



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

TO: Clear Networks Pty Ltd (ACN 111 273 566)
OF: 20 Albert Street
Blackburn, Victoria, 3130

Attention: Mr Robert Van Der End, Company Secretary

I, Jennifer McNeill, delegate of the Australian Communications and Media Authority (**the ACMA**), being satisfied that Clear Networks Pty Ltd (ACN 111 273 566) (**Clear Networks**), has contravened the *Telecommunications Consumer Protections Code (C628:2012)* (**the TCP Code**) as described below;

HEREBY direct Clear Networks, under subsection 121(1) of *the Telecommunications Act 1997* (**the Act**) to comply with clauses 9.3.1 and 9.4.1 of the TCP Code.

Details of the contraventions

1. The ACMA has investigated Clear Networks' compliance with clause 9.3.1(a) of the TCP Code. As a carriage service provider, Clear Networks is a participant in the section of the telecommunications industry to which the TCP Code applies.
2. The ACMA is satisfied that Clear Networks 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 Clear Networks is a supplier, as defined in the TCP Code and had not submitted a Customer Information Compliance Statement as at 15 April 2013.
3. The ACMA has investigated Clear Networks' compliance with clause 9.4.1(a) of the TCP Code.
4. The ACMA is satisfied that Clear Networks contravened clause 9.4.1(a) of the TCP Code which requires that a supplier provide a First Compliance Attestation to Communications Compliance, which has been endorsed by the chief executive officer or a senior manager of the supplier, within seven months of the registration of the TCP Code. The ACMA is satisfied that Clear Networks had not submitted a First Compliance Attestation as at 15 April 2013.

Requirement to comply with this Direction

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


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

If Clear Networks 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

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

22 August 2013