

Enforceable Undertaking by Dodo Services Pty Ltd

This enforceable undertaking (**Undertaking**) is given by Dodo Services Pty Ltd (ACN 158 289 331) (**Dodo**) to the Australian Communications and Media Authority (the **ACMA**) pursuant to section 572B of the *Telecommunications Act 1997*.

1. Definitions and interpretation

1.1 In this Undertaking:

- (a) **ACMA** means the Australian Communications and Media Authority;
- (b) **Agent Training** has the meaning given to it in paragraph 3.1(a) of this Undertaking;
- (c) **Alternative Arrangement Tracker** has the meaning given to it in paragraph 3.1(b) of this Undertaking;
- (d) **Determination** means the *Telecommunications Service Provider (NBN Service Migration) Determination 2018* made under subsection 99(1) of the *Telecommunications Act*;
- (e) **Dodo** means Dodo Services Pty Ltd (ACN 158 289 331);
- (f) **Effective Date** means the day on which the ACMA accepts and executes a copy of the Undertaking that has been executed by Dodo, and provides written notice to Dodo that the Undertaking has been executed by the ACMA;
- (g) **Quarter** means the following 3 month periods:
 - i. 1 August 2020 to 31 October 2020;
 - ii. 1 November 2020 to 31 January 2021;
 - iii. 1 February 2021 to 30 April 2021;
 - iv. 1 May 2021 to 31 July 2021;
- (h) **RCSA Questionnaire** has the meaning given to it in paragraph 3.1(d) of this Undertaking;
- (i) **Relevant Period** means 1 February 2019 to 30 April 2019;
- (j) **Remedial Action** means the pre-emptive and voluntary remedial steps already taken by Dodo, as described in paragraph 3 of this Undertaking;
- (k) **Remedial Plans and Technical Audits Tracker** has the meaning given to it in paragraph 3.1(c) of this Undertaking;
- (l) **Service Continuity Rules** means the Standard and the Determination, collectively;
- (m) **Standard** means the *Telecommunications (NBN Continuity of Service) Industry Standard 2018*;
- (n) **Telecommunications Act** means the *Telecommunications Act 1997* (Cth); and
- (o) **Undertaking** means this Enforceable Undertaking.

1.2 Words and expressions defined in the Service Continuity Rules have the same meaning in this Undertaking, unless otherwise specified.

1.3 A reference to legislation includes any modification or re-enactment of it, and any regulations made under it.

2. Background

2.1 Dodo supplies internet, landline and mobile services to consumers in Australia.

2.2 In October 2019, the ACMA notified Dodo that it was commencing an investigation into Dodo's compliance with the Service Continuity Rules.

2.3 In March 2020, the ACMA concluded its investigation and notified Dodo that the ACMA had found that Dodo had contravened:

- (a) subsection 9(1) of the Determination in relation to 385 Dodo customers in the Relevant Period by failing to provide an interim service where the customers' migration to the NBN was unsuccessful, and where an exemption under subsection 9(2) did not apply;
- (b) section 11 of the Determination in relation to 3 Dodo customers in the Relevant Period by failing to advise the customers of the applicable timeframes for the supply of an interim service, and details of the key features, limitations and charging arrangements for an interim service;
- (c) subsection 16(2) of the Determination 165 times in relation to Dodo customers in the Relevant Period by failing to prepare a plan within the required timeframe, directed at ensuring that the consumer is provided with an operational NBN service as soon as possible; and
- (d) subsection 16(5) of the Determination 31 times in relation to Dodo customers in the Relevant Period by failing to arrange for a technical audit to be completed within the required timeframe,

and in each instance had therefore contravened subsection 101(1) of the Telecommunications Act during the Relevant Period.

2.4 Dodo acknowledges the ACMA's findings and reiterates its firm commitment to complying with its obligations under the Service Continuity Rules. Since the commencement of the investigation, Dodo has:

- (a) proactively remediated customers;
- (b) undertaken an internal audit of its compliance processes and procedures;
- (c) reviewed the training provided to customer service agents with respect to the Service Continuity Rules; and
- (d) implemented process improvements to ensure ongoing compliance with the Service Continuity Rules.

2.5 In response to the ACMA's findings, Dodo offers this Undertaking to the ACMA under section 572B of the Telecommunications Act.

3. Remedial Action Already Undertaken by Dodo

3.1 As a result of its own internal review conducted prior to the ACMA issuing its findings, Dodo has implemented the following remedial action to improve Dodo's compliance processes and procedures and ensure compliance with the Service Continuity Rules:

- (a) Intranet-based training of Dodo's customer agents on the Service Continuity Rules and quarterly training compliance tracking (**Agent Training**);

- (b) Tracking alternative arrangements under subsection 9(2) of the Determination (**Alternative Arrangement Tracker**);
 - (c) Tracker of Remedial Plans and Technical Audits under subsections 16(2) and 16(5) of the Determination (**Remedial Plans and Technical Audits Tracker**); and
 - (d) Regulatory Compliance Audit through a Risk and Control Self-Assessment Questionnaire (**RCSA Questionnaire**),
- together, "the **Remedial Action**".

3.2 Agent Training

In July 2019 Dodo rolled out awareness training for its customer agents on compliance with the Service Continuity Rules through its intranet training environment. From this date, agents have been required to complete the Service Continuity Rules training before taking calls or enquiries from customers.

3.3 Alternative Arrangement Tracker

During 2019 Dodo worked to identify and develop additional processes that could be implemented to improve and enhance its existing practices in the area of providing alternative arrangements to customers experiencing non-operational or unsuccessful NBN migrations.

For operational reasons, Dodo focusses on agreeing alternative arrangements with affected customers, which is an exception to the requirement to supply an interim service (per subsection 9(2) of the Determination).

Dodo introduced the Alternative Arrangements Tracker to record the details of affected customers. This tracker offers the Dodo team greater visibility and oversight of the alternative arrangement process and affected customers' status.

3.4 Remedial Plans and Technical Audits Tracker

Dodo has worked to identify and develop additional processes to improve and enhance its existing practices in relation to subsections 16(2) and 16(5) of the Determination. Dodo introduced the Remedial Plans and Technical Audits Tracker to record details of affected customers who fall within the scope of subsections 16(2) and 16(5) of the Determination. This allows Dodo to monitor and respond to compliance or operational issues more easily.

3.5 RCSA Questionnaire

Dodo has developed and implemented its own internal compliance auditing and quality assurance program to allow for proactive compliance checking with the Service Continuity Rules. This program requires teams to complete an RCSA Questionnaire, comprising a series of questions related to relevant legislation, determinations, rules and/or industry codes. The relevant team is then required to proactively report on their compliance with same on a regular basis. The purpose of the RCSA Questionnaire is to provide an enhanced, formalised process of regular, cyclical compliance checking.

4. Undertakings

4.1 Dodo undertakes to do the following to ensure compliance with the Determination:

- (a) maintain the improvements made to Dodo's systems and processes through the Remedial Action;
- (b) review the effectiveness of the Remedial Action to ensure compliance with the Determination for four (4) consecutive Quarters; and

- (c) ensure that the relevant individual who has executive responsibility for overseeing the Remedial Action receives regular reports about the implementation of that action for 12 months from the Effective Date.

5. Reporting to the ACMA

5.1 Dodo undertakes to report to the ACMA within 30 days after the end of each Quarter about:

- (a) the outcomes of the review referred to in paragraph 4.1(b) above for the previous Quarter;
- (b) the number of customers in the previous Quarter:
 - (i) that were eligible to receive an interim service under subsection 9(1) of the Determination; and
 - (ii) that received an alternative arrangement under subsection 9(2) of the Determination as an exception to the requirement to supply an interim service,

in accordance with the following tabular format:

A. Interim Service

Measure	Eligible
Interim Service	[TBC]

B. Alternative Arrangement

Measure	Offered	Received
Alternative Arrangements	[TBC]	[TBC]

- (c) the number of customers in the previous Quarter:
 - (i) that were entitled to be provided with a remedial plan under subsection 16(2) of the Determination;
 - (ii) that Dodo provided with a remedial plan; and
 - (iii) that were provided with a remedial plan within the required timeframe specified in the Determination,

in accordance with the following tabular format:

Measure	Entitled	Provided	Executed within required timeframe
Remedial Plan	[TBC]	[TBC]	[TBC]

- (d) the number of customers in the previous Quarter:
 - (i) for whom Dodo was required to complete a technical audit under subsection 16(5) of the Determination;

- (ii) for whom Dodo completed a technical audit; and
 - (iii) for whom the technical audit was completed within the required timeframe,
- in accordance with the following tabular format:

Measure	Required	Completed	Completed within required timeframe
Technical Audit	[TBC]	[TBC]	[TBC]

6. Duration of the Undertaking

- 6.1 This Undertaking comes into effect on the Effective Date.
- 6.2 This Undertaking ceases to have effect from the date on which Dodo provides its final report to the ACMA under paragraph 5.1 unless:
- (a) the ACMA gives written notice to Dodo cancelling this Undertaking in accordance with subsection 572B(4) of the Telecommunications Act, in which case this Undertaking ceases to have effect on the day that written notice of the cancellation is given to Dodo; or
 - (b) the ACMA earlier consents to the withdrawal of this Undertaking in accordance with subsection 572B(3) of the Telecommunications Act, in which case this Undertaking ceases to have effect on the day that written notice of the consent is given to Dodo.

7. Variation of the Undertaking

- 7.1 This Undertaking may be varied in accordance with subsection 572B(3) of the Telecommunications Act, in which case this Undertaking will have the effect as varied on the day that written notice of the consent to vary this Undertaking is given to Dodo by the ACMA.

8. Acknowledgement of Dodo

- 8.1 Dodo acknowledges that the ACMA may:
- (a) make this Undertaking publicly available including by publishing it on the ACMA's website.
 - (b) from time to time, make public comment about this Undertaking and its terms which includes issuing a media release upon its execution by the ACMA.

Executed by Dodo Services Pty Ltd (ACN 158 289 331) by its authorised representative, on

Date

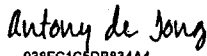
28 July 2020 | 7:18 PM AEST

Name and position of Dodo representative authorised to give this Undertaking:

Antony de Jong

Chief Executive

Signature of Dodo representative authorised to give this Undertaking:

DocuSigned by:

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This Undertaking offered by Dodo is accepted by the Australian Communications and Media Authority pursuant to section 572B of the *Telecommunications Act 1997* (Cth) by:


Date

30 July 2020

Name of Member:

 NERIDA O'LOUGHLIN

Signature of Member



Date

30 July 2020

Name of Member:

Fiona Cameron

Signature of Member

