

Spark: granting for extension of exemptions under clauses 14.2.1 and 14.2.3 of the network terms of the local number portability service

Summary

1. Spark's application for the extension of its exemptions to clause 14.2.1 of the network terms is granted for the period 1 January 2016 to 31 December 2020, noting that this exemption is specific to the PDD of calls made from kai exchanges to numbers ported off the same kai exchanges and to calls that require their signalling to transit another switch.
2. Spark's application for the extension of its exemptions to clause 14.2.3 of the network terms for the seven services and features listed below is granted for the period 1 January 2016 to 31 December 2020.

This notice is prepared in accordance with section 15.4.9 of the Network Terms for local and mobile number portability in New Zealand, Appendix 4 to the Designated Multi-network Determination (Decision 705) ("network terms").

Background

Spark had exemptions from the 'Post Dialling Delay' and the 'Services and Features' criteria of the Network Terms for Local and Mobile Number Portability (network terms). These exemptions expired on 31 December 2015, and related to Spark's old generation NEAX Kai switches, which are not capable of meeting these number portability criteria. Spark has requested an exemption until 31 December 2020, with a view to it becoming indefinite thereafter.

In December 2015 the Commission received unanimous recommendations from the TCF Management Committee supporting the extension of Spark's exemptions until 31 December 2020.

The extensions to the exemptions

The extensions to exemptions granted by the Commission are, in detail:

1. Spark's application for the extension of its exemptions to clause 14.2.1 of the network terms is granted for the period 1 January 2016 to 31 December 2020, noting that this exemption is specific to the PDD of calls made from kai exchanges to numbers ported off the same kai exchanges and to calls that require their signalling to transit another switch.
2. Spark's application for the extension of its exemptions to clause 14.2.3 of the network terms for the seven services and features is granted for the period 1 January 2016 to 31 December 2020.
3. The extensions to these exemptions are granted without condition.

The seven services and features for which the period of the exemption to clause 14.2.3 was extended are:

Centrex services:

- Automatic Callback
- Automatic call Distribution Agent
- Call Queuing
- Calling Name Registration
- MHG Preferential Multiline Hunting
- Code Restriction and Diversion

DDI service:

- DDI Diversion.¹

Purpose in relation to which the exemptions apply

The exemptions apply to the assessment of Spark's compliance with the network terms.

Customers or class of customers to which the exemptions apply

The exemption in relation to clause 14.2.1 of the network terms applies to customers served by Spark's Kai exchanges (both Spark customers and customers of resellers of Spark's voice services).

The exemption in relation to clause 14.2.3 of the network terms applies to customer of Centrex and DDI services in-porting to Spark's network (both Spark customers and customers of resellers of Spark's voice services).

Section 18 considerations

The impacts of the exemptions in relation to clause 14.2.1 are minor. The additional PDD only affects a small number of calls, and callers are unlikely to discern the difference. The cost of replacing the Kai exchanges would be high and would need to be carried by end-users in the long run.

The exemption to clause 14.2.3 only affects customers in-porting to Spark's network, and then only where there is no alternative available. If the requested exemption was not granted, it is possible that Spark would simply withdraw these services from all customers. This would not be in the interests of customers who already use these services.

We are not aware of any evidence that these exemptions have, over the last 5 years, prevented or deterred competition, and the unanimous endorsement from the TCF confirms this. Accordingly, we consider that granting the exemption for PDD is likely to give best effect to section 18.

¹ This is a diversion service offered in conjunction with DDI to a PBX.