



## Formal warning issued under subsection 103(1) of the *Telecommunications Act 1997*

TO: Eureka Telecommunications Western Victoria Pty Ltd (ACN 658 805 979)

OF: Unit 3  
35-37 Peel Street S  
BAKERY HILL VIC 3550

I, Peter Sutton, delegate of the Australian Communications and Media Authority (**the ACMA**), being satisfied that Eureka Telecommunications Western Victoria Pty Ltd (**Eureka Telco**), has contravened the *Telecommunications Act 1997* (the **Tel Act**) by failing to comply with subsection 128(1) of the *Telecommunications (Consumer Protection and Service Standards) Act 1997* (the **TCPSS Act**) as described below;

HEREBY issue Eureka Telco with a formal warning under subsection 103(1) of the Tel Act for failure to comply with subsection 101(1) of the Tel Act.

### Details of the contravention

#### *Obligation*

Subsection 101(1) of the Tel Act provides that a service provider must comply with the service provider rules that apply to the provider. Subsection 98(1) provides that the service provider rules include the rules set out in Schedule 2 to the Tel Act. Clause 1 of Schedule 2 to the Tel Act provides that a service provider must comply with the Tel Act, which is defined to include the TCPSS Act.

Subsection 128(1) of the TCPSS Act provides that an eligible carriage service provider (**CSP**) must enter into the Telecommunications Industry Ombudsman (**TIO**) scheme.

Under subsection 103(1) of the Tel Act, the ACMA may issue a formal warning to a service provider if the service provider contravenes a service provider rule.

#### *Investigation*

The ACMA received a referral from the TIO on 20 June 2024 alleging that Eureka Telco was an eligible CSP and had failed to join the TIO scheme in accordance with subsection 128(1) of the TCPSS Act.

Following an investigation, preliminary findings were made by the ACMA that it was satisfied that Eureka Telco is an eligible CSP and is therefore required to join the TIO scheme.

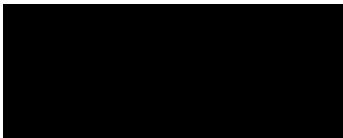
A copy of the ACMA's preliminary findings was given to Eureka Telco on 19 July 2024, inviting it to respond by 5 August 2024. On 14 August 2024, Eureka Telco advised the ACMA that it would join the TIO scheme. On 20 August 2024, when asked when it began offering telecommunications services, Eureka Telco advised the ACMA that it began migrating customers over a 3-month period between January 2024 and March 2024.

On 20 August 2024, the TIO confirmed that Eureka Telco had joined the TIO scheme on that day.

For the period January 2024 to 20 August 2024, I am satisfied that Eureka Telco was an eligible CSP and did not join the TIO scheme, in contravention of subsection 128(1) of the TCPSS Act, and thereby failed to comply with the service provider rule set out in clause 1 of Schedule 2 to the Tel Act, in contravention of subsection 101(1) of the Tel Act.

Further details about the contravention are set out in the investigation report provided to Eureka Telco on 27 August 2024.

Dated: 27 August 2024



**Peter Sutton**

Manager

Telecommunications Compliance and Enforcement

Delegate of the Australian Communications and Media Authority