



**MTN'S SUBMISSION ON THE NOTICE OF INTENTION
TO CONDUCT AN INQUIRY INTO NUMBER PORTABILITY
REGULATIONS**

28 October 2016

1. INTRODUCTION

On the 26th August 2016, (by way of Notice Number 965 of 2016) in Government Gazette No: 40232, ICASA (“the Authority”) published a Notice of Intention to conduct an inquiry into number portability regulations.

MTN welcomes the publication of the Notice of Intention in that we believe the regulatory framework that underscores the use of number portability within South Africa, can be enhanced to provide for a more comprehensive and competitive environment which protects the interest of ICT industry players as well as the consumers. Mobile services are tightly interwoven into our identity as individuals, mobile numbers are conveyed to our friends, families and business associates, we have them emblazoned on signage and printed on business cards. Thus for many customers changing network service providers proved to be extremely disruptive, thus limiting consumer’s choice of a network providers if their existing provider proved to be unsatisfactory.

Mobile Number Portability (“MNP”) is often perceived as an effective and necessary way to maximise competition and consumer choice of network service providers. The Authority, in response to consumer demands for greater competition, released the Number Portability regulations in September 2005, government gazette 28901 (“the regulations”). These regulations provided consumers with greater choice of networks while retaining their numbers. However, at the time of publication, and to date of this submission the regulations are limited to mobile numbers (which were later enhanced to include geographic numbers) but still excludes certain non-geographic numbers from porting.

MTN’s submission does not address each and every question posed by the Authority due to the similarities of a number of questions. However, we will provide commentary on MTN’s position on the subject matter as a whole.

MTN confirms its willingness to participate in any oral hearings which may be scheduled in regard to the Notice of Intention.

SECTION A

QUESTIONAIR: INQUIRY INTO NUMBER PORTABILITY REGULATIONS	
SECTION A -GENERAL	
Licensee Details	
Licensee Name	Mobile Telephone Networks (PTY) Ltd
Address	216 14th Avenue, Fairlands, Roodepoor
Contact Person	Geoffrey Blake
Designation	Senior Manager: Technical Regulation
Telephone	832122766
Email	Geoff.Blake@mtn.com
Services Offered by licensee (select all that are applicable)	
Retail	YES
Geographic	YES
Mobile	YES
Wholesale	YES
Other (Specify)	

SECTION B

MTN claims confidentiality for the information contained with Section B of this submission.

SECTION B: MOBILE NUMBERS INDICATORS		
Mobile Number Indicators	Indicators	From Inception to Date
	Total Mobile Numbers Allocated	
	Total Mobile Numbers Subscriptions	
	Prepaid	
	Post-paid	
	Mobile Numbers Ported In	
	Mobile Numbers Ported Out	

2. GENERAL COMMENTS

Question 1. Describe your company or personal involvement in number portability

MTN is an ECNS/ECS licensee, providing communication services in South Africa. Launched in 1994, MTN is a major player in the mobile market and played a critical part in the formulation of the current code of conduct and functional specification of number portability and the implementation of the number portability solution adopted within South Africa.

MTN is a 20% shareholder of the number portability company.

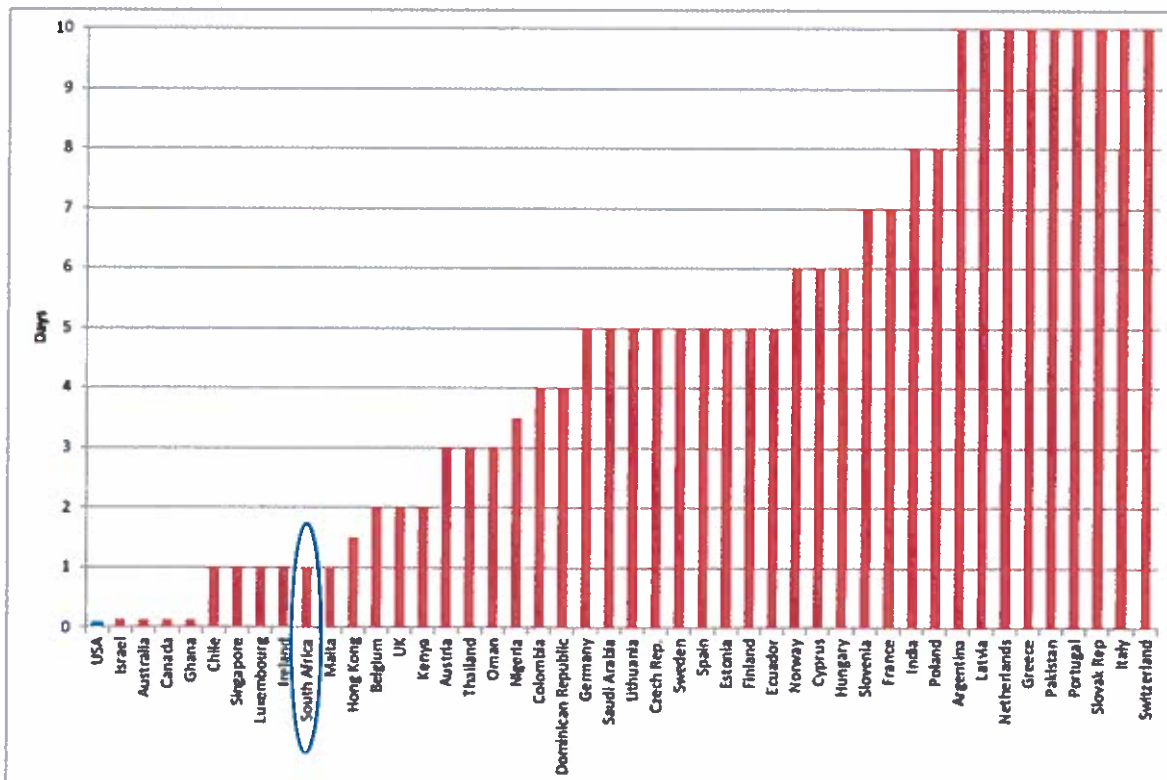
Question 2. Describe your company's position in the fixed and/or mobile market

MTN is a major player in the mobile sector.

Question 3. What do you consider to be the advantages and/or disadvantages with the current number portability framework and administration thereof?

Two factors, namely the time to port and the cost to port, are considered to be key metrics in ensuring the successful adoption by end users of any number portability solution. Suffice to say that in circumstances where high costs are charged to consumers and the time to port is too long, the adoption of number portability may be impaired. There are zero costs to the consumer and very low time to port threshold.

In relation to the time to port, South Africa has an extremely competitive target of one day when compared to other countries that have adopted mobile number portability. This is reflected in the figure 1 below.



Source: Singer (2014)

Figure 1 Average time to port in days

Due to the technical solution adopted by the industry, the implementation of a Central Reference Data Base (“CRDB”) which catered for lower OPEX costs, allowed for recipient operators to absorb the costs of porting, resulting in a zero cost to end-users wishing to port from one provider to another.

The co-operative nature of the MNP regulations allowed operators themselves to undertake a self-regulatory impact assessment to achieve the optimal solution. Since the inception of MNP in November 2006, through to February 2016 a total of 4,182,431 mobile numbers have been successfully ported between network operators. (Number Portability Company, 2016). Such numbers reflect the successful nature of portability regime in South Africa.

However, there are several refinements that are imperative in order to protect all parties, donors, recipients and most importantly end-users.

The disadvantage with the current number portability framework is that the use of porting as a means to facilitate fraud appears to have risen over the past few years and this can be categorised as **unauthorised** or **illegal ports**.

MTN first became aware of unauthorised porting in late 2012 through an increase in customer porting complaints. As validation of prepaid porting is limited to Caller Line Identity (“CLI”) validation, large volumes of prepaid porting requests are uncontested. As a result of the prevalence of these complaints, MTN referred a dispute to the CCC of ICASA on 31 October 2013, in terms of section 17B(a)(ii) of the Independent Communications Authority of South Africa Act 3 of 2000 (“the ICASA Act”). The CCC made a determination over a year later in November 2014. The CCC acknowledged the potential for customers to be inconvenienced and prejudiced by such unauthorised porting behaviour.

Consequently, MTN is of the opinion that a change in the porting process, (that will not lengthen the porting times) but which allows for confirmation by the customer to the donor operator via sms be incorporated in order to safeguard end-users from this nefarious activity. This will protect the interest of the consumers and reduce unauthorised porting activities. This validation would be in line with the primary objective of the ECA, i.e. provide for regulation in the public interest.

In addition, the current regulations are limited to certain categories of numbers. It is MTNs view that future regulations should be expanded, where applicable, to include other categories of numbers. This is addressed in greater detail in question 8.

Question 4. Would you consider the fees structure associated with participating in Number Portability such as cost recovery, subscription to number portability administration and charging of ports to be effective?

Neither the current regulations GG 28091, nor the code of conduct provide for penalties to be imposed upon licences found to have transgressed, failed to comply or blatantly ignored the OSS, CoC or Regulations. The absence of such penalties may explain the cavalier attitude to unauthorised porting. MTN recommends that the recipient network operator should be penalised by paying substantially more for port-ins that are malicious or fraudulent or unauthorised, as this has a negative impact on the customer as well as the donor operator who incurs costs to rectify the situation. Practically all port reversals should incur a ten-fold port cost penalty in order to deter unauthorised ports.

The costs involved in porting consumers who wish to change network providers are absorbed by the relevant recipient operator, as the amount of ports have increased, the Number Portability Company, through its board of directors introduced both a reduction in the fee structure as well as a rebate model that is dynamic in nature. The model varies the rebate depending on the volume of ports handled resulting in a decreases in the overall cost to port in instances where there are high volumes while still ensuring the sustainability of the company to cater for replacement of network components.

Question 5. Would you say that there is a need to review the block sizes for Number porting? Please elaborate.

No, the primary purpose of number portability is providing individual end-users the choice of service providers. As such larger blocks ports are not the norm and have been accommodated through the current process.

Question 6. What is the mean porting timeframe, in hours, have your subscribers experienced? Do you consider it to be reasonable? If not, please indicate what challenges have been experienced and what measures could be taken to reduce the porting timeframe.

MTN has done an analysis of the porting timeframes over the past six months from April 2016 to date. The average porting timeframe for a prepaid customer to port into MTN's network is 8 hours and 6 hours for an MTN prepaid customer to port out. From a post-paid perspective

the timeframes are comparable with a duration of 6 hours for a contract consumer to port into MTNs network and 5 hours for a contract subscriber to port out.

As indicated in our response to question 3, these porting timeframes are globally competitive and a reduction is neither warranted nor requested.

Question 7. Do you think the current geographic porting at the local area code exchange promotes effective number portability? If not, please elaborate and propose alternatives if any

MTN has a limited view on this aspect other than that the existing regulations relating to the numbering plan highlight the significance of maintaining geographic numbers that indicate the geographic location. As such any change in future portability regulations that may impact on this matter will result in the numbering regulations to be amended as well.

Question 8. What other non-geographic numbers do you think should be subject to number portability besides mobile numbers, please elaborate.

MTN suggest to the Authority that on the matter of non-geographic number ranges which are at this stage not capable of being ported, the Authority endeavour as soon as possible to incorporate the following number ranges 080, 086 and 087 etc.

Regrettably, this capability has yet to be provided to corporate citizens who predominantly make use of these non-geographic numbers.

MTN is of the opinion that Telkom SOC has been granted a de-facto monopoly in providing services utilising these specific non-geographic numbers such as share call and toll free numbers. It is our experience that the inability to port these numbers is severely hampering the level of competition that can be offered within the market.

Corporate companies have created brand awareness through the extensive marketing of these numbers. These companies run the risk of losing this investment should they be interested in changing to another service provider due to the fact that they are not able to port these non-geographic numbers. Their reluctance to move service providers is as a direct result of their inability to retain their customer facing number which is predominately a share call number or toll-free number strongly associated with their brand.

Without the introduction of full non-geographic number portability, this market will continue to be devoid of any material level of competition.

Question 9. Do you think the port back waiting period of two months in the current number portability regulations promotes effective number portability? If not, please elaborate and propose alternatives if any

MTN does not believe that the port back waiting period of two months promote effective number porting because if customers are unhappy with the service they getting at the new operator they have to wait for two months to port back. Ideally customers should be given a 7 day window to port back if the new network operator does not meet their requirements, in line with other consumer cool-off periods.

Question 10. Which provisions of the Number portability regulations including the functional specifications do you think should be reviewed to improve the efficiency and effectiveness of porting?

Regulation 11 under the schedule Functional Specifications prohibits a donor from rejecting a post-paid port or delaying a post-paid port on the grounds that the subscriber still owes money. This exposes the donor to substantial financial risk. As soon as the subscriber is allowed to port the donor loses any form of influence against the subscriber and it becomes very difficult to recover the early termination fees and any other amounts due and owing from a ported subscriber (which includes handset costs). MTN submits that subscribers should have the right to port to any network or service provider of their choice, however this right cannot supersede the donors right to claim early termination charges or any amount due as provided for in the contract signed between the subscriber and the donor. Regulation 11 in its current form is to the detriment of the donor. Unscrupulous subscribers are taking advantage of this loophole, which allows them to 'escape' payment of early termination fees.

MTN proposes that post-paid subscribers should only be allowed to port once they have settled all outstanding fees including contractually agreed early termination fees.

Question 11. Do you think the number of days it takes to port should be increased or decreased? Please elaborate and provide alternatives if any

As indicated above, South Africa has adopted an extremely competitive porting timeframe of one day. In MTN's opinion, there is no need or requirement to increase the number of days as this significantly impair the use of the number portability system. In addition, the risk involved in decreasing the porting time increases the possibility of fraudulent activity as the time

required to validate the authenticity of a porting request will be impacted. In addition, further reduction, which in MTN's view is unwarranted may result in additional developmental costs.

Question 12. Do you think the current recipient led porting process is effective? Please elaborate and provide alternatives if any

There is significant evidence to indicate that a recipient led porting process is best practice, however the current process is limited in its effectiveness as it does not provide for a verification of authenticity of port requests for prepaid subscribers. Consequently, MTN maintains that a confirmatory or "opt-in" SMS message be incorporated in the porting process for prepaid subscribers.

Question 13. Do you think there should be a standard/uniform call routing mechanism? Please elaborate

As way of background some of the early MNP adoptions relied on onward routing and distributed databases as a technical solution; at the time (prior to 2005) this was because network technology at the time could not support advanced IN solutions, and centralised databases were too costly to implement. In South Africa the regulator encouraged operators to determine the practical implementation of MNP, and by and large limited their involvement to the role of "project management". Operators cooperated to determine the technical solutions for number queries and call routing processes regarding porting. Ultimately operators in South Africa selected a signalling relay function (SRF) solution in conjunction with an "all call query" function, in order to enable direct routing of traffic for the purpose of number portability. As part of the solution a centralised database ensured, via an independent third party, that all information on ported subscribers was broadcasted to all other operators. This provided an operator to have its own mirrored copy of the centralised database in order to keep the dip costs to a minimum. It is critical to note that this decision permitted porting costs to be low enough to be absorbed by the relevant operators, as a result of operators not having to incur costs for every look-up of a ported number in order to determine the correct routing.

Given the ICT landscape within South Africa, where hundreds of entities are licenced to provide services, it is MTN's opinion that the current call routing mechanism is still the best method to follow, however given the costs involved relating to the central reference database, onward routing is supported for smaller operators who's call volumes to not merit being full participants of the CRDB.

Question 14. Do you think the processes and procedures for resolving subscriber complaints and providing subscribers remedies are efficient? Please elaborate

No, the processes and procedures that are articulated in the regulations, functional specifications, code of conduct and the ordering system specification talks to disputes that arise between donor and recipient operators and details the process and escalation processes that exist to resolve them. Subscriber complaints are handled via existing channels such as customer service and there is no dedicated structure for resolving subscriber complaints /remedies for porting. This poses the challenge as in addition to the subscriber there are three other parties involved namely the donor operator, the recipient operator and the clearing house. Although in our experience challenges with the clearing house have been few and far between, however where subscribers experience difficulty they are often left with the operators blaming the other for the problem. As a result, there is a requirement for recourse for subscribers who have had their number unwittingly ported through unauthorised or illegal porting.

Question 15. Do you think that consumers are adequately protected by the Number Portability regulations? If not, please elaborate and provide alternatives

No, it is MTNs opinion that customers are not adequately protected. MTN has become aware of unauthorised port outs from another network to MTN or vice versa. From our preliminary investigations into such transactions, it appears as though unscrupulous persons are able to port pre-paid customers to another network without their knowledge or consent.

Consequently, MTN would suggest changes to the MNP process, specifically that no port will be processed until the subscriber positively confirms that he or she requested the port. This can be achieved by verified Sim or by sending an SMS to the MSISDN in question requesting positive confirmation from the subscriber before the port is processed.

However, in the current process subscribers are only afforded an hour to confirm the port and if the port is not positively confirmed within the given hour, then the port is processed. The reason for this is due to the limitation of time period in the Mobile Number Portability Mobile Network and Service Provider Marketing, Sales Code of Practice and Communication with Subscribers in terms of the Mobile Number Portability Regulations published in Government Gazette No. 28091 dated 30 September 2005 ("the Code of Conduct") which stipulates that a donor must respond to a port request within one porting hour of receiving such request unless the relevant subscriber is a corporate.

MTN urges the Authority to amend this process in order to implement the changes proposed so as to prevent unauthorised/fraudulent MNP transactions and provide greater protection to consumers.

MTN believes that it is necessary for the Authority to amend the process since the MNP Regulations and subsequent processes were concluded in 2005 (over 10 years ago). During this time consumers have become far more sophisticated. Moreover, consumers are used to handling cell phones as part of everyday life therefore a customer who would like to port would be aware of the impending confirmation SMS and therefore be on the lookout. MTN submits that such a customer would not take issue with sending a confirmation SMS which is free of charge.

3. CONCLUSION

In summation, MTN would like to highlight the following aspects that are deemed pertinent changes in any new or amended number portability regulations this includes:

- i. a mechanism to address unauthorised or illegal porting by requiring a confirmatory SMS from a subscriber who requests porting before processing the port;
- ii. the need for number portability to be more inclusive of numbers used by individuals and corporations, such as toll-free;
- iii. the ability for donor operators to recover the costs from consumers for services and handsets without the need to follow expensive and lengthy litigious measures; and
- iv. Clear process to facilitate or customer complaints relating to porting.

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