



COMMERCE COMMISSION

Please refer to:

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21 December 2006

Malcolm Alexander
Independent Chair
Telecommunications Carriers' Forum
C/o Organisers New Zealand Limited
P.O. Box 302469
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cc: TCF Forum Administrator
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Dear Malcolm

Approval of the Telecom Number Portability Exemption Application - In Ported Services and Features.

The Commission agrees with the Telecommunications Carriers' Forum ("TCF") Management Committee's recommendation¹ that Telecom New Zealand Limited ("Telecom") be granted an exemption to clause 14.2.3 of the Network Terms² for eight services and features specified in Telecom's application for exemption³ that are hosted off the NEAX61E switches at the exchanges listed in Appendix 1 of that application for the specified period from 1 April 2007 until 31 December 2012.

The Commission's reasons for granting the exemption are:

- If Telecom was to make the eight services and features available to in-porting customers, it will either have to perform a costly upgrade to its NEAX61E switches or bring forward its rollout of the Next Generation Network ("NGN"). The Commission considers that neither of these options is practicable to Telecom.
- Only a very small number of customers will be affected if the exemption is granted to Telecom. These customers may face slightly higher costs to in-port their numbers to the Telecom network, and as a result this may have a small negative impact on the purpose set out in section 18 of the Telecommunications Act 2001. However, the cost to Telecom of supplying the eight services and features to these

¹ Telecom Number Portability Exemption Application – In-ported Services and Features: TCF Management Committee Recommendation to the Commerce Commission, 15 November 2006.

² The Network Terms are part of Commission Decision 554: Determination on the multi-party application for determination of 'local telephone number portability service' and 'cellular telephone number portability service' designated multinet network services, 31 August 2005.

³ Application by Telecom New Zealand Limited for exemption: clause 14.2.3 of the Network Terms – In-ported Services and Features, 6 October 2006.

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in-porting customers, either by upgrading its NEAX61E switches or by bringing forward its NGN rollout will likely have a greater negative impact in terms of the purpose set out in section 18 of the Act.

The exemption is to have effect for the period from 1 April 2007 until 31 December 2012, inclusive.

The exemption is from the obligations in clause 14.2.3 of the Network Terms in respect of eight local telephone network services and features specified in Telecom's application for exemption that are hosted off the exchanges listed in Appendix 1 of that application. Clause 14.2.3 states:

Criterion 3 – Services and Features

The LMNP solution deployed by a Carrier must not prevent Customers with Ported Numbers from being offered the same services and features as those provided to Customers on that Carrier's Network with non-Ported Numbers.

The requirement applies to both incoming and outgoing Voice Services.

The eight services and features will not be required to be offered to customers who port their numbers to Telecom's network.

The exemption should apply for all purposes for assessing compliance by Telecom with clause 14.2.3 of the Network Terms – equivalent service criterion 3.

The exemption relates to in-porting business customers to Telecom's network (i.e. both Telecom customers and reassigned customers) hosted off the exchanges specified in Appendix 1 of Telecom's application for exemption.

The exemption is granted without conditions.

The Commission considers that the exemption best gives or is likely to best give effect to the purpose set out in section 18 of the Act, because as noted previously, only a very small number of customers will be affected if the exemption is granted. These customers may face slightly higher costs to in-port their numbers to the Telecom network and this may have a small negative impact on the purpose set out in section 18. However, the cost to Telecom of supplying these services, either by upgrading its NEAX61E switches or by bringing forward its NGN rollout will likely have a greater negative impact on the purpose set out in section 18.

Yours sincerely



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