

Telecommunications Act 2001

Section 58: Application for Clarification of a Determination for Designated Multinetwork Services

PUBLIC VERSION ¹

Telecom New Zealand Limited, Vodafone New Zealand Limited, TelstraClear Limited, WorldxChange Limited, Compass Communications Limited, CallPlus Limited, ihug Limited and Woosh Wireless Limited (together the Parties) apply under section 58 of the Telecommunications Act 2001 for clarification by the Commerce Commission of Determination No. 554 as clarified by Decision 579 (**Number Portability Determination**) on the matters set out in this application.

This application is divided into two parts:

- A. Part A sets out the Application Details; and
- B. Part B and Appendix 1 sets out the clarifications of the Number Portability Determination agreed by the Parties;

¹ There is no Restricted Version of this application.

PART A: APPLICATION DETAILS

THE PERSON(S) GIVING NOTICE (the Parties)

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SERVICES

The Application relates to the services of local telephone number portability and cellular telephone number portability, covered by the Number Portability Determination.

CONFIDENTIALITY

No information in this Application is confidential. The Parties agree to this Application being made public in its entirety.

PART B: DETERMINATION SOUGHT

The Parties are pleased to advise the Commission that they have agreed a number of clarifications of the Number Portability Determination under section 58 of the Telecommunications Act 2001. The parties request that the Commission amend the Number Portability Determination in the manner proposed in Appendix 1.

The Parties request that if the Commission agrees to amend the Number Portability Determination, new versions of the LMNP and Network Terms be issued and, to assist with version control, these new versions reference the previous versions and include the latest Clarification Decision Number and date on the front cover of the LMNP and Network Terms.

This Application is signed in counterparts.

Dated this 19th day of January 2007.

Signed by

CallPlus Limited

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Name of signatory

Compass

Communications Limited.

Name of signatory

IHUG Limited

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Name of signatory

Telecom New Zealand Limited.

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Name of signatory

TelstraClear Limited

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Name of signatory

Vodafone New Zealand
Limited

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Name of signatory

WorldxChange
Communications
Limited

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Name of signatory

Woosh Wireless Limited

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Name of signatory

Proposed 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.	LMNP Term and Network Terms: Definition of Local Calling Area	Relates to issue 3 below.	Clarification	Means that geographic area defined by the Donor Carrier or <u>Gaining Carrier</u> within which Customers of <u>that Party-DNO</u> have access to a Local Service.
3.	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>

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4.	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><i>4.5 Access to the IPMS by an entity not party to the LMNP Terms</i></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>
5.	LMNP Terms 5.2.4	<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"> • 'Fishing' by Resellers, Service Providers and Carriers; and • Malicious actions. 	Clarification	<p>Add a new sub-clause 5.2.4(vii) as follows:</p> <p>(v) of any costs and obligations to the GSP associated with the Port; and (vi) that after Porting the Number, particular services that were associated with that Number might not be supported by the Gaining Carrier or GSP; <u>and</u></p> <p><u>(vii) that there is no obligation for the Losing Carrier or Service Provider to provide additional Numbers beyond those requested in the Port Request.</u></p>

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6.	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 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>
7.	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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8.	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”																							
9.	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"> <thead> <tr> <th rowspan="2">Flowchart</th> <th rowspan="2">Port Request Process</th> <th colspan="3">Response Times</th> </tr> <tr> <th>Simple Local Port</th> <th>Complex Local and Mobile Port</th> <th>Simple Mobile Port</th> </tr> </thead> <tbody> <tr> <td>PR3 to PR8 on Port Activation Chart</td> <td>RFS Notice</td> <td>RFS Date minimum two Business Days notice, maximum 30 days</td> <td>RFS Date minimum five Business Days notice, maximum 30 days</td> <td>RFS Date minimum one hour notice, maximum 30 days</td> </tr> <tr> <td>PR4 to PR6</td> <td>LSP responds to Port Request</td> <td>Within one Business Day</td> <td>Within two Business Days</td> <td>Within 30 Working Minutes</td> </tr> <tr> <td>PR6 to PR8</td> <td>Port Request Complete</td> <td>Within one Business Day</td> <td>Within two Business Days</td> <td>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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10.	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:</p> <ul style="list-style-type: none"> - Confirms the Port is complete - Confirms the Port has not been completed...” <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"> • Confirms <u>each Number is “Tested and Complete”</u> that the Port is complete; or • Confirms that the Port has not been completed <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.
11.	LMNP terms 8.2.9(d)	This process should apply to both Simple and Complex Ports.	Clarification	<p>(d) A Complex 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).</p>

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12.	LMNP Terms Process 8.3.4 (b) - Approved Port Change Process	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. Inconsistency potentially in Terms between 8.3 and 8.3.4 (b)	Consistency with existing Technical Specification and to clarify existing terms	(b) The Approved Port Change may not be used more than twice <u>the number of times defined in the Operations and Support Manual for LMNP on a Port before the RFS Date.</u>											
13.	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 fault enquiry screen for all Carriers.											
14.	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"											
15.	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>	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.	<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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16.	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”									
17.	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	<table border="1"> <thead> <tr> <th>Flowchart</th> <th>Port Withdrawal Process</th> <th>Response Times</th> </tr> </thead> <tbody> <tr> <td>Entire Port Withdrawal Process</td> <td></td> <td>Within four Working Hours of Withdrawal, faster if close to the RFS Date.</td> </tr> <tr> <td>PW3 to PW5</td> <td>Losing Carrier confirming Withdrawal.</td> <td>Within two Working Hours.</td> </tr> </tbody> </table> <p><u>These Service Levels are not measured in IPMS.</u></p>	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.
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.											

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18.	LMNP Terms Process 8.7 - Emergency Return Process	Clarify that it is the GSP 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 current Service Provider (being the Service Provider who has the Number Allocated to them in IPMS) initiates the Emergency Return in the IPMS. The current Service Provider must get agreement from the previous Carrier involved for the RFS date of 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>The original Gaining Service Provider becomes the new Losing Service Provider once an emergency request is initiated.</u></p> <p>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.</p>

Item No.	Reference in the Terms	Explanation of the Issue	Reason Required	Proposed Change
19.	Network Terms - clause 13.1	The definition of "HOC" in clauses 13.1 is incorrect.	Clarification	<p>The HOC format is 011XNT where:</p> <ul style="list-style-type: none"> a) X is currently digits 6 or 9 but may be any other digits allocated by the NAD; b) N identifies the Host Carrier Network;, and c) T identifies the Service (LNP or MNP <u>eg: Carrier; Donor Carrier; or CSD</u>). <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>
20.	LMNP Terms - Definitions	The definition of "HOC" not used	Clarification	Delete the definition.