



Direction to comply with industry code

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

TO: Storacall Technology Pty Limited
ACN: 136 952 595

OF: 'Building 7' Suite 18
49 Frenchs Forest Road
Frenchs Forest NSW 2086

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 Storacall Technology Pty Limited (ACN: 136 952 595) (**Storacall Technology**):

- (a) is a participant in a particular section of the telecommunications industry; and
- (b) has contravened clauses 3.1.2(a)(ii), 3.1.2(d)(i), 3.2.4(b)(i), 3.2.4(c), 3.3.3(b) and 3.3.3(e) 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 Storacall Technology to take such steps as are necessary to ensure that Storacall Technology complies with the Code, in particular clauses 3.1.2(a)(ii), 3.1.2(d)(i), 3.2.4(b)(i), 3.2.4(c), 3.3.3(b) and 3.3.3(e) of the Code by no later than **close of business 9 August 2010**.

Details of the contraventions

1. Storacall Technology is a "content service provider" within the meaning of section 97 of the Act.
2. As a content service provider, Storacall Technology 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 Storacall Technology as a content service provider and a participant in a section of the telecommunications industry.
6. For the purposes of the Code, Storacall Technology is considered a “Content Supplier” as defined in clause 2.2, as the service supplied by Storacall Technology 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 ‘197’.
7. On 9 September 2009, the ACMA commenced an investigation under paragraph 510(1)(c) of the Act into whether Storacall Technology was acting in compliance with the Code.
8. The investigation results indicated, amongst other things, that Storacall Technology was in contravention of clauses 3.1.2(a)(ii), 3.1.2(d)(i), 3.2.4(b)(i), 3.2.4(c), 3.3.3(b) and 3.3.3(e) of the Code.
9. Storacall Technology contravened clauses 3.1.2(a)(ii), 3.2.4(b)(i), 3.3.3(b) and 3.3.3(e) of the Code by failing to include the word “subscription” or “subscribe” or other information to clearly, legibly and prominently indicate that the service is a Subscription Service in an advertisement for its mobile premium services published in the 22 July edition of the magazine ‘Take 5’ (**the advertisement**).
10. Storacall Technology contravened clauses 3.1.2(d)(i) and 3.2.4(c) by failing to clearly and legibly state the Content Supplier’s helpline in the advertisement for Mobile Premium Services.
11. Based on the material before me, I am satisfied that Storacall Technology contravened clauses 3.1.2(a)(ii), 3.1.2(d)(i), 3.2.4(b)(i), 3.2.4(c), 3.3.3(b) and 3.3.3(e) of the Code by failing to include required information in advertisements to indicate the service is a Subscription Service, and failing to state the customer helpline number in the advertisement for its service.

TAKE NOTE:

Under subsection 121(2) of the Act, Storacall Technology 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 Storacall Technology does not comply with this Direction, the ACMA may take civil action in the Federal Court to recover pecuniary penalties against Storacall Technology in accordance with section 570 of the Act.

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

REVIEW RIGHTS

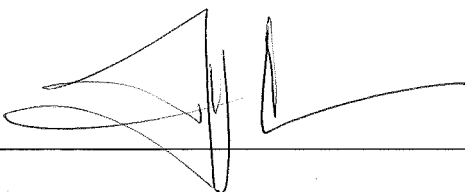
As a person affected by the decision, if you are dissatisfied with the delegate's decision to direct Storacall Technology under subsection 121(1) of the Act, you may apply to the ACMA for reconsideration of the decision by the ACMA under subsection 558(1) of the Act.

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*, (the AAT Act) 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 the AAT Act in relation to the decision on that reconsideration.

Dated this 14th day of July 2010



Nerida O'Loughlin

Delegate of the Australian Communications and Media Authority