

## Direction under subsection 121(1) of the *Telecommunications Act 1997*

TO: Southern Phone Company Limited (ACN 100 901 184)

OF: c/-AGL Energy Ltd  
Level 24  
200 George Street  
SYDNEY NSW 2000;

### Background

Following an investigation, the Australian Communications and Media Authority (**the ACMA**) found that Southern Phone Company Limited (**Southern Phone**) has contravened clause 4.5.1(c) of the Telecommunications Consumer Protections Code C628:2019 (**the TCP Code**) during the period 1 October 2019 to 30 September 2020 by failing to ensure its sales representatives were appropriately trained, to promote and sell its products in a fair, transparent, responsible and accurate manner. The ACMA also therefore found that Southern Phone failed to ensure its sales representatives promoted and sold products in that manner as required by clause 4.5.1(a) of that Code.

The investigation followed an audit by the ACMA to assess supplier approaches to compliance with TCP Code rules, including the responsible approach to selling provisions in clause 4.5.1.

The following direction relates to the contraventions of the TCP Code identified during the ACMA's investigation.

### TCP Code responsible approach to selling requirements

Under clause 4.5.1 of the TCP Code, a supplier must ensure their sales representatives:

- a. promote and sell its telecommunications products in a fair, transparent, responsible and accurate manner to assist consumers in making informed purchasing decisions; and
- b. clearly explain the key terms, conditions, and costs of the telecommunications products consumers are purchasing.

To enable this outcome, suppliers must take particular actions, including ensuring that the supplier's sales representatives are appropriately trained to promote and sell in a fair, transparent, responsible and accurate manner (clause 4.5.1(c)).

### Details of the contraventions

1. The TCP Code is an industry code registered by the ACMA under Part 6 of the Act. As a carriage service provider (**CSP**) within the meaning of section 87 of the Act, Southern Phone is also a supplier to which the TCP Code applies.
2. Southern Phone advised that the training it provided to its sales representatives for the purposes of complying with clause 4.5.1(c) of the TCP Code was comprised of formal and informal training.

3. The ACMA is of the view that, in order to comply with the requirement in clause 4.5.1(c) to ensure that its sales representatives are appropriately trained, all of Southern Phone's sales representatives should have completed Southern Phone's training prior to selling, offering to sell, or otherwise promoting telecommunications products to consumers.
4. The ACMA found that all of Southern Phone's sales representatives had not completed Southern Phone's formal training during the period 1 October 2019 to 30 September 2020.
5. Accordingly, the ACMA is satisfied that Southern Phone had not appropriately trained its sales representatives to promote and sell in a fair, transparent, responsible and accurate manner, as required by clause 4.5.1(c) of the TCP Code and that it therefore failed to ensure that its sales representatives promoted and sold products in that manner as required by clause 4.5.1(a).
6. Further details about the contraventions are set out in the investigation report provided with this Direction.

### **DIRECTION**

The ACMA, under subsection 121(1) of the *Telecommunications Act 1997* (**the Act**) hereby directs Southern Phone to comply with clause 4.5.1 of the TCP Code.

#### **Requirement to comply with this Direction**

Under subsection 121(2) of the Act, Southern Phone must comply with a direction under subsection 121(1) of the Act. If Southern Phone does not comply with this direction, the ACMA may apply to the Federal Court for an order that Southern Phone pay the Commonwealth a pecuniary penalty in respect of its contravention of a civil penalty provision (subsection 121(4) and section 570 of the Act).

#### **Reconsideration of a decision**

If Southern Phone is dissatisfied with the decision to give this direction, it may seek reconsideration of the decision by the ACMA under subsection 558(1) of the Act by making an application in writing to the ACMA, which sets out the reasons for the application. There is no application fee. If Southern Phone requests reconsideration of the ACMA's decision to give this direction, the ACMA will reconsider its decision, taking into account any further submissions made by Southern Phone. The ACMA may affirm, vary or revoke its decision to give this direction.

The ACMA must make a decision in response to an application under subsection 558(1) of the Act within 90 days after receiving the application. Any such application should be made within 28 days after the date on which this notice of decision is given to Southern Phone, and addressed to the person whose contact details are included below.

If not already provided, Southern Phone may also request a statement of reasons in relation to the decision on that reconsideration, under section 28 of the *Administrative Appeals Tribunal Act 1975* (**AAT Act**). Any such request should be made within 28 days of the reconsideration decision and addressed to the person whose contact details are included below.

#### **Making a complaint**

Any complaint about the way the ACMA handled this matter may be directed to the person whose details are provided below.

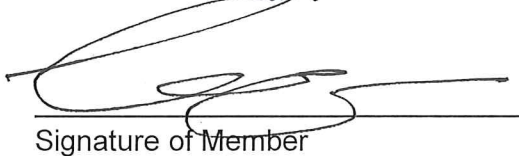
A complaint may also be made to the Commonwealth Ombudsman (the Ombudsman usually prefers that any concerns are raised with the ACMA first). There is an office of the Commonwealth Ombudsman in each capital city. Further information may be obtained at [www.ombudsman.gov.au](http://www.ombudsman.gov.au) or call 1300 362 072.

### Contacting the ACMA

Should you require further information, please contact:

Peter Sutton  
Manager  
Telecommunications Compliance and Enforcement Section  
PO Box 13112 Law Courts  
Melbourne, VIC 8010  
Ph: (03) 9963 6950  
Email: [peter.sutton@acma.gov.au](mailto:peter.sutton@acma.gov.au)

Executed on the 2<sup>nd</sup> day of December 2021



Signature of Member

CREINA CHAPMAN  
Name (Please Print)



Signature of Member/  
General Manager

FIONA CAMERON  
Name (Please Print)

