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Federal court hands Telstra regulatory win

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The Federal Court of Australia today found the national competition regulator did not treat Telstra fairly when slugging the telco with a competition notice 12 months ago.

The [Australian Competition and Consumer Commission \(ACCC\)](#) issued the notice -- which allows third parties to take legal action to recover damages resulting from anti-competitive conduct -- to Telstra after the telco raised prices on wholesale line rental services.

The nation's number two telco Optus immediately seized on the move as grounds for [Federal Court](#) legal action against Telstra for damages in the range of tens of millions of dollars. However, [the ACCC has since withdrawn the competition notice](#), and Telstra today claimed a further victory on the issue.

"This morning Justice Bennett of the Federal Court handed down her long awaited decision declaring illegal a competition notice issued against Telstra in April last year," a statement issued by the telco this morning said.

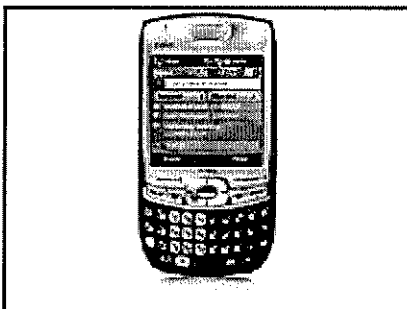
"Justice Bennett found that the ACCC failed to afford Telstra procedural fairness and natural justice when issuing the competition notice, thus making its decision to issue the notice illegal ... Justice Bennett found the ACCC was legally obliged to consult with Telstra before issuing the competition notice."

Telstra said the judgement meant the competition notice was invalid, allowing the telco to avoid substantial monetary penalties just short of AU\$1 billion, which had accrued before the ACCC withdrew the competition notice last month.

The telco added today's judgement effectively neutered Optus's legal action.

Neither [Optus](#) nor the ACCC could immediately comment on the judgement.

However, Telstra claimed the ACCC had acted in tandem with Optus in issuing the competition notice. "The regulator was clearly duped by SingTel [Optus] into taking this illegal action.



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"Today's decision is further proof that the ACCC is a rogue regulator that is biased against Telstra and thinks it is above the law. It's a sad day for Australia when the watchdog that is supposed to uphold

consumers' interests and protect them from dodgy behaviour is found to be thumbing its nose at the law," Telstra said.

Telstra claimed the ACCC had argued in the Federal Court that sections of the Trade Practices act absolved it of the need to consult with Telstra before issuing the competition notice.

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