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Madden, Tahlia

From: Lewis, Jay
Sent: Tuesday, 11 September 2018 1:28 PM
To: Madden, Tahlia
Subject: FW: ACCC v Telstra-VID 317 of 2018 [SEC=UNCLASSIFIED]
Attachments: 38360495(2)_Report to ACCC (23_08).pdf

Jay Lewis

Assistant Director | Enforcement Victoria and Tasmania | Enforcement Division
Australian Competition & Consumer Commission
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From: Hird, Louise
Sent: Friday, 24 August 2018 5:21 PM
To: Lewis, Jay <jay.lewis@accc.gov.au>; Phillimore, Adam <adam.phillimore@accc.gov.au>
Subject: FW: ACCC v Telstra-VID 317 of 2018 [SEC=UNCLASSIFIED]

FYI

Sent with Good (www.good.com)

-----Original Message-----

From: Paatsch, Tamara [Tamara.Paatsch@team.telstra.com]
Sent: Friday, August 24, 2018 04:38 PM AUS Eastern Standard Time
To: Hird, Louise
Subject: ACCC v Telstra-VID 317 of 2018

Dear Louise

I refer to the commitments given by Telstra and noted in the final orders in the PDB proceedings, which included providing the ACCC with information relating to the identification of, and contact and refunds made to, customers. Telstra committed to provide this information to the ACCC within four months of the making of the final orders in those proceedings and quarterly thereafter for one year.

Please find attached the first report from Telstra containing the information it committed to provide the ACCC. Telstra will provide its next report by the end of the next quarter, being by 24 November 2018.

The attached report contains information some of which is confidential and commercially sensitive to Telstra and is provided to the ACCC on a confidential basis.

Telstra therefore requests that the ACCC accept the report on a confidential basis, noting that:

- a) we understand there will be no restriction on the internal use, including future use, that the ACCC may make of the confidential information consistent with its statutory functions;
- b) the confidential information may be disclosed to the ACCC's external advisors, with each adviser being informed of the obligation to treat the information as confidential; and
- c) the ACCC will not disclose the confidential information to any third parties (other than external consultants) without first obtaining Telstra's written consent unless compelled to so by law.

Please let me know if you have any questions regarding the information in the report.

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Kind regards



Tamara Paatsch General Counsel

Dispute Resolution Group | Legal Services

P 03 8694 5469 | E tamara.paatsch@team.telstra.com | W www.telstra.com

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Telstra Corporation Limited – PDB Proceedings Information for ACCC, Report 1, dated 24 August 2018

Overview

- Telstra committed to provide the ACCC with certain information within four months of the making of the final orders in *ACCC v Telstra Corporation Limited, VID 317 of 2018 (PDB Proceedings)* and quarterly thereafter for one year, which commitments were noted by the Court on the making of the final orders in the PDB Proceedings on 26 April 2018.
- The information to be provided by Telstra to the ACCC relates to the identification of certain customers, the number of customers identified, contacted and refunded, and the value of those refunds, and is detailed in paragraph 92(d) of the Statement of Agreed Facts and Admissions filed in the PDB Proceedings (SAFA).
- This document is the first report to the ACCC containing the information Telstra has committed to provide the ACCC. All numbers and dollar figures in this report are as at 22 August 2018.
- Capitalised terms used in this document have the same meaning as those used in the SAFA and the paragraph numbers referred to in Table 1 and 2 below refer to paragraphs of the SAFA.

Table 1 – Information to be provided pursuant to paragraphs 92(d)(i) and (ii) of the SAFA, being the steps taken to identify the customers in accordance with paragraph 92(a) and, for each of the categories of customers specified in paragraph 92(a), the number of customers identified.

Para 92(a) SAFA - Customer groups	Para 92(d)(i) - Steps taken to identify customers	Para 92(d)(ii) – No. of customers ¹ identified
Barring Representation customers - para 92(a)(i)	<p>The steps taken to identify customers in relation to the Barring Representation were:</p> <ul style="list-style-type: none"> • extracting from Telstra's systems, a file of all Telstra mobile services which had PDB charges applied in the period up to 2 March 2018, which file included the mobile service number (MSDIDN), account name, account number, connection date, disconnection date, change date, change reason (PDB customer data); 	26,104

¹ The "customer" numbers identified in relation to the Barring, Unsubscribe and Carry Over Representations are numbers at the service (MSDIDN) level. Some customers may have more than one service (MSDIDN) in their name/account. Accordingly, the number of actual customers in those three cohorts is likely to be less than the numbers of services identified. A customer MSDIDN may also fall within multiple customer groups. The "customer" numbers identified in relation to the TIO PDB Complaints and Telstra Direct PDB Complaints are at the customer complaint level. A customer complaint may relate to more than one service.

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Para 92(a) SAFA - Customer groups	Para 92(d)(i) - Steps taken to identify customers	Para 92(d)(ii) – No. of customers ¹ identified
	<ul style="list-style-type: none"> • identifying from the PDB customer data all of those services which had requested PDB barring by identifying: <ul style="list-style-type: none"> • from Telstra systems, the services that had PDB barring applied to the account (PDB barring customers); and • the date on which that PDB barring was first applied to each of those services, (PDB barring customer data); and • from the PDB barring customer data and the PDB services data, identifying the services which, in the period up to 2 March 2018, had PDB charges applied subsequent to the date on which PDB barring was first applied to that service (Barring Representation customers). 	
Unsubscribe Representation customers - para 92(a)(i)	<p>The steps taken to identify customers in relation to the Unsubscribe Representation were:</p> <ul style="list-style-type: none"> • identifying from the PDB customer data all of those services which had also requested PSMS barring in the period up to and including 31 May 2016 by identifying: <ul style="list-style-type: none"> • from Telstra systems, the services listed in the PDB customer data that had PSMS barring applied to their service in the period up to and including 31 May 2016 (PSMS barring customers); and • the date on which that PSMS barring was first applied to each of those services, (PSMS barring customer data); and 	227,583 ²

² Telstra has only been able to identify the mobile services which had PDB charges and which, prior to 31 May 2016, had barred Premium SMS services. It has not been able to identify which of those were impacted by the Unsubscribe Representation, being those who had tried unsuccessfully to unsubscribe from their PDB services by sending a STOP SMS message. It has however contacted all the customers in respect of the services identified to offer them a refund if they had tried to send a STOP message to unsubscribe from their PDB service, many of whom have not accepted the refund - see also at table 2 below.

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Para 92(a) SAFA - Customer groups	Para 92(d)(i) - Steps taken to identify customers	Para 92(d)(ii) – No. of customers ¹ identified
Carry Over Representation customers - para 92(a)(i)	<ul style="list-style-type: none"> • from the PSMS barring customer data and the PDB customer data, identifying the services which, in the period up to 2 March 2018, had PDB charges applied subsequent to the date on which PSMS barring was first applied to that service (Unsubscribe customers). <p>The steps taken to identify customers in relation to the Carry Over Representation were:</p> <ul style="list-style-type: none"> • identifying from the PDB customer data all MSISDNs which: <ul style="list-style-type: none"> • had different customers (i.e. with different account name or number) and had PDB charges applied for both customers on that MSISDN; • had been disconnected (i.e. and making the service inactive) and then reconnected to the new customer, with a period of time between the disconnection and reconnection dates of more than 28 days; and • had a re-connection date with the new customer before 14 August 2016 (Carry Over date), (Carry Over customer data); and • from the Carry Over customer data and the PDB customer data, identifying the services which, in the period up to and including 2 March 2018, had PDB charges applied subsequent to the Carry Over Date (Carry Over customers). 	858
TIO PDB Complaint Customers - para 92(a)(iii)	<p>The steps taken to identify customers who had made a complaint to the TIO in relation to PDB content charges for subscriptions signed up prior to 4 December 2017 were:</p> <ul style="list-style-type: none"> • extracting a file of complaints recorded in Telstra's systems as "Level 1" complaints³ relating to the period up to and including 31 March 2018 (TIO complaint data); 	2,394

³ Level 1 complaints are complaints recorded in Telstra's systems as having been made by a Telstra customer to the TIO.

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Para 92(a) SAFA - Customer groups	Para 92(d)(i) - Steps taken to identify customers	Para 92(d)(ii) – No. of customers ¹ identified
	<ul style="list-style-type: none"> ◦ reviewing the categories of complaints and comments in the TIO complaint data to determine whether the complaint related to PDB subscriptions (TIO PDB complaint data); and • running the TIO PDB complaint data against the PDB customer data to identify the customers who had services which had PDB charges applied for which there was a TIO complaint relating to PDB (TIO PDB complaint customers). 	
<p>Telstra Direct PDB Complaint customers – para 92(a)(iii)</p>	<p>The steps taken to identify customers who had made a complaint directly to Telstra in relation to PDB content charges for subscriptions signed up prior to 4 December 2017 were:</p> <ul style="list-style-type: none"> • extracting a file of complaints recorded during the period up to and including 31 March 2018: <ul style="list-style-type: none"> • in Telstra's systems as Level 0 complaints⁴ relating to PDB or third party charges; and • by Telstra's Mobile Premium Services customer service representatives⁵ relating to PDB charges, (Telstra Direct PDB complaint data); and • running the Telstra Direct PDB complaint data against the PDB customer data to identify the customers who had services which had PDB charges applied for which there was a direct complaint to Telstra relating to PDB (Telstra Direct PDB complaint customers). 	<p>26,726</p>

⁴ Level 0 complaints are complaints recorded in Telstra's systems that are made directly to Telstra and which are managed by Telstra.

⁵ Telstra's Mobile Premium Services customer service representatives are the dedicated cell set up by Telstra in August 2016, as referred to in paragraph 49 of the SAFA.

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Table 2 - Information to be provided pursuant to paragraphs 92(d)(iii) and (iv) of the SAFA, being the number of customers contacted and refunded, the number of customers (if any) refused refunds and the amount of money refunded.

Customer groups	Information required	Comments
<p>Para 92(d)(iii) - Communication and offers to refund the customers identified in paragraphs 92(a)(i),(ii) and (iii), being the Barring Representation customers, Unsubscribe Representation customers, Carry Over Representation customers, TIO PDB complaint customers and Telstra Direct PDB Complaint customers</p>	<p>Number of customers contacted - 272,365</p>	<p>The number of customers contacted by Telstra is less than the sum of the number of customers identified in each group in Table 1 because:</p> <ul style="list-style-type: none"> the number of customers identified in the first three groups in Table 1 are numbers at the mobile service (MSDIDN) level - some customers have multiple services; some customers were identified in more than one customer group in Table 1 (for example, a customer may have been identified as a Barring Representation customer as well as a Telstra Direct PDB Complaint customer); Telstra has only communicated and offered to refund customers once in respect of all their relevant services, including where they have been identified in more than one customer group identified in Table 1; some customers were identified as falling within a customer group but were not contacted as Telstra's records and records obtained by Telstra from its Service Providers indicated that they had already been refunded by Telstra, the Service Provider or Content Provider for the relevant PDB charges; and Telstra did not have any customer or contact details for a very small volume of services, being less than 0.7% of the total customers identified for an offer of refunds.
	<p>Number of customers refunded - 71,403</p>	<p>The number of customers refunded is much less than the number of customers contacted because most of the customers who were contacted were the Premium SMS barred PDB services customers identified in Table A in relation to the</p>

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Customer groups	Information required	Comments
		<p>Unsubscribe Representation (which was the largest cohort of customers identified and contacted), many of which have not accepted Telstra's offer of a refund. This is likely due to many of those customers not having sought to send a STOP SMS message to unsubscribe from their PDB services prior to 31 May 2016 and not considering that they were impacted by the Unsubscribe Representation. All other customers contacted by Telstra, being those within the other Customers groups identified in Table A, have been refunded.</p>
	<p>Number of customers (if any) refused refunds - NIL</p>	
	<p>Amount of money refunded - \$9,051,297.75</p>	
<p>Para 92(d)(iv) - Customers who, during the period from 26 March 2018, have complained to Telstra in relation to PDB content charges for subscriptions signed up prior to 4 December 2017</p>	<p>Number of customers who have complained - 1,213</p>	<p>This number relates to those customers who complained to Telstra in relation to PDB services content charges only.</p>
	<p>Number of customers refunded - 1,213</p>	
	<p>Number of customers (if any) refused refunds - NIL</p>	
	<p>Amount of money refunded - \$253,092.68</p>	