



# Digicel

## **Digicel response to Consultation on Policy Recommendations for the Adoption of Number Portability in ECTEL States**

**25<sup>th</sup> January 2016**



We thank you for inviting Digicel to provide its comments on Number Portability. Digicel is of course available, and would be happy, to discuss our submission further.

The comments as provided herein are not exhaustive and Digicel's decision not to respond to any particular issue(s) raised in the Consultation on Policy Recommendations for the Adoption of Number Portability in ECTEL States or any particular issue(s) raised by any party relating to the subject matter generally does not necessarily represent agreement, in whole or in part nor does any position taken by Digicel in this document represent a waiver or concession of any sort of Digicel's rights in any way. Digicel expressly reserves all its rights in this matter generally.

Please do not hesitate to refer any questions or remarks that may arise as a result of these comments by Digicel to: -

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### **Recommendation 1**

***Number Portability will be restricted to service provider number portability, specifically porting between mobile to mobile and fixed to fixed numbers only, within the same ECTEL jurisdiction only. The porting of fixed to mobile numbers and mobile to fixed numbers will not be permitted across the ECTEL jurisdictions. In the case of fixed Number Portability, the porting of fixed numbers will only be permitted within the same local exchange and local call areas only, but the porting of numbers between different ECTEL jurisdictions will not be permitted.***

Digicel agrees that Number Portability should be restricted to service provider portability (mobile to mobile and fixed to fixed) within the same ECTEL member state jurisdiction.

While ECTEL's research has not identified countries where service portability has been implemented Digicel believes that this facility is available in the US, Canada and South Africa (described as intermodal porting on the FCC website). The specific reasons why this was practical in these markets appear to relate to the historical structure of the numbering and charging schemes and as these are not present in the ECTEL member states Digicel does not believe that it is possible to implement service portability for ECTEL.

In relation to location portability the restrictions proposed by ECTEL only make sense if the fixed number which is the subject of a location portability request has inherent geographic location information which is used for retail billing.

If on the other hand all fixed to fixed and mobile to fixed calls are charged at a single retail price point then there is no consumer welfare reason to prohibit location portability.

In fact, limiting location portability to being within the same local exchange area is an incumbent centric view of the market. New entrants are likely to use IP based voice services which will not have the same legacy technology constraints as the fixed incumbent.

If a new entrant has a "local exchange area" covering the entirety of one of the ECTEL markets then a question arises whether this is the exchange area being referenced? The alternative would be to base the definition on the incumbent network topology. Basing the definition on the incumbent network structure gives the fixed incumbent a market advantage as its IT and retail systems are already designed to map to this topology. Forcing new entrants to unnecessarily match this will increase costs for them and limit the benefits to consumers of the technology capabilities of newer networks.

In terms of porting between ECTEL states, Digicel agrees that this should not be permitted. To allow this type of porting would mean that the location information inherent in the country code



of the individual ECTEL member states would become meaningless. Retail and wholesale charging would become less transparent for consumers and carriers and issues with roaming may arise.

### **Recommendation 2**

***The Number Portability process of moving a customer's number from one provider to another provider will be achieved by Recipient Led (the customer requests porting through the new Recipient operator).***

Digicel agrees that a recipient led porting process is more straightforward and efficient both in terms of its operation and implementation.

### **Recommendation 3**

***The fixed and mobile Number Portability service will be managed and operated across the ECTEL jurisdictions through a centralised Number Portability system which will track all fixed and mobile numbers throughout the ECTEL jurisdictions, manage the porting process between recipient and donor operators and provides some ancillary administration functionality. This approach enables a standardised porting process to be operated across all providers across the ECTEL jurisdictions.***

Digicel agrees that a solution utilising a centralised database offers operational and implementation benefits and is the preferred approach.

### **Recommendation 4**

***By adopting the centralised driven Number Portability approach, the successful provider of the Number Portability Clearinghouse will be licenced by ECTEL on behalf of the NTRCs to provide Number Portability services across all ECTEL jurisdictions and will be required to contract directly with the licenced ECTEL operators.***

While ECTEL may provide a facilitation role during the procurement phase the contracting entities are ultimately the operators and the clearing house if one is used. It is not clear to Digicel that the Number Portability Clearinghouse needs to be licenced by ECTEL or the NTRC's. Whether the licenced operators directly provide, own and operate a centralised database function themselves or outsource it to a 3<sup>rd</sup> party clearinghouse appears to be beyond the scope of ECTEL's regulatory oversight. In this regard ECTEL has not articulated the legislative provisions under which it's proposed licencing of the clearing house would be carried out.

The modalities of the procurement and commercial arrangements between the operators and any potential clearinghouse provider require discussion and agreement between the operators themselves. If ECTEL choses to mandate a specific supplier and form of commercial arrangement then ECTEL must be prepared to underwrite any liabilities and/or damages that arise from its



choice. It must also assume responsibility for the ongoing management of the Number Portability clearinghouse relationship should it not deliver as contracted.

#### **Recommendation 5**

***The Number Portability Clearinghouse service may be either operated from ECTEL or hosted overseas.***

Digicel agrees that maintaining flexibility as to the location of the Number Portability clearinghouse services allows costs to be minimized and widens the potential choice of supplier.

#### **Recommendation 6**

***All fixed and mobile traffic to ported and non-ported numbers originated and terminated in ECTEL jurisdictions will be directly routed by the originating network to the terminating network using the All Call Query approach. All Call Query direct routing is widely used in Number Portability implementations across the world and is considered to be the most operationally efficient and reliable form of routing in Number Portability jurisdictions.***

While ACQ may be operationally efficient as ECTEL points out, there is a high cost to its implementation. In smaller markets with limited numbers of operators, such the ECTEL states, the volume of indirect routing will likely be limited in the short to medium term. Original number blockholders will, in any event, have to offer a lookup and transit capability to international carrier for inbound traffic destined for ported out numbers. Digicel believes that blockholders must be allowed to charge for lookup and transit for calls which are offered into their network without a routing code which indicates that a previous lookup has been carried out by the network offering the traffic into them. The levels of this charge should be left to the networks to set. There will therefore be a commercial imperative for local operators to route traffic directly and any carrier setting too high a price to international carriers faces being undercut by the other local operators in the market. The Number Portability clearing house should be restricted from selling lookup only access to third party operators unless previously agreed with local operators and the funds received decrementing off the charges levied on the local operators. This approach will encourage the use of ACQ without having to mandate it.

#### **Recommendation 7**

***Each operator will be responsible for their own set-up costs to prepare for the implementation and launch of Number Portability across the ECTEL and such set-up costs shall not be directly charged to consumers or other stakeholders.***



Digicel agrees with this recommendation. The cost to an individual operator will depend on its internal network and IT systems configuration. The intention to introduce Number Portability has been well flagged by ECTEL and operators who have chosen network and IT architectures which will not facilitate this should not be subsidized by those who have.

### **Recommendation 8**

***Recipient operators will be allowed to charge customers for porting their numbers at the discretion of each recipient operator. Consumer charging will be reasonable but ECTEL and the NTRCs reserve the right to set a maximum limit to consumer porting charges. Donor operators will not be permitted to charge customers for porting out numbers from their network.***

Where any operator has costs in signing a new customer (for example the cost of a SIM or the cost of a landline installation) this cost must ultimately be recovered from the customer or the operator will not be profitable. Whether these costs are explicitly recovered on an itemized basis or recovered in the wider service charges is a commercial decision for the operator in question. Where the recipient operator for porting incurs a cost from the port a similar commercial decision arises. Digicel agrees with the ECTEL proposal that recipients should have the commercial freedom to recover such costs as they see fit. Digicel further believes that competitive pressures will curtail the level of any such charges and there is no need for ECTEL to intervene in this aspect of the market. Notwithstanding any other contractual conditions or liabilities between a donor operator and its departing customer Digicel believes that provided the donor operator is compensated by the recipient for the cost of the porting activity it is not appropriate for it to double recover such costs from the departing customer.

### **Recommendation 9**

***Donor operators shall be permitted to charge recipient operators for reasonable costs which are directly attributable to the actual efficient processing of porting requests. ECTEL reserves the right to set a maximum limit to donor porting charges.***

Digicel agrees that donor operators should be able to charge recipient operators for the actual handling of port requests. From a service provider perspective number portability is a customer acquisition tool. Donor operators have no business need for porting and in terms of cost causation it is the gaining operator who initiates the porting activity that drives cost. Number Portability is used by the gaining operator to facilitate the signing of a new customer and as such the recipient should bear the reasonable costs of using the facility. Digicel believes that in the first instance the level of such charges should be a matter of commercial negotiation between the operators engaged in porting.



### **Recommendation 10**

***Fixed and mobile Number Portability should be implemented and launched in parallel and where practical, at the same time.***

Digicel strongly endorses the position that fixed and mobile portability should be launched at the same time.

The rationale for the introduction of Number Portability is that it lowers barriers to switching. This in turn facilitates competition and market entry. Given the high concentrations in the fixed market following the Cable and Wireless and Columbus merger such market entry enablers are all the more necessary.

Any delay in the introduction of fixed portability following the introduction of mobile portability simply allows the fixed incumbent (which also offers mobile services) to enjoy the advantages of mobile number portability while continuing to leverage its fixed market position. Such delays would allow the fixed incumbent to lock in mobile customers by offering fixed/mobile bundles which even if they could be replicated by competitors consumers would be unwilling to switch because of the need to change their fixed numbers.

Digicel notes that the early introduction of fixed portability would facilitate the offering of competitive fixed services to the public sector in the ECTEL States thus helping to reduce the cost to the public purse and allowing for the redirection of the savings to the exchequer to other public policy priorities.

### **Recommendation 11**

***Number Portability will be implemented and launched to the ECTEL public within 12 to 15 months from the official launch of the ECTEL Number Portability programme to the operators and Number Portability stakeholders.***

Digicel believes that the timeline set out by ECTEL is achievable. However Digicel cautions that even with the willing participation of all stakeholders in the process such complex projects may be subject to unforeseen issues and difficulties which could impact the project plan. While a target launch date might be set now all parties should exercise restraint in being too definitive as to the actual launch date until the project has progressed sufficiently to give greater confidence as to the completion date.

### **Recommendation 12**



***The implementation and preparations for the launch of Number Portability in ECTEL will be managed by a cross stakeholder working group reporting to ECTEL, but ECTEL and the NTRCs shall be responsible for setting the key Number Portability process, functional details and implementation timeframes and making key Number Portability programme decisions etc.***

Digicel welcomes the fact that ECTEL is proposing to be actively engaged in the management of the implementation process. However given the nature of the project with stakeholder input and engagement required from all sides and given the fact that many of the issues that arise will be technical, operational or commercial matters for service providers (including the terms of any agreement with a clearinghouse provider) it may not be appropriate or even possible for ECTEL and the NTRCs to exercise decision making in respect of all aspects of the Number Portability process.

The exact nature of the roles of the various participants in the programme will require careful definition to ensure that appropriate stakeholders are making the relevant decisions which are in line with their respective responsibilities.

### **Recommendation 13**

***All customer porting requests will be completed within; 1 working day for mobile Number Portability and 5 working days of fixed Number Portability, from the date of the customer's validated and signed porting request.***

Digicel disagrees with the ECTEL proposal to have different porting times for fixed and mobile. There is no objective reason to have this difference.

In Digicel's experience international best practice is for the porting times to be the same irrespective of the service type. In fact as ECTEL itself points out one day porting times for all service types are in place and working in all EU states and has been since 2011. In the US the FCC number porting rules require "simple" ports to be processed in one business day. This is direct empirical evidence that notwithstanding technology differences between fixed and mobile there is no technical, operational or commercial reason to have longer porting times for fixed when compared to mobile.

In terms of fixed line ports a 5 working day (or one week) delay between the new provider installing a fixed access path and the consumer transferring their number represents a significant impairment of the customer experience. It also places a significant operational overhead on the gaining operator which must hold open its provisioning processes for an extra week. There is also an unnecessary delay for the gaining operator in enabling the service and commencing customer



billing and conversely there is a windfall for the losing operator from the unnecessary prolonging of its billing relationship with a customer who wants to leave it.

Given the structure of the fixed markets in the ECTEL states the ECTEL proposal can only benefit the incumbent and impair the prospect of effective competition in the fixed market.

#### **Recommendation 14**

***The data transfer during the porting process between the recipient and donor operators is minimised to ensure efficient and robust consumer porting experience with minimal unnecessary porting failures or rejections. Porting data transfer will be restricted to MSISDN/ number being ported and donor operator. Porting process security and integrity will be provided by independent customer validation for each porting request, by either SMS (for mobile number porting requests) or Interactive Voice Response or PIN (for fixed number porting requests).***

Digicel agrees that the transfer of information during the porting process should be minimized. This reduces complexity and cost.

In terms of the secondary authentication Digicel believes that this may not be justified in the case of the ECTEL markets depending on the cost of implementation. Fraud by third parties is a limited issue in the case of fixed as the gaining operator must provide a fixed access path to the location prior to initiating the port request. This limits the scope for such fraud and/or error. For mobile, provided the validation carried out by the gaining operator includes some form of call back with the requesting customer fraud is also protected against. While this leaves the possibility of error, the operational experience of Digicel staff who have worked in jurisdictions without secondary authentication is that the incidence of this is very low. Short porting times also mitigate the negative impact of such errors as they can readily be rectified and the incorrect port reversed.

As the cost of implementation of these facilities must ultimately be recovered from the market in some way, shape or form Digicel believes that it is appropriate that ECTEL consider whether there is an overall consumer welfare surplus when balancing the cost of secondary authentication with the prevention of low levels of input error.

#### **Recommendation 15**

***Once a customer's porting request has been authorised by the customer and validated by the Number Portability Clearinghouse and passed to the donor operator for approval, the porting request must proceed to completion unless legitimately rejected by the donor operator in compliance with the rejection reasons determined by ECTEL and the NTRCs. Once a validated***



***porting request has been passed to the donor operator by the Number Portability Clearinghouse it cannot be amended or cancelled by any party.***

Digicel agrees that there is a point at which the port request cannot be “recalled”. This simplifies the process flows and reduces cost. For short porting times this should be on submission to the clearinghouse. While Digicel does not agree that secondary authentication is a necessary step within the process if it is to be included then the authentication should be the point of no return. There must also be some defined time-out period on the secondary authentication so that if it is not initiated within a prescribed and reasonably short timeframe the port request should lapse.

#### **Recommendation 16**

***Postpaid consumers can port their number if the total billed and unbilled account balance is less than the deposit held by their current operator, provided their service is not barred or suspended from making outbound calls at the time the consumer’s porting request is processed by the recipient operator. Debt cannot be used to prevent pre-paid consumers porting their number.***

Digicel agrees with the specific wording of the ECTEL recommendation. Digicel notes that in order to operate effective credit management processes it must be reasonably straightforward for service providers to suspend or in some cases terminate service to customers. In this regard we are mindful of proposals within the Draft Electronic Communications Bill which in fact constrain service providers in this regard. ECTEL must ensure a consistency between the recommendations in respect of porting and the draft provisions in the Bill.

#### **Recommendation 17**

***Once the customer’s validated porting request has been passed to the donor operator by the Number Portability Clearinghouse, the donor operator will not be permitted to contact the customer during the period the porting request is being processed. Once the porting request has been successfully completed, for a period of 60 days, the donor operator will only be permitted to contact the customer for the sole purpose of recovering any outstanding payments or debts and will under no circumstances contact the customer during this period with the purpose of soliciting the customer to return to the donor operator’s network.***

This recommendation has two elements the first is relates to contacts during the porting process the second relates to post porting contacts.



In relation to the first element Recommendation 15 appears to render this proposal irrelevant. The point at which the donor operator finds out about the port request is after the point of no return. Whether or not there is a contact cannot influence the completion of the port.

In relation to the second element Digicel believes that the ECTEL proposal is not in the interests of consumers. If losing operators are prepared to offer former customers enhanced terms and customers wishing to take these up then it would appear to be not in the customer's interests to prevent such offers being made. ECTEL's rationale that a 60 day prohibition on such offers being made allows the customer form a relationship with its new provider can only be valid if the offers are going to sufficiently compelling to make the customer switch back. If they are not compelling the customer will continue service with their new provider and build the relationship. Therefore the ECTEL proposal denies customers the potential of receiving offers of better terms and having the choice of taking them up.

In relation to the issue of such contacts being an annoyance this can be dealt with by the limiting the volume of such contact rather than prohibiting them.

In fact if it becomes known that once you switch your previous supplier will make you an improved offer then it is likely that customers will contact their existing suppliers before switching to obtain better terms by threatening to leave. This can only benefit customers as it crystallizes the benefits of Number Portability by giving consumers a tool to drive more competitive offerings.

On balance therefore Digicel believes that the ECTEL proposal is unnecessary and runs counter to the operation of a competitive market.

### **Recommendation 18**

***Customers will not be permitted to port their number to another operator within 60 days of their previous successful porting request.***

Digicel disagrees with the ECTEL proposal. Number Portability is not a finite resource it is a process. Given the size of the ECTEL markets the volume of ports is likely to be low in comparison with the clearinghouse capacity capability and therefore this is not a reason to place constraints on consumers switching.

Similarly it appears to be anti-consumer to limit their ability to "to merely avail themselves of the latest or best offers or price promotions" as proposed by ECTEL. In fact the whole premise of Number Portability is to lower the threshold for consumer switching.



High levels of switching are indicative of intensive levels of competition in the market and should be encouraged rather than inhibited by ECTEL.

Ultimately if consumer switching reaches problematic levels then gaining operators are likely to introduce mechanisms to minimize the issue.

#### **Recommendation 19**

***Only real-time porting of customer numbers will be allowed and customers will not be able to defer or delay porting requests to later dates.***

Digicel does not agree with this recommendation. While so called deferred ports may not be a material issue in the fixed and mobile retail consumers markets they are a key enabler of customer choice in the Enterprise/Business Solutions markets. In these cases larger Enterprise/Public Sector bodies prefer out of hours disruption to customer/client contact lines. In addition such customers often require co-ordination between communications service providers and suppliers of PBX equipment. This involves the ability for gaining operators to specify out of hours deferred ports is an important input to driving a competitive fixed market. ECTEL's proposals therefore only serve to entrench the position of the fixed incumbent and are distortive within the market.

#### **Recommendation 20**

***The porting process will allow the porting of multiple customer numbers within a single porting request (where "multiple number" is defined as two or more numbers belong to the same customer account), both contiguous and non-contiguous number ranges, to support the efficient porting of multiple number blocks.***

Digicel agrees that so called "multi-line" ports should be supported. As these are likely to be associated with business/enterprise accounts in both fixed and mobile Digicel's comments in respect of recommendation 19 are relevant. It would appear inconsistent that ECTEL is proposing to make explicit provision to facilitate transfer of business services under this recommendation 20 but propose to inhibit them under the current proposal for recommendation 19.

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