

INFRINGEMENT NOTICE

NOTICE UNDER SECTION 572E OF THE *TELECOMMUNICATIONS ACT 1997* (CTH)

To: Telstra Limited ACN 086 174 781
Level 41, 242 Exhibition Street
Melbourne VIC 3000
Attention: Sue Laver, Company Secretary

I, Tanya Farrell, am an authorised infringement notice officer of the Australian Communications and Media Authority for the purposes of section 572L of the *Telecommunications Act 1997* (the **Act**).

I have reasonable grounds to believe that Telstra Limited ACN 086 174 781 (**Telstra Limited**), in its capacity as a carriage service provider (**CSP**), has contravened subsection 101(1) of the Act being a civil penalty provision (**the contraventions**). Details of the contraventions are outlined below.

I give Telstra Limited this Infringement Notice under section 572E of the Act in relation to the alleged contraventions.

In giving this Infringement Notice I have had regard to the *Telecommunications (Infringement Notices) Guidelines 2022*.

Details of the contraventions

It is alleged that Telstra Limited contravened:

- subsection 11(4) of the *Telecommunications Service Provider (Customer Identity Authentication) Determination 2022* (the **Determination**) by failing to send a notification to a customer (or the customer's authorised representative) immediately after it has used an identity authentication process for subsection 11(2), and either prior to, or immediately after, undertaking the first high-risk customer transaction in the course of an interaction
- section 101 of the Act provides that a service provider must comply with the service provider rules that apply to the provider. Section 98 provides that this includes the rules set out in a service provider determination in force under section 99
- the Determination is a service provider determination in force under section 99 of the Act
- in contravening subsection 11(4) of the Determination, it is also alleged that Telstra Limited has contravened section 101 of the Act
- subsection 11(4) of the Determination is a listed infringement notice provision for the purpose of subsections 572E(5) and (7) of the Act.

Schedule 1 to this Infringement Notice sets out brief details of the alleged contraventions.

Penalty payable under this Infringement Notice

In accordance with section 572G of the Act, the penalty payable under this Infringement Notice is \$1,551,000. The penalty has been calculated as set out in the table in Schedule 2 to this Infringement Notice.

Time for payment of the penalty

The penalty should be paid **within 28 days** after the day on which this Infringement Notice is given.

The penalty should be paid to the Australian Communications and Media Authority, on behalf of the Commonwealth, into the account below within 28 days of receipt of the Notice.

Please include the narration "Telstra Limited - IN" with your payment.

ABN:	[REDACTED]
Financial Institution:	[REDACTED]
Branch:	[REDACTED]
BSB:	[REDACTED]
Account Number:	[REDACTED]
Account Name:	[REDACTED]

You may ask for additional time to pay. Any request should be made to me as soon as possible, and no later than 28 days after the date this Infringement Notice is given.

If the penalty is paid

If you pay the penalty specified in this Infringement Notice within the time for payment (being within 28 days after the day on which this Infringement Notice is given, or, if applicable, within the longer period allowed under paragraph 572F(1)(d)(ii) of the Act) and the Infringement Notice is not withdrawn, the matter will not be dealt with by the Federal Court of Australia under Part 31 of the Act. Your liability for the alleged contraventions, the subject of this Infringement Notice, will be discharged. No further proceedings will be taken with respect to the alleged contraventions.

Payment does not equate to a finding that the contraventions occurred. Payment is not an admission of liability.

If the penalty is not paid

If you do not pay the penalty within the time for payment, the ACMA may take action for the alleged contraventions.

That action may include the institution of civil penalty proceedings in the Federal Court. The penalties that the Court can impose are potentially significantly higher than that in an Infringement Notice (see section 570 of the Act).

Withdrawal of the infringement notice

The ACMA may withdraw this Infringement Notice. It may do so of its own volition or upon your request. To be effective the withdrawal must occur within 28 days after the Infringement Notice was given.

If you wish to apply for withdrawal of the Infringement Notice, you should write to me as soon as practicable setting out the reasons for the request.

If the Infringement Notice is withdrawn after the penalty is paid, the penalty will be refunded.

Please note that if this Infringement Notice is withdrawn, the ACMA may consider taking action for the alleged contravention(s), the subject of this Infringement Notice.

Enquiries concerning the Infringement Notice

If you have any enquiries or questions about this Infringement Notice contact me on [REDACTED] or by email at [REDACTED]



Signature (Authorised Infringement Notice Officer)

Tanya Farrell

A/g Executive Manager

Unsolicited Communications & Scams Branch

13 March 2024

SCHEDULE 1

Details of each of the alleged contraventions

In accordance with section 572F of the *Telecommunications Act 1997* (the **Act**), brief details of the alleged contraventions are set out below.

1. Background

- 1.1. Telstra Limited ACN 086 174 781 (**Telstra Limited**) is an Australian public company, limited by shares, with a registered office at Level 41, 242 Exhibition Street, Melbourne VIC 3000.
- 1.2. Telstra supplies telecommunications services (being listed carriage services) to the public. It is a carriage service provider (**CSP**) within the meaning of section 87 of the Act.
- 1.3. As a CSP, the Telecommunications Service Provider (Customer Identity Authentication) Determination 2022 (the **Determination**) applies to Telstra.
- 1.4. On 30 August 2023, the ACMA commenced an investigation into Telstra's compliance with the Determination.

2. Matters giving rise to the Notice

- 2.1. Information provided by Telstra Limited to the ACMA indicated that between 1 March and 26 April 2023, Telstra Limited did not send a notification to a customer (or the customer's authorised representative) immediately after it has used an identity authentication process for subsection 11(2), and either prior to, or immediately after, undertaking the first high-risk customer transaction in the course of an interaction¹ for at least 94 of its active carriage services.

3. Details of the contraventions

- 3.1. Section 8 of the Determination provides that, subject to section 12, prior to undertaking the first high-risk customer transaction in the course of a high-risk customer interaction, a CSP for a telecommunications service must confirm the requesting person is the customer, or the customer's authorised representative, for the service by using the identity authentication process or processes in section 9, or if applicable, section 10 or section 11.
- 3.2. Subsection 11(1) of the Determination provides that section 11 applies if a high-risk customer interaction is initiated and an employee or agent of the CSP for the telecommunications service who has completed fraud mitigation training, has reasonable grounds to believe that the requesting person is a person in vulnerable circumstances.
- 3.3. Subsection 11(2) of the Determination describes identity authentication processes that can be used by a CSP to confirm the person requesting a high-risk customer transaction is the customer or the customer's authorised representative for that telecommunications service.
- 3.4. Subsection 11(4) of the Determination provides that the CSP must send a notification to a customer (or the customer's authorised representative) immediately after it has used an identity authentication process for

¹ An interaction between a CSP and a requesting person, in relation to a customer's telecommunications service, initiated by either the requesting person or by the CSP, during which one or more high-risk customer transactions are requested.

subsection 11(2), and either prior to, or immediately after, undertaking the first high-risk customer transaction in the course of an interaction.

- 3.5. Telstra Limited self-reported that it failed to comply with subsection 11(4) of the Determination.
- 3.6. Therefore, the ACMA has reasonable grounds to believe that between 1 March and 26 April 2023, Telstra Limited contravened subsection 11(4) of the Determination.
- 3.7. In contravening the Determination, it is alleged Telstra has also contravened subsection 101(1) of the Act, which requires a CSP to comply with service provider rules. The rules set out in the Determination are service provider rules as it is a determination in force under section 99 of the Act (subsection 98(1)).
- 3.8. Subsection 101(1) of the Act is a civil penalty provision (subsection 101(3) of the Act).
- 3.9. Subsection 11(4) of the Determination is a listed infringement notice provision for the purposes of section 572E of the Act (see the *Telecommunications (Infringement Notices) Guidelines 2022* and *Telecommunications (Listed Infringement Notice Provisions) Declaration 2022*).

4. The amount of the penalty

- 4.1. The total penalty specified in the Infringement Notice is \$1,551,000 calculated in accordance with section 572G of the Act, as shown in the table at Schedule 2 below.

SCHEDULE 2

Penalties for alleged contraventions of subsection 11(4) of the Determination being contraventions of subsection 101(1) of the *Telecommunications Act 1997*

Item	Date of alleged contravention	Public number associated with a service for which an applicable notification was not sent	Penalty Units ²	Penalty
1	23/03/2023	██████████	60	\$16,500
2	27/03/2023	██████████	60	\$16,500
3	27/03/2023	██████████	60	\$16,500
4	27/03/2023	██████████	60	\$16,500
5	27/03/2023	██████████	60	\$16,500
6	27/03/2023	██████████	60	\$16,500
7	27/03/2023	██████████	60	\$16,500
8	28/03/2023	██████████	60	\$16,500
9	28/03/2023	██████████	60	\$16,500
10	28/03/2023	██████████	60	\$16,500
11	28/03/2023	██████████	60	\$16,500
12	29/03/2023	██████████	60	\$16,500
13	29/03/2023	██████████	60	\$16,500
14	29/03/2023	██████████	60	\$16,500
15	29/03/2023	██████████	60	\$16,500
16	29/03/2023	██████████	60	\$16,500
17	29/03/2023	██████████	60	\$16,500
18	29/03/2023	██████████	60	\$16,500
19	30/03/2023	██████████	60	\$16,500
20	30/03/2023	██████████	60	\$16,500

² The value of a penalty unit at the time of most of the contraventions was \$275. Subsection 572G(1)(b) specifies that an infringement notice given to a body corporate must be a pecuniary penalty equal to 60 penalty units. Therefore 60 penalty units x \$275 = \$16,500.

Item	Date of alleged contravention	Public number associated with a service for which an applicable notification was not sent	Penalty Units ²	Penalty
21	30/03/2023	██████████	60	\$16,500
22	30/03/2023	██████████	60	\$16,500
23	30/03/2023	██████████	60	\$16,500
24	30/03/2023	██████████	60	\$16,500
25	30/03/2023	██████████	60	\$16,500
26	31/03/2023	██████████	60	\$16,500
27	31/03/2023	██████████	60	\$16,500
28	31/03/2023	██████████	60	\$16,500
29	31/03/2023	██████████	60	\$16,500
30	1/04/2023	██████████	60	\$16,500
31	3/04/2023	██████████	60	\$16,500
32	3/04/2023	██████████	60	\$16,500
33	3/04/2023	██████████	60	\$16,500
34	3/04/2023	██████████	60	\$16,500
35	3/04/2023	██████████	60	\$16,500
36	3/04/2023	██████████	60	\$16,500
37	3/04/2023	██████████	60	\$16,500
38	3/04/2023	██████████	60	\$16,500
39	4/04/2023	██████████	60	\$16,500
40	4/04/2023	██████████	60	\$16,500
41	4/04/2023	██████████	60	\$16,500
42	4/04/2023	██████████	60	\$16,500
43	4/04/2023	██████████	60	\$16,500
44	4/04/2023	██████████	60	\$16,500

Item	Date of alleged contravention	Public number associated with a service for which an applicable notification was not sent	Penalty Units ²	Penalty
45	5/04/2023	██████████	60	\$16,500
46	6/04/2023	██████████	60	\$16,500
47	6/04/2023	██████████	60	\$16,500
48	6/04/2023	██████████	60	\$16,500
49	6/04/2023	██████████	60	\$16,500
50	6/04/2023	██████████	60	\$16,500
51	6/04/2023	██████████	60	\$16,500
52	6/04/2023	██████████	60	\$16,500
53	10/04/2023	██████████	60	\$16,500
54	11/04/2023	██████████	60	\$16,500
55	11/04/2023	██████████	60	\$16,500
56	11/04/2023	██████████	60	\$16,500
57	12/04/2023	██████████	60	\$16,500
58	13/04/2023	██████████	60	\$16,500
59	13/04/2023	██████████	60	\$16,500
60	13/04/2023	██████████	60	\$16,500
61	13/04/2023	██████████	60	\$16,500
62	13/04/2023	██████████	60	\$16,500
63	14/04/2023	██████████	60	\$16,500
64	14/04/2023	██████████	60	\$16,500
65	14/04/2023	██████████	60	\$16,500
66	14/04/2023	██████████	60	\$16,500
67	14/04/2023	██████████	60	\$16,500
68	14/04/2023	██████████	60	\$16,500

Item	Date of alleged contravention	Public number associated with a service for which an applicable notification was not sent	Penalty Units ²	Penalty
69	14/04/2023	██████████	60	\$16,500
70	14/04/2023	██████████	60	\$16,500
71	14/04/2023	██████████	60	\$16,500
72	14/04/2023	██████████	60	\$16,500
73	15/04/2023	██████████	60	\$16,500
74	15/04/2023	██████████	60	\$16,500
75	15/04/2023	██████████	60	\$16,500
76	17/04/2023	██████████	60	\$16,500
77	17/04/2023	██████████	60	\$16,500
78	17/04/2023	██████████	60	\$16,500
79	17/04/2023	██████████	60	\$16,500
80	18/04/2023	██████████	60	\$16,500
81	18/04/2023	██████████	60	\$16,500
82	18/04/2023	██████████	60	\$16,500
83	18/04/2023	██████████	60	\$16,500
84	19/04/2023	██████████	60	\$16,500
85	19/04/2023	██████████	60	\$16,500
86	19/04/2023	██████████	60	\$16,500
87	19/04/2023	██████████	60	\$16,500
88	19/04/2023	██████████	60	\$16,500
89	19/04/2023	██████████	60	\$16,500
90	19/04/2023	██████████	60	\$16,500
91	20/04/2023	██████████	60	\$16,500
92	20/04/2023	██████████	60	\$16,500

Item	Date of alleged contravention	Public number associated with a service for which an applicable notification was not sent	Penalty Units ²	Penalty
93	20/04/2023	[REDACTED]	60	\$16,500
94	20/04/2023	[REDACTED]	60	\$16,500
TOTAL				\$1,551,000