



ASIC

Australian Securities & Investments Commission



S02097562

INFRINGEMENT NOTICE

Section 12GXA of the *Australian Securities and Investments Commission Act 2001*

Day of issue: 29 October 2015

Unique identification code: B1024867

TO: TAL Direct Pty Limited
ACN 084 666 017
Level 16, 357 -363 George Street
Sydney NSW 2000

1. ASIC issues this infringement notice under section 12GXA of the *Australian Securities and Investments Commission Act 2001 (ASIC Act)*.
2. ASIC has reasonable grounds to believe that you have contravened an infringement notice provision as follows:

In the period between 29 October 2014 and 24 November 2014 and between 1 January 2015 to 22 May 2015 (the Relevant Period), you contravened section 12DB(1)(e) of the ASIC Act by, in trade or commerce, in connection with the supply or possible supply of financial services, or in connection with the promotion by any means of the supply or use of financial services, making false or misleading representations that the 'InsuranceLine Income Protection Plus' product (the Product) has particular benefits.

Particulars

During the Relevant Period, you made the following representations in advertisements which were broadcasted on television.

Verbal representations by voiceover:

'This is Kylie. This is her hubby Tom. And this is the bite Kylie got in Bali which will lead to a nasty infection leaving her off work for five weeks. And this is Kylie and Tom's Income Protection Plus that she took out last year just in case something like this happened. It'll keep their bank balance healthy while Kylie's recovering. So get covered today and get a bonus Android tablet once you've had your policy for two months'

Written representations:

'Illness and injury cover up to 85% of income to \$10,000 a month'

ASIC is concerned that the representations were false or misleading in that they were likely to create the dominant impression, and lead ordinary and reasonable consumers to believe, that the Product had the following benefits for a person who was in circumstances similar to that of the 'Kylie' character portrayed in the advertisement:

1. The person would be entitled to a benefit from the Product for the entire five week period during which that person was unable to work.

The representations were false or misleading because in fact such a person's claim would be subject to a minimum waiting period of at least 14 days, and up to 28, 60 or 90 days depending on the policy chosen, during which the person would not be entitled to any benefits from the Product. The entitlement would only start once it was confirmed that the person had been continuously off work for the duration of the chosen waiting period. The written fine print displayed in the advertisement which stated '*Waiting periods, payout periods, limitations and exclusions apply*' was insufficiently prominent and did not convey that a person in the same circumstances as 'Kylie' would be entitled to benefits for a maximum of three out of the five weeks she was off work.

2. During the five week period that the person was off work, they would be entitled to receive into their nominated bank account at least part of any benefits to which they were entitled.

The representations were false or misleading because in fact, the Product's Product Disclosure Statement specified that claimants would be paid a month in arrears, and only after it had been confirmed that they had been continuously off work for the duration of the applicable waiting period. If this was applied to a person in the same circumstances as 'Kylie', they would have to wait until at least the minimum 14 days waiting period had elapsed and after the passing of a month. This would mean they would not be entitled to receive any payment until they had already returned to work after being off work for five weeks.

Penalty under this notice

3. The penalty payable under this notice in relation to the alleged contravention is \$10,200.

This penalty is payable to ASIC on behalf of the Commonwealth.

This penalty can be paid using one of the methods detailed in the enclosed invoice.

Consequences of complying with this notice

4. If you pay the penalty stated in this notice within the time for payment mentioned below then (unless this notice is subsequently withdrawn and any penalty paid refunded):

- (a) no proceedings (whether criminal or civil) will be brought against you by the Commonwealth or ASIC for the alleged contravention of the infringement notice provision or an offence constituted by the same conduct; and
- (b) you will not be regarded as having contravened the infringement notice provision or having been convicted of an offence constituted by the same conduct.

Consequences of failing to comply with this notice

- 5. If you do not pay the penalty specified in this notice within the time for payment mentioned below, and the notice is not withdrawn, the Commonwealth or ASIC may bring proceedings under Subdivision G of Division 2 of Part 2 the consumer protection provisions of the ASIC Act (whether criminal or civil) against you for the alleged contravention of the infringement notice provision or offence constituted by the same conduct.
- 6. The maximum pecuniary penalty that a court may order you to pay for the alleged contravention is \$1,700,000.

Time for payment

- 7. The time for payment is:
 - (a) within 28 days after the day on which the notice is issued to you; or
 - (b) if ASIC extends, by notice in writing the compliance period for this notice, within that further period allowed.

Applying for more time to pay the penalty under this notice

- 8. ASIC may extend the compliance period for this infringement notice if ASIC is satisfied that it is appropriate to do so. The extension must not be for longer than 28 days.
- 9. If you wish to apply for an extension of time to pay the penalty specified in this notice, you should do so in writing within 28 days after the day the notice is issued to you (see paragraph 15).

Applying to have this notice withdrawn

- 10. Within 28 days after the day on which this notice is issued, you may apply to ASIC in writing to have this notice withdrawn.
- 11. Evidence or information that you or your representative gives to ASIC in the course of applying for this notice to be withdrawn is not admissible in evidence against you or your representative in any proceedings (other than proceedings for an offence based on the evidence or information being false or misleading).

Withdrawal of this notice

12. ASIC may, by written notice given to you, withdraw this infringement notice if ASIC is satisfied that it is appropriate to do so, whether or not you have applied to have this notice withdrawn.
13. A withdrawal notice must be given to you within the time for payment of this infringement notice to be effective.
14. If the withdrawal notice is given after you have paid the penalty specified in this infringement notice, ASIC will refund to you the amount paid under the infringement notice.

Requirements for applications

15. An application to have this notice withdrawn, or for more time to pay the penalty under this notice:
 - (a) must be in writing; and
 - (b) must include the unique identification code set out at the top of this notice; and
 - (c) must include your reasons for making the application; and
 - (d) may be made by forwarding your application to ASIC at the address in paragraph 16.
16. You may contact ASIC in relation to this notice by contacting:

Yon Astar

Australian Securities and Investments Commission

GPO Box 9827

Sydney NSW 2000

or by email: ACLInfringementNotices@asic.gov.au



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Peter Kell

as a delegate of the Australian Securities and Investments Commission