

## Formal Warning

### Compliance with the *Do Not Call Register Act 2006*

**To:** Marketsolve Pty Ltd  
**Of:** Unit C4, 25 Rose Valley Drive  
Upper Coomera, QLD 4209

I, Jeremy Fenton, delegate of the Australian Communications and Media Authority (ACMA), being satisfied that Marketsolve Pty Ltd ACN 160 932 525 (Marketsolve) has on one or more occasions contravened subsection 11(1) of the *Do Not Call Register Act 2006* (the DNCR Act);

**HEREBY** issue Marketsolve with a formal warning under section 40 of the DNCR Act to comply with subsection 11(1) of the DNCR Act.

#### Obligations under subsection 11(1) of the DNCR Act

Subsection 11(1) of the DNCR Act provides that:

- (1) a person must not make, or cause to be made, a telemarketing call to an Australian number if:
  - (a) the number is registered on the Do Not Call Register; and
  - (b) the call is not a designated telemarketing call.

Subsection 11(2) provides that subsection 11(1) does not apply if the relevant account-holder consented to the making of the telemarketing call.

Subsection 11(8) provides that subsection (1) is a civil penalty provision.

Section 40 of the DNCR Act provides that the ACMA may issue a formal warning if a person contravenes a civil penalty provision.

'Telemarketing call' is defined in section 5 of the DNCR Act.

'Designated telemarketing call' is defined in Schedule 1 to the DNCR Act.

Consent is defined in Schedule 2 to the DNCR Act.

#### Investigation

The ACMA commenced an investigation into Marketsolve on 26 June 2020, following consumer complaints alleging telemarketing calls had been made to numbers on the Do Not Call Register.

#### Details of the contravention

The ACMA found that on 28 January 2020:

- (a) Marketsolve made a call to an Australian number on the Do Not Call Register
- (b) the call was a telemarketing call
- (c) the call was not a designated telemarketing call, as set out in Schedule 1 to the DNCR Act
- (d) Marketsolve could not demonstrate the call was made with the consent of the relevant account-holder.

Dated this 17<sup>th</sup> day of August 2020.

  
**Jeremy Fenton**  
Delegate of the Australian Communications and Media Authority