

# Mate Communicate Investigation Report

## Findings

The ACMA finds that Mate Communicate Pty Ltd (ACN 165 670 413) (**Mate Communicate**) contravened paragraphs 7(1)(c), 11(1)(a), 11(1)(c), 11(3)(a) and 11(3)(b) 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 Mate Communicate 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 Mate Communicate 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 the ACMA had assessed the Key Facts Sheets (**KFS**) and advertisements of four National Broadband Network (**NBN**) consumer plans that were available on Mate Communicate's website on 25 February 2019;
- that the plans assessed were the:
  - \$59/month 'good mates' (residential, NBN only, NBN12, basic evening speed, unlimited data) plan (**Plan 1**);
  - \$69/month 'great mates' (residential, NBN only, NBN25, standard evening speed, unlimited data) plan (**Plan 2**);
  - \$75/month 'best mates' (residential, NBN only, NBN50, standard plus evening speed, unlimited data) plan (**Plan 3**);
  - \$99/month 'soul mates' (residential, NBN only, NBN100, premium evening speed, unlimited data) plan (**Plan 4**); and
- the ACMA's preliminary findings in relation to Mate Communicate's compliance with the requirements for KFS and NBN consumer plan advertisements.

Mate Communicate provided a response on 10 April 2019 to those preliminary views of the ACMA (the **Response**). Mate Communicate did not dispute the preliminary findings in the Response but did provide information indicating that it had updated its 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 Mate Communicate's website on 25 February 2019, the ACMA found that Mate Communicate did not have a KFS for Plan 1, Plan 2, Plan 3 and Plan 4 available on its website.</p> <p>Therefore, the ACMA finds that Mate Communicate has contravened paragraph 7(1)(c) by not making its KFS available on its website as required.</p>
11(1)	<p>A retail carriage service provider must:</p>	
11(1)(a)	<p>where its advertising material relates to an NBN consumer plan for a fixed line NBN connection, include the information referred to in paragraph 8(1)(b), and subsection 8(2) where applicable, in its description of the NBN consumer plan in any such advertising material that is published in printed form or online, or broadcast by any means;</p>	<p>Paragraph 8(1)(b) of the Consumer Information Standard relevantly requires NBN consumer plan advertisements to set out numerical information describing the typical download speed that the average consumer can expect to receive during the busy period.</p> <p>The NBN consumer plan advertisements for Plan 1, Plan 2, Plan 3 and Plan 4 described the typical busy period download speed as a range rather than a single download speed as required.</p> <p>Describing the typical busy period download speed as a range does not comply with the requirement in subsection 11(1)(a) as it provides multiple download speeds, which prevents the average consumer from knowing the typical download speed to expect during the busy period.</p> <p>Therefore, the ACMA finds that Mate Communicate has contravened paragraph 11(1)(a) by not including a single typical busy period download speed in its NBN consumer plan advertisements as required.</p>
11(1)(c)	<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</p>	<p>The NBN consumer plan advertisements for Plan 1, Plan 2, Plan 3 and Plan 4 included speed tier information as text ('nbn 12', 'nbn 25', 'nbn 50' and 'nbn 100').</p> <p>A numerical representation of the typical busy period download speed was provided (as a range rather than a single download speed) and was in close proximity to the representation of</p>

	<p>close proximity to the representation of speed tier information and pricing information about that NBN consumer plan.</p>	<p>speed tier information and pricing information. However, this representation was in a smaller font than the speed tier information.</p> <p>For Plan 1, the 'basic evening speed 5-12 mbps' was in a smaller font size than the 'NBN 12' font size.</p> <p>For Plan 2, the 'standard evening speed 15-25 mbps' was in a smaller font size than the 'NBN 25' font size.</p> <p>For Plan 3, the 'standard plus evening speed 30-50 mbps' was in a smaller font size than the 'NBN 50' font size.</p> <p>For Plan 4, the 'premium evening speed 60-100 mbps' was in a smaller font size than the 'NBN 100' font size.</p> <p>Therefore, the ACMA finds that Mate Communicate has contravened paragraph 11(1)(c) by not including numerical representations of the typical busy period download speed in a font size that is at least as large as the speed tier information in its NBN consumer plan advertisements as required.</p>
<p>11(3)</p>	<p>Where a retail carriage service provider applies standardised labelling to NBN consumer plans in advertising material to indicate relative speed performance compared to other NBN consumer plans (such as the speed labels described in the Broadband Speed Claims: Industry Guidance), it must:</p>	
<p>11(3)(a)</p>	<p>set out on the provider's website a definition of each standardised label the provider uses, which includes the information required by paragraph 8(1)(c); and</p>	<p>The NBN consumer plan advertisements for Plan 1, Plan 2, Plan 3 and Plan 4 used standardised labels to indicate relative download speed performance: 'basic evening speed', 'standard evening speed', 'standard plus evening speed' and 'premium evening speed'.</p> <p>Mate Communicate did not have the definitions of each standardised label used in its NBN consumer plan advertisements available on its website. Mate Communicate acknowledged in the Response that no definitions were present.</p> <p>Therefore, the ACMA finds that Mate Communicate has contravened paragraph 11(3)(a) by not making the definitions of standardised labels available on its website as required.</p>

11(3)(b)	ensure that those definitions can be accessed from a prominent hyperlink on its website, that is positioned in close proximity to where the standardised labels appear as part of the provider's advertising of NBN consumer plans.	<p>There were no standardised label definitions that could be accessed from a prominent hyperlink on the Mate Communicate website, that was positioned in close proximity to where the standardised labels appeared on the NBN consumer plan advertisements.</p> <p>Therefore, the ACMA finds that Mate Communicate has contravened paragraph 11(3)(b) by not making the definitions of standardised labels accessible from a prominent hyperlink on its website, that is positioned in close proximity to where the standardised labels appear as part of the NBN consumer plan advertisements 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"> <li>- is an industry standard determined under subsection 125AA(1) of the Act and registered under Part 6 of the Act; and</li> <li>- applies to retail carriage service providers (<b>CSPs</b>).</li> </ul> <p>Mate Communicate 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, Mate Communicate is required to comply with the Consumer Information Standard under subsection 128(1) of the Act.</p> <p>Mate Communicate did not meet the requirements for KFS and NBN consumer plan advertisements as described above.</p> <p>Therefore, the ACMA finds that Mate Communicate contravened subsection 128(1) of the Act on 25 February 2019 by failing to comply with paragraphs 7(1)(c), 11(1)(a), 11(1)(c), 11(3)(a) and 11(3)(b) of the Consumer Information Standard.</p>