



LIME Response to

Consultation on Policy Recommendations

for the

Adoption of Number Portability in ECTEL States

(issued 10 December 2015)

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1. INTRODUCTION

- 1.1. CWI Caribbean Limited (“**LIME**”) welcomes the opportunity to respond to ECTEL’s “*Consultation on Policy Recommendations for the Adoption of Number Portability in ECTEL States*” issued in December 2015 (“**the Consultation Document**”) on behalf of its affiliates Cable & Wireless Dominica Limited, Cable & Wireless Grenada Limited, Cable & Wireless St. Kitts and Nevis Limited, Cable & Wireless (St. Lucia) Limited and Cable & Wireless St. Vincent and the Grenadines Limited.
- 1.2. After addressing a few preliminary matters below, LIME comments will focus on the Recommendations 3, 4, 11, 13 and 16. LIME expressly states that failure to address any issue raised in the Consultation Document does not necessarily signify its agreement in whole or in part with any position taken on the matter by ECTEL, the NTRCs or respondents. LIME reserves the right to comment on any issue raised in the Consultation Document at a later date.
- 1.3. All responses to this document should be sent to the Ms. Geraldine Pitt at geraldine.pitt@lime.com and copied to Frans Vandendries at frans.vandendries@lime.com.

2. PRELIMINARY MATTERS

2.1. While LIME agrees that the introduction of number portability (“NP”) services in the ECTEL States will benefit consumers and competition and, therefore, should be pursued, LIME does not share several of ECTEL’s views of the telecommunications markets in the ECTEL States and of the effect of NP on those markets.

2.2. At page 10 of the Consultation Document, ECTEL states that:

In circumstances where customers lack the option of provider portability, actual competition may be hampered, or prevented from developing altogether, even though other providers have formally entered the market.

2.3. Later, at page 12, ECTEL opines:

Despite the introduction of formal competition however, a reasonable assessment of either market would not compel a conclusion that such competition has been or is dynamic.

2.4. LIME submits that ECTEL is overstating its case and is mischaracterizing the markets in the ECTEL States. Contrary to ECTEL’s view, any truly reasonable assessment of the fixed and mobile markets would in fact conclude that competition has been dynamic. Nor has the lack of NP in the ECTEL States up until now “prevented [competition] from developing altogether”. ECTEL’s own *Annual Electronic Communication Sector Reviews* suggest the operators are investing and competing heavily in the markets.

2.5. The presence or absence of NP in a market does not create or prevent competition, respectively. However, LIME does agree wholeheartedly that the introduction of NP can enhance competition that is already present in a market. This is why LIME supports efforts by ECTEL and the NTRCs to introduce NP in the ECTEL States.

2.6. At page 13 of the Consultation Document, ECTEL suggests that the introduction of NP will improve management and usage of telephone numbers in the ECTEL States. Given that telephone numbers are a finite resource, LIME agrees that improved management and usage of that resource is desirable. However, LIME does not believe that NP, by itself, will materially improve number management and usage. It is true that, in the absence of the ability to port a number, the customer's new service provider would have to issue a new telephone number. However, at the same time, the customer's old service provider would be recycling the customer's old number and reusing it for other customers. The net result is, as far as number usage is concerned, not likely to be materially different from the situation where the customer can port his or her number to the new service provider.

3. CENTRALIZED NP DATABASE

- 3.1.** In Recommendation 3, ECTEL addresses the high-level architecture of the NP solution proposed for the ECTEL States:

Recommendation 3 - The fixed and mobile NP service will be managed and operated across the ECTEL jurisdictions through a centralised NP 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.

- 3.2.** LIME notes that a centralized NP system is the typical approach applied worldwide, and ECTEL cites a number of examples in the Consultation Document. However, the typical implementation is “one system for one country”. What is unique about ECTEL’s situation is that ECTEL represents five countries, and it is unclear from the Recommendation whether ECTEL is proposing the implementation of one system for all five ECTEL States, or a separate system in each of the five countries.
- 3.3.** LIME has not examined the consequences of this question in detail and seeks further clarity about ECTEL’s intentions before doing so, and reserves its rights to comment further on this matter if warranted. The number of databases will likely have an impact on the complexity and on the costs of the implementation. However, it should also be noted that the resolution to this question may also be affected by the approach taken to the issues in the next section.

4. LICENSING PROCESS

- 4.1. In Recommendation 4, ECTEL proposes to license a single provider of NP Clearinghouse services:

Recommendation 4 - By adopting the centralised driven NP approach, the successful provider of the NP Clearinghouse will be licenced by ECTEL on behalf of the NTRCs to provide NP services across all ECTEL jurisdictions and will be required to contract directly with the licenced ECTEL operators.

- 4.2. LIME agrees that, at first glance, this appears to be a reasonable proposal. To the extent the intent is to have a single system (or 5 identical systems), it appears to make sense to have a single provider and a single licence. Unfortunately, it is not clear that ECTEL has the jurisdiction to do this in the manner proposed.
- 4.3. ECTEL and the NTRCs only have the power to do what the enabling legislation permits them to do. In the case of the various *Telecommunications Acts* (“**the Acts**”), it appears licences and frequency authorizations are issued by the relevant Minister, not by the NTRC, although ECTEL and the NTRC play various important roles in the licensing process.
- 4.4. Further, it does not appear that either the Minister or the NTRC have the power to delegate their duties under the Acts to another person (except that the Commission may delegate its duties to a Commissioner). This means that neither the Minister nor the NTRC (assuming the NTRC had licensing powers) could delegate to ECTEL the power or duty to issue a licence, whether to an NP Clearinghouse provider or to any other person. Any decision by ECTEL purporting to issue a licence would be *ultra vires* and likely expose ECTEL to judicial review.
- 4.5. ECTEL does not specify whether the licence that would be issued would be an Individual Licence or a Class Licence. Given the unique nature of the service to be provided (it is unlikely that there would be a “class” of persons who would be

providing NP Clearinghouse services in the ECTEL States), an Individual Licence would be more appropriate.

- 4.6.** In these circumstances, LIME recommends that ECTEL investigate the feasibility of a licensing process whereby ECTEL would manage the initial process to select a suitable NP Clearinghouse provider. Once selected, the prospective candidate would apply to each of the NTRCs for a licence and the NTRCs would forward the applications to ECTEL. ECTEL would issue its recommendations to the NTRCs, who would in turn forward the relevant applications and recommendations to each of the Ministers for the issuance of a licence in each ECTEL State to the same NP Clearinghouse provider. While this process might be more cumbersome than the one described in Recommendation 4, it would be more consistent with the procedures and powers set out in the Acts.
- 4.7.** Conversely, if ECTEL considers that it does in fact have the power to issue a single, multi-jurisdictional licence to the NP Clearinghouse provider, LIME would appreciate if ECTEL could disclose the basis for its belief so that interested parties can comment on it in more detail.

5. IMPLEMENTATION DEADLINES

- 5.1. One of the most contentious issues surrounding the implementation of NP is the length of time to make the changes needed to the operators' networks and systems and processes. In Recommendation 11, ECTEL has set out what appears to be a clear statement that NP should be implemented in 12 to 15 months.

Recommendation 11 - NP will be implemented and launched to the ECTEL public within 12 to 15 months from the official launch of the ECTEL NP programme to the operators and NP stakeholders.

- 5.2. Unfortunately, the rest of the Consultation Document itself is not as clear. The two immediately-preceding paragraphs state “*ECTEL believes a reasonable timeframe to progress to the launch of NP in ECTEL would be 20 months..*” and “*ECTEL believes that a 18 month timeframe is reasonable..*”, and it is not obvious from the rest of the text whether the three different deadlines are addressing the same or different (albeit overlapping) sets of activities. LIME looks forward to more clarity regarding ECTEL's expectations before it can provide more detailed views on this issue.

6. PORTING TIMEFRAMES

- 6.1.** In Recommendation 13, ECTEL sets out its proposal for the deadlines within which the porting of a number must be completed. These deadlines are largely consistent with the experience of LIME's affiliates in other countries.

Recommendation 13 - All customer porting requests will be completed within; 1 working day for mobile NP and 5 working days of fixed NP, from the date of the customer's validated and signed porting request.

- 6.2.** LIME notes, however, that this recommendation is nevertheless relatively vague. For example, it is not clear whether "within one working day" is meant to mean "by the next working day", "before the end of the next working day", or "within 24 hours, provided the end of the 24-hour period falls within a working day". These distinctions can have very different effects on the customer's experience depending on when the period begins (for example, at the start of a working day, at the end of a working day, on a Friday, etc.).
- 6.3.** LIME recommends that ECTEL consider a porting process which ensures the deadline for porting requests does not fall too closely to the end of a working day or of a working week. This will give the donor and recipient operators sufficient time during the working day to iron out any issues which might arise, and help minimize any impact on the end-customer's service.

7. CONCLUSION

7.1. LIME thanks ECTEL for providing LIME with an opportunity to participate in this consultation on Number Portability. At a high level, LIME does not have major concerns with ECTEL's proposals at this time (except as described above) but reserves its rights to provide further comments as this process evolves and the parties begin to examine the NP rules and processes in greater detail. LIME looks forward to the clarifications requested above. Finally, LIME strongly recommends that ECTEL and the NTRCs review the proposed licence and the proposed licensing process to ensure they are consistent with the terms of the *Telecommunications Acts*, and to ensure the process to select an NP Clearinghouse is not unnecessarily delayed by jurisdictional challenges.

END