## CA logo with textWC62: Mobile Premium Services Code Amendment

## Terms of Reference

The ***WC62: Mobile Premium Services Code Amendment*** Working Committee is to perform an area of work identified in the review of the ***Mobile Premium Services*** Industry Code (C637:2011). This Committee in carrying out the specific terms below is to observe the following guidelines, as appropriate:

* to ensure that if the Code is to be registered with ACMA that it comply with Part 6 of the *Telecommunications Act 1997* and the ACMA ‘*Developing Telecommunications Codes for registration – a Guide*’ including the identification of:
  + the sections of the industry that are to be covered by the Code, as per s.110 of the Act; and
  + the telecommunications activities to be covered by the Code, as per s.109 of the Act.

Specifically the Working Committee is to amend the ***Mobile Premium Services*** Industry Code (C637:2011) taking into consideration the following:

1. **Privacy**

Replace reference to National Privacy Principle 1 in the Code’s Explanatory Statement with reference to the now applicable Australian Privacy Principle 5, and include reference to “other relevant Australian Privacy Principles”.

1. **Charging for STOP Messages**

**2.1** New drafting for clause 7.1.4 as follows:

7.1.4 Unsubscribe fees: A Content Supplier must not charge a Premium Fee in excess of 25 cents for:

(a) processing a request to unsubscribe from a Subscription Service; or

(b) any "STOP" message**; *or***

***(c) processing a request to opt-out from receiving marketing messages***

* 1. New clause 7.1.5 as follows:

***If a Customer sends a request to opt-out of marketing messages to a Short Code that generates a Premium Fee in excess of 25c then:***

***(a) if the Content Supplier has the ability to refund the Customer without the Customer providing any further information, the Content Supplier must within 5 business days of receiving the STOP message refund the Customer for the amount charged in excess of 25 cents regardless of whether the Customer has made a request for refund;***

***(b) if the Content Supplier does not have the ability to refund the Customer without the Customer providing further information, the Content Supplier must send the Customer a standard, dedicated SMS refund message (with no Premium Fees charged to the Customer for the message), which must:***

***(i) commence with the phrase "FreeMsg";***

***(ii) notify the Customer of the Premium Fee charged to the Customer for the STOP message sent;***

***(iii) include that the Customer is entitled to a refund for the amount charged in excess of 25 cents;***

***(iv) include that the Customer may request the refund by:***

***(A)   utilising the Content Supplier’s local or free-call Helpline; and***

***(B)   any other method that the Content Supplier makes available for requesting a refund (with no Premium Fees charged to the Customer for the request) ;***

***(v) include details of the Content Supplier’s Helpline; and***

***(vi) include the Service Name of the Mobile Premium Service.***

1. **Removal of Chapter 8: Industry Compliance Reporting.**
2. **Information on Barring**

Inclusion of an obligation to provide specific information on the availability of barring when a customer makes an inquiry or complaint.

[Note: this inclusion will replace the existing requirement under Section 12(6) of Telecommunications Service Provider (Mobile Premium Services) Determination 2010 (No.1)]

***Primary deliverables***

* An amended version of the ***Mobile Premium Services*** Industry Code (C637:2011)***.***