



COMMERCE COMMISSION

**STANDARD TERMS DETERMINATION FOR MOBILE
TERMINATION ACCESS SERVICES**

**MOBILE TERMINATION ACCESS
IMPLEMENTATION PLAN**

5 May 2011

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MOBILE TERMINATION ACCESS IMPLEMENTATION PLAN

1 Introduction

- 1.1 This Mobile Termination Access Implementation Plan forms part of the Mobile Termination Access Terms. It is designed to meet the purposes set out in the Act and in particular, section 18 of the Act.
- 1.2 The Parties must carry out their obligations under this Mobile Termination Access Implementation Plan in good faith and in furtherance of those purposes.
- 1.3 The standard access principles under clause 5 of schedule 1 to the Act apply to this Mobile Termination Access Implementation Plan and all of the Access Provider's obligations under this Mobile Termination Access Implementation Plan, subject to the limits on the application of those principles under the Act applicable to the Mobile Termination Access Services.
- 1.4 For the avoidance of doubt, nothing in this Mobile Termination Access Implementation Plan excludes or limits the Commission, the Access Seeker or the Access Provider exercising any rights available to it under the Act.
- 1.5 This Mobile Termination Access Implementation Plan has priority over the Mobile Termination Access Services Operations Manual to the extent that it is inconsistent, for the period from the Determination Date until the completion of the Implementation Period.
- 1.6 In this document:
- 1.6.1 **Determination Date** means the date on which the Mobile Termination Access Services Standard Terms Determination comes into force;
- 1.6.2 **Existing Access Seeker** means an Access Seeker that was purchasing from the Access Provider a service that is the same or substantially similar to any of the MTAS under an agreement immediately before the date that the Access Provider received the Request from such Access Seeker;
- 1.6.3 **Implementation Period** means the period commencing on the date that the Access Provider receives a Request from an Access Seeker and the Access Seeker has met the prerequisites set out in clause 3.1 or clause 4.1 (as applicable) and, subject to clause 3.7 or clause 4.5 (as applicable), ending on the completion of the implementation in accordance with clause 3.5 or clause 4.4 as applicable;
- 1.6.4 **Implementation Working Day** means a Working Day excluding any period in which the Access Provider's network is shut down for network and/or operational changes which directly affect the Access Provider's ability to continue to progress the implementation of that Access Seeker, as notified by the Access Provider to the Access Seeker from time to time;
- 1.6.5 **MSC Handover Implementation Period** means the period commencing on the date that an Existing Access Seeker that:
- (a) has made a Request;
 - (b) has met the prerequisites set out in clause 3.1;
 - (c) is purchasing a service from the Access Provider that is the same or substantially similar to the FTM Call Termination Service;
 - (d) hands over calls that are the same or substantially similar to FTM Calls outside of Auckland, Wellington or Christchurch; and
 - (e) requires additional capacity to hand over FTM Calls in Auckland,

Wellington and Christchurch,

meets the prerequisites set out in clause 3.2 and, subject to clause 3.7, ending on the completion of the MSC handover implementation in accordance with clause 3.6;

- 1.6.6 **New Access Seeker** means an Access Seeker that was not purchasing a service from the Access Provider that is the same or substantially similar to any of the MTAS that it is seeking access to under an agreement immediately before the date that the Access Provider receives the Request from such Access Seeker;
- 1.6.7 unless defined otherwise, capitalised terms have the meaning given in the Mobile Termination Access Services General Terms, or Mobile Termination Access Services Operations Manual as the case requires.

2 Overview of the Mobile Termination Access Implementation Plan

- 2.1 This Mobile Termination Access Implementation Plan includes:
- 2.1.1 prerequisites for the Implementation Period and delivery of the Mobile Termination Access Services for Existing Access Seeker and New Access Seekers;
- 2.1.2 provisions relating to the Implementation Period of the Mobile Termination Access Services prior to their full implementation;
- 2.1.3 timelines to enable the delivery of the Mobile Termination Access Service to Existing Access Seekers and New Access Seekers; and
- 2.1.4 a description of how this Mobile Termination Access Implementation Plan applies to new Access Providers.

3 Existing Access Seekers

Prerequisites

Prerequisites for Implementation Period and delivery of the Mobile Termination Access Services for Existing Access Seekers

- 3.1 Before the Implementation Period can commence, and before any Existing Access Seeker may access the Mobile Termination Access Services, the following prerequisites must be met:
- 3.1.1 the Existing Access Seeker must have made a Request to the Access Provider; and
- 3.1.2 the Existing Access Seeker must have met the prerequisites set out in:
- (a) clause 2 of the Mobile Termination Access General Terms;
 - (b) if the Existing Access Seeker seeks access to the FTM Call Termination Service and/or the MTM Call Termination Service, clause 10.3 of the Mobile Termination Access General Terms;
 - (c) if the Existing Access Seeker seeks access to the FTM Call Termination Service, clause 2 of Annex 1 to the Mobile Termination Access Services Service-Specific Terms;
 - (d) if the Existing Access Seeker seeks access to the MTM Call Termination Service, clause 2 of Annex 2 to the Mobile Termination

- Access Services Service-Specific Terms;
 - (e) if the Existing Access Seeker seeks access to the Text Message Termination Service, clause 2 of Annex 3 to the Mobile Termination Access Service Service-Specific Terms; and
 - (f) the Mobile Termination Access Services Operations Manual.
- 3.2 Before the MSC Handover Implementation Period can commence, the following prerequisite must be met:
- 3.2.1 the Existing Access Seeker shall:
- (a) order and provision the additional capacity in the Access Seeker Handover Points in any or all of Auckland, Wellington and Christchurch that it requires.

Timeline for delivery of the Mobile Termination Access Services for Existing Access Seekers

- 3.3 The Implementation Period:
- 3.3.1 commences on the date on which the Access Provider receives a Request from an Existing Access Seeker and that Existing Access Seeker has met the prerequisites set out in clause 3.1 (**Implementation Period Commencement Date**); and
 - 3.3.2 subject to clause 3.7, will end on or before either 45 Implementation Working Days or 65 Implementation Working Days (as applicable) after the Implementation Period Commencement Date.
- 3.4 Notwithstanding that the Access Provider may have elected to perform any or all of the actions referred to in clause 3.5 and clause 3.6 (if applicable) prior to the Determination Date, or prior to receiving its first Request from an Access Seeker, the provisions of clause 3.5 and clause 3.6 (if applicable) shall remain applicable.
- 3.5 Implementation Period timeline for Existing Access Seekers:

Key milestones	Action
Request made by the Access Seeker and prerequisites in clause 3.1 met. Implementation Period day zero (R)	Access Provider receives a Request from an Existing Access Seeker and all prerequisites in clause 3.1 have been met. Implementation Period commences. The Access Provider will commence making any rate changes and/or duration and call rounding changes to its billing systems.
EITHER	
If no physical changes to the Access Provider's network or changes to trunk configuration are necessary - R + 45 Implementation Working Days	Access Provider to have completed any rate changes and/or duration and call rounding changes to its billing systems. Implementation Period is complete for Existing Access Seeker.

OR	
If physical changes to the Access Provider's network and/or changes to trunk configuration are necessary - R + 65 Implementation Working Days	Access Provider to have completed any rate changes and/or duration and call rounding changes to its billing systems. Implementation Period is complete for Existing Access Seeker.

3.6 MSC Handover Implementation Period:

Key milestones	Action
The Existing Access Seeker: (a) has made a Request; (b) has met the prerequisites set out in clause 3.1; (c) is purchasing a service from the Access Provider that is similar or substantially similar to the FTM Call Termination Service; (d) hands over calls that are the same or substantially similar to FTM Calls outside of Auckland, Wellington and Christchurch; and (e) requires additional capacity to handover FTM Calls in Auckland, Wellington and Christchurch; and (e) has met the prerequisite in clause 3.2. MSC Handover Implementation Period day zero (M)	Access Seeker notifies the Access Provider that it has met the prerequisites in clause 3.2. MSC Handover Implementation Period commences. The Access Provider will commence making any physical changes or configuration changes to its network that are necessary to increase capacity as required by the Access Seeker and any changes to the configuration of its mediation or billing systems. This will include testing of any changes to the physical network or configuration of the network, mediation or billing systems.
M + 65 Implementation Working Days	Access Provider to complete any physical changes or configuration changes to its network that are necessary to increase capacity as required by the Access Seeker and any changes to the configuration of its mediation or billing systems. MSC Handover Implementation Period is complete.

3.7 The Access Provider's obligations under clauses 3.5 and 3.6 are subject at all times to the Access Seeker complying with anything reasonably requested of the Access Seeker, by the Access Provider, to facilitate the implementation of any of the MTAS. If any delay is caused as a result of an Access Seeker failing to comply with any such reasonable requests, the timeframes set out in clauses 3.5 and 3.6 (as applicable) shall be adjusted by the length of time attributable to such delay.

3.8 Notwithstanding the timeframe for completion of any necessary modifications to the Access Provider's billing systems, the Access Seeker shall only be liable to pay the prices for FTM Calls, MTM Calls, and Text Messages pursuant to Schedule 2. Following completion of any

- necessary changes to the billing systems, the Access Provider will review invoices and credit (or, at the prior request of the Access Seeker, refund) any difference in the prices charged since the Determination Date that are not in accordance with Schedule 2 of the Mobile Termination Access Terms within 20 Working Days of completion of the billing system changes. If the credit (or refund) is not made within 20 Working Days of completion of the billing systems, the credit (or refund) will include interest calculated on a daily basis at the Bill Rate (as at the date on which the credit or refund was due or payable) plus 1 percent per annum.
- 3.9 Where any physical network changes are required in either clause 3.5 or 3.6, the Access Provider will submit a specific proposal to the Access Seeker within 20 Working Days of the request for access to the service describing with particularity the changes to be made. The Access Seeker will have five Working Days to approve, or recommend changes to the proposal. The parties will finalise the network changes plan within five working days.

4 New Access Seekers

Prerequisites

Prerequisites for Implementation Period and delivery of the Mobile Termination Access Services for New Access Seekers

- 4.1 Before the Implementation Period can commence, and before any New Access Seeker may access the Mobile Termination Access Services, the following prerequisites must be met:
- 4.1.1 the New Access Seeker must have made a Request to the Access Provider; and
- 4.1.2 the New Access Seeker must have met the prerequisites set out in:
- (a) clause 2 of the Mobile Termination Access General Terms;
 - (b) if the Existing Access Seeker seeks access to the FTM Call Termination Service and/or the MTM Call Termination Service, clause 10.3 of the Mobile Termination Access General Terms;
 - (c) if the Existing Access Seeker seeks access to the FTM Call Termination Service, clause 2 of Annex 1 to the Mobile Termination Access Services Service-Specific Terms;
 - (d) if the Existing Access Seeker seeks access to the MTM Call Termination Service, clause 2 of Annex 2 to the Mobile Termination Access Services Service-Specific Terms;
 - (e) if the Existing Access Seeker seeks access to the Text Message Termination Service, clause 2 of Annex 3 to the Mobile Termination Access Service Service-Specific Terms; and
 - (f) the Mobile Termination Access Services Operations Manual; and.
- 4.1.3 three months must have elapsed since the Determination Date.

Timeline for delivery of the Mobile Termination Access Services for New Access Seekers

- 4.2 The Implementation Period:
- 4.2.1 commences on the date on which the Access Provider receives a Request from a New Access Seeker and that New Access Seeker has met the prerequisites set out in clause 4.1 (**Implementation Period Commencement Date**); and
- 4.2.2 subject to clause 4.5, will end on or before either 65 Implementation Working Days or 90 Implementation Working Days (as applicable) after the Implementation Period Commencement Date.

4.3 Notwithstanding that the Access Provider may have elected to perform any or all of the actions referred to in clause 4.4 prior to the Determination Date, or prior to receiving its first Request from a New Access Seeker, the provisions of clause 4.4 shall remain applicable.

4.4 Implementation Period for New Access Seekers:

Key milestones	Action
<p>Request made by the New Access Seeker and prerequisites in clause 4.1 are met.</p> <p>Implementation Period day zero (R)</p>	<p>Access Provider receives its first Request from a New Access Seeker and prerequisites in clause 4.1 are met.</p> <p>Implementation Period commences.</p> <p>The Access Provider will commence configuring its network and making any necessary changes to its network including designing and testing.</p> <p>The Access Provider will commence configuring its mediation and billing systems to include the New Access Seeker.</p>
EITHER	
<p>R + 65 Implementation Working Days</p>	<p>If the New Access Seeker is seeking access to only the FTM Call Termination Service and/or the MTM Call Termination Service, the Access Provider to have completed configuration of its network, mediation and billing systems to enable the Access Provider to provide the FTM Call Termination Service and/or the MTM Call Termination Service to the New Access Seeker.</p> <p>Implementation Period is complete for a New Access Seeker that is only seeking access to the FTM Call Termination Service and/or the MTM Call Termination Service.</p>
OR	
<p>R + 90 Implementation Working Days</p>	<p>If the New Access Seeker is seeking access to the Text Message Termination Services and the FTM Call Termination Service and/or the MTM Call Termination Service, the Access Provider to have completed configuration of its network, mediation and billing systems to enable the Access Provider to provide the Text Message Termination Service and the FTM Call Termination Service and/or the MTM Call Termination Service to the New Access Seeker.</p>

	<p>Implementation Period is complete for a New Access Seeker that is seeking access to the Text Message Termination Service and the FTM Call Termination Service and/or the MTM Call Termination Service.</p>
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4.5 The Access Provider’s obligations under clause 4.3 are subject at all times to the Access Seeker complying with anything reasonably requested of the Access Seeker, by the Access Provider, to facilitate the implementation of any of the MTAS. If any delay is caused as a result of an Access Seeker failing to comply with any such reasonable requests, the timeframes set out in clause 4.3 shall be adjusted by the length of time attributable to such delay.

5 New Access Providers

5.1 Every person that is an Access Provider of the Mobile Termination Access Services on the Determination Date shall be subject to the terms of this Mobile Termination Access Services Implementation Plan from the Determination Date.

5.2 Every person that becomes an Access Provider of the Mobile Termination Access Services on a date after the Determination Date shall be subject to the terms of this Mobile Termination Access Services Implementation Plan from the date that they become an Access Provider of the Mobile Termination Access Services.

5.3 The timeframes in this Mobile Termination Access Services Implementation Plan shall apply to any person who becomes an Access Provider on a date which is after the Determination Date as though references to the Determination Date are instead references to the date from which the new Access Provider qualifies as an Access Provider of the Mobile Termination Access Services.