



**STATEMENT OF ELIGIBILITY OF DIGITAL ISLAND LIMITED
AS AN ACCESS PROVIDER
OF THE LOCAL AND CELLULAR TELEPHONE NUMBER
PORTABILITY SERVICE**

29 June 2009

Introduction

1. On 31 August 2005 the Commission issued a determination¹ ('Determination') in respect of the local and cellular telephone number portability designated multinetwork services ('Number Portability Services'). The Determination set out the formula for allocating the cost of delivering the Number Portability Services between the parties, the functions that must be performed by the system for delivering the Number Portability Services and the standard to which those functions must be performed.
2. The Determination assessed the eligibility of parties as access seekers and access providers and required that those parties be bound by the Determination. Parties to the Determination are required to notify the Commission when they consider that their status as an access provider has changed.²
3. The Commission monitors the eligibility of access providers for the term of the Determination and will issue updated statements where necessary. The Commission has issued a number of updated statements, the latest being the 30 June 2008.
4. The Commission's assessment of access providers as at 20 March 2009 was:

Party	Access Provider eligibility	
	Local telephone number portability service	Cellular telephone number portability service
Telecom	Yes	Yes
TelstraClear	Yes	Yes

¹ Decision 554: Commission's determination of local and cellular number portability dated 31 August 2005 and the clarifications dated 17 May 2006, 30 March 2007 and 22 June 2007.

² *ibid*, para A8

Vodafone	Yes	Yes
CallPlus	Yes	No
Compass	Yes	Yes
IHUG	Yes	No
WorldxChange	Yes	No
Woosh	Yes	No
Airnet	Yes	No
Orcon	Yes	Yes
M2	No	Yes
NZC	No	Yes
Symbio	Yes	No
LinkTel	Yes	No
Teletraders	No	No

5. On 10 June 2009, the Commission received an application from Digital Island Limited ('Digital Island'). Digital Island applied to the Commission for consideration as an access provider of the cellular telephone number portability service.
6. Any person that is determined by the Commission to be an eligible access provider becomes a party to, and is bound by, the Determination from the date of the applicable statement of eligibility declaring that person to be an eligible access provider.

Definition of access provider

7. An 'access provider' of the number portability service is:

Access provider: Every person who operates -
 (a) a PSTN to which numbers have been allocated; and
 (b) a telephone service that relates to that number portability service³.

Eligibility of an access provider

8. In its application, Digital Island advised that it did not own and operate network infrastructure but rather accessed the best infrastructure providers to deliver its mobile and local telephone product set.

³ Subpart 2 of Part 2 of Schedule 1 of the Telecommunications Act ('the Act')

9. Digital Island has advised that it will be launching a mobile telephone service using Telecom Corporation of New Zealand Limited's ('Telecom's) cellular network. In its application, Digital Island describes its service as a mobile virtual network operator using Telecom's existing cellular network.
10. Digital Island advised that it had reserved two number ranges under the Number Administration Deed ('NAD'); 02828 for their mobile number range and 09 808 for their geographic number range block in Auckland. The Number Register reflects the "Reserved" status of these number range blocks.
11. Digital Island has advised that it provides a full range of telecommunication services to its business customers such as:
 - Business phone lines
 - Mobile services
 - Internet services
 - Premium Internet and data services
 - Toll calling, tollfree, fax to email and call conferencing
 - Post paid calling cards
12. Digital Island advised that it is in discussions with the TCF to seek access to the IPMS under the Reseller agreement given that it is unlikely to be deemed eligible as a party to the Number Portability Determination, at this time.

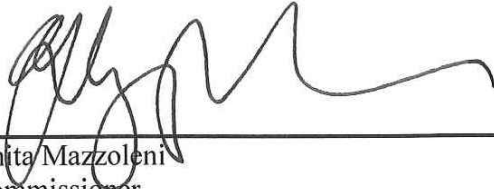
Commission's view

13. Digital Island does not own or operate a PSTN to which geographic number ranges have been allocated (although these numbers are unique to Digital Island and are distributed to Digital Island's customers) and therefore would not satisfy subsection (a) of the applicable criteria, at this time.
14. Digital Island does not own or operate a PSTN to which cellular number ranges have been allocated (although the 02828 numbers are unique to Digital Island and are assigned by Digital Island to customers using Digital Island's cellular telephone service) and therefore would not satisfy subsection (a) of the applicable criteria, at this time.
15. Digital Island is therefore not eligible as an access provider of the local and cellular telephone number portability service.

Conclusion

16. Digital Island is not an access seeker and access provider of the local and cellular telephone number portability service. The eligibility of other persons as access providers of the Number Portability Services remains as stated in the Commission's previous 20 March 2009 update statement.
17. This statement is effective as of 29 June 2009.

Signed by:



Anita Mazzoleni
Commissioner