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Our reference: 201901/07/31

29 January 2019

Mr Lordwill Zwane
Independent Communications Authority of South Africa
350 Witch-Hazel Avenue
Eco Point Office Park
Eco Park
Centurion

Via email: Lzwane@icasa.org.za

Dear Mr Zwane

RE: Draft Ordering System Specification (OSS) for Number Portability

Mobile Telephone Networks ("MTN") would like to thank the Independent Communications Authority of South Africa ("Authority") for the opportunity to make comment on the draft Ordering System Specification (OSS) for Number Portability.

Please find herewith our submission which comprises three main sections: introduction, general comments and specific comments on the draft OSS.

MTN hereby requests an opportunity to make oral representations should the Authority proceed with the public hearings as planned.

Kind regards,

A handwritten signature in black ink, appearing to read 'Geoff Blake', with a stylized flourish at the end.

Geoff Blake
Senior Manager: Technical Regulations & Mandated Provisioning
Mobile Telephone Networks (Pty) Ltd

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VAT Reg. 4630140434



**MTN'S SUBMISSION ON THE DRAFT ORDERING SYSTEM
SPECIFICATION FOR NUMBER PORTABILITY AS PUBLISHED
IN GOVERNMENT GAZETTE 42109 ON 13 DECEMBER
2018**

29 January 2019

1. INTRODUCTION

On 13 December 2018, the Independent Communications Authority of South Africa (“Authority”) published the Draft Ordering System Specifications for Geographic, Non-Geographic and Mobile Number Portability (“draft OSS”) in Government Gazette No. 42109 (Notice No. 1382 of 2018), in terms of regulation 7 of the Number Portability Regulations published in Government Gazette No. 41949 on 1 October 2018.

Interested parties were invited to submit written representations with regards to the draft OSS within thirty (30) working days from the date of its publication.

MTN recalls that the Authority, in response to consumer demands for greater competition, published the maiden Number Portability Regulations (“2005 Regulations”) on 30 September 2005 in Government Gazette No. 28091 (Notice Nos. R. 963 and R.964) in terms of section 96 of the now repealed Telecommunications Act of 1996 (Act No. 103 of 1996).

The 2005 Regulations provided consumers with greater choice of networks while retaining their numbers. The scope of the 2005 Regulations was limited to mobile numbers; however, with the publication of the Functional Specification for Geographic Number Portability under the Number Portability Regulation in 2007¹, the scope was increased to include geographic numbers as well.

On 28 March 2018² and subsequently on 1 October 2018³ the Authority published the Number Portability Regulations, 2018 (“2018 Regulations”) in terms of section 68(1)(b) read with 4 of the Electronic Communications Act (Act No. 36 of 2005).

¹ Notice No. 889 of 2007 in Government Gazette No. 30089 dated 13 July 2007

² Notice No. 392 of 2018 in Government Gazette No. 41538 dated 28 March 2018

³ Notice No. 1021 of 2018 in Government Gazette No. 41949 dated 01 October 2018

The 2018 Regulations repeal the 2005 Regulations and are applicable to geographic numbers, non-geographic numbers in the National Destination Codes (NDC): 086, 080 and 087; and mobile numbers as classified in the Numbering Plan Regulations⁴.

The 2018 Regulations consequently provide greater protection to consumers from unscrupulous number portability related practices. These regulations while welcomed by the broader market remain in abeyance until the framework that operationalises number portability, namely the Ordering System Specification (OSS) has been updated to cater for the portability of the aforementioned number types.

MTN therefore welcomes the Authority's initiative to review the draft OSS with the view that the outcome will be an OSS that is aligned with the provisions of 2018 Regulations, and with the anticipation that the 2018 Regulations will come into effect shortly after the OSS has been finalised.

MTN confirms its willingness to participate in any oral hearings which may be scheduled in regard to the draft OSS.

MTN's submission in respect of the draft OSS is structured as follows:

- Section 1: Introduction;
- Section 2: General Comments; and
- Section 3: Specific Comments.

2. GENERAL COMMENTS

Communication services, both geographic and non-geographic services are tightly interwoven into our identity as individuals and organisations. Mobile numbers are conveyed to our friends, families and business associates: we have them emblazoned on signage and printed on business cards.

Number Portability is often perceived as an effective and necessary way to maximise competition and consumer choice of network service providers. In addition, the incorporation of the non-geographic number ranges: 080, 086 and 087 to form part

⁴ Notice No. 370 of 2016 in Government Gazette No. 39861 dated 24 March 2016

of the larger portable numbers pool will provide corporate citizens with greater choice in network providers and stimulate competition within a market which has been devoid of any material level of competition.

Regrettably, the abuse of number portability to facilitate fraud is taking place and appears to have arisen over the past few years. In addition, MTN has seen a surge in unauthorised ports that were not requested by the subscriber.

MTN is appreciative that the Authority has heeded the industry input and concerns in drafting both the 2018 Regulations and the draft OSS especially in dealing with unscrupulous porting practices. MTN notes that by finalising the OSS, the Authority would have taken real steps in protecting subscribers from this form of activity.

MTN considers it to be prudent of the Authority to have not re-engineered the current number portability framework which has proven to be effective, as doing so would have had a negative impact to the functioning of both the Number Portability Company (NPC) and its stakeholders. MTN therefore welcomes the Authority's efforts to rather fine tune the current number portability framework to cater for the changes that have been introduced in the 2018 Regulations.

MTN supports a recipient led number porting process as introduced in the 2018 Regulations. Furthermore, MTN is pleased that the Authority has articulated the importance of the porting process being initiated when a subscriber submits a porting requests to the recipient operator.

Considering the aforementioned surge in unauthorised ports out of the MTN network that were not requested by the subscriber, MTN welcomes the Authority's proposal in introducing a One Time Pin (OTP) in the framework to verify that a subscriber has indeed requested a port to be initiated.

3. SPECIFIC COMMENTS

Ad paragraph 1 Definitions:

MTN notes with concern the inclusion of the definition of "third party porting" in the draft regulations which means *"ports that are executed by agents and/or contractors on behalf of an operator."*

It is unclear what role third party porting plays in a subscriber initiated and recipient driven porting environment.

In addition, other than in the definition the term third part porting does not appear elsewhere in document. MTN therefore suggests that the definition be removed.

Ad Paragraph 8 Dispute Resolution

Sub-regulation (3) states:

"Should the Parties fail to resolve any dispute between themselves or should the Executive Head of Sales of the Parties fail to reach agreement in the determination of any dispute referred to them as provided above, within seven (7) days of such referral, the Aggrieved Party may refer the matter to arbitration in accordance with the remaining provisions of this clause relating to arbitration. Such referral shall be by means of a written notice ("Arbitration Notice") faxed to the other party or parties using the relevant fax number listed in the Operator and Service Provider Contact List."

MTN proposes that E-mail correspondence be catered for in this sub-regulation in addition to the outdated mode of faxing.

Ad Paragraph 9 Force Majeure

The Authority references reasons for port rejection as laid out within the functional system specification (FSS) in sub-regulation 9(5) of the draft OSS.

MTN recommends that the Authority fully reference the documentation detailed in this sub-regulation. Furthermore, MTN proposes that sub-regulation reads as follows:

"(5) The reasons for refusal as prescribed in Regulation 5(1) to (5) of the FSS in the Number Portability Regulations (Government Gazette No 41949 of 1 October 2018) are, save for reasons e and i, essentially self-evident or objective. The Recipient should be able to resolve the problem. If the Recipient is unable to resolve the issue, the PST of the Donor should be able to resolve these problems. The aforementioned e and i reasons given for port rejection are likely to give rise to disputes of fact and may require intervention from sales and account management staff of the Recipient and Donor."

This point is valid for sub-regulation (8) as well and should be correctly referenced.

Ad Paragraph 10 Section A: Geographic and Non- Geographic Portability

The Authority incorrectly references sub-regulation 5(a) instead of 5(c) under sub-regulation (5)(b). MTN therefore proposes that sub-regulation 5(b) reads as follows:

"(b) the time frames for completing the managed process and for porting geographic and non-geographic numbers subject to sub-regulation 5(c) shall only be changed in extenuating circumstances, and with the subscriber's written consent; and"

Additionally, MTN would like to inform the Authority that there are other mechanisms other than SOAP that can be used to acknowledge transactions by the recipient, such as WebGUI. MTN therefore advises the Authority not to restrict the acknowledgement by recipients only to a SOAP interface under sub-regulation 13.

MTN notes that a port response was previously required by the Service Provider Identity (SPID) as opposed to an Operator Identity (OID) under sub-regulation 17. While MTN has noted the numerous cases whereby the OID and the SPID are treated as one and the same, MTN acknowledges that this has not always been the case in the past nor can it be guaranteed that it will not be the case in the future. Therefore, MTN suggests that the Port Response OID, should revert back to the previous version where it was reflected as Port Response SPID.

Furthermore, MTN notes the inclusion of the following in sub-regulation 18(f) under 'Port Response Transaction':

"The accepted numbers can be the same or a subset of the list of numbers originally specified in the port request but cannot include any numbers that were not present in that request. Furthermore, if the original port request was for a number range, this may not be changed, i.e., only acceptance or rejection of the entire number range is allowed. To accept porting of an individual number or number range, the donor operator sends the response with the included flag set to "1". To reject porting of a number or number range, the donor operator sends the response with the included flag set to "0"."

This point should also be included for the following processes as the criteria remains valid for them too:

- Port Response Transaction;
- Port Notification Transaction;
- Port Cancellation Transaction; and
- Port Reversal Request Transaction

The purpose of Sub-Regulation 31 'Change of Installation Address Request' is to ensure that the numbers/number range remains within the exchange code area of the block operator.

It is unclear to MTN whether the exchange code referenced in the document refers to the NDC code e.g. 011 or the ABC code e.g. 786 which indicates the Bramley exchange. If it is the latter, MTN suggests that the relevance of this ABC code may well be void and that the only limitation should be the NDC code and not the local exchange code.

Ad Paragraph 12 Valid Reasons Codes

Although the reasons for port rejection are articulated within the FSS, MTN is of the view that it would be worthwhile to repeat them under this section in order to provide clarity, and for the convenience of the reader.

Ad Paragraph 11 Section B: Mobile Number Portability

The schematic illustration depicted under sub-regulation 13 is incorrectly labelled as figure 12 whereas it should indicate figure 11. This labelling error has resulted in all subsequent figures being incorrectly labelled.

Sub-regulation 14 (2) should ideally indicate the gazette number which contains the functional system specification, namely Government Gazette No 41949 of 1 October 2018.

Message 2 and Message 3 of the aforementioned sub-regulation 14 both reference the mobile network operator (MNO) whereas previously the service provider was identified. Although there has been significant acquisition of service providers by network operators, MTN believes there is still merit in retaining reference to the SP messaging e.g. MVNO that are hosted by MNO may initiate a port, bill the subscriber and provide the necessary services, yet in terms of the new structure it would be questionable as to whether they could initiate the port.

Additionally, Message 3 references an Annexure A (Notification and Escalation Process), yet this process does not seem to be in the annexure.

Finally, the document includes two annexures, namely the message contents and the Validation Rules Matrix, both of which are catalogued as Annexure XX.

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