



Internet New Zealand (Inc)

Submission to the Telecommunications Carriers' Forum

on the

New Zealand Telephone Numbering Governance
Consultation

5 February 2010
Public Version (there is no confidential version)

A. Background

1. InternetNZ welcomes this opportunity to comment on the proposed new governance arrangements for Telephone Numbering in New Zealand.
2. InternetNZ is the charitable membership society working to ensure an open and uncaptureable Internet. We are the local country manager for .nz top-level domain, which we manage through two, wholly owned and charitable subsidiaries: Domain Name Commission Limited (DNCL), the independent regulator and .nz Registry Services (NZRS) the registry operator.
3. Our response to the consultation is drawn from two sources. The first is our long experience of managing .nz, a national resource of critical importance to the functioning of New Zealand industry, government and civil society. The second is our subject matter expertise in the Internet, the changes it brings and how those then affect public policy.
4. For full disclosure we advise that InternetNZ, through our subsidiary NZRS, offers registry services and so has a possible commercial interest in numbering administration.
5. This submission suggests substantive changes to the regime proposed by the TCF. InternetNZ would expect the opportunity to comment on a revised draft in some detail should that be the result of the current round of consultation.

B. Introduction

6. InternetNZ recognises the significant changes within Telecommunication Service Providers (TSP) that have enabled this proposal to be made and congratulates those that have worked so hard for this outcome. We are strong proponents of private sector-led regulation where appropriate, overseen by independent regulators when market conditions demand. We are pleased that the numbering administration is set to continue as a private sector responsibility.
7. Whilst we see these proposals as an important step forward, our comments focus on the longer-term considerations, of which numbering is just one component. The convergence of the Internet with telephony has several fronts, which we believe need to be considered holistically for integrated solutions to emerge.

C. Governance

8. We commend the proposed move for the operation of the numbering system from the NAD to the TCF as a positive change, introducing a

level of professionalism and accountability that this key resource requires. We hope that the TCF recognises that it needs to adapt to meet the needs of all telecommunications carriers as the nature of the telecommunications market in New Zealand changes.

9. Domain names and telephone numbers have a lot in common. They are both resources of critical national importance, issued from a central registry and they both have a two-segment market structure. In the telephony market the two segments are the TSPs and the end users, in the domain name market they are Registrars and Registrants.
10. There are some significant differences between what is proposed for the management of numbering and our own management of domain names that we believe need highlighting to ensure proper consideration has been given to alternative arrangements.
11. InternetNZ has taken a very clear decision that neither Registrars nor Registrants will have majority control of either the policy processes or of InternetNZ itself. Both Registrars and Registrants are consulted by DNCL during the policy process but do not have any formal vote on any proposal, much less any ability to block the policy process. This ensures a level playing field and competitive market for the .nz domain name space and puts them on an equal footing.
12. Similarly, membership of InternetNZ is open to all and consists of Internet companies, Registrars and interested individuals. Specifically no one group of industry participants has overall control. This governance structure ensures an independent policy process that balances the needs of all participants in the market and is not dominated by one segment of the market, and demonstrably acts in the best interests of the entire Internet community.
13. Whilst the TCF is clearly a professional organisation with an independent chair it is still fundamentally owned and controlled by a subset of one segment of the telecommunications market (some TSPs).
14. The governance of the numbering plan should be independent of the TCF, rather than subject to final decisions by the TCF Board. Further, the requirement proposed for membership of the TCF for those who seek numbers or involvement with the administration of the numbering system is difficult to reconcile with the need for numbering administration to be independent of the TCF.
15. This requirement for independence is a substantive change to the model proposed, and one that InternetNZ believes is essential. Change in this direction should spark further consultation on a revised proposal.

Strategic response to related issues

16. It is appropriate to consider how the proposed governance arrangements will enable a strategic response to related issues. These issues, as identified in the Commerce Commission report in 2008¹ are:
- Numbering Allocation Rules
 - Geo/Non-geo usage by VoIP providers
 - Nomadicity boundaries
 - Use of Short Codes and Premium Rate Services within a VoIP environment
 - Allocation to non-NZ TSPs
 - Numbering Allocation Procedures
 - Block or individual assignment
 - Competitive methods of allocation
 - Numbering Usage Rules
 - Access to emergency services
 - Location of the caller
 - Portability
 - Various management issues
 - ENUM
17. The approach so far has been to tackle these as separate issues, within the telecommunications industry. Whilst some have functioning solutions, there are many important issues unresolved, such as allocation to non-NZ TSPs, or ENUM. Where this approach has worked it has been exceptionally slow and the benefits to New Zealand business and citizens that come from new services have been consequently slow to realise. The state of affairs around governance of numbering administration is a case in point.
18. A new approach is needed to tackle these outstanding issues, which incorporates the following principles:
- There are clear linkages between a number of these issues which means that they must be tackled together rather than separately;
 - The stakeholders that must be involved are wider than just TSPs.
19. An illustration of this is locating the caller during an emergency call from a VoIP network. As well as cutting across the issues of nomadicity and allocation to non-NZ TSPs, it also requires the participation of ISPs and Local Internet Registries (LIR) of IP addresses, if it is to be tackled successfully.

¹ Study on Numbering Management in New Zealand. 5th December 2008. Commerce Commission.

20. We note that the TCF, as a TSP controlled organisation, has no structural guarantee that either of these two principles will be incorporated into their operation. It is possible that they may consider a holistic strategy that works across these issues and involve other participants in that on an equal footing, but we think this unlikely given the track records of TSPs in this area.
21. We further note that the governance proposal is silent on how it will improve the development of a strategic response to these issues.
22. Our suggestion of a more independent governance arrangement will assist in developing an integrated strategic approach that takes account of the interests of all the relevant stakeholders.

Role of user representative

23. We note the guaranteed role for a single user representative on the Numbering Management Group (NMG) and the inclusion of the Ministry of Economic Development (MED) and Commerce Commission (ComCom), but quite clearly these are limited to scrutiny roles rather than an equal say in the decision making because of the in-built majority for TSPs.
24. The NAD in its current incarnation has a single user representative, as does the TCF, albeit without a vote. Despite this, the list of related issues above remains and New Zealand continues to fall behind in the services and consequent benefits available to end users of telephony. This clearly indicates that control of these issues by TSPs has reduced the impact of the user representative to marginal at best.

Independence of the disputes body

25. Well managed dispute resolution is of critical importance to both users and TSPs and needs to operate independently. Again we make the comparison with our management of domain names. All disputes in .nz are handled by DNCL with external mediators and experts appointed for disputes between Registrants. It is important to note that InternetNZ, as the parent body, has no role in disputes. Neither a Registrar nor Registrant can escalate a dispute to InternetNZ, which maintains separation from DNCL (protecting DNCL's role as the independent regulator).

D. Operation

26. Whilst the focus of this proposal is new governance arrangements for numbering, some additional changes have been introduced and there are some areas that we believe should have been examined more closely. These are outlined below.

27. It is our view that the way numbering has been administered up until now, and the general approach of this proposal is an artefact of previous generations of technology but that technology has now been replaced and numbering needs similar modernisation to reflect this.

Numbering ownership

28. We are pleased to see the proposed change to principle 6 stating clearly that numbering allocation does not confer ownership or other property rights on TSPs. This leaves the door open for later discussions on the expectations and rights of end users with regard to numbers and how those have changed with the implementation of number portability.

Number portability

29. We are disappointed to see the proposed change to principle 4 away from a clear statement of all end user numbers being capable of being ported. We regard the ability to easily port any number between service providers as a fundamental requirement of the telephony market in the same way that we guarantee this for domain name Registrants.
30. Where the existing principle is inconsistent with portability obligations then we believe those obligations and any harder to solve issues so exposed, such as the role of non-NZ TSPs, should be tackled.

E. Funding

31. The proposed funding model has a number of characteristics that cement an approach to numbering allocation that we believe is unsustainable - that of large block allocation. These characteristics are:
- A significant proportion of funding comes from annual fees paid by the TSPs.
 - The charge per block is exceptionally small, giving in the non-geo codes a cost of approximately 0.005c per number.
 - A move towards smaller units of allocation does not lead to an increase in funding proportional to the increased cost of processing these allocations.
 - TSPs with very different allocations volumes pay very similar fees.

32. This leads us to conclude that a move to smaller allocations within the current funding model is simply not possible because it would not be economically viable for the numbering administrator. Further, it hinders the introduction of competitive allocation models.
33. It is our view that this funding model should move to one similar to that for domain names, which is specifically designed to scale both increased numbers of Registrars and individual allocations. In this model the TSP would pay two fees:
- An initial accreditation fee to pay for the cost of assessing their suitability for number allocation. This fee could be repeated if periodic re-accreditation is required.
 - A per-number allocation cost.
34. The cost should be set so as to ensure the bulk of the ongoing funding of number administration comes from a per-number cost not an annual fee for participants. This would reflect more fairly the different volumes of allocations between TSPs and would also easily allow the introduction of competitive allocation methods for sought after numbers that resulted in variable charges per number.

Requirements of the Numbering Administrator

35. In our operation of the registry for .nz, another critical national resource, protection of the register is paramount. We have a fully tested disaster recovery plan designed to ensure continuing operation of the .nz register even in the event of the loss of Wellington and all staff.
36. We note that the proposal does not indicate any such requirements for protection of the numbering register, which appears inconsistent with the recognition of its critical value to New Zealand.
37. While the current administration of the numbering system is relatively simple, the broader strategic response that is discussed in this submission should over time see more technology and systems in place to deliver a wider range of options. This would increase the importance of proper protections being taken.

F. Authorisation

38. This submission notes a number of issues to be resolved, such as the independence of the numbering regime, the opportunity now to deal with the wider issues identified in the Commission's earlier report, and so on. The opportunity to deal with these wider issues should be taken now.

39. To avoid breach of the Commerce Act, the parties will, as they did with the NAD, need to seek authorisation from the Commission. InternetNZ will be developing input for the Commission and for other stakeholders, for that process. It will do so as quickly as possible.
40. InternetNZ wishes to get to the position where it can support this TCF/NAD initiative, but, as noted above, there is substantially more work to be done. Until then, InternetNZ would not support authorisation.

G. Recommendations

41. We recommend the following:
- That a new, independent structure is considered for the NMG that is free from majority control of either TSPs or end users.
 - That there should be no role for the TCF board or officers in the governance or the disputes process.
 - That principle 4 is not changed.
 - That a new model for funding is developed along the lines proposed above.
 - That requirements are drawn up for the operation of the number administrator that reflect the critical nature of the task.

H. Conclusion

42. InternetNZ thanks the TCF for the chance to contribute its advice and suggestions, and is available to offer more detail or to meet with the TCF to explain the rationale behind the comments made in this submission.

With many thanks for your consideration,

Yours sincerely,



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