

DEC 19 2014

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO

PEOPLE OF THE STATE OF  
CALIFORNIA,

Plaintiff,

v.

T-MOBILE USA, INC., a corporation,

Defendant.

Case No. CGC-14-543312

**FINAL JUDGMENT AND PERMANENT  
INJUNCTION**

Plaintiff, the People of the State of California, appearing through its attorney, Kamala D. Harris, Attorney General of the State of California, by Sarah E. Kurtz, Deputy Attorney General, (hereinafter collectively "the People" or "Plaintiff"), and Defendant T-Mobile USA, Inc., a corporation, (hereinafter collectively referred to as "T-Mobile," "Defendant" or "Carrier"), appearing through its attorney, Martin L. Fineman of Davis Wright Tremaine LLP, having stipulated to the entry of this Final Judgment and Permanent Injunction ("Final Judgment") by the Court without the taking of proof and without trial or adjudication of any fact or law, without this Final Judgment constituting evidence of or an admission by T-Mobile regarding any issue of law or fact alleged in the Complaint on file, and without T-Mobile admitting any liability, and with all

1 parties having waived their right to appeal, and the Court having considered the matter and good  
2 cause appearing:

3 IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

4 **I. PARTIES AND JURISDICTION**

5 1. The People of the State of California is the Plaintiff in this case.

6 2. T-Mobile is the Defendant in this case.

7 3. The Court has jurisdiction over the subject matter of this action, jurisdiction over the  
8 parties to this action, and venue is proper in this Court.

9 4. Defendant, at all relevant times, has transacted business in the State of California,  
10 including, but not limited to, San Francisco County.

11 5. This Judgment is entered pursuant to and subject to California Business and  
12 Professions Code section 17200 et seq.

13 **II. DEFINITIONS**

14 6. The following definitions shall apply for purposes of this Judgment:

15 a. "Account Holder" means any individual or entity who is or was responsible for  
16 paying all charges associated with all lines on that individual's or entity's mobile phone account  
17 with Carrier.

18 b. "Attorneys General"<sup>1</sup> means the Attorneys General, or their designees, of the  
19 Participating States.

20 c. "Bill" means a Consumer's mobile telephone bill or prepaid mobile account, as  
21 applicable.

22  
23  
24  
25 <sup>1</sup> The Georgia Administrator of the Fair Business Practices Act, appointed pursuant to  
26 O.C.G.A. 10-1-395, is statutorily authorized to enforce Georgia's Fair Business Practices Act of  
27 1975 ("FBPA"). The Utah Division of Consumer Protection is statutorily authorized to enforce  
28 all statutes listed in Utah Code 13-2-6, including the Utah Consumer Sales Practices Act, Utah  
Code 13-11-1, *et seq.* Hawaii is represented by its Office of Consumer Protection, an agency that  
is not part of the state Attorney General's Office, but which is statutorily authorized to undertake  
consumer protection functions, including legal representation of the State of Hawaii.

1           d.    “Block” means a restriction placed on a Consumer’s account that prevents one  
2 or more lines from being used to purchase Third-Party Products and from being billed for Third-  
3 Party Charges on the Consumer’s Bill.

4           e.    A statement is “Clear and Conspicuous” if it is disclosed in such size, color,  
5 contrast, location, duration, and/or audibility that it is readily noticeable, readable,  
6 understandable, and/or capable of being heard. A statement may not contradict or be inconsistent  
7 with any other information with which it is presented. If a statement materially modifies,  
8 explains, or clarifies other information with which it is presented, then the statement must be  
9 presented in proximity to the information it modifies, explains, or clarifies, in a manner that is  
10 readily noticeable, readable, and understandable, and not obscured in any manner. In addition:

11               i.    an audio disclosure must be delivered in a volume and cadence sufficient  
12 for a Consumer to hear and comprehend it;

13               ii.   a television or Internet disclosure must be of a type size, location, and  
14 shade, and remain on the screen for a duration sufficient for a Consumer to read and comprehend  
15 it based on the medium being used; and

16               iii.   a disclosure in a print advertisement or promotional material, including,  
17 but without limitation, a point of sale display or brochure materials directed to Consumers, must  
18 appear in a type size, contrast, and location sufficient for a Consumer to read and comprehend it.

19           f.    “Commercial PSMS” means the use of PSMS to bill for Products.

20           g.    “Consumer” means a California resident who is a current or former subscriber  
21 or purchaser of Products for which Third-Party Charges are or were placed on the Consumer’s  
22 Bill, whether that person is the individual responsible for paying the Bill or has a device that is  
23 billed to a shared account. “Consumer” does not include any business entity or any state, federal,  
24 local, or other governmental entity, if (1) the business entity or government entity, and not the  
25 employees or individuals working for or with that business entity or government entity, is solely  
26 liable to Carrier for payment of all charges billed on that account, and (2) the ability to process  
27 Third-Party Charges through that account is not available unless the business entity or  
28

1 government entity affirmatively requests that certain or all mobile devices be provided the ability  
2 to authorize placement of such Third-Party Charges.

3 h. "Effective Date" means the date that the Stipulated Order for Permanent  
4 Injunction and Monetary Judgment in the case captioned *Federal Trade Commission v. T-Mobile*  
5 *USA, Inc.*, (Case No. 2:14-cv-00967-JLR) ("FTC Stipulated Order") is entered by the District  
6 Court for the Western District of Washington. Provided, however, this Judgment is binding upon  
7 entry.

8 i. "Express Informed Consent" means an affirmative act or statement giving  
9 unambiguous assent to be charged for the purchase of a Third-Party Product that is made by a  
10 Consumer after receiving a Clear and Conspicuous disclosure of material facts.

11 j. "Participating States" means the following states and commonwealths:  
12 Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida,  
13 Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland,  
14 Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New  
15 Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio,  
16 Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee,  
17 Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming, as well  
18 as the District of Columbia.

19 k. "Premium Short Messaging Service," or "PSMS," means a service that  
20 distributes paid content to a Consumer using the Short Message Service and Multimedia  
21 Messaging Service communication protocols via messages that are routed using a Short Code,  
22 resulting in a Third-Party Charge.

23 l. "Product" means content and/or services that can be used on a mobile device  
24 for which charges are placed on the Consumer's Bill. "Product" excludes contributions to  
25 charities, candidates for public office, political action committees, campaign committees,  
26 campaigns involving a ballot measure, or other similar contributions. "Product" also excludes co-  
27 branded and white label products where content and services are sold jointly and cooperatively by  
28 Carrier and another entity, where the content and/or services are placed on the Consumer's Bill as

1 a Carrier charge, and Carrier is responsible for accepting complaints, processing refunds, and  
2 other communications with the Consumer regarding the charge. "Product" also excludes handset  
3 insurance, extended warranty offerings, and collect-calling services.

4 m. "Short Code" means a common code leased from the CTIA Common Short  
5 Code Administration that is composed of a set of numbers, usually 4 to 6 digits, to and from  
6 which text messages can be sent and received using a mobile telephone.

7 n. "Third Party" means an entity or entities, other than Carrier, that provides a  
8 Product to Consumers for which billing is made through Carrier's Bills.

9 o. "Third-Party Charge" means a charge for the purchase of a Third-Party Product  
10 placed on a Consumer's Bill.

11 p. "Third-Party Product" means a Product provided by a Third Party.

12 q. "Unauthorized Third-Party Charge" means a Third-Party Charge placed on a  
13 Consumer's Bill without the Consumer's Express Informed Consent.

### 14 **III. PERMANENT INJUNCTIVE RELIEF**

15  
16 7. The provisions of this Judgment shall apply to Carrier and its officers, employees,  
17 agents, successors, assignees, merged or acquired entities, wholly owned subsidiaries, and all  
18 other persons or entities acting in concert or participation with Carrier's placement of Third-Party  
19 Charges in the Participating States.

20 8. In accordance with section 17203 of the California Business and Professions Code,  
21 Defendant shall comply with the following conduct requirements:

22 a. Commercial PSMS: Carrier shall not make available to Consumers the option  
23 to purchase Products through Commercial PSMS and shall not bill charges for Commercial  
24 PSMS.

25 b. Authorization of Third-Party Charges: Carrier shall begin developing and  
26 implementing a system, which shall be fully implemented by Carrier no later than March 1, 2015,  
27 to obtain Express Informed Consent before a Consumer is billed for any Third-Party Charge. The  
28 Consumer's Express Informed Consent may be provided to Carrier or to another person or entity



1 obligated to Carrier to obtain such consent. Carrier or other person or entity shall retain sufficient  
2 information to allow such consent to be verified. If Express Informed Consent is not directly  
3 collected by Carrier, Carrier shall implement reasonable policies and practices<sup>2</sup> to confirm  
4 Express Informed Consent shall be appropriately collected and documented by the person or  
5 entity obligated to do so, and shall monitor and enforce those policies and practices to confirm  
6 Express Informed Consent is appropriately collected and documented, and where Express  
7 Informed Consent has not been appropriately collected and documented, shall require remedial  
8 action (which may include, for example, suspension, proactive credits, or retraining) or cease  
9 placing such charges on Consumers' Bills. While the system described by this Paragraph is being  
10 developed and implemented, Carrier shall take reasonable steps to obtain Express Informed  
11 Consent before a Consumer is billed for any Third-Party Charge.

12 c. Purchase Confirmation for Third-Party Charges: Beginning no later than April  
13 1, 2015, Carrier shall implement a system whereby the Consumer (and, for multiline accounts, the  
14 Account Holder, if designated) will be sent a purchase confirmation separate from the Bill of  
15 every Third-Party Charge, including recurring charges, that will appear on his or her Bill. Any  
16 such purchase confirmation shall be sent within a reasonable time following the purchase of a  
17 Third-Party Product or the recurrence of a Third-Party Charge, and shall identify Blocking  
18 options that Carrier makes available to Consumers and/or provide access to such information.  
19 For multiline accounts, Carrier may provide the Account Holder the option to elect not to receive  
20 such purchase confirmations for purchases made on other lines.

21 d. Information on Blocking: Beginning no later than April 1, 2015, Carrier shall  
22 provide a Clear and Conspicuous disclosure about Third-Party Charges and Blocking options in  
23 informational material provided at or near the time of subscribing to service to the extent Third-  
24 Party Charges are offered and available with the service, and which is provided in a context  
25 separate from the actual subscriber agreement document. Such disclosure shall include or

26 <sup>2</sup> For purposes of this Paragraph, for charges incurred through operating system  
27 storefronts, such reasonable policies and practices may, for example, consist of Carrier or its  
28 agents making a statistically valid random sample of purchases to demonstrate whether the  
storefront is collecting Express Informed Consent consistent with this Judgment.

1 provide access to a description of Third-Party Charges, how Third-Party Charges appear on Bills,  
2 and options available to Consumers to Block Third-Party Charges. Consumers shall not incur any  
3 data or text charges for receiving or accessing the information discussed in this Paragraph.

4 e. Billing Information and Format: Beginning no later than April 1, 2015:

5 i. Except for pre-paid mobile accounts, all Third-Party Charges shall be  
6 presented in a dedicated section of the Consumer's Bill (or in a dedicated section for each mobile  
7 line on the account, if the Bill sets forth charges by each line) and shall be set forth in such a  
8 manner as to distinguish the Third-Party Charges contained therein from Carrier's service, usage,  
9 and other charges. This section of the Consumer's Bill shall contain a heading that Clearly and  
10 Conspicuously identifies that the charges are for Third-Party Products.

11 ii. The Third-Party Charge billing section required by this Paragraph 8.e  
12 shall include a Clear and Conspicuous disclosure of a Consumer's ability to Block Third-Party  
13 Charges, including contact and/or access information that Consumers may use to initiate such  
14 Blocking. If Carrier includes a Third-Party Charge billing section for each mobile line on the  
15 account, the Carrier shall have the option to include the disclosure of a Consumer's ability to  
16 Block Third-Party Charges in only the first Third-Party Charge billing section that appears on the  
17 Bill, rather than in all Third-Party Charge billing sections.

18 f. Consumer Contacts: When a Consumer contacts Carrier with regard to a Third-  
19 Party Charge incurred after the Effective Date, or a Block, Carrier shall:

20 i. provide the Consumer with access to a customer service representative  
21 who shall have access to the Consumer's account information for at least the prior twelve (12)  
22 months;

23 ii. beginning no later than thirty (30) days after the Effective Date, for any  
24 Consumer who claims that he or she did not authorize a Third-Party Charge incurred after the  
25 Effective Date, either (1) provide the Consumer a full refund or credit of any and all disputed  
26 Third-Party Charges not previously credited or refunded to the Consumer, or (2) deny a refund if:  
27  
28

1                   A.   Carrier has information demonstrating that the Consumer provided  
2 Express Informed Consent to the Third-Party Charge, offers to provide such information to the  
3 Consumer, and, upon request, provides such information to the Consumer; or  
4                   B.   the last disputed Third-Party Charge for the particular Product at  
5 issue (either a single charge or a recurring charge) was incurred more than three (3) months prior  
6 to when the Consumer contacted Carrier and Carrier is in compliance with Paragraph 8.c with  
7 respect to the charge;  
8                   iii.   if the Consumer claims that he or she did not authorize a Third-Party  
9 Charge, and the Consumer is a current customer of Carrier, offer the Consumer the opportunity to  
10 Block future Third-Party Charges;  
11                   iv.   if the Consumer is not satisfied with the relief obtained under the process  
12 contained in subparagraph ii) of this Paragraph 8.f:  
13                   A.   offer the Consumer the opportunity to receive a full refund if the  
14 Consumer submits his or her request in writing via U.S. Mail, email, or web-based form affirming  
15 that he or she did not authorize such charge, and provide such refund, unless Carrier can  
16 demonstrate fraud or misrepresentation in connection with the claim.  
17                   B.   this subparagraph (d) shall expire four (4) years from the Effective  
18 Date.  
19                   v.   beginning no later than thirty (30) days after the Effective Date, not  
20 require the Consumer to first contact the Third Party in order to receive a refund/credit of any  
21 claimed Unauthorized Third-Party Charge, although this subparagraph does not prohibit asking  
22 the Consumer if he or she has contacted the Third Party and/or has already received a credit or  
23 refund from the Third Party for some or all of the claimed Unauthorized Third-Party Charge; and  
24                   vi.   beginning no later than April 1, 2015, in the event a Consumer disputes a  
25 Third-Party Charge as Unauthorized, until such time as the provisions of subparagraph 8.f.ii.A or  
26 B are satisfied, not:  
27                   A.   require the Consumer to pay the disputed Third-Party Charge,  
28 including any related late charge or penalty;



1 B. send the disputed Third-Party Charge to collection;  
2 C. make any adverse credit report based on non-payment of the  
3 disputed Third-Party Charge; and/or  
4 D. suspend, cancel, or take any action that may adversely affect the  
5 Consumer's mobile telephone service or functionality for any reason related to non-payment of  
6 the disputed Third-Party Charge. The remedies in this subparagraph 8.f.vi are inapplicable to  
7 Consumer complaints involving dissatisfaction with purchases where the Consumer does not  
8 dispute that Consumer authorized the purchase.

9 g. Training: For six (6) years after the Effective Date, Carrier shall conduct a  
10 training program with its customer service representatives, at least annually, to administer the  
11 requirements of this Judgment. To the extent that Carrier no longer permits Third-Party Charges  
12 on Consumers' Bills, Carrier shall conduct one training program within three (3) months of such  
13 cessation and shall have no further obligation to conduct training programs under this Paragraph  
14 so long as Carrier does not permit Third-Party Charges on Consumers' Bills.

15 h. Cooperation with California Attorney General: Carrier shall designate a contact  
16 to whom the California Attorney General may provide information regarding any concerns about  
17 Unauthorized Third-Party Charges, and from whom the California Attorney General may request  
18 information and assistance in investigations. The information and assistance shall include  
19 information regarding the identity of Third Parties placing charges on Carrier's Bill, revenue from  
20 such Third Parties, refunds provided relating to such Third Parties, any audits conducted of such  
21 Third Parties (to the extent not protected by attorney-client privilege or attorney work product),  
22 and any applications or other information provided by Third Parties, to the extent that Carrier has  
23 access to such information. Consistent with Carrier's legal obligations to safeguard the  
24 confidential or proprietary information of Consumers and Third Parties, Carrier shall provide  
25 such information within a reasonable period and shall cooperate in good faith with such requests,  
26 including investigating any reports of Unauthorized Third-Party Charges Carrier receives from  
27 the California Attorney General.

1 i. Information Maintained by Carrier: Beginning no later than April 1, 2015,  
2 Carrier shall implement systems that allow it to maintain and report the refund/credit information  
3 created pursuant to subparagraphs 8.f.ii and iv. Carrier shall maintain such records for at least  
4 four (4) years from the date of their creation. Carrier's obligation to maintain records for four (4)  
5 years from the date of their creation shall continue after Carrier's obligation to provide the  
6 Quarterly Reports described in Paragraph 8.j expires.

7 j. Information Sharing with Attorneys General:

8 i. From April 1, 2015, Carrier shall, for at least four (4) years, provide a  
9 report to the Office of the Vermont Attorney General every three (3) months ("Quarterly  
10 Reports") documenting its compliance with the requirements of Paragraph 8.f. Without limiting  
11 Carrier's obligations under Paragraph 8.f, the quarterly reports shall include the following:

12 A. the total number of Consumer claims for unauthorized Third-Party  
13 Charges for which Carrier has demonstrated that the purchaser provided Express Informed  
14 Consent or for which Carrier has demonstrated that the claim was untimely under subparagraph  
15 8.f.ii.B;

16 B. all refunds/credits provided, in dollars, due to Carrier's inability to  
17 provide proof of Express Informed Consent in response to such a claim by Consumers;

18 C. all other refunds/credits provided, in dollars;

19 D. for the claims and refunds/credits identified under subparagraphs  
20 8.j.i.B and C, above, the Third-Party Product, the Third Party, and the entity responsible for  
21 ensuring Express Informed Consent from the Consumer, if different than Carrier; and

22 E. a description of any remedial action taken by Carrier against Third  
23 Parties for Unauthorized Third-Party Charges, including, but not limited to, any actions taken to  
24 limit or terminate a Third Party's ability to place Third-Party Charges on a Consumer's Bill. The  
25 description of any remedial action provided under this subparagraph shall include: (a) the name  
26 and contact information of such Third Party, (b) a description of the Product in connection with  
27 which the remedial action was taken, (c) an indication of whether the Product was suspended or  
28

1 terminated (and if the Product was suspended, Carrier shall include the date or conditions for  
2 reinstatement), and (d) the reason for the remedial action.

3 ii. Information in Quarterly Reports shall be presented on a national basis  
4 and provided electronically in a format to be agreed to by the parties. Quarterly Reports shall be  
5 provided within thirty (30) days of the end of each calendar quarter.

#### 6 **IV. MONETARY PAYMENT**

7 9. Within thirty (30) days of the Effective Date of this Judgment, Defendant shall pay  
8 \$834,782.44 directly to the California Attorney General. Said payment shall be used by the  
9 California Attorney General for attorneys' fees and other costs of investigation and litigation;  
10 used to defray costs of the inquiry leading to this Final Judgment; used for the California  
11 Attorney General's enforcement of California's consumer protection laws; used for consumer  
12 education; or used for any other purposes permitted by state law, at the sole discretion of the  
13 California Attorney General.

14 10. Within one hundred and twenty (120) days of the conclusion of the Consumer redress  
15 period described in Section V of the FTC Stipulated Order resolving the concurrent FTC  
16 investigation regarding Unauthorized Third-Party Charges, Carrier shall provide the Attorneys  
17 General with a list containing the following information for each of the Participating States: (a)  
18 the number of claims submitted to the Consumer redress program by Consumers residing in the  
19 Participating State; (b) number of claims submitted to the Consumer redress program by  
20 Consumers residing in the Participating State for which Carrier made payment; and (c) the total  
21 amount paid to Consumers residing in the Participating State pursuant to the Consumer redress  
22 program.

23 11. The parties recognize that, in addition to the payment provided under Paragraph 10,  
24 Carrier has agreed to pay Four Million, Five-Hundred Thousand Dollars (\$4,500,000.00) to the  
25 Federal Communications Commission ("FCC") to resolve the concurrent FCC investigation  
26 regarding Unauthorized Third-Party Charges.

27 12. The parties recognize that Carrier has agreed to the Consumer redress program  
28 contained in Section V of the FTC Stipulated Order, which sets forth a detailed process for

1 Consumer redress. This Judgment does not alter, amend, replace, or expand the Consumer  
2 redress program set forth in Section V of the FTC Stipulated Order.

3 13. As more fully set forth in the FTC Stipulated Order, Carrier shall make payments,  
4 credits, and debt forgiveness to the Participating States, FTC, FCC, and Consumers in an  
5 aggregate amount of no less than Ninety Million Dollars (\$90,000,000.00).

6 **V. RELEASE**

7 14. Effective upon full payment of the amount due under Paragraph 9, the California  
8 Attorney General releases and discharges Carrier and its officers, employees, agents, successors,  
9 assignees, affiliates, merged or acquired entities, parent or controlling entities, and subsidiaries  
10 from any and all claims, suits, demands, damages, restitution, penalties, fines, actions, and other  
11 causes of action that the California Attorney General could have brought under California  
12 Business and Professions Code Section 17200, both known and unknown, arising directly or  
13 indirectly out of or related to billing, charging, disclosures, policies, practices, actions or  
14 omissions related to PSMS or Unauthorized Third-Party Charges that were incurred prior to the  
15 Effective Date. In the case of affiliates, acquired entities, or subsidiaries, this release only covers  
16 conduct occurring during the time such entities are or were affiliates or subsidiaries of Carrier.  
17 Nothing contained in this Paragraph shall be construed to limit the ability of the California  
18 Attorney General to enforce the obligations that Carrier and its officers, agents, servants and  
19 employees acting on its behalf, have under this Judgment.

20 15. Nothing in this Judgment shall be construed to create, waive, or limit any private right  
21 of action.

22 16. Notwithstanding any term of this Judgment, any and all of the following forms of  
23 liability are specifically reserved and excluded from the release in Paragraph 14 as to any entity  
24 or person, including Carrier:

25 a. any criminal liability that any person or entity, including Carrier, has or may  
26 have to the State of California.

27 b. any civil or administrative liability that any person or entity, including Carrier,  
28 has or may have to the State of California under any statute, regulation or rule not expressly

1 covered by the release in Paragraph 15 above, including but not limited to, any and all of the  
2 following claims:

- 3 1. state or federal antitrust violations;
- 4 2. state or federal securities violations; and
- 5 3. state or federal tax claims.

## 6 **VI. GENERAL PROVISIONS**

7 17. This Judgment is a compromise settlement of disputed issues and the consideration  
8 for this Judgment shall not be deemed or construed as: (a) an admission of the truth or falsity of  
9 any claims or allegations heretofore made or any potential claims; (b) an admission by Carrier  
10 that it has violated or breached any law, statute, regulation, term, provision, covenant, or  
11 obligation of any agreement; or (c) an acknowledgement or admission by any of the parties of any  
12 duty, obligation, fault, or liability whatsoever to any other party or to any third party. This  
13 Judgment does not constitute a finding of law or fact, or any evidence supporting any such  
14 finding, by any court or agency that Carrier has engaged in any act or practice declared unlawful  
15 by any laws, rules, or regulations of any state. Carrier denies any liability or violation of law and  
16 enters into this Judgment without any admission of liability. It is the intent of the parties that this  
17 Judgment shall not be used as evidence in any action or proceeding, except an action to enforce  
18 this Judgment.

19 18. Unless otherwise specifically provided, all actions required pursuant to this Judgment  
20 shall commence as of the Effective Date. In the event that Carrier acquires any new entity,  
21 Carrier shall take immediate steps to cease billing charges for all Commercial PSMS. With  
22 respect to such entities, Carrier shall provide the Consumer with access to a customer service  
23 representative who shall have access to the Consumer's account information related to Third-  
24 Party Charges for at least the prior twelve (12) months. If such information is not available,  
25 Carrier shall have twelve (12) months to come into compliance with Paragraph 8.f.i with respect  
26 to such entities and, while coming into compliance, respond to the Consumer's inquiry within ten  
27 (10) days using any available information. As to all other requirements contained in this  
28 Judgment, Carrier shall have a reasonable period of time, which in no event shall exceed six (6)

1 months, in which to bring said entity into compliance with this Judgment and during that period,  
2 Carrier shall take reasonable steps to obtain Express Informed Consent before a Consumer is  
3 billed for any Third-Party Charge..

4 19. Nothing in this Judgment limits Carrier's right, at its sole discretion, to provide  
5 refunds or credits to Consumers in addition to what is required in this Judgment.

6 20. Nothing in any provision of this Judgment shall be read or construed to require  
7 Carrier (a) to share customer proprietary network information ("CPNI") with any person not  
8 legally entitled to receive CPNI; (b) to share customer information in such a way that it would  
9 violate any applicable law or privacy policy; or (c) to grant more than one full refund for any  
10 single Unauthorized Third-Party Charge. Carrier shall not amend its privacy policy to excuse its  
11 compliance with the reporting, tracking, or other provisions of this Judgment related to the  
12 sharing of customer information unless required by law.

13 21. If the California Attorney General determines that Carrier has failed to comply with  
14 any of the terms of this Judgment, and if in the California Attorney General's sole discretion the  
15 failure to comply does not threaten the health or safety of the citizens of California and/or does  
16 not create an emergency requiring immediate action, the California Attorney General will notify  
17 Carrier in writing of such failure to comply and Carrier shall then have ten (10) business days  
18 from receipt of such written notice to provide a good-faith written response to the California  
19 Attorney General's determination. The response shall include an affidavit containing, at a  
20 minimum, either:

21 a. a statement explaining why Carrier believes it is in full compliance with the  
22 Judgment; or

23 b. a detailed explanation of how the alleged violation(s) occurred; and (i) a  
24 statement that the alleged breach has been addressed and how; or (ii) a statement that the alleged  
25 breach cannot be reasonably addressed within ten (10) business days from receipt of the notice,  
26 but (1) Carrier has begun to take corrective action to address the alleged breach; (2) Carrier is  
27 pursuing such corrective action with reasonable and due diligence; and (3) Carrier has provided  
28



1 the California Attorney General with a detailed and reasonable timetable for addressing the  
2 alleged breach.

3 22. Nothing herein shall prevent the California Attorney General from agreeing in writing  
4 to provide Carrier with additional time beyond the ten (10) business day period to respond to the  
5 notice provided under Paragraph 21.

6 23. Nothing herein shall be construed to exonerate any contempt or failure to comply  
7 with any provision of this Judgment after the date of its entry, to compromise the authority of the  
8 California Attorney General to initiate a proceeding for any contempt or other sanctions for  
9 failure to comply, or to compromise the authority of a court to punish as contempt any violation  
10 of this Judgment. Further, nothing in this Paragraph shall be construed to limit the authority of  
11 the California Attorney General to protect the interests of California or the people of California.

12 24. Carrier shall designate one or more employees to act as the primary contact for the  
13 California Attorney General for purposes of assisting the California Attorney General in  
14 investigations. The contact employee(s) designated by Carrier pursuant to this Paragraph shall be  
15 capable of receiving and processing subpoenas, statutory investigative demands, or other legal  
16 process requesting information pertaining to the placement of Third-Party Charges on  
17 Consumers' Bills. Carrier shall provide the California Attorney General with the name(s),  
18 address(es), telephone number(s), facsimile number(s) and electronic mail address(es) of each  
19 such employee.

20 25. This Judgment is intended to supplement, and does not supplant or in any way restrict,  
21 the California Attorney General's subpoena power and/or investigative authority pursuant to  
22 applicable law.

23 26. This Judgment does not supplant or in any way restrict the California Attorney  
24 General's powers to investigate the prevalence of Unauthorized Third-Party Charges or the extent  
25 to which this Judgment has affected the prevalence of Unauthorized Third-Party Charges in her  
26 jurisdiction.

1       27. This Judgment does not supplant or in any way restrict Carrier's legal rights and  
2 ability to demand formal legal process to protect its Consumers' privacy rights and/or to protect  
3 Carrier from potential liability for disclosing or sharing such information without legal process.

4       28. All notices under this Judgment shall be provided to the following address via first-  
5 class or electronic mail:

6               Sarah E. Kurtz  
7               Deputy Attorney General  
8               Office of the Attorney General  
9               455 Golden Gate Avenue, Suite 11000  
10              San Francisco, CA 94102-7004

11              For the California Attorney General

12              David A. Miller  
13              General Counsel  
14              T-Mobile USA, Inc.  
15              12920 SE 38<sup>th</sup> Street  
16              Bellevue, WA 98006

17              For Carrier

18       29. If any clause, provision, or paragraph of this Judgment shall, for any reason, be held  
19 illegal, invalid, or unenforceable, such illegality, invalidity, or unenforceability shall not affect  
20 any other clause, provision, or paragraph of this Judgment and this Judgment shall be construed  
21 and enforced as if such illegal, invalid, or unenforceable clause, provision, or paragraph had not  
22 been contained herein.

23       30. Nothing in this Judgment shall be construed as relieving Carrier of the obligation to  
24 comply with all local, state, and federal laws, regulations, or rules, nor shall any of the provisions  
25 of this Judgment be deemed to be permission to engage in any acts or practices prohibited by such  
26 laws, regulations, or rules.

27       31. Carrier shall not participate, directly or indirectly, in any activity or form a separate  
28 entity or corporation for the purpose of engaging in acts or practices in whole or in part in  
California that are prohibited by this Judgment or for any other purpose that would otherwise  
circumvent any term of this Judgment. Carrier shall not cause, knowingly permit, or encourage

1 any other persons or entities acting on its behalf to engage in practices from which Carrier is  
2 prohibited by this Judgment.

3 32. If the California Attorney General determines that Carrier made any material  
4 misrepresentation or omission relevant to the resolution of this investigation, the California  
5 Attorney General retains the right to seek modification of this Judgment.

6 33. In the event that any statute or regulation pertaining to the subject matter of this  
7 Judgment is modified, enacted, promulgated, or interpreted by the federal government or any  
8 federal agency, such as the FCC, such that Carrier cannot comply with both the statute or  
9 regulation and any provision of this Judgment, Carrier may comply with such statute or regulation,  
10 and such action shall constitute compliance with the counterpart provision of this Judgment.  
11 Carrier shall provide advance written notice to the Attorney General of California of the  
12 inconsistent provision of the statute or regulation with which Carrier intends to comply under this  
13 Paragraph, and of the counterpart provision of this Judgment that conflicts with the statute or  
14 regulation.

15 34. In the event that any statute or regulation pertaining to the subject matter of this  
16 Judgment is modified, enacted, promulgated, or interpreted by California, such that the statute or  
17 regulation is in conflict with any provision of this Judgment, and such that Carrier cannot comply  
18 with both the statute or regulation and the provision of this Judgment, Carrier may comply with  
19 such statute or regulation in California, and such action shall constitute compliance with the  
20 counterpart provision of this Judgment. Carrier shall provide advance written notice to both the  
21 Attorney General of Vermont and the Attorney General of California, of the inconsistent  
22 provision of the statute or regulation with which Carrier intends to comply under this Paragraph,  
23 and of the counterpart provision of this Judgment that is in conflict with the statute or regulation.

24 35. To seek a modification of this Judgment for any reason other than that provided for in  
25 Paragraphs 33 or 34 of this Judgment, Carrier shall send a written request for modification to the  
26 addressee listed in Paragraph 28. Plaintiff shall give such petition reasonable consideration and  
27 shall respond to Carrier within thirty (30) days of receiving such request. At the conclusion of  
28

1 this thirty (30) day period, Carrier reserves all rights to pursue any legal or equitable remedies  
2 that may be available to it.

3 36. To the extent that any of the provisions contained herein permit implementation  
4 beyond the Effective Date, the parties have agreed to the delayed implementation of such  
5 provisions based on Carrier's representation that it is currently unable to meet the requirements of  
6 such provisions and that it needs the additional specified time to develop the necessary technical  
7 capabilities to come into compliance with the requirements of such provisions. Carrier agrees to  
8 make good-faith and reasonable efforts to come into compliance with any such provisions prior to  
9 the implementation dates set by such provisions to the extent commercially practicable.

10 37. Carrier shall pay all court costs associated with the filing of this Judgment.

11 38. Jurisdiction is retained by the Court for the purpose of enabling any party to the  
12 Judgment to apply to the Court at any time for such further orders and directions as may be  
13 necessary or appropriate for the construction or the carrying out of this Judgment, for the  
14 modification of any of the injunctive provisions hereof, for enforcement of compliance herewith,  
15 and for the punishment of violations hereof, if any.

16 39. The clerk is ordered to enter this Judgment forthwith.

17  
18 ORDERED AND ADJUDGED at San Francisco, California, this 19 day of December,  
19 2014.

20 **RICHARD A. KRAMER**

21 Judge of the Superior Court  
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