



Formal Warning under subsection 103(1) of the *Telecommunications Act 1997*

TO: Essential Online Pty Ltd (ACN 629 321 035)

OF: Unit 801
1 Hosking Place
Sydney, NSW, 2000

The Australian Communications and Media Authority (the **ACMA**), being satisfied for the reasons explained in the ACMA's investigation report sent to Essential Online Pty Ltd (**Essential Online**) on 6 July 2020, that Essential Online contravened subsection 101(1) of the *Telecommunications Act 1997* (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 Essential Online a formal warning under subsection 103(1) of the Act for its failure to comply with section 101 of the Act and section 128 of the TCPSS Act.

Details of the contravention

Obligation

Subsection 101(1) of the Act provides that a service provider must comply with the service provider rules that apply to the provider. Subsection 98(1) provides that the service provider rules include the rules set out in Schedule 2 to the Act. Clause 1 of Schedule 2 to the Act provides that a service provider must comply with the Act, which is defined to include the TCPSS Act.

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

Under subsection 103(1) of the Act, the ACMA can issue a formal warning to a service provider if the service provider contravenes a service provider rule.

Investigation


The ACMA received a referral from the TIO on 24 October 2019 alleging that Essential Online was an eligible CSP and had 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 it was reasonable to assume that Essential Online was an eligible CSP and required to join the TIO scheme.

A copy of the preliminary investigation report was given to Essential Online on 16 March 2020. In response, Essential Online advised that it would make an application to join the TIO scheme.

The TIO confirmed that Essential Online had joined the TIO scheme on 14 April 2020.

For the period February 2019 to 14 April 2020, that Essential Online was an eligible CSP and did not join the TIO scheme, it contravened subsection 128(1) of the TCPSS Act, and

thereby failed to comply with the service provider rule set out in clause 1 of Schedule 2 to the Act, in contravention of subsection 101(1) of the Act.



Signature of Member

Creina Chapman
Name (Please Print)



Signature of Member/
~~General Manager~~

JAMES CAMERON
Name (Please Print)