

INFRINGEMENT NOTICE

NOTICE UNDER SECTION 572E OF THE *TELECOMMUNICATIONS ACT 1997* (CTH)

To: Telnyx Australia Pty Ltd
ACN 623 603 725
119 Willoughby Rd
Crows Nest NSW 2065
Attention: Jos Speeckaert

I, Jeremy Fenton, am an authorised infringement notice officer of the Australian Communications and Media Authority for the purposes of section 572L of the *Telecommunications Act 1997* (the **Act**).

I have reasonable grounds to believe that Telnyx Australia Pty Ltd ACN 623 603 725 (**Telnyx**), in its capacity as a carriage service provider (**CSP**), has contravened subsection 128(1) of the Act, being a civil penalty provision (**the contraventions**). Details of the contraventions are outlined below.

I give Telnyx this Infringement Notice under section 572E of the Act in relation to specific alleged contraventions.

In giving this Infringement Notice I have had regard to the *Telecommunications (Infringement Notices) Guidelines 2022*.

Details of the contraventions

It is alleged that Telnyx contravened:

- subsections 8(2) and 8(5) of the *Telecommunications (Mobile Number Pre-Porting Additional Identity Verification) Industry Standard 2020 (PPV Standard)* by not using at least one additional identity verification process set out in paragraphs 8(2)(a) to (d) to confirm that the person requesting a port is the rights of use holder and proceeding with a port without using one of the additional identity verification processes.
- Failing to comply with a standard registered under Part 6 of the Act is a contravention of subsection 128(1) of the Act. The PPV Standard is a standard registered under Part 6 of the Act.
- Subsection 128(1) is a civil penalty provision.

Schedules 1 to this Infringement Notice sets out brief details of the alleged contraventions.

Penalty payable under this Infringement Notice

In accordance with section 572G of the Act, the penalty payable under this Infringement Notice is \$26,640. The penalty has been calculated as set out in the tables in Schedule 1 to this Infringement Notice.

Time for payment of the penalty

The penalty should be paid **within 28 days** after the day on which this Infringement Notice is given.

The penalty should be paid to the Australian Communications and Media Authority, on behalf of the Commonwealth, into the account below within 28 days of receipt of the Notice.

Please include the narration "Telnyx - IN" with your payment.

[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

You may ask for additional time to pay. Any request should be made to me as soon as possible, and no later than 28 days after the date this Infringement Notice is given.

If the penalty is paid

If you pay the penalty specified in this Infringement Notice within the time for payment (being within 28 days after the day on which this Infringement Notice is given, or, if applicable, within the longer period allowed under paragraph 572F(1)(d)(ii) of the Act) and the Infringement Notice is not withdrawn, the matter will not be dealt with by the Federal Court of Australia under Part 31 of the Act. Your liability for the alleged contraventions, the subject of this Infringement Notice, will be discharged. No further proceedings will be taken with respect to the alleged contraventions.

Payment does not equate to a finding that the contraventions occurred. Payment is not an admission of liability.

If the penalty is not paid

If you do not pay the penalty within the time for payment, the ACMA may take action for the alleged contraventions.

That action may include the institution of civil penalty proceedings in the Federal Court. The penalties that the Court can impose are potentially significantly higher than that in an Infringement Notice (see section 570 of the Act).

Withdrawal of the infringement notice


The ACMA may withdraw this Infringement Notice. It may do so of its own volition or upon your request. To be effective the withdrawal must occur within 28 days after the Infringement Notice was given.

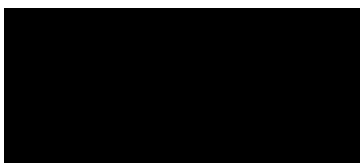
If you wish to apply for withdrawal of the Infringement Notice, you should write as soon as practicable setting out the basis/reasons for the request. Your application should be addressed to me in the first instance.

If the Infringement Notice is withdrawn after the penalty is paid, the penalty will be refunded.

Please note that if this Infringement Notice is withdrawn, the ACMA may consider taking action for the alleged contravention(s), the subject of this Infringement Notice.

Enquiries concerning the Infringement Notice

If you have any enquiries or questions about this Infringement Notice contact me on 



Signature (Authorised Infringement Notice Officer)

Jeremy Fenton
Acting General Manager
Consumer Division
1 September 2023

SCHEDULE 1

Details of each of the alleged contraventions

In accordance with section 572F of the *Telecommunications Act 1997* (the **Act**), brief details of the alleged contraventions are set out below.

1. Background

- 1.1. Telnyx Australia Pty Ltd ACN 623 603 725 (**Telnyx**) is an Australian proprietary limited company, with a registered office at 119 Willoughby Road, Crows Nest NSW 2065.
- 1.2. Telnyx supplies telecommunications services (being listed carriage services) to the public. It is a carriage service provider (**CSP**) within the meaning of section 87 of the Act and a mobile CSP within the meaning of the *Telecommunications (Mobile Number Pre-Porting Additional Identity Verification) Industry Standard 2020* (**PPV Standard**).
- 1.3. As a mobile CSP Telnyx is required to comply with the PPV Standard under subsection 128(1) of the Act.
- 1.4. On 8 December 2022, the ACMA commenced an investigation into Telnyx's compliance with the PPV Standard.

2. Matters giving rise to the Notice

- 2.1. Information obtained by the ACMA from Telnyx in the course of its investigation showed that on 22 September 2022, Telnyx proceeded with ports associated with 2 of its active carriage services without using an additional verification process as set out in subsection 8(2) of the PPV Standard.

3. Details of the contraventions

- 3.1. The PPV Standard is an industry standard registered under Part 6 of the Act that requires the gaining CSP, prior to initiating a port of a mobile service number, to use additional identity verification processes to confirm that the person requesting a port:
 - 3.1.1 is the rights of use holder (or their authorised representative) for the mobile service number to be ported; and
 - 3.1.2 has access to a mobile device associated with that mobile service number (subsection 8(2)).
- 3.2. A mobile CSP must not continue with a mobile service number port unless an additional identity verification process set out in subsections 8(2) or 8(3) has been used by the gaining CSP (subsection 8(5)).
- 3.3. Telnyx stated that it completed identity verification processes through its 'Know Your Customer' procedure, which the ACMA found to not set out procedures to enable Telnyx to be compliant with subsection 8(2) of the PPV Standard.
- 3.4. Telnyx was also not compliant with subsection 8(5) as it did not use any of the identity verification processes under subsection 8(2) and subsection 8(3).
- 3.5. Therefore, the ACMA has reasonable grounds to believe that Telnyx has contravened subsections 8(2) and 8(5) of the PPV Standard.

3.6. In contravening the PPV Standard, it is alleged that Telnix has also contravened subsection 128(1) of the Act, which requires CSPs to comply with an industry standard.

3.7. Subsection 128(1) of the Act is a civil penalty provision (subsection 128(3) of the Act).

4. The amount of the penalty

4.1. The total penalty specified in the Notice is \$26,640 calculated in accordance with section 572G of the Act, as shown in the table at below.

Penalties for alleged contraventions of subsection 128(1) of the *Telecommunications Act 1997*

	Date of alleged contravention	Public number associated with a service for which an additional identity verification process was not used prior to porting in	Penalty Units¹	Penalty
1	22/09/2022	██████████	60	\$13,320
2	22/09/2022	██████████	60	\$13,320
	TOTAL			\$26,640

¹ The penalty unit which applied at the time of the alleged contraventions was \$222, as set by section 4AA of the *Crimes Act 1914* (Cth).