

ETNO Reflection document - Comments on the Draft ECC Report 155 on “Number Portability Procedures”



October 2010

Executive Summary

- ETNO welcomes the opportunity to comment on the Draft ECC Report 155 and its in-depth exhaustive analysis of the provisions in the revised Regulatory Framework regarding Number Portability.
- Indeed, number portability is a fundamental element to consolidate competition on the market and a correct implementation is the best means to give confidence to consumers. On this background, ETNO will urge Member States to take a very cautious approach when transposing the Directives into national legislation.
- It is of utmost importance not to impose too far-reaching requirements which could be unrealistic for operators and unreliable for customers. In ETNO point of view, the practical implementation, the details of the process as well as the duration of service interruption are more critical issues which determine the time length for portability.
- ETNO believes that the right approach will be to ensure that the requirements should guarantee that consumers are not faced with loss of service beyond one day or preferably less. ETNO will also recall the need to distinguish residential and business customers due to a specific complexity of number portability on complex installations for business customers.

General comments

The Association of European Telecommunications Network Operators (ETNO)¹ wishes to thank the Electronic Communications Committee (ECC) and its working group Working Group Numbering and Networks (WG NaN) for providing the opportunity to comment on the Draft report 155 related to Number Portability Procedures.

The draft Report yields in a very timely manner a helpful contribution to the ongoing transposition and implementation of the revised Regulatory Framework's provisions on number portability as expressed in the Revised Article 30.4 and in Recital 47².

ETNO further acknowledges that the report gives both a helpful overview over various procedures concerning number portability and the various national approaches. Regarding the latter, ETNO finds that the draft report reflects the extensive work done by many NRAs to establish more efficient and reliable procedures to strengthen competition as well as consumer confidence when it comes to number portability.

Finally ETNO agrees with the report's observation that in practice very few issues regarding number portability problems have been reported.

Detailed comments

On the key issue related to the right understanding of Article 30.4, it is important to strictly consider, as pointed out also in some part of draft Report (4.3.1), the amendments evolution during European Commission, Council and Parliament long discussions on article 30 modifications: the final art. 30 is a compromise to maintain harmonization requirement and, at the same time, to avoid unnecessary impact on existing complex changing operator and NP/MNP solutions and processes, when they can be assessed as already appropriate with respect to end-user needs.

Draft Report, in our view, should also consider and deepen the new art. 30 of USD with respect to real need of the end users; it will be

¹ The European Telecommunications Network Operators' Association (ETNO) is representing 41 major companies, which provide electronic communications networks over fixed, mobile or personal communications systems in 35 countries. More information about ETNO can be found at: www.etno.eu

² Directive 2009/136/EC

more useful to evaluate new art. 30 requirements effects on existing process reliability, risk of loss of service for long time, operation assurance, etc. to derive acceptable guidelines for art. 30 implementation. In fact it is questionable that the overall length of the porting process could be more relevant for the end users compared to certainty and reliability of changing operator via the NP/MNP processes. The ECC draft report mentions objectively the risk to increase costs in case the whole porting system has to be redesigned which would be an additional burden on operators. In any case, the evaluation of the switching costs should be carried out with objective considerations and they should be calculated with respect to costs ensured by the operators.

It is necessary to point out that the availability of the access is a preliminary condition before launching the number portability process. E.g. regarding mobile portability, the availability of access shall be understood as the provision of the SIM/USIM by the recipient operator. In this sense the draft ECC report (4.3.1) reminds that the mention to the “initial request of the customer for a number portability” as the starting point of the porting process has been withdrawn from the final article 30. However, during the time needed by the recipient operator to install this access, the donor operator already prepares the porting of the number.

We also suggest comparing the approach and analysis of switching between operators as recently developed by BEREC (“Draft report on best practices to facilitate switching” that has been publicly consulted during June 2010). In fact, it is clarified that the new one-day requirement for NP, introduced by the new Regulatory Framework, has to be interpreted as follows: *“Number portability is a key facilitator of consumer choice and effective competition in competitive markets for electronic communications and should be implemented with the minimum delay, so that the number is functionally activated within one working day and the user does not experience a loss of service lasting longer than one working day.”*³

The term “...loss of service...” in this requirement has to be interpreted as a service described in the Universal Service Directive, not as an additional service offered by one of the network operators or service providers.

If the porting time is reduced to a too short period, it may involve deficiencies in the switching process and finally it would be necessary to reprocess with additional and detrimental times.

³ p 10, BoR (10) 34 Draft BEREC report on best practices to facilitate switching Public consultation (4 June – 2 July) June

In addition, implementing a too short time porting process involving weaker verification, control as well as validation process phases could be counter-productive for end-users who may be victims of slamming or porting without their consent, since the operators are not able to correctly check the porting process because of time constraints. Any additional time needed to carry out such verifications before the effective technical porting can be justified based on article 30 point 4 that stipulates: *“Competent national authorities shall also take into account, where necessary, measures ensuring that subscribers are protected throughout the switching process and are not switched to another provider against their will.”*

ETNO agrees with the described customer needs regarding NP. To increase customer confidence on NP, ETNO wants to highlight here that it is useful to focus on the reliability of the NP process itself. Therefore it is needed to discuss ways to port numbers on a common date specified and agreed between all parties (customer need b) rather than discussing how to speed up the NP process itself (customer need a).

It could be also valuable to emphasize that generally when the recipient led process is implemented and automated, it has considerably reduced deficiencies and obstacles for the consumers and it has limited possible action for customer retention.

Therefore the term *“...subscribers who have concluded an agreement to port a number to a new undertaking...”* has to be interpreted as an agreement between the customer, the recipient NP operator and the donor NP operator on the number(s) to be ported, the day of porting and the technical and contractual terms of the porting.

ETNO on this background urges Member States to take a cautious approach when transposing and implementing the revised Article 30.4 to make sure it happens in way that does not conflict with genuine user interest and is operational viable. For example although the Universal service directive art. 30 makes no distinction between residential and business users, we consider that in case of a specific complexity such as in the business market, some flexibility is necessary in order to improve the quality and the reliability of the switching process. We agree with ECC which mentions that business subscribers plan their porting well in advance. Therefore, in this case, but also in other cases indicated above, the requirement for a shorter porting time is irrelevant.

The idea to focus on an NP procedures with a maximum loss of service during one day may be the most reasonable approach. Additionally it should be clear that various national set-ups may eventually provide the same outcome for users and competition and thus no harmonisation measures should be imposed just for the sake of harmonisation.