

Formal warning

Section 41 of the *Spam Act 2003*

TO: Groupon Australia Pty Ltd ACN 147 834 151
OF: Level 17, 9-13 Hunter Street
Sydney, NSW 2000

ATTENTION: Mr Tobias Teuber, Director

I, Vince Humphries, delegate of the Australian Communications and Media Authority (ACMA), being satisfied that Groupon Australia Pty Ltd ACN 147 834 151 (Groupon) has contravened subsection 16(1) of the *Spam Act 2003* (Spam Act):

HEREBY issue Groupon a formal warning under section 41 of the Spam Act for 226 contraventions of subsection 16(1) of the Spam Act, being a civil penalty provision.

ACMA investigation

On 25 June 2012, the ACMA commenced an investigation into whether Groupon 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 electronic account-holder.

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

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

16 Unsolicited commercial electronic messages must not be sent

- (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.

Details of the contraventions

As a result of its investigation into this matter, and taking into account information provided by Groupon and complainants, the ACMA has concluded that:

- a. Groupon sent, or caused to be sent, 226 electronic messages, with an Australian link, between 26 January 2012 and 12 July 2012 inclusive;
- b. the messages were commercial electronic messages as defined by section 6 of the Spam Act; and
- c. the messages were sent without the consent of the electronic account-holder as required by subsection 16(1) of the Spam Act

Dated this 8th day of March 2013



Vince Humphries
Delegate of the Australian Communications and Media Authority