



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

TO: Sure Telecom Pty Ltd (ACN 166 698 415)

OF: Level 5, 4 Colombia Court, BAULKHAM HILLS, NSW 2153

Attention: Mr James Harrison, Director

I, Jennifer McNeill, delegate of the Australian Communications and Media Authority (**the ACMA**), being satisfied that Sure Telecom Pty Ltd (ACN 166 698 415) (**Sure Telecom**), has contravened the *Telecommunications Consumer Protections Code (C628:2012)* (**the TCP Code**) as described below;

HEREBY direct Sure Telecom, 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 Sure Telecom's compliance with clauses 4.1.1, 4.3.1, 4.3.2, 4.3.3, 4.3.4, 4.3.5, 4.3.6, 7.2.1, 7.3.1 and 7.4.1 of the TCP Code. As a carriage service provider, Sure Telecom is a participant in the section of the telecommunications industry to which the TCP Code applies.
2. The ACMA is satisfied that Sure Telecom contravened clause 4.1.1 of the TCP Code which requires a supplier to ensure that it communicates its offers in a way which is clear, accurate and not misleading, to allow consumers to make informed choices. The ACMA is satisfied that Sure Telecom failed to comply with this requirement on 21 occasions between 1 January 2014 and 31 March 2014.
3. The ACMA is satisfied that Sure Telecom contravened clause 4.1.1(b) of the TCP Code which requires that a supplier provides information about its offers in a comprehensible, clear and accurate manner, without exaggeration or omission of key information. The ACMA is satisfied that Sure Telecom failed to comply with this requirement on 21 occasions between 1 January 2014 and 31 March 2014.
4. The ACMA is satisfied that Sure Telecom contravened clause 4.3.1 of the TCP Code which requires a supplier to ensure that its sales representatives promote its products in a fair and accurate manner. The ACMA is satisfied that Sure Telecom failed to comply with this requirement on 21 occasions between 1 January 2014 and 31 March 2014.
5. The ACMA is satisfied that Sure Telecom contravened clause 4.3.1(a) of the TCP Code which requires a supplier to ensure its sales representatives are appropriately trained on how to promote and sell its products in a fair and accurate manner. The ACMA is satisfied that Sure

Telecom failed to comply with this requirement during the period 1 January 2014 and 31 March 2014.

6. The ACMA is satisfied that Sure Telecom contravened clause 4.3.2 of the TCP Code which requires a supplier to provide information about its current products without omission of key information that is reasonably likely to be important to consumers in reaching a decision about the purchase. The ACMA is satisfied that Sure Telecom failed to comply with this requirement on 21 occasions between 1 January 2014 and 31 March 2014.
7. The ACMA is satisfied that Sure Telecom contravened clause 4.3.3(a) of the TCP Code which requires a supplier to promote a sales culture where non-compliance with the TCP Code is unacceptable. The ACMA is satisfied that Sure Telecom failed to comply with this requirement during the period 1 January 2014 and 31 March 2014.
8. The ACMA is satisfied that Sure Telecom contravened clause 4.3.4 of the TCP Code which requires a supplier to obtain the consumer's consent in a fair and accurate manner before the consumer enters into a contract with the supplier. The ACMA is satisfied that Sure Telecom failed to comply with this requirement on 21 occasions between 1 January 2014 and 31 March 2014.
9. The ACMA is satisfied that Sure Telecom contravened clause 4.3.4(a) of the TCP Code which requires a supplier to confirm a customer wants to purchase the offer for a post-paid service before completing the sale. The ACMA is satisfied that Sure Telecom failed to comply with this requirement on 21 occasions between 1 January 2014 and 31 March 2014.
10. The ACMA is satisfied that Sure Telecom contravened clause 4.3.4(b) of the TCP Code which requires a supplier to use reasonable endeavours to confirm the consumer has legal capacity to enter into the relevant post-paid customer contract with the supplier before completing the customer contract. The ACMA is satisfied that Sure Telecom failed to comply with this requirement on one occasion between 1 January 2014 and 31 March 2014.
11. The ACMA is satisfied that Sure Telecom contravened clause 4.3.5(b) of the TCP Code which requires a supplier to promote transfers in a fair and accurate manner. The ACMA is satisfied that Sure Telecom failed to comply with this requirement on 21 occasions between 1 January 2014 and 31 March 2014.
12. The ACMA is satisfied that Sure Telecom contravened clause 4.3.5(d) of the TCP Code which requires a supplier to ensure its sales representatives do not mislead consumers about other supplier's telecommunications products or the nature of the supplier's affiliation or relationship with another supplier when promoting transfers. The ACMA is satisfied that Sure Telecom failed to comply with this requirement on 21 occasions between 1 January 2014 and 31 March 2014.
13. The ACMA is satisfied that Sure Telecom contravened clause 4.3.6 of the TCP Code which requires a supplier to advise consumers that calls are being recorded. The ACMA is satisfied that Sure Telecom failed to comply with this requirement on 21 occasions between 1 January 2014 and 31 March 2014.
14. The ACMA is satisfied that Sure Telecom 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 by a gaining supplier if the consumer has provided their consent to such transfer. The ACMA is satisfied that Sure Telecom failed to comply with this requirement on 21 occasions between 1 January 2014 and 31 March 2014.
15. The ACMA is satisfied that Sure Telecom contravened clause 7.2.1(a) of the TCP Code which requires a supplier to take reasonable steps to ensure that the consumer has consented to the

transfer. The ACMA is satisfied that Sure Telecom failed to comply with this requirement on 21 occasions between 1 January 2014 and 31 March 2014.

16. The ACMA is satisfied that Sure Telecom contravened clause 7.2.1(b) of the TCP Code which requires a supplier to use reasonable endeavours to ensure that the person requesting the transfer was the Rights of Use Holder of the telecommunications service being transferred, or was authorised to do so. The ACMA is satisfied that Sure Telecom failed to comply with this requirement on one occasion between 1 January 2014 and 31 March 2014.
17. The ACMA is satisfied that Sure Telecom contravened clause 7.3.1(a) of the TCP Code which requires a supplier to ensure that the customer was informed that they were entering into a new customer contract prior to initiating the transfer. The ACMA is satisfied that Sure Telecom failed to comply with this requirement on 21 occasions between 1 January 2014 and 31 March 2014.
18. The ACMA is satisfied that Sure Telecom contravened clause 7.3.1(d) of the TCP Code which requires a supplier to ensure that the customer was informed about whether there would be an interruption to the telecommunications service as a result of the transfer process. The ACMA is satisfied that Sure Telecom failed to comply with this requirement on 21 occasions between 1 January 2014 and 31 March 2014.
19. The ACMA is satisfied that Sure Telecom contravened clause 7.3.1(g) of the TCP Code which requires a supplier to inform its customers that they may have to pay a penalty or cancellation fee to their existing supplier. The ACMA is satisfied that Sure Telecom failed to comply with this requirement on 21 occasions between 1 January 2014 and 31 March 2014.
20. The ACMA is satisfied that Sure Telecom 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 and a summary of the transfer details. The ACMA is satisfied that Sure Telecom failed to comply with this requirement on 21 occasions between 1 January 2014 and 31 March 2014.

Requirement to comply with this Direction

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

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

If Sure Telecom 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.

A handwritten signature in cursive script, appearing to read 'J McNeill', written over a horizontal line.

Signature

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

10 September 2014