

MOBILE NUMBER PORTABILITY - WILL YOU BE GETTING AROUND?

Brenton Yates explores the regulation surrounding, and expected implications of, the recent introduction of mobile number portability

In an age when the mobility of technology might determine the degree of success, there should be little surprise to learn that our mobile phone numbers are now themselves, 'mobile'. On 25 September 2001, mobile number portability (MNP) was implemented throughout Australia at the direction of the Australian Communications Authority (ACA), albeit that at the time of writing the federal government was considering the success of its implementation.

This article will briefly examine the regulatory background of MNP, as well as the new Australian Communications Industry Forum (ACIF) regime which has been developed to apply to implementation of MNP in Australia. Some of the expected benefits of MNP for both industry participants as well as consumers will also be discussed.

REGULATORY BACKGROUND TO MNP

Under the *Telecommunications Act 1997 (Act)*, the Australian Competition and Consumer Commission (ACCC) is granted statutory powers to make directions to the (ACA) regarding the portability of allocated numbers¹. In this regard, not only is the ACCC granted such powers, but the ACA cannot (of its own accord) put into place regulation about number portability unless directed to do so by the ACCC.

'Number portability' itself is an issue which predates MNP. Under the *Telecommunications Numbering Plan 1997 (TNP)* declared portable services require the portability of numbers. These declared services included:

- local services;
- free phone services (for example 1800 numbers); and
- local call rate services².

In October of 1999, the ACCC issued a direction to the ACA stating that:

- number portability in connection with public mobile telephone services was to become a *declared portable service* under the TNP;

- amendments to the TNP were to be made to provide for MNP;
- technology was to be selected by industry participants which provided for long term solutions regarding number portability for mobile telephone services, across all mobile technologies (GSM and CDMA technologies, but excluding AMPS);
- an MNP implementation date was to be set.

These amendments to the TNP ultimately laid the foundations for the implementation of the MNP recently undertaken.

TELECOMMUNICATIONS NUMBERING PLAN AMENDMENT 2001 (NO. 2)

The most recent amendment to the TNP is the *Telecommunications Numbering Plan Amendment 2001 (No. 2)* (TNPA). Under the TNPA, a number key amendments were introduced into the TNP. These amendments include a new definition of number portability:

*"Number portability means the right of a customer receiving a service in relation to a number within a particular number range to change either carriage service provider involved in providing the service, the carrier network involved in providing the service or both, and retain the same telephone number."*³

TNPA also provides that *portable services* now includes: "a relevant mobile service"⁴.

Part 2 has been added to the TNP setting out rules concerning the portability of allocated numbers and procedures which carriage service providers (CSPs) and carriers must follow to ensure that customers receive number portability. The Part also includes provisions about when number portability must be provided.

Part 3 has been added to the TNP, setting out rules to ensure that a customer using or calling a ported number receives a

service that is equivalent to the service provided by the customer's new CSP to non-ported numbers. Under the TNP, carriage service provided by a CSP in relation to a ported number is an *equivalent service* only if any differences, in quality, reliability, services or features, between it and the carriage service that it provides in relation to a non-ported number:

- will not be apparent to a customer; or
- if they are apparent to a customer - will not affect the customer's choice of CSP.

Under the TNPA, routing telephone calls over a public telecommunications network operated by a carrier may put a CSP or carrier in any of the following roles:

- providing originating access;
- providing transit service delivery; and
- providing terminating access.

Part 5 is added to the TNP, setting out obligations on CSPs when a customer cancels a carriage service in connection with which a portable number has been ported.

AUSTRALIAN COMMUNICATIONS INDUSTRY FORUM MNP REGIME

(ACIF) has developed a framework for the introduction of MNP into the Australian market. Apart from the amendments to the TNP discussed above, the ACIF MNP regime sets the requisite standard for industry participants (and to an extent consumers) to follow.

ACIF has developed the following industry code and guidelines:

- *ACIF C570 Industry Code Mobile Number Portability*. Sets out non-discriminatory operational procedures for the implementation of MNP processes and criteria for assessing industry compliance.
- *ACIF G556 A Framework for the Introduction of Mobile Number Portability in Australia*. This

Framework provides a comprehensive set of guiding principles for the introduction of MNP - regulatory, end-user and operational, the document consolidates the agreed industry mobile number allocation approach and describes the MNP network architecture that is supported by mobile carriers (MC) and other carriers.

- *ACIF G561 Mobile Number Portability Network Plan for Voice, Data and Fax Services.* Defines industry agreed call handling arrangements to support mobile number portability. The plan describes call handling between interconnected networks for circuit switched voice, data and fax calls to portable mobile numbers.
- *ACIF G565 Mobile Number Portability Network Plan for SMS.* Specifies industry agreed routing arrangements to enable correct delivery of inter-carrier SMS.
- *ACIF G574 Mobile Number Portability Customer Information.* Provides guidance for suppliers on ongoing customer information provisions about mobile number portability in general, including information provision on mobile contracts
- *ACIF G575 Mobile Number Portability Ported Number Register.* A ported number register is required to enable effective routing of calls following mobile number portability and updates of porting management systems.
- *ACIF G576 Mobile Number Portability Fault Management.* Documents the changes to *ACIF C513 Customer and Network Fault Management Industry Code* to include procedures covering the customer fault management requirements of the MNP environment.
- *ACIF G577 Mobile Number Portability Testing Strategy for Voice, Data and Fax Services.* Describes the joint network testing for voice, fax and data services to be conducted by PSDs and MCs for MNP.
- *ACIF G578 Mobile Number Portability Testing Strategy for SMS.* Describes joint network testing to be conducted by carriers and CSPs for MNP for SMS.

- *ACIF G579 Mobile Number Portability Operations Manual.* Sets out the operational arrangements for the implementation of MNP processes between MCs, CSPs, Portability Service Providers (PSPs) and Network Providers (NPs).
- *MNP Equivalent Service Criteria Recommendations.* The Equivalent Service (ES) Sub-Group of the ACIF MNP Project Management Group developed this set of criteria for ES for MNP which constitutes the industry's recommendation on MNP service equivalence to the ACA.

For the purposes of this article, it is not possible to examine each and every one of the above ACIF publications. Attention should however be given to *ACIF C570 Industry Code - Mobile Number Portability (Code)* which was registered by the ACA on 28 June 2001, and as such, the ACA may direct compliance with its provisions. This being the case, MCs and CSPs should put into place compliance procedures as outlined in the Code.

ACIF C570 INDUSTRY CODE MOBILE NUMBER PORTABILITY

The Code itself is a complex discussion of the way in which MNP is to be conducted amongst both industry participants and consumers alike. Primarily, the Code provides that:

- CSPs will fully inform customers about their rights, costs and obligations should they elect to port;
 - the implementation to port be conducted efficiently and effectively;
 - a standardised approach to porting be conducted that will minimise confusion and complexity to consumers choosing to port; and
 - for porting to introduce as few costs as possible.
- Other key elements of the Code include that:
- each MC or CSP act in a competitively neutral and non-discriminatory manner.⁵
 - any information received in the process of MNP may be used only in accordance with Part 13 of the Act together with any other applicable privacy regulations and any

information provided for the purposes of MNP will only be used in accordance with certain porting transactions.⁶

- CSPs must ensure that customers are able to obtain information about the effect of porting their mobile service number (MSN), any costs and obligations relating to the termination of the customer's service(s) and/or contract. This information must be available on customer request within a reasonable period of time that is consistent with the CSPs current customer service level.
- When advising a customer of costs, a CSP must advise the customer that there may be further caller usage costs that have not yet been applied to their account. Particularly, the losing carriage service provider (LCSP) may inform the customer of the costs and any other obligations relating to the termination of the customer's existing service prior to the execution of the port.
- The LCSP must not hinder, delay or prevent the port on the basis of costs owed or obligations of the customer to LCSP.⁷

BENEFITS TO CONSUMERS

Current estimates place the number of mobile phone users in Australia somewhere in the order of 11 million customers. Of this estimate, commentators suggest that 20%-30% of customers will elect to change their service provider each year, and in doing so, retain their MSN.

There can be no doubt that the introduction of MNP benefits the consumer by facilitating a choice of provider without the inconvenience and cost of losing an MSN. This is particularly relevant for small businesses who might operate via their mobile telephone service.

As well as the above benefits, there is likely to be a considerable increase in competition, both at the wholesale and retail level providing consumers with a greater choice of network provider and ultimately lowering associated costs.

It is also the case that MNP may encourage more efficient investment in network infrastructure as competitors introduce new initiative services to retain

existing customers and attract new ones.⁸

The Telecommunications Industry Ombudsman has, however, warned consumers to be aware that while mobile numbers may now be ported, consumers may still be bound by contract to their existing CSP or MC and may need to complete those contracts before porting.

INDUSTRY BENEFITS/COSTS

It is hoped that through the introduction of the Code, industry participants also benefit from the increased competition MNP may invoke.

As the Code envisages automated interfaces between MCs and CSPs to support MNP it is hoped that considerable costs will be saved through the implementation of only one set of porting arrangements rather than multiple implementations which might otherwise occur at a far greater cost. Whilst the savings of a common implementation system have not been fully quantified, ACIF has indicated the saving to be

somewhere in the realm of \$50 million to \$200 million.

Notwithstanding, MCs and CSPs will need to ensure that appropriate changes are made in their internal operating systems and networks to support MNP. New entrants will also need to build these interfaces. There will therefore be significant set up costs for most if not all industry participants.

CONCLUSION

It is strongly arguable that MNP is a requirement for effective competition in the provision of telecommunication services, because it removes one of the major barriers to penetration of markets by new telecommunications competitors – that is the a reluctance of residential and business customers to change their telephone numbers.

Additional qualitative benefits are likely to flow from the implementation of MNP. These include benefits such as providing an emphasis on quality of service, and introducing innovative new services to

meet market needs. The primary effect of this new found competition however will no doubt be seen in lower prices of mobile telecommunications services in the marketplace, as MCs and CSPs compete for a market of consumers the majority of which, prior to 25 September 2001 simply did not exist.

11 Section 458 of the Act.

2 This was as a result of the ACCC's direction to the ACA on Number Portability in September 1997.

3 TNPA Schedule 1 [8]

4 TNPA Schedule 1 [9]

5 Clause 4.1 of ACIF C570 Mobile Number Portability

6 Clause 4.2 of ACIF C570 Mobile Number Portability

7 Clause 4.3 of ACIF C570 Mobile Number Portability

8 www.accc.gov.au/media/mr-186-99.htm

The views expressed in this article are those of the author and not necessarily those of the firm or its clients.

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DISPUTE RESOLUTION UNDER PART XIC OF THE TRADE PRACTICES ACT – THE PROBLEMS AND THE CURE

Michael Bray analyses these controversial provisions and gets to the bottom of current issues being confronted by industry participants, the ACCC and the Federal Government.

The Telecommunications Access Regime found in Part XIC of the *Trade Practices Act 1974 (Act)* was intended to provide foundation access and interconnection rights to all operators within the telecommunications industry and to establish a framework within which the industry can develop additional arrangements to improve the efficiency with which access and interconnection are supplied.¹ Just how effective this has been is a matter of debate. In this article we look at the dispute resolution process established by Part XIC and identify problems which have arisen in its application. We then look at the amendments proposed in the *Trade Practices Amendment (Telecommunications) Bill 2001* and ask

whether those amendments go far enough towards curing these problems.

OBJECTS OF PART XIC

The dispute resolution provisions contained in Part XIC are intended to give effect to the objects of the Part.

The object of this Part, which is found in section 152AB of the Act, is to promote the "long-term interests of end-users of carriage services or of services provided by means of carriage services". The focus should, therefore, be on the end-users rather than on the market participants.

In determining whether something promotes the long term interests of end-users, regard must be had to the extent to

which the thing is likely to result in the achievement of the objectives of:

- promoting competition in markets for listed services (as to which see section 152AB(4) of the Act);
- achieving any-to-any connectivity in relation to carriage services that involve communication between end-users (as to which see section 152AB(8) of the Act); and
- encouraging the economically efficient use of, and the economically efficient investment in, the infrastructure by which listed services are supplied (as to which see section 152AB(6) of the Act).²