



**COMMERCE COMMISSION**

**NUMBER PORTABILITY APPLICATIONS**

**APPLICATION (DATED 26 MARCH 2003) BY TELSTRACLEAR LIMITED,  
CALLPLUS LIMITED, COMPASS COMMUNICATIONS LIMITED, IHUG  
LIMITED AND WORLDXCHANGE COMMUNICATIONS LIMITED UNDER  
SECTION 31(B) OF THE TELECOMMUNICATIONS ACT 2001**

**APPLICATION (DATED 24 DECEMBER 2004) MADE BY TELECOM NEW  
ZEALAND LIMITED, VODAFONE NEW ZEALAND LIMITED, AND  
TELSTRACLEAR LIMITED UNDER SECTION 31(A) OF THE  
TELECOMMUNICATIONS ACT 2001**

**Order made by the Commerce Commission  
under section 9 (6) of the Telecommunications Act 2001**

Order made by: Douglas Webb, Telecommunications Commissioner

Date of Order: 5 April 2005

**ORDER MADE BY THE COMMERCE COMMISSION UNDER SECTION 9(6)  
OF THE TELECOMMUNICATIONS ACT 2001 (“THE ACT”) IN RELATION  
TO THE NUMBER PORTABILITY APPLICATIONS**

- 1 On 26 March 2003 TelstraClear Limited (“TelstraClear”), CallPlus Limited, Compass Communications Limited, Ihug Limited and WorldxChange Communications Limited submitted an application under section 31(b) of the Act (“the Act”) requesting a determination on “the formula for how the cost of delivering the service must be apportioned between the access seeker and all access providers of the service”, (the “Cost Allocation Application”). On 29 July 2003, the Commerce Commission (the “Commission”) decided to investigate the matter. On 19 March 2004, the Commission released a preliminary statement on the eligibility of the access seekers and access providers and received submissions on that statement from Telecom, TelstraClear and Vodafone on 18 August 2004. On 6 December 2004, the Commission released a draft determination on this matter, (the “Cost Allocation Draft Determination”). Subsequently, the Commission received submissions from the parties to the Cost Allocation Draft Determination in February 2005 and cross-submissions from Telecom New Zealand Limited (“Telecom”) and TelstraClear in March 2005.
- 2 On 24 December 2004, Telecom, Vodafone New Zealand Limited, TelstraClear submitted an Application (the “Functions Application”) under section 31(a) of the Act requesting a determination in the form of the Network Code for Local and Mobile Number Portability and the Code for Local and Mobile Number Portability, (the “Codes”). The applicants submitted that the Codes must be enforceable to ensure there is certainty to progress implementation of local and cellular number portability and, accordingly, applied for a determination in respect of the Codes. On 24 and 25 January 2005, the Commission received comments on the Functions Application. On 28 January 2005, the Commission decided to investigate the matter and received further submissions from Telecom, TelstraClear and Vodafone on 11 March 2005.
- 3 The Commission makes this Order (the “Order”) under section 9(6) of the Act in relation to the Cost Allocation Application and the Functions Application, (together the “Applications”). The Commission has followed separate processes for each of the Cost Allocation Application and the Functions Application. Subsequent to this Order, however, the Commission will release a single final determination under section 39 of the Act in respect of both of the Applications. In working towards the release of the final determination, the Commission will, to the extent possible, synchronise the processes and align the timetables for both Applications.
- 4 This approach is consistent with submissions received from the parties in relation to the Functions Application. TelstraClear noted that both Applications should be

dealt with together and that the timetables for the Applications should be aligned.<sup>1</sup> Telecom submitted that there would be benefit in synchronising the processes for the two investigations into both Applications.<sup>2</sup> Vodafone considered that there will be efficiency gains to the Commission and industry if the timetable for the cost allocation determination was pushed out to match the timetable for Functions Application.<sup>3</sup>

- 5 Pursuant to section 9(6) of the Act, the Commission determines that it will synchronise the processes for the investigations into each of the Applications and will undertake the following major steps before releasing the final determination under section 39 of the Act:
  - (a) a draft determination will be released under section 36 in relation to the Functions Application, (the “Functions Draft Determination”);
  - (b) submissions on the Functions Draft Determination will be sought under section 36 and, if necessary, cross-submissions; and
  - (c) a public hearing might be held, if the Commission considers it is in the public interest to do so, in relation to the Cost Allocation Draft Determination and the Functions Draft Determination, under section 38.
  
- 6 This order has effect, unless otherwise revoked by the Commission, until the Commission releases a final determination relating to both Applications under section 39 of the Act.

Dated this 5 day of April 2005



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Douglas Webb  
Telecommunications Commissioner  
Commerce Commission

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<sup>1</sup> Letter from TelstraClear to the Commission dated 24 January 2005.

<sup>2</sup> Letter from Telecom to the Commission dated 25 January 2005.

<sup>3</sup> Letter from Vodafone to the Commission dated 24 January 2005.