

Investigation Report: J2 Net

File No.	ACMA2020/436
Carriage Service Provider	The Wildcatters Pty Ltd and J.P. Forinton t/as J2 Net
Type of Service or Product	Voice and internet services
Relevant Legislation	<i>Telecommunications Act 1997</i> Telecommunications (Consumer Complaints Handling) Industry Standard 2018

Findings

The Australian Communications and Media Authority (**ACMA**) finds that, on 6 August 2020, The Wildcatters Pty Ltd (ACN 002 058 184) (**The Wildcatters**) and Justin Paul Forinton, together trading as J2 Net (**J2 Net**), each contravened:

- > paragraph 7(1)(a) of the Telecommunications (Consumer Complaints Handling) Industry Standard 2018 (**the Standard**) by failing to establish a complaints handling process that includes the minimum requirements for consumer complaints handling; and
- > subsection 128(1) of the *Telecommunications Act 1997* (**the Act**) as a consequence of failing to comply with an industry standard determined under subsection 125AA(1) of the Act.

Background

1. In a letter dated 1 July 2020, the ACMA advised J2 Net that the complaints handling process (**CHP**) that was available at www.j2net.com.au and accessed on 27 May 2020 may be in breach of the Standard. The letter requested that the deficiencies identified in the document be rectified by 22 July 2020. J2 Net did not respond.
2. On 6 August 2020, the ACMA again assessed the CHP that was available at www.j2net.com.au and determined that no changes had been made. A copy of the CHP accessed on 6 August 2020 is at **Attachment A**.
3. On 25 August 2020, the ACMA commenced an investigation under paragraph 510(1)(a) of the Act.
4. On 26 August 2020, the ACMA gave J2 Net its preliminary findings that on 6 August 2020 J2 Net had contravened paragraph 7(1)(a) of the Standard and subsection 128(1) of the Act. The ACMA invited J2 Net to make submissions in response by 9 September 2020. J2 Net has not provided a response to the preliminary findings.

Findings and Reasons

Section 128 of the Act

5. Section 128 of the Act states that if an industry standard that applies to participants in a particular section of the telecommunications industry is registered under Part 6 of the Act, each participant in that section of the industry must comply with the standard.

6. The Standard is an industry standard determined under subsection 125AA(1) of the Act and registered under Part 6 of the Act. The Standard applies to participants in the telecommunications industry including carriage service providers (**CSPs**).
7. The Wildcatters and Mr Forinton are CSPs that offers to supply internet and voice over internet protocol (VoIP) services to the public. As participants in the section of the telecommunications industry to which the Standard applies, The Wildcatters and Mr Forinton are required to comply with the Standard under subsection 128(1) of the Act.
8. As set out below, the ACMA finds that The Wildcatters and Mr Forinton did not comply with paragraph 7(1)(a) of the Standard on 6 August 2020.
9. Therefore, the ACMA finds that The Wildcatters and Mr Forinton contravened subsection 128(1) of the Act on 6 August 2020, by failing to comply with the Standard.

Paragraph 7(1)(a) of the Standard

10. Paragraph 7(1)(a) of the Standard requires CSPs that offer to supply telecommunications products to consumers under a consumer contract to establish a complaints handling process that includes the minimum requirements for consumer complaints handling set out in the Standard.
11. On 6 August 2020, ACMA staff accessed and reviewed the CHP that was available at www.j2net.com.au. The ACMA finds that The Wildcatters and Mr Forinton contravened paragraph 7(1)(a) of the Standard on 6 August 2020 because the CHP did not include the minimum requirements for consumer complaints handling, for the reasons set out below.

Provision of the Standard	Requirement	ACMA findings and reasons
8(1)	A complaints handling process must:	
8(1)(b)	be made available to the public on the CSP's website in a concise form that sets out the minimum requirements for complaints handling referred to in paragraphs (d) to (m), and sections 9 and 10;	<p>The CHP did not set out all the matters referred to in paragraphs (d) to (m) and sections 9 and 10, namely:</p> <ul style="list-style-type: none"> > paragraph 8(1)(d) > paragraph 8(1)(g) > paragraph 8(1)(k) > paragraph 8(1)(m) > section 9 > paragraph 10(b) > paragraph 10(d) > paragraph 10(g) <p>Therefore, the ACMA finds that The Wildcatters and Mr Forinton did not make available to the public on their public website a CHP which set out the minimum requirements in paragraph</p>

		8(1)(b) of the Standard in the CHP on 6 August 2020.
8(1)(d)	be free of charge for consumers to use;	<p>The CHP indicated that in some instances J2 Net may charge consumers for dealing with their complaint.</p> <p>There are no exceptions to the requirement that a complaints handling process must be free of charge for consumers to use under the Standard.</p> <p>Therefore, the ACMA finds that The Wildcatters and Mr Forinton did not include the minimum requirements in paragraph 8(1)(d) of the Standard in the CHP.</p>
8(1)(g)	set out how and when a consumer can make a complaint and monitor the progress of their complaint;	<p>The CHP included information on how a consumer can make and monitor a complaint. However, it did not include information on when a consumer can make and monitor a complaint.</p> <p>Therefore, the ACMA finds that The Wildcatters and Mr Forinton did not include the minimum requirements in paragraph 8(1)(g) of the Standard in the CHP.</p>
8(1)(k)	require members of its personnel to:	
8(1)(k)(i)	clarify with a consumer if they wish to make a complaint where the consumer has made contact and expressed dissatisfaction through one of the channels referred to in paragraph (h) or paragraph (i), and the member of the personnel is uncertain if the consumer wishes to make a complaint; and	The CHP did not include any information requiring personnel to clarify with a consumer whether they wished to make a complaint.
8(1)(k)(ii)	provide consumers with help to formulate, make and progress a complaint, and set out steps to assist members of its personnel to help consumers with special needs or disabilities, and consumers from non-English backgrounds or those suffering financial hardship;	<p>The CHP did not set out steps to assist members of the CSP's personnel to help consumers with special needs or disabilities, and consumers from non-English backgrounds or those suffering financial hardship.</p> <p>Therefore, the ACMA finds that The Wildcatters and Mr Forinton did not include the minimum requirements in paragraph 8(1)(k) of the Standard in the CHP.</p>

8(1)(m)	set out in sequence each potential step in the process for managing a complaint that was unable to be resolved on first contact, including the following steps:	The CHP did not set out in sequence the potential step in the process for managing a complaint unable to be resolved on first contact as required under subparagraph 8(1)(m)(viii), as described below.
8(1)(m)(viii)	closing a complaint;	<p>The CHP did not include information about closing a complaint that cannot be resolved on first contact.</p> <p>Therefore, the ACMA finds that The Wildcatters and Mr Forinton did not include the minimum requirement in subparagraph 8(1)(m)(viii) of the Standard in the CHP.</p>
9	A complaints handling process must identify the relevant time periods associated with each step in the process, including the response times for managing a complaint set out in sections 12, 13, 14, 15, 16 and 17.	<p>The CHP did not provide:</p> <ul style="list-style-type: none"> > Timeframes for the acknowledgement of complaints. The CHP stated that complaints received by recorded telephone message will be acknowledged within 2 working days. However, it did not clearly state that complaints received via other methods will also be acknowledged within 2 working days. Nor is it clear that complaints received by telephone (other than where a message is recorded) will be acknowledged immediately. > Timeframes for providing written confirmation of matters relating to the resolution of complaints, as required by subsection 13(2). > Timeframes for advice regarding prioritisation, escalation and external dispute resolution, as required by subsection 15(1). > Timeframes for advice regarding the reasons for deciding not to deal with a vexatious or frivolous complaint, as required by subsection 16(2). > Timeframes for giving written confirmation of frivolous or vexatious complaints as required by subsection 16(4). > Timeframes for attempting to contact a complainant where the CSP has been unable to contact the complainant to discuss the complaint as required by section 17. <p>Therefore, the ACMA finds that The Wildcatters and Mr Forinton did not include the minimum</p>

		requirements in section 9 of the Standard in the CHP.
10	A complaints handling process must:	
10(b)	include an internal process for escalating a consumer's complaint, which is clear, accessible and transparent for consumers;	<p>The CHP stated that J2 Net will escalate complaints upon request, but it did not include an internal process for escalating the complaint in that event.</p> <p>Therefore, the ACMA finds that The Wildcatters and Mr Forinton did not include the minimum requirement in paragraph 10(b) of the Standard in the CHP.</p>
10(d)	set out a description of how escalated complaints will be managed;	<p>The CHP did not set out a description of how escalated complaints will be managed.</p> <p>Therefore, the ACMA finds that The Wildcatters and Mr Forinton did not include the minimum requirement in paragraph 10(d) of the Standard in the CHP.</p>
10(g)	include a process for classifying complaints into different categories, which clearly describes each category of complaint.	<p>The CHP did not include a process for classifying complaints into different categories or a description of any complaint categories.</p> <p>Therefore, the ACMA finds that The Wildcatters and Mr Forinton did not include the minimum requirement in paragraph 10(g) of the Standard in the CHP.</p>