ACCC submission to Communications Alliance review of Local Number Portability Industry Code

August 2021

1. Introduction

The Australian Competition and Consumer Commission (ACCC) welcomes the opportunity to provide comments to the scheduled review of the Industry Code **C540:2013 Local Number Portability – Incorporating Variation No.1/2016** (LNP Code).

The ACCC is the economy-wide competition and consumer regulator responsible for enforcing the *Competition and Consumer Act 2010* (CCA). The objective of the CCA is to enhance the welfare of Australians through the promotion of competition and fair trading and provision for consumer protection. Under the *Telecommunications Act 1997*, the ACCC has the power to direct the Australian Communications and Media Authority (ACMA) in relation to rules about the portability of allocated numbers in determining a numbering plan.[1]

Local number portability is an important regulatory obligation and consumer safeguard that allows a customer to change from one carriage service provider to another and retain their geographic telephone number. The ability of consumers and businesses to keep existing numbers when changing providers is key to facilitating switching between providers. This is an important factor to promote competition in telecommunications markets. We are therefore keen to ensure, not only that number portability providers allocate adequate resources to meet their LNP obligations, but the process of porting is efficient and does not present obstacles to consumer switching. At the same time, we are also interested in ensuring that sufficient safeguards are in place in the porting process to protect the interests of consumers against unauthorised porting and scams.

We provide our comments to the review of the LNP Code on the following issues: the Category C porting process, pre-porting verification process and number 'give back'.

2. Category C porting process

Category C porting, which is processed manually, is used to port complex services for businesses, which typically have multiple lines and blocks of numbers. For businesses, the ability to easily switch providers while keeping existing numbers is essential. Not only does it enable continuity of business operations, it prevents missed calls from customers and the need to reprint business contact details.

The telecommunications industry experienced significant issues in relation to Category C porting processes in 2020 following the Covid-19 pandemic. Telstra's actions to unilaterally suspend most of its local number porting operations from late March 2020 due to COVID-19 impacting its offshore operations led to significant delays in processing Category C porting requests. The Australian Communications and Media Authority (ACMA) found that more than 42,000 services were impacted and the backlog of porting requests were not cleared until October 2020.[2] A key cause for these numbers appeared to have been the lack of onshore resources able to take over the porting processes.

Last year, we received a number of contacts, the majority of which were from industry participants, raising concerns about the porting delays resulting from Telstra's conduct. While industry participants acknowledged that the specific porting delays were brought about by COVID-19 lockdowns, some raised broader concerns regarding the Category C porting process under the LNP Code. Key issues raised include the following:

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[1] Subsection 458(2) of the *Telecommunications Act 1997*.

[2] See ACMA, *Telstra pays $1.5 million penalty for breaching customer rights,* 4 May 2021, at: https://www.acma.gov.au/articles/2021-05/telstra-pays-15-million-penalty-breaching-customer-rights.

- The current Category C porting process is outdated and does not reflect advances in technology and efficiency gains in operations over the years. In particular, the 120 day timeframe for completing a request for Category C porting is too long and has not been changed since the Code came into operation.

- There is currently no requirement under the LNP Code for providers to have service level agreements (SLAs) for porting.

- The combination of the above factors mean there is little incentive to meet shorter timeframes for the losing provider, which could lead to under-resourcing in porting capability and wide variances in processing timeframes.

- Long timeframes for Category C porting act as a disincentive for businesses to change carriers and consequently inhibit competition. The fact that many businesses had to wait several months to port their fixed numbers to a new provider highlights the inadequacies in the Code.

We consider that the issues raised by industry participants and the significant porting delays experienced in 2020 suggest that the current Category C porting process is deficient. In particular, we are concerned that the long timeframe in porting complex services leads to high switching costs for businesses seeking service continuity. This may undermine the willingness of some businesses to switch providers, which negatively impacts competition. We consider that immediate improvements to the Category C porting process in the LNP Code, including the introduction of shorter timeframes and SLAs, are required to promote competition in the business market and the long-term interests of end-users.

We are aware that the Communications Alliance is currently exploring the ongoing suitability of the existing bilateral connectivity platform for LNP transactions. It is also assessing the costs and benefits of developing an alternative common connectivity platform for local, mobile, freephone and local rate numbers. While we strongly support industry developing optimal future porting arrangements, we consider that Communications Alliance must address the issues raised above as a matter of urgency as part of its current review of the LNP Code.

We understand that it remains open for the ACMA to make a determination under subsection 111(5) of the Telecommunications Number Plan 2015 in regards to the period of time after a request within which a number of must ported.

3.   Pre-porting verification process and number give back

The exploitation of phone services by scammers has resulted in significant harm to Australian consumers and businesses. In 2020 the ACCC's Scamwatch service received over 103,000 reports from the public about phone based scams with over $48 million lost. In 2021, the problem has increased with 83,000 phone scams reports received to 31 July with $52 million lost. We strongly encourage industry to continue to examine ways to bolster the protections for consumers, particularly in relation to including improved identify verification, protection of personal information and cyber security.[3]

As part of its review of the LNP Code, we consider that industry should ensure that any customer on-boarding or porting processes have robust identity verification processes. We recommend two factor authentication to protect consumers from the risk of identity compromise, porting fraud and scams.

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[3] We understand that to prevent unauthorised porting in the context of mobile number porting, the ACMA made the Telecommunications (Mobile Number Porting Additional Identity Verification) Industry Standard 2020, which imposes additional identity verification obligations on mobile carriage service providers in addition to the customer authorisation requirements under the Mobile Number Portability Industry Code.

Finally, we are aware that a key concern for businesses and consumers who may lose their number through fraudulent activity or unauthorised porting is not being able to get their number returned or given back by their provider either at all, or in a timely way. We consider industry porting processes should include a clearly defined right for consumers and businesses to be able to have their numbers given back as soon as possible, and timeframes be included as to when a provider should return a number.