

# Implementing Number Portability in New Zealand's de-regulated Telecommunications Market

**Anne Hurley looks at why the introduction of number portability in New Zealand is a slow process.**

The New Zealand telecommunications market is fully liberalised: there are no regulatory restrictions on the entry of new network operators or service providers. However, neither are there any regulatory encouragements to new entrants: they have to rely on the provisions of the competition law enshrined in the *Commerce Act 1986* in order to secure their place in the market.

Most followers of telecommunications issues would know that the absence of regulatory directions and the lack of an independent regulator resulted in prolonged litigation between the incumbent carrier, Telecom New Zealand, and the second carrier Clear Communications, over interconnection terms and conditions.

Currently in New Zealand a regulatory issue of similar significance to the interconnection issue is being played out - the implementation of number portability (NP). NP has been on the telecommunications agenda in New Zealand since 1991, but progress towards its implementation has been exceedingly slow. This article looks at the issues which need to be addressed to expedite the process.

## **What is number portability**

NP is the ability of customers to retain their telephone numbers when changing operator, service or location. There are three types of NP:

*Operator portability:* enables customers to retain the telephone number when changing operators. The concept applies to all types of telephone numbers - to 'geographic' telephone numbers (those numbers which identify a particular geographic region, most significantly fixed network services) as well as 'non-geographic' numbers (numbers which relate to specific services rather than to geographic areas - freephone and premium services,

personal numbering services, mobile and paging services). The debate about NP has generally focussed on operator portability because it is undoubtedly the most significant from the perspective of encouraging local competition. Operator portability is as important to local competition as equal access is to competition in long distance services. Specifically, operator portability creates a more competitive marketplace for the customer by reducing the impact of changing operator through the reduction of the costs of switching operators.

*Location portability:* also known as geographic portability, it enables customers to retain the telephone number when changing location. Location portability is not seen as having any direct impact on the development of competition, although it does provide benefits to customers changing location and to callers to those customers. The benefits are not as great as for operator portability, however, because when changing location a customer needs to advise changed address in any event. In addition, the desirability for location portability needs to be balanced with the desirability of retaining geographic numbers which indicate to customers the charge rate of calls.

*Service portability:* customers retain the telephone number when changing between services - for example, when moving from ISDN to PSTN.

## **How number portability helps deliver the benefits of effective competition**

NP is a crucial element in the establishment of an effective competitive market for local telecommunications services because it:

- improves the odds in favour of new entrants initially and in favour of a competitive market place in the medium to long term;

- overcomes one of the main obstacles for customers switching operators - the requirement for, and reluctance of, a customer to change telephone number when switching operator;
- creates a more competitive marketplace for the customer by reducing the switching costs;
- strengthens competition between operators, which increases customer choice and the efficiency of the telecommunications market;
- provides opportunities for the incumbent to regain part of its lost market share by making it easier for customers to switch back if they do not have to change number yet again.

The principal benefits which result from NP can be categorised as 'direct user' benefits and 'indirect user' benefits.

*Direct user benefits* are the cost savings experienced by subscribers who move location or operator and retain their telephone number. Without portability, they incur costs in changing stationery, informing correspondents of their new telephone number and, in the case of businesses, advertising. Business subscribers also believe that they lose business because correspondents do not have the correct contact information. Other benefits include fewer misdialled numbers and costs saved by not having to update diaries and such.

*Indirect user benefits* result from the growth in competition which it encourages. Put simply, NP enables more people to benefit from lower prices and/or improved service with the new operators. In due course, these benefits will be experienced by all subscribers as competition helps to bring down costs. In the short term the benefit will be most keenly felt by those who change operator and achieve a price discount by doing so.

The lack of NP will act as a constraint on the development of local competition. The results of various market studies have been conducted to analyse and

quantify the benefits of NP vary in their detail, but the overall indications are that there are substantial user benefits from NP and that the lack of NP will slow the development of local competition because of the reluctance of customers to switch operator if they have to change telephone number.

For example, the MCI/Gallup study in the USA, in 1994, surveyed 2008 residential and 2050 business were surveyed. Offering a 10-20% price discount, 57% of business respondents said they would very likely switch suppliers. When asked again, given that they would need to change numbers, only 16% thought it very likely that they would switch, and only 24% thought it somewhat likely. For the residential customers, over 64% reported the change of telephone number as very or somewhat important, and 80% thought they would be very or somewhat unlikely to switch supplier in the absence of NP.

It is difficult to accurately quantify the consumer benefits of NP without commercial pricing arrangements. However, it is possible to say that the research carried out to date supports the argument that operator portability does provide consumer benefits through the enhancement which it gives to competition. The significance of this is that it reinforces the need to introduce NP, rather than merely find ways to offset the disadvantages of number changes. Providing NP is a pre-requisite for effective competition in telecoms markets.

### **International trends in the implementation of NP**

There is an international trend towards the introduction of NP, with many countries taking steps towards its implementation. NP is being introduced in Australia, Finland, Hong Kong, UK and USA. It is also being considered by the regulators in a number of countries including Canada, Japan, Netherlands, Singapore and Sweden. Some of the most significant and instructive features of these countries' experiences are:

- the incumbent operators have accepted that operator portability is a necessary part of an effective competitive environment, and have been participants in the processes of its implementation;
- given the acceptance of the merits of NP, the debate has not focussed on the desirability of introducing NP,

but on how to achieve the most cost-effective technical solution and most economically rational pricing arrangement;

- the decision to introduce NP is being taken without prior recourse to detailed cost-benefit analyses.

### **Administration of the national numbering plan**

The introduction of NP is inextricably linked to control of a country's numbering scheme. In recognition of the importance of telephone numbers and numbering in a competitive environment, most countries, when opening up the telecommunications market, have transferred control of the country's numbering scheme from the incumbent to an independent number administrator, often the regulator.

There is an almost-universal standard of number plan administration in countries which have introduced competition in the supply of telecoms services. That standard involves an independent industry regulator which is funded either directly from the State budget or it is self-funding through licence fees levied on the telecommunications industry. Table 1 provides a snapshot of the ownership and control of the numbering plan of a number of countries (other than New

Zealand) which have open their telecommunications markets to competition.

In keeping with the regulatory concept of independent control over the numbering resource is an underlying philosophy of numbering on which NP is predicated - that is, that telephone numbers are a national resource, owned by the nation which has freehold over all numbers. Governments have the right to change the numbering plan and the manner in which numbers are used. NP is customer-oriented and is predicated on customers' rights to port their number.

### **The implementation of NP in New Zealand's deregulated market**

There are 2 significant areas in which New Zealand's market differs starkly from other regulatory models where NP is being introduced...

First, the New Zealand Government has neither mandated NP nor taken positive regulatory steps to ensure its implementation. There is a recent indication, however, of Government support for 'facilitating', if not mandating, NP. In its statement responding to submissions to its September 1995 discussion paper *Regulation of Access to Vertically Integrated Natural Monopolies*, the Government announced that it would not

TABLE 1: Status of national numbering plan ownership and control

Country	Number plan administrator	Legal status	Relationship to carriers	How funded
Australia	Austel	Govt. dept.	Independent	Govt. budget
Finland	TAC	Govt. dept.	Independent	Govt. budget plus number allocation fees
Hong Kong	OFTA	Govt. dept.	Independent	Licence fees
Japan	MPT	Govt. dept.	Independent	Govt. budget
Sweden	PTS	Govt. dept.	Independent	Licence fees
UK	Oftel	Govt. dept.	Independent	Govt. budget
USA*	Bellcore	Company	Jointly-owned by the RBOCs	Funded by the RBOCs

\* The US number plan administrator is in the process of being changed to a new entity which is not closely identified with any particular industry segment and which will be subject to FCC oversight.

be taking any regulatory action in the wake of the Privy Council decision on interconnect pricing and would continue to rely primarily upon competition law to achieve its objectives. However, the Government added that it was concerned about slow progress on number portability negotiations between the carriers, and a report had been requested from Ministry of Commerce officials on options for facilitating portability.

Secondly, there is no independent body charged with administration of the numbering plan. New Zealand is the only country in the world which runs a competitive telecommunications market and yet leaves the management of the national numbering plan in the hands of one of the competitors - indeed, in the hands of the incumbent Telecom New Zealand. When the market was liberalised, Telecom inherited the right to manage those parts of the number spectrum which were actually in use by its customers, and took over the responsibility of managing the entire national numbering plan. Bilateral negotiations between Telecom and the other carriers, particularly Clear and BellSouth, were inadequate from the new carriers' perspective for negotiating fair and equal allocation of numbers and in December 1992 the New Zealand Telecommunications Numbering Advisory Group (NZTNAG) was established. NZTNAG has representatives from Telecom, Clear, BellSouth, Telstra, Sprint, TUANZ, and the Consumers' Institute. NZTNAG is merely an advisory group which can only operate on the basis of consensus between the parties. It has no legal status. The Ministry of Commerce chairs NZTNAG meetings and attempts to reach consensus views at the meetings, but does not have any independent power over numbering decisions. Telecom cannot be bound by any proposals brought to NZTNAG by any of the other parties and is free to implement decisions on which the other parties disagree. In such a case, the only avenue for other operators is to seek redress under the Commerce Act.

These distinguishing features of New Zealand's market do not affect the desirability of introducing NP in New Zealand nor detract from the benefits which NP will bring to the competitive process and outcomes. However, they do impact severely on the speed and way in which NP is implemented in New Zealand.

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## Implementation of NP in New Zealand

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NP has been under discussion in New Zealand since 1991. As it presently stands, there is agreement on implementing number portability for freephone services, with implementation anticipated in early 1997. Local number portability has approval in theory, but there is no timetable for implementation. The progress has been prolonged and unsatisfactory.

On 6 August 1996, a significant development took place which, to some extent, changes the debate about implementing number portability in New Zealand, although it does not resolve the crucial issues. At the 'Communications '96' conference in Auckland, a panel session of the CEOs of New Zealand's four carriers (Telecom New Zealand, Clear, BellSouth and Telstra) was held and the issue of NP was raised. Telecom's CEO Dr Roderick Dean said, at that session, that Telecom had 'no trouble' with the idea of NP, that it could be available using interim call-forwarding solutions *within 6 months of the carriers agreeing on the commercial parameters (my emphasis)* and that technically NP can be done now although Telecom could not advance the matter unless all parties sit down and *talk through pricing (my emphasis)*.

The significance of the comments is that they signal a change of focus of the debate from the more philosophical (the cost/benefits of NP for New Zealand) to the numbers (the commercial arrangements).

However, the emphasis on the 'commercial parameters' and 'talking through pricing' does not indicate how those matters are to be resolved. The present arrangement of NZTNAG would seem to make it almost a triumph for hope over experience if the parties could 'agree' the commercial parameters.

The consensus approach of NZTNAG cannot bring about agreement. First, the corporate agendas of the parties are so far apart. And it is not just corporate agendas to be considered. There is the wider public benefit of New Zealand consumers, and which party at NZTNAG is pursuing that over and above the corporate agendas? Secondly, there is no mechanism for making the decisions, no fundamental principles and

no mechanisms for dispute resolution. Thirdly, NZTNAG is an uneven and unbalanced organisation. The incumbent is still in control and there is no incentive to make NP happen. Of course, to be fair, whilst that is unsatisfactory, it is also a legitimate corporate position for Telecom. In the absence of any compelling factor to force Telecom to provide NP on commercially acceptable terms and conditions, it is neither legally, morally nor commercially obliged to do so.

In the absence of a regulatory body, and given that the industry in New Zealand does not want a regulator, what can be done to progress the position? The solution seems to be to work with what is already there, but strengthen it:

- make NZTNAG a legal body which is independent of the carriers and ensure that no one party has greater control in the decision-making process than any other;
- entrust the implementation of NP to that body;
- set up procedures which do not rely on consensus for making decisions;
- set up dispute resolution mechanisms designed to avoid drawn-out litigation in the Courts;
- maintain public governmental support for the implementation of NP.

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## CONCLUSION

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There can be no real doubt that progress in NP in New Zealand is being delayed by the absence of an administrative body, independent of the incumbent, charged with responsibility for implementing NP. If there is to be full and effective competition in New Zealand's de-regulated market, then efforts must now be expended in establishing an independent body with control over numbering, decision-making procedures for that body and dispute resolution mechanisms.

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