

**INFOCARE – CROSS SUBMISSION ON ISSUES RAISED IN THE SUBMISSION
ON THE COMMISSION’S 8 JANUARY STATEMENT OF PRELIMINARY ISSUES****25 FEBRUARY 2020**

- 1 We refer to the submission made in response to the Commission’s Statement of Preliminary Issues on the Infocare/APT acquisition and published on the Commission’s website (the **Submission**). Infocare’s comments on the Submission are set out below.

Market share
- 2 It is claimed in the Submission that the number of childcare services in the New Zealand SMS market is 4,172 rather than the 5,500 specified in Infocare’s clearance application,¹ because:
 - 2.1 the Early Childhood Census and ECE Directory listing totals the services as 4,653 and 4,677 respectively; and
 - 2.2 several large childcare service providers have associations with SMS vendors and should not be considered as open market or target clients for competing SMS vendors. This exclusion removes a further 505 services from the market.
- 3 Infocare’s estimate of 5,500 services includes both the OSCAR and Playcentre segments, which are excluded from the figure quoted in the Submission. Infocare sees no reason why OSCAR and Playcentres should be excluded as they operate under similar rules and regulations as the other segments and, accordingly, have similar SMS requirements.
- 4 The 505 large childcare service providers should not be removed from the market, as:
 - 4.1 Infocare is not aware of any ownership links between itself, APT and any childcare service providers that may limit these centres’ willingness to switch providers; and
 - 4.2 the barriers to switching for large childcare service providers are no different than for smaller providers; both are able to switch easily. In that regard, Infocare attaches as **Confidential Appendix 1** a list of large childcare service providers that have recently switched from Infocare or APT to another SMS provider.
- 5 It is stated in the Submission that there are only three active SMS vendors in the market. This is incorrect. As noted in the application:
 - 5.1 four new entrants have gained a total combined market share of 41.2%;
 - 5.2 Discover has secured similar market share as Infocare and APT; and
 - 5.3 Infocare’s current market share is approximately [REDACTED], APT’s is [REDACTED] and Discover’s is [REDACTED].

¹ At paragraphs 1(a) – (d).

- 6 Discover's market share is similar to Infocare and APT's, but is only approximately [REDACTED] of the 41.2% gained by all new entrants. On these figures, the remaining three new entrants will have gained [REDACTED], which is significant.

Inclusion of ELI portal

- 7 It is claimed in the Submission that childcare services that only use the free ELI portal should be excluded from the market. Some childcare service providers switch from the free ELI portal to SMS software. See **Confidential Appendix 2**, which lists customers Infocare has won from the free ELI portal. The fact that these providers have used the free ELI service for a significant period prior to switching shows that ELI remains a credible substitute for SMS services provided by Infocare/APT and others in the market, providing a baseline service that meets relevant regulatory requirements.

Competition

- 8 It is claimed in the Submission that an unhealthy marketplace will exist if Infocare and APT can merge as prices could easily be adjusted down to either restrain consumers moving to existing competition or inhibit any new competitors entering the market.

- 9 Infocare notes in response that:

9.1 lower prices generally reflect strong competition and benefit consumers; and

9.2 new entrants can and do compete on product functionality as well as price.

- 10 The Submission notes that high-functioning products already exist in the marketplace, meaning that the merger will not provide any greater benefit to the public than already exists. However, the merger is intended to increase competition by facilitating the bringing to market of additional high-functioning services meaning customers will have more choice. The merged entity will be in a position to deliver a more efficient and compelling competitive alternative than would be possible in the counterfactual where those entities remain separate.

Ministry of Education requirements

- 11 It is claimed in the Submission that the Ministry of Education's controls over new entrants restrict competition. Infocare considers that this concern is overstated. The Ministry's requirements are clear and reasonable, establishing a modest minimum standard required to operate in the market. The free ELI portal complies with this standard and sets a baseline for competition, with SMS providers often then competing by providing functionality over and above what that baseline requires.

CONFIDENTIAL APPENDIX 1: LARGE CHILDCARE SERVICE PROVIDERS THAT HAVE SWITCHED PROVIDERS

Infocare Client	Number of centres
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

APT Client	Number of centres
[REDACTED]	[REDACTED]

- 1 [REDACTED]
- 2 [REDACTED]
- 3 [REDACTED]

**CONFIDENTIAL APPENDIX 2: CHILDCARE CENTRES THAT HAVE MOVED
FROM ELI WEB TO INFOCARE**

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]