

19 August 2021

Craig Purdon
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Communications Alliance
By email: c.purdon@commsalliance.com.au



Dear Craig

Re: Review of C540:2013 Local Number Portability - Incorporating Variation No.1/2016

ACCAN thanks Communications Alliance for the opportunity to provide comments on the review of C540:2013 Local Number Portability - Incorporating Variation No.1/2016 (**the Code**).

Telecommunications market competition hinges on consumers' ability to easily change providers, and this ability relies on industry's compliance with clearly defined and well-designed number porting rules.

In our submission to the review of *C566:2005 Rights Of Use Of Numbers Industry Code* (the **ROU Code**), we detailed our concerns with the extent of consumer detriment stemming from unsuitable numbering regulations: specifically, insufficient requirements surrounding CSPs' retrieval of numbers from quarantine once disconnected.

ACCAN holds similar and additional concerns in relation to the Local Number Portability Code which are detailed below.

Consumer experiences of local number portability

Aside from widespread consumer inconvenience and detriment stemming from Telstra's non-compliance with the Code in 2020,¹ ACCAN has been made directly aware of 4 consumer cases in the past 12 months where mismanaged local number porting created consumer detriment. In these cases, the detriment ranged from substantial inconvenience to significant income loss. Additionally, the Telecommunications Industry Ombudsman (**TIO**) and Australian Communications and Media Authority (**ACMA**) have expressed their concerns in relation to local number loss while consumers transition to the NBN, identifying this as a systemic consumer issue.

Of particular note, ACCAN was recently contacted by a small business consumer whose local number port was reversed in error, months after switching providers and successfully porting their local number. The losing provider was slow to respond to the affected consumer who immediately made a complaint to the TIO. The local number was returned to the consumer after one week of being

¹ ACMA 2021, *Telstra pays \$1.5 million penalty for breaching customer rights*, media release, <https://www.acma.gov.au/articles/2021-05/telstra-pays-15-million-penalty-breaching-customer-rights>

unable to receive calls; by this time, the consumer had experienced significant business loss and consequently sought financial compensation from the provider.

In fact, it took 3 months for ACCAN's own local number range to be ported prior to the ADSL switch-off. ACCAN's number port request, involving a batch of approximately 20 local numbers, was repeatedly automatically rejected by our carrier due to an unexplained systems error. The losing carrier was not obligated to resolve the issue of the unexplained port rejection within any specified timeframe, nor was it required to keep in communication with ACCAN regarding the progress of the port. This meant that it took an astonishing 3 months of frequent following up by ACCAN staff to resolve the issue; in the end, the issue was resolved after ACCAN escalated the issue to senior executives at the provider, a channel not available to the vast majority of communications consumers.

There is widespread evidence to suggest current industry processes surrounding local number porting are far out of line with consumer expectations and market developments, particularly the technical capabilities of facilitating telephone number porting. In the 2019-20 financial year, approximately 10% of the 15,990 landline complaints received by the TIO involved an issue related to connection, disconnection or the transfer of a telephone number; conversely, numbering problems were not featured in the top 10 issues in TIO mobile complaints.² This demonstrates that fixed-voice numbering issues continue to plague communications consumers.

ACCAN perceives the need for a significant review of the Code to update obligations and guidance related to local number porting and achieve adjustments in line with industry's operational capability and consumer expectations. ACCAN has identified three key areas for reform, detailed below.

Local number porting timeframes are not in line with consumer expectations or market developments

It is essential for consumers that all telephone number ports are successfully completed as soon as is operationally feasible. In the event of delays, consumers should be kept informed about the nature of the delay and when it is expected to be resolved. Regrettably, ACCAN understands this is not always the case for local number porting.

Timeframes for successful completion of a local number port is dependent on a number of operational factors as is outlined in the Code. Many of the mandated steps for completing a Category C number port do not have associated timeframes, meaning it can take as long as six months for a more complex local number port to be successfully completed. Conversely, mobile number ports can be completed in a matter of hours.

Additionally, ACCAN understands that many local number ports categorised as complex under the Code are not necessarily operationally complex, and could reasonably be completed much sooner than the Code requires.

² Telecommunications Industry Ombudsman 2020, *TIO 2019-2020 Annual Report*, https://www.tio.com.au/sites/default/files/2020-09/TIO%20AR2019-20_High-Res.pdf

ACCAN strongly urges that the timeframes for local number porting as expressed in the Code are reviewed to bring Code obligations in line with consumer expectations and the industry's operational number porting capabilities. It is of the utmost importance that any process or activity directed by the Code should have an associated timeframe to ensure efficiency of process and to mitigate consumer inconvenience and detriment in the local number porting process; failure to do so creates substantial process blockages and unnecessarily prolongs local number porting. Additionally, there must be a requirement that the consumer is kept informed about delays to local number porting, including how and when the delay will be addressed.

Local number port categorisations and consumer rights should be reviewed

There are legacy and historical factors underpinning the way in which local number ports are categorised: Category A for 'simple' ports, Category C for 'complex' ports that require project management, and Category D for simple ports involving an unconditioned local loop request.

These porting categories – like their associated timeframes – were developed for a vastly different pre-NBN communications landscape, and do not reflect technical developments in industry's operational number porting capabilities. The Code itself is highly operational, technical and complex, lending well to confusion about porting types and consumers' rights in relation to the port of their number.

ACCAN recommends that local number porting categorisation be reviewed to ensure it is fit for purpose, and that it reflects the porting timeframes that are now operationally feasible due to technological developments. Additionally, a review of the Code should address ways in which the Code can be clarified, simplified and streamlined to ensure that consumers' local number porting rights are easily identifiable. It may be appropriate for the Code to be restructured to introduce a section specifically related to the consumers' local number porting rights including key timeframes, number giveback processes, and guidance on rights of use.

Number giveback procedures for unauthorised or fraudulent local number ports must be improved

Unauthorised local number ports can occur for a number of reasons, including industry, consumer or technical error, or number fraud. It is essential that the Code outlines clear responsibilities, obligations and timeframes for all industry parties – the losing carrier, donor carrier and gaining carrier (if applicable) – to ensure resolution of an unauthorised local number port and the return of the lost number to the consumer as soon as is practicable.

Quarantining and number giveback procedures differ between mobile and local number portability. Under the Code, an unused local number must be returned to the donor carrier – the carrier to which the number was initially assigned – within a matter of days. This can create extreme confusion and delays in circumstances where a consumer is subject to an unauthorised or fraudulent number port, and seeks to have the port reversed and the number returned to their service. ACCAN understands it is not unusual for a local number to become 'lost' between the losing, donor and gaining carriers/providers, and for there to be confusion about which carrier is responsible for retrieving the number. This creates significant delays and interrupts consumers' services for an unacceptable length of time.

In line with our recommendations for the ROU Code, we urge that giveback and quarantining provisions in the Local Number Portability Code are clarified and strengthened in line with consumer expectations, and to prevent consumer detriment in the event of an unauthorised or fraudulent local number port.

For example, Section 6.1.13 of the Code states that:

*'If a Ported Telephone Number is proven to be incorrectly Given Back, the former Gaining Carrier **may** approach the Donor Carrier and apply for the release of that Telephone Number from Quarantine ... the Donor CSP must, **if possible**, make the necessary changes in the system to stop the Give Back being processed within the Donor Carrier's Network or release the Telephone Number, **provided that the Telephone Number has not already been Issued to a new Customer.**'*

From a consumer perspective, these arrangements are extremely inadequate and do not reflect the extent to which residential and small business consumers rely on their fixed voice services. Donor carriers must be obligated to work with the gaining or losing provider to return a customer's number at the customer's request in the event of an unauthorised or fraudulent local number port. The Code should also specify a timeframe for this re-allocation, as soon as is operationally feasible.

Next steps

ACCAN supports a detailed review of the Code to explore ways in which it can be amended to improve the efficiency of local number porting provisions, and bring these in line with consumer expectations and industry capabilities.

ACCAN understands the review of the Code will occur in an environment where broader number portability regulatory arrangements are being examined by industry and government. However, the improvements to the Code that ACCAN recommends can and should be addressed with immediacy to prevent any further consumer harm from inadequate local number porting provisions.

Please do not hesitate to get in touch on 02 9288 4000 or at Rebekah.Sarkoezy@accan.org.au if you seek to discuss our feedback further.

Yours sincerely,

Rebekah Sarkoezy
Policy Officer