

1 KAMALA D. HARRIS
Attorney General of California
2 MICHAEL E. ELISOFON
Supervising Deputy Attorney General
3 JEFFREY STEELE (State Bar No. 124688)
Deputy Attorney General
4 1300 I Street, Suite 125
P.O. Box 944255
5 Sacramento, CA 94244-2550
Telephone: (916) 323-1937
6 Fax: (916) 322-2368
E-mail: Jeff.Steele@doj.ca.gov
7

[EXEMPT FROM FILING FEES
UNDER GOVT. CODE SEC. 6103]

8 AROCLES AGUILAR
General Counsel
9 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
12 Fax: (415) 703-2262
E-mail: wit@cpuc.ca.gov
13

Attorneys for Plaintiff
The People of the State of California

15 SUPERIOR COURT OF THE STATE OF CALIFORNIA
16 COUNTY OF ALAMEDA
17

18 **THE PEOPLE OF THE STATE OF**
19 **CALIFORNIA,**
20
21 **Plaintiff,**
22 **vs.**
23 **COMCAST CABLE COMMUNICATIONS**
24 **MANAGEMENT, LLC; COMCAST**
25 **PHONE, LLC; COMCAST PHONE OF**
26 **CALIFORNIA, LLC; COMCAST IP**
27 **PHONE II, LLC,**
28 **Defendants.**

Case No. 34-2013-00155578
COMPLAINT FOR INJUNCTION,
CIVIL PENALTIES AND OTHER
EQUITABLE RELIEF

(BUS. & PROF. CODE, §§ 17200, 17500;
PUB. UTIL. CODE, §§ 451, 2891.1)

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
10 organized under the laws of the state of Delaware with its principal place of business located at
11 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.

18 5. At all relevant times, Defendants Comcast Cable, Comcast Phone, LLC, Comcast
19 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

1 8. Comcast provided its residential XFINITY Voice telephone customers' directory
2 listing information (i.e., name, address, phone number) directly to third party publishers of
3 printed phone books until approximately 2012.

4 9. In July 2010, Comcast began publishing its directory listings online on
5 Ecolisting.com. Beginning in November 2010, Comcast also licensed its directory listings for
6 approximately one year to a nationwide directory assistance provider through Neustar, Inc.
7 ("Neustar"). Currently, Comcast makes its XFINITY Voice telephone customers' listings
8 available nationally for directory assistance through a vendor.

9 10. Once a directory listing appears in telephone directories (in print, on the Internet, or
10 on disks) or in directory assistance, it may be sorted, packaged, repackaged and made available
11 again in different formats by anyone.

12 11. For a monthly charge, non-published and non-listed directory service options are
13 available to Comcast's XFINITY Voice residential telephone subscribers who choose to not have
14 their listings in online directories, phone books and directory assistance.

15 12. In California, Comcast charged \$1.50 per month for non-published status and \$1.25
16 per month for non-listed status.

17 Disclosure of Non-published/Non-listed Numbers

18 13. Comcast used a non-affiliated third party, Targus Info Services, Inc., later acquired by
19 Neustar, to license its directory listings to various publishers and directory assistance providers.

20 14. In connection with a system-wide account number change in California that occurred
21 in October and December 2009, a significant portion of those California customers who elected
22 non-published status prior to December 2009 were mistakenly not flagged as "non-published"
23 and thus were made available for publishing in July 2010 via Neustar.

24 15. Until October 2012, it was Comcast's practice to send non-published listings to
25 Neustar as well as published listings, while placing a "privacy flag" on the non-published listings.
26 Because the "privacy flag" was not attached to the listings of approximately 75,000 non-
27 published/non-listed subscribers, Neustar provided those listings to Comcast's vendor, Microsoft
28 FAST, who then published them for Comcast on the Ecolisting website.

1 16. Comcast provided a small number of the non-published/non-listed listings to a third-
2 party who in turn released those listings for publication in certain county phone books for the
3 years 2010 and 2011.

4 17. Therefore, for varying periods of time between July 2010 to December 2012, and for
5 many customers the entire period, approximately 75,000 Comcast residential subscribers in
6 California who had paid Comcast the monthly fee for a non-published or non-listed phone
7 number nevertheless had their subscriber listing information published on Ecolisting, and (in
8 some cases) in phone books, and/or made available by a directory assistance provider.

9 Customer Inquiries

10 18. Comcast has the capability to search its customer records databases for customer
11 contacts related to non-published/non-listed numbers.

12 19. Comcast has issue codes that could identify trouble tickets related to the publication
13 of non-published/non-listed numbers. From January 2010 through October 2012, Comcast opened
14 approximately 350 trouble tickets bearing the problem code related to non-published/non-listed
15 numbers. Of these 350 trouble tickets, approximately 75 trouble tickets were associated with
16 customers who were affected by Comcast's erroneous publication of non-published/non-listed
17 listings.

18 20. Prior to receiving two complaints in October 2012 about non-published listings being
19 published in error, with one from a California customer and one from a customer in another state,
20 Comcast did not determine the root cause of complaints dealing with the erroneous publication of
21 non-published/non-listed listings.

22 Remedial & Notification Efforts

23 21. On or around December 10, 2012, Comcast had the non-published/non-listed
24 directory listings deleted from Ecolisting.

25 22. Comcast attempted to notify by mail all of the approximately 75,000 non-
26 published/non-listed subscribers to inform them that Comcast had inadvertently published their
27 listings. Comcast sent at least one notification letter in or around January or April of 2013.
28

1 23. The notification letter informed the approximately 54,000 customers who still
2 subscribed to a Comcast service as of December 5, 2012 ("current customers") that Comcast had
3 posted a credit to their account for the non-published/non-listed charges paid during the period
4 these customers were published in error. The approximately 21,000 customers who had
5 terminated service on or before December 5, 2012 ("former customers") were told in the letter to
6 contact Comcast in order to receive a refund for the non-published/non-listed charges. The
7 notification letter provided a toll-free hotline number for customers who had questions or required
8 further assistance.

9 24. Comcast also attempted to notify the 54,000 current customers by automated phone
10 calls that played an outgoing message, and informed customers of the hotline it had set up to
11 handle questions from affected customers.

12 25. Comcast received approximately 11,000 calls from affected customers on the hotline.
13 Approximately 200 of those customers raised safety concerns. Safety concerns included, but were
14 not limited to, those from law enforcement personnel, judges, victims of crime, domestic violence
15 victims, and the elderly. Other affected customers who contacted Comcast on the hotline also
16 voiced concerns about an increase in telemarketing calls and a general concern for their loss of
17 privacy.

18 **FIRST CAUSE OF ACTION**

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

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

22 26. Plaintiff realleges Paragraphs 1 through 25 and incorporates these paragraphs by
23 reference as though they were fully set forth in this cause of action.

24 27. Comcast has violated California Business and Professions Code section 17500 et seq.
25 by making or disseminating false or misleading statements to the general public and to its
26 subscribers, including but not limited to, the following:

27 a. Comcast represented that it would not publish directory listing information
28 relating to its residential subscribers who purchased unlisted service; and

1 d. Comcast violated Code of Federal Regulations section 51.217, subdivision
2 (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;


1 3. That under Public Utilities Code section 2107 and other relevant law, Defendants be
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,
KAMALA D. HARRIS
Attorney General of California
MICHAEL E. ELISOFFON
Supervising Deputy Attorney General

11
12 
13 JEFFREY STEELE
14 Deputy Attorney General
15 *Attorneys for Plaintiff*
16 *The People of the State of California*

17 Dated: September 17, 2015

AROCLES AGUILAR
General Counsel
California Public Utilities Commission

19
20 
21 CHRISTOPHER P. WITTEMAN
22 HIEN VO WINTER
23 Public Utility Staff Counsel

24 SA2013109455
25 32001281.DOC

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 September 17, 2015, 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.

Jeffrey Steele
Declarant



Signature