

INFRINGEMENT NOTICE

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

To: Telstra Corporation Limited
ACN 051 775 556
Level 41, 242 Exhibition Street
Melbourne VIC 3000
Attention: Ms Sue Laver, Company Secretary

I, Cathy Rainsford, am an authorised infringement notice officer of the Australian Communications and Media Authority.

I have reasonable grounds to believe that between 7 April 2020 and 24 April 2020, inclusive, Telstra Corporation Limited ACN 051 775 556 (Telstra) contravened subsection 462(1) of the *Telecommunications Act 1997* (Telecommunications Act) (the contraventions), being a listed infringement notice provision.

I give Telstra this Infringement Notice under section 572E of the *Telecommunications Act 1997* in relation to the contraventions.

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

Details of the contraventions

It is alleged that Telstra contravened subsection 462(1) of the Telecommunications Act on 120 occasions between 7 April 2020 and 24 April 2020, inclusive, by failing to comply with subsection 111(2) of the *Telecommunications Numbering Plan 2015* (Numbering Plan).

Subsection 462(1) of the Telecommunications Act relevantly requires carriers to comply with the plan made under section 455 of the Telecommunications Act, which is the Numbering Plan. Telstra is a carrier.

Carriers are required by subsection 68(1) of the Telecommunications Act to comply with the conditions of their carrier licence. This includes the licence condition at clause 1 of Schedule 1 to the Telecommunications Act, which is applied by section 61 of the Telecommunications Act, and requires a carrier to comply with the Telecommunications Act. Section 68 is a civil penalty provision.

Subsection 462(1) of the Telecommunications Act is a listed infringement notice provision for the purposes of section 572E of the Telecommunications Act, and has been since the *Telecommunications (Listed Infringement Notice Provisions) Declaration 2011* was made.

Schedule 1 to this Infringement Notice sets out brief details of the circumstances of the alleged contraventions.

Penalty payable under this Infringement Notice

In accordance with section 572G of the Telecommunications Act, the penalty payable under this Infringement Notice is \$1,512,000. The penalty has been calculated as set out in the table in Schedule 2 to this Infringement Notice.

Time for payment of the penalty

The penalty should be paid **within 28 days** after the day on which this Infringement Notice is given.

The penalty should be paid to the Australian Communications and Media Authority, on behalf of the Commonwealth, into the account below. **Please include** the narration [REDACTED] with your payment.

[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

You may ask for additional time to pay. Any request should be made to me as soon as possible, and within 28 days after the date this Infringement Notice is given.

If the penalty is paid

If you pay the penalty specified in this Infringement Notice within the time for payment (being within 28 days after the day on which this Infringement Notice is given (or within the longer period allowed under paragraph 572F(1)(d)(ii) of the Telecommunications Act) and the Notice is not withdrawn, the matter will

not be dealt with by the Federal Court of Australia under Part 31 of the Telecommunications Act. Your liability for the alleged contravention(s), the subject of this Infringement Notice, is discharged. No further proceedings will be taken with respect to the alleged contraventions.

Payment does not equate to a finding that the contraventions occurred.
Payment is not an admission of liability.

If the penalty is not paid

If you do not pay the penalty within the time specified, the ACMA may take action for the alleged contraventions.

That action may include the institution of civil penalty proceedings in the Federal Court of Australia. The penalties that the Court can impose are potentially significantly higher than can be specified in an Infringement Notice (see section 570 of the Telecommunications 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 request 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 action for the alleged contravention(s), the subject of this Infringement Notice.

Enquiries concerning the Infringement Notice

If you have any enquiries or questions about this Infringement Notice contact me on +61 2 6219 5500 or at Cathy.Rainsford@acma.gov.au or Jeremy Fenton on +61 3 9963 6909 or at Jeremy.fenton@acma.gov.au



Signature (Authorised Infringement Notice Officer)

Cathy Rainsford
General Manager
Content & Consumer Division
Australian Communications and Media Authority
Authorised Infringement Notice Officer
1 April 2021

SCHEDULE 1

Brief details of each of the contraventions are set out below,
in accordance with section 572F of the Telecommunications Act.

1. Background

- 1.1. Telstra Corporation Limited ACN 051 775 556 (Telstra) is an Australian Public Company, limited by shares, with a registered office at Level 41, 242 Exhibition Street Melbourne VIC 3000.
- 1.2. Number portability allows consumers to retain their phone number when they move from one service provider to another. Number portability rules apply to "portable services", which covers most kinds of services. The purpose of the number portability rules is to facilitate competition and allow consumers choice in relation to their provider for a service.
- 1.3. On 24 March 2020, Telstra advised the ACMA that it was suspending all number portability activities relating to local numbers from 25 March 2020 (except for certain urgent porting requests relating to priority assistance or emergency services).
- 1.4. Telstra stated that no new requests for porting local numbers to and from Telstra could be submitted to it and all scheduled porting activity from 25 March 2020 until (at least) 6 April 2020 would be cancelled.
- 1.5. Among other things, Telstra cancelled 895 scheduled ports, and 120 of these cancellations, as set out in Schedule 2, are the subject of this Infringement Notice.
- 1.6. Key milestones for the full resumption of local portability activities were met on 6 April 2020, 1 June 2020, 20 July 2020, and on 16 October 2020, Telstra advised the ACMA that it had cleared the backlog of ports affected by its suspension of local number porting activities.

2. Matters giving rise to the Infringement Notice

- 2.1. Telstra holds a carrier licence issued under Division 3 of Part 3 of the Act.
- 2.2. Subsection 68(1) of the Telecommunications Act states that a carrier must not contravene a condition of the carrier licence held by the carrier.
- 2.3. Section 61 of the Telecommunications Act states a carrier licence is subject to the conditions specified in Schedule 1. Subclause 1(1) of Schedule 1 states that a carrier must comply with the Telecommunications Act.
- 2.4. Subsection 462(1) of the Telecommunications Act states that a person who is a carrier or a carriage service provider must comply with the Numbering Plan.
- 2.5. Subsection 111(2) of the Numbering Plan provides that a carrier must do everything that is necessary to port the customer's number to another carriage service provider or carrier if the other carriage service provider or carrier asks, at the customer's request, for the number to be ported.
- 2.6. Telstra's suspension of number portability in relation to local numbers is contrary to its obligations under the Numbering Plan.
- 2.7. Accordingly, the ACMA has reasonable grounds to believe that Telstra has contravened subsection 68(1) because it contravened the condition

of its licence which requires it to comply with the Telecommunications Act.

2.8. Subsection 68(3) of the Telecommunications Act sets out that subsection 68(1) is a civil penalty provision.

3. The amount of the penalty

3.1. The total penalty specified in the Notice is \$1,512,000 calculated in accordance with section 572G of the Act, as set out in the table at Schedule 2 below.

SCHEDULE 2

Penalties for alleged contraventions of subsection 462(1) of the Telecommunications Act.

Date of alleged contraventions	Number of ports cancelled in contravention of subsection 112(1) of the <i>Numbering Plan 2015</i>	Penalty Units per contravention / in aggregate		Penalty ¹ per contravention / in aggregate	
7 April 2020	64	60	3,840	\$12,600	\$806,400
9 April 2020	1	60	60	\$12,600	\$12,600
14 April 2020	2	60	120	\$12,600	\$25,200
15 April 2020	21	60	1,260	\$12,600	\$264,600
16 April 2020	2	60	120	\$12,600	\$25,200
17 April 2020	2	60	120	\$12,600	\$25,200
20 April 2020	3	60	180	\$12,600	\$37,800
21 April 2020	2	60	120	\$12,600	\$25,200
22 April 2020	21	60	1,260	\$12,600	\$264,600
24 April 2020	2	60	120	\$12,600	\$25,200
Totals	120		7,200		\$1,512,000

¹ At the time of the alleged contraventions, the amount of a penalty unit was \$210, as set by section 4AA of the *Crimes Act 1914*.