

Subsection 102(2) of the *Telecommunications Act 1997*

Direction in relation to clause 10 of Schedule 2 to the *Telecommunications Act 1997*

TO: Swift Media Limited ACN 006 222 395

OF: 1 Watts Place, Bentley, WA 6102

BACKGROUND

The Australian Communications and Media Authority (**the ACMA**) is responsible for monitoring and enforcing compliance by carriage service providers (CSPs) with their obligations under the *Telecommunications Act 1997* (**the Telecommunications Act**).

Telstra Corporation Ltd provides and maintains the Integrated Public Number Database (**the IPND**) in accordance with the *Telecommunications (Carrier Licence Conditions - Telstra Corporation Limited) Declaration 2019*. In that capacity, Telstra is hereafter referred to as the IPND Manager.

Swift Media Limited ACN 006 222 395 (**Swift Media**) is a CSP as defined in section 87 of the Telecommunications Act. As a CSP, it must by subsection 101(1) of the Telecommunications Act, comply with the 'service provider rules' applicable to it. The service provider rules, set out in section 98 of the Telecommunications Act, include those in Schedule 2 to the Telecommunications Act (**Schedule 2**).

Subclause 10(2) of Schedule 2 requires that where a CSP supplies a carriage service to an end-user, and the end-user has a public number, it must give the IPND Manager the information it reasonably requires to provide and maintain the IPND.

The ACMA has found that, on multiple occasions between September 2010 and March 2019, Swift Media failed to give the IPND Manager the information it reasonably required to provide and maintain the IPND and has thereby contravened the service provider rule in subclause 10(2) of Schedule 2.

DIRECTION

The ACMA, under subsection 102(2) of the Telecommunications Act, hereby directs Swift Media to take the following action directed towards ensuring that it does not contravene subclause 10(2) of Schedule 2, and is unlikely to contravene that subclause, in the future:

Implementing effective systems, processes and practices

1. Swift Media must implement and maintain effective systems, processes and practices for ensuring compliance with subclause 10(2) of Schedule 2, including systems, processes and practices designed to ensure that:
 - (a) accurate, complete and up to date public number customer data for all Swift Media services is uploaded to the IPND in the timeframes required in the *Industry Code (C555:2017) Integrated Public Number Database (IPND)*;
 - (b) any upload of public number customer data to the IPND that generates an error notification from the IPND Manager is investigated and rectified (where rectification is within Swift Media's power) within one business day;
 - (c) Swift Media can readily identify the carriage services it currently provides to end-users using public numbers within its customer systems to allow for accurate reconciliation against its records in the IPND;
 - (d) public number customer data uploaded to the IPND uses a unique CSP/Data Provider code combination, as assigned by the IPND Manager, to identify the CSP responsible for the accuracy and completeness of the IPND record and to identify the Data Provider responsible for uploading the data; and
 - (e) Swift Media's staff responsible for IPND compliance understand IPND regulatory obligations, including a training program directed to ensure that Swift Media's staff are familiar with Swift Media's related systems, processes and practices (the **Training Program**). Without limitation, the Training Program must address:
 - i. the collection, provision, updating, correction and reconciliation of customer records;
 - ii. processes for checking and correction of errors; and
 - iii. the timing and importance of updates to the IPND.

Independent Audit

2. By 26 February 2020, Swift Media must commission an appropriately experienced and qualified independent person to audit and report to Swift Media in writing on:
 - (a) the extent to which Swift Media's systems, processes and practices (including, without limitation, those required by paragraph 1 above) effectively ensure Swift Media's compliance with the obligation in subclause 10(2) of Schedule 2; and
 - (b) recommendations to improve and maintain the effectiveness of those systems, processes and practices.
3. Swift Media must ensure that the audit report referred to in paragraph 2 is completed and delivered to Swift Media by no later than 5 June 2020.

4. Swift Media must prepare a written response to any recommendations in the audit report referred to in paragraph 2 by 6 July 2020 and implement all reasonable recommendations in the audit report by no later than 31 December 2020. Where Swift Media regards any recommendation in the audit report as unreasonable, or has decided not to implement a recommendation, it must record the reasons for its view in the written response.

Reporting

5. Swift Media must by no later than the 7 July 2020 provide to the ACMA a copy of the audit report referred to in paragraph 2, and the written response referred to in paragraph 4.
6. Swift Media must keep records sufficient to demonstrate compliance with this direction and retain those records for at least 24 months after the date the record is created.
7. Any report provided to the ACMA in accordance with this direction must be in writing and signed by Swift Media's chief legal counsel or head of regulatory affairs.

TAKE NOTE

8. Section 98 of the Telecommunications Act sets out the service provider rules which are applicable to a CSP. This includes the service provider rule at subclause 10(2) of Schedule 2, which requires that if:
 - (a) a CSP supplies a carriage service to an end-user; and
 - (b) the end-user has a public numberthe CSP must give the IPND Manager such information as it reasonably requires to provide and maintain the IPND.
9. Subsection 101(1) of the Telecommunications Act provides that a service provider must not contravene the service provider rules that apply to it.
10. Under subsection 102(2) of the Telecommunications Act, the ACMA can direct a service provider to take specified action directed towards ensuring that the service provider does not contravene a service provider rule, or is unlikely to contravene a rule, in the future.
11. Subsection 102(4) of the Telecommunications Act provides that a service provider must not contravene a direction given under subsection 102(2).

REVIEW RIGHTS

12. Swift Media may request the ACMA to reconsider its decision to give the direction by application in writing made within 28 days of being informed of the decision, in accordance with section 558 and Part 29 of the Telecommunications Act.
13. If Swift Media is dissatisfied with the ACMA's decision upon reconsideration then, in accordance with section 562 of the Telecommunications Act, Swift Media has the right to seek review of the

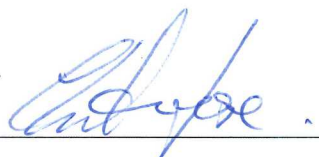
reconsideration decision by the Administrative Appeals Tribunal.

CONTACTING THE ACMA

14. Should you require further information, please contact:

Executive Manager
Consumer, Consent and Numbers Branch
Australian Communications and Media Authority
PO Box 13112 Law Courts
Melbourne, VIC 8010
Ph: (03) 9963 6800
Email: ipnd@acma.gov.au

Dated this 18th day of December 2019



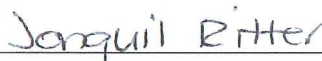
Signature of Member



Signature of General Manager



Name (Please Print)



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