

Investigation Report

File No	ACMA2023/112
Entity	Office Automation Mackay Pty Ltd
ACN	050 521 358
Scope of Investigation	Compliance with subsection 128(1) of the <i>Telecommunications (Consumer Protection and Service Standards) Act 1999</i>
	Compliance with the service provider rule at clause 1 of Schedule 2 to the <i>Telecommunications Act 1997</i> Compliance with subsection 101(1) of the <i>Telecommunications Act 1997</i>

Findings

The Australian Communications and Media Authority (the **ACMA**) finds that Office Automation Mackay Pty Ltd (ACN 050 521 358) (**Office Automation**) has contravened:

- (a) subsection 128(1) of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* (the **TCPSS Act**);
- (b) the service provider rules set out at clause 1 of Schedule 2 to the *Telecommunications Act 1997* (the **Act**) and
- (c) subsection 101(1) of the Act,

by failing to join the Telecommunications Industry Ombudsman (**TIO**) scheme.

Background

1. On 10 March 2023, the ACMA received a referral from the TIO alleging that Office Automation had failed to join the TIO scheme in accordance with subsection 128(1) of the TCPSS Act.
2. The TIO became aware that Office Automation may be providing telecommunications services when a complaint was made on 7 April 2022 about an NBN fault.
3. The TIO has engaged with Office Automation on several occasions in relation to joining the TIO scheme since April 2022.
4. Office Automation confirmed that it has been invoicing customers for services since approximately April 2021.
5. As of 28 March 2023, Office Automation had joined the TIO Scheme as evident from the list of members at www.tio.com.au/members.
6. The ACMA investigated the TIO referral and on 5 April 2023 sent its preliminary findings report to Office Automation inviting it to respond by 1 May 2023. On 28 April 2023 Office Automation responded to the preliminary finding. It confirmed that while it does not provide the internet services or other services to the customer, it bills customers for the internet services so that Office Automation has instant control and authorisation to be able to fault find.

Legislative framework

7. Under paragraph 510(1)(aa) of the Act, the ACMA may investigate a potential contravention of the TCPSS Act, where it has reason to suspect that a person may have contravened that Act.
8. Subsection 128(1) of the TCPSS Act requires each carrier and eligible carriage service provider (**CSP**) to enter into a scheme known as the TIO scheme. For the purpose of Part 6 of the TCPSS Act, an 'eligible CSP' includes a CSP, such as Office Automation, is a carriage service intermediary who arranges for the supply of a service referred to in subparagraph (a)(i), (ii) or (iii) (subparagraph 127(b) of the TCPSS Act).
9. Where a CSP contravenes subsection 128(1) of the TCPSS Act it also contravenes the service provider rule set out at clause 1 of Schedule 2 to the Act and subsection 101(1) of the Act.

Findings and reasons

10. Office Automation is an 'eligible CSP' as supplies standard telephone services and carriage services that enables end-users to access the internet.
11. Office Automation states on its webpage <http://www.officeautomation.biz/> that it offers NBN & phone services including VoIP and hosted/cloud solutions.
12. An extract of Office Automation's website is at **Attachment A**.
13. On the basis of the content of Office Automation's webpage, the ACMA considers that it is reasonable to assume that it supplies standard telephone services and carriage services that enable end users to access the internet.
14. For the above reasons, the ACMA finds that Office Automation is an eligible CSP. By not joining the TIO scheme between 30 April 2021 and 28 March 2023, Office Automation has contravened subsection 128(1) of the TCPSS Act and, thereby failed to comply with the service provider rule set out at clause 1 of Schedule 2 to the Act, and subsection 101(1) of the Act.

Website [Data & Communication \(officeautomation.biz\)](http://officeautomation.biz) accessed 14 March 2023

