

INFRINGEMENT NOTICE

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

To: Telstra Limited ACN 086 174 781 (Telstra)
Level 41, 242-282 Exhibition Street
Melbourne VIC 3000

I, Cathy Rainsford, am an authorised infringement notice officer of the Australian Communications and Media Authority (**the ACMA**) for the purpose of section 572L of the *Telecommunications Act 1997* (**the Act**).

I have reasonable grounds to believe that on 1 March 2023, Telstra committed multiple contraventions of subsection 148(1) of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* (**TCPSS Act**), being a civil penalty provision (**the contraventions**).

I give Telstra this Infringement Notice (**the Notice**) under section 572E of the Act in relation to the contraventions.

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

Details of the contraventions under this Infringement Notice

It is alleged that Telstra contravened subsection 148(1) of the TCPSS Act because it contravened subsection 42(2) and section 51 of the *Telecommunications (Emergency Call Service) Determination 2019* (**the Determination**). Schedule 1 of this Notice sets out the brief details of the alleged contraventions of the civil penalty provision.

Penalty payable under this Infringement Notice

In accordance with paragraph 572G(1)(b) of the Act, the penalty payable under this Notice is \$3,004,800. Further detail about calculation of the penalty amount is set out in Schedule 1.

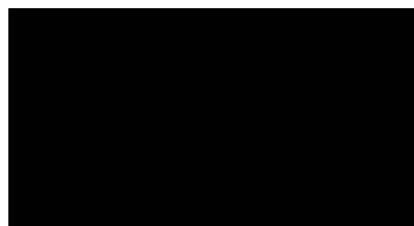
Time for payment of the penalty

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

The penalty should be paid to the ACMA, on behalf of the Commonwealth, into the account below within 28 days of the Notice being given.

Please include the narration 'Telstra ECP – NIS' with your payment.

ABN:
Financial Institution:
Branch:
BSB:
Account No:
Account Name:



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 Notice is given.

If the penalty is paid

If you pay the penalty specified in the Notice within the time for payment (being within 28 days after the day on which this Notice is given (or within the longer period allowed under subparagraph 572F(1)(d)(ii) of the Act) and the Notice is not withdrawn, the matter will not be dealt with by the Federal Court under Part 31 of the Act. Your liability for the alleged contraventions, the subject of this Notice, is 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 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 Notice was given.

If you wish to apply for withdrawal of the Notice, you should write as soon as practicable setting out the reasons for the request. Your application should be addressed to me in the first instance.

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

Please note that if this Notice is withdrawn, the ACMA may consider taking action for the alleged contraventions, the subject of this Notice.

Enquiries concerning the Infringement Notice

If you have any enquiries or questions about this Notice, contact me on telephone 02 6219 5500 or by email at cathy.rainsford@acma.gov.au.



Cathy Rainsford
General Manager
Consumer Division
Authorised Infringement Notice Officer

Dated: 11 November 2024

SCHEDULE 1

DETAILS OF ALLEGED CONTRAVENTIONS OF CIVIL PENALTY PROVISION

In accordance with section 572F of the Act, brief details of the alleged contraventions are set out below.

1. Background

- 1.1. Telstra is a registered company under the *Corporations Act 2001*, with a registered office at Level 41, 242-282 Exhibition Street, Melbourne, VIC 3000.
- 1.2. Part 2 of the Determination imposes requirements on carriers and carriage service providers (**CSPs**) in relation to access and carriage of calls to the emergency call service. Part 3 of the Determination sets out the specific obligations on the emergency call persons (**ECPs**) in relation to the handling and transfer of calls made to emergency service numbers.
- 1.3. The Determination is made under subsection 147(1) of the TCPSS Act. Carriers, CSPs and the ECPs are required to comply with the Determination under subsection 148(1) of the TCPSS Act.
- 1.4. At the time of the contraventions, Telstra was the ECP for 000 and 112 under the *Telecommunications (Emergency Call Persons) Determination 2019*. Therefore, Telstra, as the ECP for 000 and 112, must comply with the Determination to the extent that the Determination imposes obligations on the ECP.

2. Matters giving rise to the Notice

- 2.1. On 1 March 2024, Telstra experienced a disruption between 3:31am and 5:00am that that prevented Triple Zero call-takers from transferring calls to emergency service organisations (**ESOs**) in the usual way (**the disruption**). A backup process was initiated, however some calls were unable to be transferred using this process. Instead, Telstra provided the caller's details to the relevant ESO via phone or email to enable the relevant ESO to call back the end-user directly itself.
- 2.2. On 5 March 2024, the ACMA commenced an investigation under section 510 of the Act into Telstra's compliance with the Determination, the Act and the TCPSS Act in relation to the disruption.

3. Details of the contraventions

- 3.1. Subsection 42(2) of the Determination requires the ECP for 000 and 112 to transfer a call to an ESO if the end-user asks or otherwise indicates that they want the call to be transferred to an ESO.
- 3.2. Section 51 of the Determination provides that if the ECP for 000 and 112 transfers an emergency call to an ESO, the ECP must make available to the ESO the most precise location information available, the name of the customer and the public number from which the call is made.
- 3.3. The ACMA's investigation found that on 1 March 2023, Telstra failed to transfer some calls to an ESO in circumstances where an end-user sought for the call to be transferred. The investigation also found that in relation to some other calls

Telstra failed to make available to ESOs the name of the customer and most precise location information that the ECP had at the time the call was transferred.

3.4. I therefore have reasonable grounds to believe that on 1 March 2023, Telstra contravened subsection 42(2) and section 51 of the Determination.

3.5. In contravening the Determination, it is alleged that Telstra also contravened subsection 148(1) of the TCPSS Act. Subsection 148(1) of the TCPSS Act is a civil penalty provision for the purposes of section 572E of the Act (see subsections 148(4) of the TCPSS Act and 572E(9) of the Act).

4. The amount of the penalty

4.1. The total penalty specified in the Notice is \$3,004,800, calculated in accordance with section 572G of the Telecommunications Act, as set out in Table 1 below. Each of the alleged contraventions occurred on 1 March 2023.

Table 1: Penalties for alleged contraventions of subsection 148(1) of the TCPSS Act

Provision of the Determination	Number of alleged contraventions of subsection 148(1)	Total penalty units¹	Penalty²
Subsection 42(2)	80	4,800	\$1,502,400
Section 51	80	4,800	\$1,502,400
Total	160	9,600	\$3,004,800

¹ The penalty is 60 penalty units per contravention in accordance with paragraph 572G(1)(b) of the Act.

² At the time of the alleged contraventions, the amount of a penalty unit was \$313, as set by section 4AA of the *Crimes Act 1914*. The penalty is therefore calculated using the number of penalty units x \$313 (amount per penalty unit).