

CIVIL PENALTIES FOR INTERNET ACCESS PROVIDER

Non-compliance with the Telecommunications Industry Ombudsman scheme

The first action taken in the Federal Court by ACMA to ensure compliance with the Telecommunications Industry Ombudsman (TIO) scheme has resulted in the imposition of civil penalties on Brisbane-based internet access provider we.net.au Pty Ltd (we.net).

Between 2005 and 2007, we.net breached four key consumer protections contained in the *Telecommunications Act 1997* and the *Telecommunications (Consumer Protections and Service Standards) Act 1999*. These included the requirements of the 1999 Act that consumers may make complaints free of charge to the TIO, and that TIO members must comply with the TIO scheme. Part 6 of the 1999 Act requires eligible carriage service providers to join, and comply with, the TIO scheme.

'This outcome sends a clear signal to the telecommunications industry that its participants must comply with the TIO scheme,' said Chris Chapman, ACMA Chairman. 'This is so, irrespective of whether you're a major player or a small operator. ACMA intends to ensure that all play by

the same rules and are equally accountable, even if the monetary amount giving rise to a breach is relatively insignificant.

'The TIO scheme plays a vital role in consumer protection because it provides a free dispute resolution service for consumer complaints. It is essential that providers do not try to inhibit their customers from using the TIO, that they abide by the TIO's decisions and that they assist the TIO to resolve complaints in a timely fashion. ACMA expects industry participants to take their responsibilities in these areas very seriously,' said Mr Chapman.

As a result of ACMA's successful action, we.net has been penalised \$6,000, while its director Mr Bradley Francis was penalised \$2,000. ACMA also successfully sought a contribution towards its legal

costs. Both we.net and Mr Francis must comply with a number of court orders in their future conduct if they wish to engage in business as an internet access provider.

The TIO is an independent alternative dispute resolution scheme for small business and residential consumers in Australia who have a complaint about their telephone or internet service. It is authorised to investigate complaints about the provision or supply of telephone or internet services, and is independent of telecommunications companies, consumer groups and government.

The TIO has a policy and procedure for referring systemic problems to ACMA under Part 6 of the 1999 Act.