



## **Locall Australis FAIR USE POLICY**

### **1 ABOUT THIS POLICY**

(a) This is the Locall Australis Fair Use Policy. It applies to any Locall Australis post paid phone services. So in this Policy, 'service' or 'services' means the Locall Australis mobile and home phone services as applicable to you, the individual user.

(b) The meaning of the words printed like this is set out at the end of this policy.

### **2 GENERAL**

(a) This policy aims to ensure we are able to provide quality phone 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 or unlimited use 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.

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

(iii) you may connect to and use information services on Optus Zoo (via WAP CSD, WAP GPRS or 3G) (see clause 5 below),

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

(v) you use Optus Web SMS, Optus Web MMS, SMS Broadcast, Optus Zoo (via WAP CSD, WAP GPRS or 3G), Wireless Internet or BlackBerry (see clause 7 below);

(vi) you use the FindA Services under the Optus Zoo value added service feature (see clause 8 below); or

(vii) you use the MobileMail value added service feature (see clauses 9 below)

### **3 FREE TIME, UNLIMITED CALLS OR FLAT CHARGE ON CALLS - EXCESSIVE USE**

(a) If you are an excessive user of free time, unlimited calls or 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:

(i) Locall Australis Post-paid Mobile Service customer, we may refuse you access to these offers. You will then be charged our standard rates for calls, and



(ii) Locall Australis Home Phone Service customer, the service may be cancelled, or we may suspend or restrict your access or move you to a different call rate plan, at our discretion.

(b) We consider 'excessive' use to be usage of more than 2,000 minutes free per month per service.

#### **4 FREE TIME UNLIMITED CALLS OR FLAT CHARGE ON CALLS - UNREASONABLE USE**

(a) In addition, and without limiting our rights under the SFOA, or the relevant service description, where we consider your use of a free time, unlimited calls or flat charge offer is unreasonable, then we may:

(i) suspend your access to that or any other free time, unlimited or 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.

Please note that our right to suspend or cancel the service without notice to you under this clause overrides any requirement we may have to give you notice in the SFOA (as applicable 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 or home phone, and

(ii) sending content from and receiving content to your mobile phone on our supplier's 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 supplier's 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 supplier's network, or

(iii) use the service (including any Locall Australis supplied SIM card) in connection with a device that switches or reroutes calls to or from our supplier's network.

(iv) 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, 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 mobile post-paid mobile customers,
- (ii) the sending and receiving of MMS multimedia messages by mobile post-paid 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) MMS to be usage of more than 500 MMS messages sent per month per service,
- (iii) MMS Video to be usage of more than 300 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, for the Optus Live TV Service, to be usage of more than 10 megabytes downloaded per month per service.

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(vii) Optus Zoo, for the PhoneBook Backup service, to be more than 5 backups per day 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.

Please note that our right to suspend your access to these value added service features without notice under this clause overrides any requirement we may have to give you notice in other parts of the SFOA(as applicable to you).

(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 supplier's 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 supplier's network, or
- (iii) use the service (including any Locall Australis supplied SIM card) in connection with a device that switches or reroutes calls to or from our supplier's network, without obtaining our written consent first. We may give or withhold our consent, or make our consent subject to conditions, in 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 supplier's 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 PUSH TO TALK - EXCESSIVE USE**

(a) As set out above, this policy applies to all mobile Push to Talk usage. To ensure the availability of our services to all eligible customers, if you are an excessive user of mobile Push to Talk we may request that you reduce your use of these calls (outgoing or incoming). If excessive use of mobile 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 mobile Push to Talk to be more than 150 minutes of use per month per service on the daily fee.

(c) We consider 'excessive' use of mobile Push to Talk to be more than 200 minutes of use per month per service on the monthly rate for mobile Push to Talk Service.

**7 OPTUS WEB SMS, OPTUS WEB MMS, SMS BROADCAST, OPTUS ZOO (VIA WAP CSD, WAP GPRS OR 3G), WIRELESS INTERNET, BLACKBERRY OR MOBILEMAIL - ACCEPTABLE USE**

(a) If you use Optus Web SMS, Optus Web MMS, SMS Broadcast, Optus Zoo (via WAP CSD, WAP GPRS or 3G), Wireless Internet, BlackBerry from Locall Australis or any of MobileMail, MobileMail Corporate or MobileMail Business value added services, 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 SFOA, 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 FINDA SERVICES / FRIEND FINDA SERVICE - EXCESSIVE USE**

(a) As set out above, this policy applies to all FindA Service usage and to Friend FindA Service usage. To ensure the availability of our services to all eligible customers, if you are an excessive user of the FindA Services or Friend FindA Service, we may request that you reduce your use of these services. If excessive use of FindA Services or Friend FindA Service 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.

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(c) We consider 'excessive' use of Friend FindA Services to be if you make more than 60 successful location requests per month when you pay us a monthly rate for Friend FindA Services.

(d) We consider 'excessive' use of FindA Services (when these services are free pursuant to a special promotion) to be if you use the FindA Services more than 50 times.

#### **9 MOBILEMAIL – EXCESSIVE USE**

(a) This policy applies to use of the MobileMail value added service. To ensure the availability of our services to all eligible customers, if you are an excessive user of MobileMail, we may request that you reduce your use of the service. If excessive use of MobileMail continues following this request, we may suspend your access to the value added service feature.

(b) We consider 'excessive' use of MobileMail to be more than 5MB downloaded per month when you pay us a monthly rate for MobileMail.

#### **10 MYSPACE MOBILE – EXCESSIVE USE**

(a) If you use MySpace Mobile, 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) 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 messages to individuals or individual business accounts, or

(c) 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.

(d) You must comply with any rules imposed by any third party whose content or service you access using the service.

(e) 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.

(f) 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 SMB 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.

#### **EXCESSIVE USE**

(g) To ensure the availability of our services to all eligible customers, if you are an excessive user of the MySpace Mobile service, data accessed within and from the MySpace Mobile service, we may ask you to reduce your usage of the service. If usage continues at an excessive level, we may refuse you access to this service and/or change correspondingly as a result thereof.





## **UNREASONABLE USE**

(h) In addition, and without limiting our rights under the agreement, where we consider your use of the MySpace Mobile service, data accessed within and from the MySpace Mobile service, is unreasonable, then we may suspend your access to the MySpace Mobile service immediately and without notice to you. We will then charge you correspondingly as a result thereof.

Please note that our right to suspend or cancel the service without notice to you under this clause overrides any requirement we may have to give you notice in other parts of the agreement, for example under clauses 11.3(b) and 12.1(b) of the consumer terms or the SMB terms (as applicable to you).

(i) Without limiting the meaning of 'unreasonable', in respect of Unlimited MySpace Mobile Pack and Unlimited MySpace data and other offers for Locall Australis customers:

(ii) we supply the service for the purpose of you to access the service, on our network for your own personal use and not for any commercial purpose.

(iii) We consider your use of the service to be unreasonable if you are not using this service in accordance with the Locall Australis Fair Go policy.

(iv) We consider your use of the service to be unreasonable if you access the MySpace Mobile service for the purpose of re-sale, re-supply or commercial exploitation, without obtaining our written consent first. We may give or withhold our consent, or make our consent subject to conditions, in our discretion.

(j) Without limiting the meaning of 'unreasonable', in respect of offers to all Locall Australis consumer and small or medium business customers, we also consider your use of the service to be unreasonable if:

(i) your usage of the service affects other customers' access to the network; or

(ii) you set up switch devices which overcome the subscription and/or pricing charges, potentially keeping a session open for hours and limiting the ability for other customers to access the service.

## **12 MEANING OF WORDS**

In this document the following words have these meanings:

Locall Australis means Rivertel PTY Ltd ACN 147 945 686

Policy means this document, as may be amended by Locall Australis from time to time on 14 days notice;



Service means any telephone service provided by Locall Australis to You, together with associated services such as customer support.

You means a subscriber to the Service, or any person who accesses the Service using the subscriber's access details;

Us/Our/We means Rivertel PTY Ltd ACN 147 945 686