



Australian
Communications
and Media Authority

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

TO: Gazal Telecom Australia Pty Ltd (ACN 141 709 686)

OF: Suite 1A2, Level 1
410 Elizabeth Street
Surry Hills NSW 2010

Attention: Ms Kiri Gazal, Operations Manager

I, Jennifer McNeill, delegate of the Australian Communications and Media Authority (**the ACMA**), being satisfied that Gazal Telecom Australia Pty Ltd (ACN 141 709 686) (**Gazal**), has contravened the *Telecommunications Consumer Protections Code (C628:2012)* (**the TCP Code**) as described below;

HEREBY direct Gazal, under subsection 121(1) of the *Telecommunications Act 1997* (**the Act**), to comply with chapters 4 and 7 of the TCP Code.

Details of the contraventions

1. The ACMA has investigated Gazal's compliance with clauses 4.3.5, 4.4.3, 7.2, 7.3 and 7.4 of the TCP Code. As a carriage service provider, Gazal is a participant in the section of the telecommunications industry to which the TCP Code applies.
2. The ACMA is satisfied that Gazal contravened the following clauses of the TCP Code:
 - (a) clause 4.3.5(b) by failing to ensure its sales representatives promoted Gazal's offers to consumers in a fair and accurate manner when promoting transfers, on 21 occasions between 8 October 2012 and 16 April 2013;
 - (b) clause 4.3.5(d) by failing to ensure its sales representatives did not mislead consumers about the nature of Gazal's relationship with another supplier when promoting transfers, on 21 occasions between 8 October 2012 and 16 April 2013;
 - (c) clause 4.4.3(a) by failing to train its sales representatives on how to interact with disadvantaged or vulnerable consumers appropriately, during the period 8 October 2012 and 16 April 2013;
 - (d) clause 7.3.1(g) by failing, before initiating a transfer, to inform a consumer that they:
 - (i) may have to pay a penalty or cancellation fee to their existing supplier, and
 - (ii) that there may be other consequences if they are ending their existing contract with another supplier early,on 21 occasions between 8 October 2012 and 16 April 2013;

- (e) clause 7.4.1(a)(ii) by failing, at the time a transfer was proposed, to make available to the consumer the information that Gazal would use reasonable efforts to notify the consumer of the completion of the transfer on the day it occurred, or, if completion of the transfer relied on a third party, on the day Gazal was advised that it had occurred, on 21 occasions between 8 October 2012 and 16 April 2013; and
- (f) clause 7.4.1(a)(iv) by failing, at the time a transfer was proposed, to make available to the consumer information about the mechanism by which they could ascertain that the transfer had occurred, on 21 occasions between 8 October 2012 and 16 April 2013.

Requirement to comply with this Direction

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


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

If Gazal 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

9 October 2013