

**Reprint  
as at 3 August 2007**



**Telecommunications (Civil  
Infringement Notice) Regulations  
2007**

(SR 2007/214)

Dame Sian Elias, Administrator of the Government

**Order in Council**

At Wellington this 30th day of July 2007

Present:

Her Excellency the Administrator of the Government in Council

Pursuant to section 157 of the Telecommunications Act 2001, Her Excellency the Administrator of the Government, acting on the advice and with the consent of the Executive Council and on the recommendation of the Minister of Communications, makes the following regulations.

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**Note**

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

**The Telecommunications (Civil Infringement Notice) Regulations 2007 are administered by the Commerce Commission.**

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## Regulations

- 1 Title**  
 These regulations are the Telecommunications (Civil Infringement Notice) Regulations 2007.
- 2 Commencement**  
 These regulations come into force on 30 August 2007.
- 3 Amount of pecuniary penalty**  
 The amount of the pecuniary penalty that must be specified in a civil infringement notice is \$2,000.
- 4 Form of civil infringement notice**  
 A civil infringement notice served by the Commerce Commission under section 156B(1)(a) of the Telecommunications Act 2001 must be in the form set out in the Schedule, as required by section 156D(2) of that Act.
- 5 Objection to civil infringement notice**
  - (1) An objection to a civil infringement notice, made under section 156E of the Telecommunications Act 2001, must—
    - (a) be in writing; and
    - (b) set out the basis of the objection in sufficient detail for the Commerce Commission to consider it; and
    - (c) include—
      - (i) the number and date of the civil infringement notice; and

- (ii) the name of the person making the objection; and
    - (iii) the address for reply.
  - (2) Every written objection must be made on or before the last day on which payment of the pecuniary penalty is due under the notice.
  - (3) A written objection is treated as having been made on the date on which it is received by the Commerce Commission.
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**Schedule**  
**Form of civil infringement notice**  
Form  
Civil infringement notice  
*Section 156B, Telecommunications Act 2001*

r 4

Commerce Commission

Number of notice:

Date of notice:

This civil infringement notice is served under section 156B(1)(a) of the Telecommunications Act 2001 to—

Name:

Address:

**You are required to pay a pecuniary penalty of \$2,000** as a consequence of committing a breach of a provision set out in section 156A of the Telecommunications Act 2001.

**Provision(s) alleged to have been breached**

*[Set out the relevant provision(s) of section 156A of the Telecommunications Act 2001 and any other relevant provisions. For example—*

***Section 156A(a)***

*Failure, without reasonable excuse, to comply with section 22A of the Telecommunications Act 2001.*

**22A *Effect of application on existing agreement for supply of designated access service or specified service***

- (1) *This section applies if an access seeker of a designated access service or specified service applies for a determination under section 27 while an agreement is in force between that access seeker and the access provider of the service for the supply of that service or of any other service.*
- (2) *The access provider must not, as a direct or indirect result of the access seeker making the application for a determination, act in a way that is, or is likely to be, prejudicial to the interests of the access seeker.*
- (3) *The access provider may discontinue the supply of the service under the agreement only if—*

Form—*continued*

- (a) *a determination is made under section 27 for that service or a comparable service; and*
- (b) *the access provider begins to supply the service on the terms specified in the determination.*
- (4) *Subsection (3) does not apply if, before the date on which the determination is made, the agreement—*
  - (a) *has already expired; or*
  - (b) *has been terminated for a reason that is unrelated to the making of the application.*
- (5) *If there is any inconsistency between the determination and the agreement, the determination prevails.]*

**Conduct constituting the breach**

*[Set out details of the time, manner, and nature of the alleged breach.]*

**When payment due**

The pecuniary penalty must be paid within 28 days of the date of this notice, unless you make a written objection to the Commerce Commission (*see below*). The last date for payment is therefore [*date*].

**How to pay**

You may pay either by cheque or direct credit.

- By cheque:
  - make the cheque out to [*name*].
  - post it to [*address*].
- By direct credit: to [*account details*].

**Please read the following carefully. Seek legal advice if necessary.**

**You may object to this notice**

You may object to this notice by making an objection to the Commerce Commission (the **Commission**) under section 156E of the Telecommunications Act 2001 (the **Act**). Any objection must be received by the Commission on or before the last date for payment of the pecuniary penalty.

Your objection must be on either or both of the following grounds:

- that you did not commit the breach alleged:

Form—*continued*

- that the amount of the pecuniary penalty is excessive having regard to the nature of the alleged breach.

(For instance, you may claim that you had a reasonable excuse for breaching a provision of section 156A of the Act, or that the breach was so minor as to not justify the imposition of a \$2,000 pecuniary penalty.)

Your objection must—

- (a) be in writing; and
- (b) set out the basis of the objection in sufficient detail for the Commission to consider it; and
- (c) include—
  - (i) the number and date of this civil infringement notice; and
  - (ii) the name of the person making the objection; and
  - (iii) the address for reply.

In accordance with section 156F of the Act, the Commission—

- must decide, within 10 working days of receiving it, whether to accept or refuse the objection; and
- will give you written notice of its decision promptly, with reasons.

If the Commission accepts your objection, the Commission will withdraw this notice and you will not be required to pay the pecuniary penalty.

If the Commission refuses your objection, it will specify the new time within which you must pay the pecuniary penalty and how it must be paid. The Commission will also explain your rights of appeal to a District Court against its decision on your objection.

**What happens if you do not pay the pecuniary penalty**

If you do not pay the pecuniary penalty, in full, within the time specified in this notice (or within the new time specified by the Commission when giving notice of a refusal of objection), the unpaid portion of the pecuniary penalty becomes a debt due to the Commission. In accordance with section 156H of the Act, the Commission may take proceedings in a District Court to recover from you—

- (a) the unpaid portion of the pecuniary penalty; and

Form—*continued*

- (b) the actual and reasonable costs of recovery awarded against you by the District Court.

**The Commission may publish information about this notice**

The Commission is entitled, under section 156K of the Act, to publish a notice stating that you have been served with a civil infringement notice. If a notice is published, it will state—

- your name; and
- the nature of the alleged breach; and
- the amount of the pecuniary penalty.

The Commission may not exercise the power to publish a notice—

- before the close of the date by which an objection must be made; or
- if you make an objection and the Commission refuses it, before the close of the period for bringing an appeal against that decision; or
- if the Commission withdraws the notice; or
- if you appeal a decision to refuse your objection within the appeal period and the District Court cancels the penalty.

**Queries and correspondence**

Address any queries or correspondence about this notice to [*name of responsible officer at Commission*] at [*contact details of responsible officer*].

In any written correspondence, include—

- the number and date of this civil infringement notice; and
- your address for reply.

Diane Morcom,  
Clerk of the Executive Council.

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### Explanatory note

*This note is not part of the regulations, but is intended to indicate their general effect.*

These regulations, which come into force on 30 August 2007,—

- prescribe \$2,000 as the amount of the pecuniary penalty payable by a person served with a civil infringement notice under section 156B(1)(a) of the Telecommunications Act 2001 (the **Act**);
- prescribe the time within which, and manner in which, an objection must be made, and the information to be included in the objection;
- prescribe the form of civil infringement notice, as required by section 156D(2) of the Act.

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Issued under the authority of the Acts and Regulations Publication Act 1989.  
Date of notification in *Gazette*: 2 August 2007.

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## **Contents**

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  - 2 Status of reprints
  - 3 How reprints are prepared
  - 4 Changes made under section 17C of the Acts and Regulations Publication Act 1989
  - 5 List of amendments incorporated in this reprint (most recent first)
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## **Notes**

### **1 *General***

This is a reprint of the Telecommunications (Civil Infringement Notice) Regulations 2007. The reprint incorporates all the amendments to the Telecommunications (Civil Infringement Notice) Regulations 2007 as at 3 August 2007, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that have yet to come into force or that contain relevant transitional or savings provisions are also included, after the principal enactment, in chronological order.

### **2 *Status of reprints***

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

### **3 *How reprints are prepared***

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and provisions that are repealed or revoked

are omitted. For a detailed list of the editorial conventions, *see* <http://www.pco.parliament.govt.nz/legislation/reprints.shtml> or Part 8 of the *Tables of Acts and Ordinances and Statutory Regulations, and Deemed Regulations in Force*.

#### **4 Changes made under section 17C of the Acts and Regulations Publication Act 1989**

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
  - indentation
  - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
  - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
  - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

**5** *List of amendments incorporated in this reprint  
(most recent first)*

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