



Internet Telephony Services Providers' Association

9th June 2005

Dispute between BT and Vodafone – Geographic Number Portability (GNP)

ITSPA, the Internet Telephony Services Providers' Association, has considered Ofcom's draft Determination to resolve a dispute between Vodafone and BT with regards geographic numbering portability with interest. ITSPA has stressed in previous statements that efficient and effective Number Portability will be a key ingredient for the UK becoming the most advanced and competitive telecoms market in the world as we move into the era of IP communications. ITSPA would like to make the following points with regards this present draft Determination.

We note that, although the USD does not mandate the provision of portability between fixed and mobile networks, Recital 40 does sanction NRAs choosing to provide for porting between fixed and mobile networks.

Given the advancements in technology and the increasing convergence between networks and devices, the boundaries between fixed networks, mobile networks and, indeed, "nomadic" services are becoming increasingly blurred. If a geographic number is used according to the Numbering Plan, then the service for which the number is intended to be used should, arguably, be of no concern of the Donor Operator. We believe that the inclusion of the phrase "at a specific location" in the definition of Number Portability is inappropriate in today's converging market place.

In the context of this dispute, ITSPA contends that, even though the Subscriber's *right* to Number Portability is constrained by the need for the NTP to be at a specific location, that does not prevent their service provider *choosing* to offer more than the Condition requires them to. General Condition 18.1 does not specify whether the Donor Operator or the Recipient Operator is the Communications Provider who "shall provide number portability". In paragraph 4.37 Ofcom refers to the number portability request of the "Vodafone Wireless Office customer". Therefore the statement by Ofcom in paragraph 4.38 that "BT therefore has no obligation to provide its customers with the facility enabling them to retain their geographic numbers for use with Vodafone Wireless Office under General Condition 18.1" is somewhat of a non-sequitur. If the Recipient Operator requests portability from the Donor Operator then, logically, it is the Recipient Operator who is providing that service to their new Subscriber. Thus, it is the Recipient Operator who should determine the nature of the service they are willing to offer their new Subscriber.

It is Number Portability (i.e. the Subscriber's right) that is derived from Article 30 of the USD, not Portability (i.e. the obligation of the Communications Provider). The proviso contained in Article 30 (1) that the paragraph "does not apply to the porting of numbers between networks providing services at a fixed location and mobile networks" refers to the Subscriber's rights against his (new) service provider, not to the obligations between service providers. As already stated, the



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new service provider should be permitted to offer more than the mandatory requirement if he chooses.

BT's obligation under Condition 18.2 is to provide Portability. The fact that the definition of Portability contains within it a reference to Number Portability does not mean that the obligation of one communications provider to another to provide Portability is necessarily constrained by the minimum obligation that a provider must offer its own Subscriber. We therefore disagree with Ofcom's contention in paragraphs 4.2 and 4.3 (and 4.18 and 4.19) that BT is not obliged to port geographic numbers to Vodafone.

ITSPA agrees with Ofcom's suggestion in paragraph 4.5 that there is no logic to allowing providers and their Subscribers to use geographic numbers with mobile services (in compliance with the Numbering Plan) and yet not allowing Subscribers to port their existing geographic numbers for use on the same service. This appears to be an example of BT applying the "letter of the law" to the detriment of end users. As Ofcom explains in paragraph 4.21 onwards, the intention of the Condition was not to stop the porting of numbers between fixed and mobile companies, merely not to mandate it. The intention was to limit the rights of *Subscribers*, not the rights of Donor Operators.

We would recommend that, going forward, the reference to "specific location" in any revised definition of number portability be removed.

Although ITSPA welcomes Ofcom's view in paragraph 4.33 that, in the case of new voice services, subscribers would be requesting number portability because the network termination point would be a specific location, we believe that this argument is slightly tenuous. The nuances of "mobile"/ "nomadic"/ "movable" should, surely, be secondary to the policy goal that, within the constraints of the Numbering Plan (which itself may need to be reviewed over time), subscribers should be able to take advantage of the benefits that technological advancements (such as IP) have made possible.

About ITSPA

The Internet Telephony Services Providers' Association was established in 2004 to represent the VoIP sector. ITSPA aims not only to encourage the innovation and development of the VoIP industry through the promotion of self-regulation and competition, but also to promote the benefits of the technology to consumers. ITSPA has the objective of ensuring consumers receive a first-class service and to reassure them that any product or service bought from a company displaying the ITSPA logo comes with a high standard of consumer protection, which is properly enforced and includes a dispute resolution procedure. Further information on ITSPA and its members, can be found on our website here: <http://www.itspa.org.uk>.