VODAFONE NEW ZEALAND LIMITED

CROSS-SUBMISSION TO THE

COMMERCE COMMISSION

Number Portability Functions and Standards Draft Determination

24 June 2005

I Introduction

1. This is Vodafone's cross-submission on the submissions received by the Commission on the Number Portability Functions & Standards Draft Determination (the Draft Determination).

2. We have limited this submission to the issues where we believe that further comment from Vodafone would be useful to the Commission. We have attempted not to repeat the arguments we developed in our submission on the Draft Determination. In reading this submission, the Commission should take account of the issues already raised by Vodafone in our submission on the Draft Determination.

3. The issues we discuss in this submission are limited to:

   - Porting of local numbers from fixed to cellular networks; and,
   - Internationally originated short messages.

4. There is no confidential information in this submission.

II Porting of local numbers from fixed to cellular networks

Comments on Telecom's submission

5. Telecom submits that the Commission risks blurring the line and creating ambiguity between the fixed and cellular number portability services by recognising that local numbers should be able to be ported irrespective of the type of network. Vodafone disagrees. The Commission does not risk any such ambiguity as one service has a geographic dimension and the other does not. The local number portability service will only apply within a geographic area, however defined. The cellular telephone number portability service will only apply to services where there is no geographic dimension, such as the case with Vodafone's 021 mobile service.

6. Telecom also suggests that the receipt of a local call on a mobile handset is inconsistent with a key feature of the numbering plan which is "that the number dialled indicates the type of service that is being called". While the called number provides some indication of location, Vodafone does not consider calling parties place significant value on knowing a local call is answered by a device "connected to the wall" or at a particular fixed location. However, Vodafone does recognise that a number provides an indication of the called party's usual location, i.e. within a geographic calling area. With services already in the market such as Telecom's Permanent Call Forward and Call Divert, it is recognised the locational information provided by a number does not always relate to the called party's whereabouts.

7. Customers also care about is what the call is going to cost them. Vodafone does not envisage that fixed networks will charge their customers a different tariff when calling a local number on a mobile network as compared with calling a local number on any other network. Nor can Vodafone forsee any legitimate reason why a fixed network would price differentiate where a mobile operator offering a local service charged a termination rate to local numbers on their network consistent with the rate that fixed operators charge for the same service. We refer to our further comments on why there should be no customer confusion surrounding customer tariffs in Section II of our submission on the Draft Determination.

Comments on TelstraClear's submission

8. Vodafone agrees with TelstraClear's submission that unless the Commission defines a geographical area consistent with that applied under the Number Allocation Rules, the rules for number portability and number allocation will be inconsistent. Service providers and end-users will face different rules about the use of numbers within a network depending on whether the number came into a network directly by an allocation from the Number Administrator or was ported from another carrier which was allocated the number by the Number Administrator.

9. The Commission ought to avoid creating such a distinction by defining a geographical constraint by reference to the local calling area. This is consistent both with how local numbers are allocated under the Number Allocation Rules and the geographical boundary applied to fixed line PSTNs.

10. Vodafone also wishes to reiterate TelstraClear's remarks on how the Commission's determination in respect of number portability will have important consequences for the prospects of new entry in the local calling services market. It is not in the best interests of end users for the Commission, through this determination, to artificially constrain valid uses of local numbers in accordance with the Number Allocation Rules. The Commission ought to ensure that a number portability determination will not impede new entry in local service markets which, as the Commission has previously concluded, suffer from limited competition.

Comments on Woosh's submission

11. Vodafone strongly disagrees with an approach advocated by Woosh that the Commission ought to distinguish between local and cellular telephone services, for the purposes of number portability, by reference to the capabilities of the particular telephone device employed.

12. While such a distinction may work for the particular technology to be employed by Woosh to launch its bcal service, it would deny the ability for a mobile operator to enter the local services market by utilising mobile handset technology.

13. Vodafone submits that competition will be strengthened where end-users have the ability to utilise their existing mobile handset devices to make and receive local calls. It is inappropriate and inconsistent with the goal of technology

neutrality to suggest that mobile handsets should be the determining feature of a cellular (rather than fixed) telephone network service.

14. Finally, Vodafone supports Woosh's concerns surrounding the Commission's Draft Determination that appeared to assume that any particular location is served only by a single transmission tower in a network. As Woosh highlights, even where an end user is stationary, a network may hand an end-user over to another transmission tower for reasons such as service quality, local demand and channel interference.

III Internationally originated SMS

15. We note that Telecom supports the notion that operators should be required to provide Service Equivalence in relation to internationally originated SMS. Vodafone agrees with Service Equivalence for internationally originated SMS. Vodafone wishes to make some comments on the arguments put forward in Telecom's submission to the Draft Determination.

Number ranges

16. In paragraph 68, Telecom says that the Commission should indicate to cellular operators that it would not be appropriate for cellular operators to agree interconnection arrangements with overseas parties which cover number ranges allocated to any other cellular operator by the NAD.

17. For the Commission to make such a determination would result in operators not being able to provide Service Equivalence for internationally originated SMS.

18. For example:

⇒ Vodafone has a commercial roaming agreement in place with O2 in the United Kingdom.

⇒ Telecom does not have any type of commercial agreement in place with O2. Currently O2 sends all +6421 / +6429 SMS traffic to Vodafone.

⇒ If Vodafone were to port 027 numbers into our network, for O2 to recognise this traffic and send it to Vodafone, we would require O2 to open up the +6427 number range for SMS traffic to be sent to Vodafone.

⇒ Otherwise O2 would not recognise +6427 SMS traffic. O2 would not send +6427 SMS traffic anywhere. The Vodafone 027 customer would not receive internationally originated SMS, and Vodafone would not be able to provide Service Equivalence for the Vodafone 027 ported customer.

Agreements with international carriers

19. Using the above example, Telecom suggests (paragraph 71) that if Vodafone were to request O2 to open up the 027 number range that this would prevent Telecom from agreeing an SMS interconnection arrangement with O2.

20. Vodafone fails to understand why Telecom believes this would be the case. We do not agree that the opening of a number range would impair Telecom in its attempts to negotiate international agreements.

21. In order to establish an international SMS interconnection agreement, Telecom would negotiate the commercials with O2. Upon completion of such negotiations, O2 would then send +6427 traffic to Telecom.

22. Under Vodafone's proposed solution, Telecom would then transit any Vodafone 027 traffic to Vodafone – resulting in Service Equivalence for the ported 027 number. Equally, once Telecom had a commercial agreement in place with O2, Vodafone would transit any Telecom 021 SMS traffic to Telecom – providing Service Equivalence for the ported 021 number.

Equivalent situation in fixed telephony world

23. Referring to Vodafone's solution that it request international operators with which it has commercial arrangements in place with to send Vodafone all SMS traffic destined for New Zealand, Telecom suggests that the equivalent in fixed line world is Telecom receiving all internationally traffic and discarding any traffic destined for TelstraClear, CallPlus or any other parties.

24. Vodafone disagrees and believes that comparison is misleading. The interconnection model for international voice traffic is completely different to that for international SMS interconnection as the principles for international interconnectiveness are already well established in the voice world.

Situation in Australia

25. Telecom correctly points out that the treatment of internationally originated SMS was a contentious issue in Australia that took some time to be resolved.

26. The Australian operators now have a Donor Routing for ported numbers (the solution outlined by Vodafone in Diagram C of our earlier submission).

27. Where the Receiving Network Operator has international agreements in place, but the Donor Network Operator does not, the SMS is not delivered to the customer with the ported number. This is the situation outlined in Diagram A of our earlier submission. However, due to the fact that the majority of Australian operators operate some type of GSM network (and as such all have many international commercial arrangements in place) – the imbalance between operators who have arrangements in place with international carriers and those that don't, is relatively minor.

28. We are unique in New Zealand in the fact that we have one CDMA network and one GSM network. Vodafone, the GSM network provider, has developed commercial arrangements with over 200 international operators in over 100 countries to enable provision of services such as international roaming and termination of internationally originated SMS.

29. By comparison, Telecom, the CDMA network operator, has international roaming in place for its CDMA phones in Australia, Brazil, Java (Indonesia), Israel, South Korea, Taiwan, Hong Kong, China, Bangkok (Thailand), USA /

Hawaii, and Canada.[1] Vodafone presumes that Telecom can receive internationally originated SMS from these countries.

30. As outlined in our earlier submission, Vodafone is happy to enter into an arrangement with Telecom for transit of internationally originated SMS traffic where both operators have agreements in place for receipt of that traffic.

[1] Call to Telecom customer services, 24/6/05