



COMMERCE COMMISSION

Number Portability

Information Guideline for New Parties seeking Access to the Number Portability Services

Introduction

On 31 August, the Commerce Commission (the “Commission”) issued Decision 554 (the “Determination”) setting out the industry requirements for the provision of the local and cellular telephone number portability services (the “Number Portability Services”)¹. The Determination has been subsequently clarified a number of times².

The purpose of this information guideline is to assist parties who wish to apply to the Commission for a determination of their eligibility as an access provider of the Number Portability Services. In addition, this guideline provides generic information about the definition of access seeker and access provider in relation to the Number Portability Services. Although this guideline indicates how the Commission is likely to interpret the definition of access seeker and access provider in relation to the Number Portability Services in most circumstances, it does not cover every issue that may arise under the Telecommunication Act 2001 (the Act). This publication is not intended to be used as a substitute for legal advice.

The Commission continually monitors the eligibility of access providers and access seekers in relation to the Number Portability Services in order to ensure that an accurate register of access providers is maintained. Nonetheless, the parties are required to notify the Commission when they consider their status as an access provider has changed³. Parties must also advise the Commission where they consider they qualify as a new access seeker or access provider of either local or cellular number portability.

Number Portability Services

The local telephone number portability service and the cellular telephone number portability service are both designated multinetwork services and are described under subpart 2, part 2 of Schedule 1 of the Act and include definitions of “access seeker” and “access provider”.

The local number portability service enables an end-user of a fixed telephone network service to change providers of that service but to retain the same telephone number within a local calling area. The cellular number portability service enables an end-user of a cellular telephone network service to change providers of that service but to retain the same telephone number (including the same cellular network access code).

¹ Commerce Commission: [Number Portability Determination \(Decision 554\)](#) - 31 August 2005.

² Commerce Commission: [Clarification of Number Portability Decision \(Decision 579\)](#) - 17 May 2006
Commerce Commission: [Clarification of Number Portability Decision \(Decision 600\)](#) - 30 March 2007
Commerce Commission: [Clarification of Number Portability Decision \(Decision 605\)](#) - 22 June 2007

³ See “Eligibility of Access Providers” under the heading of Number Portability Decisions on the Commission’s website.

Access Provider and Access Seeker

The definition of access provider for both services is:

Every person who operates –

- (a) a PSTN to which numbers have been allocated; and
- (b) a telephone service that relates to that number portability service

The definition of access seeker for both services is:

Any person who –

- (a) operates a PSTN to which numbers have been allocated; and
- (b) operates a telephone service that relates to that number portability service; and
- (c) seeks access to that number portability service

To be eligible to be an access provider or access seeker for a Number Portability Service, an applicant must satisfy all criteria contained in (a) and (b) of the definition of access provider and (a) to (c) of the definition of access seeker, respectively. Where an applicant is determined to be an eligible access seeker for a Number Portability Service, that eligible access seeker is also an access provider for that service. The components of the definition that must be met for approval to be granted are discussed below.

Operates a PSTN to which Numbers have been allocated

An applicant must operate a PSTN to which numbers have been allocated. In order to operate a PSTN, an applicant must control the working of, or manage, or direct the operation of, an element of a PSTN to which numbers have been allocated.

The Commission considers an access seeker or access provider must exert an element of control over a PSTN in order to qualify as operating a PSTN to which numbers have been allocated. This assessment of eligibility includes consideration of the nature of the relationship between the applicant and the network provider in determining whether sufficient influence exists.

An applicant must have a range of numbers which have been allocated to them by the Number Administrator in accordance with the Number Administration Deed (“NAD”), in the expectation that these numbers may become active at a future time for use with a telephone service relating to the relevant Number Portability Service. Until such time as the applicant activates these numbers, the applicant is not an eligible access provider or access seeker for that relevant Number Portability Service. The Commission verifies the allocation of numbers

by reference to the number register maintained by the NAD. The NAD website can be viewed at www.nad.org.nz

For example, a party who has been issued with number ranges which are designated for cellular mobile services who provides cellular services on another party's network is eligible as an access provider given that party supplies cellular services to its end-users. If, in this example, the cellular services are operating on a trial basis only, the access seeker may also qualify as operating a cellular service depending on the nature and extent of the trial.

In another example, an applicant through the use of its number range, exerts an element of control over another party's network and therefore qualify as operating a telephone service. In those circumstances, the numbers must be unique to the applicant and assigned to customers. Even though these numbers may operate on another party's network, and are specifically conditioned within that network, the applicant exerts an element of control over the network provider's network. In some cases, using number ranges allocated to another party that have been assigned to the applicant in perpetuity may satisfy this component of the definition.

Conversely, a party who has been allocated cellular number ranges but no numbers within these ranges are currently active does not exert any control over a PSTN to which numbers have been allocated.

Operates a telephone service that relates to that Number Portability Service

In addition, an applicant must operate a telephone service that relates to the relevant number portability service.

The Commission considers that one of the criteria for its assessment as to whether a person operates a telephone service is the status of that person's interconnection arrangements with one or more of the other access providers of the Number Portability Services. At a minimum, an applicant must be interconnected with at least one other party to the determination.

In a situation, where the applicant is operating a trial of the service, the interconnection testing, including call origination and delivery to the interconnection points; should be sufficiently robust and a sufficient number of customers must be trialling the service to identify any faults. The party should provide sufficient information to the Commission in relation to the interconnection testing and trial of the telephone service, including without limitation:

- (a) the number and type of customers participating in the trial;
- (b) the functions and standards that will be tested and measured; and
- (c) the methods of testing and measurement to be used.

Implementation Period

To allow new entrants to the market a reasonable time to comply with the requirements of the Determination, a party is not required to comply with the Determination on the date that the Commission confirms their eligibility as an access provider or access seeker under the Act.

Each new party must however use its best endeavours to ensure that customers are able to port the relevant numbers as soon as possible after the date that the Commission confirms that the applicant qualifies as an access provider or access seeker.

New parties will, however, be required to port local or mobile numbers within three months of the date that they are declared eligible as an access provider of the Number Portability Services.

The three month implementation period reduces the practical difficulties associated with a party launching a new telephone service and connecting to the IPMS at the same time.

Making an Application

An application for eligibility as an access seeker of the Number Portability Services must be accompanied with a full description of the telephone service, and PSTN, operated by the applicant

Please be aware that the Commission may request further information from the applicant and/or seek clarification about information in the application before deciding on whether a party qualifies as an access seeker under the Telecommunications Act.

An application should be made in writing and addressed to:

Manager- Telecommunications Group
Telecommunications Branch
44-52 The Terrace
PO Box 2351
Wellington