

# **INTER-OPERATOR CODE OF PRACTICE**

## **Geographic Number Portability**

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## 1 SCOPE

Geographic Number Portability (GNP) is defined as a capability whereby a Subscriber to a telecommunication service who so requests can retain his or her telephone number when changing from one Network Operator to another Network Operator.

This document deals with the inter-operator code of practise (rules of engagement) between any two Network Operators for the process of providing GNP to their Subscribers.

Parties that can participate in this Code of Practise include:

- (a). Network Operators;
- (b). Service Providers;
- (c). Subscribers; and
- (d). the NPC

## 2 PURPOSE/ OBJECTIVES

The purpose of this document is to establish rules governing the selling practises, porting process, porting charges, fault reporting, dispute resolution, and any other inter-operator issues that could lead to potential anti-competitive behaviour or unfair practices relating to the implementation of Geographic Number Portability.

The objectives of this Code of Practise are therefore:

- (a). to promote the best interests of users of GNP services by ensuring a free and open market between providers of fixed line telephony services to the public;
- (b). to provide a framework which enables Network Operators to achieve and demonstrate compliance with regulatory requirements designed to protect the interests of consumers;
- (c). to ensure there is clear information readily available regarding the terms and conditions on which GNP services are provided, including pricing, payment and service availability;
- (d). in the event of any form of dissatisfaction or complaint, to make available an easily accessible procedure so that these can be addressed and resolved in the most speedy and cost effective manner and;
- (e). to ensure that Network Operators comply with current legal and regulatory requirements.

## 3 DEFINITIONS

**„Block Operator** means a Network Operator that is subject to the requirements in respect of GNP and that has been allocated a number block that is subject to GNP;

**CLI** means a calling line identity;

**CRDB** means central reference database, which is a centralised database of all geographic numbers and/or non geographic numbers that have been ported from one operator to another operator pursuant to the regulations;

**„Days“** means working days unless otherwise specified;

**Donor Operator** means a Network Operator that is subject to requirements in respect of GNP and that ceases to serve a number that is being ported;

**Donor Service Provider** means a Service Provider that ceases to serve a number that is being ported;

**Functional Specification** means a regulation determining the rules applicable to operators and through operators to Service Providers for the implementation, management and performance of number portability;

**Geographic Number** means a number that is part of a block that has been allocated for use in a specified geographic area;

**„Geographic Number Portability (GNP)** means the ability of a telephone Subscriber to transfer their geographical telephone number from one telecommunications Network Operator and/or Service Provider to another;

**GNP** means geographic number portability;

**Network Operator** means a company or organization which operates and provides telecommunication network paths and connections as a business. These may be direct to end customers (in which case the NO is also a Service Provider) or under contract to Service Providers who in turn provide services to end customers;

**„Number Portability“** means the ability of Subscribers to an electronic communications service or persons providing a service pursuant to a license exemption, to retain their existing numbers without impairment of quality, reliability, or convenience when switching from one electronic communications service licensee to another electronic communications service licensee;

**NPC** means the number portability company;

**Members** means Network Operators, Service Providers, the NPC and customers who have an interest in Geographic Number Portability, which accepts this Code of Practice and agrees to adhere to its directives and guidelines.

**Ordering System Specification** means a specification of the procedures by which a recipient Service Provider, a recipient operator, and a donor Service Provider exchange information between each other in order to provide number portability to a Subscriber, including the information to be sent, the format of the information, the means of communication, the times when communication may be sent, the time limits for responses and the handling of error conditions;

**POI** means a Point of Interconnect;

**Recipient Operator** means a Network Operator that is subject to requirements in respect of number portability and commences or continues to serve a number that is or has been ported;

**Recipient Service Provider** means a Service Provider that commences or continues to serve a number that is or has been ported;

**Service Provider** means:

- (a) an entity that sells to a Subscriber the ability to make and receive telephone calls;
- (b) a Network Operator;
- (c) an entity person that buys network services from a Network Operator and resells these services to subscribers;

**SPOC** means a single point of contact;

**Subscriber** means any person or entity that is a party to a contract or other similar arrangement that is in force with a Service Provider or Network Operator for the supply of telecommunications services, including –

- (a) in respect of making and receiving calls, any caller who makes or terminates or receives calls that are the subject of such a contract or arrangement; and
- (b) pre-paid customers;

**the Act** means the Electronic Communications Act, 2005 (Act No. 36 of 2005);

**the Regulations** means the Number Portability regulations promulgated in *Gazette* 28091 of 30 September 2005 in terms of section 89, read with section 96 of the Act, as amended or replaced from time to time;

**the Regulator** means the Independent Communications Authority of South Africa

#### **4 GENERAL RULES AND CONDITIONS**

- 4.1 Members must not allow the use of their services for illegal purposes and must, as far as practical y possible, take appropriate steps to guard against their services being used for such purposes.
- 4.2 Members must adhere to appropriate business & consumer protection laws.
- 4.3 Members must put procedures in place to enable their employees to comply with all applicable legislation.
- 4.4 All number portability transactions with Subscribers and other Service Providers must be undertaken in accordance with current legal and regulatory rules and guidelines and with any industry agreed processes and procedures. This includes but is not limited to the following –
  - (a). The Regulations;
  - (b). The Functional Specification as published by the Regulator;
  - (c). The Ordering Systems Specification;
  - (d). The Act;
  - (e). ICASA Guidelines

- 4.5 All Network Operators wishing to port numbers must be able to fulfil all the requirements of both the Donor Operator and the Recipient Operator. That is, a reciprocal service must be possible, though it need not be technically symmetrical nor be implemented simultaneously in each direction.
- 4.6 Calls transferred across the POI from the originating network to the Recipient Network shall have the Calling Line Identity (CLI) set to the originating caller, where possible, or to set to the 'Number Unavailable' setting if not. Transmission of the CLI and associated information shall as far as possible not be impaired by the implementation of GNP.
- 4.7 Calls originating in the Block Operator and calls received by the Block Operator from other networks which are destined for the ported number shall be passed to the Recipient Operator over one or more pre-determined POI.
- 4.8 The Block Operator will maintain an administrative record of numbers ported and thereby ensure that any such number is not reallocated to another Subscriber of the Block Operator unless and until the number is relinquished.
- 4.9 The Recipient Operator will perform the call termination functions.
- 4.10 The Recipient Operator will ensure that all calls for the ported numbers originating in the recipient network shall be directly connected without being presented over a POI to the Donor Operator, unless agreed with the Donor Operator and appropriate means of separately accounting for such calls being in place.
- 4.11 All calls originated by the ported number shall have the Calling Line Identity set to that number and not to any additional number that may be being used for completing incoming calls.
- 4.12 Calls incorrectly routed to an incorrect Recipient Operator will be treated as non-existent in the network. The incorrect Recipient Operator must play an announcement indicating that the number does not exist on the network.
- 4.13 Any change of address requested by a Subscriber at the time of number porting, or after a successful number porting, is permitted only within specified geographic areas corresponding to the exchange code areas of the Block Operator.
- 4.14 The Recipient Operator will quarantine a ceased ported Geographic Number for 5 (five) Days before returning the number to the Block Operator.

## **5 SALES, MARKETING ADVERTISING AND PROMOTIONS**

- 5.1 Members must use all reasonable endeavours to ensure that promotional material complies with all applicable legislation and regulation.

## **6 TRAINING**

- 6.1 Members must use all reasonable endeavours to ensure that relevant training be given to customer facing staff and back office staff dealing with the administration, activation, fault resolution and any other process involved to ensure successful porting of Geographic Numbers.
- 6.2 Such training to include:
  - (a). the process for porting the telephone number;
  - (b). the relevant principles of consumer protection law;
  - (c). the prices charged by Members and other relevant terms and conditions of service. This includes methods of payment, duration of contract and any termination fees;
  - (d). the process for cancelling a contract;
  - (e). the existence of this Code of Practice and the benefits provided;
  - (f). the procedure for handling Subscriber complaints; and

- (g). the terms and conditions as defined by the Regulations.

## **7 SUBSCRIBER CONTACT FOR SOLICITING PORTABILITY**

- 7.1 Each Member must ensure there is a list of contact numbers and/or websites where Subscribers can obtain more information regarding Geographic Number Portability.
- 7.2 All Member representatives to be courteous, use appropriate language and offer clear and straightforward explanations. It is essential that they do not misrepresent the services being offered nor those of other companies. All information should be factual and accurate. Representatives are to check that Subscribers entering into contracts understand them.
- 7.3 All representatives to immediately identify themselves, the company they represent and the purpose of the call and the expected call duration.
- 7.4 Member representatives are to cease contact with any person who indicates that the contact is inconvenient, unwelcome, inappropriate or too long. If the Subscriber requests it, the discussion is to be ended immediately and, if making a doorstep call, the premises to be left immediately.

## **8 CONTRACTS, ORDER FORMS, TERMS AND CONDITIONS.**

- 8.1 Members must as far as possible ensure that reasonable steps be taken to ensure that the person entering into a contract is authorised to represent the Subscriber in entering into the contract.
- 8.2 Order forms and contract forms are to be designed so that the contractual nature of the document is clear to the Subscriber and it contains a statement of the contractual nature of the document immediately adjacent to where the Subscriber signs the document so the statement cannot easily be obscured or concealed.
- 8.3 Where Subscriber interfacing takes place the Subscriber should be given the information set out in this paragraph in a clear and comprehensible manner, if requested by the Subscriber:
  - (a) Essential information including the identity of the company, its address, telephone, fax and e-mail contact details;
  - (b) A description of the telephone service sufficient to enable the Subscriber to understand the option that the Subscriber has chosen, and how it works;
  - (c) Information about the major elements of the service, including the cost of any standing charges, the payment terms, line rental, key call types and details of "protected or special support" arrangements.
  - (d) The arrangements for provision of the service, including the order process and, as accurately as possible, the likely date of provision. Where there may be significant delay in the likely date of provision, the Subscriber should be informed of this;
  - (e) The circumstances in which the service may be withdrawn and the procedure for a withdrawal;
  - (f) The existence of any right of cancellation and the process for exercising it;
  - (g) The period for which the charges remain valid; and
  - (h) The minimum period of contract and minimum contract charges, if any.

- 8.4 Subscribers are to be made aware of the existence of this code and preferably provided with a summary (Consumer Guideline).
- 8.5 In the case of internet orders, a well sign-posted hyperlink to the information required by paragraphs 8.2 to 8.4 above must be prominently displayed, with the information being capable of being easily downloaded and printed.

## **9 FAULT, REPAIRS, ACTIVATION (PROVISIONING) AND TIMELINES.**

- 9.1. All interaction between Members will be managed through a SPOC interface. All faults as well as activations will be communicated from the applicable Member to the other Member and addressed internal to the Member's business.
- 9.2. The communication messages for provisioning are set out in the Ordering System Specification document agreed upon by all Members.
- 9.3. Timelines for provisioning will be managed within the SPOC offices and the CRDB.

## **10 DEPOSITS AND CHARGES**

- 10.1 Members must ensure that charges for services are clearly stated in relevant promotional material and are readily available to Subscribers. Members must make clear whether any such charges quoted are inclusive or exclusive of VAT. Where additional charges, for example on-line charges, are payable this should be stated.
- 10.2 Members must use reasonable endeavours to ensure that textual charging information relating to charges for services is accurate, up to date, legible, prominent and presented in such a way that does not require close examination.

## **11 BILLING AND PAYMENTS**

Refer to the Geographic Number Portability Functional Specification as published by ICASA for determinations around billing and payments for GNP.

## **12 CONFIDENTIALITY**

- 12.1 Members shall comply with South African legislation relating to the protection of information held.
- 12.2 Subscriber Confidential Information may only be shared with third parties under the following conditions:
- (a) the Subscriber has consented;

## **13 SUBSCRIBER COMPLAINTS PROCEDURE**

- 13.1 Members' obligations
- (a). Every member shall have its own code of practice for handling complaints from retail Subscribers.
  - (b). A Member's code of practice for complaints shall include a Dispute Resolution Scheme within the meaning of the conditions of this code. If a Member does not select an alternative approved scheme, the Dispute Resolution Scheme adopted by the Regulator shall apply to all disputes involving the Member.
  - (c). Every Member shall notify the Regulator of a single point of contact ("Contact") for the Member authorised to deal with complaints from the Regulator. The Contact shall be familiar with the Regulator's Complaints Procedure.

### 13.2 Complaints about breaching this Code of Practice

- (d). Where a Subscriber or other third party makes a complaint that a Member has acted in breach of this Code of Practice the complaint shall be investigated and adjudicated by the Regulator in accordance with its rules and procedures on complaints.
- (e). The Regulator may refuse to adjudicate on a complaint where the subject matter of the complaint is the subject of legal proceedings or for any other reason the Regulator sees fit, details of which must be supplied to the complainant.
- (f). Where a complaint appears to fall within the ambit of a particular regulatory body or self regulatory body (for example the Advertising Standards Authority), the complaint may be referred to that body, as well as, or instead of, the Regulator adjudicating on the complaint.

## 14 DISPUTE RESOLUTION PROCEDURE

### 14.1 Should any dispute arise between the Members, including, but not limited to:

- (a). the formation or existence of; or
- (b). the implementation of; or
- (c). the interpretation or application of the provisions of; or
- (d). the Members' respective rights and obligations in terms of or arising out of; or
- (e). the breach of; or
- (f). the validity, enforceability or rectification, whether in whole or in part of; or
- (g). any documents furnished by the Members pursuant to the provisions of,

this Code of Practice, or which relate in any way to any matter affecting the interests of the Members in terms of this Code of Practice, the Members shall meet within 2 (two) Days of written notice of the dispute from one Member to the other (or such longer period as mutually agreed by the Members in writing) to negotiate in good faith in an effort to settle such dispute.

14.2 Should the Members fail to resolve any dispute between themselves within 3 (three) Days of the meeting referred to in 14.1 (or such longer period as mutually agreed by the Members in writing), the Members undertake to meet promptly and consider whether or not the dispute should be referred to arbitration. If the Members agree in writing that the dispute should be referred to arbitration, such dispute will be determined by arbitration in accordance with the remaining provisions of this clause relating to arbitration; provided that if the Members fail to reach agreement in writing to refer the dispute to arbitration within a period of 2 (two) Days of meeting in terms of this 14.2, then either Member will be entitled to commence litigation proceedings against the other Member, in a court of competent jurisdiction.

14.3 Notwithstanding anything to the contrary contained in this 14, neither Member shall be precluded from obtaining interim, injunctive or similar relief from a court of competent jurisdiction.

### 14.4 The arbitration shall be held:

- (a). in accordance with the rules of the Arbitration Foundation of Southern Africa or its successor in title ("the Foundation");
- (b). in Johannesburg, in the English language;
- (c). it being the intention of the Members that the arbitration shall be held and completed within 21 (twenty one) Days of its commencement.

### 14.5 The arbitrator shall be, if the matter in dispute is principally:

- (d). a legal matter, an impartial practicing advocate or impartial practicing attorney of at least 10 (ten) years' standing;

- (e). an accounting matter, an impartial practicing chartered accountant of at least 10 (ten) years" standing;
  - (f). a technical matter, an impartial telecommunications expert in the relevant telecommunications field of at least 10 (ten) years standing;
  - (g). any other matter, any independent person(s), agreed upon between the Parties to the dispute.
- 14.6 Should the Members to the dispute fail to agree whether the dispute is principally a legal, accounting, or other matter within 7 (seven) Days after the Members" agreement to refer the dispute to arbitration, the matter shall be deemed to be a legal matter.
- 14.7 Should the Members fail to agree on an arbitrator within 10 (ten) Days after the matter was referred in terms of 14.2 to arbitration, the arbitrator shall be appointed by the Foundation at the request of either Member to the dispute, the Foundation to take into account the provisions of 14.5.
- 14.8 The decision of the arbitrator (including an award in respect of the costs of the arbitration) shall be final and binding on the Members after the expiry of a period of 30 (thirty) Days from the date of the arbitrator"s ruling and may be made an order of a court of competent jurisdiction at the instance of either of the Members, subject to the Members rights of appeal in terms of 14.9.
- 14.9 Either Member may appeal the decision of the arbitrator within a period of 30 (thirty) Days after the ruling has been handed down by the arbitrator by giving notice to that effect to the other Member, such notice to be received before the expiry of the 30 (thirty) Day period. The appeal shall be submitted to arbitration in Johannesburg in accordance with the rules of the Foundation by a panel of 3 (three) independent arbitrators appointed by the Foundation.
- 14.10 The decision of the panel of arbitrators on appeal and as provided for in 14.9 above, shall, in the absence of manifest error, be final and binding on the Members to the arbitration and may be made an order of a court of competent jurisdiction at the instance of any Member to the arbitration. The panel of arbitrators shall make an award of the costs of the appeal.
- 14.11 The Members hereby consent to the non-exclusive jurisdiction of the High Court of South Africa (Transvaal Provincial Division) for the purposes of this 14.
- 14.12 The Members agree to keep the arbitration, including the subject matter of the arbitration and the evidence heard during the arbitration, confidential and not to disclose it to anyone except for the purposes of an order to be made in terms of 14.8 and 14.10.
- 14.13 The provisions of this clause:
- (a). constitute an irrevocable consent by the Members to any proceedings in terms of this 14 and neither Member shall be entitled to withdraw there from or claim at any such proceedings that it is not bound by such provisions;
  - (b). are severable from the rest of this procedure and shall remain in full force and effect despite the invalidity for any reason of this Code of Practice, or any part of this Code of Practice.
- 14.14 The Members shall continue to perform all undisputed obligations where possible whilst any dispute is being resolved.