

Investigation Report

Dodo Pty Ltd's compliance with clause 19 of Schedule 2 to the *Telecommunications Act 1997*

File No.	ACMA2017/869-6
Carriage service provider	Dodo Services Pty Ltd
ACN	158 289 331
Type of services	Standard Telephone Service
Scope of Investigation	Compliance with clause 19 of Schedule 2 to the <i>Telecommunications Act 1997</i>

Findings

1. The Australian Communications and Media Authority (**the ACMA**) finds that Dodo Services Pty Ltd (**Dodo**) has contravened paragraph 19(2)(b) of Schedule 2 to the *Telecommunications Act 1997* (**the Act**) on 10 occasions on 1 September 2018 as Dodo did not inform 10 prospective residential customers, who made an inquiry about the supply of a standard telephone service, of the names of one or more carriage service providers (**CSPs**) from whom the prospective residential customer could obtain priority assistance in connection with a standard telephone service.
2. As a consequence of those contraventions, the ACMA also finds that Dodo contravened subsection 101(1) of the Act on 10 occasions, as it did not comply with the service provider rules that apply to it, namely the rules referred to in section 98 of the Act.
3. A table setting out the ACMA's findings is at Attachment A.

Background

4. Under section 510 of the Act, the ACMA has jurisdiction to investigate a potential contravention of the Act.
5. On 25 September 2018, the ACMA commenced an investigation under subsection 510(1) of the Act to determine whether Dodo was complying with the service provider rule in clause 19 of Schedule 2 to the Act, which requires CSPs that do not offer priority assistance to inform prospective residential customers that they do not offer this enhanced service, and to inform the prospective customer of at least one CSP from whom the customer can obtain priority assistance.
6. On the same day, the ACMA gave Dodo a notice under section 521 of the Act (**the Notice**) requiring the provision of information and documents in relation to a sample of 10 inquiries by prospective residential customers for a standard telephone service, in order to assess compliance with clause 19 of Schedule 2 to the Act.
7. On 8 October 2018 Dodo responded to the Notice.
8. On 19 December 2018, the ACMA sent its preliminary findings report to Dodo and invited it to respond. On 19 January 2019, Dodo provided the ACMA with a submission.

Relevant facts

9. Dodo is a CSP within the meaning of the Act¹. Dodo supplies telephone and internet services to residential and small business customers.
10. Priority assistance means the provision of the highest level of service practicably available at the time, supplied to priority customers in relation to new connections, fault repairs and service reliability of the standard telephone service at the priority customer's place of residence.² Priority customers are customers who require the telephone to access emergency medical treatment or advice to reduce the possibility of death from a life-threatening illness.³
11. Telstra Corporation Limited is the only CSP required to provide priority assistance under the Act. Other CSPs may offer priority assistance services but are not obliged by regulation to do so. CSPs (other than Telstra) that offer priority assistance are required to comply with the industry code *ACIF: C609:2007 Priority Assistance for Life Threatening Medical Conditions (the Priority Assistance Code)*.
12. Dodo does not offer priority assistance.

Findings and reasons

Compliance with the Act

13. Subsection 101(1) of the Act requires that service providers (a term which includes CSPs) comply with the service provider rules that apply to them. Subsection 98(1) of the Act provides that the service provider rules include the rules set out in Schedule 2 to the Act. Clause 19 of Schedule 2 to the Act provides that if a CSP receives an inquiry from a prospective residential customer about the supply of a standard telephone service, and the CSP does not offer priority assistance, the CSP must:
 - (a) inform the prospective residential customer that the CSP does not offer priority assistance in connection with the service; and
 - (b) inform the prospective residential customer of the names of one or more CSPs from whom the prospective residential customer can obtain priority assistance in connection with a standard telephone service.
14. In making its findings, the ACMA considered the evidence gathered during the course of the investigation as summarised in Attachment A. The ACMA also considered Dodo's submission dated 19 January 2019, in which Dodo made no arguments against the findings set out below.

Breach findings

15. On 1 September 2018 as specified in column B of Attachment A, 10 prospective residential customers, in a telephone call with a representative of Dodo, made an inquiry about the supply of a standard telephone service.
16. In all 10 instances, Dodo's response described in column G of Attachment A did not meet the requirements of paragraph 19(2)(b) of Schedule 2 to the Act because, although Dodo did inform the prospective residential customers that it did not offer

¹ See section 87 of the Act.

² Subclause 19(3) of Schedule 2 to the Act and clause 3.2 of the Priority Assistance Code.

³ Clause 3.2 of the Priority Assistance Code.

priority assistance in connection with its standard telephone services, Dodo did not inform the prospective residential customer of the names of one or more CSPs from whom the prospective residential customer could obtain priority assistance in connection with a standard telephone service.

17. Accordingly, the ACMA is satisfied that Dodo contravened clause 19 of Schedule 2 to the Act.

Findings - ACMA Investigation into Dodo's compliance with clause 19 of Schedule 2 to the *Telecommunications Act 1997*

Attachment A

A	B	C	D	E	F	G	H	I
Provider	Date contacted	Plan	Test 1. Did the carriage service provider (CSP) receive an inquiry from a prospective residential customer about the supply of a standard telephone service? (paragraph 19(1)(a) of Schedule 2 to the <i>Telecommunications Act 1997</i>)	Test 2. Does the provider offer Priority Assistance? (paragraph 19(1)(b) of Schedule 2 to the <i>Telecommunications Act 1997</i>)	Test 3. Did the agent inform the prospective customer that the CSP does not offer Priority Assistance in connection with the service? (paragraph 19(2)(a) of Schedule 2 to the <i>Telecommunications Act 1997</i>)	Test 4. Did the CSP inform the prospective customer of the names of one or more CSPs who provide Priority Assistance? (paragraph 19(2)(b) of Schedule 2 to the <i>Telecommunications Act 1997</i>)	Findings	Comment
Dodo (call 1) 9EAB	1/09/2018	ADSL with phone	Yes	No	Yes	No. Dodo did not inform the prospective customer of the names of one or more CSPs who provide priority assistance.	Breach of paragraph 19(2)(b) of Part 6 of Schedule 2 to the <i>Telecommunications Act 1997</i>	Dodo made an outbound call to the prospective customer in response to an online inquiry it received from the prospective customer. The prospective customer agreed to sign up for a phone and internet service. Dodo read the terms and conditions of the service and advised that Dodo does not offer priority assistance. Dodo did not inform the prospective customer of a CSP that provides priority assistance. Dodo set up an account for the prospective customer.
Dodo (call 2) Ju05qEAB	1/09/2018	ADSL with phone	Yes	No	Yes	No. Dodo did not inform the prospective customer of the names of one or more CSPs who provide priority assistance.	Breach of paragraph 19(2)(b) of Part 6 of Schedule 2 to the <i>Telecommunications Act 1997</i>	The prospective customer contacted Dodo to ask about its unlimited internet and phone plan. Dodo advised that an ADSL service was available at the prospective customer's address. Dodo read through the terms and conditions of the service and advised that Dodo does not offer priority assistance. Dodo did not inform the customer about a CSP that provides priority assistance. Dodo set up an account for the prospective customer.
Dodo (call 3) JtytKEAR	1/09/2018	ADSL with phone	Yes	No	Yes	No. Dodo did not inform the prospective customer of the names of one or more CSPs who provide priority assistance.	Breach of paragraph 19(2)(b) of Part 6 of Schedule 2 to the <i>Telecommunications Act 1997</i>	The prospective customer contacted Dodo to ask about an internet and phone plan. Dodo advised that a service was available at the prospective customer's address. Dodo read through the terms and conditions of the service and advised that it does not offer priority assistance. Dodo did not inform the customer about a CSP that provides priority assistance. Dodo set up an account for the prospective customer.

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Dodo (call 4) JtyTHEAZ	1/09/2018	ADSL with phone	Yes	No	Yes	No. Dodo did not inform the prospective customer of the names of one or more CSPs who provide priority assistance.	Breach of paragraph 19(2)(b) of Part 6 of Schedule 2 to the Telecommunications Act 1997	The prospective customer contacted Dodo to ask about an internet and phone plan. Dodo advised that a service was available at the prospective customer's address. Dodo read through the terms and conditions of the service and advised that it does not offer priority assistance. Dodo did not inform the customer about a CSP that offers priority assistance. Dodo set up an account for the prospective customer.
Dodo (call 5) JtyCQEAZ	1/09/2018	ADSL with phone	Yes	No	Yes	No. Dodo did not inform the prospective customer of the names of one or more CSPs who provide priority assistance.	Breach of paragraph 19(2)(b) of Part 6 of Schedule 2 to the Telecommunications Act 1997	The prospective customer contacted Dodo to ask about an internet and phone plan. Dodo advised that a service was available at the prospective customer's address. Dodo read through the terms and conditions of the service and advised that it does not offer priority assistance. Dodo did not inform the customer about a CSP that provides priority assistance. Dodo set up an account for the prospective customer.
Dodo (Call 6) Jty2qEAB	1/09/2018	ADSL with phone	Yes	No	Yes	No. Dodo did not inform the prospective customer of the names of one or more CSPs who provide priority assistance.	Breach of paragraph 19(2)(b) of Part 6 of Schedule 2 to the Telecommunications Act 1997	The prospective customer contacted Dodo to ask about an internet and phone plan. Dodo advised that a service was available at the prospective customer's address. Dodo read through the terms and conditions of the service and advised that it does not offer priority assistance. Dodo did not inform the customer about a CSP that provides priority assistance. Dodo set up an account for the prospective customer.

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Dodo (Call 7) JtxTheAJ	1/09/2018	Phone line connection and internet	Yes	No	Yes	No. Dodo did not inform the prospective customer of the names of one or more CSPs who provide priority assistance.	Breach of paragraph 19(2)(b) of Part 6 of Schedule 2 to the <i>Telecommunications Act 1997</i>	The prospective customer contacted Dodo to ask about an internet and phone plan. Dodo advised that a service was available at the prospective customer's address. Dodo read through the terms and conditions of the service and advised that it does not offer priority assistance. Dodo did not inform the customer about a CSP that provides priority assistance. Dodo set up an account for the prospective customer.
Dodo (Call 8) ZEAZ	1/09/2018	Energy and Internet	Yes	No	Yes	No. Dodo did not inform the prospective customer of the names of one or more CSPs who provide priority assistance.	Breach of paragraph 19(2)(b) of Part 6 of Schedule 2 to the <i>Telecommunications Act 1997</i>	The prospective customer asked about a new internet and phone plan. Dodo advised that a service was available at the prospective customer's address. Dodo read through the terms and conditions of the service and advised that it does not offer priority assistance. Dodo did not inform the customer about a CSP that provides priority assistance. Dodo set up an account for the prospective customer.
Dodo (Call 9) KEAR	1/09/2018	ADSL with phone	Yes	No	Yes	No. Dodo did not inform the prospective customer of the names of one or more CSPs who provide priority assistance.	Breach of paragraph 19(2)(b) of Part 6 of Schedule 2 to the <i>Telecommunications Act 1997</i>	The prospective customer contacted Dodo to ask about an internet and phone plan. Dodo advised that a service was available at the prospective customer's address. Dodo read through the terms and conditions of the service and advised that it does not offer priority assistance. Dodo did not inform the customer about a CSP that provides priority assistance. Dodo set up an account for the prospective customer.

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Dodo (Call 10) Ju05qEAB	1/09/2018	NBN internet connection	Yes	No	Yes	No. Dodo did not inform the prospective customer of the names of one or more CSPs who provide priority assistance.	Breach of paragraph 19(2)(b) of Part 6 of Schedule 2 to the <i>Telecommunications Act 1997</i>	The prospective customer contacted Dodo to ask about an internet and phone plan. Dodo advised that a service was available at the prospective customer's address. Dodo read through the terms and conditions and advised the prospective customer that it does not offer priority assistance. Dodo did not inform the customer about a CSP that provides priority assistance. Dodo set up an account for the prospective customer.