



24 June 2005

Commerce Commission  
PO Box 2351  
Wellington  
Attention: Chris Abbott

By email

**Cross-submission on Number Portability Draft Determination**

1. This is a cross-submission by Woosh Wireless Limited in relation to submissions made on the Commission’s Draft Determination dated 12 May 2005 on the multi-party application for determination of the functions and standards of “local telephone number portability service” and “cellular telephone number portability service” designated multinetwork services.
2. This cross-submission addresses only one issue: the definition of fixed telephone network service, and in particular responds to the views expressed by Telecom in its submission dated 10 June 2005.
3. The voice telephony service that Woosh is planning to launch is a fixed telephone network service, quite distinct from a cellular network telephone service.
4. Customer perception of the Woosh service places it in the fixed network category. The Woosh service is essentially a service which is set up in premises and used while at the premises. Customers perceive a cellular service as one which is accessed by a mobile phone (which can be kept in the customer’s pocket) and used while driving or moving around. This is not possible with the Woosh service - in the event it becomes possible we would consider that particular service to be a cellular service.
5. The following table illustrates that, as far as the customer is concerned, our service is a fixed telephone network service.

	Fixed	Woosh	Cellular
Free local calling	Yes	Yes	No
Mobile phone device	No	No	Yes
Only used in a fixed location	Yes	Yes	No

6. It is now generally accepted that competition for the provision of fixed telephone network services will only come from wireless networks. In other words, no-one is going to build another physical network based on wire/cable. Similarly, no-one is going to deploy a national wireless network requiring line of sight to fixed antennas – these networks have proven not to be scalable.
7. As a result, any network established to compete with Telecom's fixed PSTN is certain to be wireless and certain to be similar to Woosh's network in all respects that are material to the Commission's definition of what a fixed network telephone service is. That is, such a network will service each customer with more than one transmission tower to ensure acceptable quality of service.
8. Accordingly, if the Commission adopts a definition of fixed telephone network service that excludes a service like Woosh's then no operator will be able to enter the market for the provision of fixed telephone network services, and compete effectively with Telecom on the basis of providing number porting. This will entrench Telecom's monopoly for fixed telephone network services.
9. It is therefore vital, if there is to be competition, that Woosh's service is grouped with fixed telephone network services, rather than with fundamentally different cellular telephone network services, so that Woosh is able to compete effectively in the segment of the market in which it belongs.
10. We submit that the Commission should adopt a definition that reflects the customer's perception of the type of service being used. That is, the customer will perceive that he or she is using a fixed network service because of the nature of the service, handset and associated equipment.
11. Therefore, as discussed in our submission on 10 June, we consider that the following are viable options to distinguish between a fixed and a cellular telephone network service:
  - (a) using mobile handsets as a distinguishing feature of a cellular telephone network service; or
  - (b) excluding from the definition of fixed telephone network service a service where the end-user's telephone device does not connect directly to the network (and as a result is not involved in performing call handover between transmission towers) and the phone the customer is using is not a cellular phone; or
  - (c) ensuring that a fixed telephone network service includes one which provides quality of service VoIP calls.
12. We are happy to meet with the Commissioners or Commission staff to explain the nature of Woosh's proposed service if that would be useful.

Yours sincerely

Nick Clarke