

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

[2021] NZCC 27

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Associated documents

Publication date	Reference	Title
2 December 2021	ISSN 1178-2560	Attachment B: Terms of Local and Mobile Number Portability in New Zealand
2 December 2021		Attachment C: Network Terms for Local and Mobile Number Portability in New Zealand
2 December 2021		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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List of terms and abbreviations¹

Term	Definition
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.
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.
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.

¹ Where a term or abbreviation is defined in the Telecommunications Act, the statutory definition is adopted for the purpose of this list.

Term	Definition
LMNP Terms	means the terms that outline the process that enables end users to port their numbers and sets out the rights and obligations of parties to the terms set out in Attachment B to this determination.
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 to this determination.
PSTN	has the definition as set out in section 5 of the Act.

Introduction

1. This document is the Determination for the designated multinet network services of 'local telephone number portability service' (Local Number Portability) and 'cellular telephone number portability service' (Cellular Number Portability), under s 36 of the Telecommunications Act 2001 (Act).
2. This Determination is comprised of:
 - 2.1 The sections below concerning commencement and expiry dates, cost allocation, functions and standards and Commission's costs;
 - 2.2 Attachment A: Formula for the cost of delivering the services;
 - 2.3 Attachment B: Terms of Local and Mobile Number Portability in New Zealand (LMNP Terms);
 - 2.4 Attachment C: Network Terms for Local and Mobile Number Portability in New Zealand (Network Terms); and
 - 2.5 The reasons for this Determination are published alongside this draft determination in a separate document entitled "Determination for the designated multinet network services of 'local telephone number portability service' and 'cellular telephone number portability service' – Decisions and Reasons paper."

Commencement and expiry dates

Commencement date

3. The commencement date shall be 20 December 2021 which is the day after the expiry of [2016] NZCC 32.

Date of expiry

4. The determination, so far as it relates to Local Number Portability, will expire on the earlier of: ²
 - 4.1 19 December 2026; or
 - 4.2 the date on which the local telephone number portability service ceases to have designated multinet network service status because it has been omitted from Schedule 1 under section 66 of the Act.
5. The determination, so far as it relates to the Cellular Number Portability, will expire on the earlier of: ³
 - 5.1 19 December 2026; or

² Section 37(1)(f) of the Act.

³ Section 37(1)(f) of the Act.

- 5.2 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.

Cost allocation formula

6. Costs in relation to LMNP Services shall be apportioned on the following basis:
- 6.1 *Industry common system costs:* Allocated amongst all providers of the LMNP Services on the basis of market share based on active numbers.
- 6.2 *Per-operator set-up costs:* Each operator will bear its own costs.
- 6.3 *Per-line set-up costs:* Recoverable by the donor network operator from a recipient network operator.
- 6.4 *Additional call conveyance costs:* Each operator will bear its own costs.
7. 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: Formula for the cost of delivering the services** to this determination.⁴

Functions and standards

8. The LMNP Terms (Attachment B) and Network Terms (Attachment C) attached to this determination contain the functions for delivering the LMNP Services through the IPMS, and the standard to which those functions must be performed.
9. All parties to the determination must provide the LMNP Services by means of a system that is consistent with the functions and standards set out in this determination, including all terms and conditions set out in the LMNP Terms and Network Terms.⁵

Commission's costs

10. The Commissions costs relating to this determination shall be recovered in the same proportion as the cost allocation for industry common system costs as set out in Attachment A.⁶
11. The Commissions costs will be allocated amongst all providers of the LMNP Services on the basis of market share, based on active numbers, using the industry common system costs allocation. The active numbers will be taken from the figures used in the last industry common system costs allocation made under [2016] NZCC 32. This is the allocation made on 31 October 2021.

⁴ Section 37(1)(b) and Section 40(1)(d) of the Act.

⁵ Section 40(1)(c) of the Act.

⁶ Section 55 of the Act.

Attachment A: Formula for the cost of delivering the services

Formula for allocating industry common system costs

List of terms and abbreviations⁷

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 local or mobile number portability service.
Capex	means capital expenditure.
Financing Parties	means the parties to the determination at the beginning of each Financial Year.
Liabile Parties	parties to the determination at the end of each Financial Year.
Opex	means operational expenditure.
Financial Year	means the year beginning on the anniversary date of this determination.
Market Share	means the market share based on active numbers.

The Framework

- A.1 Capex and Opex incurred in any particular Financial Year of the determination will be financed by the Financing Parties based on their Market Share at the beginning of that Financial Year.
- A.2 The Financing Parties in any particular Financial Year will receive at the end of that Financial Year, a Capital Cost Payment and an Operational Cost Payment from Liabile Parties based on their Market Share at the end of that Financial Year.
- A.3 The calculation of the Capital Cost Payment and Operational Cost Payment is described below.
- A.4 A Capital Cost Payment calculation will be undertaken for the assets financed as Capex in a particular Financial Year and this Capital Cost Payment will be allocated annually amongst the parties until those assets are fully depreciated. The total Capex

⁷ Where a term or abbreviation is defined in the Telecommunications Act, the statutory definition is adopted for the purposes of this list.

contribution which a Liable Party is required to make in any particular Financial Year will be the sum of their allocations for that Financial Year.

- A.5 If a new entrant is assessed to be an eligible Access Provider in respect of a particular year and, therefore, becomes a party to the determination, that new entrant will be liable for a Capital Cost Payment and an Operational Cost Payment for that Financial Year based on its Market Share on the last day of that Financial Year.
- A.6 Liable Parties will be required to contribute in accordance with the following payment formulae.

The Capital Cost Payment Formula

- A.7 The Capital Cost Payment ensures that Capex, which generates benefits beyond the year in which it is incurred, is amortized over the period of the determination and recovered annually from all parties to the determination (including new entrant Access Providers) based on the benefits they derive from the Capex.
- A.8 The Capital Cost Payment for the Capex incurred in a particular Financial Year will be calculated in accordance with the following formula:

$$Capital\ Cost\ Payment = \frac{Capex}{\left[\frac{1 - \left[\frac{1}{\left(1 + \frac{i}{t} \right)^{(n \times t)} \right]}{\frac{i}{t}} \right]}$$

where: Capex: capital expenditure in that Financial Year;
 i: funding rate;
 n: number of years until the asset has been fully depreciated;
 t: number of payments per year.

- A.9 Any assets financed as Capex will be depreciated using a straight line method at a rate that will result in the asset being fully depreciated after five years from the date of this determination.
- A.10 The funding rate reflects the opportunity cost associated with the financing of Capex. Given that the Financing Parties are likely to face minimal risk of default on payment, the funding rate will be the New Zealand Government bond rate of a maturity equal to the number of years until the asset has been fully depreciated.

- A.11 The bond rate used for Capex incurred in a particular Financial Year will be the bond rate published on the first day of that year.

The Operational Cost Payment Formula

- A.12 At the beginning of each Financial Year the Financing Parties will prepare and finance an Opex budget, including maintenance, with each contributing towards this budgeted amount based on their Market Share at the beginning of that year. At the end of each Financial Year, the Financing Parties will receive from the Liable Parties, an Operational Cost Payment based on the actual Opex incurred in that Financial Year and based on their Market Share at the end of that Financial Year.