



Australian  
Communications  
and Media Authority

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

TO: Best Telecom Australia Limited

OF: 'Harbour Point' Suite 6 Level 1, 8 Santa Barbara Road, Hope Island, QLD 4212

Attention: Mr Timothy Bolot, Director and Chairman

I, Paul White, delegate of the Australian Communications and Media Authority (**the ACMA**), being satisfied that Best Telecom Australia Limited (ACN: 161 237 461) (**BTA**), has contravened the *Telecommunications Consumer Protections Code (C628:2012)* (**the TCP Code**) as described below;

HEREBY direct BTA, 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 BTA, to assess its compliance with clauses 4.6.1, 7.2, 7.3.1 and 7.4.1 of the TCP Code. As a carriage service provider, and a 'supplier' within the meaning of the TCP Code, BTA is a participant in the section of the telecommunications industry to which the TCP Code applies.
2. The ACMA is satisfied that BTA contravened clause 4.6.1 of the TCP Code, which requires a supplier to deal with a customer's enquiry in a timely and effective manner. The ACMA is satisfied that BTA failed to comply with this requirement on one occasion on 1 February 2014.
3. The ACMA is satisfied that BTA contravened clause 7.2 of the TCP Code, which requires a supplier to use reasonable endeavours to ensure that a consumer is only the subject of a transfer if the consumer has provided consent to such a transfer. The ACMA is satisfied that BTA failed to comply with this requirement on two occasions on 18 November 2013 and 27 December 2013.
4. The ACMA is satisfied that BTA contravened clause 7.3.1(c) of the TCP Code, which requires the supplier to ensure that the consumer is informed of the identity of the gaining supplier before initiating the transfer. The ACMA is satisfied that BTA failed to comply with this requirement on 18 occasions between 3 October 2013 and 28 December 2013.
5. The ACMA is satisfied that BTA contravened clause 7.3.1(g) of the TCP Code, which requires a supplier to inform its customers before initiating a transfer that they may have to pay a penalty or cancellation fee to their existing supplier and that there may be other consequences if they are ending their existing contract with another supplier early. The ACMA is satisfied that BTA failed to comply with this requirement on 17 occasions between 3 October 2013 and 28 December 2013.

6. The ACMA is satisfied that BTA contravened clause 7.4.1(b)(i) of the TCP Code, which requires a supplier to check with the consumer the accuracy of the name and address of the consumer. The ACMA is satisfied that BTA failed to comply with this requirement on 19 occasions between 3 October 2013 and 28 December 2013.
7. The ACMA is satisfied that BTA contravened clause 7.4.1(b)(ii) of the TCP Code, which requires a supplier to check with the consumer the accuracy of the number to be transferred. The ACMA is satisfied that BTA failed to comply with this requirement on two occasions, on 30 October 2013 and 12 December 2013.
8. The ACMA is satisfied that BTA contravened clause 7.4.1(b)(iii) of the TCP Code, which requires a supplier to check with the consumer the accuracy of the identity of the gaining supplier. The ACMA is satisfied that BTA failed to comply with this requirement on 19 occasions between 3 October 2013 and 28 December 2013.
9. The ACMA is satisfied that BTA contravened clause 7.4.1(c) of the TCP Code, which requires a supplier to provide the consumer with the terms and conditions of the transfer at the time the transfer is proposed. The ACMA is satisfied that BTA failed to comply with this requirement on 25 occasions, between 3 October 2013 and 28 December 2013.

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

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

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

If BTA 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.



Signature

Paul White  
Acting General Manager  
Content, Consumer and Citizen Division  
Delegate of the Australian Communications and Media Authority  
22 January 2015