

Draft Determination for the designated multinetwork services of ‘local telephone number portability service’ and ‘cellular telephone number portability service’

Draft decisions and reasons paper

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Date	9 October 2026

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Associated documents

Publication date	Reference	Title
9 October 2026	978-1-997321-99-6	[Draft] Determination for the designated multinetwork services of 'local telephone number portability service' and 'cellular telephone number portability service'
9 October 2026		Attachment B: Terms of Local and Mobile Number Portability in New Zealand
9 October 2026		Attachment C: Network Terms for Local and Mobile Number Portability in New Zealand

List of terms and abbreviations

Term	Definition
2FA	means two-factor authentication.
Access Provider	means every person who operates- (a) a PSTN to which numbers have been allocated; and (b) a telephone service that relates to the LMNP Services.
Access Seeker	means any person who- (a) operates a PSTN to which numbers have been allocated; and (b) operates a telephone service that relates to the LMNP Services; and (c) seeks access to the LMNP Services.
Act	means the Telecommunications Act 2001.
Commission	means the Commerce Commission.
[2016] NZCC 32	means the Final Determination for Local and Cellular Number Portability Services, 19 December 2016.
[2021] NZCC 27	means the Final Determination for Local and Cellular Number Portability Services, 2 December 2021.
Decision 554	means the Final Determination for Local and Cellular Number Portability Services, 31 August 2005.
Decision 705	means the Final Determination for Local and Cellular Number Portability Services, 15 December 2010.
Enforcement Agency (EA)	means the Enforcement Agency appointed under, and as defined in, the LMNP Terms and the Network Terms.
GSP	means Gaining Service Provider.
IPMS	means Industry Portability Management System, which is the software, hardware and other shared facilities used to provide the LMNP Services.
LMNP Services	means the designated multinetwork services of “local telephone number portability” and/or “cellular telephone number portability” services that are listed under subpart 2 of Part 2 of Schedule 1 of the Act.

Term	Definition
LMNP Terms	means the terms that outline the process that enables end-users to port their numbers and set out the rights and obligations of parties to the terms set out in Attachment B of [2026] NZCC [XX].
LSP	means Losing Service Provider.
NAD	means the Numbering Administration Deed.
Network Terms	means the terms that set out what is required of parties to the terms in the development of their own network solutions and that specify the optional and mandatory requirements necessary between networks to enable LMNP Services in Attachment C of [2026] NZCC [XX].
NPUG	means the Number Portability User Group.
Operations Manual	means the Operational and Support Manual for LMNP.
PSTN	has the definition as set out in section 5 of the Act.
TCF	means the New Zealand Telecommunications Forum Inc.
The Terms	means the LMNP Determination including all Attachments.

Executive summary

1. This draft decision and reasons paper sets out our draft decision to issue a new determination for the local telephone number portability and cellular telephone number portability services (together, the **LMNP Services**), which are the two designated multinet network services listed in Schedule 1 of the Act.
2. The LMNP Services allow end-users to keep their local and mobile phone numbers when they switch service providers.
3. The current determination in respect of the LMNP Services, [2021] NZCC 27 (**Current Terms**), will expire on 19 December 2026.
4. We consider that the continued regulation of the LMNP Services through a determination is likely to best give effect to the promotion of “competition in telecommunications markets for the long-term benefit of end-users of telecommunications services within New Zealand”, consistent with section 18 of the Telecommunications Act 2001. Regulation of the LMNP Services promotes competition by enabling end-users to take their phone number with them when they switch service providers, which removes a barrier to competition.
5. We propose to make a new determination that will, in effect, continue the regulation of the LMNP Services for five years beginning on 20 December 2026, the day after the expiry of the Current Terms. In developing the draft Determination, we engaged with stakeholders, reviewed the operation of the Current Terms, and assessed the number portability environment.
6. In particular, we worked with the New Zealand Telecommunications Forum (**TCF**) to understand the operation of the Current Terms and areas for improvement. We are grateful to the TCF for its input and engagement.
7. Based on that work, our preliminary view is that the current regulatory framework for processes supporting the LMNP Services is working well and continues to achieve its intended objectives. Accordingly, the draft Determination largely carries forward the Current Terms.
8. Our preliminary view is that only limited changes to the Current Terms are required, with the proposed amendments focused on improving specific aspects of the regime.
9. We have identified a number of areas where minor targeted amendments would improve the operation of the regime, including amendments relating to fraud prevention, mobile authentication requirements, reseller arrangements, unauthorised ports, departing service providers, reporting requirements, and a range of other operational improvements. We also propose a package of amendments designed to improve the effectiveness, transparency and operation of the enforcement framework.
10. Our preliminary view is that the current formula for allocating the costs of delivering the LMNP Services remains appropriate and does not require revision. Accordingly,

the draft Determination retains the existing cost allocation formula from the Current Terms, under which costs are shared between parties based on market share. We invite submissions on this approach.

11. We thank parties for their involvement to date, and welcome submissions on our draft Determination.

Table X1 – Proposed changes included in the draft Determination

Proposal or issue	Change and reason	Where the change is made
Customer name as a required Port Request field	Make customer name a required field for mobile Port Requests to support authentication and investigations of unauthorised Ports.	Attachment B (LMNP Terms), Appendix Table 1 (Port Request Fields).
Departing Service Providers	Allow the TCF to take reasonable and proportionate operational measures to maintain porting where a Service Provider ceases operating or cannot meet its obligations.	Attachment B (LMNP Terms), new paragraph 136.1 (Exiting the IPMS).
Emergency Return	Remove the Emergency Return process because the functionality is no longer supported. Existing processes remain available to address urgent or unauthorised Ports.	Attachment B (LMNP Terms): definition deleted; removed from the list of Porting Processes (paragraph 172 and Table); process description (paragraphs 313–314 of the Current Terms) deleted.
Enforcement framework	Clarify the enforcement process and when different enforcement responses are appropriate, including how minor technical non-compliance is treated.	Attachment B (LMNP Terms) and Attachment C (Network Terms), enforcement provisions.
Fraud and scam controls	Allow temporary porting restrictions where there are reasonable grounds to suspect fraud or scams, with safeguards to ensure restrictions are proportionate and appropriately reviewed.	Attachment B (LMNP Terms), new paragraphs 23.1–23.9 (Fraud and Security protection).

Proposal or issue	Change and reason	Where the change is made
IoT and data-only mobile services	Clarify when numbers used solely for non-voice IoT or data-only services fall outside the Schedule 1 service, without creating an exception to the statutory definition.	Attachment B (LMNP Terms), new paragraphs 38–39 (IoT and Data-only Mobile Services).
Number range terminology	Replace “Number Block” with the current terminology, “Number range”, without changing the substantive requirements.	Attachment B (LMNP Terms), paragraphs 49 and 50 (New Entrants).
Operational information locations	Update the Terms to reflect where operational information is now maintained.	Attachment B (LMNP Terms), paragraphs 101, 108 and 110.2. Attachment C (Network Terms), paragraphs 216, 220 and 223.
Publication of porting statistics	Align reporting with measurable, customer-impacting Service Levels and clarify how Ports are counted.	Attachment B (LMNP Terms), paragraphs 166.1–166.4 amended; new paragraph 167 (counting rule).
Reseller arrangements	Recognise reseller arrangements in the Terms while retaining responsibility for Service Levels with the party allocated the numbers. This makes the existing allocation of responsibility clearer.	Attachment B (LMNP Terms): new definitions of IPMS Based Reseller and Off-IPMS Reseller; new paragraph 51 (including 54.1–54.2); new paragraphs 85–86 (Third-party resellers).
Two-factor authentication	Make 2FA the default authentication standard for mobile Ports, while allowing limited operational exceptions that do not weaken that standard.	Attachment B (LMNP Terms), new paragraph 24 (General Business Rules).
Unauthorised Ports	Introduce a clearer process for identifying and reversing unauthorised Ports, based on whether Customer Authorisation can be provided within the existing timeframe.	Attachment B (LMNP Terms), paragraph 80 amended (Reversal of Unauthorised Ports); new paragraph 83.

Introduction

Purpose of the draft reasons paper

12. The purpose of this paper is to set out our draft decisions on the draft Determination for the local telephone number portability service and the cellular telephone number portability service, and to invite submissions.
13. The services allow end-users to keep their local and mobile phone numbers when they switch service providers.

Structure of the draft reasons paper

14. This draft reasons paper is organised as follows:
 - 14.1 **Background to the determination:** explains the context for the determination, and its history;
 - 14.2 **The process for issuing the determination:** sets out the process we must follow, and the steps we have taken to this point;
 - 14.3 **The decision-making framework:** sets out our approach for deciding whether to continue regulation and whether any changes to the regulation should be made;
 - 14.4 **Our draft decision:** sets out our draft decision to maintain regulation with limited changes, including analysis of the changes identified through stakeholder engagement and our review; and
 - 14.5 **Sections addressing functions and standards:** including the cost allocation formula, recovery of the Commission's costs, commencement, and expiry.

Process to date

15. To summarise the process we have followed to date:
 - 15.1 On 30 July 2026 we notified in writing all persons expected to be parties to the determination and requested each to comment on the Commission's initiation of the process for a determination.¹
 - 15.2 Submissions closed on the Notification to initiate a process on 13 August 2026. We received one submission supporting the initiation of the process for issuing a determination.²

¹ This notification can be found here: <https://www.comcom.govt.nz/regulated-industries/telecommunications/projects/2026-review-of-local-and-mobile-number-portability-services-determination/>.

² Submissions can be found here: <https://www.comcom.govt.nz/regulated-industries/telecommunications/projects/2026-review-of-local-and-mobile-number-portability-services-determination/>.

- 15.3 On 20 August 2026 we notified parties to the determination that we had decided to investigate issuing an LMNP Services determination. Public notification of this decision was given in the Gazette on 20 August 2026.

Information for interested parties to make a submission

16. We are seeking submissions on our draft Determination and draft reasons paper. Submissions can be emailed to telecommunications@comcom.govt.nz with 'LMNP Draft Determination' in the subject line by 5pm Friday 6 November 2026.
17. Cross-submissions will be sought once submissions are published.
18. When including commercially sensitive or confidential information in your submission, we offer the following guidance:
- 18.1 Please provide a clearly labelled confidential version and public version. We intend to publish all public versions on our website.
- 18.2 Please provide reasons alongside any information in the confidential version as to why it is commercially sensitive or confidential information.
- 18.3 The responsibility for ensuring confidential information is not included in a public version of a submission rests entirely with the party making the submission.
19. If we consider disclosure of information for which confidentiality is claimed to be in the public interest, we will consult with the party that provided the information before any public disclosure of that information is made.

Next steps

20. Table 1 outlines the next steps for this review.

Table 1 – Next steps for the review

Next step	Indicative date
Draft Determination and draft reasons paper published	9 October 2026
Submissions on draft Determination and reasons paper due	6 November 2026
Cross-submissions due	16 November 2026
Final determination published	Before 19 December 2026

Background to number portability

21. Subpart 2 of Part 2 of Schedule 1 of the Act contains two designated multinet network services:
- 21.1 Local telephone number portability service (Local Number Portability or LNP); and

- 21.2 Cellular telephone number portability service (Mobile Number Portability or MNP) (together, the **LMNP Services**).
22. The services allow end-users to keep their local and mobile phone numbers when they switch service providers.
23. We issued the first LMNP Services determination, Decision 554, in 2005 and the services were made available to end-users from 2007 after the necessary processes were established.³
24. We issued a second determination, Decision 705, on 15 December 2010.⁴ That determination expired on 19 December 2016.
25. We issued a third determination, [2016] NZCC 32, on 19 December 2016. That determination expired on 19 December 2021.⁵
26. We issued a fourth determination, [2021] NZCC 27, on 2 December 2021. This is the current determination and will expire on 19 December 2026.
27. The determination consists of the following key parts:
- 27.1 the Determination for the designated multinet network services of ‘local telephone number portability service’ and ‘cellular telephone number portability service’;
 - 27.2 LMNP Terms; and
 - 27.3 Network Terms.
28. These parts together contain the matters that are required to be included in a designated multinet network service determination, as set out in section 40 of the Act.

Process to make the determination

Initiating the process for issuing a determination

29. Section 31AA of the Act allows us to initiate the process to issue a determination for a designated multinet network service. Subpart 3 of Part 2 of the Act specifies the process that we must follow.
30. We may only decide to initiate the process for issuing a determination if we are satisfied that there are reasonable grounds for doing so.⁶ We considered that there were reasonable grounds for initiating the process to issue a further determination for the LMNP Services. Those grounds were:

³ Commerce Commission, Decision 554, 31 August 2005.

⁴ Commerce Commission, Decision 705, 15 December 2010.

⁵ Section 62 provides that a determination expires on the earlier of either the expiry date in the determination or the date on which the service to which the determination applies is omitted from Schedule 1.

⁶ Section 31AA(2).

- 30.1 Current Terms have effectively enabled end-users to switch service providers, with the costs being absorbed by the service provider that gains the customer, thereby promoting competition for the long-term benefit of end-users. This removes a barrier for end-users who wish to switch service providers and enjoy the benefits of competition. This also removes a barrier to entry for firms wishing to enter the market or expand their service offering. These benefits are consistent with the section 18 purpose of the Act of promoting competition for the long-term benefit of end-users.
- 30.2 Issuing a new determination before the Current Terms expire on 19 December 2026 will ensure continuity of the benefits of number portability and remove uncertainty and the risk of opportunistic behaviour during an unregulated period.⁷
- 30.3 Without a determination there may be incentives for incumbent service providers to either not provide the service or to charge Access Seekers prices significantly above cost and hence create barriers to entry and competition.
31. We therefore initiated the process for a determination under section 31AA on 30 July 2026. As required by section 34(c) of the Act we notified in writing all persons expected to be parties to the determination and requested each to comment on the Commission's initiation of the process for a determination.⁸
32. Parties were given eight working days to give submissions. We received one submission on the Notification to initiate a process. from One NZ. The submission indicated support for initiating the process for issuing a determination, provided there are no major changes.⁹
33. Following this, we decided to investigate issuing an LMNP Services determination.¹⁰ The parties to the determination were notified of this decision and public notice was given in the Gazette on 20 August 2026.

Steps taken as part of our investigation

34. Following our decision to investigate, we assessed whether regulation of the LMNP Services should continue and whether the Current Terms should be amended, consistent with our decision-making framework. The activities we undertook were:

⁷ Section 62 provides that a determination expires on the earlier of either the expiry date in the determination or the date on which the service to which the determination applies is omitted from Schedule 1.

⁸ As at 30 July 2026: Atturra, Bandwidth Blue Reach Services Limited, Compass Communications Limited, Devoli Limited, Fastcom Limited, NOW New Zealand Limited, One New Zealand Group Limited, Spark New Zealand Limited (including Skinny Mobile), Symbio Wholesale NZ Limited, Telnet Telecommunication Limited, Two Degrees Mobile Limited, UCS Limited, Vetta Trading Limited and Voyager Internet Limited.

⁹ Submissions can be found here: <https://www.comcom.govt.nz/regulated-industries/telecommunications/projects/2026-review-of-local-and-mobile-number-portability-services-determination/>.

¹⁰ As required by section 35 of the Act.

- 34.1 Reviewing the Current Terms and assessing whether they continue to best meet the section 18 purpose.
 - 34.2 Discussions with industry parties on potential changes to the Current Terms.
 - 34.3 Seeking feedback from the Enforcement Agency (**EA**) that is responsible for enforcing the service performance requirements of the Current Terms.
 - 34.4 Reviewing consumer feedback on the LMNP Services based on complaints made to the Commission and to the Telecommunications Dispute Resolution Scheme.
 - 34.5 Reviewing the consumer feedback on number portability that we receive as part of the Commission's ongoing engagement on improving Retail Service Quality.
35. Section 36 of the Act requires us to make reasonable efforts to undertake a number of tasks, including preparing this draft Determination, not later than 60 working days after we gave written notice under section 35(b) of the Act.
36. Section 37 sets out the matters to be included in a draft determination. Section 37(1) requires that the draft determination must include:
- 36.1 a description of the functions that must be performed by a system for delivering the service and the standard to which those functions must be performed;
 - 36.2 the formula for how the cost of delivering the service must be apportioned between the parties to the determination and every person who becomes an Access Provider after the determination is made;
 - 36.3 the reasons for the determination;
 - 36.4 the terms and conditions on which the determination is proposed to be made;
 - 36.5 the actions (if any) that a party to the determination must do or refrain from doing; and
 - 36.6 the proposed expiry date of the determination.

Consultation and finalising the determination

37. Section 38 sets out the Commission's statutory obligation with respect to consultation, conferences and public hearings. Section 38 provides:

The Commission may consult with interested parties, hold conferences, or, if it is satisfied that it is in the public interest to do so, hold a public hearing, in relation to a draft designated multinet network service determination.

38. At this stage, we do not consider that a conference or public hearing is necessary as the proposed material changes to the determination can be properly tested through written submissions. However, we will further consider whether a conference or public hearing is necessary after the receipt of submissions on the draft Determination.
39. After the completion of any consultation under section 38, conference or public hearing, or if none of those steps are taken, after the closing date for submissions, the Commission must as soon as practicable move to release a final determination under section 39.
40. Section 40 sets out the matters that must be included in the final determination. Section 40(1)(c) and (d) are requirements that are particular to final determinations only and are not required to be included in the draft determination.
41. Section 55 requires the Commission's costs of the determination to be met by the parties to the determination in the proportions directed by the Commission in writing. We have set out the proportions in which we propose the costs of the determination must be met at paragraphs 174 to 176.

Decision-making framework

42. This section sets out our approach to deciding:
 - 42.1 Whether to continue regulation of the LMNP Services by issuing a new determination; and
 - 42.2 If we decide to continue regulation of the LMNP Services, whether we should make changes to the Current Terms and what those changes should be.

Should we continue regulation of the LMNP Services?

43. Section 18 sets out the purpose of Part 2 and Schedules 1 to 3 of the Act, which is "to promote competition in telecommunications markets for the long-term benefit of end-users of telecommunications services within New Zealand." Section 18 provides as follows:
 - (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.
 - (2A) To avoid doubt, in determining whether or not, or the extent to which, competition in telecommunications markets for the long-term benefit of end-users of telecommunications services within New Zealand is promoted, consideration must be given to the incentives to innovate that exist for, and the risks faced by, investors in new telecommunications services

that involve significant capital investment and that offer capabilities not available from established services.

(3) Except as otherwise expressly provided, nothing in this Act limits the application of this section.

(4) Subsection (3) is for the avoidance of doubt.

44. Section 19 of the Act requires us to consider the purpose set out in section 18 and to make the determination that the Commission considers best gives, or is likely to best give, effect to the purpose set out in section 18.
45. Accordingly, when deciding whether or not to continue regulation of the LMNP Services through a determination, we must be satisfied that continuing regulation is likely to best give effect to the promotion of “competition in telecommunications markets for the long-term benefit of end-users of telecommunications services within New Zealand.” In making that assessment, we consider the efficiencies likely to result, as required by section 18(2), and the incentives to innovate and risks faced by investors described in section 18(2A). Section 18(2A) has limited relevance in this case because the proposed determination continues the regulation of established LMNP Services, with targeted amendments, rather than regulating a new telecommunications service involving significant capital investment and capabilities not available from established services. We have nevertheless taken those considerations into account, and they do not alter our preliminary view.

Should we make changes from [2021] NZCC 27?

46. If we decide to continue regulation of LMNP by issuing a new determination, we must then decide whether or not we should make changes to the Current **Terms**, [2021] NZCC 27, and what form those changes might take.
47. We propose to make minor changes to address aspects raised with the Current Terms that we identified in our investigation. The steps we took as part of our investigation are set out at paragraph 34.
48. When considering any changes from the Current Terms, we consider that any changes should:
 - 48.1 be likely to best give effect to the promotion of “competition in telecommunications markets for the long-term benefit of end-users of telecommunications services within New Zealand”, consistent with section 18;
 - 48.2 ensure industry and end-users continue to receive the benefits of number portability; and
 - 48.3 minimise unnecessary disruption and cost to the industry.

Decision to maintain regulation with limited changes

49. We have considered whether we should make a new determination that would continue regulation of the LMNP Services. We have concluded that we should.
50. We consider that the continued regulation of the LMNP Services is likely to best give effect to the promotion of competition as set out in section 18.
51. We consider that the LMNP Services promote competition by enabling end-users to switch service providers, with the costs being absorbed by the service provider that gains the customer, thereby promoting competition for the long-term benefit of end-users. Regulating the LMNP Services removes one of the most significant potential barriers for end-users who wish to switch service providers and enjoy the benefits of competition. It also removes a potential barrier to entry for firms wishing to enter the market or expand their service offering. By continuing regulation, we will ensure that end-users continue to receive the benefits of the LMNP Services.
52. Our investigation did not identify any reason for substantially changing the Current Terms. Overall, we found that the current framework is operating effectively and continues to support competition and customer switching. However, we identified a number of areas where targeted amendments would improve the operation of the regime. We have therefore decided to make limited changes to address issues identified through our investigation.
53. Although these proposed amendments address operational, enforcement and administrative aspects of the number portability regime, each is directed at supporting the continued effectiveness of number portability as a mechanism for reducing switching costs and promoting competition. In our view, the proposed amendments improve the reliability, transparency and integrity of the LMNP framework, thereby helping to ensure that the LMNP Services continue to promote competition for the long-term benefit of end-users, consistent with section 18.
54. We consider that making targeted rather than substantial changes to the determination has the following advantages:
 - 54.1 Ensuring that effective regulation remains in place when the current determination expires on 19 December 2026, while preserving the benefits of the existing framework.
 - 54.2 Addressing operational and enforcement issues that have emerged since the 2021 review, and improving the efficiency, transparency and effectiveness of the number portability regime.
 - 54.3 Minimising unnecessary disruption, implementation costs and compliance burdens for industry participants by retaining regulatory settings that continue to operate effectively.

- 54.4 Providing greater certainty for industry and end-users by carrying forward the core features of the current determination while making only those changes necessary to improve its operation.

Stakeholder views on continued regulation of LMNP Services

55. Our decision to continue regulation of the LMNP Services is consistent with the views expressed by stakeholders,¹¹ both through the comments received on our initiation of the process for a determination under section 34(c) and through our engagement with stakeholders as part of our investigation.
56. Stakeholders supported the rationale for investigating a further determination and noted the benefits of ensuring the ongoing provision of the LMNP Services.

Draft determination

57. While stakeholders have expressed support for continuing the regulation of the LMNP Services, our investigation, particularly the valuable engagement with TCF, identified some minor potential changes to improve the Terms. These are outlined below.

Resellers

Background

58. Resellers are Service Providers that do not have numbers directly allocated to them through the Numbering Administration Deed (**NAD**) but who access numbers from parties (via commercial arrangements) who are members of the NAD. Such Service Providers are not a party to this Determination and are thus not bound by its terms. Some of these resellers have been added to IPMS (known as IPMS Based Resellers) and are directly involved in porting, while others are not (known as Off-IPMS Resellers).
59. Definitions and clauses relating to resellers were proposed as part of the TCF's 2016 Clarification request. The Commission declined that request because the changes sought were too extensive to be made through the clarification process under section 58 of the Act and did not meet the test for reconsideration under section 59. The Commission did not assess or reject the proposed reseller provisions on their merits and indicated that their substance could be considered through the investigation process. These proposed changes were ultimately not included in the new Determination in 2016.

Issue identified through our review

60. Our review identified a need to recognise IPMS Based Resellers and Off-IPMS Resellers in the Terms, reflecting operational developments and the existing allocation of responsibility.

¹¹ One NZ's submission supported investigation, provided there are minor changes. Submissions can be found here: <https://www.comcom.govt.nz/regulated-industries/telecommunications/projects/2026-review-of-local-and-mobile-number-portability-services-determination/>.

61. We identified that Off-IPMS Reseller arrangements can make it difficult to identify the relevant LSP and obtain timely responses, potentially delaying a customer's Port. Because parts of the process occur outside IPMS, the scale and duration of those delays are not readily visible through current reporting.

Our view

62. We consider that responsibility for meeting the Service Level obligations remain with the party to the Determination that has been allocated the relevant numbers, including where those numbers are supplied through a reseller arrangement. We therefore propose to amend the Terms to make this existing allocation of responsibility explicit.
63. The approach we propose is consistent with the position taken in 2016. In [2016] NZCC 32, we recorded that a failure by a downstream service provider was attributable to the relevant wholesaler for the purpose of assessing service performance.¹² We did not accept an averaging approach that would have allowed downstream failures to be offset against the wholesaler's other performance. We considered that attributing those failures to the wholesaler would provide an incentive for the wholesaler to ensure its downstream providers meet the required standards.
64. That responsibility-based approach has applied since 2016. The party to the Determination that has been allocated the numbers remains responsible for meeting the obligations associated with those numbers, including where services are supplied through a reseller. Consistent with that approach, the Terms cannot impose obligations directly on resellers because resellers are not Access Providers or Access Seekers under Schedule 1.
65. This is also consistent with the Commission's 2016 decision concerning access to IPMS. In that decision, we did not accept a proposal that would have allowed the TCF to withhold IPMS access from a new party that it considered was not ready. We considered that participation in the regulated regime must be determined by the Schedule 1 definitions rather than by an industry body. The same statutory boundary applies here.
66. While the underlying principle has not changed, the practical significance of reseller arrangements has increased since 2016. The reseller layer has grown, the operational difficulties associated with reseller arrangements are now better documented, and the attribution principle currently sits in the 2016 reasons paper rather than being expressly reflected in the Terms.
67. We therefore consider it appropriate to recognise reseller arrangements in the Terms and make the existing allocation of responsibility more explicit. The amendments do not change who is responsible for complying with the Service

¹² Commerce Commission, *Final LMNP Determination 2016* [2016] NZCC 32 at [87], <https://www.comcom.govt.nz/regulated-industries/telecommunications/regulated-services/copper-services/local-and-mobile-number-portability/>.

Levels. Rather, they clarify that a party's Service Level obligations continue to apply where a reseller sits between that party and the customer. Parties can support the operation of these arrangements by bringing resellers into IPMS or arranging a Service Provider ID so that the reseller and relevant carrier are visible in the porting process.

68. Accordingly, responsibility remains with the party to the Determination that has been allocated the numbers, including where those numbers are supplied through a reseller arrangement.

Draft decision

69. Our draft decision is to recognise resellers in the LMNP Terms and to place obligations on the parties that supply them. We have added definitions of "IPMS Based Reseller" and "Off-IPMS Reseller" to the definitions section:

69.1 **IPMS Based Reseller** — *Means a Service Provider that is not a party to this Determination but has been granted access to IPMS and is directly involved in the porting of Local Numbers and Mobile Numbers.*

69.2 **Off-IPMS Reseller** — *Means a Service Provider that is not a party to the Determination, does not have access to IPMS and cannot port Local Numbers directly.*

70. We have added a clause in the Access to the IPMS by an Entity Not Party to the LMNP Terms section, paragraph 54, requiring parties to use reasonable endeavours to bring Off-IPMS Resellers into the porting process:

a. *Parties to these LMNP Terms recognise that Service Providers who are not in IPMS can create difficulties in the porting process as neither they, nor their Carrier, can be readily identified by IPMS. This can hinder the ability to lodge a Port Request. Parties to these LMNP Terms must use reasonable endeavours to ensure that any Off-IPMS Reseller which resells services from its network, either:*

- i. Becomes an IPMS Based Reseller in its own right; or*
- ii. Has a Service Provider ID created for it in IPMS (which may be administered by the party) to facilitate the porting of numbers.*

b. *For the avoidance of doubt, the reasonable endeavours standard in this paragraph applies only to the steps taken to involve the Off-IPMS Reseller in the porting process under subparagraphs 54.1 and 54.2. It does not qualify, limit, or excuse the party's obligation to comply with any Porting Process or Service Level under these LMNP Terms.*

71. We have also added a "Third-party resellers" clause to the Service Provider Responsibilities section of the terms, paragraph 85:

- a. *The fact that a Customer is being billed through an Off-IPMS Reseller who has failed to respond to a porting step within the timeframes provided under the relevant Service Level is not sufficient grounds to reject or delay a porting step. A party's obligations to adhere to the Service Levels are not invalidated by the involvement of a third-party Reseller.*
- b. *The absence of response from the Off-IPMS Reseller within the required timeframe will be considered to be confirmation that the supplied details are correct, and the LSP has the right to respond in IPMS as such.*

72. We consider that this approach:

- 72.1 operates only on parties to the Determination, and so remains within the scope of what we may determine under the Act;
- 72.2 places the obligation on the party best able to discharge it, since it is the party that has the commercial relationship with the reseller and the allocated numbers;
- 72.3 removes the incentive to treat reseller involvement as a reason for delay, by making clear that a non-responsive reseller does not justify rejecting or delaying a porting step; and
- 72.4 gives the LSP a clear basis on which to proceed where a reseller does not respond, rather than leaving the port in abeyance.

- 73. We acknowledge that a "reasonable endeavours" standard is less direct than an absolute obligation. We have adopted it because the outcome depends in part on the reseller's cooperation, which the party cannot compel. We invite submissions on whether a firmer obligation is workable, and in particular on whether IPMS participation should be required above a volume threshold.
- 74. We note that two longer-term options are outside the scope of this Determination. The first is a Schedule 3 review to amend the definitions of Access Provider and Access Seeker. The second is for the NAD to restrict the use of allocated numbers to the party to whom they are allocated. We would need to be satisfied that this is a problem industry cannot address itself before supporting either.
- 75. Finally, we reiterate that the obligations under the Determination apply to named parties, irrespective of whether each uses the allocated numbers itself or shares them with resellers. The named party must meet all obligations under the Determination for numbers it has been allocated. This may involve stronger commercial terms when providing numbers to resellers to ensure they support meeting the named parties' obligations.

Emergency Return

Background

76. Emergency Return is a Porting Process in the LMNP Terms that allows a completed Port to be quickly reversed, returning the number to its original provider. For a Multiple Number Port, only the affected part of the Port can be returned if necessary. The process allows some of the usual validation checks to be overridden so that the return can be completed more quickly. It is separately defined, listed as a porting process, and described at paragraphs 313 and 314 of the 2021 LMNP Terms.

Proposed change

77. We propose to remove all references to Emergency Return because the functionality was disabled several years ago and was removed from the Operations Manual when it was updated in 2025.

Our view

78. We consider that the Terms should not describe a process that cannot be performed. Leaving Emergency Return in place would suggest that parties can use a mechanism that IPMS no longer supports.
79. We were concerned that removing Emergency Return may leave a gap where a number must be returned urgently, particularly in a fraud or scam scenario. However, two things satisfy us that it does not.
- 79.1 Paragraph 314 of the Current Terms already describe Emergency Return as a Port Request entered in the normal fashion, fast-tracked using the Approved Port Change process; the substantive capability therefore survives the removal of the label.
- 79.2 Amendments to the unauthorised Ports provisions provide expressly for the reversal of a Port that should not have occurred, for example in a fraud or scam scenario.

Draft decision

80. Our draft decision is to remove all references to Emergency Return from the LMNP Terms. This includes the definition, the entry in the list of Porting Processes, the process description at paragraphs 313 and 314 of the Current Terms, and the consequential references in the Porting Processes and IPMS Capabilities sections.

IoT and data-only services

Background

81. The LMNP Terms require Local Numbers and Mobile Numbers to be portable. There is currently no exception for numbers associated with IoT or data-only services.

Proposed change

82. We propose to clarify that mobile numbers associated with IoT and data-only services are not required to be portable where voice services are not supported and are not reasonably expected to be supported. These numbers are typically used for machine-to-machine communications and do not function as customer-facing telephone numbers.

Our view

83. We consider that, in these circumstances, requiring portability is unlikely to provide a material benefit to end-users and may impose unnecessary costs and operational complexity. We therefore consider it appropriate to exclude these services from mandatory portability.
84. We also consider it important that any exception is sufficiently narrow to ensure that mobile numbers used for ordinary communications remain subject to the portability requirements. For that reason, the exception is based on whether voice services are supported, or reasonably expected to be supported, rather than how a service is marketed.

Draft decision

85. Our draft decision is to add the following to the General Business Rules section of the LMNP Terms, under the heading “IoT and Data-only Mobile Services”, paragraphs 38 and 39:
- a. *For the avoidance of doubt, these LMNP Terms apply only to numbers used to provide the cellular telephone number portability service described in Schedule 1 of the Act. Accordingly, they do not apply to a mobile number used solely for an IoT or data-only service where voice services are not supported and are not reasonably expected to be supported, where that service falls outside the scope of the cellular telephone number portability service described in Schedule 1 of the Act.*
 - b. *Nothing in this paragraph prevents the voluntary transfer of such a number where the customer can identify the relevant number, the number complies with the numbering plan, and the relevant Carrier supports the transfer. Any such transfer is outside the mandatory porting obligations in these LMNP Terms only because the service is outside the Schedule 1 service description, not because this paragraph creates an exception to that service.*
86. We invite submissions on whether this interpretation correctly identifies the boundary of the cellular telephone number portability service in Schedule 1 and, in particular, whether the “voice services are not supported and are not reasonably expected to be supported” test is sufficient to identify numbers that are not used to provide that statutory service without excluding numbers used for ordinary communications.

Fraud protection

Background

87. We added a Fraud and Security protection section to the General Business Rules of the LMNP Terms in [2021] NZCC 27, at paragraph 20. It requires all parties to ensure they have appropriate policies and processes to mitigate security risks and prevent fraud during porting, and that those policies and processes are consistent with the Operations Manual.
88. Port-out fraud occurs when a fraudster arranges for another person's number to be ported to a SIM card the fraudster controls. With control of the number, the fraudster may be able to defeat SMS-based authentication and gain access to bank accounts and other sensitive services.

Proposed change

89. We propose to clarify that the LMNP Terms do not prevent appropriate fraud prevention measures in response to increasingly sophisticated fraud and scam activity involving attempts to obtain control of customers' numbers. The proposed change clarifies that providers can take reasonable fraud-protection measures, including temporary restrictions on porting where justified, while supporting future enhancements to IPMS functionality and industry processes as threats evolve.

Our view

90. We consider that a targeted exception is appropriate. A requirement that all numbers be portable should not prevent a provider from responding where there are reasonable grounds to believe a number is the target of active fraud or a scam.
91. The exception must not operate as a general basis for delaying legitimate ports. The proposed safeguards address this by requiring reasonable grounds, limiting any suspension to the minimum period reasonably necessary, requiring prompt and ongoing review, and requiring measures to be reasonable, proportionate, non-discriminatory and consistent with the Determination. They also require an auditable record, customer notice where that would not prejudice fraud prevention or an investigation, and reporting and escalation arrangements, including six-monthly reporting, that give the Commission visibility of the use and duration of the measure. We consider regular reporting is necessary to ensure parties maintain focus on how the measure is used. A request-only power would not by itself give the Commission visibility of whether, or how often, the measure is relied on.
92. We are satisfied that the clause removes an unintended restriction while preserving the integrity of the Porting Processes.

Draft decision

93. Our draft decision is to add the following to the Fraud and Security protection section of the LMNP Terms, paragraphs 23.1 to 23.9:

- a. *The Commission acknowledges that fraud, scams and unauthorised porting activity continue to evolve and may require industry participants to implement new or enhanced preventative measures.*
- b. *Nothing in these LMNP Terms shall prevent Service Providers, Carriers, or the industry collectively from developing, implementing and maintaining reasonable measures, processes, controls and system functionality designed to prevent, detect, investigate, respond to or mitigate such activity, where such measures are undertaken for the protection of Customers or the integrity of the LMNP service.*
- c. *Such measures may be implemented by Service Providers, Carriers, through the IPMS, or through industry operational procedures agreed from time to time, and may include amendments to the Operational and Support Manual for LMNP and enhancements to IPMS functionality where reasonably required to address emerging fraud and scam risks.*
- d. *Where a Service Provider or Carrier has reasonable grounds to believe that a Port Request for a number is, or is likely to be, associated with fraud, a scam or unauthorised Porting activity, an industry measure implemented under this clause may provide for the Porting of that Number to be temporarily suspended or otherwise prevented for the minimum period reasonably necessary to verify the Port Request, protect the affected Customer or investigate the suspected activity.*
- e. *A Service Provider or Carrier relying on paragraph 20.4 must commence verification promptly and review the suspension at intervals appropriate to the circumstances. The suspension must end as soon as the grounds for it no longer exist. Any suspension continuing beyond two Business Days must be escalated to an appropriately authorised person for review and approval, and must be reviewed at least once each Business Day thereafter.*
- f. *The Service Provider or Carrier must keep a contemporaneous record of the grounds for the measure, the information relied on, the time it began and ended, each review and decision to continue it, any steps taken to verify the Port Request or protect the Customer, when the Customer was notified, and the outcome. The record must be retained for 12 months and provided to the Commission or Enforcement Agency on request.*
- g. *The affected Customer must be notified as soon as reasonably practicable that the Port has been temporarily suspended and given information about the steps available to verify or progress the Port, unless and for so long as notice would be likely to prejudice fraud prevention, the protection of the Customer, or an investigation. Where notice is deferred, the reasons must be recorded and notice must be given once that risk no longer applies.*
- h. *Each Service Provider and Carrier must provide the Commission, within one month after 30 June and 31 December each year, with aggregated*

information on the number of temporary suspensions under paragraph 20.4, their duration and outcomes, including the number continuing beyond two Business Days, together with any further information the Commission reasonably requests. The reporting must not include Customer-identifying information unless requested by the Commission under applicable law.

- i. *Any measures implemented under this clause must be reasonable, proportionate, non-discriminatory, and consistent with applicable law and the Determination. A temporary suspension or prevention of Porting undertaken in accordance with paragraph 20.4 will not, of itself, constitute a failure to comply with any Porting Process or Service Level under these LMNP Terms.*

- 94. We invite submissions on whether the clause strikes the right balance, and in particular, whether the safeguards are sufficient to prevent it being relied on to delay ports that are in fact legitimate, as well as whether six-monthly reporting to the Commission is appropriate.

Two-factor authentication

Background

- 95. Two-factor authentication (**2FA**) for mobile porting was developed following our 2021 review. It is not mandatory in the Current Terms. It is now used across the industry and is described in the Operations Manual.

Proposed change

- 96. We propose to make 2FA the general authentication method for mobile porting, with justified exceptions and supporting operational detail retained in the Operations Manual. The proposed wording clarifies how exceptions would be assessed and documented.

Our view

- 97. We consider it appropriate to recognise 2FA in the Terms. The proposed clause makes 2FA the default and requires a Gaining Service Provider (**GSP**) that proceeds without it either to rely on an exception in the Operations Manual or to have a reasonable and documented basis for doing so.
- 98. This approach provides a clear standard while allowing appropriate exceptions. The GSP makes and records the assessment at the time, and the EA may subsequently assess that basis in the same way it assesses Service Level compliance.
- 99. We consider that the principal exceptions can remain in the Operations Manual because they are operational applications of the regulatory standard, rather than changes to the standard itself. The Determination makes 2FA the default, limits departure from it to a permitted exception or a reasonable and documented basis, and leaves each decision open to review by the EA. The Operations Manual can then describe the specific technical or practical circumstances in which 2FA cannot be completed or an alternative authentication method is appropriate, and can be updated as authentication methods, systems and fraud risks evolve.

Draft decision

100. Our draft decision is to add the following to the General Business Rules section of the LMNP Terms, paragraph 24:
- a. *Two-factor authentication (2FA) is the default customer authentication method for Mobile Ports. A Gaining Service Provider must not proceed without 2FA unless an exception permitted under the Operational and Support Manual applies, or the Gaining Service Provider has a reasonable and documented basis for determining that 2FA was not required.*

Unauthorised Ports

Background

101. The LMNP Terms deem a Port to be unauthorised where the Customer Authorisation or the supporting evidence cannot be produced on request within the specified time, is not complete and valid, or does not relate to the Number and Port in question. Paragraphs 67 to 71 of the Current Terms require a GSP to retain Customer Authorisations and to produce evidence on request: to the Commission within five Business Days for twelve months from completion of the Port; to the LSP within four Working Hours for five Business Days where an unauthorised Port is being investigated; and to the LSP within five working days for twelve months for the purpose of resolving a customer complaint.
102. The Terms provide for what happens where a Port is unauthorised and the customer wishes to return, but do not set out a process for the two Service Providers to work together to establish whether the Port was authorised and to reverse it.
103. The proposed provisions formed part of the TCF's 2016 Clarification request. That request was declined on procedural grounds because of the extent of the changes sought, and the Commission did not make a substantive assessment of the unauthorised Port provisions at that time, and the changes were not included in the new Determination in December 2016.

Proposed change

104. We propose an express process requiring the LSP and GSP to work together to establish whether a disputed Port was authorised and, where it was not, to restore the number promptly. The proposed process builds on wording developed through an earlier clarification process.

Our view

105. There is no substantive 2016 decision on these provisions that would prevent us from considering this change on its merits in this Determination. We support the substance. Where a number has moved without proper authority — through fraud, error, or a failure of validation — it needs to be returned quickly, and the absence of an express collaboration and reversal process is a gap.

106. Our concern with a belief-based threshold was that it did not identify whose belief, formed on what grounds. A reversal is not a neutral act: it moves a customer's service back against the record of a completed Port. A threshold expressed purely as belief could be relied on to reverse Ports that were in fact authorised, which would create a new avenue for the harm the provision exists to prevent.
107. The drafting now adopted resolves that. Rather than resting on belief, it ties the reversal to the existing evidential standard in paragraph 71 of the Current Terms: failure by the original GSP to produce evidence of the Customer Authorisation within the specified timeframes is sufficient to deem the Port unauthorised and to initiate a reversal. That is an objective trigger, it uses standards that parties already work to, and it does not require the LSP to prove a negative.

Draft decision

108. Our draft decision is to amend the unauthorised Ports provisions so that the LSP and GSP are required to work together to confirm whether a valid Customer Authorisation existed, and to provide expressly for reversal:
- a. *If a Port is unauthorised and the customer wishes to return the Number assigned to him or her to the LSP, then the LSP will contact and work with the GSP to confirm the Port was not subject to a valid Customer Authorisation.*
 - b. *To reverse an unauthorised Port the Service Providers will work together as detailed in paragraph 76. For the avoidance of doubt, failure of the original GSP to provide evidence of the Customer Authorisation within the timeframes set out in paragraphs 72-74 of the Current Terms is sufficient evidence to deem the Port unauthorised and initiate a Port reversal.*

Departing Service Providers

Background

109. Paragraphs 125 and 126 of the Current Terms require a Departing Party to work with the TCF to make the changes necessary to maintain the integrity of IPMS, continue to facilitate porting, and ensure that calls to Ported Numbers continue to be correctly routed.

Proposed change

110. We identified that inactive or uncontactable Service Providers can remain in IPMS, creating uncertainty and limiting affected customers' ability to port. We propose a clause allowing the TCF to take reasonable measures to retire or manage a Service Provider that has ceased operating and does not engage in fulfilling its responsibilities.
111. The preferred outcome is for a departing provider to work with customers, other providers and the TCF so services can be migrated before it exits IPMS. Where that does not occur, the TCF lacks a clear mandate to manage the affected numbers without risking further disruption to customers.

Our view

- 112. Where a provider ceases operations without appropriately managing its obligations, affected customers may have difficulty transferring their services or porting their numbers. Although these situations appear infrequent, the consequences can be significant, and a clear process is justified.
- 113. Some relevant mechanisms sit outside this Determination, including the statutory definitions and the NAD. Within the Determination, however, we can provide authority to take reasonable steps so that customers retain the ability to port where a Service Provider has effectively ceased to operate.
- 114. The proposed clause is appropriately framed around the outcome. It allows the TCF to implement reasonable measures necessary to maintain number portability and requires participating Service Providers to cooperate, while retaining flexibility for different circumstances.

Draft decision

- 115. Our draft decision is to add the following to the existing IPMS section of the LMNP Terms, paragraph 136.1:
 - a. *Where a Service Provider who is a Departing Party ceases operations, becomes uncontactable, or is otherwise unable to meet its obligations under paragraph 132, the TCF may take such reasonable measures as are necessary to ensure that:*
 - i. *affected end-users are able to Port their Numbers to another participating Service Provider without undue delay;*
 - ii. *calls to affected Ported Numbers continue to be correctly routed; and*
 - iii. *the integrity of the IPMS is maintained.*
- 116. All notifying Service Providers must cooperate with such measures. The TCF must notify the Commission of any measures taken under this paragraph.

Enforcement framework amendments

Background

- 117. Paragraph 15 of the Current Terms requires each party subject to the Terms to comply with the Service Levels. Where an Audit IPMS Client does not meet the Service Levels, the EA may currently issue a Caution Notice of Breach, a Warning Notice of Breach, or a Public Censure Notice. In deciding which, it must consider the seriousness of the non-compliance and the party's past conduct with respect to compliance with the Service Levels. A copy of every Notice goes to all parties and, at the same time, to the Commission.
- 118. A Public Censure Notice may only be issued after a Caution Notice of Breach and then a Warning Notice of Breach have been issued in relation to the particular

breach in question. Equivalent provisions apply to Audit Carriers under the Network Terms.

119. The Determination does not currently prescribe thresholds or criteria for escalating from a Caution Notice to a Warning Notice.

What our review found

120. Our review of Notices of Breach and engagement with the EA identified areas where the existing framework would benefit from greater clarity and consistency.
121. We are not proposing new enforcement tools or a different enforcement pathway. The amendments preserve the EA's discretion while providing clearer guidance on escalation, patterns of non-compliance, remediation and record-keeping.
122. The amendments have four objectives:
 - 122.1 to support consistent decision-making;
 - 122.2 ensure repeated, prolonged or customer-significant non-compliance is appropriately considered;
 - 122.3 improve visibility of corrective actions and outcomes; and
 - 122.4 recognise genuine remediation without preventing escalation where appropriate.
123. We consider these changes will strengthen the timely and reliable operation of the LMNP Services and support end-users' ability to switch providers.

Draft decisions

124. Our draft decision is to amend the Failure to meet Service Levels provisions in the LMNP Terms as described below, with equivalent amendments to the Failure to meet Equivalent Service criteria provisions in the Network Terms, adapted where necessary to reflect the audit-based framework in those Terms.

Issuing a Notice

125. Paragraph 138 is amended so that, where an Audit IPMS Client does not meet the Service Levels, the EA must issue a written Caution Notice of Breach, Warning Notice of Breach or Public Censure Notice. Paragraph 139 provides that the EA is not required to issue a Notice where it is satisfied that the failure was minor or immaterial. The EA retains discretion as to which Notice is appropriate, having regard to the nature and circumstances of the breach.
126. We consider this avoids disproportionate administration for one-off technical anomalies while preserving accountability. Because a customer-affecting failure can never be treated as immaterial, the exception is confined to deviations with no customer consequence, such as measurement or system anomalies. The quarterly record provided to the Commission must separately identify each occasion on which

the EA relied on this exception, the nature and cause of the deviation, why it was assessed as immaterial, the corrective action taken, and whether a similar deviation has occurred previously.

Patterns of non-compliance

127. Paragraph 128 is amended so that the EA must consider the seriousness of the non-compliance and past conduct “when determining the appropriate enforcement action”, and a new paragraph is inserted:

- a. *For the purposes of paragraph 138, the Enforcement Agency must have regard to patterns of non-compliance by the Audit IPMS Client, including previous Notices of Breach issued to the Audit IPMS Client, when determining whether a Caution Notice of Breach, Warning Notice of Breach, or Public Censure Notice is appropriate.*

Record of corrective action

128. A new provision requires the EA to maintain a record of confirmation of receipt of the Caution Notice, the party’s explanation of the breach, corrective actions, remediation proposed or internal reviews, any timetable for implementation, and the outcome of those corrective actions. That record must be provided to the Commission on a quarterly, and at any other time on request.
129. This information is not consistently captured in the records currently available. The new requirement will make it easier to assess whether remediation has addressed the underlying issue and to identify recurring causes across reporting periods. The Commission will use the quarterly information to monitor trends, compare stated remediation with subsequent performance, and identify repeated, prolonged or customer-significant issues. Where the information indicates that an underlying cause has not been addressed, that similar issues are recurring, or that the EA’s response may not reflect the seriousness or customer impact of the conduct, the Commission may seek further information, require closer monitoring, raise the matter with the EA and the relevant party, or consider whether further regulatory or enforcement action is appropriate. We invite submissions on whether quarterly reporting is appropriate.

Roll-over of a Caution Notice where remediation has occurred

130. Where the Audit IPMS Client has identified the cause of a breach and implemented corrective action before a subsequent Caution Notice is issued, the EA may modify the Notice requirements. The Notice must instead record the cause of the breach, the corrective action taken, the date it was implemented, and the expected date by which it is anticipated to be reflected in compliance reports. The EA must monitor compliance against that expected resolution date.
131. Where corrective action is implemented part way through a reporting period, subsequent reporting may continue to show the breach. In that situation, requiring further corrective actions may not add value. A Notice should still record the breach

and preserve the escalation pathway, but its content should reflect remediation already completed.

132. Two further provisions confirm that completed remediation does not prevent escalation where the circumstances justify it:
 - a. *The fact that corrective action has been implemented does not prevent the EA from issuing a Warning Notice of Breach where the anticipated period of non-compliance is prolonged. In such circumstances, the EA must consider whether a Warning Notice of Breach is appropriate.*
 - b. *Where non-compliance continues after the expected resolution date recorded under paragraph 147, the EA must consider whether a Warning Notice of Breach is appropriate.*

Triggers for considering a Warning Notice

133. The Warning Notice provision has moved from a permissive description to a set of express triggers:
 - a. *The written Warning Notice of Breach to the Audit IPMS Client is a more severe version of the Caution Notice of Breach, and must be considered by the Enforcement Agency where:*
 - i. *the Audit IPMS Client has failed to undertake voluntarily the actions requested by the Caution Notice of Breach, within the timetable specified therein;*
 - ii. *the Audit IPMS Client receives repeated Caution Notices of Breach arising from the same underlying cause;*
 - iii. *non-compliance continues after the expected resolution date recorded in a Caution Notice of Breach;*
 - iv. *the anticipated period of non-compliance is prolonged, despite corrective action having been implemented by the Audit IPMS Client; or*
 - v. *the Enforcement Agency determines that the customer impact of the breach is significant.*

Public Censure Notice

134. Four amendments are made to the Public Censure Notice provisions.
135. First, the trigger is extended so that a party may be advised that a Public Censure Notice is to be prepared not only where it refuses or fails to undertake the actions required by a Warning Notice, but also where non-compliance continues after the expected resolution date recorded in a Warning Notice.

136. Second, a new provision states that the fact that corrective action has been implemented does not prevent the EA from progressing to a Public Censure Notice where the anticipated period of non-compliance remains prolonged.
137. Third, the advance copy provisions are amended. The advance copy must specify the status of any corrective action required, including whether it remains outstanding or has been completed, rather than specifying a final timetable for completion. The period before publication is fixed at 10 working days rather than being at the discretion of the EA, and the purpose of that period is stated: to allow the party to comment on the accuracy of the Notice and provide any relevant updates regarding compliance.
138. Fourth, the provision permitting the EA not to publish where the party has fully complied before the publication date is amended from an automatic bar to a structured discretion:
 - a. *If the Enforcement Agency is fully satisfied that the Audit IPMS Client has fully complied as ordered prior to the date the Public Censure Notice is due to be published, the Enforcement Agency may elect not to publish the Public Censure Notice, having regard to the seriousness of the non-compliance, the duration of the non-compliance, the Audit IPMS Client's past conduct, and any customer impact arising from the breach.*
139. This amendment recognises that a Public Censure Notice follows earlier enforcement steps and may arise after a prolonged period of non-compliance. Remediation completed before publication remains relevant, but should be considered alongside the seriousness and duration of the breach, past conduct and customer impact. This preserves appropriate discretion while supporting transparency and accountability.
140. The publication requirements are otherwise carried forward, including publication on the censured party's website for at least six months with the summary and link clearly visible on the most frequently visited page associated with switching to that party. The exception is that publication on the TCF's website is now required for at least six months (or until there is no Determination in place), rather than for the remainder of the Determination's duration.

Amendments to the Network Terms

141. Equivalent amendments are made to the Failure to meet Equivalent Service criteria provisions of the Network Terms. The substance is the same, adapted to Audit Carriers and to the audit-based framework in those Terms — in particular, the trigger for progressing to a Public Censure Notice refers to a period of non-compliance identified by the audit, and the Warning Notice provision refers to a breach that was serious, prolonged, or had a significant impact on other Carriers or end-users.
142. A similar carve-out was not added to the Network Terms because, where the EA has reasonable grounds to investigate, an audit will determine whether the relevant Carrier is compliant with the Equivalent Service criteria.

Publication of porting statistics

Background

143. The Current Terms (paragraph 144) require the TCF to publish, within one month of the end of each financial quarter, four measures for both mobile and local number ports for the previous 12 months:
- 143.1 the number of Ports by month including Ports of previously Ported Numbers;
 - 143.2 the cumulative count of numbers ported since 2007;
 - 143.3 the cumulative count as a percentage of active numbers; and
 - 143.4 the percentage of Ports completed within the timeframes specified in Table 2 or within the timeframes as otherwise agreed with the end-user.
144. In 2023 we raised with the TCF that not all of these measures were being published. The TCF updated its reporting to comply with the first three but explained that reporting against all the Table 2 timeframes is not practicable because not all of them are measured in IPMS.

Proposed change

145. We propose to change the fourth measure to the percentage of Ports completed within the Service Level timeframes for the key customer-impacting measures, by GSP and LSP, port type and network updates. This aligns the requirement with the Service Levels assessed when determining whether a service level breach has occurred.

Our proposals on reporting

146. We considered whether reporting should provide a clearer measure of switching activity, including gross monthly ports, movement between provider types, ports between named providers, and non-compliance with customer-impacting measures.
147. Our review found that some additional monthly reporting is feasible, while other measures would require system changes, further cost-benefit assessment or consideration of confidentiality obligations. In particular, provider-specific information may be subject to contractual confidentiality restrictions.
148. Further work may be needed to confirm the statutory basis, scope, confidentiality treatment, feasibility and cost of any additional data requirements. We have therefore limited the changes in this Determination to measures that can be clearly and proportionately reported now.

Our view

149. We propose to reformulate the fourth measure because this aligns the obligation with the customer-impacting Service Levels that IPMS can measure and that are already reported through the service level framework.

150. We have also clarified that the monthly count is a gross count of Port transactions. This better reflects switching activity by counting each transfer between providers separately, including where a number is later ported again.
151. We have not imposed provider-specific reporting in this Determination. We will consider requesting this data as part of our monitoring work rather than part of the TCF published reporting requirements.
152. The changes made now will improve the consistency and usefulness of published information while preserving the existing flexibility for activities completed within timeframes otherwise agreed with the end-user.

Draft decision

153. Our draft decision is to amend the Publication of Porting Statistics section as follows, paragraph 166.1 to 166.4:
 - a. *number of gross Ports by month (including Ports of previously Ported Numbers);*
 - b. *cumulative count of gross Ports since 2007;*
 - c. *cumulative count of gross Ports as a percentage of active numbers; and*
 - d. *percentage of Ports completed within the service level timeframes for the key customer-impacting measures, by GSP and LSP, port type, and network updates.*
154. We have also added a counting rule, paragraph 167:
 - a. *For the purposes of paragraphs 166.1 to 166.4, each Port of a Number from one provider to another must be counted as a separate Port transaction. A Number Ported from Provider A to Provider B counts as one Port, and if that Number is subsequently Ported from Provider B back to Provider A, that subsequent Port counts as an additional Port.*

Further minor amendments

Location of outage and contact information

155. The LMNP Terms currently require the TCF to ensure that Planned Outage details are provided on the TCF website, and to maintain outage and faults escalation contact lists for each party on the TCF website. In practice, Planned Outage details are published on the IPMS homepage and the contact lists are maintained on the Number Portability Users shared drive.
156. We have amended the Terms to reflect where this information is actually held. Planned Outage details must be provided on the IPMS homepage, and the outage and escalation contact lists must be maintained on the Number Portability Users shared drive.

157. We have made this change, rather than requiring the practice to change to match the Terms, because the audience for this information is the parties themselves. Outage notifications and escalation contacts are operational information used by the people who run porting, and the IPMS homepage and the shared drive are where those people already look. There is no end-user interest in this material being on a public website, and requiring duplicate publication would create a risk that the two sources diverge.
158. We note that this is a different approach from the one we have taken to timeframes. The distinction we draw is between an obligation whose content matters to end-users, which belongs in the Determination and should not move, and an administrative direction about where operational information is stored, which should describe reality. We invite submissions if any party considers the distinction is not correctly drawn here.

Customer name as a required Port Request field

159. Table 1 of Attachment B (LMNP Terms) sets out the Port Request fields and identifies which are required, optional or not applicable for each port type. Customer name is presently required for local ports but marked not applicable for simple pre-pay or post-pay mobile ports and for complex post-pay mobile ports.
160. We have amended Table 1 so that customer name is a required field for mobile Port Requests as well. Identity verification is central to preventing port-out fraud, and it is difficult to reconcile the introduction of two-factor authentication as the default customer authentication method for mobile ports with a Port Request in which the customer is not named. The change also assists the LSP in identifying the customer where a Port is later alleged to have been unauthorised.
161. We invite submissions on whether this creates any practical difficulty, particularly for pre-pay mobile services where the provider may hold limited customer information.

Number range allocation

162. The New Entrants provisions refer to a party being issued a “Number Block” by the NAD. We have amended these references to “Number range” to reflect current NAD terminology. This is a terminology change only and does not alter the test for becoming a party to the Determination.

Functions and standards

163. We are required under section 40(1)(a) of the Act to include in the determination a description of the functions that must be performed by a system for delivering the LMNP Services and the standards to which those functions must be performed.
164. In addition, we must include the “terms and conditions on which the determination is proposed to be made” under section 40(1)(f).

165. Section 40(1)(c) also requires a final determination to include “the requirement that all the parties to the determination provide the service by means of a system that is consistent with the functions and the standards set out in the determination”.
166. The LMNP Terms (Attachment B) and Network Terms (Attachment C) attached to the determination contain the functions for delivering the LMNP Services through the IPMS, and the standard to which those functions must be performed. In our view, the LMNP Terms and Network Terms are consistent with the scope of the LMNP Services set out in Part 2 of Schedule 1 of the Act, with the requirements for a determination under Part 2 of the Act, and the requirements of the section 18 purpose statement.
167. Accordingly, we have included in the draft Determination a requirement that all parties provide the LMNP Services by means of a system that is consistent with the functions and standards set out in the determination, including all terms and conditions set out in the LMNP Terms and Network Terms.¹³

Cost allocation formula

168. We are required under section 40(1)(b) to determine “the formula for how the cost of delivering the service must be apportioned between the parties to the determination and every person who becomes an Access Provider after the determination is made.”
169. Further, in accordance with section 40(1)(d), a final determination must include the requirement that “any party to the determination make payments to an Access Provider of amounts calculated in accordance with the formula set out in the determination”.
170. In Decision 554, the relevant part of which was adopted by Decision 705 and [2016] NZCC 32, we considered the impact of allocating costs incurred in the provision of number portability to the various market participants based on:
- 170.1 the incentives of operators to compete with each other for customers; and
- 170.2 the switching costs faced by customers, i.e. the cost to a customer of porting a number.¹⁴
171. As in 2021, we remain of the view that the guiding principles relevant to determining the cost allocation formula (as outlined in Decision 554) continue to be appropriate. The reasoning set out in Decision 554 relating to the cost allocation formula is incorporated by reference in this draft Determination.¹⁵
172. In summary, in deciding how to allocate the costs associated with the LMNP Services, we were guided by the promotion of competition for the long-term benefit of end-

¹³ Section 40(1)(c) of the Act.

¹⁴ Commerce Commission, Decision 554, 31 August 2005, para. 58.

¹⁵ Commerce Commission, Decision 554, 31 August 2005, paras 69 to 105, 114 to 123, 128 to 132, 141 to 149, 158 to 179.

users, under section 18, by lowering the switching costs incurred by customers when changing service providers. We adopted four guiding principles to allocate costs, namely: cost minimisation, cost causation, alignment of costs with benefits and practicality. On this basis, we concluded that:

- 172.1 Industry common system costs: Allocated amongst all providers of the LMNP Services on the basis of market share based on active numbers.
- 172.2 Per-operator set-up costs: Each operator will bear its own costs.
- 172.3 Per-line set-up costs: Recoverable by the donor network operator from a recipient network operator.
- 172.4 Additional call conveyance costs: Each operator will bear its own costs.
- 173. Accordingly, we have included a requirement in the determination that any party to the determination must make payments (covering per-line set-up costs and industry common system costs) to an Access Provider of amounts calculated in accordance with the formula set out in Attachment A to the determination.¹⁶

Commission's costs

- 174. Under section 55 of the Act, our costs of preparing a determination must be met by the parties to the determination in the proportion we direct.
- 175. We consider that the costs of the determination should continue to be recovered in the same proportion as the cost allocation for industry common system costs. This reflects that our costs are part of the industry's common costs of having regulated LMNP Services.
- 176. Accordingly, we propose that our costs continue to be allocated amongst all providers of the LMNP Services on the basis of market share, based on active numbers. The active numbers will be taken from the figures used in the last cost allocation made in the Current Terms. This is the allocation made on [date].¹⁷

Commencement date and date of expiry

- 177. We consider that we must determine the commencement date and are required by the Act to determine the expiry date of the determination. This provides certainty about the term for which regulation should apply.

Commencement date

- 178. We consider that the commencement date should be 20 December 2026, which is the day after the expiry of [2021] NZCC 27.
- 179. This commencement date will ensure that there is continuity of the regulation of the LMNP Services so that all parties to the determination remain bound by the LMNP

¹⁶ Section 40(1)(d) of the Act.

¹⁷ This allocation will be confirmed prior to the Terms being finalised.

Terms and the Network Terms as amended by the determination on and from the expiry of [2021] NZCC 27.

Date of expiry

180. We are required under section 37(1)(f) of the Act to determine the expiry date of the determination.
181. We are also required to consider, at intervals of not more than five years, whether there are reasonable grounds to commence an investigation into whether the local telephone number portability service and cellular telephone number portability service should be omitted from Schedule 1 of the Act.¹⁸
182. In October 2025, the Commission completed its most recent review of the Local and Cellular Telephone Number Portability Services and concluded that there were not reasonable grounds to commence an investigation into whether those services should be omitted from Schedule 1 of the Act. The Commission found that there are no wholesale or retail alternatives to the services, that they continue to reduce barriers to switching and market entry, and that they remain important in promoting competition for the long-term benefit of end-users.¹⁹
183. We consider that the expiry of this Determination should coincide with the statutory review cycle contemplated by the Act. This approach is consistent with the legislative framework, which requires the Commission to periodically review whether Schedule 1 services should remain regulated.
184. We also consider that a five-year term is necessary to provide regulatory certainty and to preserve the competition benefits arising from number portability regulation, particularly the reduction of switching costs for end-users and the promotion of competition among telecommunications providers. The Commission retains the ability to commence an earlier review should circumstances materially change, as clause 1(1) of Schedule 3 permits the Commission to investigate whether Schedule 1 should be altered where there are reasonable grounds for doing so. Accordingly, we consider that the determination should remain in force for a period of five years and expire in December 2031.
185. The Commission may consider an earlier review where there are material changes in circumstances affecting number portability, for example, changes in technology, fraud or scam risks, customer outcomes, or industry operating models.
186. The terms for the expiry dates are set out in paragraphs 187 and 188.

¹⁸ Clause 1(3) of Schedule 3 of the Act. “Designated service” is defined in section 5 of the Act as meaning (among other things) a “designated multinetwork service”.

¹⁹ Commerce Commission, Review of the Local and Cellular Telephone Number Portability Services: Final decision on whether to commence an investigation under clause 1(3) of Schedule 3 of the Telecommunications Act 2001 – Reasonable grounds assessment final decision (9 October 2025), paragraphs 2.1 and 2.24.

187. The determination, so far as it relates to Local Number Telephone Portability, will expire on the earlier of—

187.1 19 December 2031; or

187.2 the date on which the local telephone number portability service ceases to have designated multinetwork service status because it has been omitted from Schedule 1 under section 66 of the Act.

188. The determination, so far as it relates to Cellular Telephone Number Portability, will expire on the earlier of—

188.1 19 December 2031; or

188.2 the date on which the cellular telephone number portability service ceases to have designated multinetwork service status because it has been omitted from Schedule 1 under section 66 of the Act.

189. We invite submissions on all aspects of the draft Determination and this reasons paper. After considering submissions and any cross-submissions, we will decide whether to issue a final determination and the form that determination should take.