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DA 03-2190

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Michael F. Altschul
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Cellular Telecommunications & Internet Association
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Re: CC Docket No. 95-116: Wireless Local Number Portability Implementation

Dear Messrs. Scott and Altschul:

Thank you for Mr. Scott's May 20, 2003, letter regarding wireless local number portability (LNP) implementation. The Commission is committed to ensuring that consumers receive the substantial benefits conferred by wireless LNP, and to that end, the Bureau is pleased to offer guidance on certain remaining implementation issues. In this letter, we respond to the issue raised in Mr. Scott's letter, as well as on a separate LNP implementation issue that has been raised by the Cellular Telecommunications and Internet Association (CTIA) in its May 13th petition for declaratory ruling.

At the outset, we reiterate the Commission's view that local number portability is necessary to preserve consumer choice and enhance competition among commercial mobile radio service (CMRS) carriers and between the wireless and wireline industries.¹ We trust that the guidance we provide today will ensure that carriers continue to move forward toward completing their implementation efforts.

Implication of the Porting Interval for E911: On May 13, 2003, CTIA filed a petition for declaratory ruling, asking the Commission to resolve a number of outstanding LNP implementation issues.² One of the issues CTIA raises is the implication of the porting interval for enhanced 911 (E911) service.

The porting interval refers to the amount of time it takes for two service providers to complete the

¹ See Verizon Wireless Petition for Partial Forbearance from the Commercial Mobile Radio Services Number Portability Obligation, WT Docket No. 01-184, *Memorandum Opinion and Order*, 17 FCC Rcd 14972, 14979-80 (2002); Telephone Number Portability, *First Report and Order and Further Notice of Proposed Rulemaking*, CC Docket No. 95-116, 11 FCC Rcd 8352, 8434-8437 (1996) (*First Report and Order*).

² Telephone Number Portability, CC Docket No. 95-116, Petition for Declaratory Ruling of the Cellular Telecommunications & Internet Association, filed May 13, 2003 (*May 13th Petition*).

process of porting a number. According to CTIA, the wireless industry has set a goal of completing ports within two and one half hours.³ Wireline ports, CTIA says, take as long as four business days to complete.⁴

CTIA describes industry efforts to determine whether the porting interval can be reduced and indicates that viable alternative solutions have been considered. CTIA explains that, under the alternative solutions that have been proposed, carriers activate service for a customer with a ported number before the number is fully disconnected by the old service provider.⁵ These approaches result in a period of “mixed service,” during which a customer essentially has service with two carriers with the same phone number until the porting process is complete. CTIA contends that although “mixed service” approaches are considered viable, the industry is concerned about the implications of such approaches for compliance with Commission E911 requirements.⁶ For example, in the case of a port from a wireline to a wireless carrier, during the period of “mixed service,” if the wireless carrier activates service before the Number Portability Administration Center (NPAC) broadcasts the porting change throughout the network, and the new wireless customer makes a 911 call, a call-back from the responding Public Safety Answering Point (PSAP) would be routed through the old wireline switch. Alternatively, CTIA contends, a different risk could arise during the mixed service period if a call is placed from the wireline phone and the PSAP attempts a call-back. The PSAP’s call could be routed to the wireless phone instead of the wireline phone.⁷ CTIA asserts that, because of these E911 issues, the industry has been unable to reach consensus to support “mixed service” approaches.⁸

While we recognize these concerns, in our view, the Commission’s E911 rules do not prohibit the industry from adopting a “mixed service” approach. Section 20.18(d)(1) of the Commission’s rules requires carriers to relay the telephone number of the originator of a 911 call to the designated PSAP.⁹ The Commission has recognized, however, that carriers may not, in all cases, be able to provide a call-back number or reliable call-back capability. Section 20.18(d)(2) of the Commission’s rules provides that “when the directory number of the handset used to originate a 911 call is not available to the serving carrier, such carrier’s obligations ... extend only to delivering 911 calls and available call party information ...” In adopting this section, the Commission explained that:

Covered carriers will not be required to provide reliable call-back numbers to PSAPs in the case of mobile units that are not associated with a dialable telephone number (for example, because they were designed or offered on an originate-only plan, they were never initialized, or the subscription has lapsed).¹⁰

During periods of “mixed service,” before the NPAC broadcasts a porting change throughout the network to enable carriers to correctly route calls to the ported number, a carrier will not be able to deliver a reliable call-back number to a PSAP answering a 911 call. Under the Commission’s rules, a carrier’s obligations during this period would extend only to delivering the 911 call and

³ *Id.* at 7.

⁴ *Id.*

⁵ *Id.* at 9.

⁶ *Id.*

⁷ *Id.* at 11.

⁸ *Id.* at 12.

⁹ 47 CFR § 20.18(d)(1). In addition, sections 20.18(d)-(g) of the Commission’s rules require carriers to transmit location information for 911 calls.

¹⁰ In the Matter of Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, *Memorandum Opinion and Order*, 12 FCC Rcd 22665, 22717 (1997).

other available call party information.

Although we do not view our rules as holding carriers liable for failure to deliver a valid call-back number during the time a port is being completed, we remain concerned that customers be fully informed about the potential implications for emergency calling associated with “mixed service” approaches. For this reason, to the extent that carriers decide to pursue a “mixed service” approach as they complete port requests, I strongly encourage carriers to instruct consumers at the point of sale about the limited emergency services that will be available to them during the porting process. In addition, we anticipate that the industry will, particularly with regard to wireline to wireless ports, further reduce the duration of porting intervals so that the impact on emergency services will be minimized. As LNP is being implemented, we intend to closely monitor porting activity to determine whether further action on this issue remains necessary.¹¹

Business Rules: In its May 20th *ex parte* letter, Verizon Wireless (Verizon) asserts that LNP will work only if it provides customers with the maximum flexibility to switch carriers, subject only to verification procedures to validate a port request.¹² To that end, Verizon urges the Commission to confirm that carriers may not impose restrictions on the porting-out process, beyond necessary customer validation requirements to prevent fraud.¹³

Verizon contends that, in the absence of clear guidance from the Commission, carriers may attempt to impose non-porting related conditions as an impediment to porting, e.g., by refusing to port if a customer owes an early termination fee to the old service provider or otherwise has an arrearage on an account.¹⁴ Verizon argues that the Commission must ensure a level playing field for porting. It contends that one carrier should not be allowed to implement portability subject to restrictive conditions, while other carriers allow customers to leave freely upon validation of identity.¹⁵

We agree with Verizon that carriers may not impose restrictions on the porting-out process beyond necessary customer validation requirements. Under the Act and in the Commission’s rules, the term number portability is defined to mean “the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience, when switching from one telecommunications carrier to another.”¹⁶ This language contemplates an environment where it is as easy for consumers to switch carriers and port their existing telephone number as it is for consumers to switch carriers without taking their existing number with them.

Today, consumers who wish to change service providers may request service from a new carrier at any time regardless of their standing with their old provider. Under the Commission’s rules, consumers must have the same freedom to change carriers in a number portability environment. The Commission’s rules require carriers to port a number when they receive a valid request¹⁷ and carriers may not refuse to port while attempting to collect fees or settle an account, or for other reasons unrelated to validating a customer’s identity. Of course, nothing in the Commission’s

¹¹ We note that the porting interval issue raised by CTIA in its May 13th Petition remains pending, and we do not address the merits of that issue in this letter.

¹² Letter from John T. Scott, III, Verizon Wireless to Marlene H. Dortch, Secretary, FCC, CC Docket No. 95-116 (filed May 20, 2003).

¹³ *Id.* at 1.

¹⁴ *Id.* at 2.

¹⁵ *Id.* at 1.

¹⁶ 47 U.S.C. § 153 and 47 C.F.R. § 52.21(k).

¹⁷ 47 C.F.R. §§ 52.23, 52.31.

rules would preclude carriers from considering customers' creditworthiness in determining whether to offer service to any particular customer.

Other Issues: Additional implementation issues have been raised by CTIA. We anticipate that these issues will be addressed separately well in advance of the November 24, 2003, implementation deadline. We note that the Commission recently released an order addressing two of the issues mentioned in CTIA's May 13th petition: the definition of the 100 largest Metropolitan Statistical Areas (MSAs) and the bona fide request requirement.¹⁸ A copy of the order can be found on the Commission's web site at www.fcc.gov by referencing document number FCC 03-126.

Another remaining issue concerns the extent of intermodal porting that will be available and whether wireline carriers have an obligation to port their customers' telephone numbers to wireless carriers whose service areas overlap the wireline carriers' rate centers. While the Commission is considering this issue, we wish to emphasize the limited scope of this matter. The Commission's rules require porting between wireless and wireline carriers.¹⁹ The rate center issue only concerns the extent of porting that is required in cases where a wireline customer wishes to port a number to a wireless carrier that does not have a presence in the rate center where the customer is physically located. Without addressing this limited issue on its merits, we emphasize that porting between wireline and wireless carriers is required in other cases.

We anticipate that, with this letter, parties will proceed to resolve existing issues and move toward completing their LNP implementation efforts as quickly as possible. As mentioned at the outset, we expect carriers to comply fully with the LNP requirements and begin offering number portability in accordance with the schedule the Commission has adopted.

Should you have any questions with respect to any portion of this letter, please do not hesitate to contact the Bureau's Policy Division at (202) 418-1310.

Sincerely,

John B. Muleta
Chief, Wireless Telecommunications Bureau

¹⁸ Numbering Resource Optimization, *Fourth Report and Order and Fourth Further Notice of Proposed Rulemaking*, CC Docket Nos. 99-200 and 95-116, FCC 03-126 (rel. June 18, 2003).

¹⁹ *First Report and Order*, 11 FCC Rcd at 8433.