



AUSTRALIAN COMPETITION
& CONSUMER COMMISSION

Infringement notices

**Guidelines on the use of infringement
notices by the Australian Competition
and Consumer Commission**

July 2020

Australian Competition and Consumer Commission
23 Marcus Clarke Street, Canberra, Australian Capital Territory, 2601
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1. Purpose of this guide

This guide provides background information and general guidance to businesses and their advisors on the Australian Competition and Consumer Commission's (ACCC) approach to issuing infringement notices under the *Competition and Consumer Act 2010* (CCA). This guide takes account of the ACCC's experience in considering and issuing infringement notices since their introduction as part of Australian Consumer Law (ACL) amendments in April 2010.

This guide is not intended to prescribe the circumstances in which the ACCC will issue infringement notices nor the manner in which it will use them. However, it should provide broad guidance to business as to the ACCC's approach to the infringement notice provisions.

The infringement notice power conferred on Commonwealth agencies such as the ACCC is different in legal and practical ways from that conferred on state and territory regulators. As such, the ACCC's approach to the issuing of infringement notices from time to time may differ in some respects to that taken by state and territory regulators.

2. The infringement notice provisions

Infringement notices are designed to provide a timely, cost-efficient enforcement outcome in relation to relatively minor contraventions of the CCA.

The ACCC may issue an infringement notice where it has reasonable grounds to believe that a person has contravened certain consumer protection provisions including:

- provisions prohibiting the making of certain false or misleading representations (but not including section 18 of the ACL)
- provisions prohibiting other unfair practices such as pyramid schemes, component pricing, referral selling and harassment and coercion
- certain unsolicited consumer agreement and lay-by agreement provisions
- certain gift card provisions
- the unconscionable conduct provisions, and
- certain product safety and product information provisions.

The ACCC may also issue an infringement notice to a person in relation to:

- the failure to respond to a substantiation notice, or
- the provision of false or misleading information to the ACCC in response to a substantiation notice.

The ACCC must issue an infringement notice within 12 months of the alleged contravention and the notice cannot relate to more than one alleged contravention of an infringement notice provision.

The penalty amount in each infringement notice will vary, depending on the alleged contravention, but in most cases is fixed at \$13 320 for a corporation (or \$133 200 for a listed corporation) and \$2 664 for an individual for each alleged contravention.

In connection with substantiation notices, the infringement notice penalty amount for failure to comply with a substantiation notice is \$6 660 for a corporation and \$1 332 for an individual and the infringement notice penalty amount for providing false or misleading information is \$11 100 for a corporation and \$2 220 for an individual.¹

¹ Penalty amounts for infringement notices are calculated by reference to the value of a penalty unit set in the *Crimes Act 1914*. This value is regularly indexed. It was most recently increased on 1 July 2020. Infringement notices relating to conduct that took place on an earlier date will attract a lower penalty.

3. The ACCC's approach to the use of infringement notices

The ACCC's *Compliance and Enforcement Policy* sets out the principles it adopts to achieve compliance with the law, and outlines the ACCC's enforcement powers, functions, priorities and strategies.

Like its use of court enforceable undertakings, generally speaking, the ACCC will only consider issuing an infringement notice where it is likely to seek a court-based resolution should the recipient of the notice choose not to pay. It is important to note that before issuing an infringement notice the ACCC will have turned its mind to the prospect of non-compliance and be prepared to proceed to court as a likely alternative.

The ACCC determines the appropriate enforcement tools to address concerns arising under the ACL on a case by case basis, taking into consideration the alleged contravention, the business involved and the impact of the conduct on consumers and businesses. A benefit of the infringement notice provisions is that they allow for timely and efficient dispute resolution without the need for litigation.

ACCC consideration of the most appropriate compliance and/or enforcement mechanism to address concerns arising under the ACL will ordinarily include an evaluation of all options available, including court enforceable undertakings, civil proceedings, including proceedings to recover a civil pecuniary penalty, and criminal proceedings. For this reason, while the notice may be signed by the Chair, all decisions on whether to issue an infringement notice are made by the Commission.

4. When is the ACCC more likely to issue an infringement notice?

The ACCC will take into account a broad range of sometimes competing factors in considering whether to seek to resolve a matter through the issuing of an infringement notice. Examples of circumstances where the ACCC is more likely to consider the use of an infringement notice include:

- where it forms the view that the contravening conduct is relatively minor or less serious
- where there have been isolated or non-systemic instances of non-compliance
- where there have been lower levels of consumer harm or detriment
- where the facts are not in dispute or where the ACCC considers the circumstances giving rise to the allegations are not controversial, and
- where infringement notices form part of a broader industry or sectoral compliance and enforcement program following the ACCC raising concerns about industry wide conduct.

(a) The ACCC may issue multiple infringement notices

While a notice cannot relate to more than one alleged contravention, the ACCC may issue multiple infringement notices, each relating to a separate contravention, where it considers it appropriate to do so, taking into account all of the circumstances. In deciding whether to issue more than one infringement notice, the ACCC takes into account a range of considerations including:

- whether the ACCC believes that there have been multiple contraventions of infringement notice provisions
- where the contraventions have occurred in a number of states or territories
- where the contraventions have involved the use of different types of media, such as online, television, radio, magazines and newspapers, outdoor advertising, and
- whether there are circumstances which make it desirable to issue multiple notices to deter similar conduct by the specific business involved or the broader industry.

(b) Infringement notices and court-enforceable undertakings

In appropriate cases, as well as issuing an infringement notice, the ACCC may seek additional remedies, including by way of court-enforceable undertakings. This course is more likely where the ACCC considers that:

- it is important to minimise the likelihood of future conduct through an undertaking or the implementation of a compliance program
- other remedies such as corrective advertising or changed practices are required, or
- action is required to deliver affected party or consumer redress such as by refunds.

Where the ACCC considers an infringement notice (or notices) to be appropriate as part of the resolution but insufficient to address one or more of these additional factors, the ACCC may seek a court-enforceable undertaking in addition to issuing an infringement notice.

The ACCC cannot compel a business either to pay an infringement notice penalty or to provide it with an undertaking. Where the ACCC considers that both remedies are appropriate for the resolution of a matter, it will approach the business indicating the package of remedies it considers may be acceptable to resolve the matter without proceeding to court. It is up to each business to decide whether it will offer an undertaking and pay the infringement notice penalty. Where a business declines to resolve a matter in this manner, the ACCC is likely to consider other enforcement options, including court proceedings.

5. When is the ACCC less likely to issue infringement notices?

The ACCC focuses on prioritising matters for compliance and enforcement action where there has been or may be widespread consumer detriment. For this reason, many of the matters the ACCC pursues will not be suitable for resolution by way of infringement notice.

The ACCC is less likely to consider issuing infringement notices where:

- the ACCC considers the concerns are more serious in nature and warrant consideration by the court
- there has been significant detriment arising from the alleged conduct
- the ACCC has concerns that the alleged conduct may be continuing
- there are questions about whether the alleged conduct occurred within the 12-month period in which the ACCC may issue an infringement notice
- the matter raises complex questions about the interpretation of a provision of the ACL, and
- the ACCC or another ACL regulator has previously taken action against the person involved in the alleged contravention—particularly where recent or very similar.

6. What should a business do if it receives an infringement notice?

Generally speaking, a recipient will have some contact from the ACCC before receiving the infringement notice. The ACCC will raise its concerns with the business, outlining what they are and the options it considers appropriate under its *Compliance and Enforcement Policy* to resolve its concerns. The business will be able to provide any information or documents to the ACCC that it considers relevant to the ACCC's concerns.

When issued with an infringement notice, the recipient will also be provided with certain information, including the nature of the alleged contravention, the amount to be paid and the period for payment if the person wishes to avoid court action. Other possible actions in response to receiving an infringement notice are explained in the information accompanying the infringement notice.

If a recipient decides to pay it should ensure that the payment is received by the ACCC within the compliance period. The ACCC prefers payment by electronic transfer. If payment is made by cheque the recipient should allow at least five business days for payment to be received and if payment is made by electronic transfer, the recipient should allow at least two business days for payment to be received.

Non-payment of an infringement notice during the compliance period will expose the recipient to the prospect of ACCC-initiated proceedings once the compliance period expires.

(a) Requesting an extension to the compliance period

The compliance period for payment of an infringement notice penalty is 28 days. This may be extended for a maximum of a further 28 days.

In making a request to have the compliance period extended, the recipient should set out the reasons why such an extension should be granted. In making such requests, the recipient should advise the ACCC:

- whether they intend to pay the infringement notice penalty
- the circumstances as to why they are not able to pay the infringement notice penalty within the current compliance period, and
- why they anticipate they will be able to comply if the compliance period is extended.

Such a request should allow sufficient time for ACCC consideration of the request for extension and should be made no later than one week before the payment due date.

The ACCC will notify the recipient in writing of its decision whether or not to grant an extension of the payment due date.

(b) Requesting that an infringement notice be withdrawn

When deciding whether to issue an infringement notice, the ACCC will have regard to information and documents it has gathered as part of its investigation, including any information provided by the person to whom the ACCC is considering issuing an infringement notice.

The recipient of an infringement notice may request that the infringement notice be withdrawn if they believe they have not engaged in the conduct as alleged by the ACCC or there is information the ACCC should consider that it may not already have.

Any request to withdraw an infringement notice:

- must be prior to the payment due date
- must be in writing, and
- should provide evidence or information that may assist the ACCC in deciding whether or not to withdraw the notice.

The ACCC will consider all requests for withdrawal of infringement notices. The recipient should allow sufficient time for ACCC consideration and possible withdrawal of the infringement notice when submitting a request for withdrawal. This is because to be effective, the withdrawal of an infringement notice by the ACCC must be undertaken by the due date. Generally speaking, requests should be made no later than two weeks before the payment due date to allow for proper consideration and payment to be made within the compliance period.

Any information or evidence provided to the ACCC as part of a request for withdrawal of the infringement notice cannot be used in evidence against the recipient in proceedings. However, if the recipient provides false or misleading information or evidence this may be used in proceedings against them.

The ACCC will decide, based on the information provided as part of the request and the information it already has, whether or not to withdraw the infringement notice.

As the penalty amount is set out in the ACL, the ACCC is unable to alter the penalty amount set out in any infringement notice.

(c) Effect of withdrawal of an infringement notice

If an infringement notice is withdrawn, the ACCC will consider on a case by case basis whether further action is appropriate. That action could include the institution of civil penalty proceedings for the alleged contravention which was the subject of the notice, where considered appropriate.

7. What happens if a recipient pays an infringement notice penalty?

Payment of the infringement notice penalty must be made in full to the ACCC in the manner outlined in the infringement notice.

If a recipient chooses to pay an infringement notice penalty, the person is not, merely because of the payment, to be regarded as having contravened the CCA. Further, the ACCC cannot commence court proceedings in relation to the alleged contravention. If a recipient pays an infringement notice penalty to resolve ACCC concerns, this does not impact on the rights of action other parties may have against the recipient.

8. ACCC infringement notice register

The ACCC's approach is that it will not ordinarily indicate whether a business has been given an infringement notice.

In accordance with the principle of transparency outlined in the ACCC's *Compliance and Enforcement Policy*, every enforcement matter that is dealt with through litigation or formal resolution is made public.

In accordance with this principle, the ACCC maintains a register on its website listing paid infringement notices. Entries on the register ordinarily contain the following details:

- the person who paid the notice
- the infringement notice number
- the date paid, and
- section of the relevant legislation.

The ACCC considers that publishing information about the payment of infringement notices provides for a broader educative and deterrent effect. For this reason, the ACCC is also likely to issue a media release describing the alleged matters and the fact that payment has been made.

9. What happens if a business does not pay an infringement notice penalty?

There is no legal obligation on a recipient to pay an infringement notice.

Infringement notices are a way of resolving the ACCC's concerns and avoiding legal proceedings. Recipients benefit by having the option of paying the infringement notice penalty as a way of resolving the ACCC's concerns. Infringement notice penalties are lower than the maximum penalty a court could impose should the recipient be found to have contravened the ACL.

Non-payment of infringement notice penalties will expose the recipient to the prospect of proceedings arising from the ACCC's concerns that the recipient may have contravened the ACL.

Attachments

Attachment A Sample letter to company/individual regarding an infringement notice

Attachment B Sample infringement notice and explanatory information

ATTACHMENT A SAMPLE LETTER TO COMPANY/INDIVIDUAL REGARDING AN INFRINGEMENT NOTICE

Our Ref: ^IN Number^
Contact Officer: ^Contact name per IN^
Contact Phone: ^Contact number per IN^

^DD Month Year^

^Name^
^Position^
^Company^
^Street^
^SUBURB STATE PC^

Dear ^Mr/Ms Name^

Infringement notice ^Number^—Issued to ^Company/Individual name^

On ^DD Month Year^ the Australian Competition and Consumer Commission (ACCC) decided to issue ^Company name/Individual name^ with an infringement notice under section 134A(1) of the *Competition and Consumer Act 2010* (CCA). The ACCC considers that it has reasonable grounds to believe that ^Company name/Individual name^ has contravened ^section XX^ of the Australian Consumer Law. The Infringement Notice penalty is ^\$XX^.

The Infringement Notice is attached to this letter, and includes information on your rights and obligations, including how to pay the infringement notice penalty, how to request an extension of the compliance period for payment of the infringement notice or how to request that the infringement notice be withdrawn. It is important that you read the Infringement Notice and the information on your rights and obligations.

Should you have any questions concerning the infringement notice please contact ^Contact name on IN^ on ^contact number on IN^.

Yours sincerely

^Name^
^Position^

ATTACHMENT B SAMPLE INFRINGEMENT NOTICE AND EXPLANATORY INFORMATION

COMPETITION AND CONSUMER ACT 2010

SECTION 134A(1)

INFRINGEMENT NOTICE ISSUED TO

[XYZ Pty Ltd]

TO: [XYZ Pty Ltd]
[ABN]
[Address]

INFRINGEMENT NOTICE NUMBER: <IN Number>

- (1) The Australian Competition and Consumer Commission (ACCC):
 - (a) has reasonable grounds to believe that [XYZ Pty Ltd] has contravened [section X] of the Australian Consumer Law (ACL), contained in Schedule 2 of the *Competition and Consumer Act 2010* (CCA), as set out in Schedule 1 to this Infringement Notice; and
 - (b) has decided to issue this Infringement Notice to [XYZ Pty Ltd] under section 134A(1) of the CCA.
- (2) Section [X] of the ACL is an Infringement Notice provision within the meaning of section 134A(2) of the CCA.
- (3) The Infringement Notice penalty is [\$-].

WHAT CAN XYZ PTY LTD DO IN RESPONSE TO THIS INFRINGEMENT NOTICE?

- (4) [XYZ Pty Ltd] can choose whether or not to comply with this Infringement Notice. If [XYZ Pty Ltd] chooses not to comply with this Infringement Notice, the ACCC may commence proceedings against it in relation to the alleged conduct described in Schedule 1.
- (5) If [XYZ Pty Ltd] chooses to comply with this Infringement Notice, it must pay the Infringement Notice penalty to the ACCC, on behalf of the Commonwealth, within 28 days beginning on the day after the day on which this Infringement Notice is issued (the compliance period).
- (6) To ensure payment is made in accordance with this notice, payment must be received on or before [DATE].

HOW DOES XYZ PTY LTD PAY THE INFRINGEMENT NOTICE PENALTY?

- (7) [XYZ Pty Ltd] can pay the [\$-] Infringement Notice penalty in three ways:
- (a) by cheque made out to the Australian Competition and Consumer Commission, enclosing a copy of this Infringement Notice to:
- ACCC
GPO Box 3131
Canberra ACT 2601
- You should allow at least 5 business days for payment to be received.
- Or
- (b) by electronic funds transfer to the following account:
- Account name: ACCC Official Administered Account
BSB: 032-730
Account: 146550
Description: [Infringement Notice NUMBER]
- Please ensure that you include this number in the description field of your electronic funds transfer to identify payment.
- You should allow at least 2 business days for payment to be received.
- Or
- (c) by credit card via the ACCC online payment system at www.accc.gov.au/payments
- Please ensure that you include the [Infringement Notice NUMBER] in the Payment Description field of your online payment to identify payment.
- You should allow at least 2 business days for payment to be received.
- (8) Please allow sufficient time for your payment to be received by the ACCC within the compliance period.
- (9) You will be issued with a Tax Invoice following payment of this Infringement Notice.

MORE INFORMATION

(10) Schedule 2 provides important information about this Infringement Notice, including the consequences for [XYZ Pty Ltd] of paying or not paying the Infringement Notice penalty within the compliance period. A copy of the relevant sections of the CCA is provided in Schedule 3.

(11) You may discuss this Infringement Notice by contacting:

[Name]

[General Manager]

[Branch, Division]

[Australian Competition and Consumer Commission]

Telephone: [GM phone]

Email: [GM email]

Post: [Name]

[General Manager]

[Branch, Division]

[Postal address]

DATE OF ISSUE: ____ day of [Month Year].

.....

Rodney Graham Sims
Chair
Australian Competition and Consumer Commission

SCHEDULE 1

THE CONDUCT OF XYZ PTY LTD ALLEGED TO BE IN CONTRAVENTION OF THE ACL

Section [X] of the ACL provides that:

[insert wording of section X]

[Insert details of the alleged contravention.]

SCHEDULE 2

EXPLANATION OF SECTIONS OF THE CCA CONCERNING INFRINGEMENT NOTICES

PLEASE READ THE FOLLOWING INFORMATION CAREFULLY

Complying with the Infringement Notice

Unless the Infringement Notice is withdrawn by the ACCC during the compliance period, payment of the Infringement Notice penalty within the compliance period will prevent the ACCC from taking legal action against the person to whom the Infringement Notice is issued (the Infringement Notice recipient) in relation to the alleged conduct described in Schedule 1.

Payment of the Infringement Notice penalty by the Infringement Notice recipient does not amount to an admission or finding that the Infringement Notice recipient has contravened the CCA by engaging in the alleged conduct described in Schedule 1.

The ACCC will, from time to time, make public reference to Infringement Notices that have been paid by recipients including in media statements and in ACCC publications containing information about the alleged conduct of the Infringement Notice recipient described in Schedule 1 and the fact that your compliance with the Infringement Notice does not amount to an admission or finding that the CCA has been contravened.

Failing to comply with the Infringement Notice

If you do not pay the Infringement Notice penalty within the compliance period, and the ACCC has not withdrawn the Infringement Notice, the ACCC may take civil or criminal legal action (if applicable) against the Infringement Notice recipient in relation to the alleged conduct described in Schedule 1.

The maximum penalty a court could order against [XYZ Pty Ltd] in relation to the alleged conduct described in Schedule 1 is [insert \$ amount, being the maximum penalty a Court could order in relation to the conduct alleged in the notice].

Compliance period

The compliance period for an Infringement Notice is 28 days beginning on the day after the day on which the Infringement Notice is issued.

The ACCC may extend the compliance period once for up to an extra 28 days if it is satisfied that it is appropriate to do so. The ACCC must notify the Infringement Notice recipient of the extension; however, failure to give notice will not affect the validity of the extension.

Withdrawal of the Infringement Notice

The Infringement Notice recipient can send a written request to the ACCC asking it to withdraw the Infringement Notice. The request should explain why the ACCC should withdraw the Infringement Notice and include any supporting documents.

Any evidence or information given to the ACCC by a person in support of such a request cannot be used as evidence against that person in any legal action (other than legal action for an offence based on providing false or misleading evidence or information).

The Infringement Notice recipient should ensure that any such request is received by the ACCC at the address on the attached cover letter as soon as possible and within the compliance period. As the ACCC must give a withdrawal notice to the Infringement Notice recipient within the compliance period in order for the withdrawal to be effective, please allow the ACCC as much time as possible to consider the request.

The ACCC will only withdraw the Infringement Notice during the compliance period if it is satisfied that it is appropriate to do so. The ACCC may do this after considering a written request by the Infringement Notice recipient, or it may withdraw the Infringement Notice without such a request.

The ACCC may withdraw the Infringement Notice even if the Infringement Notice recipient has already paid the Infringement Notice penalty. In such a case, the ACCC will refund the amount paid.

Schedule 2 explains the effect of sections 134D, 134E, 134F and 134G of the CCA, as required by section 134B of the CCA. It is not legal advice.

SCHEDULE 3

INFRINGEMENT NOTICES

Competition and Consumer Act 2010

Act No. 51 of 1974 as amended

Division 5—Infringement notices

134 Purpose and effect of this Division

- (1) The purpose of this Division is to provide for the issue of an infringement notice to a person for an alleged contravention of an infringement notice provision as an alternative to proceedings for an order under section 224 of the Australian Consumer Law.
- (2) This Division does not:
 - (a) require an infringement notice to be issued to a person for an alleged contravention of an infringement notice provision; or
 - (b) affect the liability of a person to proceedings under Chapter 4 or Part 5-2 of the Australian Consumer Law in relation to an alleged contravention of an infringement notice provision if:
 - (i) an infringement notice is not issued to the person for the alleged contravention; or
 - (ii) an infringement notice issued to a person for the alleged contravention is withdrawn under section 134G; or
 - (c) prevent a court from imposing a higher penalty than the penalty specified in the infringement notice if the person does not comply with the notice.

134A Issue of an infringement notice

- (1) If the Commission has reasonable grounds to believe that a person has contravened an infringement notice provision, the Commission may issue an infringement notice to the person.
- (2) Each of the following provisions of the Australian Consumer Law is an ***infringement notice provision***:
 - (a) a provision of Part 2-2;
 - (b) a provision of Part 3-1 (other than subsection 32(1), 35(1) or 36(1), (2) or (3) or section 40 or 43;
 - (c) subsection 66(2);
 - (d) a provision of Division 2 of Part 3-2 (other than section 85);
 - (e) a provision of Division 3 of Part 3-2 (other than subsection 96(2));
 - (ea) subsection 99B(1), section 99C, subsection 99D(1), section 99E or subsection 99F(2);
 - (f) subsection 100(1) or (3), 101(3) or (4), 102(2) or 103(2);
 - (g) subsection 106(1), (2), (3) or (5), 107(1) or (2), 118(1), (2), (3), or (5), 119(1) or (2), 125(4), 127(1) or (2), 128(2) or (6), 131(1), 132(1), 136(1), (2) or (3) or 137(1) or (2);
 - (h) subsection 221(1) or 222(1)
- (3) The Commission must not issue more than one infringement notice to the person for the same alleged contravention of the infringement notice provision.
- (4) The infringement notice does not have any effect if the notice:
 - (a) is issued more than 12 months after the day on which the contravention of the infringement notice provision is alleged to have occurred; or
 - (b) relates to more than one alleged contravention of an infringement notice provision by the person.

134B Matters to be included in an infringement notice

An infringement notice must:

- (a) be identified by a unique number; and
- (b) state the day on which it is issued; and
- (c) state the name and address of the person to whom it is issued; and
- (d) state that it is being issued by the Commission; and
- (e) state how the Commission may be contacted; and
- (f) give details of the alleged contravention by the person, including:
 - (i) the date of the alleged contravention; and
 - (ii) the particular infringement notice provision that was allegedly contravened; and
- (g) state the maximum pecuniary penalty that the Court could order the person to pay under section 224 of the Australian Consumer Law for the alleged contravention; and
- (h) specify the penalty that is payable in relation to the alleged contravention; and
- (i) state that the penalty is payable within the infringement notice compliance period for the notice; and
- (j) state that the penalty is payable to the Commission on behalf of the Commonwealth; and
- (k) explain how payment of the penalty is to be made; and
- (l) explain the effect of sections 134D, 134E, 134F and 134G.

134C Amount of penalty

The penalty to be specified in an infringement notice that is to be issued to a person, in relation to an alleged contravention of a provision of the Australian Consumer Law, must be a penalty equal to the amount worked out using the following table:

Amount of penalty		
Item	If the infringement notice is for an alleged contravention of ...	the number of penalty units is ...
1	a provision of Part 2-2	(a) if the person is a listed corporation—600 penalty units; or (b) if the person is a body corporate other than a listed corporation—60 penalty units; or (c) if the person is not a body corporate—12 penalty units.
2	a provision of Part 3-1 (other than subsection 32(1), 35(1), 36(1), (2) or (3), section 40 or 43 or subsection 47(1))	(a) if the person is a listed corporation—600 penalty units; or (b) if the person is a body corporate other than a listed corporation—60 penalty units (c) if the person is not a body corporate—12 penalty units.
3	subsection 47(1)	(a) if the person is a body corporate—10 penalty units; or (b) if the person is not a body corporate—2 penalty units.
4	subsection 66(2)	(a) if the person is a body corporate—55 penalty units; or (b) if the person is not a body corporate—11 penalty units.
5	a provision of Division 2 of Part 3-2 (other than section 85)	(a) if the person is a body corporate—60 penalty units; or (b) if the person is not a body corporate—12 penalty units.

Amount of penalty		
Item	If the infringement notice is for an alleged contravention of ...	the number of penalty units is ...
6	a provision of Division 3 of Part 3-2 (other than subsection 96(2))	(a) if the person is a body corporate—55 penalty units; or (b) if the person is not a body corporate—11 penalty units.
6A	subsection 99B(1), section 99C, subsection 99D(1), section 99E or subsection 99F(2)	(a) if the person is a body corporate—55 penalty units; or (b) if the person is not a body corporate—11 penalty units.
7	subsection 100(1) or (3) or 101(3) or (4)	(a) if the person is a body corporate—20 penalty units; or (b) if the person is not a body corporate—4 penalty units.
8	subsection 102(2) or 103(2)	(a) if the person is a body corporate—60 penalty units; or (b) if the person is not a body corporate—12 penalty units.
9	subsection 106(1), (2), (3) or (5), 107(1) or (2), 118(1), (2), (3) or (5), 119(1) or (2)	(a) if the person is a listed corporation—600 penalty units; or (b) if the person is a body corporate other than a listed corporation—60 penalty units; or (c) if the person is not a body corporate—12 penalty units.
10	subsection 125(4)	(a) if the person is a body corporate—30 penalty units; or (b) if the person is not a body corporate—6 penalty units.
11	subsection 127(1) or (2)	(a) if the person is a listed corporation—600 penalty units; or (b) if the person is a body corporate other than a listed corporation—60 penalty units; or (c) if the person is not a body corporate—12 penalty units.
12	subsection 128(2) or (6), 131(1) or 132(1)	(a) if the person is a body corporate—30 penalty units; or (b) if the person is not a body corporate—6 penalty units.
13	subsection 136(1), (2) or (3) or 137(1) or (2)	(a) if the person is a listed corporation—600 penalty units; or (b) if the person is a body corporate other than a listed corporation—60 penalty units; or (c) if the person is not a body corporate—12 penalty units.
14	subsection 221(1)	(a) if the person is a body corporate—30 penalty units; or (b) if the person is not a body corporate—6 penalty units.
15	subsection 222(1)	(a) if the person is a body corporate—50 penalty units; or (b) if the person is not a body corporate—10 penalty units.

134D Effect of compliance with an infringement notice

- (1) This section applies if:
 - (a) an infringement notice for an alleged contravention of an infringement notice provision is issued to a person; and
 - (b) the person pays the penalty specified in the infringement notice within the infringement notice compliance period and in accordance with the notice; and
 - (c) the infringement notice is not withdrawn under section 134G.
- (2) The person is not, merely because of the payment, regarded as:
 - (a) having contravened the infringement notice provision; or
 - (b) having been convicted of an offence constituted by the same conduct that constituted the alleged contravention of the infringement notice provision.
- (3) No proceedings (whether criminal or civil) may be started or continued against the person by, or on behalf of, the Commonwealth in relation to:
 - (a) the alleged contravention of the infringement notice provision; or
 - (b) an offence constituted by the same conduct that constituted the alleged contravention.

134E Effect of failure to comply with an infringement notice

If:

- (a) an infringement notice for an alleged contravention of an infringement notice provision is issued to a person; and
- (b) the person fails to pay the penalty specified in the infringement notice within the infringement notice compliance period and in accordance with the notice; and
- (c) the infringement notice is not withdrawn under section 134G;

the person is liable to proceedings under Chapter 4 or Part 5-2 of the Australian Consumer Law in relation to the alleged contravention of the infringement notice provision.

134F Infringement notice compliance period for infringement notice

- (1) Subject to this section, the ***infringement notice compliance period*** for an infringement notice is a period of 28 days beginning on the day after the day on which the infringement notice is issued by the Commission.
- (2) The Commission may extend, by notice in writing, the infringement notice compliance period for the notice if the Commission is satisfied that it is appropriate to do so.
- (3) Only one extension may be given and the extension must not be for longer than 28 days.
- (4) Notice of the extension must be given to the person who was issued the infringement notice.
- (5) A failure to comply with subsection (4) does not affect the validity of the extension.
- (6) If the Commission extends the infringement notice compliance period for an infringement notice, a reference in this Act to the infringement notice compliance period for an infringement notice is taken to be a reference to the infringement notice compliance period as so extended.

134G Withdrawal of an infringement notice

Representations to the Commission

- (1) The person to whom an infringement notice has been issued for an alleged contravention of an infringement notice provision may make written representations to the Commission seeking the withdrawal of the infringement notice.
- (2) Evidence or information that the person, or a representative of the person, gives to the Commission in the course of making representations under subsection (1) is not admissible in evidence against the person or representative in any proceedings (other than proceedings for an offence based on the evidence or information given being false or misleading).

Withdrawal by the Commission

- (3) The Commission may, by written notice (the **withdrawal notice**) given to a person who has been issued an infringement notice for an alleged contravention of an infringement notice provision, withdraw the infringement notice if the Commission is satisfied that it is appropriate to do so.
- (4) Subsection (3) applies whether or not the person has made representations seeking the withdrawal.

Content of withdrawal notices

- (5) The withdrawal notice must state:
 - (a) the name and address of the person; and
 - (b) the day on which the infringement notice was issued to the person; and
 - (c) that the infringement notice is withdrawn; and
 - (d) that proceedings under Chapter 4 or Part 5-2 of the Australian Consumer Law may be started or continued against the person in relation to:
 - (i) the alleged contravention of the infringement notice provision; or
 - (ii) an offence constituted by the same conduct that constituted the alleged contravention.

Time limit for giving withdrawal notices

- (6) To be effective, the withdrawal notice must be given to the person within the infringement notice compliance period for the infringement notice.

Refunds

- (7) If the infringement notice is withdrawn after the person has paid the penalty specified in the infringement notice, the Commission must refund to the person an amount equal to the amount paid.

ACCC contacts

ACCC Infocentre: 1300 302 502

Callers who are deaf or have a hearing or speech impairment can contact us through the National Relay Service: www.relayservice.com.au

Addresses

National office

23 Marcus Clarke Street
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