



## Direction under subsection 121(1) of *the Telecommunications Act 1997*

TO: Lycamobile Pty Ltd (ACN 139 717 212)

OF: Unit 52, 2 O'Connell Street  
Parramatta NSW 2150

Attention: Mr Christopher Tooley, Director

I, Jonquil Ritter, delegate of the Australian Communications and Media Authority (**the ACMA**), being satisfied that Lycamobile Pty Ltd (ACN 139 717 212) (**Lycamobile**), has contravened the *Telecommunications Consumer Protections Code (C628:2012)* (**the TCP Code 2012**) as described below;

hereby DIRECT Lycamobile, under subsection 121(1) of the *Telecommunications Act 1997* (**the Act**) to comply with the *Telecommunications Consumer Protections Code (C628:2015)* (**the TCP Code 2015**).

### Details of the contraventions

1. The ACMA has investigated Lycamobile's compliance with clauses 8.5.1(a)(iv), 8.5.1(a)(vii) and 8.2.1(a)(ix) of the TCP Code 2012. As a carriage service provider, Lycamobile is a participant in the section of the telecommunications industry to which the TCP Code 2012 applied.
2. The ACMA is satisfied that on two occasions between 9 July 2015 and 17 August 2015, Lycamobile contravened Clause 8.2.1(a)(ix) of the TCP Code 2012, by failing to advise customers, where it did not believe the complaint could be resolved in 15 working days, of the reasons for the delay, the specific timeframe for the completion of the resolution, and of their options for external dispute resolution including the Telecommunications Industry Ombudsman.
3. The ACMA is satisfied that on nineteen occasions between 14 April and 13 September 2015, Lycamobile contravened clause 8.5.1(a)(iv) of the TCP Code 2012, by failing to keep records of the due date for a response.
4. The ACMA is satisfied that on four occasions between 9 July 2015 and 27 August 2015, Lycamobile contravened clause 8.5.1(a)(vii) of the TCP Code 2012, by failing to keep records of the reason for the proposed resolution of a complaint.
5. The TCP Code 2015 replaced the TCP Code 2012. Under subsection 121(1B) of the Act, the ACMA may give a direction in respect of a replacement code, where a direction could have been given to a person in respect of the original code (i.e. the TCP Code 2012) and the person could

have been given a direction under the replacement code (the TCP Code 2015), if the conduct had occurred after the replacement code was registered.

6. Lycamobile is a participant in the section of the telecommunications industry to which the TCP Code 2015 applies. Further, clauses 8.2.1(viii), 8.4.1(a)(iv) and 8.4.1(a)(vii) of the TCP Code 2015 are in the same terms as clauses 8.5.1(a)(iv), 8.5.1(a)(vii) and 8.2.1(a)(ix) of the TCP Code 2012. Accordingly, this direction is given to comply with the TCP Code 2015.

#### **Requirement to comply with this Direction**

Under subsection 121(2) of the Act, Lycamobile must comply with a direction under subsection 121(1) of the Act.

If Lycamobile does not comply with this Direction, the ACMA may apply to the Federal Court for an order that Lycamobile pay the Commonwealth a pecuniary penalty in respect of its contravention of a civil penalty provision (subsection 121(4) and section 570 of the Act).

#### **Reconsideration of a decision**

Under subsection 558(1) of the Act, Lycamobile may apply to the ACMA for the ACMA to reconsider the decision to direct Lycamobile to comply with the TCP Code. The application must be submitted in writing to the ACMA and must set out the reasons for the application (subsection 558(2) of the Act). The application must be made within 28 days after Lycamobile is informed of the decision (subsection 558(3) of the Act).

If Lycamobile is dissatisfied with the ACMA's decision on reconsideration, it may:

- (a) subject to the *Administrative Appeals Tribunal Act 1975* (the **AAT Act**), apply to the Administrative Appeals Tribunal for review of the reconsideration decision, and
- (b) request a statement under section 28 of the AAT Act in relation to that decision.



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Signature

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

18 January 2016