

**ENFORCEABLE UNDERTAKING GIVEN TO THE AUSTRALIAN COMMUNICATIONS AND
MEDIA AUTHORITY BY INFORMATION SUPPORT AUSTRALIA PTY LTD (ACN 644
605 363) UNDER SECTION 572B OF THE *TELECOMMUNICATIONS ACT 1997***

1 Definitions

1.1. In this Undertaking:

1.1.1. **ACMA** means the Australian Communications and Media Authority.

1.1.2. **Commencement date** has the meaning given to it in clause 2.1.

1.1.3. **Do Not Call Register Act** means the *Do Not Call Register Act 2006*.

1.1.4. **Hamilton Blackstone** means Hamilton Blackstone Lawyers Pty Ltd ABN 42 164 428
782 of Level 21, 133 Castlereagh Street SYDNEY NSW 2000.

1.1.5. **Independent Consultant** means a qualified and independent consultant with expertise
in audits relating to risk and compliance, processes, procedures, systems, governance
and controls.

1.1.6. **ISA** means Information Support Australia Pty Ltd ACN 644 605 363.

1.1.7. **report** means the report produced by the Independent Consultant referred to in clause
5.1.

1.1.8. **Telecommunications Act** means the *Telecommunications Act 1997*.

1.1.9. **telemarketing** has the same meaning as in the *Do Not Call Register Act 2006*.

1.1.10. **telemarketing complaint** means a complaint to ISA that relates to a telemarketing
call made, or alleged to have been made, by ISA and includes complaints notified to
ISA by the ACMA.

1.1.11. **Telemarketing Industry Standard** means the Telecommunications (Telemarketing
and Research Calls) Industry Standard 2017.

2 Term of the undertakings

2.1. This Undertaking commences when:

2.1.1. it has been executed by ISA

2.1.2. so executed, it has been accepted by the ACMA and written notification of that
acceptance has been provided to ISA (**Commencement date**).

2.2. This Undertaking continues for a period of 24 months from the Commencement date or
until it is withdrawn by ISA, with the approval of the ACMA, pursuant to section 572B of
the Telecommunications Act, whichever is earlier.

2.3. This Undertaking may be varied by ISA, with the consent of the ACMA, pursuant to
section 572B of the Telecommunications Act.

3 Background

3.1. On 7 July 2021 the ACMA notified ISA that it has reasonable grounds to believe that, from
20 October to 27 October 2020 (inclusive), ISA made telemarketing calls to Australian

numbers on the Do Not Call Register without the consent of the relevant account holder, in contravention of section 11(1) of the Do Not Call Register Act.

- 3.2. ISA acknowledges the ACMA's finding and, in response to the ACMA's concerns regarding ISA's compliance with the Do Not Call Register Act, ISA offers this Undertaking to the ACMA.

4 Undertaking

- 4.1. ISA undertakes to take the following specified actions to ensure the company complies with the Do Not Call Register Act and the Telemarketing Industry Standard and does not contravene this legislation in future.

5 Independent Consultant

- 5.1. ISA undertakes to appoint Hamilton Blackstone as the Independent Consultant to:

5.1.1. review ISA's current procedures, policies, training and systems relating to its compliance with the Do Not Call Register Act and the Telemarketing Industry Standard to identify any deficiencies and/or improvements to ensure that ISA:

- a. does not make, or cause calls to be made to numbers on the Do Not Call Register unless this is done in compliance with the Do Not Call Register Act;
- b. has robust procedures and systems for checking numbers to be called against the Do Not Call Register (if applicable);
- c. has robust procedures any systems for ensuring that any of its outsourced call centre/s check numbers to be called against the Do Not Call Register;
- d. has appropriate internal auditing procedures in place for outbound calls; and
- e. classifies and analyses its records of telemarketing complaints to identify systemic and recurring problems and trends (**systemic problems**).

5.1.2. produce a report (**the report**) making recommendations as to:

- a. improvements to policies, procedures and systems to ensure compliance with the Do Not Call Register Act and the Telemarketing Industry Standard, including but not limited to:
 - i. quality assurance procedures for ensuring the ongoing integrity and functionality of relevant systems;
 - ii. quality assurance process for ensuring any of its outsourced call centres comply with the Do Not Call Register Act and the Telemarketing Industry Standard;
 - iii. procedures for ensuring ISA personnel, including from outsourced call centres, comply with compliance policies and procedures; and
 - iv. procedures for ensuring continued compliance when process or system changes are implemented;
- b. ongoing training for ISA personnel on compliance with the Do Not

- Call Register Act and the Telemarketing Industry Standard;
 - c. ongoing monitoring of compliance measures for the Do Not Call Register Act and the Telemarketing Industry Standard; and
 - d. ensuring ISA takes reasonable steps to address any identified systemic problems.
- 5.2. Hamilton Blackstone will provide the report to ISA, and at the same time to the ACMA, within six months of the Commencement Date.
- 5.3. Subject to the ACMA's written agreement, ISA may remove Hamilton Blackstone as the Independent Consultant at any time and replace Hamilton Blackstone with a new Independent Consultant approved by ACMA. If the ACMA does not approve the choice of Independent Consultant, ISA will repeat this process until it has the ACMA's approval.

6 Implementation Plan, Audit & Reporting

- 6.1. Within 40 business days of receiving the report ISA will:
 - 6.1.1. develop an implementation plan setting out the steps ISA has taken, or will take, to implement all recommendations made by the Independent Consultant in the report, including timeframes (unless the ACMA specifically agrees that any recommendation need not be implemented), for ISA Board approval;
 - 6.1.2. provide a copy of the Board-approved implementation plan to the ACMA.
- 6.2. ISA undertakes to comply with the approved implementation plan in accordance with the timeframes specified in the plan.
- 6.3. The implementation plan may be modified at any time subject to the ACMA's written approval.
- 6.4. Twelve months from the date ISA provides a copy of the Board-approved implementation plan to the ACMA, ISA will provide a compliance report, approved by the Board, to the ACMA that covers the previous 12 months that includes:
 - 6.4.1. the status of actions it will take under the implementation plan;
 - 6.4.2. a report of all de-identified consumer complaints made to ISA about alleged non-compliance with the Do Not Call Register Act and the Telemarketing Industry Standard, including the date of the complaint and a unique identifier for each complaint;
 - 6.4.3. action ISA has taken on all complaints the ACMA has notified ISA about or received by ISA directly from consumers.
- 6.5. ISA will report to the ACMA all identified instances of non-compliance with the Do Not Call Register Act and the Telemarketing Industry Standard within 10 business days of identifying an instance of non-compliance, including the cause of any identified compliance issues and remediation action taken or proposed to be taken.

7 Training

- 7.1. Within 30 business days of receiving the report, ISA undertakes to train all personnel that may be, or are currently responsible for making, or causing the making of, telemarketing calls, and their direct line manager, to ensure compliance with the Do Not Call Register Act and the Telemarketing Industry Standard.
- 7.2. ISA undertakes to repeat the training, described in clause 7.1, every 12 months after ISA has undertaken the training referred to in clause 7.1 for the term of this undertaking.
- 7.3. ISA undertakes to provide the ACMA with written notice when it has undertaken training referred to in clauses 7.1 and 7.2.

8 Record-keeping

- 8.1. ISA undertakes to, while this Undertaking is in force, keep accurate records of:
 - 8.1.1. all telemarketing calls made, or caused to be made, by ISA, including the time, date and telephone number called;
 - 8.1.2. the consent applicable to all telemarketing calls at clause 8.1.1 (above), including the terms and conditions associated with that consent; and
 - 8.1.3. all telemarketing complaints.
- 8.2. ISA will provide copies of records referred to in this clause 8 to the ACMA upon request by the ACMA.

9 Acknowledgements

9.1. ISA acknowledges that the ACMA may publish these Undertakings on its website.

Date given by ISA 31 10 2021

Name and position of ISA representative authorised to give this Undertaking

[Redacted signature area]

Signature of ISA representative authorised to give this Undertaking

[Redacted signature area]

Witness

[Redacted witness signature area]

The Undertaking offered by ISA is accepted by the Australian Communications and Media Authority pursuant to section 572B(2) of the *Telecommunications Act* by its delegate

Date accepted by the ACMA 6 / 10 / 2021

Name and position of ACMA delegate

Jeremy Fenton, Executive Manager SES1

Signature of ACMA delegate

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