

Bytecard directed to comply with TIO Scheme

ACMA has issued a written direction to Bytecard Pty Ltd to comply with the Telecommunications Industry Ombudsman Scheme (TIO Scheme). Bytecard trades as Netspeed Internet, an internet service provider.

The TIO Scheme is an essential consumer protection mechanism that provides consumers with an independent avenue for resolving disputes with their communications provider. Given the nature of a co-regulatory environment, the failure of Bytecard to comply with the scheme results in its customers not having the same level of protection as other consumers.

Bytecard failed to comply with a determination made by the TIO about providing a refund to a customer and failed to cooperate with the TIO by providing documentation about a second matter.

Both the TIO and ACMA have made attempts to encourage Bytecard to voluntarily comply with the TIO Scheme, without success.

ACMA directed Bytecard to comply with the TIO Scheme by 18 September 2007. If Bytecard fails to comply with the direction, ACMA will apply to the Federal Court for the imposition of a financial penalty, which can be up to \$10 million.

THE TIO SCHEME

Carriers and eligible carriage service providers are obliged to become members of the TIO Scheme under section 128 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.

Established in 1993 by the Australian Government, the TIO is independent of industry, the government and consumer organisations. It is a free alternative dispute resolution scheme for small business and residential consumers in Australia with unresolved complaints about their telephone or internet services. The scheme provides for the TIO to investigate, make determinations and give directions relating to complaints made by end-users about the provision or supply of telephone or internet services.

Members of the TIO Scheme must comply with the scheme, which means they agree to comply with the TIO Memorandum and Articles of Association and the TIO Constitution. For example, a requirement under the Constitution is that where the TIO issues a determination, the member must implement that determination in the manner, and within the period, specified. ACMA has the power under the *Telecommunications Act 1997* to issue remedial directions to carriage service providers that contravene service provider rules including a failure to comply with the TIO Scheme.

Prohibition protects submarine communications cables off Sydney

Activities that could damage submarine communications cables in the recently declared protection zones in New South Wales were prohibited or restricted from 1 October 2007. The zones are located off the Sydney beaches of Narrabeen and Tamarama-Clovelly.

Prohibited activities include trawling and dredging. Other activities are restricted according to their potential risk of damaging a cable, for example, restriction on anchoring depends on distance from shore, water depth, anchor weight and anchor line breaking strain. Marine users should be aware that significant criminal penalties apply to those engaging in prohibited or restricted activities.

Submarine cables carry more than 99 per cent of Australia's international voice and data traffic.

The Australia Japan Cable and the Southern Cross Cable are considered to be nationally significant cables as they connect Australia to Asia, North America and New Zealand and are vital to our national interest. The protection zones protect the cables and limit the risk of serious consequences for overseas communications, especially internet use. ACMA will soon declare a submarine cable protection zone off Perth in Western Australia.

The two New South Wales protection zones are:

- Northern Sydney Protection Zone—covers the northern branches of the Australia Japan Cable and Southern Cross Cable and the area between them, out to 40 nautical miles offshore
- Southern Sydney Protection Zone—covers the southern

branches of the Australia Japan Cable and Southern Cross Cable and the area between them, extending 30 nautical miles offshore.

ACMA recently granted a permit for a new submarine cable to be installed in the Northern Sydney Protection Zone. One of the objectives of the new regime is to encourage the installation of any new cables within the protection zones so that the impact on other users of the sea is minimised. Comprehensive consultation with potentially affected parties has ensured that the impact of the prohibitions and restrictions within the zones on marine users is minimised.

ACMA has also prepared detailed information about the zones for marine users, including:

- coordinates for the zones for

uploading to GPS systems from the ACMA website

- a Notice to Mariners, issued on 14 September by the Australian Hydrographic Service in consultation with ACMA, to enable marine users to update their charts
- an information brochure, *Sydney Submarine Cable Protection Zones*, explains the zones and the new prohibitions and restrictions. The brochure and full details of the zones, including coordinates and maps, are on the ACMA website at www.acma.gov.au (go to For the public: How regulation works > Telecommunications: Telecommunications regulation > Submarine telecommunications cables > NSW protection zones), or contact ACMA on telephone 1300 856 337 or email subcablesenquiries@acma.gov.au.