

## Telecommunications - Nigeria

### NCC and operators finally agree on MNP implementation

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#### Introduction

Mobile number portability (MNP) is a customer's strongest weapon in the telecommunications industry, because it strengthens the customer's ability to choose any network operator without losing his or her telecommunications 'identity'. MNP enables a user to switch from the current network service provider to another network operator without losing his or her telephone number, which to some extent is the customer's identity as it is unique to him or her and is a common means by which the customer is known and can be contacted.

Some stakeholders see MNP as a revolutionary measure that leads to better service provision and improved customer satisfaction. Others opine that on its own, MNP does not guarantee a better quality of service, because if the original problem with the first operator was an overloaded network (ie, too many customers for the available network capacity), the same problem could afflict the new network if customers migrated to it in droves, thus clogging up that network and making it unable to accommodate new customers without compromising its ability to deliver and maintain quality of service. In any case, it is generally agreed that MNP is more likely than not to engender improved quality of service.

#### Implementation of MNP

In 2006 the Nigeria Communications Commission (NCC) announced that it would work towards the implementation of MNP in Nigeria. The only Global System for Mobile Communications (GSM) operators in operation at that time (MTN, Mtel and Airtel, which held the digital mobile licence) complained that after only five years of operations in Nigeria and an unexpected volume of customers, their networks were not ready for the implementation of MNP. When in 2009 the NCC reiterated its intention to implement MNP, the operators again complained that their network infrastructure was not robust enough to accommodate the expected impact. The NCC nonetheless set a December 2012 deadline for operators to commence implementation of MNP. In addition to holding discussions with operators, the NCC appointed a consortium comprising Saab Grintek, Interconnect and Telecordia for the operation of the service, for an initial period of five years. Since then, there have been numerous postponements for various reasons given by the operators, which have since grown in number. However, the NCC and the operators finally agreed that a pilot MNP service would commence in Lagos - this began on April 22 2013.

Number portability will apply to GSM operators only until the NCC determines that Code Division Multiple Access operators can be included in the service. According to the MNP Business Rules and Port Order Processes published in March 2012, the NCC has limited the ability of subscribers to port their numbers to only once every 90 days. It is hoped that this will help to create some form of stability in the service and ensure that subscribers stay within their chosen network for a reasonable period to determine whether in fact the new service is better than the previous one.

In terms of process, the International and European standard is for a customer wishing to port his or her number to contact the new network, which then sends the number portability request to the current network - 'recipient-led' porting. Only the United Kingdom and India use the reverse 'donor-led' system, whereby the customer wishing to port a number contacts the current network to obtain a porting authorisation code, which is then given to the new network. On receipt of the code, the new network continues the port process by contacting the current network. The donor-led system has

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been criticised by some stakeholders on the basis that the requirement to contact the current network may discourage customers from utilising the system. It also gives the current network an opportunity to entice the customer with special offers, which may be unsustainable in future. Although the NCC has given no reasons for its choice, it has prescribed the practice of recipient-led porting.

In order to port in Nigeria, a duly identified subscriber must complete a port request form and send a text message to a certain number. No charges will apply, but the subscriber must acquire the new operator's SIM card (for which a fee may be charged). To prevent fraud, the NCC has also directed that outstanding bills owed to the current network (especially in the case of bill-paying customers) be settled before porting. Porting must be completed within 48 hours.

### Win-back provisions

In order to prevent the customer from being inundated with calls or other forms of contact from the current operator after a subscriber has requested number portability, the NCC has stated that a current operator is not allowed to contact the subscriber during the porting process to try to persuade the subscriber to stay with it. However, Rule 27 of the MNP Rules creates a loophole that could be exploited by an operator that is anxious to retain its subscriber. On one hand, Rule 27 provides that:

*"Winback is absolutely prohibited whilst the porting process is underway and for a period of 90 days from the date porting was completed. The only permissible contact a donor operator may have with a ported customer is either (a) recovery of outstanding debts or (b) to discuss products/services other than the ported mobile service."*

However, Rule 27 further provides that:

*"For clarity, the Winback provisions will only apply once (a) the recipient operator has lodged a porting request onto the porting system and (b) the porting system has received the authorisation SMS from the customer and (c) the porting system has successfully completed its initial validation of the porting request and (d) the porting system has sent a Porting Approval Validation Response message to the recipient operator. Before these steps have been completed, then the Winback protection provisions will not apply and the donor operator is free to contact the customer."*

The implication of the last sentence is that an incumbent operator which becomes aware that a subscriber has applied to port his or her number can contact and make offers to that subscriber without breaching the win-back rule. Such scenarios could lead to discriminating offers to subscribers and constitute a substantial lessening of competition, which would contravene the NCC's Competition Practices Regulation.

Therefore, as expressed later in Rule 27, it is recommended that before the preferred operator contacts the incumbent operator to discuss a porting request, the preferred operator should have successfully lodged the corresponding porting request in the porting system.

It will be interesting to see how this plays out now that the MNP pilot has commenced in Lagos.

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