



COMMERCE COMMISSION

23 March 2010

Susan Wells
Telecommunications Carriers' Forum
PO Box 302469
North Harbour
Auckland

Copy to: John Wesley Smith
John.Wesley-Smith@telecom.co.nz

Dear Susan

Approval of the Telecom Number Portability Exemption Applications - Post Dialling Delay and In Ported Services and Features

The Commission agrees with the Telecommunications Carriers' Forum ("TCF") Management Committee's recommendation¹ that Telecom New Zealand Limited ("**Telecom**") be granted exemptions to clauses 14.2.1 and 14.2.3 of the Network Terms² for the period from 1 January 2013 until 31 December 2015.

As recommended by the TCF Management Committee, both exemptions will have effect for the period from 1 January 2013 until 31 December 2015 inclusive. The Commission is of the view that it is not practicable for the applicant to meet its obligations under clauses 14.2.1 and 14.2.3 of the Network Terms before 31 December 2015. The extensions requested by Telecom are reasonable, given that since granting the original exemptions, Telecom has provided binding undertakings to the Government to migrate customers from the PSTN to the Next Generation Network ("NGN") by 31 December 2020.

*Post Dialling Delay ("**PDD**") Exemption*

The Commission's reasons for granting the exemption to clause 14.2.1 are outlined below:

- If, following the expiration of its current exemption on 31 December 2012, Telecom was to reduce the introduced PDD on ported numbers for the two specified call scenarios to "1 second or less", as per clause 14.2.1 of the Network Terms, it would

¹ Telecom Number Portability Exemption Applications: TCF Management Committee Recommendations to the Commerce Commission, February 2010.

² The Network Terms are part of Commission Decision 554: Determination on the multi-party application for determination of 'local telephone number portability service' and 'cellular telephone number portability service' designated multinet network services, 31 August 2005.

- have to bring forward in time its rollout of the NGN through the PSTN Migration Plan as set out in the Operational Separation Undertakings. The Commission considers that this option is not feasible or practicable for the purposes of this exemption application.
- The Commission considers that only a proportionally small number of customers will be affected if the exemption is granted to Telecom which minimises any possible negative impact on competition in the relevant markets that might arise from granting the exemption. The cost to Telecom of bringing forward its NGN rollout in order to comply with clause 14.2.1 would likely have an even greater adverse impact on competition contrary to the purpose set out in section 18 of the Act because many other services (and more than those directly affected by PDD) would be detrimentally affected. The timeframes for migration to the PSTN in the Operational Separation Undertakings are designed to minimise the impact of migration on Telecom's customer base. Granting the exemption is the better outcome in terms of section 18 in this particular context.

The exemption is from the obligations in clause 14.2.1 of the Network Terms in respect of the two call scenarios specified in Telecom's application which are also set out below.

Clause 14.2.1 requires that the additional PDD introduced by parties' local number portability solutions must be no more than 1 second compared with a similar call to a customer with a non-ported number in 99.9% of all call cases.

The exemption is limited to the following call scenarios:

- Calls made by customers hosted off Telecom's NEAX61 Kai³ switches to numbers which have been out-ported off the same NEAX61 Kai switch ("Intra-Kai Calls") (affecting both Telecom customers and customers of resellers).
- Calls made by customers hosted off NEAX61E switches to numbers which have been out-ported off another NEAX61E switch (the donor NEAX61E switch) and which need their initial signalling to transit through a further NEAX61E switch (the transit NEAX61E switch) ("Transited Calls") (affecting both Telecom customers and customers of resellers).

The exemption shall apply for all purposes in the above call scenarios for assessing compliance by Telecom with clause 14.2.1 of the Network Terms – PDD equivalent service criterion 1 for voice services.

The customers in relation to whom the exemption applies are all customers hosted off Telecom NEAX 61 Kai or NEAX 61E switches listed in Appendices 1 and 2 of Telecom's original exemption application (either Telecom customers or customers of resellers). These appendices are attached to this letter for completeness.

As per the TCF's recommendation, the exemption from clause 14.2.1 is granted without conditions.

³ A NEAX 61 Kai Switch is a generic term for 3 types of Kai switch variants – NEAX 61K, NEAX 61M and NEAX 61S.

In-ported services and features Exemption

The Commission's reasons for granting the exemption to clause 14.2.3 of the Network Terms are outlined below:

- If, following the expiration of its current exemption on 31 December 2012, Telecom was to make the eight services and features available to in-porting customers, it would either have to perform a costly upgrade to its NEAX 61E switches or bring forward its rollout of the NGN contrary to the Operational Separation Undertakings which according to Telecom is not efficient. The Commission accepts that neither of these options is practicable to Telecom or efficient which is contrary to the purpose set out in section 18.
- Only a very small number of customers will be affected if the exemption is granted to Telecom. These customers may face slightly higher costs to in-port their numbers to the Telecom network, and as a result this may have a small negative impact on end-users. However, the cost to Telecom of supplying the eight services and features to these in-porting customers, either by upgrading its NEAX61E switches or by bringing forward its NGN rollout would likely have a greater negative impact on end-users because Telecom would be likely to withdraw the services.
- Therefore, weighing these considerations, the Commission has decided to grant the exemption so as to avoid Telecom withdrawing the services from the market in order to minimise the impact on end-users and the relevant markets more generally.

The exemption is from the obligations in clause 14.2.3 of the Network Terms in respect of eight local telephone network services and features specified in Telecom's application for exemption that are hosted off the exchanges listed in Appendix 1 of Telecom's original application.

Clause 14.2.3 states:

Criterion 3 – Services and Features

The LMNP solution deployed by a Carrier must not prevent Customers with Ported Numbers from being offered the same services and features (including pre-pay and post pay services) as those provided to Customers on that Carrier's Network with non-Ported Numbers.

The requirement applies to both incoming and outgoing Voice Services.

The effect of the exemption is that eight services and features will not be required to be offered to customers who port their numbers to Telecom's network.

The exemption shall apply for all purposes for assessing compliance by Telecom with clause 14.2.3 of the Network Terms (equivalent service criterion 3) in respect of the eight local telephone network services and features specified in Telecom's application for exemption..

The exemption relates to in-porting business customers to Telecom's network (i.e. both Telecom customers and reassigned customers) hosted off the exchanges specified in Appendix 1 of Telecom's original application for exemption.

As per the TCF's recommendation, the exemption from clause 14.2.3 is granted without conditions.

Yours sincerely

A handwritten signature in blue ink, consisting of a circular loop followed by a long, sweeping horizontal line that ends in a small upward curve.

Dr. Ross Patterson
Telecommunications Commissioner

APPENDIX 1 - NEAX 61 KAI SWITCHES

SWITCH CODE	SWITCH NAME	SWITCH TYPE
AO1	Akaroa	61S
AL1	Alexandra	61K
AR2	Ashburton	61K
BAL1	Balfour	61S
BBK1	Bell Block	61K
BKL3	Birkdale	61K
BD2	Birkenhead	61K
BM2	Blenheim	61K
BHB3	Blockhouse Bay	61K
BOB2	Bombay	61S
BGW1	Brightwater	61S
BSY2	Browns Bay	61K
BS1	Bulls	61S
BUN1	Bunnythorpe	61S
CO1	Clinton	61S
CYD1	Clyde	61S
CL1	Coromandel	61S
CVD1	Culverden	61S
DV1	Dannevirke	61K
DRL2	Dargaville	61K
DHB1	Diamond Harbour	61S
DSD1	Dunsandel	61S
EDD1	Edendale	61S
GD1	Geraldine	61K
GLT2	Gleniti	61K
GG2	Gore	61K
GC1	Granity	61S
HMB1	Halfmoon Bay	61S
HBN2	Hastings	61K
HW2	Hawera	61K
HBC2	Hibiscus Coast	61K
HK1	Hokitika	61K
HVL1	Huntermville	61S
ID1	Inglewood	61K
JV3	Johnsonville	61K
KHO1	Kaikohe	61K
KTA1	Kaitaia	61K
KWK1	Kaiwaka	61S
KAP1	Kapuka	61S
KV1	Kawakawa	61K
KEU2	Kawerau	61K
KEN1	Kennington	61S
LAW1	Lawrence	61S
LEP1	Lepperton	61S
LVN2	Levin	61K
LTN1	Linton	61S
LOB1	Lochmara	61S
LMS1	Lumsden	61S
MKO1	Mangakino	61S
MWI2	Mangawhai	61S
MNR3	Manurewa	61K
MKE2	Manutuke	61S

SWITCH CODE	SWITCH NAME	SWITCH TYPE
MPX1	Mapua	61S
MS2	Masterton	61K
MAU1	Maungaturoto	61S
MIR3	Miramar	61K
MOA1	Mokau	61S
MOB1	Mossburn	61S
MU2	Motueka	61K
MAB3	Mt Albert	61K
MAT1	Murchison	61S
MUP1	Murupara	61S
NU1	New Plymouth	61M
NR1	Ngakuru	61S
NGT1	Ngatea	61S
NOA2	Ngongotaha	61K
OKR1	Oakura	61S
OU1	Oamaru	61K
OUN1	Oamaru North	61K
OKN1	Ohakune	61S
OAH1	Okaihau	61S
OKE1	Okareka	61S
OF1	Okere Falls	61S
ORH2	Onerahi	61K
OP1	Opotiki	61K
OK1	Opunake	61S
ORM2	Ormond	61S
OAK1	Owaka	61S
PHA2	Pahiatua	61K
PGA3	Pakuranga	61K
PL1	Palmerston	61S
PM3	Palmerston North	61M
PAK4	Papakura	61M
PMA3	Papamoa	61K
PAP1	Paparua	61S
PRM3	Paraparaumu	61K
PHO2	Patumahoe	61S
PN1	Picton	61K
PIO1	PioPio	61S
POY2	Ponsonby	61K
PE1	Pukehina	61S
PUK2	Pukekohe	61K
RHU1	Rahotu	61S
RNF1	Ranfurlly	61S
REO1	Reporoa	61S
RD1	Richmond	61K
RVD1	Riversdale	61S
RI1	Riverton	61S
RON1	Rongotea	61S
ROI2	Rotoiti	61S
RO3	Rotorua	61K
RKW1	Ruakawakawa	61S
RUT1	Ruatoria	61S
RUW2	Ruawai	61S
RL2	Russell	61S
RBH1	Ryal Bush	61S

SWITCH CODE	SWITCH NAME	SWITCH TYPE
SHN1	Shannon	61S
SCK1	Spring Creek	61S
SV2	Stokes Valley	61K
TPE1	Taihape	61K
TPU1	Takapau	61S
TMK2	Tamaki	61K
TEA1	Taneatua	61S
TP1	Tapanui	61S
TPW1	Tapawera	61S
TDL2	Taradale	61K
TUW1	Te Kauwhata	61S
TKT1	Te Kuiti	61K
TPV1	Te Puke	61K
TUP1	Te Puru	61S
TK1	Temuka	61K
TH2	Thames	61K
TIR1	Tirau	61S
TGN2	Titirangi	61K
TGB2	Tolaga Bay	61S
TTE1	Tuatapere	61S
UMO1	Upper Moutere	61S
URE1	Urenui	61S
WU1	Waiau	61S
WH3	Waiheke	61K
WAE3	Waikanae	61K
WK1	Waikouaiti	61S
WMN1	Waimana	61S
WD1	Waipu	61S
WTG1	Waitangi	61S
WT1	Waitara	61K
WKU2	Waiuku	61K
WG1	Wanganui	61K
WAY1	Washdyke	61S
WV1	Waverley	61S
WTH2	Wellington South	61K
WP2	Westport	61K
WGM2	Whangamata	61K
WAA1	Whataroa	61S
WEI2	Whenuapai	61K
WO1	Winton	61K
WDV1	Woodville	61S
WYD1	Wyndham	61S

Appendix 2 – NEAX 61E switches

SWITCH CODE	SWITCH NAME	SWITCH TYPE
AT4	Airedale Street	61E
AT5	Airedale Street	61E
BD3	Birkenhead	61E
BM3	Blenheim	61E
BSY3	Browns Bay	61E
CH6	Christchurch	61E
CH7	Christchurch	61E
CH8	Christchurch	61E
CLE2	Claudelands	61E
CPC3	Courtenay Place	61E
DN4	Dunedin	61E
ELL4	Ellerslie	61E
FJN2	Frankton	61E
GID3	Green Island	61E
GLF2	Glenfield	61E
GM3	Greymouth	61E
GS3	Gisborne	61E
HBN3	Hastings	61E
HCK4	Howick	61E
HN4	Hamilton	61E
HN5	Hamilton	61E
HN6	Hamilton	61E
HSN3	Henderson	61E
HTN2	Hillmorton	61E
IN3	Invercargill	61E
INE2	Invercargill East	61E
KC3	Kerikeri	61E
KNG2	Kensington	61E
LIN2	Linwood	61E
LVN3	Levin	61E
MAB4	Mt Albert	61E
MDR1	Mayoral Drive	61E
MKY1	Manukau City	61E
MMN2	Mt Maunganui	61E
MNR4	Manurewa	61E
MOD4	Mt Eden	61E
MOV2	Morrinsville	61E
MRE3	Mangere	61E
MS3	Masterton	61E
MSY3	Massey	61E
MTL3	Mt Roskill	61E
NA3	Napier	61E
NBO2	New Brighton	61E
NN3	Nelson	61E
NTS1	North Shore	61E
NU2	New Plymouth	61E
OH4	Otahuhu	61E
ON4	Onehunga	61E
PAK5	Papakura	61E
PM4	Palmerston North	61E
PM6	Palmerston North	61E
POP3	Papatoetoe	61E

SWITCH CODE	SWITCH NAME	SWITCH TYPE
POP4	Papatoetoe	61E
POP5	Papatoetoe	61E
PRO2	Porirua	61E
PRO3	Porirua	61E
PRO4	Porirua	61E
PTN2	Petone	61E
PU2	Papanui	61E
QST2	Queenstown	61E
RIC4	Riccarton	61E
RO5	Rotorua	61E
RR2	Rangiora	61E
RUE3	Remuera	61E
SOD2	South Dunedin	61E
TAW2	Te Awamutu	61E
TG4	Tauranga	61E
TMK3	Tamaki	61E
TNA3	Takapuna	61E
TPO2	Taupo	61E
TU3	Timaru	61E
UP4	Upper Hutt	61E
WG2	Wanganui	61E
WHK3	Whakatane	61E
WN3	Wellington	61E
WN4	Wellington	61E
WW2	Warkworth	61E