

Feedback on the Proposed Governance Arrangements for Telecommunications Numbering and the Draft Code ("Numbering Allocation Rules")

TelstraClear

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1. TelstraClear support the TCF's goal to improve the governance structure for numbering management and to ensure numbering allocation rules achieve appropriate use of the numbering resource.
2. TelstraClear support the views of the TCF/NAD Numbering Working Party (Working Party) that governance arrangements be addressed first and that amendments to the rules be addressed by the new body, as described in section 3.6 of the TCF's Reform of the New Zealand Telecommunications Numbering Governance Arrangements Report of the TCF/NAD Numbering Working Party December 2009 (Reform Document).
3. **Governance Structure:** TelstraClear support the governance structure proposed by the Working Party that allows for;
 - a. The TCF Board to provide overarching governance by way of;
 - i. Approval rights on budget and capex and appoints number administrator; and
 - ii. Circumscribed rights over numbering policy. On receiving proposed changes to the Code for Number Management (Code), the TCF Board can accept the proposal, or reject and send back to the Numbering Management Group (NMG) if the Board can show that the change would contravene the Numbering Principles.
 - b. The NMG;
 - i. Is open to all parties who are signatories to the Code, by signing the Deed Poll, and are financial members of the TCF. We note the Code describes Numbering Allocation Rules; and
 - ii. Submits to the TCF Board proposed changes to the Code.
 - c. In order to obtain and hold allocations a party is required to be a financial member of the TCF.
4. **Voting:** TelstraClear support the proposed voting structures;
 - a. TCF Board: Per existing TCF rules except that voting on numbering matters will only be conducted by parties to the Code.
 - b. NMG: In accordance with existing TCF working party rules;

- i. 50% majority for all decisions; and
 - ii. 75% majority for proposed changes to the Code to be put forward to the TCF Board.
- 5. **Funding:** TelstraClear agree that the TCF Board approve the NMG budget, fee structure and level on recommendation from the NMG.
- 6. **Dispute Resolution:** TelstraClear agree that procedures should follow those generally used within the TCF, meaning that for;
 - a. Technical disputes, an independent expert to resolve the issue; and
 - b. Complex disputes, mediation or arbitration.

We note the working party proposes that disputes over a decision of the Number Administrator, for example to make or not make an allocation, will be resolved by the TCF Chair and TCF CEO.

- 7. **Enforcement:** TelstraClear note clause 81.3 of the draft Code. We suggest that a cap or amount per breach be considered for inclusion in the Code. It may be appropriate to list in the Code example(s) of circumstance(s) where a fine may be payable.
- 8. **Numbering Principles:** TelstraClear support the proposed amendments to two of the Numbering Principles, being;
 - a. Numbering Principle 4: The administration of numbering must be conducted in a manner that does not hinder the portability of end user numbers between service providers.
 - b. Numbering Principle 6: Number allocation does not confer ownership or other intellectual property rights.
- 9. **Reform Document Appendix C Numbers – Misuse and Control:** TelstraClear are supportive of the intent to ensure proper use by entities that are, and are not parties to the deed and enforcing the duties assumed by parties as part of having numbers allocated to them. However, we have these views regarding the draft language;
 - a. **Access to Numbers:**
 - i. TelstraClear suggest that access to numbers should not be addressed by the number allocation rules, rather by the rules for TCF membership. In this way, a party that is a legitimate and financial member of the TCF, and that signs up to the Code, will have access to numbers.
 - ii. Any additional membership requirements that relate to numbering could be added to the TCF membership rules.
 - iii. Requiring a party to adhere to the draft definition of a NZ operated company appears restrictive; it could deter

investment in the NZ market and may exclude companies with a valid operating model.

- iv. Requiring a party to enforce upon a reseller to adhere to the draft definition of a NZ operated company is unworkable as it would exclude access to numbers by Tier 1 international telco's with legitimate operating models.

b. Use of Numbers:

- i. TelstraClear support the intent to guard against a party misrepresenting the location of calls. However, it is possible that parties can achieve the desired outcome better by including appropriate terms and conditions in their interconnection agreements.
- ii. If there is wider support for inclusion of such a clause in the Code, we believe that the draft wording describes a scenario that is too specific for inclusion on its own in a code of practice. We suggest using higher level language regarding misrepresentation, or the misleading of the location, of a call. An example that describes CLI manipulation could be included.

c. Enforcement:

- i. TelstraClear support the ability for the number administrator to be able to take back control of offending number(s) if a defaulting party refuses to release control of the offending number(s).
- ii. We suggest that the extent of return of numbers be clarified. If a party is in default of TCF membership rules, then that party must return all numbers allocated to it. However, if a party has specific number(s) that are in default of number allocation rules, then the party must return the numbers that caused the default.
- iii. TelstraClear agree that if a defaulting party does not return numbers allocated to it when obligated to do so by the numbering rules, then the party acknowledges the right of the administrator to take steps, including High Court proceedings, to regain control of such numbers. However, TelstraClear suggest that a party should have the right to take steps to defend such proceedings.