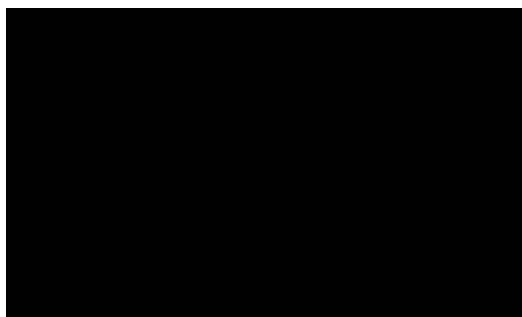


23 October 2018



Official Information Act request #18.081 – Wilson Parking

1. We refer to your Official Information Act 1982 (OIA) request of 1 October 2018 for all information held in respect of file J11355 (2008 investigation by the Commerce Commission into Wilson Parking), including the entire file and all associated information.

Our response

2. We have decided to grant your request.
3. The Commission's Retention and Disposal Schedule requires us to keep low level investigation material for seven years. As such, we no longer hold all information for this project. We have provided the information that is available, subject to paragraph [6] below.
4. The requested information is enclosed with this letter in **Attachment A**. This is:

Document	Date	Redactions
Letter to complainant	16/10/2008	Section 9(2)(a): privacy of natural persons
Letter to Wilson Parking	28/10/2008	Section 9(2)(a): privacy of natural persons
Letter from Wilson Parking	7/11/2008	Section 9(2)(a): privacy of natural persons
Letter to complainant	11/12/2008	Section 9(2)(a): privacy of natural persons
Letter to Wilson Parking	11/12/2008	Section 9(2)(a): privacy of natural persons
Copy of ENQ0232373	23/09/2008	

5. As indicated, we have redacted names and identifying details under section 9(2)(a) of the OIA, in order to protect the privacy of natural persons.
6. We have withheld one document, Wilson Parking's response to our letter dated 28 October 2018, under section 9(2)(ba) of the OIA, the disclosure of which would be likely to prejudice the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied to the Commission.
7. We consider that good reason exists under 9(a) of the OIA for withholding the information, and that the withholding of the information is not outweighed by other considerations which would render it desirable, in the public interest, to make the information available.
8. If you are not satisfied with the Commission's response to your OIA request, section 28(3) of the OIA provides you with the right to ask an Ombudsman to investigate and review this response. However, we would welcome the opportunity to discuss any concerns with you first.
9. Please note the Commission may publish this response to your request on its website. Personal details will be redacted from any published response.
10. If you have any questions in regards to this request, please do not hesitate to contact us at uia@comcom.govt.nz

Yours sincerely,



Rosie Brown
OIA Coordinator

Please refer to:
11355
752350_1.doc
Wellington

16 October 2008

██████████
██████████
██████████
██████████

Dear Mr ██████████

Fair Trading Act 1986: Wilson Parking New Zealand Limited

This letter is to confirm that your complaint to the Commerce Commission's contact centre, in respect of Wilson Parking New Zealand Limited has been passed to the writer for investigation. At this stage it is not clear how long the investigation will take but we will inform you of the outcome of the investigation.

If you have any queries please do not hesitate to contact the writer on (04) ██████████ or via email: ██████████ [@comcom.govt.nz](mailto:██████████@comcom.govt.nz)

Thank you for bringing this matter to our attention.

Yours sincerely

██████████
Assistant Investigator
Fair Trading Branch
Wellington

Released under the Official Information Act 1982

Please refer to:
J11355
752316_1.doc

28 October 2008

Wilson Parking New Zealand Limited
PO Box 8290
Auckland

Attention: [REDACTED], [REDACTED]

Dear [REDACTED]

Fair Trading Act 1986: Allegation of breach of the Act

This letter is in confirmation of my phone call on 28 October 2008.

The Commerce Commission (the Commission) is responsible for investigations into alleged offences against the Fair Trading Act 1986 (the Act). The Commission carries out these investigations as a result of specific allegations of possible breaches of the Act or through pro active monitoring.

The Commission has received a complaint regarding enforcement notice [REDACTED]. The complainant has alleged that the enforcement notice and follow up letter(s) create a misleading impression regarding a consumer's obligations.

Specifically the complainant is concerned that the enforcement notice misrepresents Wilson Parking as having some kind of statutory right to impose fines and penalties when Wilson Parking does not.

The complainant is also concerned that the enforcement notice dated 3/09/08 requests payment of \$30. However, the letter of reminder dated 8/09/08 requests payment of \$45.

To assist the Commission assess this complaint it would be appreciated if Wilson Parking could respond to the following points:

1. Confirm that the person responding is authorised to respond on behalf of Wilson Parking in respect of the Commission's questions.
2. Provide a response to the allegation.
3. Explain the make up of the \$30 administration cost represented on the Enforcement Notice.
4. Provide an explanation as to why the Letter of reminder requests \$45 (as opposed to the original notice requesting \$30).
5. If additional costs are incurred from the time an enforcement notice is issued to the time a letter of reminder is issued please detail what these costs are.

6. Provide a copy of the Terms and Conditions referred to in the Notice.
7. Advise whether **all** Wilson Car Parks have the Terms and Conditions (referred to in question 6) on display at all times.
8. Outline the typical solicitor/ client costs as stated in the Notice.
9. Has Wilson Parking received any complaints regarding this or similar issues?

If so, could you please provide details of those complaints and advise how Wilson Parking responded?
10. Provide any other information that you believe may be relevant to the issues raised in this letter.

It would be appreciated if your responses to this information request are formatted numerically in relation to the enquiries made by the Commission, e.g. your response to question 1 is listed as "1", response to question 2 as "2" etc.

Thank you for your cooperation in this matter. The Commission would appreciate your response to this letter in writing by the close of business on **Friday 7 November 2008**.

If you have any concerns or questions, please contact the writer on the number(s) below.

Yours sincerely

██████████ ██████████
Assistant Investigator
Fair Trading Branch
Commerce Commission

04 ██████████
██████████

CARTER & PARTNERS
BARRISTERS • SOLICITORS

Ninth Floor, West Plaza, 1-3 Albert Street, Auckland 1010
P.O. Box 2137, Auckland (DX CP 21005 Lower Shortland St), Auckland 1140, New Zealand
Tel 0-9-366 1366, Fax 0-9-366 1363, E-Mail admin@carterslaw.co.nz
www.carterslaw.co.nz

FACSIMILE

TO FAX No: 04 924 3700 **FROM FAX NO:** 64 (0)9 366-1363
Commerce Commission
ATTENTION: [REDACTED] **FAX FROM:** [REDACTED]
DATE: 7 November 2008
RE: WILSON PARKING - YOUR REF. JI1355

If you do not receive 1 pages please phone: [REDACTED]

The information contained herein is confidential and may be legally privileged. If you are not the intended recipient, any use, review, distribution or copying is strictly prohibited. If this material has been sent to you in error please telephone us (collect) immediately and destroy the original message. Thank you.

We refer to your letter to Wilson Parking dated 28 October 2008 which was only received by our client on 3 November 2008. We are instructed to respond however we request an extension to provide our response by 14 November 2008 at the latest. Please provide us with your email address.

Yours faithfully
CARTER & PARTNERS



Please refer to:
11355
773608_1.doc
Wellington

11 December 2008

██████████
██████████
██████████
██████████

Dear Mr ██████████

Fair Trading Act 1986: Wilson Parking New Zealand Limited

We have now completed our investigation regarding your complaint about Wilson Parking.

This matter has been investigated by the Commission's Wellington office and a Compliance Advice letter has been issued to Wilson Parking New Zealand Limited relating to possible breaches of the *Fair Trading Act 1986*.

If you have any queries you can contact ██████████ ██████████ at (04) ██████████ ██████████.

Thank you for bringing this matter to the Commission's attention.

Yours sincerely

██████████ ██████████
Investigator
Fair Trading Branch
Commerce Commission

11 December 2008

Wilson Parking New Zealand Limited
PO Box 8290
Auckland

Attention: [REDACTED], [REDACTED], [REDACTED]

Dear [REDACTED]

Fair Trading Act 1986 – Compliance Advice

The Commerce Commission (the Commission) is responsible for enforcing the Fair Trading Act 1986 (the Act), together with a number of standards. The Act applies to a wide range of activities, focusing on all aspects of the promotion and sale of goods and services. In ensuring compliance with the Act, the Commission undertakes investigations into complaints it receives.

The Commission has concluded its investigation in relation to a complaint against Wilson Parking New Zealand Limited (Wilson Parking).

Background

As previously advised the Commission received a complaint regarding enforcement notice [REDACTED]. The complainant has alleged that the enforcement notice and follow up letter(s) create a misleading impression regarding a consumer's obligations.

Specifically the complainant is concerned that the enforcement notice misrepresents Wilson Parking as having some kind of statutory right to impose fines and penalties when Wilson Parking does not.

The complainant is also concerned that the enforcement notice dated 3/09/08 requested payment of \$30. However, the letter of reminder dated 8/09/08 requested payment of \$45.

Assessment

In assessing the matter the Commission shares the complainants concerns that the enforcement notice has the potential to mislead consumers into believing Wilson Parking has a statutory right to impose fines and penalties.

In addition the Commission is concerned that the discrepancy in the requested payment may not be an isolated incident. If this is the case, other consumers are being overcharged and ultimately misled.

The Commission therefore recommends Wilson Parking review the issues raised to ensure compliance with the Act.

The Law

The Commission is of the opinion that Wilson Parking is at risk of breaching sections 13(g) and 13(i) of the Fair Trading Act 1986 which state:

13 False [or misleading] representations

No person shall, in trade, in connection with the supply or possible supply of goods or services or with the promotion by any means of the supply or use of goods or services, -

- (g) Make a false or misleading representation with respect to the price of any goods or services; or*
- (i) Make a false or misleading representation concerning the existence, exclusion, or effect of any condition, warranty, guarantee, right, or remedy; or*

Penalties for breaching the Act include fines up to \$60,000 for an individual and \$200,000 for a company. Only the courts can decide whether the Act has been breached.

Conclusion

If competition is to be effective, consumers need to be able to rely on the information provided by companies about their goods or services. For those reasons the Fair Trading Act prohibits false or misleading representations about the price and availability of goods and or services.

Whilst the Commission does not intend to take any further action in relation to this matter, it is pertinent to draw the relevant law to your attention to ensure that similar issues do not arise in the future. We may monitor your conduct in the future and if any ongoing breaches are detected, we may then take further action on this or any other alleged breach.

Thank you for your cooperation.

Yours faithfully

■■■■ ■■■■
Investigator
Fair Trading Branch
Commerce Commission