



COMMERCE COMMISSION

**Clarification of the Determination on the Multi-party Application for
Determination on the Local and Cellular Telephone Number Portability
Designated Multinetwork Services**

Decision No. 579

Clarification under section 58 of the Telecommunications Act 2001 ('the Act') in the matter of an application for clarification of Decision 554:

**TELECOM NEW ZEALAND LIMITED
TELSTRACLEAR NEW ZEALAND LIMITED
VODAFONE NEW ZEALAND LIMITED
CALLPLUS LIMITED
IHUG LIMITED
WORLDXCHANGE COMMUNICATIONS LIMITED
WOOSH WIRELESS LIMITED**

The Commission: Douglas Webb
Anita Mazzoleni
Donal Curtin

Summary of Application: The Commission received a multi-party application for clarification in respect of Decision 554, under section 58 of the Act.

Date of Clarification: 17 May 2006

NO PARTS OF THIS REPORT ARE CONFIDENTIAL

INTRODUCTION

1. On 31 August 2005, the Commission issued a determination ('Decision 554') setting out the industry requirements for the provision of the local and cellular telephone number portability services ('Number Portability Services').
2. On 17 January 2006, the Commission received an application for clarification ('the Application') of Decision 554 from Telecom New Zealand Limited, TelstraClear Limited, CallPlus Limited, ihug Limited, WorldxChange Communications Limited, Woosh Wireless Limited, and Vodafone New Zealand Limited ('the Applicants').
3. The Application for clarification¹ requested that specified aspects of Decision 554 be amended, in accordance with proposals submitted by the Applicants.
4. Under section 58 of the Act, the Commission may clarify a determination, if:
 - The Commission considers that a determination requires clarification;
 - the clarification is either not material to any person affected by the clarification, or is agreed to by all those persons; and
 - no appeal is pending in respect of the determination
5. Under section 19(c) of the Act, the Commission is required to make a decision that the Commissioner considers best gives, or is likely to best give, effect to the purpose set out in section 18.
6. On 1 March the Commission issued a draft clarification in respect of the Application. On 30 March the Telecommunications Carriers' Forum Working Party ('the TCF Working Party') provided a joint submission on the draft clarification. The submission was supported by all parties to the Determination ('the Parties').

PARTIES TO THE CLARIFICATION

7. The parties bound by this clarification decision ('the Parties') are the Applicants, Compass Communications Limited, and any other person who becomes an access provider of the Number Portability Services after this clarification is issued.

THE CLARIFICATION

8. The TCF Working Party agreed with the draft clarification in relation to:
 - Mobile number definition (Clause 4.2 of the Network Terms);
 - Categorisation of porting requests (Clause 5.1.3 of the LMNP Terms);
 - Porting of multiple numbers involving more than one gaining or losing carrier (Section 8 of the LMNP Terms); and
 - TCF Management Committee definition (Clause 4.2 of the Network Terms).

¹ A copy of the Application is available on the Commission's website at: <http://www.comcom.govt.nz/IndustryRegulation/Telecommunications/NumberPortability/numberportabilitycostallocationapplicat.aspx#452>

9. The LMNP Terms and the Network Terms have been updated to incorporate the agreed amendments.²
10. The TCF Working Party disagreed with the draft clarification in relation to the following matters:

Trial of the Number Portability Services

11. Decision 554 determined that each party must:³
 - submit for approval by the Commission, a written proposal for a trial not later than 29 September 2006;
 - connect to the IPMS on or before 1 February 2007;
 - launch the Number Portability Services on a trial basis on or before 1 February 2007;
 - report to the Commission and the Telecommunications Carriers' Forum ('the TCF') on the results of the trial on or before 1 February 2007; and
 - launch the Number Portability Services on or before 1 April 2007.
12. The purpose of the trial is described in Decision 554 as follows:⁴

Each party is required to undertake a 'soft launch' of the Number Portability Services with a meaningful quantity of trial customers to test the service as well as the supporting systems and processes. This trial service must be sufficiently robust to identify any faults that may prevent the parties from meeting the requirements of the determination and must be undertaken in a timeframe that would allow for any evident faults to be rectified prior to 1 April 2007.
13. The Applicants requested that the Commission amend the trial process to allow for the gradual phasing in of the Number Portability Services by 1 April 2007. This would allow the Parties to introduce processes and systems to their 'business as usual' activities in a managed fashion.
14. In the draft clarification, the Commission maintained its position set out in Decision 554. The Commission indicated that the trial launch reporting date could be set back to 1 March 2007 to accommodate the concerns of the working party around the inability to meet the 1 February 2007 date as specified in Decision 554.
15. In response to the draft clarification, the TCF Working Party submitted that:⁵

Any requirement to undertake a trial or soft launch commencing before 1 March 2007 will represent an increased risk to the 1 April 2007 date relative to an implementation timetable without any requirement to conduct a trial or soft launch by a date predetermined by the

² The updated terms are available at:
<http://www.comcom.govt.nz/IndustryRegulation/Telecommunications/NumberPortability/numberportabilitycostallocationapplicat.aspx>

³ Determination of Local and Cellular Telephone Number Portability, 31 August 2005, paras 326 to 332, LMNP Terms clause 1.5, Network Terms clause 1.4

⁴ Ibid, paragraph 329.

⁵ Joint Submission on Draft Decision to Clarify Number Portability Determination, 30 March 2006, pg. 2 -
<http://www.comcom.govt.nz/IndustryRegulation/Telecommunications/NumberPortability/ContentFiles/Documents/Joint%20submission%20on%20draft%20decision%20300306.pdf>

Commission. Such a requirement will simply compress the already tight implementation period for the Parties' LMNP solutions.

16. The TCF Working Party has provided the following testing/implementation process for the introduction of number portability:⁶

Test Phase	Activity	Comment
1.	IPMS Acceptance Testing	Formal acceptance of the IPMS software.
2.	Ready to commence end to end testing	Milestone date
3.	Inter-carrier testing of LMNP complete	Report on: 1) LMNP porting processes and provisioning 2) Inter-carrier network testing (Voice, SMS, & MMS call scenarios)
4.	Go / No-go Soft launch decision	Milestone date
5.	Soft Launch commences	Low volume with real numbers and customers building up over time
6.	Go /No-go Go-live decision	Milestone date

17. The TCF Working Party submitted that it is unable to carry out the soft launch and deliver the corresponding report by 1 March 2007. According to the TCF Working Party, the soft launch is intended only to consist of a slow ramping-up of each party's and the wider industry's systems (rather than to test whether they work or not), and would commence not long before the 1 April 2007 go-live date.
18. As an alternative, the Parties preferred as much time as possible for the necessary internal and inter-carrier testing to be completed, rather than being required to rush the testing phase in order to meet the Commission's requirements to proceed with the soft launch prior to 1 March 2007.
19. The TCF Working Party submitted that the most appropriate reporting phases are the IPMS testing phase and the Inter-carrier testing phase. The TCF Working Party considered that the inter-carrier testing phase is the most extensive and critical testing phase of the trial, and is designed to illuminate any problems or flaws in the systems prior to the customer trial.
20. The Commission is satisfied that the alternative approach suggested by the TCF Working Party will provide the same level of transparency and early identification of issues that could otherwise pose a threat to the 1 April 2007 go-live date. The proposed solution is compatible with the industry's roll-out plans and the standard approach to the roll-out of new services.
21. The TCF Working Party also noted that the Parties will provide interim reports on the progress of development and testing on 15 December 2006 as set out in Decision 554 and on 1 February 2007.

⁶ Ibid. page 4.

22. The clarification amends the relevant sections of Decision 554 to give affect to the changes proposed by the TCF Working Party. These amendments are set out in Appendix 1, and are also incorporated into the updated LMNP Terms.

Active Number definition

23. The Applicants requested that the Commission clarify the definition of an ‘active number’.
24. For the purposes of allocating the industry common system costs, each party is required to determine its active numbers on an annual basis. Decision 554 defines an active number as ‘a local or cellular telephone number that has been allocated to a customer for use with a local or cellular telephone service.’⁷ The Parties agree with this definition, but have requested that the Commission clarify whether or not numbers used in some specific circumstances are active or not.
25. In the draft clarification, the Commission proposed a detailed definition of the term ‘active number’.⁸
26. The Parties agreed with the proposed clarification of the active number definition, except in respect of the proposed change relating to mobile numbers. The TCF Working Party, on behalf of the Parties, submitted that the Commission should further modify the definition of a mobile prepay active number.
27. A mobile number allocated for use with a prepaid service is defined in the draft clarification as:⁹
- an active number where a call event (either retail or interconnection) has been recorded in relation to that Mobile Number within the preceding six month period.
28. The TCF Working Party submitted that the term should be defined using the term ‘billable event’ (as originally proposed by the parties in the application for clarification), rather than ‘call event’ as the Commission had suggested in the draft clarification.
29. The Commission’s original rationale for using ‘call event’ rather than ‘billable event’ was that a number may be ‘active’ without being billed. For example, a customer may use a mobile phone only to make calls to emergency services or 0800 numbers. In which case the associated number would not be associated with a billable event, but would be considered ‘active’ in a technical sense. The Commission considered that such numbers should be considered ‘active’ for the purpose of applying the cost allocation formula.
30. The TCF Working Party submitted that the term ‘call event’ is unnecessary, confusing and likely to reduce accuracy in the active number reporting because carriers don’t gather customer information on call events, but rather on billable events. The TCF Working

⁷ Determination of Local and Cellular Telephone Number Portability, 31 August 2005, paragraph 122

⁸ See preliminary view on this matter in Appendix 1 of the Draft Clarification.

⁹ Draft Decision to Clarify Final Determination (dated 31 August 2005) on the Multi-party Application for Determination on the Local and Cellular Telephone Number Portability Designated Multinetwork Services, 1 March 2006, Appendix 1.

Party considers it unlikely that a customer with a prepay connection without any billable events within a six month period would port that number.

31. The Commission considers that the proposal made by the TCF Working provides a practical solution for the measurement of active numbers. The Commission is satisfied that the proposal will provide an appropriate measure of active prepay mobile numbers.
32. The definition of 'active number' has been amended in order to affect the changes proposed by the TCF Working Party. The definition is set out in Appendix 2.

Implementation of the cost allocation for industry common system costs

33. Decision 554 requires that the industry common system costs be allocated on the basis of market share, based on the quantity of active numbers used by each party.¹⁰ The implementation of the cost allocation is being undertaken by the TCF. The TCF advised the Commission in early 2006 that it has been unsuccessful at contacting a party with regard to its active numbers.¹¹
34. In the Draft Clarification, the Commission added a term to Decision 554 requiring that:¹²

... each party bound by the Determination will provide their active number information to the TCF for the purposes of allocating industry common system costs, or any other third party agreed to by the parties from time to time. When directed to do so by the Commission, the parties bound by Decision 554 will also provide their active number information to the Commission.
35. The TCF Working Party agreed with the intention of the term, but suggested that the wording 'any third party agreed by the parties from time to time' be changed to 'any third party agreed by the TCF Board from time to time and notified to the parties in writing'.
36. The TCF Working Party noted that this requirement is intended as a means of obtaining active number information where one or more parties fail to provide the active number information to the calculating body. The TCF Working Party submitted that it is unlikely that a party choosing not to provide active number information to the calculating body would agree on a third party to whom that party must supply their active number information.
37. The Commission accepts the view of the TCF Working Party, and considers it appropriate for the TCF Board to assume responsibility for the appointment of a third party body for collecting active number information.
38. Accordingly, the Commission requires that each party will provide their active number information to the TCF for the purposes of allocating industry common system costs, or any other third party agreed to by the TCF Board from time to time. When directed to do

¹⁰ Determination of Local and Cellular Telephone Number Portability, 31 August 2005, paragraph 122.

¹¹ Letter from TCF (Malcolm Alexander) to Commission (Douglas Webb), 1 February 2006

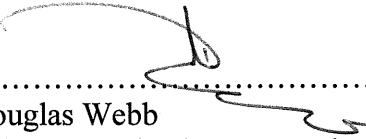
¹² Draft Decision to Clarify Final Determination (dated 31 August 2005) on the Multi-party Application for Determination on the Local and Cellular Telephone Number Portability Designated Multinetwork Services, 1 March 2006, page 6, paragraph 36.

so by the Commission, the parties bound by this Decision will also provide their active number information to the Commission.

DATE OF COMMENCEMENT

39. This Clarification takes effect as at the date of the decision.

DATED this 17th day of May 2006.


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Douglas Webb
Telecommunications Commissioner



COMMERCE COMMISSION

APPENDIX 1 – Trial and reporting requirements

The following text clarifies Decision 554 in respect of the Trialling and reporting requirements:

Main Body of Determination - Paragraphs 329, 330, 331 and 332 of the Number Portability Determination are replaced with the following text:

The parties to the Determination who are access seekers or access providers in relation to the Mobile Number Portability service and the Local Number Portability service are required to submit a written plan for IPMS Acceptance Testing to the Commission for approval by 7 August 2006.

Each party to the Determination who is an access seeker or an access provider in relation to the Mobile Number Portability service and the Local Number Portability service is required to submit a written plan including a timetable for End-to-end Inter-carrier Testing to the Commission for approval by 29 September 2006.

Each proposal pursuant to clause 1.5.1 and 1.5.2 of the LMNP terms must set out sufficient information to enable the Commission to determine whether the testing will be sufficiently robust to identify any faults in the service or supporting systems or processes that may prevent parties from complying with the determination, including without limitation:

- (a) the functions and standards that will be tested and measured; and
- (b) the methods of testing and measurement to be used.

The parties to the Determination who are access seekers or access providers in relation to the Mobile Number Portability service and the Local Number Portability service are required to complete the IPMS Acceptance testing and provide a written report to the Commission and to the TCF by 9 October 2006.

Each party to the Determination who is an access seeker or an access provider in relation to the Mobile Number Portability service and the Local Number Portability service is required to complete End-to-end Inter-carrier testing and provide a written report to the Commission and to the TCF by 1 March 2007.

Each party to the Determination must launch Local Number Portability or Mobile Number Portability, or both of them, on a trial or soft launch basis as early as reasonably practicable in order to identify any faults in the service or supporting systems or processes that may prevent a party from complying with the Determination, and provide not less than one week's notice to the Commission of that launch date.

To assess progress towards achieving the key implementation dates, each party is required to provide progress reports to the Commission and the TCF. The due dates for the progress reports are 15 December 2006 and 1 February 2007. Progress reports shall describe the status of the operator's system developments, completion of commercial agreements on per-line set-up costs, connection to and testing with the IPMS and any material risks to achieving the implementation dates.

LMNP Terms - Section 1.5 of the LMNP terms is replaced with the following text:

1.5 Trialling of local and mobile telephone number portability services

- 1.5.1 The parties to the Determination who are access seekers or access providers in relation to the Mobile Number Portability service and the Local Number Portability service are required to submit a written plan for

IPMS Acceptance Testing to the Commission for approval by 7 August 2006.

- 1.5.2 Each party to the Determination who is an access seeker or an access provider in relation to the Mobile Number Portability service and the Local Number Portability service is required to submit a written plan including a timetable for End-to-end Inter-carrier Testing to the Commission for approval by 29 September 2006.
- 1.5.3 Each proposal pursuant to clause 1.5.1 and 1.5.2 must set out sufficient information to enable the Commission to determine whether the testing will be sufficiently robust to identify any faults in the service or supporting systems or processes that may prevent parties from complying with the determination, including without limitation:
 - (a) the functions and standards that will be tested and measured; and
 - (b) the methods of testing and measurement to be used.
- 1.5.4 The parties to the Determination who are access seekers or access providers in relation to the Mobile Number Portability service and the Local Number Portability service are required to complete the IPMS Acceptance testing and provide a written report to the Commission and to the TCF by 9 October 2006.
- 1.5.5 Each party to the Determination who is an access seeker or an access provider in relation to the Mobile Number Portability service and the Local Number Portability service is required to complete End-to-end Inter-carrier testing and provide a written report to the Commission and to the TCF by 1 March 2007.
- 1.5.6 Each party to the Determination must launch Local Number Portability or Mobile Number Portability, or both of them, on a trial or soft launch basis as early as reasonably practicable in order to identify any faults in the service or supporting systems or processes that may prevent a party from complying with the Determination, and provide not less than one week's notice to the Commission of that launch date.

APPENDIX 2 - Definition of an Active Number

In Decision 554, an Active Number is defined as:

“An active number means a local or cellular telephone number that has been allocated to a customer for use with a local or cellular telephone service.”

The following clarifies the Commission’s definition of an Active Number for the purposes of allocating the industry common system costs.

Numbers which are Active Numbers

	Commission’s clarification
General requirement	A Local and Mobile Number used with a Voice or Non-voice Service, is an Active Number where the Service Provider has allocated the Number to a Customer for use with a Local or Mobile Service.
Mobile Numbers	A Mobile Number allocated for use with a prepay service, is an Active Number where a billable event (either retail or interconnection) has been recorded in relation to that Mobile Number within the preceding six month period.
Numbers allocated under reseller arrangements	<p>A Number which has been allocated to a Service Provider under a resale of wholesale arrangement, is deemed to be allocated to that Service Provider for the purpose of allocating the industry common system costs, and shall be considered to be that Service Provider’s Active Number.</p> <p>There should be no double counting of these Numbers. For example, Service Providers who are reselling or wholesaling services to other Service Providers should not consider the Numbers associated with those services as their Active Numbers.</p>
Unused Numbers in Number Blocks	An unused Number within a Number Block which is allocated to a Customer or reserved for a Customer for future use, is an Active Number.
Ported Numbers	<p>A Number which has been ported to a Gaining Service Provider shall be considered to be that Service Provider’s Active Number. This includes an unused Ported Number within a Number Block which is allocated to a Customer or reserved for a Customer for future use.</p> <p>For the avoidance of doubt, a Number which has been allocated to a Service Provider under a call readdress or Telecom’s Enhanced Local Number Portability arrangement, is deemed to be allocated to that Service Provider for the purpose of allocating the industry common system costs, and shall be considered to be that Service Provider’s Active Number.</p>

Multiple Numbers	All multiple Numbers allocated to a Customer for a service or bundle of services, are Active Numbers.
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Numbers which are not Active Numbers

	Commission's clarification
Numbers used by Service Providers for operational purposes	A Number used for: <ul style="list-style-type: none"> a) internal purposes (e.g. for network maintenance and operations), where it has not been allocated to a Customer; or b) for special purposes where such Numbers cannot be used to provide Voice or Non-voice services to Customers, is not an Active Number.
Quarantined Numbers	A relinquished Number which is held in quarantine by the IPMS for 30 calendar days in accordance with section 8.8 of the LMNP Terms, is not an Active Number during this quarantine period.