



Australian
Communications
and Media Authority

Formal Warning under subsection 70(1) of the *Telecommunications Act 1997*

TO: Bottle Communications Pty Ltd (ACN 128 153 891)

OF: Unit 3, Level 1
394 Collins Street
Melbourne, VIC, 3000

The Australian Communications and Media Authority (the **ACMA**), being satisfied for the reasons explained in the ACMA's investigation report sent to Bottle Communications Pty Ltd (**Bottle Communications**) on 6 July 2020, that Bottle Communications contravened the carrier licence condition set out at clause 1 of Schedule 1 to the *Telecommunications Act 1997* (the **Act**), and subsection 68(1) of the Act by failing to comply with subsection 128(1) of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* (the **TCPSS Act**);

HEREBY issues Bottle Communications a formal warning under subsection 70(1) of the Act for its failure to comply with section 68 of the Act and section 128 of the TCPSS Act.

Details of the contravention

Obligation

Subsection 68(1) of the Act provides that a carrier must not contravene a condition of the carrier licence held by the carrier. Section 61 of the Act provides that a carrier licence is subject to the conditions specified in Schedule 1. Clause 1 of Schedule 1 to the Act provides that a carrier must comply with the Act, which is defined to include the TCPSS Act.

Subsection 128(1) of the TCPSS Act provides that each carrier and eligible carriage service provider must enter into the Telecommunications Industry Ombudsman (**TIO**) scheme.

Under subsection 70(1) of the Act, the ACMA can issue a formal warning to a carrier if it contravenes a condition of the carrier licence held by the carrier.

Investigation

The ACMA received a referral from the TIO on 3 March 2020 alleging that Bottle Communications was a carrier that failed to join the TIO scheme in accordance with subsection 128(1) of the TCPSS Act. Following an investigation, preliminary findings were made by the ACMA that as the holder of a carrier licence Bottle Communications was required to join the TIO scheme.

A copy of the preliminary investigation report was given to Bottle Communications on 23 April 2020. In response, Bottle Communications advised that it would make an application to join the TIO scheme.

On 29 May 2020, the TIO confirmed that Bottle Communications had joined the TIO scheme.

For the period 28 July 2008 to 29 May 2020 that Bottle Communications was a carrier and did not join the TIO scheme, it contravened subsection 128(1) of the TCPSS Act, and thereby failed to comply with the carrier licence condition set out in clause 1 of Schedule 1 to the Act, in contravention of subsection 68(1) of the Act.



Signature of Member

Creina Chapman

Name (Please Print)



Signature of Member/
~~General Manager~~

JAMES GWENDON

Name (Please Print)