

## ACCEPTABLE USE POLICY

### 1. INTRODUCTION

- 1.1. This is TMC Connect's Acceptable Use Policy ("Policy") and it forms part of our Standard Form of Agreement ("SFOA"). Definitions for the terms used in this Policy are contained in the Standard Form of Agreement.
- 1.2. A reference to 'TMC Connect' or 'we' or 'us' or 'our' means The Message Centre Pty Ltd (ABN 35 132 414 656) and its associated entities.
- 1.3. This Policy sets out the rules that apply to your use of our Broadband Internet Services (Services), including your responsibilities, and permitted and prohibited uses of those services. Your obligation to comply with this Policy includes the obligation to ensure any person who you allow to use your Service also complies with this Policy.
- 1.4. Failure to comply with this Policy (including by any person who you allow to use your Service) may lead to the suspension or termination of your Service.

### 2. PROHIBITED USE

- 2.1. You must not access, or permit any other party to access, the Services for any purpose or activity of an illegal, fraudulent or defamatory nature or any other nature contrary to statute.
- 2.2. You must not use the Services to make available any material that is illegal, including but not limited to material that is classified or would be classified as RC or X under the National Classification Code (May 2005), nor will you use the Services to provide unrestricted access to material that is unsuitable for minors.
- 2.3. You will not act through the Services, or use the Services, to block or disrupt access by other users, service providers or third parties, or their computers, software or hardware. Such actions include, but are not limited to, attempting to gain unauthorised access to another computer system, unauthorised copying, monitoring, modification or destruction of information held on another computer system, unauthorised copying or dissemination of material protected by copyright or propagating computer viruses, worms and other types of malicious programs, probing, scanning or testing the vulnerability of a system or network, breaching any security or authentication measures for a system or network, accessing the account or private information of any other user, accessing any server in violation of any acceptable use policy of that server, denial of service attacks, flooding of a network,

overloading a service, improper seizing and abuse of operator privileges and attempts to "crash" a host.

- 2.4. You must not use the Services to transmit or display (nor permit any other party to use the Services to transmit or display) threatening, obscene, offensive or abusive materials, or engage in any form of harassment when using the Services (or when allowing any other party to use the Services).
- 2.5. The Services must not be used to send messages to any individual who has indicated that he/she does not wish to receive messages from you.
- 2.6. You will not reproduce, distribute, transmit, publish, copy, transfer or commercially exploit any information or material of any kind (including but not limited to information or material accessed through or received from the Services) that infringes any copyright, patent, trade mark, design or other intellectual property right or, in our reasonable opinion, is likely to mislead or deceive any person accessing the relevant information or material.
- 2.7. You must respect the privacy of others when accessing and using the Services.
- 2.8. You must, in accessing and using the Services, only use software that you are legally entitled to use and such use must not infringe any third party intellectual property rights.
- 2.9. You must not use the Services for pyramid or other illegal soliciting schemes.
- 2.10. You must not use the Services for any fraudulent activities, including impersonating any person or entity or forging a signature.
- 2.11. You must not use, attempt to use or distribute tools designed for compromising security (e.g. password guessing programs; cracking tools; packet sniffers; network probing tools).

### **3. SPAM**

- 3.1. In this Policy, Spam includes one or more unsolicited commercial electronic messages to which the Spam Act 2003 (Cth) applies, and derivations of the word Spam have corresponding meanings.
  - 3.2. Codes of Practice: The Internet Industry Codes of Practice registered with the Australian Communications and Media Authority ("ACMA") set out how internet service providers and email service providers must address the sources of Spam within their own networks. The Internet Industry Codes of Practice also require
-

internet service providers and email service providers to give end-users information about how to deal with Spam, and informed choice about their filtering options.

3.3. Reducing Spam: You can reduce the amount of Spam you receive if you:

3.3.1. do not open emails from dubious sources;

3.3.2. do not reply to Spam or click on links, including 'unsubscribe' facilities, in spam;

3.3.3. do not accept Spam-advertised offers;

3.3.4. block incoming mail from known Spammers;

3.3.5. do not post your email address on publicly available sites or directories. If you must do so, look for options, such as tick boxes, that allow you to opt out of receiving further offers or information;

3.3.6. do not disclose your personal information to any online organisation unless they agree (in their terms and conditions or privacy policy) not to pass your information on to other parties;

3.3.7. use separate email addresses for different purposes, such as a personal email address for friends and family and a business email address for work;

3.3.8. install a Spam filter on your computer to filter or block Spam. We strongly recommend that you install a Spam filter on your computer, even if you receive a Spam filtering service from us. Information on the availability of anti-Spam software for end-users is available at <http://www.commsalliance.com.au/Activities/ispi>;

3.3.9. report any Spam you receive to us or ACMA.

3.4. Please visit the ACMA website [www.acma.gov.au](http://www.acma.gov.au) for more information on ways to reduce the volume of Spam you receive, including how to reduce Spam if you operate a website; and avoid becoming an accidental Spammer.

3.5. Loss of Legitimate Email: Filtering services can reduce the amount of Spam you receive but they will not eliminate all Spam and there is a risk that legitimate email might occasionally be incorrectly classified as Spam and therefore lost. You agree that we are not liable for any such lost emails.

3.6. Your Spam Obligations:

---

3.6.1. You agree that you will use your Service in compliance with the Spam Act 2003 and will not engage in practices which would result in a breach of the Act.

3.6.2. You agree that you will not use, attempt to use or allow your Service to be used to:

3.6.2.1. send, allow to be sent, or assist in the sending of Spam;

3.6.2.2. use or distribute any software designed to harvest email addresses;

3.6.2.3. host any device or service that allows email to be sent between third parties not under your authority or control; or

3.6.2.4. otherwise breach the Spam Act 2003 or its regulations.

3.7. You agree to use your reasonable best endeavors to secure any device or network within your control against being used in Spamming by third parties, including where appropriate:

3.7.1. the installation and maintenance of antivirus software;

3.7.2. the installation and maintenance of firewall software; and

3.7.3. the application of operating system and application software patches and updates.

3.8. We may scan any IP address ranges allocated to you for your use with your Service to detect the presence of open or otherwise misconfigured mail and proxy servers. If we detect open or misconfigured mail or proxy servers we may suspend or terminate your Service. The circumstances in which we may do so are set out in the section Suspension and Termination.

#### **4. EXCESSIVE USE**

4.1. You must use your Service in accordance with any download or capacity limits stated in the specific plan that you subscribe to for the use of that Service.

4.2. We may limit, suspend or terminate your Service if you unreasonably exceed such limits or excessively use the capacity or resources of our Network in a manner which may hinder or prevent us from providing services to other customers or which may pose a threat to the integrity of our Network or systems.

4.3. If your upload data is two times that of your download we may limit, suspend or terminate your Service.

#### **5. SECURITY**

---

- 5.1. You are responsible for maintaining the security of your Service, including protection of account details, passwords and protection against unauthorized usage of your Service by a third party.
- 5.2. We recommend that you take appropriate security measures such as installation of a firewall and use up to date anti-virus software.
- 5.3. You are responsible for all charges incurred by other persons who you allow to use your Service, including anyone to whom you have disclosed your password and account details.

## **6. COPYRIGHT**

1. 6.1. You must not infringe the intellectual property rights of any person in relation to any material that you access or download from the Internet and copy, store, send or distribute using your Service.
2. 6.2. You must not use your Service to copy, adapt, reproduce, distribute or otherwise make available to other persons any content or material (including but not limited to music files in any format) that is subject to copyright or do any other acts in relation to such copyright material which would infringe the exclusive rights of the copyright owner under the Copyright Act 1968 (Cth) or any other applicable laws.
3. 6.3. You acknowledge and agree that we have the right to immediately suspend hosting and may remove from our Network or systems any content upon receiving a complaint or allegation that the material infringes copyright or any other intellectual property rights of any person.

## **7. CONTENT**

1. 7.1. You are responsible for determining the content and information you choose to access on the Internet when using your Service. You must take all reasonable steps to prevent access to offensive or obscene content on the Internet by children or minors who you allow to use your Service. You can obtain further information on content filtering products at <http://www.commsalliance.com.au/Activities/ispi>
2. 7.2. You must not use or attempt to use your Service to make inappropriate contact with children or minors.
3. 7.3. You are responsible for any content you store, send or distribute on or via our Network and systems including, but not limited to, content you place or post on web pages, email, chat or discussion forums, bulletin boards, instant messaging, SMS and Usenet news.
4. 7.4. You must not use such services to send or distribute any content that is prohibited, deemed obscene or offensive or otherwise unlawful under any applicable Commonwealth, State or Territory law. Failure to comply with these

requirements may lead to immediate suspension or termination of your Service without notice.

5. 7.5. If we have reason to believe you have used your Service to access child pornography or child abuse material, we are required by law to refer the matter to the Australian Federal Police.

## **8. REGULATORY AUTHORITIES**

- 8.1. You must label or clearly identify any content you generally make available using your Internet Service in accordance with the applicable National Classification Code, classification guidelines or any industry code that applies to your use or distribution of that content.
- 8.2. You must not hinder or prevent us from taking all steps necessary to comply with any direction from ACMA or any other law enforcement or security agency. We reserve the right to limit, suspend or terminate your Service if there are reasonable grounds for suspecting that you are engaging in illegal conduct or where use of your Service is subject to any investigation by law enforcement or regulatory authorities.
- 8.3. Commonwealth legislation allows ACMA to direct us to remove from our Network and servers any content which is classified, or likely to be classified, as prohibited content. We also cooperate fully with law enforcement and security agencies, including in relation to court orders for the interception or monitoring of our Network and systems. We may take these steps at any time without notice to you.

## **9. OUR RIGHTS**

- 9.1. We reserve the right to suspend your Service if you are in breach of this Policy. We will first take reasonable steps to contact you and give you the opportunity to rectify the breach within a reasonable period. What is reasonable will depend on the severity of the problems being caused by the breach (for example, if you commit a serious or continuing breach, it may be reasonable to immediately suspend your Internet Service without notice to you).
- 9.2. If we notify you of a breach of your Spam obligations, we will, at your request and to the extent we are reasonably able, supply you with information as to the nature of open relays and suggested resolutions to assist you to comply with your Spam obligations. Our right to suspend your Service applies whether the breach is committed intentionally, through misconfiguration, or by other means not authorised by you including but not limited to through a Trojan horse or virus.
- 9.3. If your Service is suspended and the grounds upon which it was suspended are not corrected by you within seven days, we may terminate your Service.

- 9.4. We reserve the right to remove any information or materials, in whole or in part, that we, in our sole discretion, deem to be offensive, obscene, indecent, or otherwise inappropriate regardless of whether such material or its dissemination is unlawful.
- 9.5. We are under no obligation to monitor transmissions or published content on the Services. However, we or our agents have the right to monitor such transmissions or published content from time to time.
- 9.6. We may vary this Policy from time to time by giving you notice by email to the email address notified by you or otherwise in accordance with the notice provisions of your service agreement with us. Your continued use of your Internet Service after such notice will constitute acceptance of the variation.