

Spam Act undertaking accepted from Virgin Mobile

The ACMA has accepted an enforceable undertaking offered by Virgin Mobile (Australia) Pty Ltd, following an investigation into alleged breaches of the Spam Act.

The ACMA's investigation related to an email sent to Virgin Mobile customers who had 'opted out' of receiving marketing messages from the company. The email was sent to promote the benefits of 'opting in' and included the following text:

'When you joined us you asked not to receive any promotional material. We totally respect that decision and you can remain promo-free as long as you like. To make sure you're still certain about this choice, we just wanted to quickly show you some examples of recent offers that we've sent to customers.'

The ACMA formed the view that the messages were commercial electronic messages which were sent without consent and without an unsubscribe facility.

'The key tenet of the Spam Act is that commercial electronic messages cannot be sent without the consent of the recipient,' said Chris Chapman, Chairman of the ACMA. 'An organisation must respect a person's desire not to receive commercial electronic messages, even if it is just to ask if they have changed their mind.'

'Virgin Mobile has undertaken additional training of its staff and re-examined its email marketing process,' said Mr Chapman said. 'This undertaking serves to consolidate the work that Virgin Mobile has already started.'

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In its offer to the ACMA, Virgin Mobile has undertaken to pay \$22,000 and to develop comprehensive training programs, quality assurance processes and an auditing regime. 📧

The enforceable undertaking provided by Virgin Mobile is available on the ACMA's website at www.acma.gov.au (go to For licensees & industry: Licensing & regulation > The ACMA's enforceable undertakings).

Complaints about spam can be made by calling the ACMA on 1300 855 180 or at www.spam.acma.gov.au.

