



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

TO: Telstra Corporation Limited (ACN 051 775 556)

OF: Level 41, 242 Exhibition Street,
Melbourne VIC 3000 Australia

DIRECTION

I, Cathy Rainsford, delegate of the Australian Communications and Media Authority (the **ACMA**), hereby direct Telstra Corporation Limited (**Telstra**) to comply with clause 7.7 of the *Telecommunications Consumer Protections Code* (C628:2019) (the **TCP Code**) under subsection 121(1) of the *Telecommunications Act 1997* (the **Act**).

Background

Following an investigation, I found that Telstra had contravened clause 7.7.1 of the TCP Code on 70 occasions between 9 August 2019 and 21 April 2022, by failing to suspend credit management action against 70 customers under financial hardship arrangements.

The investigation followed initial information provided by Telstra to the ACMA on 28 September 2021, in response to a notice under subsection 521(2) of the Act requesting information about financial hardship customers, and further information provided to the ACMA on 16 August 2022.

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

TCP Code requirement to suspend credit management action

Under clause 7.7.1 of the TCP Code, a Supplier must suspend Credit Management action whilst an arrangement under a Financial Hardship policy is being discussed or is in place unless:

- a) the Customer or former Customer does not meet their obligations under the Financial Hardship arrangement. In that event, if the Customer or former Customer does not contact the Supplier to discuss a new arrangement, the Supplier must take reasonable steps to contact the Customer or former Customer before taking Credit Management action;
- b) the Supplier decides it is reasonable to do so given the circumstances, e.g., to prevent a further increase in the debt owed; or
- c) the Customer or former Customer agrees that the Financial Hardship arrangement is unable to be completed.

'Credit Management' is defined in clause 2.1 of the TCP Code as the process by which a Supplier helps Customers to manage their expenditure on Telecommunications Services, manages any credit risk to the Supplier, and collects outstanding debts from Customers, and former Customers.

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, Telstra is also a supplier to which the TCP Code applies.
2. The ACMA has investigated Telstra's compliance with clause 7.7.1 of the TCP Code.
3. Telstra has advised that, between 9 August 2019 and 21 April 2022, 70 financial hardship customers were subject to collection activity and none of the exceptions set out at clauses 7.7.1(a), (b) or (c) of the TCP Code applied. This collection activity included sending a letter requesting payment or sending a notice regarding restriction or suspension, implementing service restrictions or suspensions, or disconnecting services, as well as referrals to debt collection agencies. Telstra explained that IT synchronisation issues between 2 of its legacy systems prevented the timely update of the hardship 'status' indicator that prevents collections actions, resulting in automated collection activity commencing in error.
4. Following its investigation, the ACMA was satisfied that Telstra contravened clause 7.7.1 of the TCP Code on 70 occasions between 9 August 2019 and 21 April 2022 when it failed to suspend credit management action for 70 customers in financial hardship arrangements.
5. Further details about the contraventions are set out in the investigation report provided with this Direction.

Requirement to comply with this Direction

Under subsection 121(2) of the Act, Telstra must comply with a direction under subsection 121(1) of that Act. If Telstra does not comply with this direction, the ACMA may issue an infringement notice relating to the contravention (subsection 572E(1) of the Act) or apply to the Federal Court for an order that Telstra pay the Commonwealth a pecuniary penalty in respect of its contravention of a civil penalty provision (see subsections 121(4) and 571(1) of the Act).

Reconsideration of a decision

If Telstra 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. Any such application must be made within 28 days after the date on which this notice of decision is given to Telstra (unless the ACMA extends this period) and be addressed to the person whose contact details are included below. There is no application fee.

If Telstra 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 Telstra. The ACMA must affirm, vary or revoke its decision to give this direction (see subsection 559(1) of the Act). 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.

If Telstra applies for a reconsideration decision under subsection 558(1) of the Act and is dissatisfied with the ACMA's decision on the reconsideration, subject to the *Administrative Appeals Tribunal Act 1975* (the **AAT Act**), Telstra may apply to the Administrative Appeals Tribunal for review of the decision on that reconsideration. If not already provided, Telstra may also request a statement of reasons in relation to the decision on that reconsideration, under section 28 of the 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 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

This 25th day of August 2022



Cathy Rainsford
General Manager
Content and Consumer Division
Delegate of the Australian Communications and Media Authority