



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

TO: Telstra Corporation Limited (ACN 051 775 556)

OF: Level 41, 242 Exhibition Street, MELBOURNE, VIC, 3000

Attention: Damien Patrick Coleman, Company Secretary

I, Jennifer McNeill, delegate of the Australian Communications and Media Authority (**the ACMA**), being satisfied that Telstra Corporation Limited (ACN 051 775 556) (**Telstra**), has contravened the *Telecommunications Consumer Protections Code (C628:2007)* (**the TCP Code 2007**) as described below;

HEREBY direct Telstra, under subsection 121(1) of the *Telecommunications Act 1997* (**the Act**), to comply with clause 4.6.3 of the *Telecommunications Consumer Protections Code (C628:2012)* (**the TCP Code 2012**).

Details of the contraventions

1. The ACMA has investigated Telstra's compliance with clause 6.8.1 of the TCP Code 2007. As a carriage service provider, Telstra is a participant in the section of the telecommunications industry to which the TCP Code 2007 applied.
2. The ACMA is satisfied that Telstra contravened clause 6.8.1 of the TCP Code 2007 which required a supplier to protect the privacy of each customer's billing and related personal information. Telstra failed to protect the names and in some cases the addresses of approximately 734,000 Telstra customers, and the usernames and passwords of up to 41,000 of those customers, whose details were stored in its Visibility Tools Database which was publicly available and accessible on the internet during the period from 29 March 2011 to 9 December 2011.
3. On 1 September 2012, the TCP Code 2007 (the original code) was replaced with the TCP Code 2012 (the replacement code). Clause 4.6.3 of the replacement code requires suppliers to ensure that a customer's or former customer's personal information is protected from unauthorised use or disclosure and is dealt with in compliance with all applicable privacy laws.
4. Had Telstra's conduct described in paragraph 2 occurred after the replacement code was registered, Telstra could have been given a direction under 121(1) to comply with the replacement code.

Requirement to comply with this Direction

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

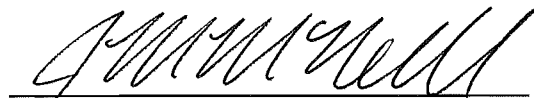
If Telstra does not comply with this Direction, the ACMA may apply to the Federal Court for an order that Telstra pay the Commonwealth a pecuniary penalty in respect of its contravention of a civil penalty provision (subsection 121(4) and section 570 of the Act).

Reconsideration of a decision

Under subsection 558(1) of the Act, Telstra may apply to the ACMA for the ACMA to reconsider the decision to direct Telstra to comply with the TCP Code 2012. 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 Telstra is informed of the decision (subsection 558(3) of the Act).

If Telstra 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

3 September 2012