

Enforceable Undertakings

These enforceable undertakings are given by Enxo Energy Pty Ltd (ACN 150 801 862) to the Australian Communications and Media Authority) pursuant to section 572B of the *Telecommunications Act 1997*.

1. Definitions and interpretation

1.1 Within this document:

- a) the **ACMA** means the Australian Communications and Media Authority
- b) **call script** means any document or record that contains call flow directions including use of wording and call flow instructions to assist Enxo personnel in handling telemarketing calls;
- c) **commencement date** means the date specified in clause 2.1;
- d) **document or record** means information stored or recorded by means of a computer, or anything on which there is writing;
- e) **Enxo personnel** means any Enxo Energy Pty Ltd employees;
- f) **Enxo** means Enxo Energy Pty Ltd (ACN 150 801 862)
- g) **business day** means a day that is not a Saturday, Sunday, or Public Holiday in Melbourne, Victoria (where Enxo is based);
- h) **independent consultant** means a qualified and independent individual/entity with expertise in internal audits relating to risk and compliance, processes, procedures, systems, governance and controls;
- i) **Telecommunications Act** means the *Telecommunications Act 1997*;
- j) **Telemarketing Industry Standard** means the *Telecommunications (Telemarketing and Research Calls) Industry Standard 2017*;
- k) **the report** means the report by the independent consultant referred to in clause 5.1.2; and
- l) **undertakings** means the enforceable undertakings given by Enxo contained in this document.

1.2 Words and expressions defined in the *Telecommunications Act* and the *Telemarketing Industry Standard* have the same meaning in these undertakings, unless otherwise specified.

1.3 A reference to the Telecommunications Act includes any regulations or legislative instrument made under that Act as in force from time to time.

2. Term of the undertakings

2.1 These undertakings commence on the day the ACMA notifies Enxo of its acceptance of the undertakings.

2.2 These undertakings continue for a period of 24 months from the commencement date or until it is withdrawn or varied by Enxo, with the consent of the ACMA, under section 572B(3) of the Telecommunications Act, or withdrawn by the ACMA under subsection 572B(4) of the Telecommunications Act, whichever is earlier.

2.3 These undertakings will not continue if Enxo is wound up or becomes insolvent.

2.4 These undertakings will not continue if Enxo ceases to use telemarketing calls to offer to provide comparison services.

3. Background

3.1 Enxo is an Australian business that provides energy comparison services to a panel of energy providers and makes telemarketing calls regarding offering to provide comparison services.

3.2 On 19 July 2019, the ACMA notified Enxo that it has reasonable grounds to believe that it made calls that contravened paragraph 13(1)(b) of the Telemarketing Industry Standard for failing to terminate a call on request, or other indication.

3.3 Failing to comply with the Telemarketing Industry Standard is a contravention of subsection 128(1) of the Telecommunications Act.

3.4 Enxo acknowledges ACMA's concerns in relation to the alleged contraventions and, in response, Enxo offers these undertakings to the ACMA.

4. Undertakings

4.1 Enxo undertakes to take the following actions to ensure it complies with the Telecommunications Act and the Telemarketing Industry Standard.

5. Independent Consultant

5.1 Enxo undertakes to appoint an independent consultant to:

5.1.1 review Enxo's procedures, policies and systems relating to compliance with the Telecommunications Act and Telemarketing Industry Standard and identify any

deficiencies or improvements to ensure that all calls comply with the requirement, including:

- i. content of call scripts, including objection handling scripting, is updated to ensure that Enxo personnel are directed to immediately terminate a call where a call recipient asks for the call to be terminated or otherwise indicates that they do not want the call to continue.

5.1.2 produce a detailed written report setting out its findings and making recommendations regarding:

- i. improvements to Enxo's policies, procedures, systems and call scripts to ensure compliance with the Telemarketing Industry Standard;
- ii. training to be delivered to Enxo personnel on compliance with the Telemarketing Industry Standard; and
- iii. implementation of quality assurance and monitoring of its policies, procedures, systems and call scripts, to ensure ongoing compliance with the Telemarketing Industry Standard and the effectiveness of any training delivered to Enxo personnel.

5.2 Enxo will seek approval from the ACMA for the appointment of the proposed independent consultant within 20 business days after the commencement date. If the ACMA does not approve the choice of independent consultant, Enxo will repeat this process until it has the ACMA's approval.

5.3 Enxo will appoint the independent consultant within 10 business days after the ACMA has given its approval.

5.4 The independent consultant will provide the report to Enxo, and at the same time to the ACMA, within 40 business days of their appointment.

5.5 Subject to the ACMA's consent, Enxo may remove the independent consultant at any time and appoint a new independent consultant approved by ACMA.

6. Implementation Plan, Audit & Reporting

6.1 Within 20 business days of receiving the report, Enxo will develop a written implementation plan setting out the steps Enxo has taken and will take to implement all recommendations made by the independent consultant in the report, including timeframes (unless the ACMA expressly agrees that any recommendation need not be implemented).

6.2 Enxo must comply with the implementation plan in accordance with the timeframes

specified in the plan.

6.3 Enxo will report to the ACMA on the status of actions it must take under the implementation plan every 6 months, and at the cessation of the undertakings. The first report shall be provided no later than 60 business days after the implementation plan has been developed.

7. Training for Enxo personnel

7.1 Within 10 business day of the commencement date, Enxo will provide training to Enxo personnel on the obligations under the Telemarketing Industry Standard and on the requirements within these undertakings.

7.2 All new staff members will receive this training as part of their induction process and all personnel will undertake refresher training every 12 months for the period these undertakings remain in force.