

**INDEPENDENT COMMISSION AGAINST CORRUPTION
IN THE MATTER OF AN INVESTIGATION KNOWN AS OPERATION AERO**

**SUPPLEMENTARY SUBMISSIONS OF
COUNSEL ASSISTING THE COMMISSION**

Certain exhibits relying on CCRs require correction or clarification

1. My attention has recently been drawn to the fact that parts of the content of some of the exhibits (**CCR Exhibits**) that I tendered at the Public Inquiry that reproduced data drawn from call charge records (**CCRs**) are potentially misleading in that, for some entries, the “*time*” column refers to Australian Eastern Standard Time and not Australian Eastern Daylight Savings Time where applicable (**DST Issue**).
2. I am instructed that the DST Issue only arises in relation to CCRs obtained from Vodafone Australia and not to records obtained from other telecommunications companies such as Telstra or Optus.
3. I am instructed that Commission officers have reviewed each of the thirteen exhibits that were received in the Public Inquiry and which reproduced CCRs (namely Exhibits 177, 193, 202, 204, 232, 238, 275, 323, 325, 332, 351, 369 and 386) with a view ascertaining whether the DST Issue affects any of those Exhibits. I am instructed that the DST Issue affects six Exhibits (namely Exhibits 202, 238, 275, 325, 369 and 386) (**Affected Exhibits**).
4. I am instructed that, during the course of the review referred to in the previous paragraph, Commission officers have identified certain other errors in certain of the Affected Exhibits. For example, the title of Exhibit 332 is incorrect in that it describes the Exhibit as “Call Charge Records 19 APR 2015 to 30 JUN 2015” whereas it should have described the Exhibit “Call Charge Records 19 MAR 2015 to 09 APR 2015”.
5. I have been provided with amended versions of the Affected Exhibits (**Amended Documents**) that correct the DST Issue and any other errors that have been identified in the Affected Exhibits. I **tender** those amended documents. It is respectfully suggested that the Amended Documents (assuming that they are received by the Commission as evidence) be marked in a manner that corresponds with the Exhibits to which they relate and made publicly available and submit that they should be made publicly available (subject to the direction made by the Chief Commissioner under s 112 of the ICAC Act at the commencement of the Public Inquiry regarding personal information). For example, the Amended Documents could be marked Exhibits 202A, 238A, 275A, 325A, 369A and 386A respectively.

Amendments to submissions and consequences of those amendments

6. I have considered whether I should revise any of the submissions that I made in my principal submissions in light of the Amended Documents.
7. I do not consider that the Amended Documents affect the substance of anything said in those principal submissions. If anything, the correction to Exhibit 202 fortifies the submission that I made in the final sentence of paragraph 336 of my principal submissions.
8. Notwithstanding the foregoing, there are some minor amendments that should be made to my principal submissions so as to reflect the Amended Documents and so as to correct certain cross-referencing errors that have been identified when preparing the amended submissions. Amendments to my principal submissions should also be made to reflect the fact that certain documents have been received as evidence in the Public Inquiry since the conclusion of the Public Inquiry. Amended submissions to this effect (**Amended Submissions**) will be provided separately to the Commission.
9. It seems unlikely that any person with authorisation to appear in the Public Inquiry would have an interest in making submissions in relation to the Amended Documents or in response to any of the amendments made by the Amended Submissions. However, for abundant caution, the Commission should consider any applications that may be made for leave to make submissions in relation to the Amended Documents or Amended Submissions. For reasons of procedural efficiency, the Commission may wish to set a date by which any such application should be made.

A direction under s 112 of the ICAC Act should not be made in relation to these submissions (save for the attachment)

10. Paragraph 32 of the Standard Directions for Public Inquiries¹ states that “*a suppression order under s 112 of the ICAC Act will usually be made in relation to all written submissions*”. Such an order was made in relation to my principal submissions.
11. The same course should not be taken in relation to this document. If the matters addressed on the first page of this document had been identified during the course of the Public Inquiry, they would have been addressed by tendering the Amended Documents in public with an accompanying explanation by counsel assisting in public. Substantially the same course

¹ See Independent Commission Against Corruption, Standard Directions for Public Inquiries, 5 [32].

should be taken now by making this document and the Amended Documents (excluding personal information²) available to the public.

25 November 2020

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² See T15.35-15.36 (Chief Commissioner).