



**Australian Government**  
**Australian Communications  
and Media Authority**

## **INFRINGEMENT NOTICE**

### **NOTICE UNDER SECTION 572E OF THE *TELECOMMUNICATIONS ACT 1997* (CTH)**

**To: Lycamobile Pty Ltd  
ACN 139 717 212  
Unit 47  
2 O'Connell Street  
PARRAMATTA NSW 2150**

I, **Jeremy Fenton**, an authorised infringement notice officer of the Australian Communications and Media Authority (the **ACMA**) for the purposes of section 572L of the *Telecommunications Act 1997* (the **Act**).

I have reasonable grounds to believe that, by contravening a direction given to it under subsection 121(1) of the Act, Lycamobile Pty Ltd, ACN 139 717 212, (**Lycamobile**) has contravened subsection 121(2) of the Act, being a civil penalty provision (**the contravention**). Details of the contravention are outlined below.

I HEREBY give an Infringement Notice (**the Notice**) under section 572E of the Act to:

**Lycamobile Pty Ltd ACN 139 717 212 (Lycamobile)**

at  
Unit 47  
O'Connell Street  
PARRAMATTA NSW 2150

In giving this Infringement Notice, I have had regard to the *Telecommunications (Infringement Notices) Guidelines 2011*.

#### **Details of the alleged contravention**

1. Lycamobile is a carriage service provider and is therefore a participant in the section of the telecommunications industry which is required to comply with the Telecommunications Consumer Protection Code C628:2015 (**TCP Code 2015**), which is an industry code registered under Part 6 of the Act.
2. On 18 January 2016, Lycamobile was given a direction under subsection 121(1) of the Act (**the Direction**). The Direction required Lycamobile to comply with the TCP Code 2015.
3. Subsection 121(2) of the Act provides that a person must comply with a direction given under subsection 121(1) of the Act. Subsection 121(2) of the Act is a civil penalty provision. Failure

to comply with a direction given under subsection 121(1) of the Act therefore amounts to a contravention of the civil penalty provision in subsection 121(2) of the Act.

4. Lycamobile did not lodge compliance documents with Communications Compliance Ltd (**CommCom**) as required by clause 9.4.1 of the TCP Code 2015 in accordance with the timeframes specified under clause 9.8.1 of the TCP Code 2015. As Lycamobile had 3,000 or more services in operation in 2017 (and is therefore not a Small Supplier for the purposes of the TCP Code 2015), the due date for lodging its compliance documents with CommCom in 2017 was 1 September 2017.
5. I therefore have reasonable grounds to believe that Lycamobile failed to comply with the Direction to comply with the TCP Code on 2 September 2017, and in doing so contravened the civil penalty provision at subsection 121(2) of the Act.

#### **Amount of Penalty**

In accordance with paragraph 572G(1)(b) of the Act, the pecuniary penalty (**the penalty**) payable under this Infringement Notice is \$12,600 [60 penalty units].

#### **Payment of Penalty**

The penalty should be paid to the ACMA, on behalf of the Commonwealth, into the following account within 28 days of receipt of the Notice. Please include the narration "Lycamobile - TCEES" with your payment:

ABN:	55 386 169 386
Financial Institution:	ANZ
Branch:	Belconnen Mall
BSB:	012-951
Account No:	837924272
Account Name:	ACMA Official Administered Receipts Account

You may ask for additional time to pay. Any request should be made to me as soon as possible, and no later than 28 days after the date this Notice is given.

#### **If the penalty is paid**

If you pay the penalty specified in this Infringement Notice within the time for payment (being 28 days after the date on which this Infringement Notice is given or within the longer period allowed) and the Notice is not withdrawn, the matter will not be dealt with by the Federal Court under Part 31 of the Act. Your liability for the alleged failure to comply with the Direction is discharged. No further proceedings will be taken with respect to the alleged failure to comply with the Direction that is detailed above. Payment does not equate to a finding that the contravention occurred. Payment is not an admission of liability.

#### **If the penalty is not paid**

If you do not pay the penalty within the time for payment, the ACMA may take action for the alleged contravention. That action may include the institution of civil penalty proceedings in the Federal Court. The penalties that the Court can impose are potentially significantly higher than that in an Infringement Notice (see section 570 of the Act).

#### **Withdrawal of the Infringement Notice**

The ACMA may withdraw this Infringement Notice. It may do so of its own volition or upon your request. To be effective, the withdrawal must occur within 28 days after the Infringement Notice was given.

If you wish to apply for withdrawal of the Infringement Notice, you should write as soon as practicable setting out the basis/reasons for the request. Your application should be addressed to me in the first instance.

If the Infringement Notice is withdrawn after the penalty is paid, the penalty will be refunded.

Please note that if this Infringement Notice is withdrawn, the ACMA may consider taking Court action for the alleged contravention, the subject of this Infringement Notice.

**Enquiries concerning the Infringement Notice**

If you have any enquiries or questions about this Infringement Notice contact Peter Sutton, Manager, Telecommunications Compliance, Education and Enforcement Section on (03) 9963 6950 or by email at [peter.sutton@acma.gov.au](mailto:peter.sutton@acma.gov.au).

DATE: 27 July 2018



**Jeremy Fenton**  
**Executive Manager**  
**Unsolicited Communications and Numbering Branch**  
**Australian Communications and Media Authority**