



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

TO: Vocal Channels Pty Ltd (ACN 131 307 858)

OF: PO Box 1020 Surry Hills NSW 2010

I, Jennifer McNeill, delegate of the Australian Communications and Media Authority (**the ACMA**), being satisfied that Vocal Channels Pty Ltd (**Vocal Channels**), has contravened the Telecommunications Consumer Protections Code (C628:2015) (**the TCP Code**) as described below;

HEREBY Direct Vocal Channels, under subsection 121(1) of the *Telecommunications Act 1997* (**the Act**) to:

- (a) comply with clause 9.1.1 (b) of the TCP Code, by no later than 31 July 2018; and
- (b) comply with all other provisions of the TCP Code, as in force from time to time.

### Details of the contraventions

1. The ACMA has investigated Vocal Channels' compliance with clauses 9.1.1(b) and 9.4.1(a) of the TCP Code. As a carriage service provider providing telecommunications services to residential and/or small business consumers, Vocal Channels is a participant in the section of the telecommunications industry to which the TCP Code applies.
2. The ACMA is satisfied that Vocal Channels contravened clause 9.1.1(b) of the TCP Code by failing to register with Communications Alliance within two months of the ACMA's approval of Variation No. 1/2016 of the TCP Code (being 3 May 2016) or one month from first acquiring customers, whichever occurs later.
3. The ACMA is satisfied that Vocal Channels contravened clause 9.4.1(a) of the TCP Code, which requires that a supplier provide Communications Compliance Ltd (**CommCom**) with prescribed statements regarding code compliance by the due date required under clause 9.8.1 of the TCP Code. Vocal Channels failed to provide CommCom with such statements in 2017.

### Requirement to comply with this Direction

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

If Vocal Channels does not comply with this direction, the ACMA may apply to the Federal Court for an order that Vocal Channels 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

If Vocal Channels is dissatisfied with the decision to give this direction, it may seek reconsideration of the decision by the ACMA under subsection 558(1) of the Act by making an application in writing to the ACMA, which sets out the reasons for the application. There is no application fee. If Vocal

Channels requests reconsideration of the ACMA's decision to give this direction, the ACMA will reconsider its decision, taking into account any further submissions made by Vocal Channels. The ACMA may affirm, vary or revoke its decision to give this direction.

The ACMA must make a decision in response to an application under subsection 558(1) of the Act within 90 days after receiving the application. Any such application should be made within 28 days after the date on which this notice of decision is given to Vocal Channels, and addressed to the person whose contact details are included below.

If not already provided, Vocal Channels may also request a statement of reasons in relation to the decision on that reconsideration, under section 28 of the *Administrative Appeals Tribunal Act 1975* (**AAT Act**). Any such request should be made within 28 days of the reconsideration decision and addressed to the person whose contact details are included below.

### **AAT review**

If Vocal Channels is dissatisfied with the ACMA's decision on reconsideration then, in accordance with section 562 of the Act, Vocal Channels has the right to seek review of the reconsideration decision by the Administrative Appeals Tribunal (**AAT**).

The AAT is an independent body. The AAT can, amongst other things:

- confirm the ACMA's decision;
- vary the ACMA's decision; or
- set the ACMA's decision aside and replace it with its own decision.

An application to the AAT for review must be in writing. The AAT has a form for this purpose which may be used if preferred.

An application for review should be made within 28 days of being told about the decision. An \$920 application fee must be paid with the application. If you want to apply for the application fee to be waived, you can obtain the application form for this from the AAT.

The AAT website has more information at [www.aat.gov.au](http://www.aat.gov.au). If you have any questions about the AAT's procedures or requirements, please contact the AAT. You can call the AAT on 1800 228 333. The postal address for the AAT is GPO Box 9955 in each capital city.

### **Access to documents**

Vocal Channels also has a right to seek access to documents about the decision to give this direction, or any associated reconsideration decision, under the *Freedom of Information Act 1982* (**FOI Act**).

The application must be made to the ACMA in writing (there is no special form and you must:

- state that the request is an application for the purpose of the FOI Act;
- provide sufficient information about the documents you want to obtain as is reasonably necessary to enable the ACMA to identify them; and
- give details of how notices under the FOI Act may be sent to you (e.g postal address or email address).

The ACMA's website has more information on how to make an application at [www.acma.gov.au](http://www.acma.gov.au).

### **Making a complaint**

If you are dissatisfied with the way the ACMA handled this matter, you may contact the person whose details are provided below.

A complaint may also be made to the Commonwealth Ombudsman (the Ombudsman usually prefers that your concerns are raised with the ACMA first). There is an office of the Commonwealth

Ombudsman in each capital city. Further information may be obtained at [www.ombudsman.gov.au](http://www.ombudsman.gov.au) or call 1300 362 072.

**Contacting the ACMA**

Should you require further information, please contact:

Peter Sutton  
Manager  
Telecommunications, Compliance, Enforcement and Education Section  
PO Box 13112 Law Courts  
Melbourne, VIC 8010  
Ph: (03) 9963 6950  
Email: [peter.sutton@acma.gov.au](mailto:peter.sutton@acma.gov.au)



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Signature

Jennifer McNeill  
General Manager  
Content, Consumer and Citizen Division  
Delegate of the Australian Communications and Media Authority

16 July 2018