



COMMERCE COMMISSION

2.6/10459  
559505

**Clarification (No. 2) of the Determination on the Multi-party Application  
for Determination on the Local and Cellular Telephone Number Portability  
Designated Multinetwork Services**

**Decision No. 600**

Clarification under section 58 of the Telecommunications Act 2001 ('the Act') in the matter of an application for clarification of Decision 554:

**TELECOM NEW ZEALAND LIMITED  
VODAFONE NEW ZEALAND LIMITED  
TELSTRACLEAR LIMITED  
WORLDXCHANGE LIMITED  
COMPASS COMMUNICATIONS LIMITED  
CALLPLUS LIMITED  
IHUG LIMITED  
WOOSH WIRELESS LIMITED**

**The Commission:** Douglas Webb  
Anita Mazzoleni  
Donal Curtin

**Summary of Application:** The Commission received a multi-party application for clarification in respect of Decision 554, under section 58 of the Act.

**Date of Clarification:** 30 March 2007

**NO PARTS OF THIS REPORT ARE CONFIDENTIAL**

## Introduction

1. On 31 August 2005, the Commission issued a determination ('Decision 554') setting out the industry requirements for the provision of the local and cellular telephone number portability services ('the Number Portability Services').
2. On 17 March 2006 the determination was clarified by Commission Decision 579.
3. On 19 January 2007 the Commission received an application for clarification of Decision 554 from Telecom New Zealand Limited, Vodafone New Zealand Limited, TelstraClear Limited, WorldxChange Limited, Compass Communications Limited, CallPlus Limited, ihug Limited and Woosh Wireless Limited ('the applicants').
4. The Application<sup>1</sup> proposes various amendments to the LMNP and Network Terms which are part of Decision 554.
5. The Applicants attached the terms of their clarification to the Application.
6. Under section 58(1) of the Telecommunications Act 2001 as amended by the Telecommunications Amendment Act (No. 2) 2006 the Commission may clarify a determination if:
  - at any time the Commission, on its own initiative or on the application of any person, considers that a determination requires clarification; and
  - no appeal is pending in respect of the determination.<sup>2</sup>
7. Under section 19(c) of the Act, the Commission is required to make the decision that the Commission considers best gives, or is likely to best give, effect to the purpose set out in section 18.

## Parties to the Application

8. Applicants to this clarification include all of the parties included in the Commission's 8 February 2006 Statement of Eligibility of Access Providers for Local and Cellular Telephone Number Portability Services<sup>3</sup>. Airnet New Zealand Limited which was included in the Commission's 14 February 2007 Statement of Eligibility of Access Providers for Local and Cellular Telephone Number Portability Services is not an applicant to this clarification as the application was lodged with the Commission before 14 February 2007.

## The Clarification

9. The applicants have requested that the Commission clarify the aspects of the LMNP and Network Terms listed in Appendix 1. The applicants are agreed that the changes are


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<sup>1</sup> A copy of the Application is available on the Commission's website at: <http://www.comcom.govt.nz/IndustryRegulation/Telecommunications/NumberPortability/ContentFiles/Documents/NP%20Clarification%20Application%20-%202007%2001%2019.pdf>

<sup>2</sup> There is no appeal pending in respect of Decision 554.

<sup>3</sup> These parties are therefore bound by Decision 554, as is Airnet New Zealand Limited after the Commission's 14 February Statement of Eligibility of Access Providers.

required to assist in improving the efficiency of the number portability regime and, therefore, best give effect to section 18. The Commission agrees and approves the changes listed in Appendix 1.

Signed by:  .....

Douglas Webb  
Telecommunications Commissioner  
Commerce Commission



COMMERCE COMMISSION

**Appendix 1**

**Amendments to the LMNP and Network Terms**

Item No.	Reference in the Terms	Explanation of the Issue	Reason Required	Proposed Change
1.	Definition of Enforcement Agency - LMNP And Network Terms	The Terms need to be clarified so that the Enforcement Agency may conduct such audits itself, or appoint an independent expert to conduct the audit on its behalf.	Clarification	A person nominated by the TCF and approved by the Commerce Commission or, if the TCF fails to nominate a person, a person appointed by the Commerce Commission, whose role is to monitor and enforce compliance with the Service Levels. <u>The nominated person may perform the audits referred to in the LMNP/Network Terms itself, or appoint an independent expert to conduct the audit on its behalf.</u>
2.	Item deleted.	The TCF Number Portability Regulatory & Policy Working Party and the Commission agreed that this item was redundant and should be deleted.		
3.	LMNP Terms - Definitions	The term "HOC" is not used in the LMNP Terms so it should be deleted from the definitions in clause 3.2 of the LMNP Terms.	Clarification	Delete the definition.

Item No.	Reference in the Terms	Explanation of the Issue	Reason Required	Proposed Change
4.	LMNP Terms Clause 4.1.8	This change is intended to provide “for the avoidance of doubt” clarification of clause 4.1.8(a). There is a concern that without this clarification clause 4.1.8(a) could be interpreted as requiring Gaining Carriers to always permit geographic (in-) porting of customers within the Donor Carrier’s Local Calling Area.	Clarification	<p>4.1.8 Local Calling Area Requirements</p> <p>The premises of a Customer with a Ported Local Number must be within the Donor Carrier’s relevant Local Calling Area. A Customer with a Ported Local Number wishing to move premises can retain that Local Number provided that the new premises are within the same Donor Carrier’s Local Calling area. <u>For the avoidance of doubt, the Gaining Carrier is under no obligation to transfer the Customer’s Ported Local Number to the Customer’s new premises.</u></p> <p>The GSP is responsible for determining if a Ported Number can be allocated to new premises. The Donor Carrier will provide this information on request <u>in a timely manner.</u></p>
5.	LMNP Terms 4.5 (NEW)	The data in IPMS is required by government agencies to provide emergency services and other third parties (such as SMS providers or directory services) to enable them to operate efficiently in an LMNP environment.	New provision	<p>4.5 Access to the IPMS by an entity not party to the LMNP Terms</p> <p><u>Government agencies (including without limitation emergency services such as the Police and Fire Service) and third parties will be entitled to access the IPMS for information purposes only in the conduct of their lawful operations. The terms on which these parties will be granted access will be specified by the TCF and set out in an IPMS access agreement between the TCF and the party seeking access.</u></p>

Item No.	Reference in the Terms	Explanation of the Issue	Reason Required	Proposed Change
6.	LMNP Terms 5.3.1	<p>An LSP should not be required to provide the GSP with a list of additional Numbers for a Customer if the Customer has not provided those Numbers to the GSP. There is a need for safeguards to prevent:</p> <ul style="list-style-type: none"> <li>• 'Fishing' by Resellers, Service Providers and Carriers; and</li> <li>• Malicious actions.</li> </ul>	Clarification	<p><b>5.3.1 Porting Facilitation</b></p> <p>The LSP:</p> <p>a) <b>Must not initiate any activity associated with the Numbers in the Port, including Customer or Service Provider initiated changes, that impact adversely on the Porting Process once the GSP has approved the Port; <del>and</del></b></p> <p>b) Must use all reasonable endeavours to minimise the length of the Co-operative Period and to facilitate the Porting of the Number. Regardless of the Co-operative Period, the Service Levels shall continue to apply; <u>and</u></p> <p>c) <u>Subject to clause 4.2.4, is not obliged to advise the GSP of additional Numbers beyond those included in the Port Request.</u></p>

Item No.	Reference in the Terms	Explanation of the Issue	Reason Required	Proposed Change
7.	LMNP Terms 5.2.5	<p>This change is required to clarify what happens where Customer Authorisations are given on-line.</p> <p>In addition, the Customer Authorisation period needs to be amended to match the Customer Complaints and Customer Transfer Code.</p>	Clarification plus consistency with other TCF Codes	<p>The GSP must:</p> <p>(b) retain:</p> <p><u>(i) all Customer Authorisations; or</u></p> <p><u>(ii) where a Customer Authorisation is completed on-line or via other non-documentary methods , sufficient evidence of the on-line Customer Authorisation or other non-documentary evidence to establish that the GSP complied with clause 5.2.3;</u></p> <p>for a period of one (1) year following completion of the Port to which they relate and make them available for inspection on request by the Commerce Commission.</p> <p>(c) The GSP must provide a copy of the relevant Customer Authorisation <u>or the evidence referred to in clause 5.2.5(b)(ii)</u> to the LSP within five (5) Business Days, if requested by the LSP for the purpose of resolving a Customer complaint and provided the LSP's request is made within <u>twelve (12) three (3) months</u> of the relevant Port Request.</p>
8.	LMNP Terms 5.2.6	The change relates to the proposed changes to clause 5.2.5. This change is required to clarify what happens where Customer Authorisations are given on-line.		<p>A Port shall be deemed to be unauthorised if the Customer Authorisation <u>or the evidence referred to in clause 5.2.5(b)(ii)</u> relating to the Number and Port in question:</p> <p>...</p> <p>(d) <u>records that the Customer Authorisation was given more than thirty (30) days before the Port Request was made, unless the Customer and the GSP expressly agreed otherwise</u></p>

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9.	LMNP Terms Process 8.1 - Port Request Process	<p>The Port Request Flow chart shows the LC and GC monitoring Network updates instead of the approved Port queue.</p> <p>This is inconsistent with the Technical Specification and other proposed clarifications to the Terms noted elsewhere in this document.</p>	Clarification/ Consistency with existing Tech Spec	8.1.1 In the diagram - in box PR10 and PR11 Change “Network updates” to “approved Ports queue”																							
10.	LMNP Terms 8.1.2 - Port Request Process Timetable	There is a reference error in the table.	Clarification	<p>The left hand column needs to be amended as follows:</p> <table border="1" data-bbox="1146 598 2049 1128"> <thead> <tr> <th data-bbox="1146 598 1308 699" rowspan="2">Flowchart</th> <th data-bbox="1308 598 1509 699" rowspan="2">Port Request Process</th> <th colspan="3" data-bbox="1509 598 2049 624">Response Times</th> </tr> <tr> <th data-bbox="1509 624 1653 699">Simple Local Port</th> <th data-bbox="1653 624 1839 699">Complex Local and Mobile Port</th> <th data-bbox="1839 624 2049 699">Simple Mobile Port</th> </tr> </thead> <tbody> <tr> <td data-bbox="1146 699 1308 927">PR3 to PR8 on Port Activation Chart</td> <td data-bbox="1308 699 1509 927">RFS Notice</td> <td data-bbox="1509 699 1653 927">RFS Date minimum two Business Days notice, maximum 30 days</td> <td data-bbox="1653 699 1839 927">RFS Date minimum five Business Days notice, maximum 30 days</td> <td data-bbox="1839 699 2049 927">RFS Date minimum one hour notice, maximum 30 days</td> </tr> <tr> <td data-bbox="1146 927 1308 1027">PR4 to PR6</td> <td data-bbox="1308 927 1509 1027">LSP responds to Port Request</td> <td data-bbox="1509 927 1653 1027">Within one Business Day</td> <td data-bbox="1653 927 1839 1027">Within two Business Days</td> <td data-bbox="1839 927 2049 1027">Within 30 Working Minutes</td> </tr> <tr> <td data-bbox="1146 1027 1308 1128">PR6 to PR8</td> <td data-bbox="1308 1027 1509 1128">Port Request Complete</td> <td data-bbox="1509 1027 1653 1128">Within one Business Day</td> <td data-bbox="1653 1027 1839 1128">Within two Business Days</td> <td data-bbox="1839 1027 2049 1128">Within 30 Working Minutes</td> </tr> </tbody> </table>	Flowchart	Port Request Process	Response Times			Simple Local Port	Complex Local and Mobile Port	Simple Mobile Port	PR3 to PR8 on Port Activation Chart	RFS Notice	RFS Date minimum two Business Days notice, maximum 30 days	RFS Date minimum five Business Days notice, maximum 30 days	RFS Date minimum one hour notice, maximum 30 days	PR4 to PR6	LSP responds to Port Request	Within one Business Day	Within two Business Days	Within 30 Working Minutes	PR6 to PR8	Port Request Complete	Within one Business Day	Within two Business Days	Within 30 Working Minutes
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11.	LMNP terms 8.2.9(c) PA5 closely Co-ordinated Port Activation	<p>Section c) states that: “c) Once these steps are complete, the GC either: - Confirms the Port is complete - Confirms the Port has not been completed...”</p> <p>The Technical Specification states that this step in the process is “Tested and Complete” step in the update port progress stage (Section 4.6.20). Any reversals will be dealt with using IPMS Port Progress states.</p>	Clarification/ Consistency with existing Tech Spec	<p>c) Once these steps are complete, the Gaining Carrier(s) <u>performs a test and</u> either:</p> <ul style="list-style-type: none"> <li>• Confirms <u>each Number is “Tested and Complete”</u> <del>that the Port is complete</del>; or</li> <li>• Confirms <del>that the Port has not been completed</del> <u>one or more Numbers have failed and need to be “Reversed”</u> and instructs the Losing Carrier and the on-site Technician to return the configuration to that pre-Port state.</li> </ul>
12.	LMNP terms 8.2.9(d)	This process should apply to both Simple and Complex Ports.	Clarification	(d) A <del>Complex</del> Port can be cancelled at any point where it is agreed by the Gaining Carrier and the Losing Carrier that there is less work to reverse existing changes than complete the process and then Port back to the LSP. The decision as to which approach should be taken should be agreed between the parties (with input from GSP as appropriate).
13.	LMNP Terms Process 8.3.4 (b) - Approved Port Change Process	<p>The IPMS checks to confirm that an approved change has not been used more than a set number of times but it does not check to see that this is before the RFS date.</p> <p>Inconsistency potentially in Terms between 8.3 and 8.3.4 (b)</p>	Consistency with existing Technical Specification and to clarify existing terms	(b) The Approved Port Change may not be used more than <del>twice</del> <u>the number of times defined in the Operations and Support Manual for LMNP on a Port before the RFS Date.</u>

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14.	LMNP Terms Process 8.4.6 (b) Ported Number Relinquishment Process	The terms refer to a 'fault enquiry screen' but the Technical Specification refers to an enquiry screen.	Consistency with existing Technical Specification	A live version of this information is available in the <del>fault</del> -enquiry screen for all Carriers.									
15.	LMNP Terms Process 8.5 - Port Expiry Process	Consistency between the Terms and the Technical Specification for IPMS and new more appropriate naming conventions.	Consistency with existing Technical Specification	8.5.1 Box PE5 Change "pending Network updates" to "approved Ports" Sections 8.5.7 b), 8.5.8 a) and 8.5.9 a) change "Network updates queue" to "approved Ports queue"									
16.	LMNP Terms Process 8.5.2 - Port Expiry Process	IPMS is not managing the SLA times specified for this area.	Consistency with existing Technical Specification	<table border="1"> <thead> <tr> <th>Flowchart</th> <th>Port Expiry Process</th> <th>Response Times</th> </tr> </thead> <tbody> <tr> <td>Entire Port Expiry Process</td> <td></td> <td>Within five Business Days of RFS Date.</td> </tr> <tr> <td>PE5 to PE8</td> <td>Gaining Carrier and Losing Carrier confirming expiry.</td> <td>Within four Working Hours.</td> </tr> </tbody> </table> <p><u>These Service Levels are not measured in IPMS.</u></p>	Flowchart	Port Expiry Process	Response Times	Entire Port Expiry Process		Within five Business Days of RFS Date.	PE5 to PE8	Gaining Carrier and Losing Carrier confirming expiry.	Within four Working Hours.
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17.	LMNP Terms Process 8.6 - Port Withdrawal Process	The Technical Specification does not appear to be fully complying with the Terms especially with reference to the Status "withdrawal pending".	Consistency with existing Technical Specification	8.6.1 Box PW3 Change "pending Network updates" to "approved Ports" 8.6.5 a) change "Network update queue" to "approved Ports queue"									

Item No.	Reference in the Terms	Explanation of the Issue	Reason Required	Proposed Change		
18.	LMNP Terms Process 8.6.2 - Port Withdrawal Process	IPMS is not managing these SLA times specified in the Terms.	Consistency with existing Technical Specification	Flowchart	Port Withdrawal Process	Response Times
				Entire Port Withdrawal Process		Within four Working Hours of Withdrawal, faster if close to the RFS Date.
				PW3 to PW5	Losing Carrier confirming Withdrawal.	Within two Working Hours.
<p><u>These Service Levels are not measured in IPMS.</u></p>						

Item No.	Reference in the Terms	Explanation of the Issue	Reason Required	Proposed Change
19.	LMNP Terms Process 8.7 - Emergency Return Process	To clarify that it is the GSP that is responsible for initiating the Emergency Return.	Consistency with existing Technical Specification	<p>An Emergency Return may be required if a problem with an activated Port is identified. It may only be used within one (1) Business Day of the completion of a Port Activation.</p> <p><u>The Gaining Service Provider for a completed Port initiates the Emergency Return process, if required for that Port and must obtain agreement on the RFS date from the Gaining Carrier(s) for the Emergency Return.</u></p> <p>The Gaining Carrier(s) and the Losing Carrier(s) must agree that an Emergency Return is required. The Losing Carrier(s) and Gaining Carrier(s) must coordinate the Emergency Return as mutually agreed. Notice periods for RFS Dates do not apply.</p> <p>The Emergency Return must use an existing completed Port Activation as a reference. The Emergency Return does not have to reverse all Numbers in a given Port. An Emergency Return will be processed in exactly the same way as a normal Port Activation, except that the RFS Date rules are not enforced.</p> <p>The IPMS will require the SOM Number of a previously completed Port. The IPMS will check that the Port was activated within one (1) Business Day of the request of the Emergency Return. Numbers that did not Port successfully in the original Port Activation cannot be returned.</p> <p><u>For the avoidance of doubt, the Gaining Service Provider for a completed Port becomes the Losing Service Provider if an Emergency Return is required for that Port.</u></p> <p><del>The Gaining Carrier initiates the Emergency Return in the IPMS. The Gaining Carrier must get agreement from the Losing Carrier for the RFS Date of the Emergency Return.</del></p>

Item No.	Reference in the Terms	Explanation of the Issue	Reason Required	Proposed Change
20.	Network Terms - clause 13.1	The definition of "HOC" in clause 13.1 is incorrect.	Clarification	<p>The HOC format is 011XNT where:</p> <ul style="list-style-type: none"> <li>a) X is currently digits 6 or 9 but may be any other digits allocated by the NAD;</li> <li>b) N identifies the Host Carrier Network;, and</li> <li>c) T identifies the Service (<del>LNP or MNP</del> <u>eg: Carrier; Donor Carrier; or CSD</u>).</li> </ul> <p>These codes are used in the format 011XNTnnn-<u>nnn</u>, where nnn-<u>nnn</u> is the dialled number in National Significant Number (NSN) format.</p>