



Formal Warning

Section 41 of the *Spam Act 2003*

TO: Wailea Australia Pty Ltd
ACN 155 959 229
OF: C/o Linda Jane Stephens
19 Freya Court
Newport QLD 4020

Attention: Ms Sky Stephens

I, Vince Humphries, delegate of the Australian Communications and Media Authority (the ACMA), being satisfied that Wailea Australia Pty Ltd ACN 155 959 229 trading as ACRIS Services (ACRIS Services) has contravened subsection 16(1) of *Spam Act 2003* (Spam Act):

HEREBY issue ACRIS Services a formal warning under section 41 of the Spam Act for 17 contraventions of subsection 16(1) of the Spam Act, being a civil penalty provision.

ACMA Investigation

On 27 May 2013, the ACMA commenced an investigation into whether ACRIS Services 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 to the Spam Act.

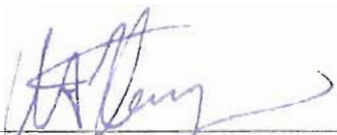
If a commercial electronic message falls within the definition of "designated commercial electronic message" subsection 16(1) of the Spam Act does not apply.

Details of the contraventions

As a result of its investigation into this matter, and taking into account information provided by ACRIS Services and the complainants, the ACMA has determined that between 1 February 2013 and 27 May 2013 (inclusive):

- a. ACRIS Services sent, or caused to be sent, 17 electronic messages, with an Australian link
- b. the messages were commercial electronic messages as defined by section 6 of the Spam Act
- c. the messages were sent without the consent of the relevant electronic account-holders as required by subsection 16(1) of the Spam Act.

Dated this 7th day of October 2013



Vince Humphries

Delegate of the Australian Communications and Media Authority