

COMMERCE COMMISSION

13.3/10094

712225v2

STATEMENT OF ELIGIBILITY OF SYMBIO NETWORKS PTY LIMITED AS AN ACCESS PROVIDER OF THE LOCAL TELEPHONE NUMBER PORTABILITY SERVICE

30 June 2008

Introduction

- 1. On 31 August 2005 the Commission issued a determination... 2. The Determination assessed the eligibility of parties... 3. The Commission monitors the eligibility of access providers... 4. The Commission's assessment of access providers as at 22 May 2008 was:

Table with 3 columns: Party, Local telephone number portability service, Cellular telephone number portability service. Rows include Telecom, TelstraClear, Vodafone, CallPlus, and Compass.

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

IHUG	Yes	No
WorldxChange	Yes	No
Woosh	Yes	No
Airnet	Yes	No
Orcon	Yes	Yes
M2	No	Yes
NZC	No	Yes

5. On 5 June 2008, the Commission received an application from Symbio Networks Pty Limited ('Symbio'). Symbio applied to the Commission for consideration as an access provider of the local 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 local telephone 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, Symbio advised that it owns and operates a PSTN network that is physically located in Auckland, with connectivity via TelstraClear Limited ('TelstraClear'). Symbio's PSTN network consists of a class 4 switching exchange, VoIP gateways and routers. Symbio has executed an interconnection agreement with TelstraClear, effective since July 2007.
9. Symbio is a party to the Number Administration Deed ('NAD'), and has been allocated geographic number range blocks in Auckland, Wellington and Christchurch.⁴ Symbio advised that numbers within these number range blocks have been activated, and the Number Register reflects the "Assigned" status of these number range blocks.

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

⁴ The number ranges allocated to Symbio that are currently 'assigned' include: 03-667-XXXX, 03-669-XXXX, 04-887-XXXX, 04-889-XXXX, 09-887-XXXX, and 09-889-XXXX

10. Symbio provides wholesale services to retail service providers such as Skype S.a.r.l, MyNetFone Australia Pty Ltd and MyNetFone New Zealand who provide telecommunications services to end-users. Symbio controls the delivery of calls for its number ranges as part of its wholesale service to these retail service providers.
11. Symbio has advised that it retains the responsibility for complying with the rules and principles of the NAD in relation to its allocated geographic number range blocks in Auckland, Wellington and Christchurch.

Commission's view

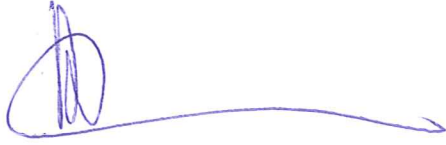
12. Symbio owns and operates a PSTN to which geographic number ranges have been allocated, and therefore satisfies subsection (a) of the applicable criteria. These numbers are unique to Symbio and are distributed by Symbio's service provider customers to end-users.
13. In relation to subsection (b), the Commission notes that although Symbio does not control the relationship with end-users of its numbers, those end-users receive retail services from Symbio's retail service provider customers that are dependent on the delivery of Symbio's wholesale telephone service. Therefore, the Commission considers that Symbio operates a telephone service that relates to the local telephone number portability service.
14. Symbio is eligible as an access provider of the local telephone number portability service.

Conclusion

15. Symbio is an access seeker and access provider of the local 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 22 May 2008 update statement.
16. On 22 June 2007, the Commission issued a clarification⁵ to the Determination which required that a new party to any one of the designated multinet network services that are the subject of the Determination commence porting as soon as possible but, in any event, no later than three months after the date that the Commission confirms that it is an access provider of the relevant Number Portability Service.
17. This statement is effective as of 30 June 2008.

⁵ Decision 605: Clarification (No 3) of Number Portability Decision dated 22 June 2007.

Signed by:

A handwritten signature in blue ink, consisting of a stylized initial 'R' followed by a long, sweeping horizontal line that tapers to the right.

Dr Ross Patterson
Telecommunications Commissioner