

23 July 2021

Dear

Notice to parties – Initiating determination process for designated multinetwork service determination for number portability.

Purpose

1. The Commerce Commission (Commission) wishes to inform _____ that it is initiating the process for a designated multinetwork service determination (Determination) for Local and Mobile Number Portability services (LMNP) under section 31AA of the Telecommunications Act 2001 (Act).
2. The Commission is initiating this process because the current Determination for LMNP expires on 21 December 2021.
3. You have been sent this letter because as a party to the current Determination you will be a party to the new Determination.¹
4. If the Determination is made it will set out:²
 - 4.1 The functions that must be performed by the system for delivering the designated multinetwork services and the standard to which those functions must be performed; and
 - 4.2 The formula for how the cost of delivering the service must be apportioned between the access seeker and all the access providers of the service.³

¹ “Parties” are defined in section 5 of the Act as “all access seekers and all access providers of the service (whether they became an access seeker or an access provider before or after the determination was made or the code was approved).” The access seekers and access providers for LMNP services are further defined in subpart 2 of Schedule 1. The current Determination can be located at <https://comcom.govt.nz/regulated-industries/telecommunications/regulated-services/mobile-services/local-and-mobile-number-portability>

² Section 31AA(1) of the Act.

³ The Act requires industry to cover Commission costs of issuing the determination. We will try and minimise costs to industry by making changes only where required.

5. Number portability allows users to transfer between telecommunication providers while retaining the same mobile number or the same local number within a local calling area.

We consider there are reasonable grounds for initiating the process

6. We may only decide to initiate the process for making the Determination if we are satisfied there are reasonable grounds for doing so.⁴ We consider that the reasonable grounds for initiating the process are as follows:
 - 6.1 The current Determination offers end-users free number portability, with the costs being absorbed by the service provider that gains the customer. 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.
 - 6.2 Issuing a new Determination before the current Determination expires on 19 December 2021 will ensure continuity of the benefits of number portability and remove uncertainty and the risk of opportunistic behaviour during an unregulated period.
 - 6.3 Without the Determination there may be incentives for incumbent service providers to either not provide the service or to charge access seekers prices significantly above cost therefore creating barriers to entry and competition.

Request for comments

7. All parties to the Determination are invited to comment on the matter, in writing, no later than 4 August 2021.⁵ After receiving written comments from the parties, we will decide whether to proceed with making the Determination.⁶
8. The written comments should be provided by email to regulation.branch@comcom.govt.nz (with “Number portability” in the subject line).

Proposed timeframe

9. Should we decide to proceed with making a new Determination, our current intention is to follow the process and timeline set out in Table 1:⁷

⁴ Section 31AA(2) of the Act.

⁵ Section 34(c) of the Act.

⁶ Section 35 of the Act.

⁷ Given the impending expiry of the current Determination, we do not intend to provide the maximum timeframes that are set out in the Act. Please note that timeframes are indicative only and are subject to change.

Table 1: Proposed timeframe

Indicative date	Milestone	Statutory reference
23 July 2021	Notification that Commission has initiated process. Seek views from interested parties.	Section 34(a)
4 August 2021	Parties to provide views.	Section 34(c)
13 August 2021	Public notification of decision on whether to investigate issuing a new Determination.	Section 35(c)
22 September 2021	Issue draft Determination. Request submissions.	Section 36
22 October 2021	Submissions on draft Determination due.	Section 36(1)(d)(i)
19 December 2021	Issue final Determination.	Section 39

Please contact us if you have any further questions

10. If you have any further questions, please contact Charlotte Ansell (Charlotte.Ansell@comcom.govt.nz).

Yours sincerely



Tristan Gilbertson
Telecommunications Commissioner