

Commonwealth of Australia

Telecommunications Act 1997

Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997 (Amendment No. 1 of 1998)

I, RICHARD KENNETH ROBERT ALSTON, Minister for Communications, the Information Economy and the Arts, make the following Declaration under subsection 63 (5) of the *Telecommunications Act 1997*.

Dated 28 February 1998.

RICHARD ALSTON

Minister for Communications, the Information Economy and the Arts

Commencement

1. This Declaration commences on gazettal.

Variation

2. The Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997 is varied as set out in this Declaration.

[NOTE: The Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997 was published in the *Gazette* on 30 June 1997.]

Clause 3 (Definitions)

3.1 Before the definition of “**current industry development plan**”, insert:

“ ‘**allocated number**’ means a number allocated under the authority of the numbering plan;

‘**call conveyancing costs**’ means the costs associated with any additional routing and processing required within the licensee’s telecommunications

network in order to transfer a call to the telecommunications network operated by Optus where the called customer has ported his or her number to Optus;”.

3.2 After the definition of “current industry development plan”, insert:

“ **‘customer transfer costs’** means the one-off administrative costs incurred by the licensee for the initial transfer of a customer from the licensee’s telecommunications network to the telecommunications network operated by Optus;”.

3.3 After the definition of “licensee”, insert:

“ **‘local number portability’** means the ability to convey portable local service numbers from the licensee’s telecommunications network to the telecommunications network operated by Optus;

‘local service’ means a carriage service that is:

- (a) capable of voice telephony; and
- (b) provided for receiving incoming calls, wholly or principally, at 1 fixed location where that location is in an area identifiable by the carriage service provider with which the call originates, from the number called and is:
 - (i) a switching facility; or
 - (ii) the premises occupied or used by a customer; or
 - (iii) in the immediate vicinity of the premises occupied or used by a customer;”.

3.4 After the definition of “operator services”, insert:

“ **‘Optus’** means Optus Networks Pty Ltd (ACN 008 570 330);

‘portable local service number’ means an allocated number that is used in connection with a local service other than a paging service;”.

Local number portability (new clauses)

4. After clause 12, insert:

“Local number portability

13. (1) Subject to this clause, the licensee must ensure, at its own cost, that its telecommunications network is capable of providing local number portability.

(2) Subject to this clause, the licensee must:

(a) if so requested by Optus; and

(b) as soon as practicable after Optus’s request is received;

provide local number portability in relation to portable local service numbers specified by Optus in its request.

(3) The licensee is not required to comply with subclause (2) unless Optus agrees:

(a) to pay the licensee for customer transfer costs on terms and conditions:

(i) agreed between the licensee and Optus by 1 April 1998; or

(ii) failing agreement, determined by the ACCC by 1 May 1998; and

(b) to contribute to the licensee’s call conveyancing costs at the level of one cent per call.

(4) Subject to subclauses (5) and (9), the licensee must comply with:

(a) subclause (1) by 1 May 1998 and at all times on and after 1 May 1998; and

(b) subclause (2) at all times on and after 1 May 1998.

(5) The ACA may, by instrument in writing:

(a) determine that it is unreasonable to expect the licensee to comply with subclauses (1) and (2) by the date and times referred to in subclause (4); and

(b) specify a later compliance date and later compliance times for subclause (4).

(6) If the ACA makes a determination under subclause (5), the licensee must comply with subclauses (1) and (2) on such date and times as are specified in the determination.

(7) In determining whether it is unreasonable to expect the licensee to comply with subclauses (1) and (2) by the date and times referred to in subclause (4), the ACA must have regard to whether the licensee's inability to comply is directly or substantially attributable to:

(a) Optus's level of co-operation in the development and implementation of arrangements necessary to provide for local number portability; or

(b) significant events of a technical or engineering nature that the licensee could not have reasonably anticipated.

(8) Subclause (7) is intended to limit the matters to which the ACA may have regard for subclause (5).

(9) The ACA may, by instrument in writing, determine that it is unreasonable to expect the licensee to comply with subclauses (1) and (2) in certain areas currently served by exchanges where, in its opinion, providing local number portability is not technically feasible.

(10) A determination under subclause (9) may be unconditional or subject to such conditions (if any) as are specified in the determination.

(11) For subclause (9), in determining whether it is unreasonable to expect the licensee to comply with subclauses (1) and (2), the ACA may only have regard to whether the licensee's inability to comply is directly attributable to the technical feasibility of providing local number portability from a particular exchange.

Cessation of clause 13

14. If the numbering plan in force from time to time requires the licensee to provide number portability or limited portability (within the meaning of that plan) in relation to portable local service numbers, clause 13 will cease to have effect at the earlier of the time when:

- (a) the licensee and Optus agree, in accordance with section 462 of the Act, on the terms and conditions on which the licensee will provide number portability or limited portability in relation to portable local service numbers; or
- (b) these terms and conditions are determined under section 462 of the Act by:
 - (i) an arbitrator appointed by the licensee and Optus; or
 - (ii) the ACCC.”.