

17 August 2010

File reference: ACMA2010/928-5

Mr James Ruddock
Commercial Director
Dun & Bradstreet (Australia) Pty Ltd
Level 7, 479 St Kilda Road
Melbourne VIC 3004

Cc: Ms Melissa Lind

Dear Mr Ruddock

**Grant of final authorisation -
*Telecommunications Integrated Public Number Database Scheme 2007***

I refer to the application for final authorisation lodged by Perceptive Communication Pty Ltd (trading as FCS Online) under the *Telecommunications Integrated Public Number Database Scheme 2007 (IPND Scheme)*.

I write to advise of my decision pursuant to subsection 3.10(4) of the *IPND Scheme* to grant Perceptive Communication final authorisation to use and disclose customer data, as defined in subsection 1.3 of the *IPND Scheme*, for purposes connected with the publication and maintenance of a public number directory (PND), as defined in subsection 285(1A)(c)(ii) of the *Telecommunications Act 1997 (the Act)*.

Assessment of Perceptive Communication's application for final authorisation included an examination of its sample electronic PND including the undertakings provided by Perceptive Communication in its revised document entitled 'FCS Online System Architecture & ACMA Audit Process – June 2010' submitted to the ACMA on 29 June 2010.

Taking into consideration that Perceptive Communication has exhibited a good understanding of the requirements of the *IPND Scheme* in regard to presentation of customer data in PNDs, I am satisfied that the PND which Perceptive Communication proposes to publish and maintain under an *IPND Scheme* authorisation will satisfy the definition of a PND in subsection 285(2) of the Act.

Conditions of authorisation

In addition to the conditions of authorisation specified in subsection 3.12(1) to (17) of the *IPND Scheme*, and pursuant to subsection 3.12(18), I grant this final authorisation subject to the following additional condition:

- (a) Perceptive Communication/ FCS Online must arrange, at its own expense, for an independent auditor to conduct an audit at intervals of six months, calculated

from the start of the final authorisation, for a period of three years, and thereafter annually, of all uses made by Perceptive Communications/ FCS Online, or associated companies, of customer data obtained from the IPND Manager.

- (b) Perceptive Communication/ FCS Online must arrange for the independent auditor to prepare a report in respect of each audit and send that report to Mr Alan Chalmers, Manager, Consumer Interests Section, the ACMA, PO Box 131112, Law Courts, Melbourne VIC 8010 within 60 days after the scheduled date for the audit calculated in accordance with paragraph (a).
- (c) Perceptive Communication/ FCS Online must arrange for the report prepared by the independent auditor to detail all uses made by Perceptive Communication/ FCS Online, or associated companies, of customer data obtained from the IPND Manager, and to specify in particular whether or not any customer data obtained from the IPND Manager has been used for any purpose other than the publication and maintenance of the online public number directory entitled "FCS Online Public Number Directory", such as for marketing, data cleansing and appending, debt collection, identity verification, credit checking, or to append customer data to, or otherwise add to or verify data in, any other database.
- (d) Perceptive Communication/ FCS Online must provide the independent auditor with full access to all relevant records and information, and to information technology or other relevant systems, to enable the independent auditor to prepare a comprehensive and accurate audit report.
- (e) If a term used in this condition has a defined meaning in the IPND Scheme, then it is used in this condition in accordance with its defined meaning in the IPND Scheme.

Advice to the IPND Manager

Under subsection 3.10(6) of the *IPND Scheme*, the ACMA has also advised the IPND Manager of this decision.

Commencement of final authorisation

As specified in section 3.11 of the *IPND Scheme*, final authorisation starts on the day on which the IPND Manager supplies Perceptive Communication with customer data. This authorisation is effective until such time as it is revoked by the ACMA (see below).

Compliance with requirements

I draw your attention to subsection 3.12(19) of the *IPND Scheme*:

The public number directory publisher must comply with:

- (a) the Act; and
- (b) any relevant instrument under the Act; and
- (c) any conditions specified by the Minister under section 295P of the Act; and
- (d) the conditions set out in subsections (2) to (17) [of section 3.12]; and
- (e) any conditions specified under subsection (18) [of section 3.12].

In that regard, I draw your attention to the following obligations detailed in the *IPND Scheme*:

- notify the ACMA of the date on which Perceptive Communication first receives customer data from the IPND Manager within 10 working days after the start of the final authorisation [subsection 3.12(2)(b)];
- publish a PND within 90 days after final authorisation starts [subsection 3.12(3) and subsection 5.3(2)];

- notify the ACMA within 10 working days after publishing a PND, that the PND has been published, provide details of how the PND can be obtained and provide the ACMA with access to each PND covered by this authorisation [subsection 3.12(4)];
- give the ACMA access to each of its PNDs each year on the anniversary of the start of the final authorisation and if the ACMA asks in writing for access [subsection 3.12(6)];
- update at least monthly each PND that it publishes and maintains online or in another streaming electronic format [subsection 3.12 (10)];
- provide the ACMA with compliance reports [subsections 3.12(15) and (16)]; and
- take the steps prescribed under sections 6 and 7 of the *Telecommunications (Integrated Public Number Database Scheme - Conditions for Authorisations) Determination 2007 (No. 1)* in the event of a security breach.

In addition, I draw your attention to the obligations and prohibitions as set out in Part 13 of the *Act*.

End of Authorisation

This authorisation is subject to the following sections of the *IPND Scheme*:

- section 5.1 sets out when authorisations end. Specifically, the ACMA may revoke an authorisation if a publisher breaches an authorisation condition, is not using customer data to publish a PND (where subsection 5.3(2) does not apply) and/or is using customer data for a purpose for which it is not authorised; and
- section 5.3, which revokes an authorisation if a PND is not published within 90 days of the start of final authorisation.

Section 5.2 of the *IPND Scheme* explains the limits on reapplying for an authorisation where a revocation has occurred.

If you have any questions in relation to these matters, please contact Alan Chalmers on (03) 9963 6841 or alan.chalmers@acma.gov.au

Yours sincerely



Olya Booyar
General Manager
Content, Consumer and Citizen Division.