



The Bahamas Telecommunications Company Limited

Response to

Preliminary Determination

The Implementation of Number Portability in The Bahamas
pursuant to Section 80 of the Communications Act 2009
(ECS15/2012)

Issued by: The Utilities Regulation & Competition Authority

Office of the Senior Vice President
Legal, Regulatory & Carrier Services
The Bahamas Telecommunications Company Ltd.
21 John F. Kennedy Drive

2nd July 2012

Executive Summary

BTC welcomes the methodical approach of this Preliminary Determination as a part of the Number Portability (NP) implementation procedure reporting which will ensure proportionality, objectivity and transparency as well as fair play to all participants and affected parties. Preliminary determinations are also important to mark the progress and to ultimately ensure that matters deferred in the Statement of Results on the Public Consultation on Number Portability to the Number Portability Working Group (NPWG) are appropriately addressed. BTC wishes to ensure that matters of particular concern to BTC have the benefit of further exploration through the determination progress.

BTC has requested that URCA clarify the timing for the introduction of number portability in cellular services having regard to the statutory provisions of BTC's Cellular exclusivity as set out at Section 114 of the amended Communications Act, 2009.

Generally, BTC supports the steps taken thus far by the NPWG and URCA which are consistent with standard procedures for Number Portability implementation, with the caveat as pronounced by URCA that whilst the benefits of NP outweigh the costs, URCA must have: *"...due regard to the costs and the implications of implementing NP and must ensure that NP is implemented in a manner which will not impose a disproportionate burden on relevant providers."* (p7 of URCA's Statement of Results: Number Portability for The Bahamas: ECS 20/2011)

Introduction

BTC embraces the opportunity to evaluate the progress made to date on the implementation of NP in The Bahamas and the Next Steps and further requirements for NP.

BTC is of the view that given the complexity of the implementation and the various progression stages, it becomes essential to more closely evaluate and review each stage as implementation progresses.

BTC supports the general principle announced in the 16th November 2011 Statement of Results to the Consultation Document titled *"Number Portability for the Bahamas"* to implement NP on fixed networks as soon as economically and technically feasible, whilst having regard to all of the relevant circumstances including attention to the costs

and implications of NP so as not to impose a disproportionate burden on relevant providers.

BTC notes the progress made since the establishment of the NPWG and appointment of members to the NPWG in December 2011, as a working group and subsequently the appointment of the NPWG's Consultant Advisor. The issuance of the Terms of Reference for the NPWG, and the initial deliverables of the NPWG with reference to specified recommendations to URCA has also continued and is indicative of the commitment by all parties to the process.

BTC does note however that at page 4 under 2.4 of the Preliminary Determination paper the referenced NPWG Phase 1 recommendations to URCA are not contained in Annex B as stated. BTC also notes the introduction of the undefined term "*NP Licensees*" (beginning at page 6) which BTC understands to refer to the operators. BTC queries this reference as it appears to be evident that an operator who is licensed to provide fixed or mobile services is also obligated to provide number portability unless there is an intention to have exclusions to the rule. URCA is therefore requested to clarify the term.

Recommendations thus far

The BTC members of the NPWG have supported the recommendation to choose a single solution for both fixed and mobile networks in The Bahamas using the All Call Query (ACQ) solution with a centralized database, which whilst complex and attracting higher costs is also deemed in the industry to be the most efficient and most popular method of NP implementation (2.4 at page 5).

BTC also notes the acceptance by URCA of the recommendation by the NPWG for the local establishment of a database solution and facilities to support the ACQ Solution by the NP Service Provider and further notes and supports the proviso that the costs should not be materially increased to NP Licensees of the service.

BTC understands that the NP database and clearinghouse solution will be provided by a sole external third party who will be the NP Service Provider and who will provide the NP Administration Service as a part of the database and clearing house solution to support the ACQ solution.

BTC agrees with the recommendations to issue an Individual Operating Licence (IOL) to the NP service provider pursuant to the results of a public consultation and inclusive of the provision that the IOL contain appropriate reporting requirements to URCA and NP Licensees. BTC agrees that the licence should be limited to provide the NP Administration service only. It is recognized also that the NP Service Provider may be required to enter into a contractual arrangement with URCA and the NP Licensees to ensure that clear and enforceable terms and conditions are in place during the critical phase of the development and implementation of the NP Administration Service.

BTC also notes in 2.4.3 (Work Plan for the Implementation of Number Portability) the timeframes recommended by the NPWG going forward which include the issue by URCA of a Request for Proposals for a NP Administration Service which was launched simultaneously with this Preliminary Determination with a proposed date of November 2012 for the announcement of the successful NP Administration Service Provider.

Outstanding Decisions

It is acknowledged that the NPWG will also submit recommendations to URCA on a number of items which were deferred from the initial Public Consultation of April 2011. BTC and URCA, in the Statement of Results issued on that consultation were not in agreement, in particular, with the NP cost recovery principles and BTC's position that whilst the principles of cost recovery should include cost causation, relevant costs and cost minimization, BTC had concerns with using the principles of reciprocity, effective competition, practicability and distribution of benefits because the latter were difficult to quantify and there was a tendency by regulators to cause the operators to absorb significant amounts of these costs as benefits. (Statement of Results ECS 20/2011: – Question 11 at page 28).

Additionally, BTC was most concerned about the winback proposals and the proposal to restrict a donor from contacting a former customer to winback for at least 2 years following portability.

BTC is satisfied that going forward there are to be Preliminary Determinations on the undetermined items as well as on the NP Administration Service IOL and that the NPWG may also recommend items of importance for further public consultation. In this regard BTC urges URCA to be flexible in its approval and acceptance of proposals and

positions taken in relation to submissions on the anticipated Preliminary Determinations.

BTC notes the proposed launch date for Number Portability between May – July 2013 in the Work Plan and URCA's position that specific timeframes will not be mandated at this stage of the process as time frames may be subject to change due to unforeseen circumstances.

BTC also supports the proposed list of matters relating to NP upon which URCA intends to issue "*at a minimum*" further Determinations. BTC supports the position (2.53 p 12) that in order for an operator to be licensed to offer fixed telephone services, the operator must be capable of offering NP.

Mobile Number Portability

BTC has concerns with URCA's pronouncements on the timing of the introduction of Mobile Number Portability at 2.5.5 and URCA's statement that mobile number portability is to be "*implemented in time for the introduction of competition in that market.*" Further URCA states that BTC, as well any new entrant (which BTC assumes to be the second cellular licensee as provided for under Section 114 of the Communications Act 2009, **as amended**) must be in a position to ensure that all systems for NP and NP service for mobile telephone numbers are available "*from the inception of competition in the mobile market*" (2.5.5 at page 13).

URCA in Paragraph 1(b) in the Preliminary Determination proposes to determine that "*Effective from the date on which any person other than [BTC]..... commences to provide cellular service any licensee providing cellular voice service in the Bahamas shall be required to provide number portability for cellular telephone numbers.*" (p 15)

It is important to BTC as well as being relevant to the statutory provisions for mobile exclusivity that URCA is consistent in its proposed determination as to the **timing** of readiness by BTC for NP in the mobile market, and, given URCA's several variations as listed above on timing, none of which are defined in any document, BTC calls on URCA to clarify when exactly is the time in the liberalization process of the mobile market that BTC will be expected to be ready to offer NP Services. BTC is of the view that the timing as proposed to be determined in Paragraph 5 of the Preliminary Determination, i.e. at the commencement of service by the second cellular licensee, to be URCA's intention.

BTC also notes at item 6 of the Preliminary Determination the reference to a centralized number portability database and clearing house function to be provided by a third party service provider. At the appropriate time BTC anticipates a discussion on the location of the database and clearing house and any implications having regard to the provisions of the Data Protection Act.

Conclusion

BTC regards the progress thus far as outlined in this Preliminary Determination document as adhering to the overarching regulatory objectives of proportionality and efficiency and being introduced in a manner that is transparent fair and non-discriminatory (section 5 (d) of the Communications Act 2009) as URCA proceeds in a thorough and consistent manner towards Number Portability implementation.

Importantly, URCA is reminded of its statement that at all times, there must be *“due regard to the costs and implications of the implementation of NP on persons affected[AND] aim to achieve a balance between the benefits to the ECS and the likely costs and implications”* (Statement of Results p 10).

BTC looks forward to continuing to participate in this process through the NPWG and in preliminary determinations on various matters, and, where necessary further public consultations.

July 2nd 2012

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