**Australian Government** | **acma**
Australian
Communications
and Media Authority

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

TO:  iTalk (Australia) Pty Ltd (ACN 135891271)

OF:  1B Oakwood Road
ST ALBANS VIC 3021

Attention: Hua Yang, Secretary

I, Jennifer McNeill, delegate of the Australian Communications and Media Authority **(the ACMA)**, being satisfied that iTalk (Australia) Pty Ltd (ACN 135891271) **(iTalk (Australia))**, has contravened the *Telecommunications Consumer Protections Code (C628:2012)* **(the TCP Code)** as described below;

HEREBY direct iTalk (Australia), under subsection 121(1) of *the Telecommunications Act 1997* **(the Act)** to comply with the TCP Code.

### Details of the contraventions

1. The ACMA has investigated iTalk (Australia)'s compliance with clauses 9.3.1(a) and 9.4.1(a) of the TCP Code.  As a carriage service provider, iTalk (Australia) is a participant in the section of the telecommunications industry to which the TCP Code applies.

2. The ACMA is satisfied that iTalk (Australia) contravened clause 9.3.1(a) of the TCP Code which requires that a supplier provide a Customer Information Compliance Statement to Communications Compliance annually (with the first such Customer Information Compliance Statement to be provided to Communications Compliance within seven months of the registration of the TCP Code). The ACMA is satisfied that iTalk (Australia) is a supplier, as defined in the TCP Code and had not submitted a Customer Information Compliance Statement as at 1 April 2014.

3. The ACMA is satisfied that iTalk (Australia) contravened clause 9.4.1(a) of the TCP Code which requires that a supplier provide a Compliance Attestation to Communications Compliance, which has been endorsed by the chief executive officer or a senior manager of the supplier, annually (following an initial attestation within seven months of the registration of the TCP Code). The ACMA is satisfied that iTalk (Australia) had not submitted an annual Compliance Attestation as at 1 April 2014.

### Requirement to comply with this Direction

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

If iTalk (Australia) does not comply with this Direction, the ACMA may apply to the Federal Court for an order that iTalk (Australia) 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, iTalk (Australia) may apply to the ACMA for the ACMA to reconsider the decision to direct iTalk (Australia) 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 iTalk (Australia) is informed of the decision (subsection 558(3) of the Act).

If iTalk (Australia) 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

Jennifer McNeill
General Manager
Content, Consumer and Citizen Division
Delegate of the Australian Communications and Media Authority

27 August 2014