



TelstraClear Limited

Local and Mobile Number Portability

Response to the draft Determination on the multiparty application for determination of “local telephone number portability service” and “cellular telephone number portability service” designated multi-network services (TelstraClear’s Response)

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1. EXECUTIVE SUMMARY

1. TelstraClear believes that determination by the Commission on the terms set out in the draft Determination issued on 12 May 2005, incorporating the LMNP and Network Terms (the **draft Determination**) will be a substantial step towards introducing local and mobile number portability in New Zealand.
2. TelstraClear, Vodafone, Telecom and WorldxChange have been able to agree a large number of issues and have lodged a joint response.
3. This document sets out TelstraClear's position on the issues not covered in the joint response as follows:
 - a. TelstraClear endorses the principles of portability of numbers between fixed and mobile networks. However, we believe the Commission's approach in limiting the geographic scope of local numbers ported to a mobile network to a single cell site is fundamentally inconsistent with the NAD, will be impracticable for operators and confusing for end users. There will be two classes of local numbers: those which a mobile operator obtains directly from the NAD which can be used within a local calling area and ported local numbers which can only be used in the end user's single cell site area. To avoid this issue, the Commission should adopt a wider interpretation of the geographic boundaries associated with ported local numbers;
 - b. Consistent with the principle of portability of numbers between fixed and mobile networks, the principle of equivalent service should be modified for fixed-mobile number portability to provide that where a local number has been ported to a mobile network, the MNP Equivalent Service Criteria shall apply, and where a mobile number has been Ported to a local network, the LNP Equivalent Service Criteria shall apply; and
 - c. TelstraClear agrees with the Commission's proposal to set fixed timeframes, including for the parties to be ready for IPMS testing and for IPMS to be go-live. TelstraClear has recommended some changes to the IPMS testing date(s) to more closely align this milestone with the go-live date(s) for local and mobile portability.

2. INTRODUCTION

4. On 24 December 2004, TelstraClear, Vodafone and Telecom (**the Applicants**) applied to the Commerce Commission for a Determination in respect of Number Portability Functions and Standards¹ (the **Application**) based on the following draft codes prepared by the Telecommunication Carriers Forum (**TCF**):
 - a) Network Code for Local and Mobile Number Portability (**Network Code**); and
 - b) Code for Local and Mobile Number Portability (**LMNP Code**),

(together the **Codes**).
5. In the Application, the Applicants noted that there were a few matters in the Codes that the TCF had not agreed, which were indicated by square brackets. The Applicants requested that the Commission determine those issues.
6. TelstraClear's Response to the draft Determination is made of 2 Parts as follows:
 - a. Part A: The joint response from the Applicants and WorldxChange on the LMNP Terms and Network Terms in the draft Determination separately provided by the Applicants and Worldxchange on 10 June 2005 ("**Joint Response**"); and
 - b. Part B: TelstraClear's Response to the draft Determination as set out in this document on the issues that are not covered in the Joint Response. TelstraClear's Response should be read in conjunction with the Joint Response.

¹ Joint application for Determination in respect of Number Portability Functions and Standards, dated 24 December 2004.

3. FIXED TO MOBILE PORTING

7. The draft Determination provides that local telephone number portability may extend to the porting of a local telephone number between a fixed network and a cellular network where the cellular network provides a fixed wireless telephone service².

8. TelstraClear, consistent with its view that all numbers should be portable, endorses fixed to mobile number portability (and the reverse). In its first submission, TelstraClear expressed doubts about whether the number portability definitions in the Telecommunications Act 2001 (the **Act**) could, as a matter of interpretation, include fixed to mobile number portability. However, if the Commission does believe that fixed to mobile portability falls within the designated service, it is important to ensure that a workable approach is adopted in mapping geographic fixed numbers to cellular networks. TelstraClear does not believe the Commission's approach of limiting fixed numbers to a single cell site is consistent with the approach to numbering administration, and it would be impracticable for operators and confusing to end users.

9. The Number Administration Deed (**NAD**) Telecommunications Numbering Plan Number Allocation Rules (**the NAD Rules**), provide for geographic service codes to be allocated. Geographic Service Codes (i.e. "Local Numbers") are:

"...allocated for the provision of services with a geographic structure, which can originate or terminate calls over Public Switched Telephone Networks."³

10. Accordingly, to allocate a local number a provider must provide services:

- a. that originate or terminate over a Public Switched Telephone Network;
and
- b. that have a geographic structure.

11. The definition of "Public Switched Telephone Networks" or "PSTN" in the NAD

² Draft Determination, paragraphs 54 to 72.

³ Clause 7.1.1 of the NAD Rules.

Rules is technology neutral, and hence excludes neither cellular nor cable based networks. The definition in the NAD Rules is as follows:

“a public service offered by a Service Provider for telecommunication between end-users. In general, a Public Switched Telecommunications Service enables end-users to communicate with end-users of the same or any other Public Switched Telecommunication Service over inter-connected PSTNs.”

12. The NAD Rules do not prescribe the geographic structure for Geographic Service Codes in a manner that imposes cell site boundaries for local calling numbers allocated to a wireless PSTN.
13. In TelstraClear’s view, the NAD Rules allow a mobile network to be used to provide Public Switched Telephone Services with a geographic numbering structure based on a Local Interconnect Calling Area (LICA) or local calling area.
14. In Vodafone’s submission on the Functions and Standards Application⁴, Vodafone argues that the Number Administrator has allocated local numbers to Vodafone for use in accordance with the NAD Rules, without any requirement that Vodafone establish a fixed network. The same applies to Woosh Wireless, which have recently been allocated local numbers under the NAD Rules.
15. We note further that neither Woosh Wireless nor Vodafone are required to apply a tower or cell site boundary to local numbers allocated to their wireless networks and nor is there any other technical limitation on how such numbers can be used on their networks.
16. The Commission has agreed with Vodafone that local numbers are not allocated on the condition that the receiving party must operate or build a fixed PSTN⁵:

“They are only required to be used in geographic service code blocks (local numbers) [assigned to LICAs or local calling areas] and are allocated for the provision of services with a geographic structure, which can originate or terminate calls over PSTNs”.

⁴ Vodafone’s response to the Commission’s questions on the Functions and Standards Application, dated 11 March 2005.

⁵ Draft Determination, paragraph 71.

17. TelstraClear agrees with Vodafone (and the Commission) on this.

18. The Commission then goes on to state that⁶:

“a wireless network can provide a fixed telephone network service [words appearing in the Act in relation to “portable numbers” but not the NAD Rules], provided the end-user is using a local telephone number and the service on the wireless network is limited to calls made, and received, in a geographic area that is bounded by a single transmission tower (or cell site). A “fixed telephone network service” does not extend to a service that allows the end-user’s telephone device to perform call hand over between transmission towers or to calls made (and received) on that device which require the involvement of more than one transmission tower in the wireless network. Once calls are handed over between cell sites the service qualifies as a cellular telephone network service which is outside the scope of the local telephone number portability service”.

19. The Commission states that this approach is consistent with how local numbers are allocated under the Number Administration Deed⁷. TelstraClear disagrees.

20. We are also concerned that the Commission’s draft Determination as to what constitutes a service associated with a local number appears to have the unintended consequence of:

- a. artificially constraining valid uses of local numbers in accordance with the NAD Rules; and
- b. limiting competition with Telecom’s local calling service and both Telecom’s and Vodafone’s mobile services, which is not in the best interests of end users, and is therefore contrary to section 18 of the Act.

21. The definition of a “fixed telecommunications network” in the Act does not include any express or implied requirement for a geographic boundary at a cell site level rather than a LICA level.

22. For fixed line PSTNs there is no local number cell site boundary. Rather the boundary is limited to the relevant local calling area, which is made up of a

⁶ Draft Determination, paragraph 68.

⁷ Draft Determination, paragraph 71.

collection of exchanges. The geographical limitation of fixed line handsets is a technical limitation rather than a legal one. Local numbers allocated to a cellular PSTN should be subject to the same boundary but no artificial constraints in terms of physical location of an in-use line within that local calling area.

23. The Commission's views might be distinguished from the approach in the NAD Rules on the basis that:

- a. the Commission's objective is to interpret the meaning of "fixed telephone network service" in the Act and this term does not appear in the NAD Rules; and
- b. the Commission's determination applies in the specific context of the regulation of local numbers which are portable in accordance with the Act, rather than necessarily in relation to all local numbers which are permitted to be used in accordance with the NAD Rules.

24. The Commission have confirmed that⁸:

"(i) The Commission's preliminary findings in paragraphs 68 and 71 of the Draft Determination relate to interpretation of the service description for the local telephone number portability designated multinet service as set out in Schedule 1 of the Telecommunications Act (the "Act"). The Commission notes that responsibility for the administration and application of the NAD and Number Allocation Rules is placed on the Number Administrator, Management Committee and Independent Chair, under the NAD.

(ii) Any reference made by the Commission to Number Allocation Rules established under the NAD should not be treated as an authoritative or binding interpretation of the Number Allocation Rules. In particular, the Commission does not intend to provide guidance or make any ruling as to how the geographic structure requirements under the Number Allocation Rules might apply to the allocation of geographic numbers.

⁸<http://www.comcom.govt.nz//IndustryRegulation/Telecommunications/NumberPortability/ContentFiles/Documents/NP%20Point%20of%20Clarification.pdf>

(iii) The Commission notes that the prescription of the requirements for geographic numbers in the Number Allocation Rules is a separate and different matter from the interpretation of “fixed telephone network service” and the application of the local telephone number portability designated multi-network service in Schedule 1 of the Act.”

25. In TelstraClear’s view, the distinction between the scope of use of local numbers for NAD allocation and number portability reasons is unnecessary and confusing. Number portability and number allocation should logically follow the same rules. In TelstraClear’s view, it would be inconsistent if different rules about the use of numbers within a network depended on whether the number came into a network directly by an allocation from the NAD or was ported from another carrier which was allocated the number by the NAD.
26. In TelstraClear’s view, if the Commission finds that local numbers are portable under the Act in respect of wireless and fixed networks, the only constraint should be based on the boundary of the local calling area itself rather than the location of the access device. TelstraClear believes therefore that if the NAD allows for the use of local numbers in a wireless PSTN with a “geographic structure” based around LICAs, then there is no logical reason why such numbers should not be portable between fixed and mobile networks on the same basis.
27. Further, section 4.1.8 of the LMNP Terms currently requires that:
 - a. “A Ported Local Number must **physically** remain 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. (emphasis added)
 - b. 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.”
28. If local telephone number portability is to extend to the porting of a local telephone number between a fixed network and a cellular network, then clause 4.1.8 (a) of the LMNP Terms should be amended to:
 - a. “A Ported Local Number must **logically** remain within the Donor Carrier’s relevant Local Calling Area. **For example**, a Customer with a Ported Local Number wishing to move premises can retain that Local Number provided that the **number continues to logically reside** within the same Donor

Carrier's Local Calling Area." (emphasis added)

29. In the alternative, as suggested in TelstraClear's earlier submissions, the Commission should interpret the words "fixed telephone network service" to mean only those local numbers used in association with a fixed PSTN. This avoids creating an artificial technical distinction between valid uses of local numbers on wireless or fixed networks within a local calling area.
30. In conclusion, TelstraClear supports the concept that all numbers should be portable. For that reason, we support fixed to mobile portability (and portability in the reverse direction), but the portability arrangements, and the end user's rights of use of the ported number, have to be robust and simple for end users to understand. To avoid this issue, the Commission should adopt a wider interpretation of the geographic boundaries associated with ported local numbers .

4. EQUIVALENT SERVICE

31. Clause 14.2 of the Network Terms set out the service equivalent requirements for local and mobile number portability. If local telephone number portability is to extend to the porting of a local telephone number between a fixed network and a cellular network, then clause 14.2.1 of the Network Terms should be amended by adding the following:

"Where a Local Number has been Ported to a Mobile Network, the MNP Equivalent Service Criteria shall apply, and where a Mobile Number has been Ported to a Local Network, the LNP Equivalent Service Criteria shall apply."

5. IMPLEMENTATION OF NUMBER PORTABILITY

32. The Commission has included a requirement in the Terms for each party to be able to connect to the IPMS by 1 April 2006 to use it to test their systems, and for full local and mobile number portability to be introduced in New Zealand by 1 April 2007.
33. The TCF is having difficulty getting firm commitments from parties to implementation dates for inclusion in the TCF number portability project plan and TelstraClear agrees with the Commission's approach of including firm dates in the Determination for important milestones.
34. While TelstraClear would like local and mobile number portability introduced in New Zealand earlier than the 1 April 2007 date set out in the draft

Determination, if the Commission retains this date in its final determination, TelstraClear proposes that the date by which the parties are required to be able to connect to the IPMS to use it to test their systems, be amended from the 1 April 2006 date in the draft Determination to 1 September 2006. The rationale for this is that there is no benefit to end users for this milestone to be achieved 12 months prior to the IPMS going live, and a 6 month lead time prior to the go-live date is consistent to the approach being taken in the TCF's implementation plan.

35. However if the Commission were to require local number portability to be introduced ahead of mobile number portability, then TelstraClear proposes that the 1 April 2006 date be amended to a date 6 months prior to the determined go-live date for local number portability. Based on the TCF's current number portability implementation plan, the earliest date for parties to be ready for testing their internal systems using IPMS would be 30 June 2006.
36. Further, TelstraClear believes this timeframe for IPMS testing should be in the LMNP Terms rather than the Network Terms, and it should be clear that the requirement is for parties to LMNP to be able to test their **internal** systems interworking with IPMS.
37. Lastly, we note that to enable full local number portability, Vodafone and Telecom need to be ready to test their internal systems interworking with IPMS by the date set out in 1.4 of the Network Terms so that calls from mobile numbers can be routed to ported local numbers. Alternatively, they will need to have donor re-routing arrangements in place for calls to local numbers.