



Formal Warning under subsection 122(2) of the *Telecommunications Act 1997*

TO: M2 Commander Pty Ltd (ACN 136 950 082)

OF: Level 10, 452 Flinders Street
Melbourne VIC 3000

I, Jonquil Ritter, delegate of the Australian Communications and Media Authority (**the ACMA**), being satisfied that:

- (a) on 23 January 2017, M2 Commander Pty Ltd (**M2 Commander**), contravened clause 7.1 of the *Telecommunications Consumer Protections Code (C628:2015)* (**the TCP Code 2015**) as described below; and
- (b) at the time when the TCP Code 2015 was registered under Part 6 of the *Telecommunications Act 1997* (**the Act**), a formal warning could have been given to M2 Commander under subsection 122(2) of the Act in respect of the TCP Code 2015; and
- (c) the TCP Code 2015 has been replaced by the *Telecommunications Consumer Protections Code (C628:2019)* (**TCP Code 2019**); and
- (d) the conduct described below would also have contravened clause 9.1 of the TCP Code 2019, if it had occurred after the TCP Code 2019 was registered,

HEREBY give M2 Commander a formal warning under subsections 122(2) and 122(4) of the *Telecommunications Act 1997* (**the Act**) for contravening clause 7.1 of the TCP Code 2015.

Details of the contraventions

1. The TCP Code 2015 was an industry code registered under Part 6 of the Act and applied to the carriage service providers section of the telecommunications industry, regarding services provided to residential and small business consumers.
2. The ACMA has investigated M2 Commander's compliance with Chapter 7 (Changing Suppliers) of the TCP Code 2015 which imposes requirements on carriage service providers (referred to as "Suppliers" in the TCP Code 2015). As a carriage service provider providing telecommunications services to residential and/or small business consumers, M2 Commander is a participant in the section of the telecommunications industry to which the TCP Code 2015 applied.

3. The ACMA is satisfied that M2 Commander contravened clause 7.1 of the TCP Code 2015, by not taking the steps specified in clause 7.1.1(a) to ensure that a consumer who was the subject of a Transfer to M2 Commander (as a gaining supplier) had provided consent to the Transfer on 23 January 2017 as detailed in **Attachment A** to the ACMA's Investigation Report.



Signature

Jonquil Ritter
Acting General Manager
Content, Consumer and Citizen Division
Delegate of the Australian Communications and Media Authority
16 September 2019