



**FINAL DETERMINATION ON THE
IMPLEMENTATION OF NUMBER
PORTABILITY IN THE BAHAMAS PURSUANT
TO SECTIONS 80 AND 100 OF THE
COMMUNICATIONS ACT 2009**

ECS 21/2012

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UTILITIES REGULATION & COMPETITION AUTHORITY

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1 Introduction

This document comprises a Final Determination providing for the implementation of Number Portability in The Bahamas, issued pursuant to section 99 of the Communications Act, 2009 (Comms Act) and in relation to the requirements of section 80 of the Comms Act.

1.1 Issuance of Preliminary Determination

Consistent with the procedure set out in section 100 of the Comms Act, interested parties are advised as follows:

1. On 30 May 2012, URCA issued a Preliminary Determination on the Implementation of Number Portability in The Bahamas, ECS 15/2012 (the “Preliminary Determination”).
2. Comments and representations on the Preliminary Determination were due on or before 2 July 2012 and by that date URCA had received written comments from Bahamas Telecommunications Company Limited (BTC), only.
3. Now, having considered the comments received and in accordance with section 100 of the Comms Act, URCA herein issues its Final Determination.

1.2 Structure of this Document

The remainder of this document is structured as follows:

- Section 2 – Background: providing an overview of the context, legislative provisions, and processes within which URCA makes this Determination;
- Section 3 – Final Determination: URCA’s Final Determination, making provisions for the implementation of Number Portability in The Bahamas
- Section 4 – Annex to the Final Determination: containing URCA’s response to representations and any further reasoning behind the determination in accordance with section 100(5) of the Comms Act.

2 Background

2.1 Legislative Mandate for Number Portability

“Number Portability” is defined by the Comms Act as *“a facility whereby subscribers who so request can subject to the numbering plan retain their telephone number on a public network, independently of the licensee providing the service at the network termination point of a subscriber”*¹. Number Portability (NP) therefore enables a person to keep their telephone numbers when switching providers, and is often seen as a key enabler of robust competition in that it removes one of the barriers which customers perceive to switching their provider of telephone services, that is, the need to change their telephone number.

Section 80 of the Comms Act requires URCA to issue a consultation and make a determination on NP, and further mandates that licensees shall provide to the extent technically feasible, operator-to-operator number portability when required to do so in accordance with the requirements prescribed by URCA.

URCA’s power and process for making determinations is contained in sections 99 through 102 of the Comms Act, and require that URCA first issue and consult on a preliminary determination, allowing at least one (1) month for the submission of representations by interested persons, and thereafter, having taken into account any representations made, URCA may issue its final determination. URCA’s final determination may also, where appropriate, be accompanied by an Order (issued under and in accordance with sections 95 through 98 of the Comms Act).

¹ Section 2, Communications Act, 2009

2.2 URCA's Consultation on Number Portability

On 15 April 2011, URCA issued a consultation document entitled "*Number Portability for The Bahamas*" (ECS 8/2011)² inviting comments from interested persons on the issues pertaining to the introduction of number portability in The Bahamas. Pursuant to and having considered the comments received in response to the consultation document, on 16 November 2011 URCA issued its Statement of Results for the consultation on number portability (ECS 20/2011)³.

In the Statement of Results, URCA noted the general support for the implementation of NP in The Bahamas, though there were differences regarding the details of implementation. URCA reiterated its view that NP will bring certain benefits to the electronic communications sector in The Bahamas, and that those benefits are essential to the development of competition. URCA noted, however, that in implementing NP in The Bahamas URCA must have due regard to the costs and implications of NP and must ensure that NP is implemented in a manner which will not impose a disproportionate burden on relevant providers.

URCA therefore, indicated in the Statement of Results the following:

- URCA shall mandate that NP be implemented on fixed networks in The Bahamas as soon as economically and technically feasible, having regard to all the relevant circumstances.
- URCA shall mandate that NP for mobile communications⁴ be implemented and operational in time for the introduction of competition in mobile communications in The Bahamas. Accordingly, the solution implemented for fixed NP must be technically compatible, adequately robust and scalable to allow it to also be implemented for mobile NP.

² <http://www.urcabahamas.bs/publications.php?cmd=view&id=74&pre=y>

³ <http://www.urcabahamas.bs/publications.php?cmd=view&id=98&pre=y>

⁴ For the purposes of this document, the term "mobile" has the same meaning afforded to the term "cellular" in section 114 of the Communications Act, 2009 as amended by the Communications (Amendment) Act, 2011.

- URCA would appoint a joint regulator/industry working group, the Number Portability Working Group (NPWG), to consider issues relating to the implementation of NP in The Bahamas. The NPWG would have as its initial deliverable the review of all material information and the recommendation to URCA of an appropriate solution or appropriate solutions to achieve the above objectives, as well as the appropriate timeframes and work plans that should be undertaken, following which URCA will make a determination on the detailed way forward for service provider NP in The Bahamas.

2.3 Appointment and Recommendations of the Number Portability Working Group

Consistent with the Statement of Results, URCA appointed the NPWG comprising four persons from URCA (one of whom was appointed as its chairperson), and two representatives of each licensee which has been granted telephone numbers by URCA (namely Bahamas Telecommunications Company Limited (BTC), Cable Bahamas Limited (CBL) (including its affiliates), and IP Services International Limited (IPSI)). The Terms of Reference of the NPWG are set out in Annex A of the Preliminary Determination.

On 30 April 2012, the NPWG presented to URCA its recommendations in accordance with the above deliverable. The NPWG's recommendations, including the rationale for each, are summarised and included as Annex B to the Preliminary Determination.

2.4 Issuance of the Preliminary Determination

Consistent with the Statement of Results on Number Portability (ECS 20/2011) and the Terms of Reference of the NPWG, URCA issued the Preliminary Determination having had regard to the recommendations of the NPWG.

3 Final Determination on the Implementation of Number Portability in The Bahamas

This is a Final Determination issued pursuant to section 99 of the Communications Act, 2009:

WHEREAS:

1. Section 80 of the Communications Act, 2009 provides:
 - “(1) URCA shall issue a consultation and make a determination on number portability.*
 - (2) Licensees shall provide, to the extent technically feasible, operator to operator number portability when required to do so in accordance with the requirements prescribed by URCA so that subscribers who have been allocated a telephone number or telephone numbers may retain that number or those numbers when switching to the carriage services of an alternative licensee ...”.*
2. On 15 April 2011 URCA issued a consultation on number portability by way of its consultation document “Number Portability for The Bahamas” – ECS 08/2011, received submissions from interested persons, and responded to those submission by way of its “Number Portability for The Bahamas – Statement of Results” – ECS 20/2011 issued on 16 November 2011.
3. Pursuant to the consultation on number portability, on 8 December 2011 URCA appointed a joint regulator/industry working group, the Number Portability Working Group (the NPWG) to consider and make recommendations to URCA on various matters pertaining to the implementation of number portability in The Bahamas.
4. On 30 April 2012, the NPWG having deliberated on the matters referred to it by URCA, submitted to URCA its recommendations on the network solution, database solution and work plan for the implementation of number portability in The Bahamas (the “Recommendations”).

5. URCA, being of the view that the Recommendations would represent the most efficient, transparent, fair and non-discriminatory way to implement Number Portability in The Bahamas, having regard to all the relevant circumstances, decided for the reasons stated in its Preliminary Determination on the Implementation of Number Portability in The Bahamas pursuant to Section 80 of the Communications Act, 2009, ECS 15/2012 (the "Preliminary Determination") that it would adopt those Recommendations with appropriate amendments.
6. In exercise of its powers and responsibilities under sections 11, 13, 80 and 100 of the Communications Act, during the period from 30 May 2012 to 2 August 2012, URCA allowed persons with an interest in this matter including Licensees, stakeholders and the general public in The Bahamas a reasonable opportunity to comment on proposed regulatory measures for the implementation of number portability in The Bahamas.
7. URCA received written representations on the Preliminary Determination from Bahamas Telecommunications Company Limited (BTC) only.
8. URCA having reviewed the matter and considered the written representations made by BTC, also provides in an annexure hereto its Reasons for the Final Determination pursuant to section 100(5)(c) of the Communications Act including URCA's responses to the written representations received from BTC on matters contained in the Preliminary Determination.

NOW URCA THEREFORE, having issued a consultation on number portability and taken into account comments received from interested persons pursuant to that consultation in accordance with section 80 of the Communications Act, 2009, and having reviewed and considered the recommendations made by the NPWG, and having reviewed and considered all representations made by interested persons, HEREBY FINALLY DETERMINES AS FOLLOWS:

1. Number portability shall be implemented in The Bahamas:
 - a. to enable customers switching fixed voice services from one licensee to another to keep their fixed telephone numbers; and,
 - b. to enable customers switching their cellular voice service from one licensee to another to retain their cellular telephone number.

2. Number portability shall not be available to enable customers to move their fixed number to a cellular service, or vice versa.
3. Number portability shall be implemented for fixed numbers as soon as technically and economically possible, and for cellular numbers from the date of commencement of competition in the cellular voice market.
4. Licensees providing fixed voice services in The Bahamas shall use all reasonable endeavours to comply with and achieve the timeframes set out in the work plan submitted by the NPWG to URCA in the Recommendations, so as to implement number portability for fixed telephone numbers as soon as technically and economically feasible. URCA shall monitor the progress toward the implementation of number portability and shall in a subsequent determination establish the date by which all licensees providing fixed voice services in The Bahamas shall commence providing number portability to their customers.
5. Effective from the date on which any person other than the Bahamas Telecommunications Company Limited, having been duly authorised to do so pursuant to the Communications Act, 2009, commences to provide cellular service in The Bahamas, any licensee providing cellular voice service in The Bahamas shall be required to provide number portability for cellular telephone numbers.
6. Every licensee required to provide number portability in The Bahamas shall do so through the implementation of All Call Query (ACQ) routing for voice calls and other forms of routed traffic in The Bahamas as determined by URCA. The routing solution shall be supported by a centralised number portability database and clearinghouse function (the "NP Administration Service") provided by a third party service provider (the "NP Service Provider") selected by URCA through an open competitive selection process, with the advice and assistance of the NPWG.
7. The NP Service Provider, as a provider of a carriage service (by virtue of the NP Administration Service being "ancillary services to the conveyance of signals" as described in the definition of "carriage service" set out in section 2 of the Communications Act 2009) shall require an Individual Operating Licence (IOL) from URCA, which shall be granted on terms and conditions to be determined by URCA having regard to the recommendations of the NPWG. The NP Service

Provider shall not, however, be authorised to provide any carriage service other than the NP Administration Service, or operate any network in The Bahamas whether alone or as part of an undertaking.

8. All licensees required to provide number portability shall use the NP Administration Service provided by the NP Service Provider, at rates which shall be set by URCA having regard to the advice and recommendation of the NPWG and negotiations with the NP Service Provider.
9. The NP Service Provider shall be required to provide the NP Administration Service at the established prices on a fair and non-discriminatory basis to all licensees providing voice services in The Bahamas.

URCA has not issued any Order concurrently with this Determination.

Dated the 3rd day of August 2012.

Kathleen Riviere-Smith
Chief Executive Officer

4 Annex to the Final Determination – Response to Representations and Objections

4.1 Bahamas Telecommunications Company Limited (BTC)

During the period for responses set out in the Preliminary Determination (ECS 15/2012), URCA received representations from Bahamas Telecommunications Company Limited (BTC) only. URCA's responses to those representations are as follows, adopting the headings used by BTC:

4.1.1 Executive Summary and Introduction

BTC's Comments

BTC stated that it welcomes the methodical approach of the Preliminary Determination as part of the Number Portability (NP) implementation procedure, which BTC notes will ensure "proportionality, objectivity and transparency as well as fair play to all participants and affected parties".

BTC restated the general principle set out by URCA in the Statement of Results on NP (ECS 20/2011) in which URCA stated that it would implement NP on fixed networks as soon as economically and technically feasible, whilst having regard to all of the relevant circumstances.

BTC also noted the progress made since the establishment of the NPWG, and stated that the making of recommendations to URCA by the NPWG consistent with the established process, is indicative of the commitment of all parties to the process.

BTC notes that the NPWG Phase 1 Recommendations were not included as Annex B to the Preliminary Determination, as referenced at paragraph 2.4. BTC also queried the term "NP Licensees" as used in the Preliminary Determination, beginning at page 6.

URCA's Responses and Decisions

URCA notes BTC's comments on and support for the process adopted by URCA, and reiterates the principles outlined in URCA's Statement of Results on Number Portability mentioned in Section 4.1 above.

URCA apologises for the oversight in not including Annex B to the Preliminary Determination (the NPWG Phase 1 recommendations). URCA notes that BTC as a member of the NPWG is

already in possession of the recommendations and would have thus informed its responses. URCA has also now posted those recommendations to its website⁵.

URCA advises that the term “NP Licensees” is used in the NPWG Phase 1 Recommendations and it clarifies that the term is intended, as surmised by BTC, to refer to any licensee who provides fixed or mobile voice services. BTC will note that the term is not used in the Preliminary or Final Determination itself.

4.1.2 Recommendations thus far

BTC’s Comments

BTC noted its support as a member of the NPWG for the recommendations made, in particular:

- All Call Query (ACQ) with a centralised database for both fixed and mobile NP which BTC felt was most efficient and popular despite the higher costs and complexity;
- The engagement of a third party NP Service Provider to provide the clearinghouse and database solution, if possible using a locally hosted solution provided that the costs of the service are not materially increased to the NP Licensees.
- The issuance of an Individual Operating Licence to the NP Service Provider with appropriate reporting requirements to URCA and the NP Licensees.

BTC also noted the issuance by URCA of a Request for Proposals for the NP Administration Service Provider, and the proposed completion date of 1 November 2012 for selection of the successful partner.

URCA’s Responses and Decisions

URCA notes BTC’s support for the proposals by URCA, which are based on the recommendations of the NPWG, of which BTC is a member.

⁵ <http://www.urbahamas.bs/publications.php?cmd=view&id=134>

4.1.3 Outstanding Decisions

BTC's Comments

BTC noted that the NPWG would in future submit recommendations on several other items deferred in URCA's initial consultation on NP. BTC highlighted its position as set out in its initial consultation response (dated 2 July 2012) on certain of those items, in particular:

- Principles for cost recovery, in which BTC disagreed with the use of the principles of reciprocity, effective competition, practicability and distribution of benefits.
- The proposals for winback which would restrict winback contact for two years following the launch of NP.

BTC urged URCA to be flexible regarding proposals and positions taken in relation of the anticipated issues to be determined.

URCA's Responses and Decisions

URCA notes BTC's comments regarding specific items to be determined by URCA in future having regard to the advice of the NPWG, including BTC's reservations on certain of those issues. URCA assures BTC that it will be given reasonable opportunity to contribute on these matters as a member of the NPWG, and also in public consultations as appropriate prior to any determinations being made.

4.1.4 Mobile Number Portability

BTC's Comments

BTC requested additional clarity on the precise timing for the implementation of Mobile NP, noting that slightly different phrases had been used within the Consultation Document. BTC argued that the appropriate timing for the launch of mobile NP would be the commencement of service by a second cellular services provider.

URCA's Response and Decisions

URCA agrees with BTC that the appropriate timing for mobile NP would be the commencement of service by a second cellular services provider. URCA considers that any earlier launch of NP would be ineffective as there would be no alternative network to which a user could port his or

her number. BTC would note that the wording used in the Preliminary Determination itself, and in the Final Determination, is consistent with this position.