

Investigation Report: CommSol Holdings Pty Ltd

File No.	ACMA2020/436
Entity	CommSol Holdings Pty Ltd ACN 618 571 529
Relevant Legislation	<i>Telecommunications Act 1997</i>

Findings

The Australian Communications and Media Authority (**ACMA**) finds that, as at 4 August 2021, CommSol Holdings Pty Ltd ACN 618 571 529 (**CommSol**) had contravened subsections 360W(1) and 360X(1) of the *Telecommunications Act 1997* (**the Act**) by failing to publish terms and conditions on its website relating to the connection of premises and supply of wholesale services to carriage service providers (**CSPs**).

Therefore, CommSol had also contravened:

- > the carrier licence condition set out in clause 1 of Schedule 1 to the Act by failing to comply with the Act
- > subsection 68(1) of the Act by failing to comply with the carrier licence condition set out in clause 1 of Schedule 1 to the Act.

Background

1. On 15 July 2021, the ACMA commenced an investigation under paragraph 510(1)(a) of the Act into CommSol's compliance with subsections 360W(1) and 360X(1) of the Act.
2. On 5 August 2021, the ACMA wrote to CommSol setting out the ACMA's preliminary view that CommSol had contravened those provisions. CommSol was invited to respond by 19 August 2021.
3. On 14 September 2021, CommSol provided the ACMA with a link to its updated website where it had published terms and conditions relating to the connection of premises and supply of wholesale services to CSPs.

Findings and Reasons

4. Table 1 sets out the ACMA's findings and the reasons for those findings. In making its findings, the ACMA considered CommSol's response of 14 September 2021.

Table 1 – Reasons for findings

CommSol is a carrier and a Statutory Infrastructure Provider (**SIP**).

The holder of a carrier licence is a "carrier" as defined in section 7 of the Act. CommSol has held a carrier licence under the Act since 18 May 2017 (carrier 453 on the register)

(<https://www.acma.gov.au/register-carrier-licences-and-nominated-carrier-declarations>).

The Minister may declare that a specified carrier is a SIP for a designated service area under section 360L of the Act. Under the *Telecommunications (Designated Service Area and Statutory Infrastructure Provider) Declaration (No.1) 2020* (which was made under section 360L of the Act), CommSol is the specified carrier declared as a SIP for certain designated service areas as described in Schedule 4 to that declaration.

(<https://www.legislation.gov.au/Details/F2020L01053/Download>)

Provision of the Act	Requirement	ACMA findings and reasons
360W(1)	<p>Publication of offer etc.—connection of premises</p> <p>A SIP for a service area must publish on its website:</p> <ul style="list-style-type: none"> a) the terms and conditions relating to price or a method of ascertaining price; and b) other terms and conditions; <p>on which it offers to connect premises in the service area to a qualifying telecommunications network in order that a CSP can provide qualifying carriage services to an end-user at the premises.</p>	<p>On 4 August 2021, ACMA staff reviewed the content of every public-facing page of CommSol's website (https://www.commsol.net.au) (CommSol's website) and found no evidence of publication of any terms and conditions relating to price, or a method of ascertaining price, and other terms and conditions on which it offers to connect premises in the service area to a qualifying telecommunications network in order that a CSP can provide qualifying carriage services to an end-user at the premises.</p>
360X(1)	<p>Publication of offer—supply of eligible services</p> <p>A SIP for a service area must publish on its website:</p> <ul style="list-style-type: none"> a) the terms and conditions relating to price or a method of ascertaining price; and b) other terms and conditions; <p>on which it offers to supply eligible services to CSPs in order that the CSPs can provide qualifying carriage services to end-users at premises in the service area.</p>	<p>On 4 August 2021, ACMA staff reviewed the content of every public-facing page of CommSol's website and found no evidence of publication of any terms and conditions relating to a price, or a method of ascertaining price, and other terms and conditions on which it offers to supply eligible services to CSPs in order that the CSPs can provide qualifying carriage services to end-users at premises in the service area.</p>
Clause 1 of Schedule 1 and subsection 68(1)	<p>Section 61 of the Act provides that a carrier licence is subject to the conditions specified in Schedule 1.</p> <p>Clause 1 of Schedule 1 to the Act provides that a carrier must comply with the Act.</p> <p>Subsection 68(1) of the Act provides that a carrier must not contravene a condition of the carrier licence held by the carrier.</p>	<p>CommSol had not complied with subsections 360W(1) and 360X(1) of the Act as at 4 August 2021. Therefore, it contravened the carrier licence condition set out at clause 1 of Schedule 1 to the Act, and had also contravened subsection 68(1) of the Act, as at 4 August 2021.</p>