

Direction to comply with the Industry Code (C661:2022) Reducing Scam Calls and Scam SMSs, given under subsection 121(1) of the *Telecommunications Act 1997*

To: **Modica Group Limited**

Of: **Level 3, 20 Customhouse Quay
Wellington 6011
New Zealand**

Attention: **Mr Tim Fletcher, General Counsel and Company Secretary**

I, Cathy Rainsford, delegate of the Australian Communications and Media Authority (**the ACMA**), being satisfied that Modica Group Limited (**Modica**), has contravened the *Industry Code (C661:2022) Reducing Scam Calls and Scam SMSs (the Code)* as described below;

DIRECTS Modica, under subsection 121(1) of the *Telecommunications Act 1997 (the Act)*, to comply with the Code.

Details of the contraventions

1. The ACMA has investigated Modica's compliance with the Code, which is an industry code registered by the ACMA under Part 6 of the Act. As a carriage service provider (**CSP**), Modica is a participant in a section of the telecommunications industry to which this industry code applies.
2. The ACMA is satisfied that Modica has contravened the following clauses of the Code:

Provision	Reason
Clause 5.2.2	<ul style="list-style-type: none">• Failing to only originate short messages on its telecommunications network where it has been presented with evidence of a valid use case for alphanumeric sender IDs
Clause 6.1.1(b)	<ul style="list-style-type: none">• Failure to provide reports to the ACMA

3. Further details about the contraventions are set out in the investigation report provided to Modica on 13 January 2023.

Requirement to comply with this Direction

Under subsection 121(2) of the Act, Modica must comply with a direction under subsection 121(1) of the Act.

If Modica does not comply with this direction, the ACMA may apply to the Federal Court for an order that Modica 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 Modica 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 Modica is informed of the decision, unless the ACMA extends the period for making the application (subsection 558(3) of the Act).

If, upon reconsideration, the decision is affirmed or varied and Modica is dissatisfied with that decision, it may:

- (a) Subject to the *Administrative Appeals Tribunal Act 1975* (the **AAT Act**), apply to the Administrative Appeals Tribunal for review of the reconsideration decision; and
- (b) request a statement under section 28 of the AAT Act in relation to that decision (section 562 of the Act).



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

13 January 2023