



Direction to comply with industry code

(Subsection 121(1) of the *Telecommunications Act 1997*)

TO: Singtel Optus Pty Limited
ACN 052 833 208

OF: 'Building C' Level 4
1-7 Lyonpark Road
Macquarie Park NSW 2113

Attention: Company Secretary

I, Nerida O'Loughlin, delegate of the Australian Communications and Media Authority (**the ACMA**), being satisfied in accordance with subsection 121(1) of the *Telecommunications Act 1997* (**the Act**) that Singtel Optus Pty Limited (ACN: 052 833 208) (**Singtel Optus**):

- (a) is a participant in a particular section of the telecommunications industry; and
- (b) has contravened clauses 3.1.2(a), 3.1.2(d)(i) and 3.2.3(b)(i) of the *Mobile Premium Services Code (C637:2009)* (**the Code**), a Code registered under Part 6 of the Act which applies to participants in that section of the industry;

HEREBY give notice under subsection 121(1) of the Act, directing Singtel Optus to take such steps as are necessary to ensure that Singtel Optus complies with the Code, in particular clauses 3.1.2(a), 3.1.2(d)(i) and 3.2.3(b)(i) of the Code by no later than **close of business 25 August 2010**.

Details of the contraventions

1. Singtel Optus is a "content service provider" within the meaning of section 97 of the Act.
2. As a content service provider, Singtel Optus is a "participant in a section of the telecommunications industry" within the meaning of section 111 of the Act (relevantly, section 110 of the Act defines "section of the telecommunications industry" and section 7 of the Act defines "telecommunications industry").

3. The Code was developed by Communications Alliance Ltd (ACN: 078 026 507), being a body or association that represents a section of the telecommunications industry, and registered with the ACMA under section 117 of the Act on 14 May 2009.
4. Clause 1.3.1(b) of the Code states that the Code applies to the content service providers section of the telecommunications industry under section 110 of the Act.
5. The Code applies to Singtel Optus as a content service provider and a participant in a section of the telecommunications industry.
6. For the purposes of the Code, Singtel Optus is considered a "Content Supplier" as defined in clause 2.2, as the service supplied by Singtel Optus is a Mobile Premium Service (Premium SMS or MMS Service) supplied by way of a call to or from a Short Code with the prefix '199'.
7. On 9 September 2009, the ACMA commenced an investigation under section 510(1)(c) of the Act into whether Singtel Optus was acting in compliance with the Code.
8. The investigation results indicated, amongst other things, that Singtel Optus was in contravention of clauses 3.1.2(a), 3.1.2(d)(i) and 3.2.3(b)(i) of the Code by failing to record required information within sufficient proximity to, and on the same page as, the Short Code; record pricing information in a prominent and highly visible manner; and clearly and legibly state a customer helpline number in an advertisement for its mobile premium service published in the August 2009 edition of the magazine 'Cosmopolitan'.
9. Based on the material before me, I am satisfied that Singtel Optus has contravened:
 - (a) clause 3.1.2(a) of the Code by failing to include clear, prominent and legible information, in plain language, on the price, accurately and within sufficient proximity to, and in the same orientation and direction as, the Short Code, and on the same page as the rest of the print advertisement;
 - (b) Clause 3.1.2(d)(i) of the Code by failing to clearly and legibly state a customer helpline number; and
 - (c) Clause 3.2.3(b)(i) of the Code by failing to include information about pricing for the Mobile Premium Service in a prominent and highly visible manner in the main body of the advertisement;in relation to its advertisement for its mobile premium service published in the August 2009 edition of Cosmopolitan magazine.

TAKE NOTE:

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

Under subsection 121(3) a person must not:

- (a) aid, abet, counsel or procure,

- (b) induce, whether by threats or promises or otherwise,
- (c) be in any way, directly or indirectly, knowingly concerned in, or party to; or
- (d) conspire with others to effect;

a contravention of the requirement in subsection 121(2).

Subsection 121(4) states that subsections 121(2) and (3) of the Act are civil penalty provisions.

If Singtel Optus does not comply with this Direction, the ACMA may take civil action in the Federal Court to recover pecuniary penalties against Singtel Optus in accordance with section 570 of the Act.

The maximum pecuniary penalty for one contravention by a body corporate is \$250,000.

REVIEW RIGHTS

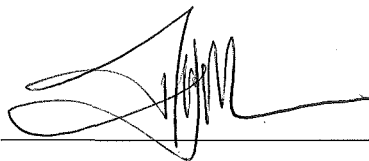
As a person affected by the decision, if you are dissatisfied with the delegate's decision to direct Singtel Optus under subsection 121(1) of the Act, you may apply to the ACMA for reconsideration of the decision by the ACMA under subsection 558(1) of the Act.

An application for reconsideration must be made **within 28 days** after you are informed of the delegate's decision to issue the Direction (subsection 558(3) of the Act).

If you are dissatisfied with the ACMA's decision on the reconsideration of the delegate's decision:

- (a) subject to the *Administrative Appeals Tribunal Act 1975*, application may be made to the Administrative Appeals Tribunal for review of the decision on that reconsideration under section 562 of the Act; and
- (b) you may request a statement under section 28 of that Act in relation to the decision on that reconsideration.

Dated this 6th day of August 2010



Nerida O'Loughlin

Delegate of the Australian Communications and Media Authority