



**Telecom New Zealand Limited**

**Submission in respect of the**

**Commerce Commission's Draft Determination on  
the multi-party application for determination of  
'local telephone number portability service' and  
'cellular telephone number portability service'  
designated multinetwork services – cost  
allocation**

**7 February 2005**

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## A EXECUTIVE SUMMARY

- 1 Telecom is committed to the implementation of number portability in New Zealand in accordance with the Telecommunications Act 2001 (“Act”). Telecom has been an active participant in the Telecommunications Carriers’ Forum and the development of the local and mobile number portability code and the network code.
- 2 The implementation of number portability is a complex technical exercise accompanied by substantial cost. The allocation of those costs must therefore be carefully considered in accordance with the purpose in the Act.
- 3 Telecom agrees that the Commission has correctly identified the broad cost categories associated with implementing local and cellular telephone number portability in its Draft Determination. However, Telecom is concerned about how those costs have been allocated, the level of costs that the Commission considers is associated with each, and the lack of clarity about what the Commission considers is included and excluded in each category of costs.
- 4 Telecom is concerned that the method of allocation proposed by the Commission for industry common costs is inefficient and accordingly not for the long-term benefit of end-users. Telecom submits that any allocation methodology should, to the extent practicable, appropriately allocate costs to align relevant incentives in a way so as to generate the most efficient outcome. Only this will be for the long-term benefit of end-users.
- 5 The Commission should not make Telecom pay just because “it can afford it”. Neither should it take “pity” on smaller or entrant network operators. The methodology must be efficient or, ultimately, end-users will suffer.
- 6 In particular, the methodology proposed by the Commission:
  - 6.1 does not adequately account for the benefits of number portability being shared amongst different types of consumers, and amongst competing networks;
  - 6.2 does not provide an efficient mechanism to allow original contributors to common industry costs to recoup from entrant network operators; and
  - 6.3 grossly underestimates the competitive significance of call conveyance costs. These costs are substantial – not negligible – and to ignore them is to distort an otherwise more efficient outcome.

- 7 While the proposed ability to recover per-line set up costs is of some comfort, the overall result is that the Commission's cost allocation methodology for industry common costs creates an asymmetry between those who benefit from number portability and those who pay. This asymmetry will create incentives for industry participants that reduce efficiency, and will ultimately be to the detriment of end-users.
- 8 Other specific concerns include:
  - 8.1 the necessity for Telecom to be an access seeker – and not just an access provider – of both local and cellular number portability;
  - 8.2 the requirement that network operators are not foreclosed by the Commission from choosing the particular technical solution to be deployed to satisfy the requirements of the Network Code;
  - 8.3 the desirability of the term of the Commission's final determination being, in accordance with the Act, no longer than 5 years from the date of that determination.
- 9 Telecom addresses these and other matters in the submissions that follow.

**B RELEVANT ACCESS SEEKERS AND ACCESS PROVIDERS**

- 10 The Commission has detailed its view of the eligibility of access seekers and access providers of local and cellular telephone number portability in its Draft Determination.
- 11 Accurately determining the eligibility of carriers as access seekers and access providers is critical, and is a task to which the Commission should give careful consideration. Should the Commission be minded to change the proposed eligibility status of carriers, all interested parties must be afforded the opportunity to comment.

**Telecom as an access seeker and provider**

- 12 Telecom notes that, at paragraph 28 of the Draft Determination, the Commission refers to Telecom only as an access provider of local and cellular telephone number portability services. Telecom notes that it is also an access seeker of both local and cellular telephone number portability and asks that the Commission determine it as such.
- 13 It appears that the Commission has assumed that, to be an access seeker, a carrier must also be an applicant under section 31 of the Act. Telecom notes that neither of the "access seeker" definitions in the local and cellular number portability service descriptions in Schedule 1, part 2, subpart 2 of the Act requires an access seeker to be an applicant to a determination.
- 14 For the avoidance of doubt, Telecom considers that it meets the criteria for an access seeker for both local and cellular telephone number portability services under Schedule 1, Part 2, Subpart 2 of the Act. Specifically:
- 14.1 Telecom operates both a fixed and cellular PSTN to which numbers have been allocated (determined by the Commission in determining Telecom as an access provider);
- 14.2 Telecom operates a telephone service that relates to both the fixed and cellular number portability services (determined by the Commission in determining Telecom as an access provider); and
- 14.3 Telecom will be seeking access to both the local and cellular telephone number portability service.
- 15 Accordingly, Telecom submits that the Commission should determine that Telecom is both an eligible access seeker and provider of both local and cellular telephone number portability.

- 16 If the Commission is of a different view, it should set out that view and allow an opportunity for comment before a final determination is made.

### **Other Carriers**

#### *TelstraClear*

- 17 Telecom has previously made submissions on TelstraClear's eligibility as an access seeker and provider of cellular telephone number portability services, and disagrees with the Draft Determination in this respect.
- 18 Telecom submits that TelstraClear does not meet the criteria as an access seeker or provider of cellular telephone number portability under the Act and reiterates its submissions made in this respect in Telecom's number portability cost allocation submissions dated 18 August 2004.

#### *Vodafone*

- 19 Vodafone has previously advised the Commission that, in its view, it does not meet the criteria for an access provider for the local number portability service. The Commission concurred with this position in its Draft Determination. Telecom agrees that Vodafone is not an access provider of local telephone number portability, as it does not operate a fixed PSTN.
- 20 Telecom also agrees with the Commission that Vodafone is not an access seeker of local telephone number portability. The description of a local number portability service under Schedule 1, part 2, subpart 2 of the Act clearly anticipates a service that enables an end-user of a *fixed* telephone network service to change to another provider of a *fixed* telephone network service. As Vodafone does not operate a fixed PSTN, it cannot be an eligible access seeker or access provider of local telephone number portability under the Act. In addition, fixed to cellular portability is not a designated multinet network service.

### **Monitoring of eligibility**

- 21 Telecom notes that the Commission intends to continue to monitor the eligibility of parties throughout the period of the final determination to ensure that an accurate register of access seekers and access providers is maintained.
- 22 As an interested party, Telecom expects to be afforded the opportunity to comment on any proposed change of status of any other party.

## **C TECHNOLOGICAL SOLUTIONS FOR NUMBER PORTABILITY**

- 23 In its Draft Determination the Commission has attempted to describe the technological solution that will be employed by carriers in New Zealand for number portability (refer paragraphs 36-45 of the Draft Determination).
- 24 Telecom is concerned that the Commission has misinterpreted the number portability solutions that carriers are looking to employ in order to meet the proposed number portability functions and standards.
- 25 Telecom submits that the Commission should focus on the outcomes that a number portability solution needs to deliver, not the inputs. There is no reason for the Commission to rely on input assumptions in establishing its cost allocation principles. There is a risk in assuming a solution that the Commission will prevent carriers from employing the most effective and efficient solution.
- 26 For example, at paragraph 44 of its Draft Determination, the Commission suggests that the Network Code<sup>1</sup> provides for an off-switch IN solution. However, the Network Code deliberately allows parties to choose to employ either an on-switch or off-switch solution, or a combination of both (refer clause 3.3 of the Network Code). The Network Code specifies the required functions and standards of the fixed and cellular number portability services to be provided by access providers. It is (rightly) agnostic as to what technical solution is required to satisfy those functions and standards. The final solution may be on-switch, off-switch or a combination of the two.
- 27 Telecom submits that the Commission should not describe the technical solution in its final determination for the following reasons:
- 27.1 The Commission has indicated in its Draft Determination that carrier-specific set-up costs should be borne by each carrier, in part to ensure that costs are minimised and the most efficient solution is employed. If this approach is adopted in the Commission's final determination, carriers must be able to choose their own solution to ensure that it can in fact minimise costs. It is unlikely that a "one size fits all" solution will be best for all carriers, for all call types, and for all existing and future services. Prescribing too much detail risks inappropriately foreclosing potentially more efficient technology

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<sup>1</sup> The codes referred to here are the draft codes submitted to the Commission on 24 December 2004 with an application for determination of functions and standards for number portability.

paths and unnecessarily constraining future network and technological developments. Such an outcome would not be in the long term interests of end-users.

- 27.2 The Act does not require the Commission to specify the technological local and cellular telephone number portability solution that parties must employ. Rather, the Commission is tasked in another application with determining the functions and standards that a number portability solution must meet. Telecom submits that the best approach is for the Commission to refrain from describing the technological solution in any detail, and to use incentives to ensure the most efficient solution is adopted by all carriers.
- 27.3 Should the number portability cost allocation and functions and standards proceedings be merged, it will not be necessary for the Commission to attempt to summarise the technological aspects of the number portability functions and standards.

## D COST ALLOCATION - OBJECTIVES AND PRINCIPLES

- 28 The Commission has identified objectives and principles for the allocation of costs associated with local and cellular telephone number portability (paragraphs 54 – 73 of the Draft Determination).
- 29 Telecom submits that the Commission’s economic analysis of how costs should be allocated is problematic.
- 30 The Draft Determination fails to clearly identify the benefits of number portability and the allocation of those benefits amongst different types of consumers, and amongst competing networks. In particular, the Commission has not taken into account that both existing network operators and future entrants are beneficiaries of number portability.
- 31 The result is that the Commission’s proposed cost allocation methodology for industry common costs creates an asymmetry between those who benefit from number portability and those who pay. For example, new entrants only pay incremental costs associated with number portability.
- 32 Telecom addresses the issues with the Commission’s proposed methodology in further detail below.

### Overriding objective

- 33 Telecom agrees with the Commission’s starting premise “that the overriding objective that it must pursue in making a determination on the allocation of costs of number portability is the promotion of competition for the long term benefit of end-users”. (paragraph 54).
- 34 As the Commission notes, the Act requires it to have regard to Section 18 of the Act, which provides that:
- (1) *The purpose of this Part and Schedules 1 to 3 is to promote competition in telecommunications markets for the long-term benefit of end-users of telecommunications services within New Zealand by regulating, and providing for the regulation of, the supply of certain telecommunications services between service providers.*
  - (2) *In determining whether or not, or the extent to which, any act or omission will result, or will be likely to result, in competition in telecommunications markets for the long-term benefit of end-users of telecommunications services within New Zealand, the efficiencies that will result, or will be likely to result, from that act or omission must be considered.*
- 35 In its Draft Determination, the Commission has specified four principles that it considers it should take into account when determining a cost allocation methodology – cost minimisation, cost causation, alignment of costs with benefits, and practicality (paragraph 57) (“**principles**”). However, despite

the heavy reliance placed on these principles, no reasons are provided by the Commission as to why or how these principles best give effect to section 18 of the Act.

- 36 Telecom submits that the Commission must provide reasons why the principles best give effect to section 18 of the Act, and how those principles have been applied, and allow parties an opportunity to comment.
- 37 Telecom considers that adherence to these principles does not of itself ensure that the requirements of section 18 are satisfied. If the Commission is to establish and rely on extraneous guiding principles other than those specifically laid down in the Act, each of these principles need to be given appropriate – not necessarily equal – weight to reliably assist the Commission’s obligation under section 18.
- 38 Section 18 requires the Commission to consider the efficiencies that will result from the proposed cost allocation methodology for number portability. In its guide to making access determinations under the Act<sup>2</sup> the Commission interpreted the reference to efficiencies in section 18 as meaning “economic efficiency”. The Commission must ensure that any proposed cost allocation methodology results in economic efficiency. This is consistent with promoting the long-term benefit of end-users because end-users will derive the greatest benefits from the efficient allocation of resources.
- 39 Economic efficiency takes three forms – allocative efficiency, productive efficiency and dynamic efficiency. The Commission accepts that end-users derive greater benefits from dynamic efficiency. Telecom believes that, of those principles specified by the Commission, the greatest weight should be placed on cost causation and the alignment of costs with benefits, since these principles are most clearly related to dynamic efficiency. Accordingly, these principles should be given greater weight in seeking to satisfy the requirements of section 18.
- 40 There is no evidence of any emphasis on dynamic efficiency – or the allocation principles which most impact upon it – in the cost allocation methodology for industry common costs proposed in the Draft Determination. Accordingly, inefficiencies may result, which will ultimately be to the detriment of end-users.

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<sup>2</sup> A Guide to the Role of the Commerce Commission in Making Access Determinations Under the Telecommunications Act, paragraph 64

### **Commission's analysis of the benefits of number portability**

- 41 The Commission has classified the benefits of number portability into three categories: type 1, type 2 and type 3 benefits.
- 42 Type 1 benefits are those that a porting customer gains directly from the number portability service. The Commission notes as an example the cost saving for customers switching network providers and the fact that the porting customer need not inform their community of interest of a number change.
- 43 In addition, the Commission claims the type 1 benefits include "improvements to price and service features that may be provided by competing service providers." This statement indicates that the Commission is treating the reduction in the transaction cost for a porting customer as if it is a reduction in the cost of service providers. They are not the same. The costs of service providers do not decrease with the introduction of number portability, in fact the costs of service providers will increase with the requirement to develop and maintain new systems and processes necessary to support number portability.
- 44 As a result, it is wrong to presume that introducing number portability will result in a price reduction. Prices may increase, decrease or stay the same, regardless of whether customers use particular services. Similarly, the maintenance or otherwise of service quality is entirely independent of the availability of number portability. All that can be said with any certainty is that customers will enjoy a reduction in the transaction costs of switching service providers. Thus, Telecom submits that the Commission must not attribute price reductions for ongoing service to the introduction of a number portability scheme when number portability in fact only reduces one-time switching costs.
- 45 Type 2 benefits are the indirect benefits of number portability to all customers. The Commission states these benefits are "efficiency improvements, price reductions and greater variety of products and services resulting from increased competitive pressures induced by the introduction of number portability." As noted above, none of the Commission's benefits necessarily follow from the introduction of number portability for those customers who switch service providers. It is even less likely that these benefits "will accrue to all users in the markets".
- 46 The Commission's proposition assumes that a sufficiently large number of customers will switch service providers as a result of number portability to justify reducing prices to all customers. This is not likely to be true in markets where number portability has most relevance, i.e. where there is any infrastructure based competition.

- 47 The Commission has determined that access competition is not limited in metropolitan areas. Furthermore, Telecom considers that number portability is unlikely to induce price reductions in either the fixed line toll calling or mobile markets as both of these markets are already highly competitive. This is supported by the Commission's observation regarding the NERA studies on number portability in the UK and Hong Kong (paragraph 62). The Commission notes that the size of the type 2 benefit relative to the total benefit is significantly less for Hong Kong than the UK. The Commission then suggests the difference is due to the extent of competition, and that the mobile market in Hong Kong is very competitive.
- 48 It follows that with respect to New Zealand, as the metropolitan access market, the fixed line toll calling market and the mobile market are competitive, then the size of the type 2 benefits will only be marginal.

#### **Telecom's Approach to the Assessment of Benefits and the Efficient Recovery of the Cost of Number Portability**

- 49 Telecom submits that the Commission's approach to the assessment of the benefits of number portability is inappropriate because it does not recognise network operators as beneficiaries. This is particularly important because it has resulted in the Commission omitting recognition of entrant network operators (not currently offering service in New Zealand) as beneficiaries of number portability.
- 50 Telecom submits that the analysis of the benefits of number portability should begin with a recognition that the ability to port a number is an option for customers and competing network operators. The introduction of a number portability regime that reduces the costs of porting numbers increases the value of the options available to customers and competing network operators. A reduction in the cost of exercising the option to port a number will likely result in the benefits of the cost reduction being split between the customers and competing network operators, since customers will be willing to bear fewer of the costs of porting when they switch and network operators will offer less to induce customers to switch.
- 51 In these terms, the beneficiaries of number portability are as follows:
- 51.1 Customers of existing network operators, who benefit from the receipt of a more valuable porting option;
  - 51.2 Customers of existing network operators who choose to exercise the porting option, since the incremental cost of exercising the option is lower;

- 51.3 Existing network operators, who benefit from an increase in the value of the option to recruit customers from competing network operators; and
- 51.4 Entrant network operators, who benefit from an increase in the value of the option to recruit customers from existing network operators.
- 52 The Commission proposes that the benefits to customers are split between the benefits to all consumers via an increase in the value of the option to port and benefits to customers who choose to exercise this option. However, the increase in the value of the option to port, resulting from the reduced costs of porting, does not affect all competing network operators equally, and neither is its impact on network operators proportional to market share.
- 53 The benefits to competing network operators are a function of the number of customers of other network operators multiplied by the reduction in customer recruitment costs resulting from the reduction in the cost of porting numbers, since network operators benefit only from the reduced cost of attracting customers that they do not already have. Telecom submits that the benefits of number portability for competing network operators are not proportional to their market share (as a "customer base" cost allocation rule would imply) but are, in fact, *inversely* proportional.
- 54 Comparing this assessment of the beneficiaries with the Commission's proposed charging regime makes it clear that, under the regime proposed by the Commission, there will be substantial asymmetries between those who benefit and those who pay.
- 55 Telecom addresses its specific concerns with the Commission's cost allocation methodology in Section E below.

## **E COST ALLOCATION**

- 56 In its Draft Determination, the Commission has identified four classes of costs arising from the implementation of number portability:
- 56.1 Industry common set-up costs;
  - 56.2 Operator specific set-up costs;
  - 56.3 Per-line set-up costs; and
  - 56.4 Additional call conveyance costs.
- 57 Telecom agrees that the Commission has correctly identified the categories of costs associated with number portability. However, Telecom is concerned about how those costs have been allocated, the level of costs that the Commission considers is associated with each, and the lack of clarity about what the Commission considers is included and excluded in each category of costs.
- 58 Telecom addresses each of the classes of costs, and the Commission's cost allocation methodology, in turn.

### **Industry common system set-up costs**

- 59 The Commission has proposed that industry common set-up costs are shared between carriers in line with each operator's market share, defined by the number of subscribers to local and mobile access. The Commission appears to be ignoring the presence of type 1 benefits in reaching this conclusion. Customers who obtain benefits for porting numbers are not being asked to make any direct contribution to this class of cost. This is inefficient and, ultimately, not to the long term benefit of end-users

#### *Description of costs*

- 60 The Commission's current description of the industry common system set-up costs is unclear, and may lead to confusion.
- 61 Telecom understands that the Commission's description of the industry common system set-up costs is intended to cover all of the costs associated with establishing the IPMS solution. Telecom submits that the Commission should clarify exactly what it intends to be covered by the industry set-up costs, and proposes that the following description may be more appropriate:

“The cost associated with developing the technical specifications and design and build of the industry portability management system (“IPMS”) and other common systems, including the cost of system hosting implementation services and ongoing management services.”

- 62 This wording is consistent with the terms of the contract with Hewlett Packard who are currently developing the IPMS system. The description also incorporates the ongoing costs of the common systems.

*Differentiation between local and cellular number portability costs*

- 63 Telecom agrees with the Commission’s approach of not differentiating between local and cellular number portability for the purposes of the cost allocation methodology. For example, it would be difficult to differentiate between those industry common set-up costs associated with the IPMS solution that relate to local number portability, and those that relate to cellular number portability.

*Cost allocation methodology*

- 64 The allocation of common costs to existing network operators on the basis of customer numbers, and the allocation of incremental costs of porting to customers who exercise the option, has two important weaknesses:
- 64.1 It treats the benefits of investment in a number portability regime as proportional to customer bases whereas the benefits are actually inversely proportional to each network’s market share.
- 64.2 It does not provide an effective mechanism for the allocation of costs to entrant network operators. If entrant networks can acquire customers at the incremental cost of porting their numbers, they will avoid paying a share of the common costs of the porting system even though they are the largest beneficiaries of this system (since, with no customers for a start, they face the greatest potential benefit from a reduction in all customers’ costs of porting numbers).
- 65 The Commission has suggested that entrant network operators be levied a depreciation charge based on the number of customers that they acquire after they have entered. This ex-post calculation will be cumbersome and will considerably understate the benefits that entrant network operators actually derive from the investment in number portability made by other industry participants.
- 66 Telecom submits that it is inefficient for the charging regime to levy the fixed costs of the number portability infrastructure on existing network operators in proportion to market share, and then to charge only the

incremental cost of porting the number for each customer acquired. In effect, this is a subsidy to small and entrant network operators, and may reduce productive and allocative efficiency by subsidising small networks.

- 67 The Commission should recognise the benefits that small networks and entrant network operators receive by setting charges for customers actually exercising the option to port above the incremental cost of porting.
- 68 A more efficient solution to the problem of charging for the common costs of the implementation of number portability is to charge each receiving network the incremental cost plus an appropriate share of common costs for each customer whose number is ported. Telecom proposes that the Commission should apply a methodology along the following lines:
- 68.1 Existing carriers pay 100% of the industry common costs upfront, based on subscriber numbers (on the basis that the vendor needs to be paid upfront);
- 68.2 Contributing carriers absorb 50% of the cost paid;
- 68.3 The remaining 50% of the cost paid will be recouped as a fixed levy charged on a per port basis, and paid back to the original contributors proportional to their original contribution, and on a periodic basis.
- 68.4 The recoupement will cease once 50% of the costs have been recovered by the original contributors.
- 69 While such a mechanism is not "exact" in allocating costs to relevant beneficiaries of those costs, it at least approximates an efficient pricing regime more effectively than the methodology proposed by the Commission. Accordingly, it will be to the greater benefit of end-users.
- 70 Telecom does not propose that a Donor Network Operator ("**DNO**") or the IPMS directly charge porting customers, as this would add complexity and cost to the process of a customer switching network operator. Telecom proposes that the DNO and IPMS charge the Receiving Network Operator ("**RNO**") according to the number of customer porting numbers. The RNO then decides how best to recover this cost. This is consistent with the Commission's position regarding the DNO not charging the porting customer, and would allow competition to determine what proportion of the charge for porting should be levied directly to customers and what proportion should be treated as common costs of the RNO.

**Per-operator set-up costs**

- 71 The Commission proposes that each operator should bear its own set-up costs.
- 72 The per-operator set-up cost of number portability for Telecom will be significant. The cost (in NZD) of a cellular number portability solution alone is likely to be in the tens of millions.
- 73 Telecom reiterates its submissions (dated 18 August 2004) that the Commission's suggested approach for allocation of per-operator set-up costs will place the greatest cost of providing number portability on Telecom. This will not reflect the relative benefit that Telecom and Telecom's customers will obtain from number portability.

**Per-line set-up costs**

- 74 The Commission considers that a DNO should be permitted to recover the per-line set-up costs they incur when one of its customers switches to another operator.
- 75 Telecom agrees with the Commission's proposition that the DNO should be able to recover per-line set-up costs. These costs are direct costs to the DNO and the DNO should be able to recover those costs. This approach is consistent with the approach adopted overseas and consistent with past practice in the New Zealand market place.
- 76 Economic efficiency requires that this cost is recovered from the customer porting a number between network operators. As noted above, rather than the DNO charging the customer directly for the cost incurred, it is more practical for the DNO to charge the RNO for the cost incurred. Furthermore, this allows the RNO to decide how to pass on the cost to customers and thus differentiate the retail pricing for the service.
- 77 TelstraClear's submission (dated 18 August 2004) that there should be no recovery of the per-line set-up cost would result in the number portability service being subsidised by end-users who never use it and would exacerbate the asymmetries between those who benefit and those who pay for number portability, as discussed at paragraph 54.
- 78 It is encouraging that the Commission is willing to allow the network operators to negotiate the level of inter-operator charges related to the per-line set-up costs. Telecom submits that the process of commercial

negotiation, as well as the backstop of a regulated price, will ensure that the per-line set-up cost is minimised.

- 79 The Commission should be reassured by the fact that commercial negotiations for determining per-line set-up charges have worked well to date. The result of previous negotiations has been a per-line set-up charge which is significantly lower than the range of costs the Commission has identified in its Draft Determination at paragraph 70 as being charged by international carriers.
- 80 Telecom supports the Commission's principle of reciprocity for the following reasons:
- 80.1 It is consistent with costs being minimised. Whatever cost is set on a reciprocal basis, each individual carrier will have incentives to reduce their per-line setup costs;
- 80.2 The effect of both parties having an incentive to reduce costs is that it will provide a mechanism by which the charge agreed on a reciprocal basis will be kept close to the efficient cost;
- 80.3 Requiring that charges be on a reciprocal basis will assist the negotiation process by ruling out attempts by individual carriers to obtain widely different donor and recipient charges.

### Call conveyance costs

#### *Description of conveyance costs*

- 81 The Commission in para 52 of its draft determination has described call conveyance costs as:
- "...costs associated with the additional conveyance of calls to ported numbers. Costs of carrying calls to ported numbers also include **commercial transit services**, where applicable. Such costs would be incurred by any operator originating calls to ported numbers. However, as the IN solution proposed allows for the most direct call routing, these costs are likely to be negligible, and limited to the cost of querying the database in order to establish the most appropriate route to the called number."*
- 82 It is unclear what the Commission intends to be included as "commercial transit services".
- 83 Broadly speaking, Telecom considers that number portability call conveyance costs are those conveyance costs which arise **because** the call is ported, and are therefore additional to an originating carrier's normal costs of carrying calls to the interconnection handover point. These costs

are distinct from the costs of call termination on a receiving carrier's network.

84 Any changes to the call routing on a receiving carrier's network as a result of the number portability solution that is implemented, is a matter for parties to resolve commercially in the context of interconnection, and should not be included as part of the cost allocation methodology.

85 Telecom's submissions on the cost allocation methodology for call conveyance costs below are made on the basis that the Commission expects a carrier to carry a ported call for as long as it can on its own network before it passes it to another carrier. This is what Telecom understands the Commission to mean by "the IN solution proposed allows for the most direct call routing".

*Cost allocation methodology*

86 The Commission proposes that each operator should bear the additional conveyance cost that it incurs.

87 This proposal appears to be largely based on the Commission's assumption that the conveyance cost of number portability is negligible. This assumption is incorrect.

88 Further, the Commission, at paragraph 52 of the Draft Determination, has failed to account for all additional costs associated with number portability call conveyance. Whilst it does acknowledge the costs associated with querying the database, albeit understating these, it fails to consider the additional PSTN cost per QOR call setup which represents a greater proportion of the additional call conveyance cost for Telecom associated with number portability.

89 Telecom estimates that the TSLRIC cost for Telecom of conveying calls to ported numbers will be in excess of \$4m per year. This annual cost is far from negligible, and Telecom submits that carriers must be able to recover this cost.

90 Telecom notes that this TSLRIC cost is modelled on conservative assumptions. For example the TSLRIC model is based on an assumed off-switch solution. The additional conveyance costs for off-switch solutions is cheaper than for on-switch solutions, and yet the annual conveyance cost is still significant. Also, it has been assumed that 5% of calls will be going to ported numbers. Telecom considers this to be a conservative assumption, and yet even at this level of porting, the conveyance costs are significant.

- 91 Where costs are material, it is efficient to allow parties to recover them. At paragraph 89 of the Draft Determination, the Commission considered that in the case of per-line set-up costs, that these be recoverable. This was on the basis that the costs are driven exclusively by the number of customers porting their numbers, and the cost causation principle which implies that individuals whose actions cause a cost should pay this cost. The same logic should be applied in the instance of additional call conveyance costs, particularly on the basis that they are not negligible as highlighted earlier.
- 92 As call conveyance cost varies with the demand for calling to ported numbers, Telecom considers that the recovery of the costs is best determined by negotiation between network operators.

**F TERM OF THE DETERMINATION**

- 93 The Commission notes that the local and cellular telephone number portability services are due to expire under the Act on 19 December 2006. Section 65 of the Act allows for designated or specified services to be extended.
- 94 Should the local and cellular telephone number portability services expire and not be extended, Telecom concurs with the Commission that the expiry date of the determination must be 19 December 2006.
- 95 Should the services be extended, the Commission proposes that the expiry date of the final determination should be to the extended date of expiry of the services, being 5 years from the date of the final determination.
- 96 As Telecom has stated in previous submissions to the Commerce Commission, the Act requires that the determination include a fixed expiry date. An uncertain expiry date is not permitted by the Act.
- 97 Telecom understands that the Commission intends that the final determination would remain in force for no longer than 5 years. Telecom agrees that 5 years is an appropriate period of time for a termination for local and cellular telephone number portability services.
- 98 To avoid uncertainty, and to ensure the Commission's final determination complies with the Act, Telecom submits that the Commission should determine that the final determination will expire 5 years from the date of the final determination. If the local or cellular number portability services expire before that date, the determination will expire automatically in accordance with section 62(b) of the Act.