



COMMERCE COMMISSION

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Please refer to:

ProjectNo 11048
969475-1

12 February 2010

David Stone
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PO Box 302 469
North Harbour
NORTH SHORE CITY 0750

Dear David

Public Consultation on Proposed Governance Arrangements for Telecommunications Numbering and Draft Code (NAR)

Thank you for your letter dated 23 December 2009 attaching the TCF's Public Consultation Document.

The Commission acknowledges the work of the TCF and NAD in developing the Public Consultation. It also acknowledges that two major impediments relating to reform of numbering have been removed as a result of Telecom's agreement to relinquish its claim to ownership of numbers, and TelstraClear's agreement to release their unused code blocks,² and wishes to record its thanks to Telecom and TelstraClear for their proactive and positive action in resolving two long standing and contentious impediments to numbering reform.

Numbering Rules

The Commission is however disappointed at the lack of progress in addressing shortcomings in the Numbering Rules. The Commission advised the Working Group in May 2008³ that its first preference was for the Working Party to with the revision of the Numbering Rules in priority to addressing governance issues. Its second preference was the Numbering Rules revision and the governance issue be address in parallel, with suggested changes to the Numbering Rules being made as recommendations to any new body established to administer numbering in the future.

² The Commission had earlier been concerned over large allocations of non geographic numbers to Telecom and TelsraClear resulting in a barrier to entry for new entrants arising from a scarcity of non-geographic numbers.

³ see Working Party's minutes of meeting dated 28 May 2008.

This view was not shared by other members of the Working Party, and as a consequence the governance issue has been given priority, and numbering issues remain, to a large extent, still to be addressed. The Commission still maintains its view that revision to the Numbering Rules should have been given priority over matters relating to the governance structure.

The Commission's concerns as set out in the December 2008 study in relation to the inadequacies of the Numbering Rules remain largely unresolved. A summary of the Commission's conclusions is attached to this letter. The Commission reiterates that this matter should be considered top priority.

Governance Arrangements

The Working Party proposes that the NAD be replaced by a Numbering Management Group (NMG) which is constituted as a TCF Working party. This model would require members of the NMG to also be members of the TCF.

While the central role of numbering management would rest with the NMG, the TCF Board would have a limited role as the governance body for the scheme. Only the TCF Board could approve changes to the Numbering Code, but it could reject changes requested by the NMG only if the Board could establish that any proposed change/changes would contravene the Numbering Principles.

The Commission expressed reservations in the Working Party meeting, and at the workshop, about the proposal to impose a requirement that NMG members be financial members of the TCF. The Commission considers that membership of the TCF should not be a requirement imposed on a party in order to be a member of the NMG.

The TCF is aimed at fostering industry self-regulation which is encouraged through the development of voluntary industry codes of practice and standards. Participation is on a voluntary basis. While the Commission has stated on many occasions that the TCF plays a very important role in the New Zealand regulatory landscape, it does not agree that parties who hold or require number allocations should be compelled to join the TCF.

The Commission's concerns could be addressed if parties holding or requiring number allocations were required to be members of the NMG and be bound by the Numbering Code without linking such membership to membership of the TCF, and if the overall governance role of the TCF Board was removed so that the NMG was entirely self governing.

Under this model, any fee imposed for membership of the NMG should reflect only the administrative cost of managing the numbering scheme. To the extent that the TCF provides services to the NMG, these should be provided on an arms length cost orientated basis.

If a model of this sort cannot be accommodated within the TCF structure, other alternatives may need to be considered.

The Commission also notes that any change to governance arrangement under the Number Administration Deed will require unanimous approval of the members of the NAD. The Working Party is well aware that some NAD members have chosen not to join, or having been members have withdrawn from, the TCF. Those parties have publicly stated an 'in

principle' opposition to membership of the TCF. That being the case, it appears the suggested charges are highly likely to be achieved.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Dr Ross Patterson', written in a cursive style.

Dr Ross Patterson
Telecommunications Commissioner

RP.

Encl appendix A

Appendix A

Key Elements for Efficient Number Management

No	Key Elements	New Zealand Practice
1.	Numbering is recognised as a critical national resource which influences the way numbering frameworks are developed.	This fundamental principle is not recognised in the NAD. Based on Numbering Principle 6, number allocation does not affect ownership or other intellectual property rights...". The TCF/NAD Report has identified that "resolution of ownership issues relating to the numbering plan and number allocation" needs to be addressed.
2.	Numbering plan must be robust to accommodate technology advancements	No clear rules exist in regard to the allocation of numbers for VoIP service providers. Allocations are currently made on a case by case basis without any known guidelines.
3.	Access to emergency services should be available from a wide range of communications services.	Emergency call service requirements are set out in the TSO whereby Telecom is presently the "gatekeeper" for emergency calls. No formal framework is in place providing for wider requirements in a multi operator environment (including VoIP service providers).
4.	Public consultation.	Decisions on numbering plan reviews are made by parties to the NAD based on an agreed voting structure. Recommendations on issues under review are not subject to a public consultation process.
5.	Reporting – forecast and utilisation reports are important tools for tracking utilisation efficiency and future planning.	Application criteria for number allocation in the Number Allocation Rules do not include requirements to provide forecast and utilisation data by the applicant.
6.	Withdrawal of Numbers	The Number Administrator does not have the right to withdraw numbers. Instead, service providers are required to relinquish redundant capacity on their own which creates the risk of number hoarding.
7.	Activation Timeframe	The NAD rules do not contain any obligation to activate allocated numbers within a certain timeframe, failing which the numbers will be withdrawn and re-assigned to other operators. Allocations made before the establishment of the NAD were much larger than that permitted under the current Rules. As a result, very large block of numbers have been held inactive by NAD members since the establishment of the NAD.
8.	Transparency	The New Zealand Number Register is available on the NAD website. However, records of recommendations and decisions (notice, minutes of meetings etc) and information on ongoing work streams under the NAD are not available in the public domain.
9.	Market based allocation methods used for numbers with exceptional economic value (including short codes and premium rate services)	Allocations are based on "first come first served" principle for all number ranges.
10.	Enforcement	Enforcement powers do not include withdrawal of numbering capacity for breach of Rules.