

## Enforceable Undertaking

Given to the Australian Communications and Media Authority by Southern Phone Company Limited ACN 100 901 184 under section 572B of the *Telecommunications Act 1997* (Cth)

### 1. Person/s giving the Undertaking

- 1.1. This undertaking (**Undertaking**) is given to the Australian Communications and Media Authority (**ACMA**) by Southern Phone Company Limited ACN 100 901 184 (**Southern Phone**) under section 572B of the *Telecommunications Act 1997* (Cth) (the **Act**).

### 2. Background

- 2.1. The ACMA is responsible for monitoring and enforcing compliance by carriage service providers (**CSPs**) with their obligations under the Act.
- 2.2. Subsection 128(1) of the Act states that if an industry standard that applies to participants, including CSPs, in a particular section of the telecommunications industry is registered under Part 6 of the Act, each participant in that section of the industry must comply with the standard.
- 2.3. The Telecommunications (Consumer Complaints Handling) Industry Standard 2018 (the **Complaints Standard**) is an industry standard determined under subsection 125AA(1) of the Act and registered under Part 6 of the Act. The Complaints Standard applies to participants in the telecommunications industry, including CSPs.
- 2.4. Southern Phone supplies internet, landline and mobile services to the public. As a CSP, and participant in the section of the telecommunications industry to which the Complaints Standard applies, Southern Phone is required to comply with the Complaints Standard in accordance with subsection 128(1) of the Act.
- 2.5. Paragraph 13(1)(j) of the Complaints Standard requires a CSP to complete all necessary actions to implement a proposed resolution to a complaint, within 10 working days of the consumer accepting that resolution, except where:
  - 2.5.1. otherwise agreed with the consumer;
  - 2.5.2. the consumer agreed to undertake actions to implement the proposed resolution by a specified time, but did not complete the actions as agreed; or
  - 2.5.3. the complaint is an urgent complaint and paragraph 13(1)(h) applies.
- 2.6. Subsection 14(2) of the Complaints Standard provides that where a CSP does not reasonably believe that a complaint can be resolved within whichever of three timeframes are applicable to that complaint, the CSP must advise the complainant of the cause of the delay, the new timeframe for resolving the complaint, and the avenues for the customer to raise an external dispute.

- 2.7. Paragraph 21(a) of the Complaints Standard requires a CSP to keep records that are sufficient to demonstrate compliance with the requirements in specified parts of the Complaints Standard. This includes paragraph 13(1)(j) and subsection 14(2) of the Complaints Standard (together the **Provisions**).
- 2.8. Following an investigation, the ACMA found that Southern Phone did not comply with one of paragraph 13(1)(j), subsection 14(2), and paragraph 21(a) of the Complaints Standard on a total of 77 occasions between 1 April 2023 and 30 June 2023 (**Relevant Period**).
- 2.9. Southern Phone accepts the ACMA's findings.
- 2.10. Southern Phone experienced resourcing difficulties in its complaints handling team in the first half of 2023 and acknowledges that it did not at that time have sufficient systems and processes in place, including in respect of record keeping, to prevent the occurrence of the contraventions referred to in paragraph 2.8 above.
- 2.11. In recognition of the importance of compliance with the Complaints Standard, Southern Phone offers this Undertaking to the ACMA.

### 3. Remedial Actions

- 3.1. Since the Relevant Period, Southern Phone has put in place the following improvements to better enable compliance with the Complaints Standard:
  - 3.1.1. implemented changes to its Customer Relationship Management Information Technology systems (**CRM System**) to include all fields necessary to track and demonstrate compliance with the Provisions;
  - 3.1.2. trained relevant complaint handling staff in the Dispute Resolution team on the fields implemented in Southern Phone's CRM System referred to in paragraph 3.1.1 above; and
  - 3.1.3. trained relevant staff on complaint resolution requirements as set out in the Provisions and associated record keeping.

### 4. Undertakings

- 4.1. Under section 572B of the Act, Southern Phone undertakes to carry out the actions specified in this section 4.

#### ***Implementing effective systems, processes and practices***

- 4.2. Southern Phone undertakes to maintain, and, where necessary, implement effective systems, processes and practices for achieving compliance with the Provisions and keep records sufficient to demonstrate compliance with the Provisions in accordance with paragraph 21(a) of the Complaints Standard.

#### ***Independent audit***

- 4.3. Southern Phone undertakes to appoint, in accordance with clause 4.4 below, a qualified and independent person (the **Independent Auditor**) to:

- 4.3.1. Review the systems, processes and practices Southern Phone has in place to achieve compliance with paragraph 13(1)(j), subsection 14(2), and keep records sufficient to demonstrate compliance with the Provisions in accordance with paragraph 21(a) of the Complaints Standard; and
- 4.3.2. Prepare a final written report (the **Audit Report**) setting out:
  - a. The extent to which those systems, processes and practices (including as a result of the remedial actions set out in paragraph 3 above) are sufficient to achieve compliance with the obligations arising from the Complaints Standard as set out in paragraph 4.3.1 above; and
  - b. any recommendations for improvement to those systems, processes and practices where that is necessary in order for them to be effective in ensuring compliance with the obligations arising from the Complaints Standard as set out in paragraph 4.3.1 above.
- 4.4. Southern Phone undertakes to appoint an Independent Auditor in accordance with the following process:
  - 4.4.1. Southern Phone will identify a qualified and independent person and contact the ACMA in writing within 8 weeks of the Commencement Date to seek the approval of the ACMA to appoint that person;
  - 4.4.2. The ACMA will notify Southern Phone in writing whether it approves, or does not approve, the person nominated by Southern Phone.
  - 4.4.3. Within 1 week of receiving approval from the ACMA as to a proposed independent auditor, Southern Phone will, at its own cost, appoint that person to be the Independent Auditor for the purposes of this Undertaking.
  - 4.4.4. If the ACMA does not approve the person for that appointment, Southern Phone will identify another qualified and independent person and contact the ACMA in writing within four weeks of receiving the ACMA's notification of non-approval to seek the approval of the ACMA to appoint that person. Southern Phone will continue the process set out in this clause 4.4.4 until it obtains the ACMA's written approval.
- 4.5. Southern Phone undertakes to:
  - 4.5.1. require in the appointment terms that the Independent Auditor complete the Audit Report and provide it to Southern Phone by no later than 19 weeks from the appointment of the Independent Auditor;
  - 4.5.2. prepare a written response to any recommendations of the Independent Auditor, including detailed reasons in the event that it considers that any recommendation should not be implemented.

***Provision of information and reporting***

- 4.6. Following receipt of the Audit Report from the Independent Auditor, Southern Phone undertakes to:

- 4.6.1. provide a copy of the Audit Report, including Southern Phone's response to the Independent Auditor's recommendations, to the ACMA within 2 weeks; and
- 4.6.2. provide to the ACMA, every three months, a report setting out Southern Phone's progress in implementing the recommendations in the Audit Report until such time as a report has been provided by Southern Phone advising that all recommendations have been fully implemented (or otherwise addressed in Southern Phone's written response to the recommendations).

## 5. Term of the Undertaking

- 5.1. This Undertaking commences when:
  - 5.1.1. it has been executed by Southern Phone;
  - 5.1.2. it has been accepted by the ACMA; and
  - 5.1.3. written notification of the ACMA's acceptance has been provided to Southern Phone,  
  
(together the **Commencement Date**).
- 5.2. This Undertaking ceases to have effect 24 months after the Commencement Date, unless:
  - 5.2.1. The ACMA gives written notice to Southern Phone cancelling this Undertaking in accordance with subsection 572B(4) of the Act, in which case this Undertaking ceases to have effect the day that written notice of the cancellation is given to Southern Phone; or
  - 5.2.2. The ACMA earlier consents to the withdrawal of this Undertaking in accordance with subsection 572B(3) of the Act, in which case this Undertaking ceases to have effect on the day that written notice of the consent is given to Southern Phone.

## 6. Variation of the Undertaking

- 6.1. This Undertaking may be varied in accordance with subsection 572B(3) of the Act, in which case this Undertaking will have the effect as varied on the day that written notice of the consent to vary this Undertaking is given to Southern Phone by the ACMA.
- 6.2. Any variation to a timeframe or approval required or permitted to be given by the ACMA under this Undertaking must be in writing and may be given or made by an ACMA Authority member or by any ACMA staff member who is a member of the Senior Executive Service.

## 7. Acknowledgements

- 7.1. Southern Phone acknowledges that the ACMA:
  - 7.1.1. will make this Undertaking publicly available including by publishing it on the ACMA's website.

- 7.1.2. may, from time to time, make public comment about this Undertaking and its terms which includes issuing a media release upon its execution by the ACMA.
- 7.1.3. may, from time to time, publicly report on compliance with this Undertaking.

**SIGNED by Melinda Hunter as  
authorised representative for SOUTHERN  
PHONE COMPANY LIMITED ACN 100 901 184**

[Redacted Signature]

Signature of Authorised Representative

Director

Title of Authorised Representative

24 April 2024

Date of Signature

**SIGNED by *Craig Riviere* as authorised  
representative for the AUSTRALIAN  
COMMUNICATIONS AND MEDIA AUTHORITY**

[Redacted Signature]

Signature of Authorised Representative

*Executive Manager*

Title of Authorised Representative

*26 April 2024*

Date of Signature