



COMMERCE COMMISSION

Please refer to:

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24 April 2008

Scott Bartlett
Chief Executive
Orcon Internet Limited
PO Box 302 362
North Harbour 1330
Auckland

Dear Mr Bartlett

Mobile Number Portability Extension Application

Thank you for the letter¹ dated 3 March 2008 requesting that Orcon Internet Limited ('**Orcon**') be granted a six month extension of time under clause 4.4.5 of the Terms for Local and Mobile Number Portability ('**LMNP Terms**').

Clauses 4.4.4 and 4.4.5 of the LMNP Terms (as amended by Decision 605²), state that:

4.4.4 Each new party to the Determination must use its best endeavours to Port Mobile Numbers as soon as possible after either:

- i. the date that the Commission confirms that it qualifies as a new party to the Determination, having been satisfied that the new party and at least one existing party have successfully interconnected; or
- ii. the 22 June 2007,

whichever is the later (the "Qualifying Date"). Each new party to the Determination must ensure that Customers are able to Port Mobile Numbers no later than three months after the Qualifying Date, (the "Implementation Period").

4.4.5 Where a new party to the Determination is unable to Port Mobile Numbers on or before the expiry of the Implementation Period, it must apply to the Commission for an extension of time.

The Commission notes that Orcon plans to launch a mobile telephone service utilising Vodafone New Zealand Limited's ('**Vodafone's**') cellular network under a Wholesale Mobile Agreement. In their application for an extension, Orcon state that "Vodafone has recently

¹ Letter from Orcon (Scott Bartlett) to the Commerce Commission (Ross Patterson), *Mobile Number Portability*, 3 March 2008

² Commerce Commission, *Decision No. 605: Clarification (No. 3) of the Determination on the Multi-party Application for Determination on the Local and Cellular Telephone Number Portability Designated Multinetwork Services*, 22 June 2007.

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advised Orcon that it estimates that it will be a period of four to six months before the IPMS system would be available for Orcon”³.

Pursuant to clause 4.4.5 of the LMNP Terms, Orcon has applied to the Commission for an extension of time of six months on that basis that it will be “unable to Port Mobile Numbers on or before the expiry of the Implementation Period”. The Commission understands that subsequent discussions between Orcon and Vodafone have reduced the expected timeframe for Orcon to gain access to the IPMS. Vodafone has advised the Commission that they expect access to the IPMS to be available by 23 May 2008.

The Commission is of the view that the Number Portability Determination⁴ and related LMNP Terms require the processes for number portability in New Zealand to be based around the Industry Portability Management System (‘IPMS’). Therefore, the Commission considers that the current unavailability of the IPMS for Orcon is sufficient justification for an extension to be granted.

The Commission hereby grants Orcon’s a four month extension of time under clause 4.4.5 of the LMNP Terms. Accordingly, Orcon must now ensure that Customers are able to Port Mobile Numbers no later than four months after 6 March 2008.

Yours sincerely



Dr Ross Patterson
Telecommunications Commissioner

³ Letter from Orcon (Scott Bartlett) to the Commerce Commission (Ross Patterson), *Mobile Number Portability*, 3 March 2008

⁴ Commerce Commission, *Decision No. 554: Determination on the multi-party application for determination of ‘local telephone number portability service’ and ‘cellular telephone number portability service’ designated multinet network services*, 31 August 2005.