

Formal warning

Section 41 of the Spam Act 2003

TO: DND Media Pty Ltd ACN 151 096 285
OF: C/- Andrews Partners
121 Marrickville Road
Marrickville, NSW 2204

ATTENTION: Ms Debra Taylor and Mr Daniel Hayward, Directors

I, Vince Humphries, delegate of the Australian Communications and Media Authority (ACMA), being satisfied that DND Media Pty Ltd ACN 151 096 285 (DND Media) has contravened subsection 16(1) of the Spam Act 2003 (Spam Act):

HEREBY issue DND Media a formal warning under section 41 of the Spam Act for 30 contraventions of subsection 16(1) of the Spam Act, being a civil penalty provision.

ACMA investigation

On 24 June 2013, the ACMA commenced an investigation into whether DND Media may have contravened subsection 16(1) of the Spam Act by sending, or causing to be sent, commercial electronic messages without the consent of the complainants (i.e. the relevant electronic account-holder).

Obligations imposed under subsection 16(1) of the Spam Act

Subsection 16(1) of the Spam Act provides that:

- "(1) A person must not send, or cause to be sent, a commercial electronic message that:*
- (a) has an Australian link; and*
 - (b) is not a designated commercial electronic message."*

"Commercial electronic message" is defined in section 6 of the Spam Act.

"Designated commercial electronic message" is defined in schedule 1 of the Spam Act.

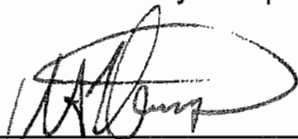
If a commercial electronic message falls within the definition of "designated commercial electronic message" section 16(1) of the Spam Act does not apply.

Details of the contraventions

As a result of its investigation into this matter, and taking into account information provided by the complainants, the ACMA has concluded that:

- a) DND Media sent, or caused to be sent, 30 electronic messages, with an Australian link, between 5 February 2013 and 2 May 2013 inclusive;+
- b) the messages were commercial electronic messages as defined by section 6 of the Spam Act; and
- c) the messages were sent without the consent of the complainants, as required by subsection 16(1) of the Spam Act.

Dated this 5th day of September 2013



Vince Humphries

Delegate of the Australian Communications and Media Authority