give or withhold *our* consent, or make *our* consent subject to conditions, in *our* discretion.

- (d) *We also consider your use of the service or a value added service feature to be unreasonable if you set 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 our network.*

**5 SMS, OPTUS MMS, OPTUS ZOO AND WIRELESS INTERNET - EXCESSIVE AND UNREASONABLE USE**

- (a) As set out above, this policy applies to:
- (i) the sending and receiving of SMS text messages by M2 Digital Mobile Service customers,
  - (ii) the sending and receiving of MMS multimedia messages by M2 Digital Mobile Service customers, and
  - (iii) the use of Optus Zoo and Wireless Internet.
- (b) To ensure the availability of these *value added service features* to all eligible customers, if *you* are an excessive user of these *value added service features* we may request *you* reduce *your* use (outgoing or incoming messages, or uploading or downloading of data, as the case may be) of these *value added service features*. If usage continues at an excessive level, *we* may suspend *your* access to these *value added service features*.
- (c) Further, for any *specials* relating to these *value added service features*, if *you* are an excessive user of these *value added service features* under the *special* we may request *you* to reduce *your* use (outgoing or incoming messages, or uploading or downloading of data, as the case may be) of these *value added service features*. For the period of the *special*, if usage continues at an excessive level, *we* may bill *you* the standard rates for all messages or usage above the number or amount *we* consider as excessive usage.
- (d) *We* consider 'excessive' use of:
- (i) SMS to be usage of more than 500 SMS text message sent per month per *service*,
  - (ii) Optus MMS to be usage of more than 500 Optus MMS messages sent per month per *service*,
  - (iii) Optus MMS Video to be usage of more than 300 Optus MMS Video messages requested per month per *service*,
  - (iv) Optus Zoo via WAP CSD to be usage of more than 20 hours per month per *service*,
  - (v) Optus Zoo via WAP GPRS to be usage of more than 5 megabytes downloaded per month per *service*,

- (vi) Optus Zoo via to be usage of more than 5 megabytes downloaded per month, and
  - (vii) Optus Zoo, for the Optus Live TV Service, to be usage of more than 10 megabytes downloaded per month per *service*.
- (e) Additionally, *we* may suspend *your* access to these *value added service features* without notice where *we* deem *your* use to be unreasonable. Without limiting the meaning of 'unreasonable', *we* supply the *service* and each of the value added services for the purpose of *you*:
- (i) making calls from the receiving calls to *your mobile phone*, and
  - (ii) sending *content* from and receiving *content* to *your mobile phone* on *our network* for *your* own personal or business use.
- (f) *We* consider *your* use of the *service* or a *value added service feature*, to be unreasonable if *you*:
- (i) make or receive calls or send or receive *content* on *our network* other than for *your* own personal or business use, as described in paragraph (b) above,
  - (ii) wholesale any service (including transit, refile or aggregate domestic or international traffic) on *our network*, or
  - (iii) use the *service* (including any *Optus SIM card*) in connection with a device that switches or reroutes calls to or from *our network* or the *network* of any *supplier*,
- without obtaining *our* written consent first. *We* may give or withhold *our* consent, or make *our* consent subject to conditions, at *our* discretion.
- (g) *We* also consider *your* use of the *service* or a *value added service feature* to be unreasonable if *you* set 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 *our network*.
- (h) Where *we* deem *your* use unreasonable, *we* may bill *you* at the standard rates for all messages above the number defined as excessive usage.

## 6 OPTUS PUSH TO TALK - EXCESSIVE USE

- (a) As set out above, this policy applies to all Optus Push to Talk usage. To ensure the availability of *our* services to all eligible customers, if *you* are an excessive user of Optus Push to Talk *we* may request that *you* reduce *your* use of these calls (outgoing or incoming). If excessive use of Optus Push to Talk continues following this request, *we* may charge any excess usage at *your* peak digital mobile voice calling rate.

- (b) We consider 'excessive' use of Optus Push to Talk to be more than 150 minutes of use per month per *service*.

**7 OPTUS WEB SMS, OPTUS WEB MMS, OPTUS SMS BROADCAST, OPTUS ZOO (VIA WAP CSD, WAP GPRS), WIRELESS INTERNET, EMAIL ALERTS, MOBILEMAIL - ACCEPTABLE USE**

- (a) If *you* use Optus Web SMS, Optus Web MMS, Optus SMS Broadcast, Optus Zoo (via WAP CSD, WAP GPRS), Wireless Internet, Email Alerts, from Optus or MobileMail, *you* must comply with this policy, which is designed to ensure *your* use of the *service* does not break any laws or interfere with the right of *our* other customers to use the *service*. If *you* fail to comply, *we* may suspend or cancel *your* use of the *service* or *value added service feature*.
- (b) To the extent that *your* use of the *service* provides *you* with access to the Internet, *you* must be over the age of 18 years of age, or if *you* are not over 18 years of age, *you* must obtain the consent of a parent, teacher or other responsible adult prior to accessing the *service*.
- (c) *You* must not use the *service* in a manner which interferes with the rights of other users. For example, *you* must not:
- (i) provide false user information to *us* 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*, *you* must not break any laws or infringe the rights of other persons. For example, *you* must not:
- (i) distribute or make available indecent, obscene, offensive, pornographic, 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 *your* identity,
  - (v) infringe any person's *intellectual property rights*,
  - (vi) monitor data or traffic on any *network* or system if *you* do 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) *You must comply with any rules imposed by any third party whose content or service you access using the service.*
- (f) *You may only use any content accessible through the service for personal and non-commercial purposes. You 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) 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, *we*:
  - (i) will co-operate with other *carriage service providers* to control unacceptable user behaviour,
  - (ii) may give *your* details to the police and to other law enforcement agencies if *you* are 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 *consumer terms*, the *SME terms*, the *general terms*, or relevant *service description*, including suspending or *cancelling use of the service*,
  - (v) may remove any *content* from *our* servers,
  - (vi) may filter the *content* made available to *you* via the *service* or restrict *your* access to a particular site,
  - (vii) may take any other action *we* deem appropriate, including taking action against offenders to recover costs and expenses of identifying them.

## 8 OPTUS MOBILE IM - EXCESSIVE USE

- (a) As set out above, this policy applies to all Optus Mobile IM usage. To ensure the availability of *our* services to all eligible customers, if *you* are an excessive user of Optus Mobile IM *we* may request that *you* reduce *your* use of these messages (outgoing or incoming). If excessive use of Optus Mobile IM continues following this request, *we* may charge any excess usage at *your* peak digital mobile rate (GSM).
- (b) *We* consider 'excessive' use of Optus Mobile IM to be more than 1Mb of data usage per day when *you* pay us a daily rate.

**9 FINDA SERVICES - EXCESSIVE USE**

- (a) As set out above, this policy applies to all FindA Service usage. To ensure the availability of *our* services to all eligible customers, if *you* are an excessive user of the FindA Services *we* may request that *you* reduce *your* use of these services. If excessive use of FindA Services continues following this request, *we* may suspend your access to this *value added service feature*.
- (b) *We* consider 'excessive' use of FindA Services to be more than 300 maps downloaded per month when *you* pay us a monthly rate for FindA Services.