

**TELECOMMUNICATIONS ACT 2001:**  
**SECTION 31(a): APPLICATION FOR DETERMINATION FOR DESIGNATED MULTI-NETWORK**  
**ACCESS SERVICES**

24 December 2004

Mr Douglas Webb  
Telecommunications Commissioner  
Commerce Commission  
PO Box 2351  
**WELLINGTON**

**By email**

Dear Commissioner Webb

**Application for determination of functions and standards for number portability**

The Applicants listed below apply for a determination under section 31(a) of the Telecommunications Act 2001 (the **Act**) in relation to the following designated multi-network services:

- a) the local telephone number portability service<sup>1</sup>; and
- b) the cellular telephone number portability service<sup>2</sup>

(the **Number Portability Services**),

Each of the Applicants have paid an equal third share of the required non-refundable application fee of \$22,500 (inclusive of GST) by way of electronic transfer to the Commission's bank account

BNZ	North End	Commerce Commission
02	0536	0329867 000

This application comprises this document (paragraphs 1 to 25) and the Codes attached to this application.

---

<sup>1</sup> The first designated multi-network service, sub-part 2, Part 2, Schedule 1 of the Act.

<sup>2</sup> The second designated multi-network service, sub-part 2, Part 2, Schedule 1 of the Act.

## DETERMINATION DETAILS

### THE PERSONS GIVING NOTICE (the Applicants)

1. Telecom New Zealand Ltd

Bruce Parkes

General Manager, Government & Industry Relations

PO Box 570

Wellington

bruce.parkes@telecom.com

p: +64 4 498 5573

f: +64 4 473 9190

2. TelstraClear Ltd

Grant Forsyth

Manager of Industry and Regulatory Affairs

Private Bag 92143

Auckland

grant.forsyth@team.telstraclear.co.nz

p: +64 9 912 5759

f: +64 9 912 4077

3. Vodafone New Zealand Ltd

Michael Goldfinch

Manager, Service Interoperability

Private Bag 92161

Auckland 1030

michael.goldfinch@vodafone.com

p: +64 9 21 545 074

f: +64 9 355 2095

### PARTIES TO THE DETERMINATION

4. The Applicants and access providers for the Number Portability Services.

### DESCRIPTION OF SERVICES

5. The Number Portability Services for which the Applicants seek a determination are:

- a) the local telephone number portability service; and

- b) the cellular telephone number portability service.
6. The Applicants seek a determination under section 31(a) of the Act of the functions that must be performed by a system for delivering the Number Portability Services and the standard to which those functions must be performed.
  7. Each of the Number Portability Services is a designated multi-network service.

#### **JUSTIFICATION FOR APPLICATION**

8. The Telecommunications Carriers' Forum (TCF) has prepared draft codes relating to local and cellular number portability, namely the:
  - a) Network Code for Local and Mobile Number Portability (**Network Code**); and
  - b) Code for Local and Mobile Number Portability (**LMNP Code**)(the **Codes**). The Codes are attached to this Application.
9. The Codes were prepared by the TCF with the intention that they would be submitted to the Commission for approval in accordance with the procedure set out in Schedule 2 to the Act. However, the TCF received legal advice that if the Codes were approved by the Commission under Schedule 2, they may not be enforceable, and the parties to the Codes would be prevented by section 32(a) of the Act from applying for a determination to make the Codes enforceable.
10. The Applicants submit that the Codes must be enforceable to ensure there is certainty to progress implementation of local and cellular number portability. Accordingly, the Applicants are seeking this determination in respect of the Codes.

#### **DETERMINATION SOUGHT**

11. The Applicants consider that the Commission should:
  - a) subject to sub-paragraph (b) below, make a determination under section 31(a) of the Act that is in the form of the Network Code and the LMNP Code; and
  - b) for the areas in the Codes that have not been agreed by the TCF (indicated by square brackets), seek submissions from the Applicants and make a determination in respect of those issues accordingly; and
  - c) make this requested determination under section 31(a) of the Act in conjunction with the determination under section 31(b) of the Act, which the Commission is currently investigating, including aligning the dates for submissions on the determinations.

#### **REQUIREMENTS FOR APPLICATION**

12. A determination is being sought by the Applicants under section 31(a) of the Act because of a concern that if the Codes were approved by the Commissioner under Schedule 2 of the

Act, they may not be enforceable, and the parties to the Codes would be prevented by section 32(a) of the Act from seeking a determination to make the Codes enforceable.

13. The Applicants note that because of the following, an application can be made under section 31(a) of the Act:
  - a) there is no approved code relating to the Number Portability Services; and
  - b) there is no determination in respect of the Number Portability Services; and
  - c) there is no agreement between the Applicants and all access providers for the supply of the Number Portability Services.
14. On 26 March 2003, TelstraClear Ltd, CallPlus Ltd, Compass Communications Ltd, ihug Ltd and WorldxChange Communications Ltd filed an application for a multi-network determination under section 31(b) of the Act concerning the formula for apportioning the cost of delivering the Number Portability Services (**Number Portability Cost Apportionment Application**).
15. On 29 July 2003, the Commission decided to investigate the Number Portability Cost Apportionment Application.
16. At the time that the Number Portability Cost Apportionment Application was made, the parties to the Number Administration Deed (NAD) were progressing the task of developing the technical solution for the delivery of the Number Portability Services.
17. The work on developing the technical solution for the Number Portability Services was subsequently transferred to the TCF who set up the following working groups:
  - a) Network Code Working Party: this working party was tasked with developing a code defining the network aspects of the Number Portability Services (ie the Network Code); and
  - b) Portability Specification Working Party: this working party was tasked with developing a Local and Mobile Number Portability Functional Specification Code (ie the LMNP Code).
18. The Network Code Working Party is comprised of representatives from each of the Applicants as well as WorldxChange Communications Ltd. The Portability Specification Working Party is comprised of representatives from each of the Applicants and also Woosh Wireless Ltd. Although WorldxChange Communications Ltd and Woosh Wireless Ltd have decided not to join with the Applicants in this application, they have both been involved in their respective working parties in reaching agreement on the relevant draft Codes.
19. The LMNP Code sets out the processes that will enable customers to port their cellular or local numbers and also sets out the obligations of service providers and carriers in a number portability environment. The processes are based around a centralised Industry Portability Management System which facilitates number portability between service providers but relies on carriers to configure and update their networks and support systems

to ensure calls to and from ported numbers, and short messages to and from ported mobile numbers, are correctly routed.

20. The Network Code is intended to guide participating carriers in the development of their own network solutions and specify the optional and mandatory requirements necessary between networks for local and mobile number portability for voice services and short message services.
21. The TCF has invited interested parties to make submissions on both Codes and as a result of the comments received the TCF has made changes to the draft Codes.
22. The Applicants are seeking a determination of the Codes, rather than submitting the Codes for approval to the Commission under Schedule 2 of the Act. This will ensure the Codes are enforceable via the High Court.

### **CONFIDENTIALITY**

23. The Applicants make no claim of confidentiality in respect of this application.

### **DECLARATION**

This application is made by the following parties: TelstraClear Ltd, Telecom New Zealand Ltd and Vodafone New Zealand Ltd.

The Parties hereby confirm that:

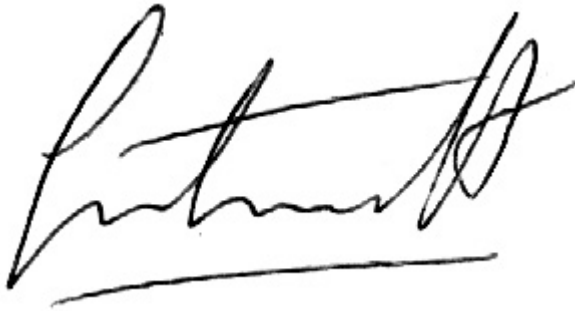
- \* all information specified by the Commission has been supplied;
- \* all information known to the Applicants which is relevant to the consideration of this application has been supplied; and
- \* all information supplied is correct as at the date of this Application.

The Applicants jointly undertake to advise the Commission immediately of any material change in circumstances relating to the application.

This application has been signed in one or more counterparts, each of which will be deemed an original, but all of which counterparts together will constitute one and the same instrument.

Dated this 24<sup>th</sup> December 2004

Signed by TelstraClear Limited:

A handwritten signature in black ink, appearing to read 'Grant Forsyth', written over a horizontal line.

Grant Forsyth

Manager of Industry and Regulatory Affairs

I am an officer of the company and am duly authorised to make this application.

Signed by Telecom New Zealand Limited:

Bruce Parkes

General Manager, Government & Industry Relations

I am an officer of the company and am duly authorised to make this application.

Signed by Vodafone New Zealand Ltd:

Michael Goldfinch

Manager, Service Interoperability

I am an officer of the company and am duly authorised to make this application.