

Memorandum of Understanding on arrangements for the DDTRO

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MoU on arrangements for the DDTRO

This Memorandum of Understanding (MoU) sets out the guiding principles and practical arrangements between the applicant for a Drug Dealing Telecommunication Restriction Order (a “DDTRO”) and ‘relevant’ communication service providers (both Mobile Network Operators (“MNO”) and Mobile Virtual Network Operators (“MVNO”) and is designed to support effective compliance with a DDTRO and the accompanying court process.

Background

The ex parte DDTRO application process means the MNO/MVNO will receive a DDTRO without prior notice and the DDTRO will contain a deadline for compliance. It is important for the applicant (police and National Crime Agency) to comply with this MoU to ensure compliance by the relevant MNO/MVNO is possible.

It is important that there is joined up working between the relevant MNO/MVNO and the applicant to ensure DDTROs are effective in disrupting serious crime.

If an applicant intends to seek a DDTRO which deviates from the position set out in this MoU, it must discuss its proposed DDTRO with each relevant MNO/MVNO in advance.

The MoU will be kept under review to ensure it builds on experience and captures current best practice.

DDTRO contact/ liaison

- Communication between the MNO/MVNO and applicant regarding the DDTRO will be managed via existing police force Communications SPOC Unit contacts and communication channels.
- Each DDTRO must include the contact details of a named individual from the applicant who will be available for direct contact from the MNO/MVNO in relation to that specific DDTRO, if required.
- DDTRO related communication for each MNO/MVNO will be managed by the MNO/MVNO’s Police Disclosure Unit.

DDTRO process and activities

Application and Compliance

Service of the DDTRO

- The applicant must serve a copy of the DDTRO on the relevant MNO/MVNOs as soon as reasonably practicable after it has been made by the court. The applicant will endeavour to do this within 24 hours. Service of the document must only occur Monday- Friday.
- The applicant must email notice of the DDTRO to the relevant MNO/MVNO via the Communications SPOC Unit, and upload a copy of the DDTRO to the relevant MNO/MVNO's portal (where available).
- The applicant must also send a text file containing the DDTRO phone numbers, from which the MNO/MVNO can cut and paste, to reduce the risk of transposition errors. If the DDTRO requires the MNO/MVNO to blacklist handsets, each handset's IMEI must be also be supplied in a text file from which the MNO/MVNO can cut and paste. Each DDTRO and text file must split the phone numbers and/or IMEIs by operator.

Who must be served with a DDTRO?

- The applicant must serve the DDTRO on:
 - the MNO/MVNO with the existing customer relationship with each DDTRO phone number / other identifier; and
 - in the case of a DDTRO served on an MVNO, on that MNVO's current host MNO.
- Both before a DDTRO is sought and immediately before the DDTRO is served, the applicant must also check if the phone number has been ported; if yes, the DDTRO must also be served on the MNO who was allocated the phone number initially.

Action the DDTRO will request

- The regulations allow the applicant to request a range of action to be taken against communication devices. It will be for the applicant to assess what action will be most operationally effective and the action to be taken against an item will be specified within the DDTRO.

As standard, the DDTRO will require the disconnection or permanent suspension of UK phone numbers identified in the DDTRO and the prevention of porting. In addition it may require the blacklisting of handsets identified in the DDTRO by IMEI.

- If the applicant wishes to request action other than the two above, the applicant must discuss the feasibility with the MNOs before submitting an application to the court.

Duration of the DDTRO

- The standard duration of a DDTRO will be five years unless otherwise agreed within the MNO/MVNO.

N.B. Vodafone request DDTROs of indefinite duration.

Cost recovery

- The applicant must include in its application for a DDTRO that it is seeking that it intends to pay each relevant communications provider's reasonable costs.

Number of phone numbers included within a single DDTRO

- Where an applicant requires compliance by the fifth working day, the applicant must include in a DDTRO no more than 50 phone numbers or hardware identifiers, unless there are exceptional operational circumstances that require otherwise.

[Upper limit of number of phone lines to be closed in one week by one MNO/MVNO to be informed by MPS pilot]

MNO compliance with the DDTRO

- When the relevant MNO/MVNO receives the DDTRO they must start discussions with the applicant (via the police force Communications SPOC Unit) to agree a suitable period within the 5 working day timeframe for the order to be carried out against the numbers or hardware identifiers in question.
- Once a MNO/MVNO has completed its actions in respect of a DDTRO, it must send written (email) confirmation to the applicant contact (specified within the order) and Ofcom.

Ofcom central contact point: Numbering.Information@ofcom.org.uk

If the MNO/MVNO considers a mistake has been made in the DDTRO or that they are unable to comply with a DDTRO requirement they must discuss this with the relevant Communications SPOC Unit contact in the first instance.

Notification of DDTRO

- The regulations specify that it is the responsibility of the applicant to bring the making of the DDTRO to the attention of any affected person whom the

applicant should reasonably be aware of (other than the communication provider).

- At the point of service of the DDTRO, the applicant must notify the relevant MNO/MVNOs of their preferred contact details for inclusion in customer-facing communications.
- The MNO/MVNOs must issue standard notification if contacted by a DDTRO impacted customer, in store or on the phone. The MNO/MVNO will share the preferred contact details of the DDTRO applicant.

Draft standard notification text: “We have received a court order requiring us to disconnect your phone number. We are unable to share further information with you at this time, so please contact [insert applicant] police force on [insert phone number] to discuss this directly with them.”

MNO/MVNO Staff Safety

- The MNO/MVNO staff must not be required to inform the subscriber or user of the purpose of the order or why their phone line was closed down.
- As part of police risk assessments, the applicant must consider the safety of MNO/MVNO staff in retail outlets. The applicant must provide with each DDTRO a point of contact for the MNO/MVNO to raise any urgent safety issues (in addition to calling 999 where necessary).

Resolution process

Out of court resolution

- Regulation 3 (3) sets out that a DDTRO may provide for the order or any specified requirements of it not to apply if the applicant discovers that a relevant item is not being used in connection with drug dealing offences.
 - The applicant may discover this error **before** the DDTRO has been complied with. If this is the case, the applicant must notify the relevant MNO/MVNO in writing that the order does not apply in relation to that relevant item. The rest of the order still stands and must be complied with as before. Regulation 5(3) (a).
 - The applicant may discover this error **after** the DDTRO has been complied with. If this is the case, the applicant must notify all affected parties (to include the phone owner and the relevant MNO/MVNO) that

the order does not apply in relation to that relevant item. Regulation 5(3) (b).

- This information would be provided via Police Communications SPOC Unit

Application to discharge or vary an order

- An affected party can apply to vary or discharge an order.
- As per regulation 10 (4) if a MNO/MVNO plans to submit an application to discharge or vary an order, notice in writing of the intention to apply must be served on the applicant at least 24 hours before an application is made.

Appeal

- An affected party can apply to vary or discharge an order.
- As per regulation 8 (2) if a MNO/MVNO communication provider plans to submit an application to appeal, notice in writing of the intention to apply must be served on the applicant at least 24 hours before an application is made.

MNO/MVNO resolution process with affected customer

- If an error has been made by the applicant or an order has been successfully dis-applied or appealed, the MNO/MVNO will be notified and they will work to re-establish the customer relationship and re-instate the phone number.
- The provision of compensation to a phone owner impacted by a DDTRO in error will be awarded by a Judge via the existing routes in civil law.
- If a MNO/MVNO wishes to pay compensation to a customer as a result of an error by the MNO/MVNO that is a private matter between the MNO/MVNO and their customer.

DDTRO Pilot

- The pilot in January 2018 will be managed for the National Police Chief's Council by the Metropolitan Police. The leading police officer will be Superintendent Tim Champion MPS.
- The pilot plan will be developed in co-operation with the MNOs.
- The MoU will be reviewed by all parties following the completion of the pilot.

Parties to the MoU

Signatures:

The MoU has been developed by the DDTRO working group. Working group representatives/participants are:

- Telefonica
- Vodafone
- Virgin Media
- EE/ BT
- Three
- Metropolitan Police Service (on behalf of The National Police Chiefs Council lead for Gangs, County Lines and Knives: Deputy Assistant Commissioner Duncan Ball)
- Police Scotland
- Police Service Northern Ireland
- National Crime Agency

Date: 13/ 10 / 2017