KAMALA D. HARRIS **[EXEMPT FROM FILING FEES** UNDER GOVT. CODE SEC. 61031 Attorney General of California MICHAEL E. ELISOFON 2 Supervising Deputy Attorney General JEFFREY STEELE (State Bar No. 124688) 3 Deputy Attorney General 4 1300 I Street, Suite 125 P.O. Box 944255 SEP 17 2015 Sacramento, CA 94244-2550 5 Telephone: (916) 323-1937 CLERK OF THE SUPERIOR COURT Fax: (916) 322-2368 6 E-mail: Jeff.Steele@doj.ca.gov 7 AROCLES AGUILAR General Counsel CHRISTOPHER P. WITTEMAN (State Bar No. 115314) HIEN VO WINTER Public Utility Staff Counsel 10 California Public Utilities Commission 505 Van Ness Avenue, Room 5028 11 San Francisco, CA 94102 Telephone: (415) 355-5524 Fax: (415) 703-2262 12 E-mail: wit@cpuc.ca.gov 13 Attorneys for Plaintiff The People of the State of California 14 SUPERIOR COURT OF THE STATE OF CALIFORNIA 15 COUNTY OF ALAMEDA 16 17 RG 157861 18 THE PEOPLE OF THE STATE OF Case No. 34-2013-00155578 19 CALIFORNIA, COMPLAINT FOR INJUNCTION, 20 CIVIL PENALTIES AND OTHER **EQUITABLE RELIEF** 21 Plaintiff. (BUS. & PROF. CODE, §§ 17200, 17500; 22 PUB. UTIL. CODE, §§ 451, 2891.1) VS. 23 **COMCAST CABLE COMMUNICATIONS** MANAGEMENT, LLC; COMCAST 24 PHONE, LLC; COMCAST PHONE OF CALIFORNIA, LLC; COMCAST IP 25 PHONE II, LLC, 26 27 Defendants. 28

1	Plaintiff, the People of the State of California, by and through Kamala D. Harris, Attorney
2	General of the State of California, and through the California Public Utilities Commission, by its
3	attorneys Christopher P. Witteman and Hien Vo Winter (collectively, "Plaintiff"), allege on
4	information and belief:
5	DEFENDANT AND VENUE
6	1. Defendant Comcast Cable Communications Management, LLC ("Comcast Cable") is
7	the cable division of Comcast Corporation, organized under the laws of the state of Delaware
8	with its principal place of business located at 1701 JFK Boulevard, Philadelphia, PA 19103.
9	2. Defendant Comcast Phone, LLC is a wholly-owned subsidiary of Comcast Cable
0	organized under the laws of the state of Delaware with its principal place of business located at
1	1701 JFK Boulevard, Philadelphia, PA 19103.
12	3. Defendant Comcast Phone of California, LLC, is a wholly-owned subsidiary of
13:	Comcast Cable, organized under the laws of the state of Delaware with its principal place of
14	business located at 12647 Alcosta Boulevard, Suite 200, San Ramon, CA 94588.
15	4. Defendant Comcast IP Phone II, LLC is a wholly-owned subsidiary of Comcast
16	Cable, organized under the laws of the state of Delaware with its principal place of business
17	located at One Comcast Center, Philadelphia, PA 19103.
<u>.</u>	5. At all relevant times, Defendants Comcast Cable, Comcast Phone, LLC, Comcast
9	Phone of California, LLC, and Comcast IP Phone II, LLC (collectively, "Defendants" or
20	"Comcast") have transacted business in the County of Alameda and elsewhere within the State of
21	California. The violations of law described herein occurred in the County of Alameda and
22	elsewhere in the State of California.
23	DEFENDANTS' BUSINESS ACTS AND PRACTICES
24	Background
25	6. Comcast provides telephone services to residential subscribers in California through a
26	product known as XFINITY Voice.
27	7. XFINITY Voice is a Voice over Internet Protocol (VoIP) service.
28	

- 8. Comcast provided its residential XFINITY Voice telephone customers' directory listing information (i.e., name, address, phone number) directly to third party publishers of printed phone books until approximately 2012.
- 9. In July 2010, Comcast began publishing its directory listings online on Ecolisting.com. Beginning in November 2010, Comcast also licensed its directory listings for approximately one year to a nationwide directory assistance provider through Neustar, Inc. ("Neustar"). Currently, Comcast makes its XFÍNITY Voice telephone customers' listings available nationally for directory assistance through a vendor.
- 10. Once a directory listing appears in telephone directories (in print, on the Internet, or on disks) or in directory assistance, it may be sorted, packaged, repackaged and made available again in different formats by anyone.
- 11. For a monthly charge, non-published and non-listed directory service options are available to Comcast's XFINITY Voice residential telephone subscribers who choose to not have their listings in online directories, phone books and directory assistance.
- 12. In California, Comcast charged \$1.50 per month for non-published status and \$1.25 per month for non-listed status.

Disclosure of Non-published/Non-listed Numbers

- 13. Comcast used a non-affiliated third party, Targus Info Services, Inc., later acquired by Neustar, to license its directory listings to various publishers and directory assistance providers.
- 14. In connection with a system-wide account number change in California that occurred in October and December 2009, a significant portion of those California customers who elected non-published status prior to December 2009 were mistakenly not flagged as "non-published" and thus were made available for publishing in July 2010 via Neustar.
- 15. Until October 2012, it was Comcast's practice to send non-published listings to Neustar as well as published listings, while placing a "privacy flag" on the non-published listings. Because the "privacy flag" was not attached to the listings of approximately 75,000 non-published/non-listed subscribers, Neustar provided those listings to Comcast's vendor, Microsoft FAST, who then published them for Comcast on the Ecolisting website.

- 16. Comcast provided a small number of the non-published/non-listed listings to a third-party who in turn released those listings for publication in certain county phone books for the years 2010 and 2011.
- 17. Therefore, for varying periods of time between July 2010 to December 2012, and for many customers the entire period, approximately 75,000 Comcast residential subscribers in California who had paid Comcast the monthly fee for a non-published or non-listed phone number nevertheless had their subscriber listing information published on Ecolisting, and (in some cases) in phone books, and/or made available by a directory assistance provider.

Customer Inquiries

- 18. Comcast has the capability to search its customer records databases for customer contacts related to non-published/non-listed numbers.
- 19. Comcast has issue codes that could identify trouble tickets related to the publication of non-published/non-listed numbers. From January 2010 through October 2012, Comcast opened approximately 350 trouble tickets bearing the problem code related to non-published/non-listed numbers. Of these 350 trouble tickets, approximately 75 trouble tickets were associated with customers who were affected by Comcast's erroneous publication of non-published/non-listed listings.
- 20. Prior to receiving two complaints in October 2012 about non-published listings being published in error, with one from a California customer and one from a customer in another state, Comcast did not determine the root cause of complaints dealing with the erroneous publication of non-published/non-listed listings.

Remedial & Notification Efforts

- 21. On or around December 10, 2012, Comcast had the non-published/non-listed directory listings deleted from Ecolisting.
- 22. Comcast attempted to notify by mail all of the approximately 75,000 non-published/non-listed subscribers to inform them that Comcast had inadvertently published their listings. Comcast sent at least one notification letter in or around January or April of 2013.

- 23. The notification letter informed the approximately 54,000 customers who still subscribed to a Comcast service as of December 5, 2012 ("current customers") that Comcast had posted a credit to their account for the non-published/non-listed charges paid during the period these customers were published in error. The approximately 21,000 customers who had terminated service on or before December 5, 2012 ("former customers") were told in the letter to contact Comcast in order to receive a refund for the non-published/non-listed charges. The notification letter provided a toll-free hotline number for customers who had questions or required further assistance.
- 24. Comcast also attempted to notify the 54,000 current customers by automated phone calls that played an outgoing message, and informed customers of the hotline it had set up to handle questions from affected customers.
- 25. Comcast received approximately 11,000 calls from affected customers on the hotline. Approximately 200 of those customers raised safety concerns. Safety concerns included, but were not limited to, those from law enforcement personnel, judges, victims of crime, domestic violence victims, and the elderly. Other affected customers who contacted Comcast on the hotline also voiced concerns about an increase in telemarketing calls and a general concern for their loss of privacy.

FIRST CAUSE OF ACTION

VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17500 ET SEQ. (FALSE ADVERTISING)

(Brought by the Attorney General on behalf of The People of the State of California)

- 26. Plaintiff realleges Paragraphs 1 through 25 and incorporates these paragraphs by reference as though they were fully set forth in this cause of action.
- 27. Comcast has violated California Business and Professions Code section 17500 et seq. by making or disseminating false or misleading statements to the general public and to its subscribers, including but not limited to, the following:
- a. Comcast represented that it would not publish directory listing information relating to its residential subscribers who purchased unlisted service; and

- b. Comcast represented that it took reasonable precautions to ensure that the directory information of those subscribers who purchased unlisted service would remain unlisted.
- 28. Comcast made these false representations in order to induce members of the general public to purchase Comcast services, and to induce its subscribers to continue to use and pay for Comcast services.

SECOND CAUSE OF ACTION

VIOLATIONS OF BUSINESS AND PROFESSIONS CODE SECTION 17200 ET SEQ. (UNFAIR BUSINESS PRACTICES)

(Brought by the Attorney General on behalf of The People of the State of California)

- 29. Plaintiff realleges Paragraphs 1 through 28 and incorporates these paragraphs by reference as though they were fully set forth in this cause of action.
- 30. Comcast has engaged in business acts or practices that were unlawful, unfair, deceptive, or misleading, and therefore violated Section 17200 of the California Unfair Competition Law (Bus. & Prof Code § 17200). Comcast's acts or practices include, but are not limited to, the following:
- a. Comcast violated Business and Professions Code section 17500 et seq., as alleged above in the First Cause of Action;
- b. Comcast violated California Public Utilities Code section 2891.1, subdivision (a) by selling or licensing residential subscribers' telephone numbers that were assigned as unlisted and unpublished, when those subscribers had not waived the protection provided by section 2891.1, subdivision (a);
- c. Comcast violated the Cable Communications Policy Act of 1984, 47 U.S.C. § 551(c)(1) by disclosing personally identifiable information concerning its subscribers without the prior written or electronic consent of such subscribers and by failing to take such actions as were necessary to prevent unauthorized access to personally identifiable information concerning its subscribers by a person other than the subscriber or cable operator; and

1	d. Comcast violated Code of Federal Regulations section 51.217, subdivision
.5	(c)(iv) by providing access to unlisted telephone numbers that its subscribers had asked it not to
3	make available.
4	THIRD CAUSE OF ACTION
5	VIOLATIONS OF PUBLIC UTILITIES CODE SECTIONS 451 AND 2891.1
6	(DISCLOSURE OF UNLISTED OR UNPUBLISHED PHONE NUMBERS)
7	(Brought by the California Public Utilities Commission on behalf of The People of the State of
8	California)
9.	31. Plaintiff realleges Paragraphs 1 through 30 above, and incorporates these paragraphs
10	by reference as though they were fully set forth in this cause of action.
11	32. Comcast violated California Public Utilities Code section 2891.1 by including the
12	telephone numbers of subscribers assigned a non-listed or non-published telephone number in the
13	lists of customers Comcast provided online, and licensed to directory publishers and directory
14	assistance providers.
15	33. In so doing, Comcast also violated California Public Utilities Code section 451 by
16	failing to provide just and reasonable service to its customers.
17	PRAYER FOR RELIEF
18	WHEREFORE, Plaintiff prays for judgment as follows:
19	1. That under California Business and Professions Code sections 17203 and 17535, and
20	Public Utilities Code sections 451 and 2891, Defendants, their successors, agents, employees, and
21	all persons who act in concert with them be permanently enjoined from committing any unlawful,
22	unfair or fraudulent acts of unfair competition and from making any false or misleading
23	statements, as alleged in this complaint;
24	2. That under California Business and Professions Code sections 17206 and 17536,
25	Defendants be ordered to pay \$2,500 for each violation of California Business and Professions
26	Code sections 17200 and 17500 as proved at trial;
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1	3. That under Public Utilities Code section 2107 and other relevant law, Defendants
2	ordered to pay \$1,000 for each violation of Public Utilities Code sections 2891.1 and 451 as
3	proved at trial;
. 4	4. That Plaintiff recover its costs of suit herein, including costs of investigation; and
5	5. For such other and further relief as the Court may deem just and proper.
6	
7	Dated: September 17, 2015 Respectfully Submitted,
8	KAMALA D. HARRIS
9	Attorney General of California MICHAEL E. ELISOFON
10	Supervising Deputy Attorney General
11	1.60
12	JEFFREY STEELE
13	Deputy Attorney General Attorneys for Plaintiff
14	The People of the State of California
15	
16	
	Dated: September 17, 2015 AROCLES AGUILAR
17	General Counsel California Public Utilities Commission
18	
19	CH FX L CPW
20	CHRISTOPHER P. WITTEMAN
21	HIEN VO WINTER Public Utility Staff Counsel
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DECLARATION OF PERSONAL SERVICE

Case Name:

The People of the State of California v. Comcast Cable Communications

Management, LLC, et al.

No.:

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter; my business address is: 1300 I Street, Suite 125, P.O. Box 944255, Sacramento, CA 94244-2550.

On <u>September 17, 2015</u>, I served the attached **COMPLAINT FOR INJUNCTION**, **CIVIL PENALTIES AND OTHER EQUITABLE RELIEF** by personally delivering a true copy thereof to the following person(s) as follows:

Suzanne Toller Davis Wright Tremaine LLP Attorneys for Comcast Cable Communications, LLC, et al.

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on September 17, 2015, at Sacramento, California.

Signature

Jeffrey Steele

Declarant

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