

Flip TV Investigation Report

Findings

The ACMA finds that Flip TV Pty Limited (ACN 600 712 230) (**Flip TV**) contravened paragraphs 7(1)(c) and 11(1)(c) of the *Telecommunications (NBN Consumer Information) Industry Standard 2018* (the **Consumer Information Standard**) on 25 February 2019 for the reasons specified below.

The ACMA also finds that Flip TV contravened subsection 128(1) of the *Telecommunications Act 1997* (the **Act**) on 25 February 2019, as a consequence of failing to comply with the Consumer Information Standard, being an industry standard determined under subsection 125AA(1) of the Act.

Background

In a letter dated 27 March 2019, the ACMA advised Flip TV that its compliance with sections 7, 8, 9, 10 and 11 of the Consumer Information Standard (the **requirements for KFS and NBN consumer plan advertisements**) was being investigated.

That same letter advised:

- that Key Facts Sheets (**KFS**) for the following three National Broadband Network (**NBN**) consumer plans were not available on the Flip TV website on 25 February 2019:
 - \$49.90/month 'Value 12' (residential, NBN12, unlimited data) plan (**Plan 1**);
 - \$54.90/month 'Family 25' (residential, NBN25, unlimited data) plan (**Plan 2**);
 - \$59.90/month 'Fast 50' (residential, NBN50, unlimited data) plan (**Plan 3**); and
- that the ACMA had assessed the NBN consumer plan advertisements that were available on Flip TV's website on 25 February 2019;
- the ACMA's preliminary findings in relation to Flip TV's compliance with the requirements for KFS and NBN consumer plan advertisements.

Flip TV provided a response on 3 April 2019 to those preliminary views of the ACMA (the **Response**). Flip TV did not dispute the preliminary findings in the Response but did provide information showing that they had updated their NBN consumer plan advertisements and made KFS available on its website to address the ACMA's compliance concerns. The newly available KFS and the revised NBN consumer plan advertisements are not the subject of these final findings.

Reasons

The table below sets out the ACMA's final findings and the reasons for those findings. In making its final findings, the ACMA has considered the Response.

Compliance with the requirements for Key Facts Sheets and NBN consumer plan advertisements

Provision of the Consumer Information Standard	Requirement	ACMA findings and reasons
7(1)(c)	<p>A retail carriage service provider must:</p> <p>make its key facts sheets available on its website via hyperlinks that are prominently displayed, and in close proximity or set out adjacent to the full description of the relevant NBN consumer plan.</p>	<p>When the ACMA reviewed Flip TV's website on 25 February 2019, the ACMA found that Flip TV did not have a KFS for Plan 1, Plan 2 and Plan 3 available on its website.</p> <p>Therefore, the ACMA finds that Flip TV has contravened paragraph 7(1)(c) by not making KFS available on its website as required.</p>
11(1)(c)	<p>A retail carriage service provider must:</p> <p>where speed tier information is included as text in advertising material about an NBN consumer plan, include a numerical representation of the typical busy period download speed in a font size that is at least as large as the speed tier information, and is positioned in close proximity to the representation of speed tier information and pricing information about that NBN consumer plan.</p>	<p>The NBN consumer plan advertisements for Plan 1, Plan 2 and Plan 3 included speed tier information as text ('12', '25' and '50', which are recognisable references to NBN speed tier). The disclaimer below these references also explicitly referred to the 'NBN 12', 'NBN 25' and 'NBN 50' speed tiers.</p> <p>A numerical representation of the typical busy period download speed was provided and was in close proximity to the representation of speed tier information and pricing information, but this representation was in a smaller font size than the speed tier information.</p> <p>Therefore, the ACMA finds that Flip TV has contravened paragraph 11(1)(c) by not including a numerical representation of the typical busy period download speed in a font size that is at least as large as the speed tier information, as required.</p>

Compliance with subsection 128(1) of the Act

Provision of the Act	Requirement	ACMA finding and reason
Subsection 128(1)	If an industry standard applies to participants in a particular section of the telecommunications industry and is registered under Part 6 of the Act, each participant in that section of the industry must comply with the standard.	<p>The Consumer Information Standard:</p> <ul style="list-style-type: none"> - is an industry standard determined under subsection 125AA(1) of the Act and registered under Part 6 of the Act; and - applies to retail carriage service providers (CSPs). <p>Flip TV is a CSP that supplies internet services to the public. As a participant in the section of the telecommunications industry to which the Consumer Information Standard applies, Flip TV is required to comply with the Consumer Information Standard under subsection 128(1) of the Act.</p> <p>Flip TV did not meet the requirements for KFS and NBN consumer plan advertisements as described above.</p> <p>Therefore, the ACMA finds that Flip TV contravened subsection 128(1) of the Act on 25 February 2019 by failing to comply with paragraphs 7(1)(c) and 11(1)(c) of the Consumer Information Standard.</p>

