



Australian Government



Formal warning

Section 41 of the *Spam Act 2003*

TO: A.AAAAAAAAbbey Home Services Pty Ltd ACN 134 640 752
OF: 5 Bridge Street
North Booval QLD 4304

ATTENTION: Mr Daniel Patrick Costello, Director

I, Vince Humphries, delegate of the Australian Communications and Media Authority (ACMA), being satisfied that A.AAAAAAAAbbey Home Services Pty Ltd ACN 134 640 752 (**Abbey**) has contravened subsection 16(1) of the *Spam Act 2003* (**Spam Act**):

HEREBY issue Abbey a formal warning under section 41 of the Spam Act for 84 contraventions of subsection 16(1) of the Spam Act, being a civil penalty provision.

ACMA investigation

On 17 February 2012, the ACMA commenced an investigation into allegations that Abbey may have contravened subsection 16(1) of the Spam Act by sending, or causing to be sent, commercial electronic messages without the consent of the relevant electronic account-holders.

Obligations imposed under subsection 16(1) of the Spam Act

Subsection 16(1) of the Spam Act provides that:

- (1) a person must not send, or cause to be sent, a commercial electronic message that:
 - (a) has an Australian link; and
 - (b) is not a designated commercial electronic message.

“Commercial electronic message” is defined in section 6 of the Spam Act.

“Designated commercial electronic message” is defined in schedule 1 of the Spam Act.

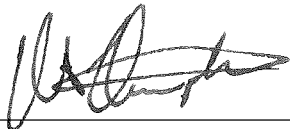
If a commercial electronic message falls within the definition of “designated commercial electronic message” section 16(1) of the Spam Act does not apply.

Details of the contraventions

As a result of its investigation into this matter, and taking into account complaints made to the ACMA and information provided by Abbey and other parties, the ACMA has concluded that:

- a. Abbey sent 84 electronic messages, with an Australian link, between 8 November 2011 and 17 January 2012;
- b. the messages were commercial electronic messages as defined by section 6 of the Spam Act; and
- c. the messages were sent by Abbey without the consent of the relevant electronic account-holders as required by subsection 16(1) of the Spam Act.

Dated this 5th day of October 2012



Vince Humphries
Delegate of the Australian Communications and Media Authority