



# Number Portability in Malta

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Consultation and Proposed Decisions

15 December 2021

**MCA/C/21-4466**

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## 1. INTRODUCTION

### 1.1 Background

Malta's number portability regime was put into effect in March 2005, when the Malta Communications Authority (MCA) published its Decision entitled '*Introducing Number Portability in Malta*' (*hereafter the '2005 Decision'*). The 2005 Decision was the result of a comprehensive process of consultation and cross-industry collaboration that was initiated by the MCA in October 2003.

Number portability refers to the ability of end-users subscribed to voice communications services<sup>1</sup> to retain their telephone number when they change their service provider, or switch to another location or service. The key premise behind number portability is that subscribers are predominantly reluctant to change their service provider if this means that they would also have to change their telephone number. The absence of number portability may therefore give incumbent providers significant competitive advantages over new entrants in the market. Changing one's telephone numbers can also be a major inconvenience and a potential barrier, preventing users from taking advantage of the options available in a developed competitive telecommunications market.

Number portability is therefore essential to maximise the benefits of a competitive telecommunications market. For example, Number Portability of the type that allows users to keep their telephone number when changing provider leads to significant benefits:

- to the porting user as it eliminates the cost of informing other parties of the number change, changing of stationery and other signage and, in the case of business users, potential loss of business;
- to callers as it eliminates the need to consult directory enquiries and/or change entries in their address books or computer systems;
- it facilitates the development of competition by providing further choice in the markets and enables all users to switch to more beneficial tariff plans and conditions from time to time.

With the exception of periodic updates, the *2005 Decision* and the corresponding Specifications documents withstood the test of time and contributed significantly to the success of number portability in Malta, which counts upwards of half a million successful portings since its introduction.

### 1.2 The Impact of the European Electronic Communications Code

In December 2018, the EU regulatory framework for electronic communications networks and services experienced a significant overhaul with the issue of Directive 2018/1972 establishing the European Electronic Communications Code (*hereafter the 'EECC'*). At its core, the EECC brought together four key, and previously distinct Directives, namely the Access, Authorisation, Framework and Universal Service Directives. The EECC established a "harmonised framework for the regulation of electronic communications networks, electronic communications services, associated facilities and associated services, and certain aspects of terminal equipment" [Article 1(1) of the EECC].

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<sup>1</sup> All references to the term 'voice communications service' in this document are in accordance with the definition included in Article 2 of CAP. 399.

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With a view to transpose the EECC into national legislation, following a holistic review of multiple electronic communications laws in Malta, the proposed legal amendments were put forward for public consultation by Government with the process running from 11 January 2021 to 15 March 2021.

Within this context, public input was sought on a number of legal amendments relative to number portability which continues to be considered as “... a key facilitator of consumer choice and effective competition in competitive electronic communications markets ...” [Recitals (278) and (281) of the EECC]. These amendments were necessary to reflect the new or updated measures introduced in the EECC, such as the establishment of new consumer rights (e.g. right for pre-paid consumers to request a refund; right to request porting within one month following contract termination) and protections (e.g. prohibition of charges by the receiving provider). The responses received during the public consultation revealed that local providers were keen on obtaining additional clarity on the impact of the new provisions on existing processes and Specifications.

To this effect, in April 2021 the MCA sent an email to local providers of voice communications services listing the areas of the existing Number Portability Decision and Specifications that require updating, as a result of the EECC transposition under Maltese legislation. This was intended to pre-empt any technical or commercial difficulties which arise with the implementation of these updates.

Following the coming into force of the national legislation transposing the EECC in Malta on 1 October 2021<sup>2</sup>, and drawing from the responses to the public consultation and the preliminary industry feedback gathered, the Authority is now proceeding with the publication of this *Consultation and Proposed Decisions on Number Portability in Malta*.

### 1.3 Structure of the Consultation Document

This Consultation Document comprises both aspects that build on or update the text of the *2005 Decision*, as well as fresh text relating to the new measures emanating from the EECC and new national legislation. With a view to aid the reader and provide the necessary background, **Definitions** are presented in Chapter 2 and a discussion on the (new) **Legal Basis** for number portability in Malta follows in Chapter 3. Next, Chapter 4 brings together a set of **General Principles**, including a combination of both new principles stemming from the EECC, as well as recast text from the *2005 Decision*.

Chapter 5 then presents a discussion on all the **Proposed Decisions** that will comprise the new framework for number portability in Malta. The discussion in Chapter 5 will evaluate the continued applicability of all the Decisions in the *2005 Decision*, and sets out whether to repeal, retain or update the individual Decisions in the context of the new national legislation. Additionally, the MCA is taking this opportunity to propose new Decisions which in its opinion would ameliorate the current number portability process. Beyond the Decision document itself, the proposed changes will also impact the Number Portability Specifications documents, and for this reason Chapter 6 presents a **Summary of Impact on Number Portability Specifications**. Lastly, Chapter 7 (**Submission of Responses**) presents parameters surrounding this Consultation exercise and establishes the way forward.

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<sup>2</sup> As a result of the EECC transposition, the Electronic Communications (Regulation) Act (Cap. 399) was amended by Act Number LII of 2021, and the Electronic Communications Networks and Services (General) Regulations (S.L. 399.28) was repealed by L.N. 379 of 2021 and replaced by S.L. 399.48 with effect from 1<sup>st</sup> October 2021.

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## 2. Definitions and Abbreviations

### 2.1 Definitions

**Block operator:** The service provider to whom the Authority allocated the number block containing the number that is being ported.

**Consumer:** As defined in Article 2 of CAP. 399, any natural person who uses or requests a publicly available electronic communications service, for purposes which are outside his trade, business, craft or profession.

**Donor network:** Subscription network from which a number is ported in the porting process. This may or may not be the number range holder network.

**Donor provider/operator** (also referred to as *Transferring provider*): The service provider (including any agents or other persons however so described acting on its behalf) that provides service to a subscriber number *before* porting. The donor provider/operator is referred to as the *Transferring provider* in the EECC and the new national legislation (S.L. 399.48).

**Number portability:** A facility whereby subscribers who so request can retain their number on a telephony system independent of the service provider providing the service at the network termination point of the subscriber.

**Originating network:** The network that either provides service to a subscriber who is placing a call or other communications, or first handles an incoming international call or other communications within Malta.

**Recipient network:** Network that receives the number in the porting process. This network becomes the subscription network when the porting process is complete.

**Recipient provider/operator** (also referred to as *Receiving provider*): The service provider (including any agents or other persons however so described acting on its behalf) that provides service to a subscriber number *after* porting. The recipient provider/operator is referred to as the *Receiving provider* in the EECC and the new national legislation (S.L. 399.48).

**Subscriber:** In line with Recital (281) of the EECC, *subscriber* refers to any person or entity that is a party to a contract or other similar arrangement that is in force with a network operator for the supply of voice communications services as defined in Article 2 of the Electronic Communications (Regulation) Act. Pre-paid customers are also regarded as subscribers.

**Terminating network:** The network that provides service to a subscriber who is receiving a call or other communications.

*Note (1): Where the term ‘subscriber’ is used in terms of the ‘subscriber number’ (i.e. the number to be ported), it shall also be understood to also include the number in a porting request raised by an applicant, i.e. a person without an active subscription.*

*Note (2): Where the term ‘person’ is used, it applies for both natural and legal persons, unless otherwise specified.*

## 2.2 Abbreviations

CLI	Calling Line Identification
DDI	Direct Dial-In
ECN/S	Electronic Communications Networks and/or Services
EECC	European Electronic Communications Code
eSIM	Embedded Subscriber Identity Module
EU	European Union
HLR	Home Location Register
HSS	Home Subscriber Server
ICS	Interpersonal Communications Services
IMSI	International Mobile Subscription Identity
IoT	Internet of Things
ISDN	Integrated Services Digital Network
L.N.	Legal Notice
M2M	Machine-to-Machine
MCA	Malta Communications Authority
MVNE	Mobile Virtual Network Enabler
MVNO	Mobile Virtual Network Operator
Non-ICS	Non-Interpersonal Communications Services
NP	Number Portability
NRA	National Regulatory Authority
OTA	Over-the-Air
PRS	Premium Rate Services
PSTN	Public Switched Telephone Network
PUK	Personal Unblocking Key
S.L.	Subsidiary Legislation
SIM	Subscriber Identity Module
SIP	Session Initiation Protocol
SMS	Short Message Service
VULA	Virtual Unbundled Local Access

### 3. Legal Basis

The obligation to provide number portability upon request has been incumbent on undertakings providing publicly available telephone services based on the previous Regulation 47 of the Electronic Communications Networks and Services (General) Regulations, 2011 (*hereafter 'S.L. 399.28'*), which was recently replaced with the L.N. 379 of 2021 entitled "Electronic Communications Networks and Services (General) Regulations" (*hereafter 'S.L. 399.48'*) following transposition of the EEC. Under S.L. 399.48, the legal basis for number portability mainly emanates from Regulation 94 thereof, which transposes Article 106 of the EEC. Where necessary regulations referring to the former S.L. 399.28 are qualified by the use of the adjectives 'former' or 'old' whereas regulations referred to the new regulations S.L. 399.48 are qualified by the use of the adjective 'new'.

A side-by-side comparison of Regulation 47 of S.L. 399.28, with Regulation 94 of S.L. 399.48 is presented in [Annex 1](#), whereas the table below summarises the main changes brought about by the new Regulation 94 of S.L. 399.48.

S.L. 399.28	S.L. 399.48	Comment
N/A	94(6)	A new provision to establish that end-users subscribed to voice communications services retain the <b>right to request porting (for a minimum period of one month) after they terminate their contract.</b>
47(2), 47(3)	94(7)	Whereas the previous regulation permitted (with restrictions) the imposition of "direct charges to subscribers", the new regulation no longer allows this possibility, stating that " <b>no direct charges shall be applied to end-users</b> ". In any case, the Authority is informed that no providers adopt this practice at present.
47(4)	94(8)	Provides for porting to take place on the <b>date explicitly agreed with the end-user</b> . This is already addressed in the present number portability regime. Also, in the case of <b>failure of the porting process, the transferring provider (donor) is to reactivate the number and related end-user services on the same terms and conditions until the porting is successful</b> . This change is intended to extend end-user safeguards against loss of service during the porting process.
N/A	94(9)	A new sub-regulation is introduced to ensure that "operators whose access networks or facilities are used by either the transferring provider or the receiving provider, or both, shall ensure that there is no loss of service that would delay the switching and porting process." This change is intended to <b>better take into account developments in business models, where the electronic communications service provider is not necessarily the operator of the underlying network</b> (e.g. Mobile Virtual Network Operators (MVNOs), Virtual Unbundled Local Access (VULA) access seekers, etc.).
N/A	94(10)	A new sub-regulation prescribing that the <b>number portability process should be recipient-driven</b> . Also, this sub-regulation provides for the imposition of <b>automatic termination of contracts with the transferring provider (donor) upon porting</b> . Both these principles were already adopted in the design of Malta's present number portability regime.

S.L. 399.28	S.L. 399.48	Comment
N/A	94(11)	Identifies the Authority as the entity responsible to establish the details of the porting process, and empowers it to include requirements for porting to be completed via <b>over-the-air provisioning</b> , where technically feasible.
NIL	94(13)	Establishes the <b>right for consumers of pre-paid services to request a refund</b> of any remaining credit upon porting, as well as corresponding parameters for any applicable fee which may be imposed by the donor operator.

The impact of the above changes will be reflected in the General Principles (next Chapter) and in more detail in the Proposed Decisions (Chapter 5).



## 4. General Principles

This update to the number portability regime is not intended to change the underlying general principles that were established in the *2005 Decision*, in particular with respect to the different typologies of number portability services available, and the extent to which these are required. Nevertheless, given developments in technology and market conditions, some of the considerations made in the *2005 Decision* are no longer applicable, and are thus being re-proposed as shown below (Sections 4.1 and 4.2). Additional principles have been included to ensure clarity on end-user's eligibility (Section 4.3), numbering implications (Section 4.4), and the principle that number portability should be recipient-driven (Section 4.5). A further section has been added to clarify the obligations pursuant on authorised providers to adhere with the provisions in the proposed Decision and Specifications (Section 4.6). Lastly, a section has been introduced on number portability databases considerations (Section 4.7).

### 4.1 Types of number portability

It is important to distinguish between three different types of number portability services, since they are not all subject to the same regulatory obligations:

1. **Operator portability:** refers to the ability of an end-user subscribed to voice communications services to retain the same telephone number when changing from one operator (service provider) to another.

There are three types of operator (service provider) number portability:

- Fixed number portability – operator portability, which allows numbers assigned for fixed voice communications services to be ported between providers. The term is considered technology neutral and includes fixed wireless technologies as well as line technologies provided that the retail tariff arrangements and wholesale termination charges are comparable to those of the Public Switched Telephone Network (PSTN) scenario and/or its evolution;
  - Mobile number portability - operator portability, which allows numbers assigned for mobile voice communications services to be ported between providers;
  - Special tariff number portability - operator portability which allows special tariff numbers (e.g. freephone and premium rate numbers) to be ported between providers.
2. **Service portability:** refers to the ability of a subscriber to retain the same telephone number as he/she changes from one type of service to another. The extent of a change in service can be minor as in a change from normal fixed line to ISDN/SIP trunk or major as in a change from a fixed to a mobile service.
  3. **Location portability:** refers to the ability of a fixed telephony subscriber to retain the same telephone number when moving from one physical location to another. Location portability is only applicable to current fixed numbers, as by their nature, mobile and special tariff numbers do not incorporate location information.

## 4.2 What kinds of number portability are required?

Regulation 94(5) of S.L. 399.48 states that: “end-users subscribed to voice communications services with numbers from the national numbering plan may request that they retain their numbers, independently of the undertaking providing the service, *in accordance with Part C of the Sixth Schedule.*”

The latter further qualifies that the right applies:

- (a) in the case of geographic numbers, at a specific location; and
- (b) in the case of non-geographic numbers, at any location.

This means that the requirement for **operator-type number portability** remains unchanged, and is thus required for numbers assigned for fixed voice communications services, mobile voice communications services and special tariffs, namely freephone and premium rate numbers.

It is further established (in §2, Part C of the Sixth Schedule of S.L. 399.48) that the right does not apply to the porting of numbers between networks providing services at a fixed location and mobile networks, so called ‘service portability’. Similarly, to the previous regulations (S.L. 399.28), such **service portability** is not required under the new regulations. Given that there are generally differences in the tariffs for calling numbers for different services (e.g. mobile and fixed services), service portability would introduce problems of lack of tariff transparency for callers. Since the numbering range of the called party is the main criterion used to determine the applicable wholesale voice termination rates<sup>3</sup>, service portability could also lead to over- or under- recovery of costs by the terminating operator. Furthermore, even when the extent of service change is minor such as when a number would be utilised as an individual fixed number prior to porting and as a fixed DDI number after porting or vice-versa, complexities would be expected to arise if the distinction between individual fixed numbers and DDI numbers is no longer maintained. Based on these considerations, the MCA does not intend to require the support of service portability.

Further to the above, it should be noted that in the case of M2M/IoT connectivity services and other Non-Interpersonal Communications Services (Non-ICS), which benefit from a solely dedicated E.164 national numbering range with prefix ‘4’, the Authority recognises that such electronic communications services may rely on different service platforms with underlying networks that may be both fixed or mobile in nature. In this respect, there is therefore no obligation to provide number portability for numbers from this range as this could, in some cases, constitute service portability. This norm is also established in the MCA Decisions ‘*Development of the Numbering Plan*’ and ‘*Numbering Resources for M2M/IoT Connectivity Services (and other Non-Interpersonal Communications Services (Non-ICS))*’. Nevertheless, numbers from the ‘4’ range may be ported subject to a voluntary agreement between the donor and recipient operators.

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<sup>3</sup> Commission Delegated Regulation (EU) of 18 December 2020 supplementing Directive (EU) 2018/1972 of the European Parliament and of the Council by setting a single maximum Union-wide mobile voice termination rate and a single maximum Union-wide fixed voice termination rate.

Lastly, **location portability** is relevant only to fixed numbers, and similarly to the previous regulations (S.L. 399.28), is not required under the new regulations. Nevertheless, at the time of writing, local fixed telephony providers avail of technology that can permit location portability. Notwithstanding, the Authority does not intend to impose location portability as a requirement but encourages providers of fixed voice communications services to provide subscribers with this facility where possible.

### 4.3 Who can request porting?

The right to retain numbers pertains to end-users **subscribed** to voice communication services, thereby implying some form of relationship with the service provider in question. This implies that the right belongs to the subscriber, (which may, in some cases, be distinct from the actual end-user). In this regard, subscriber is being understood along the lines of Recital (281) of the EECC, stating that the right to port the number should be attributed to the end-user who has the relevant (pre- or post-paid) contract with the provider.

### 4.4 Numbering

Number portability does not affect allocations of national numbering resources, but it does mean that individual telephone (E.164) numbers may no longer be served by the service provider through whom they were originally allocated. Upon termination of service on ported-in numbers by the recipient operator, numbers are to be returned to the block operator in line with the process determined in the respective Specifications.

### 4.5 Recipient-driven process

Recital (281) of the EECC also prescribes that, “in order to facilitate a one-stop-shop enabling a seamless switching experience for end-users, the switching process should be led by the receiving provider of electronic communications to the public” (emphasis is of the MCA). In this respect, Malta’s number portability regime is already shaped around the principle of having a ‘recipient-driven’ approach from its inception. Nevertheless, this principle is now also reflected in (new) Regulation 94(10) of S.L. 399.48 which transposes Article 106(6) of the EECC.

### 4.6 Specifications

The forthcoming Decision Notice (*2022 Decision*) should be understood to form part of the whole framework governing number portability in Malta, which includes not only the *2022 Decision* but also all the relative Specifications governing distinct aspects of the number portability process.

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## 4.7 Number Portability Databases

In the *2005 Decision*, after considering a number of factors in consultation with the steering committee, such as Malta's limited size, expected implementation costs, and prevalent market conditions, the Authority had decided against imposing an obligation for a centralised number portability database and instead decided to adopt a distributed number portability solution whereby each service provider would maintain its own database of all ported numbers. Each telephony service provider is assigned a distinct 4-digit Number Portability Routing Prefix by the MCA in order to facilitate traffic routing and correct billing.

A Webservice protocol, as defined in the *Number Portability Inter-Operator Webservice Specifications*, is used for inter-operator communication between the recipient and donor operators during the porting process. Once a porting is completed, the recipient operator also sends a porting announcement via the Webservice to all local telephony providers to ensure that each provider is kept informed of the individual ported numbers and updates its own database accordingly. Through the use of the Webservice protocol, a provider may make use of other facilities related to number portability such as the possibility to request lists of active ported-in and ported-out numbers from other providers.

The number portability databases being utilised serve the following two main functions:

- Enabling the implementation of the porting process between the donor operator and the recipient operator; and
- Maintaining an up-to-date list of ported numbers and the operators who are serving them for the benefit of all operators who may need this information for routing.

When considering that the number portability process proved to be effective and efficient since its introduction in Malta, at this stage the MCA is maintaining its position not to introduce any specific requirements with respect to the number portability database solution to be adopted by providers of voice communications services.

## 5. Proposed Decisions

### 5.1 Overview

This Chapter brings together all the proposed Decisions that will comprise the new framework for number portability in Malta. For each proposal, an indication is provided to distinguish between the continued applicability of existing Decisions in the *2005 Decision* from new proposals being made to reflect novel provisions in S.L. 399.48.

**For ease of reference, Decision numbers will be suffixed with “/2005” where these refer to Decisions established in the *2005 Decision*, and “/2022” for those proposed for the new Decision (*hereafter the ‘2022 Decision’*).**

For the scope of this Consultation, all Decisions emanating from the *2005 Decision* are re-assessed in terms of their continued applicability (or otherwise) under the new regulatory framework, and for each the Authority provides the rationale on whether to repeal, retain or update the said Decision.

On the other hand, some sections will put forward new decisions, which will be marked accordingly as ‘new’ and bear the *Decision X/2022* notation. These new decisions are intended to address novel measures introduced under S.L. 399.48.

To facilitate the assessment of the proposed decisions, these are presented in the same order as listed in the *2005 Decision*, interleaved with new proposed decisions as relevant.

### 5.2 Proposed Updates to the Decisions

#### 5.2.1. The Basis for Number Portability in Malta

The preamble in Chapter 7 of the *2005 Decision* was intended to address the prevalent context at the time, whereby the framework for number portability in Malta was still being formalised, and various considerations were necessary to address market conditions, including the prospect of new market entrants and the absence of competition for fixed line telephony. As such, much of the text was time-sensitive and is no longer applicable in the current circumstances.

The subsequent sections 7.1, 7.2 and 7.3, and corresponding Decisions 1/2005 – 4/2005 were also significantly related to the prevailing context in 2005, and are thus of limited relevance. To this end, it is being proposed these Decisions are repealed accordingly. Nevertheless, some of the principles that were established in these Decisions are re-proposed under the proposed Decisions 1/2022 to 3/2022 (next section).

#### 5.2.2. Implementing Number Portability in Malta

Regulation 94(5) of S.L. 399.48 establishes the right of end-users subscribed to voice communications services with numbers from the national numbering plan to request that they retain their numbers, independently of the undertaking providing the service, thereby establishing the obligation to support number portability on all providers of voice communications services.

The parameters tied to this right are further specified in Part C of the Sixth Schedule of S.L. 399.48, mandating that providers need to support number portability: (a) in the case of geographic numbers, at a specific location; and (b) in the case of non-geographic numbers, at any location. A further parameter established in Part C of the Sixth Schedule of S.L. 399.48 is that the right does not apply to the porting of numbers between networks providing services at a fixed location and mobile networks.

To this effect, and in accordance with the General Principles addressed in Chapter 4 above, the Authority proposes the following:

#### Decision 1/2022

Providers of voice communications services who serve **fixed numbers** (including DDI numbers) are to satisfy requests to port such fixed numbers to another voice communications services provider who serves fixed numbers subject that all established Specifications, in particular the *Fixed and DDI Number Portability Ordering Process Specification*<sup>4</sup>, are adhered with when processing the request:

- Provided that in porting DDI numbers, the DDI number to be ported shall represent a block of 100, 1,000 or 10,000 numbers depending on the type of DDI number in the request (i.e. '6+2', '5+3' or '4+4' respectively), that is, the porting of individual numbers within a DDI number (e.g. '6+2'/'5+3'/'4+4') is not permitted.

#### Decision 2/2022

Providers of voice communications services who serve **mobile numbers** are to satisfy requests to port such mobile numbers to another voice communications services provider who serves mobile numbers subject that all established Specifications, in particular the *Mobile Number Portability Ordering Process Specification*, are adhered with when processing the request:

- Provided that where the same number is used for a subscription which includes more than one service (e.g. telephony, SMS and data services) that are supported on both the donor and recipient operators' networks, the implementation shall enable all such services on the new network to be used with the ported number.

#### Decision 3/2022

Providers who serve **non-geographic numbers such as Freephone or Premium Rate Service numbers** are to satisfy requests to port such numbers to another provider who serves such non-geographic numbers subject that all established Specifications, in particular the *Number Portability Specification for Freephone Numbers* and the *Number Portability Specification for Premium Rate Numbers*, are adhered with when processing the request.

In all cases, providers are not permitted to port numbers between networks providing services at a fixed location and mobile networks.

<sup>4</sup> It should be noted that the *Fixed Number Portability Specification of the Full Solution for Geographic subscriber numbers & DDI numbers* is being renamed to *Fixed and DDI Number Portability Ordering Process Specification*.

### 5.2.3. Network solutions for individual number portability

Following consultations on the preferred routing mechanism (and related implications), the *2005 Decision* had concluded that an “independent solution” would be preferable, and consequently directed providers to use their preferred routing methodology so long as they make sure that communications to ported numbers are delivered correctly either directly or via the block operator.

Specifically, the MCA had decided that providers who originate calls, or who bring calls into Malta, should be able determine for themselves the routing technology that they choose, provided that this was carried out:

- within a charging framework that correctly reflects the cost implications of their decisions; and
- within an information framework that enables the originating provider to route calls to ported numbers direct to the recipient network, i.e. that ensures that all providers have access to an up-to-date list of all ported numbers and the providers who are serving them.

This “independent solution” thus enabled providers to determine themselves whether to deploy techniques such as ‘All Call Query’ or ‘Onward Routing’ in routing calls, as well as other forms of communications such as SMS and signalling messages. For example, local mobile operators had adopted an ‘All Call Query’ solution based on signalling relay technology since the introduction of mobile number portability. The rationale at the time is still relevant to date.

#### **Decision 4/2022** (based on Decision 5/2005 with some amendments)

The MCA directs as follows:

- All operators who originate communications to ported numbers, or who handle incoming international communications to ported numbers, are to ensure that the communications are delivered correctly to the ported number either directly or via the block operator;
- All operators who receive an incoming communication either from one of their own subscribers or from another interconnected operator to a ported number in one of their own number ranges, to onward route the communication to the operator who is currently serving the ported number;
- All operators who originate communications to ported numbers, or who handle incoming international communications to ported numbers, and who do not route such communications directly to the operator who is currently serving the ported number, to pay on request, the reasonable additional conveyance costs of the other operators that arise from the number having been ported. Such originating operators shall not charge callers more for communications to ported numbers than they charge for communications to non-ported numbers on the same network. Operators may waive their rights to charges or simplify/modify these arrangements including the additional conveyance charges under this Decision by mutual agreement and with the consent in writing of the MCA; and
- All operators who serve ported numbers to make available to other operators, free of charge in a convenient electronic form, an up-to-date list of the ported in numbers that they are currently serving, and to keep that list of numbers updated in respect of both additions and deletions at least once a day on every day that porting is offered to subscribers. This list of ported in numbers is also to be made available to the MCA upon request.

The requirement to make available a list of ported in numbers may be satisfied either by:

- bi-lateral exchanges of information between all the operators;
- publication of lists on the Internet, with the option of the list being encrypted; or
- the use of a central reference database.

The operators are free to choose the most appropriate method amongst themselves for the above requirement to make available a list of ported in numbers.

#### 5.2.4. Charging Solutions for Number Portability

There are three main types of cost associated with Number Portability as follows:

- **General system setup costs:** These are one-off costs mainly incurred by the operators in modifying their network and support systems to enable Number Portability. System provisioning costs are incurred even before a single number is ported and are therefore independent of operator demand. These costs include all the capital costs of network upgrading and system development, as well as those involved in creating an agreed porting procedure and determining commercial terms and procedures;
- **Transaction costs:** These are mainly administrative costs incurred in implementing Number Portability for individual subscribers. These include the cost of complying with the agreed porting procedures, activating ported numbers, testing, and communicating the necessary call routing information to other operators;
- **Additional conveyance costs:** These are additional costs involved in routing a call or other communication to a subscriber with a ported number, compared to the costs involved in routing a call or other communication to a subscriber with a non-porting number.

##### 5.2.4.1. Principles for Cost Apportionment

The following guiding principles have been identified and used by other National Regulatory Authorities (NRAs) as a basis for determining Number Portability cost allocations:

- a. **Cost causation:** the party responsible for causing costs should bear the costs;
- b. **Distribution of benefits:** the parties benefiting from the process should bear the costs;
- c. **Effective competition:** the cost allocation mechanism should inherently encourage competition;
- d. **Cost minimisation:** the cost allocation mechanism should encourage operators to minimise costs and in particular to adopt technically efficient solutions;
- e. **Reciprocity:** charges between operators should be equal for the same service;
- f. **Practicability:** the allocation mechanism should be practical to implement; and
- g. **Relevance:** charges should represent the costs of an efficient operator using a least cost approach.



In its *2005 Decision*, the MCA had considered carefully the application of these principles to number portability in Malta especially in respect of the setup costs, because they are much higher per subscriber than in other countries where the number of subscribers is much greater. The MCA had concluded that the approach taken in other countries, namely that each operator should bear its own setup costs, should also be applied in Malta. The main reason is that this spreads the costs of number portability over all subscribers. This is fair because all subscribers will benefit from the increase in the effectiveness of competition that should arise from number portability. The alternative of attempting to recover the setup costs from those subscribers who port would be counter-productive because the cost of porting would become too high and very few, if any, subscribers would port. The MCA considers that this conclusion remains valid and is maintaining the same approach.

The MCA also maintains its conclusion in the *2005 Decision* that the originating operator should bear the cost of additional conveyance as this gives the originating operator the incentive to use the most cost effective method for call routing. This is an integral part of the concept of the “independent solution”.

Regulation 94(7) of S.L. 399.48 stipulates that: “The pricing among providers related to the provision of number portability shall be cost-oriented, and no direct charges shall be applied to end-users”. In this respect and in line with the *2005 Decision*, the MCA considers that the donor should be entitled to recover the reasonable costs of operating the porting transaction from the recipient but not from the subscriber. Operators may find that it is not worth billing for these charges if the volume of portings between them in each direction is approximately the same. The *2005 Decision* had established that the recipient should be entitled to charge the subscriber for porting if it wishes to do so but should be allowed alternatively not to charge and so to spread these costs over all its subscribers, as all benefit from the increased effectiveness of competition. However, the MCA shall be revising Decision 6/2005 related to charging to also prohibit the recipient operator from applying any charges to subscribers for porting in order to be in adherence with the new regulations as proposed below. This revision is not expected to have any market impact since, based on industry feedback, local recipient operators are not applying any charges to subscribers for porting.

**Decision 5/2022 (based on Decision 6/2005 with some amendments)**

The MCA directs:

- Each operator affected by number portability shall bear its own setup costs;
- Neither the donor operator nor the recipient operator shall apply any charge to the porting subscriber for number portability;
- The donor operator and the block operator may charge the recipient operator for the reasonable recurring costs for:
  - a. An unsuccessful porting transaction; and/or
  - b. A successful porting transaction.

## 5.2.5. The Porting Process

### 5.2.5.1. Initiation of porting

A subscriber who wants to port his/her number needs to open an account with the recipient and therefore needs to have contact with the recipient. An important issue considered in the *2005 Decision* was whether or not the subscriber should be able to order portability from the recipient, or whether they need to separately contact the donor. At the time, the MCA considered that "one-stop" porting should be available and that the porting process should be recipient-driven. The reasons that underpinned that Decision were that:

- The arrangement made the process easier for the subscriber;
- The recipient has the motivation to make the process as easy as possible, whereas the donor may have the opposite motivation; and
- The donor could abuse contact with the subscriber to make special offers to deter the subscriber from porting.

In order to avoid invalid porting requests, the *2005 Decision* also mandated the need to carry out basic validation checks on the subscriber's right to port a number where necessary, depending on the specific subscription type and status for the number to be ported.

The MCA considers that this conclusion remains valid. Regardless, the new regulations now mandate a recipient-driven process, as the (new) Regulation 94(10) of S.L. 399.48, (transposing Article 106(6) of the EECC), now provides that "the receiving provider shall lead the switching and porting processes...". The same sub-regulation also mandates that the subscriber's contract with the donor operator is to be terminated automatically upon porting.

In this respect, the Decision to impose a recipient-driven process shall be maintained and recast as Decision 6/2022, with an additional obligation on the recipient operator to ensure that subscribers are informed that their contract (or other similar arrangement) with the donor operator for the number to be ported will be automatically terminated upon successful porting, and that such automatic termination can have implications on any other services, such as in a bundled offer, that they may have with the donor operator.

**Decision 6/2022** (based on Decision 7/2005 with some amendments)

The MCA directs that the porting process should be recipient-driven with the recipient making validation checks of the subscriber's right to the number that it wishes to port. The subscriber should not be required to contact the donor to obtain the porting.

Recipient operators should also inform subscribers that their contract (or other similar arrangement) with the donor operator for the number to be ported will be automatically terminated upon successful porting, and that such automatic termination can have implications on any other services, such as in a bundled offer, that they may have with the donor operator.

### 5.2.5.2. Closure of previous accounts and bundled offers

#### (a) Preamble

In the *2005 Decision*, the MCA considered the implications of the timing of closing subscribers' accounts with the donor, and reached the conclusion that subscribers should be allowed to port their number before paying off their outstanding bills with the donor operator, provided that there are no bills that have already been issued where payment has not been received within the normal credit period.

At the time, this notion was not addressed in the then applicable regulations (S.L. 399.28). However, (new) Regulation 94(10) of S.L. 399.48 states that "the end-users' contracts with the transferring provider shall be terminated automatically upon conclusion of the switching process" (emphasis is of the MCA). This provides a specific legal basis for the obligation on the donor to terminate the subscriber's contract associated with the number in the porting request and to cease the provision of all services included under the same contract at the conclusion of the porting process.

In the light of this development, providers must ensure that terms and conditions related to advance notice periods for contract termination, as per new Regulation 91 of S.L. 399.48, include an exception in the case of port-out requests, without prejudice to any applicable and established fees such as those for early termination. In such cases, such advance notice periods shall not constitute grounds for the donor operator to refuse incoming porting requests, and the subscriber should not be obliged to notify its provider at least one month prior to contract termination, in line with the recipient-driven approach.

#### (b) Bundled Offers

Given the increased take up of "bundled offers"<sup>5</sup> among local subscribers, the Authority is taking the opportunity to explicitly direct that the donor operator cannot refuse porting requests on the basis that the number to be ported forms part of such a bundled offer. For such bundled offers, and in line with Regulation 91(3)(a) of S.L. 399.48, the respective terms and conditions should not act as a disincentive to changing a service provider. Rather, service providers should endeavour to ensure that subscribers are able to understand the benefits and risks associated with such bundled offer, including by providing information, possibly in the terms and conditions, on what would happen in the case of number portability for the number in the bundle, in order to make an informed choice prior to committing to number portability.

Recipient operators are reminded of their obligation under Decision 6/2022 to inform subscribers that porting a number which forms part of a bundled offer may have implications on any other services that they may have with the donor operator.

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<sup>5</sup> In line with Regulation 96 of S.L. 399.48, "bundled offer" is to be understood as a bundle of services or a bundle of services and terminal equipment, which comprises at least an internet access service or a publicly available number-based interpersonal communications service. In accordance with Recital (283) of the EECC, a bundle should be considered to exist in situations where the elements of the bundle are provided or sold by the same provider under the same or a closely related or linked contract.

Lastly, upon a successful porting of a number in a bundled offer, the donor operator should cease utilising this number with any of the services which it may continue to offer the subscriber after porting.

**Decision 7/2022** (based on Decision 8/2005 with some amendments)

Subscribers should be able to port their numbers without giving advance notice for contract termination and without paying off their account with the donor first provided that they do not have outstanding unpaid bills where the payment has not been received within the normal period allowed for payment. Subscribers who are subject to suspension of incoming or outgoing calls because of late payment may be refused porting.

If number portability is found to lead to an increase in bad debts amongst post-paid subscribers who have ported their number, the donor or block operator may cease to provide onward routing or messaging, or the operators may implement other arrangements and controls, but only with the prior written agreement of the MCA.

The MCA further directs that, upon the successful conclusion of a porting process, the subscriber's contract (or other similar arrangement) with the donor operator shall be terminated automatically, which applies also when the contract (or other similar arrangement) is for more than one service. Furthermore, the following conditions should also apply:

- Donor operators may not refuse porting requests on the basis that the number to be ported forms part of a bundled offer; and
- Donor operators should cease utilising the ported out number with any other service offered to the subscriber after porting.

### 5.2.5.3. Porting requests following contract termination

Regulation 94(6) of S.L. 399.48 establishes that “where an end-user subscribed to a voice communications service terminates a contract, that end-user shall retain the right to request to port a number from the national numbering plan to another provider for a minimum of one month after the date of termination, unless that right is renounced by the aforesaid end-user”.

Here, “contract” is being understood to also include other similar arrangements with the end-user, which would be applicable in the case of certain subscription types such as pre-paid mobile telephony service subscriptions.

To ensure that end-users may avail of this right, multiple aspects related to eligibility, procedures, and additional validations need to be addressed. In this regard, Part (a) below addresses aspects related to the general procedure that is to be applied to determine eligibility and handle requests received under this Regulation. Then, the provision in this Regulation dealing with end-users who renounce this right is addressed next in Part (b). Lastly, Part (c) presents the MCA's rationale to address requests raised by terminated mobile subscribers with unregistered pre-paid SIMs.

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(a) General procedure

The Authority notes that this new provision has an impact on the treatment of terminated numbers in general as well as on the number portability process whenever such porting requests are received. In this regard, the Authority sought preliminary feedback on implementation options from local telephony providers prior to the publication of this Consultation Document. The following considerations take this feedback into account.

The MCA considers that, for the purposes of this right to *request* porting, it is immaterial whether the contract was terminated by the subscriber directly or otherwise (e.g. subscriptions terminated due to inactivity). Notwithstanding, eligibility to *port the number* in question would still rest on satisfying all the applicable conditions for a successful porting as addressed hereunder.

Given that these requests would emanate from persons (natural or legal) whose contract was terminated, such requests for number portability would thus be received from persons that are no longer ‘subscribers’ *per se*, given the absence of an active contract with a telephony service provider. In this respect, the term ‘applicant’ is being used to refer to such persons wishing to avail of this right, to distinguish such persons from subscribers.

With a view to ensure a level-playing field, in its email to local providers of voice communications services sent in April 2021, the Authority informally proposed to extend this right such that the applicant can also choose to request the reactivation of his/her number with the last serving provider, as opposed to porting it to another provider. No objections were received in this respect following the informal exchange with providers.

The Authority also considers that it would be reasonable for applicants to have a timeframe of one month after the date of contract termination to request the porting (or reactivation) of terminated numbers.

A further point considered is the impact on the mandatory quarantine period for terminated numbers. Given the nature of this new right, it was decided that the quarantine period is to commence one month following contract termination, thereby allowing a transitory period during which the person concerned could apply to port (or reactivate) the number. During this transitory period, the number would still appear as belonging to the last serving provider, regardless of whether the number pertained to a block allocated to this provider or was ported to it. Subsequently, (and if applicable), in the case of terminated numbers which are neither reactivated nor ported during the transitory period, the last serving provider should send out an e164Terminated message one month following contract termination, that is, not after three (3) days have elapsed following the date of contract termination as previously directed.

Lastly, where a recipient operator raises a porting request on behalf of an applicant, the last serving provider shall act as the donor operator and facilitate all validations checks as per norm, depending on the nature of the last subscription type held by the applicant with the donor operator. For all intents and purposes, the applicant is to be treated as an active subscriber once eligibility to avail of this right is confirmed by the donor operator, and all Decisions and Specifications become applicable. In parallel, an applicant’s request to reactivate a terminated number with the last serving provider should also be processed in such a manner that all necessary validations (e.g. request received within the eligible period) are carried out before reactivation.

**Decision 8/2022** (new, implementing Regulation 94(6) – Part (a))

Where a person (natural or legal) terminates a contract (or other similar arrangement) with a provider of voice communications services, that person shall retain the right to request to port (or reactivate) any corresponding number which is subject to portability as per Decisions 1-3/2022 for a period of one month after the date of termination;

- Provided that this right to request porting (or reactivation) applies also in the case when the termination of the contract (or other similar arrangement) is carried out by the provider of voice communications services.

When the contract (or other similar arrangement) of a subscriber is in the process of being terminated, the MCA directs the respective provider of voice communications services to:

- Inform, through a durable medium<sup>6</sup> (e.g. email, letter, SMS), the subscriber concerned of his/her right to request to port (or reactivate) the number for a period of one month following the date of termination; and
- Where the serving provider is not the block operator and the terminated number is neither ported nor reactivated during the one month period following termination, that provider is to send an e164Terminated message to all other operators after the lapse of one month following the date of termination.

Furthermore, where an applicant submits a porting request for a terminated number, the donor operator charged with authenticating the applicant's eligibility (i.e. whether the request was submitted within the aforementioned one month period), shall be that provider which last provided service to the applicant:

- Provided that, if an applicant's request is deemed to have been made within the eligible timeframe (i.e. one month following the termination date), the applicant's porting request should then be processed in line with all applicable Decisions and Specifications for handling subscribers' porting requests.

Where an applicant requests reactivation of a terminated number, this request should be processed in such a manner that all necessary validation checks are carried out before reactivation. Such reactivation within one month following the date of termination should exclusively be in favour of the same person who last held the number in subscription.

**(b) Renouncing the right established in Regulation 94(6) of S.L. 399.48**

It should be noted that Regulation 94(6) of S.L. 399.48 also provides for the possibility that a subscriber may opt to renounce the right to request to retain the number within one month following contract termination, bringing about additional implications.

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<sup>6</sup> All references to the term 'durable medium' in this document are in accordance with the definition included in Regulation 2 of S.L. 399.48.

First, upon informing the end-user concerned of his/her right under Regulation 94(6) of S.L. 399.48 (as per proposed Decision 8/2022), providers should also indicate that this right may be renounced. This possibility should not be taken as an opportunity to impose on the subscriber concerned an automatic renunciation of this right. Similarly, automatic renunciation should not be included in clauses on documentation related to contract or service termination. Thus, the Authority considers that a specific declaration in a form on durable medium (e.g. letter, email) must be received from the subscriber concerned explicitly indicating that they are renouncing their right to request retaining their number as per Regulation 94(6) of S.L. 399.48. Whilst recognising that this imposes an obligation on the subscriber concerned, the Authority believes that this is justified and necessary to ensure an informed decision.

Furthermore, where a renunciation is received in respect of numbers that are ported-in, the last serving provider should send the e164Terminated message after a minimum lapse of three (3) working days, and no later than one month, following the date of termination.

In this regard, the MCA proposes the following:

**Decision 9/2022** (new, implementing Regulation 94(6) – Part (b))

Providers are prohibited from adopting practices that presume a ‘*renunciation by default*’ with regards to the right addressed in Decision 8/2022. To this effect, providers are prohibited from including clauses on documentation related to contract or service termination that implement an automatic renunciation of this right, nor any generic terms in applicable Terms and Conditions that implement such automatic renunciations.

Providers are to ensure that subscribers who wish to renounce their right do so by submitting a specific, “opt-in to renounce” declaration in a form, (which may be part of any Termination Form already in use), on durable medium (e.g. letter, email) that explicitly indicates that they have been informed of this right and that they wish to renounce it:

- Provided that, in such cases, where the serving provider is not the block operator and the end-user renounces the right to request porting (or reactivation) of the number after termination of the contract (or other similar arrangement), that provider is to send an e164Terminated message to all other operators after a minimum lapse of three (3) working days, and not later than one month, following the date of termination.

**(c) Requests from applicants with unregistered pre-paid SIMs**

When a request to port (or reactivate) a number is received from an applicant with an unregistered pre-paid SIM within the stipulated one month following termination, due to the very nature of an unregistered subscription, providers would lack the subscriber information required to authenticate the request, which would otherwise be available in the case of conventional registered subscribers.

Consequently, the number portability authentication process for such cases warrants bespoke treatment. To this effect the MCA is proposing the Options (i) to (v) below to provide stakeholders the opportunity to revert with their respective preference. Whilst feedback on the different options would be appreciated, stakeholders are also invited to suggest any other alternatives they believe could address the matter.

Options (i) to (iii) are designed to be recipient-driven throughout the entire process beyond that of conventional number portability. In addition, the MCA decided to also include Options (iv) and (v) in case stakeholders are of the opinion that the benefits accrued from Options (i), (ii) and (iii) would not outweigh any administrative and/or technical burden required to implement them. Ultimately both Options (iv) and (v) would also entail the porting process to be completely recipient-driven.

*Option (i) - CLI Check*

For a period of one month following termination, SIMs for unregistered pre-paid subscriptions are to be kept active with restrictive access solely to receive incoming SMS. This would enable the recipient operator to carry out a CLI Check by means of sending an SMS towards the number to be ported.

*Option (ii) - Verification code sent to subscriber prior to termination*

A verification code (e.g. PUK1/PUK2, a newly generated code, etc.) is sent to the unregistered pre-paid subscriber through a durable medium (e.g. via SMS, etc.) upon the sending of any notification of imminent termination, so that the same provider would be able to authenticate the applicant requesting porting within one month following termination.

*Option (iii) – Authentication based on SIM Serial Number*

The serial number of the SIM in possession of the applicant requesting porting within one month following termination would be recorded by the recipient operator and sent to the donor operator who would verify whether the SIM in question had been used in association with the number to be ported prior to termination.

*Option (iv) – Reactivate SIM with Donor prior to porting using the normal process*

For a period of one month following termination, the applicant with an unregistered pre-paid SIM is to physically present the donor with his/her deactivated SIM for authentication purposes and to confirm that the number in question is linked with the SIM. Once re-activated by the donor, the applicant (now equivalent to a regular subscriber) may then proceed in porting the number using the conventional number portability process through the recipient operator.

*Option (v) – Registration requirement prior to termination*

The unregistered pre-paid subscriber would be informed that he/she is required to register prior to termination in order to be entitled to port his/her number. The provider is required to clearly inform the subscriber of this option and its consequences on a durable medium (e.g. via SMS, etc.) prior to terminating the subscription.



The Authority will evaluate the feedback received and update the *Mobile Number Portability Ordering Process Specifications* accordingly to cater for the specificities of such cases, including on any implications on the process for reactivation of terminated numbers by the last service provider.

#### 5.2.5.4. Timing of the porting process

In the *2005 Decision*, the MCA had presented a detailed rationale to establish the parameters related to the availability ('shopping hours') and timeframes for the receipt and processing of number portability orders. In general, the arguments presented therein are still valid to date. Thus, Decision 9/2005 will be recast as Decision 10/2022 with some changes to reflect developments since the publication of the *2005 Decision*, and the shift in the legal basis from the former Regulation 47(4) of S.L. 399.28, to the new Regulation 94(8) of S.L. 399.48. The MCA's rationale follows.

First, Specifications covering the different number portability scenarios have since been developed, providing detailed procedures and timeframes as applicable. Thus, the aspects relating to procedure and timeframes are addressed only in the respective Specification.

Secondly, a difference brought about by the new regulations as per S.L. 399.48 is that the facility to request number portability on a future date was not *legally* mandated in 2005 (no reference to such facility in the former Regulation 47(4) of S.L. 399.28), whereas this end-user right is now specifically provided for in (new) Regulation 94(8) of S.L. 399.48, which states that the "porting of numbers and their subsequent activation shall be carried out (...) on the date explicitly agreed with the end-user" (emphasis is of the MCA). Said that, Decision 9/2005 had nevertheless included this facility as a requirement on providers, so the inclusion of this right in Regulation 94(8) of S.L. 399.48 will not bring about changes in practice.

In summary, in the *2005 Decision* the MCA had directed that (emphasis is of the MCA):

- (a) Subscribers should be able to order number portability during normal shopping hours, whilst encouraging operators to cooperate towards extending these hours to meet the demands of subscribers;
- (b) Efficiency was considered paramount and that, through electronic ordering systems, porting processes could be very quick and for mobile number portability concluded in less than two hours;
- (c) To gain economies of scale, operators could collect requests and handle them as a batch at the start or end of each day;
- (d) Where a subscriber wished to arrange porting several days in advance, the recipient operator was allowed to store the order and place it with the donor on the appropriate day;
- (e) An additional working day to process orders for multi-line accounts held by legal persons not being natural persons (e.g. companies) was allowed for the donor to double check the validity of the order due to increased risk of fraudulent porting orders; and
- (f) In the case of individual fixed line number portability, the MCA considered that the process should not take more than five working days. For number blocks, where data may need to be changed in all switches, four weeks were allowed.

Given that generally the above continues to be applicable, and taking into account developments as indicated above, the following Decision shall apply.

**Decision 10/2022** (based on Decision 9/2005 with some amendments)

The MCA directs providers of voice communications services to ensure that:

- Subscribers may order number portability during at least 09:00 – 18:00 hours Monday - Friday and 09:00 – 13:00 hours on Saturdays excluding public holidays;
- Subscribers may order number portings to take place either as soon as possible or on a specified date in the future excluding Sundays and public holidays.

Providers are also required to adhere with the timeframes of the porting process as established in the applicable Number Portability Specifications.

#### 5.2.5.5. Reasons for refusal

Drawing from international best practices in number portability, in the *2005 Decision* the MCA had reached the conclusion that a reliable process is best achieved when it is the recipient operator that leads the validation process, and whereby the reasons to refuse a porting by the donor operator are limited by regulation, as per Decision 11/2005.

Given the developments emanating from the new regulations, additional justifiable reasons are being added to those listed in Decision 11/2005, which is therefore being recast as Decision 11/2022. As detailed in the sub-section '*Closure of previous accounts*', advance notice periods as per new Regulation 91 of S.L. 399.48 or requests for porting of number/s utilised for voice communications services that are part of a bundle of services shall not constitute grounds for the donor operator to refuse incoming porting requests.

**Decision 11/2022** (based on Decision 11/2005 with some additions)

The MCA directs that donor operators may refuse a porting only for the following reasons:

- the number to be ported is not a valid number for a subscriber on the donor operator's network;
- in the case of post-paid accounts, the account number in the request is not the account number used by the donor operator for the number for which porting is requested;
- in the case of mobile numbers, the classification of the account does not match, e.g. a request is made under the pre-paid procedure for a post-paid account;
- in the case of post-paid accounts, the subscriber has an outstanding bill that has not been paid within the normal period allowed;
- the subscriber is already subject to suspension of outgoing or incoming calls because of failure to pay a bill;
- the number is already subject to a porting process;
- the number has already been ported in the last two (2) months;
- more than one month has elapsed since the subscription associated with the number to be ported was terminated;
- the subscriber formerly assigned this number had renounced the right to request porting when terminating his/her subscription;
- in the case of multi-user post-paid subscriptions held by legal entities other than natural persons, the subscriber has informed the donor operator in a form that can be recorded for future verification (e.g. writing, fax, email, recorded conversation) that the porting request is not correctly authorised;
- any other reason agreed to by the Authority and notified to the operators in writing.

More detailed scenarios for refusing a porting may be found in the respective Number Portability Ordering Process Specifications.

#### 5.2.5.6. Continuity of service

The underlying premise of Decision 12/2005 remains valid, namely that problems may arise during the porting process. Therefore, it is important to ensure that the subscriber is always able to make an outgoing call to obtain assistance. This means that the account should be activated on the recipient network before the account is closed on the donor network, thus creating an overlap during which both accounts are active. In the case of mobile number portability, this includes the recipient operator provisioning a subscription in the HLR/HSS which associates the number being ported with the International Mobile Subscription Identity (IMSI) stored on the SIM issued by the recipient operator to the subscriber requesting porting. The alternative to allowing a gap where neither account is active leaves the subscriber vulnerable to being unable to make any outgoing calls from the number to be ported.

In this regard, the former Regulation 47(5) of S.L. 399.28 mandated that loss of service during the porting process should not exceed one working day. This provided the legal basis for Decision 12/2005,

which mandated that “as far as possible”, providers should ensure that there is no gap, or loss, in service rendered to the subscriber during the porting process.

A development in this regard is that (new) Regulation 94(8) of S.L. 399.48 now extends the end-user safeguards against loss of service in the context of number portability. It mandates that in the case of *failure* of the porting process, the donor operator shall reactivate the subscriber’s number and related services until porting is successfully concluded, offering the subscriber service under the same terms and conditions previously offered. It also mandates, as was previously the case, that loss of service should not exceed one working day.

Furthermore, (new) Regulation 94(9) of S.L. 399.48 mandates that network operators whose access networks or facilities are used by the donor and/or recipient operator(s) involved in the porting request “shall ensure that there is no loss of service that would delay the switching and porting process”. This suggests that responsibility to safeguard against loss of service may, in some circumstances, be extended to or shared with third party operators or service providers upon whose networks/facilities the donor and/or recipient rely to provide service to their subscriber. In this respect, further detail on the allocation of responsibility in such cases is provided in the respective Number Portability Ordering Process Specifications. Nevertheless, providers of voice communications services are to assume primary responsibility to safeguard against loss of service or delays in any porting process where they are either the recipient or the donor operator, including where there are dependencies on access networks, facilities and/or technical solutions provided by third parties. Where any underlying access networks, facilities and/or technical solutions are provided by undertakings authorised with the MCA as providers of electronic communications networks and/or services (ECN/S) in Malta (e.g. Mobile Virtual Network Enabler (MVNE), Access Provider), these are to conform with all applicable number portability Decisions and Specifications.

Based on the developments emanating from the new regulations as per S.L. 399.48, Decision 12/2005 is being recast as Decision 12/2022.

**Decision 12/2022** (based on Decision 12/2005 with some amendments)

The MCA directs that, as far as possible, the porting process should not involve a gap where neither the account on the recipient network nor the account on the donor network is active. The subscriber should always be able to make an outgoing call on one of the networks from the number to be ported. Thus, in order to safeguard continuity of service for the subscriber, the Authority directs as follows:

- Where the donor operator is informed of a failure in the porting process which may result in some loss of service, the donor operator shall, with immediate effect, reactivate the subscriber’s number and related services under the same terms and conditions previously offered until porting is successfully concluded and the services are activated by the recipient operator;

Furthermore, in order to clarify lines of responsibility where third parties’ access networks, facilities and/or technical solutions are used by the donor and/or recipient operator(s) involved in the porting request, the Authority directs as follows:

- Providers of voice communications services are to assume primary responsibility to safeguard against loss of service or delays in any porting process where they are either the recipient or the donor operator, including where there are dependencies on access networks, facilities and/or technical solutions provided by third parties;
  - Provided that where any underlying access networks, facilities and/or technical solutions are provided by undertakings authorised with the MCA as providers of electronic communications networks and/or services (ECN/S) in Malta (e.g. MVNE, Access Provider), these are to adhere with all applicable number portability Decisions and Specifications.

In any case, where there is a loss of service as a result of a failure in the porting process, this should not exceed one working day.

#### 5.2.5.7. General provision on the porting process

The Decisions and underlying arguments relevant to the porting process are all based on the premise that the user equipment available to mobile telephony subscribers in Malta is dependent on physical (removable) SIMs. Thus, since its inception, the mobile number portability process in Malta was designed around a scenario whereby the porting subscriber would need to replace the physical SIM of the donor operator by the SIM card of the recipient. For the time being, it appears that this situation will persist, as the Authority is not informed of any locally authorised mobile telephony service provider that relies (or intends to rely) on embedded SIM (eSIM) technology for the delivery of their respective connectivity services.

Nevertheless, the Authority is also aware that market and technology trends in the mobile telecommunications industry may result in increased availability of eSIM technology in user equipment, particularly in next-generation consumer smartphones. In time, some consumer devices may be brought to market devoid of any physical SIM slot entirely, relying exclusively on eSIMs. Such devices may only be serviced by providers that offer over-the-air (OTA) provisioning of subscriber profiles.

In this regard, if a provider of voice communications services intends to implement OTA provisioning capabilities based on eSIM technology, it must advise the MCA well in advance of such implementation, specifying also whether this will extend to starting OTA provisioning of voice communications service subscriptions. This would enable the Authority to evaluate this development and carry out any necessary updates to the relevant Decisions and/or Number Portability Specifications after consulting with other service providers. The Authority reminds that, in line with new Regulation 94(11) of S.L. 399.48, the Authority is empowered to establish the details of the porting process, including where porting is to be completed through OTA provisioning.

In this regard, the MCA proposes the following:

**Decision 13/2022** (new, relative to OTA provisioning addressed in Regulation 94(11) of S.L. 399.48)

If a provider of voice communications services intends to implement OTA provisioning capabilities based on eSIM technology, it is to advise the MCA at least six (6) months prior to intended implementation, specifying also whether this will extend to starting OTA provisioning of voice communications service subscriptions.

In any case, all providers of voice communications services who offer subscriptions, utilising numbers subject to number portability as per Decisions 1-3/2022, based on eSIM technology, should also be able to support number portability.

### 5.2.6. Right of consumers subscribed to pre-paid (and hybrid) tariff plans to request a credit refund

The MCA notes that during the past years there were recipient operators who, on a voluntary basis, credited ported-in mobile pre-paid subscribers for any remaining credit (in part or in full) which they had with the donor operator at the time of requesting porting. This was also confirmed following informal exchanges with providers.

The new regulations include a provision which imposes, upon the donor operator, that they “shall refund, upon the request of a consumer using a pre-paid service, any remaining credit to that consumer” [Regulation 94(13) of S.L. 399.48]. In this respect, this refund is to be offered to porting consumers upon request in line with the following framework:

- **Eligibility Criteria:** This right should be granted to all pre-paid consumers, both registered and unregistered, and also to consumers on hybrid tariff plans who, similarly to pre-paid consumers, make available monetary credit to their provider in advance of service consumption.
- **Validation Checks:** The donor operator may perform similar validation checks to those carried out by the recipient operator when a subscriber requests porting.
- **Means to Request Refund:** As a minimum, the donor operator should offer consumers the possibility to request the refund for any remaining credit in person (e.g. via its retail outlets); in addition to any other alternatives considered (e.g. online requests).
- **Refund Fee:** The processing of the refund may be subject to an administrative fee solely if provided for in the contract (or other similar arrangement) between the donor operator and the consumer, albeit this should be without prejudice to the provisions established in other relevant Decisions published by the Authority such as the MCA’s Decision ‘*Modifications to the terms and conditions of subscriber contracts*’ (MCA-D/ms/11-0546). Any refund fee applied should be fixed and not dependent on the amount of monetary credit to be refunded to the consumer. A maximum cap of € 5.00 shall apply for the refund fee.
- **Credit to be refunded:** This should match the monetary amount which would have been indicated to the consumer should he/she had performed a credit check immediately prior to deactivation by the donor operator. Where the consumer can distinguish between *topped up/purchased* credit and any credit provided through bonuses or promotions via the credit check facility, the credit to be refunded by the donor may be exclusive of any bonus or promotional credit accordingly. For consumers on hybrid tariffs, the credit refund should exclude any monthly access fees deducted from the consumer’s monetary credit prior to porting. In cases where the value calculated for the

credit refund would be lower than the refund fee due, the donor operator should inform the consumer accordingly without further processing the request. In these circumstances, the consumer should not incur the refund fee.

- **Refund Mechanism:** As a minimum, the donor operator should offer consumers the possibility to receive the refund for any remaining credit via cash or cheque. Nevertheless, the donor operator could in addition also consider offering alternative refund mechanisms such as bank transfer or waiving credit refund due off the bill for other services which the consumer intends to retain with the donor operator.

However, the use of a refund mechanism other than cash or cheque should be subject to a voluntary agreement by the consumer to avail of the refund through the selected mechanism. Furthermore, the MCA recognises that the costs incurred by the donor operator may vary depending on the refund mechanism to be adopted and, to this effect, a donor operator may set a different fixed fee (up to the maximum cap) for each credit refund mechanism offered.

- **Timeframes:** Consumers should request a credit refund within a period stipulated by the donor operator which should be at least two weeks following a successful porting. The donor shall refund any remaining monetary credit within one month of receipt of the refund request, subject that any validation checks for the donor operator to confirm the consumer's eligibility are carried out successfully.

Upon successful porting, recipient operators are to inform subscribers, through a durable medium (e.g. email, SMS, letter), of the right granted to eligible consumers to request the donor operator to issue a refund for any remaining monetary credit following a successful porting. Subscribers should also be informed in this communication that the request must reach the donor operator within a period of two weeks from successful porting. However, subscribers should be directed to the donor operator for any further detailed information on credit refunds since these could vary from one donor operator to the other. The donor operator is to acknowledge the receipt of the consumer's credit refund request through a durable medium (e.g. email, SMS, letter). Furthermore, depending on the payment method adopted (e.g. cash refunds), it could also be good practice for the donor operator to obtain a declaration from the consumer that the refund was received in full.

In this regard, the MCA proposes the following:

**Decision 14/2022** (new, implementing Regulation 94(13) of S.L. 399.48)

Donor operators shall refund, upon the request of a consumer who was subscribed to a pre-paid or hybrid tariff plan with the donor operator prior to successful porting, any remaining monetary credit subject to the following conditions:

- The refund shall be requested by the consumer within a period of at least two (2) weeks following a successful porting.
- Consumers are, as a minimum, provided with the possibility to request the refund in person.
- The credit to be refunded by the donor should match the monetary amount which would have been indicated to the consumer should he/she had performed a credit check immediately before the donor deactivated the ported number on its network, provided that:

- Where the consumer can distinguish between *topped up/purchased* credit and any credit provided through bonuses or promotions via the credit check facility, the credit to be refunded by the donor may be exclusive of any bonus or promotional credit accordingly;
- For consumers on hybrid tariffs, the credit refund should exclude any monthly access fees deducted from the consumer's monetary credit prior to porting; and
- In cases where the value calculated for the credit refund would be lower than the refund fee due, the donor operator should inform the consumer accordingly without further processing the request, and the consumer should not be charged any refund fee in these circumstances.
- Without prejudice to other Decisions published by the MCA, the processing of the refund may be subject to a fee only if provided for in the contract between the donor operator and the consumer or, in the absence of such contracts, on the applicable terms and conditions for the consumer's service/tariff plan, provided that:
  - The fee to be imposed shall be fixed (i.e. not dependent on the amount of credit to be refunded) and shall not exceed € 5.00;
  - Consumers are offered, as a minimum, the facility to avail of the refund via cash or cheque; and
  - The fixed refund fee (up to the maximum cap) imposed may vary depending on the mechanism made available to and voluntarily selected by the consumer.
- The donor operator shall perform the necessary validation checks to confirm the consumer's eligibility, and shall refund eligible consumers within one month from receipt of the request:
  - Provided that requests for refund by consumers who were unregistered when subscribed to the donor operator prior to porting shall not constitute grounds for the donor operator to refuse refund requests.

Upon successful porting, recipient operators are to inform subscribers, through a durable medium (e.g. email, SMS, letter), of the right granted to eligible consumers to request the donor operator to issue a refund for any remaining monetary credit following a successful porting, and to make the request within a period of two weeks. Subscribers are to be directed to the donor operator for further details on credit refunds. The donor operator is to acknowledge the receipt of the consumer's credit refund request through a durable medium (e.g. email, SMS, letter). Furthermore, depending on the payment method adopted (e.g. cash refunds), it could also be good practice for the donor operator to obtain a declaration from the consumer that the refund was received in full.



### 5.2.7. Winback

The porting process for an active subscriber unavoidably results in the donor operator being told that the subscriber is planning to terminate their account. This gives an opportunity for the donor to make offers to the subscriber that might not be available to the generality of subscribers. In the *2005 Decision*, the MCA had ruled that this practice is anti-competitive and had therefore decided to prohibit it. The MCA had subsequently also published a document entitled '*Number Portability - Statement of Decision on Winback during and after the porting process*' in 2006 with the objective to define in more detail the prohibitions on winback.

In 2008, the MCA also published its Decision Notice '*Preventing anti-competitive Winback tactics in Number Portability, Wholesale Line Rental and Carrier Pre-Selection*' and updated Decision 10/2005 accordingly. Based on these decisions, the MCA had also decided that in order to prevent winback, and also to prevent subscribers from hopping from one network to another too frequently, a recently ported subscriber should not be able to port it again until two months had elapsed. The MCA believes that this rationale should continue to apply.

Furthermore, the new Regulation 94 of S.L. 399.48 and the proposed Decisions in this Consultation Paper could result in new opportunities for contact with the donor, in particular if Option (iv) is adopted to cater for the introduction of the right to request porting of a terminated number as per Decision 8/2022 in the case of applicants who were not registered with the donor operator, and the obligation introduced on donor operators to refund, upon the request of a consumer on a pre-paid or hybrid tariff plan, any remaining credit to that consumer as per Decision 14/2022. In this respect, the MCA is recasting Decision 10/2005 as Decision 15/2022, with minor updates to cater for new opportunities for winback attempts brought about by recent developments.

**Decision 15/2022** (based on Decision 10/2005 with some amendments)

The MCA directs that donor operators may not initiate contact with a subscriber who has requested number portability to discuss the advantages or disadvantages of changing operator nor make offers to such a subscriber that are not available to the generality of subscribers. Contacts to solve problems that affect the subscriber's service that have arisen during the porting process are allowed, as are contacts in relation to the implementation of porting following termination of the contract (or other similar arrangement).

Furthermore, after successful porting, the donor operator is allowed to initiate contact with the subscriber/applicant if this is necessary to address issues related to the processing of refunds to consumers on pre-paid or hybrid tariffs, and/or the settlement of any outstanding unpaid bills which become overdue after the porting process. In any case, donor operators should refrain from any winback attempts whilst in communication with the subscriber/applicant.

Commencing as from the signing of the Number Portability Application Form, recipient operators shall not accept requests from other operators or the subscriber to cancel the porting request, or port the respective number again, until two months have elapsed from when the porting is functional.

### 5.2.8. Tariff Transparency

In the *2005 Decision*, the MCA considered that where different networks are required to support number portability between them, tariff transparency is reduced when different on-net and off-net retail rates apply because a caller/SMS sender is no longer able to determine which network is serving the number utilised by the receiving party and hence which tariff will apply.

At that time, the MCA considered that tariff transparency is important and that subscribers should not be put in a position where calls/SMS are more expensive than they would expect from a simple analysis of the receiving party's number without making available some tariff transparency measures. However, in its *2005 Decision*, the MCA concluded that the form of the tariff warning required further study and the tariff transparency measure to be implemented was established later in the *Number Portability Specification of the Network Functionality*.

Since the introduction of number portability in Malta, there were a number of market developments which could have contributed to more subscribers with tariff plans having the same retail rates for on-net and off-net calls/SMS. In particular, these developments include the application of a single maximum Union-wide fixed and a single maximum Union-wide mobile voice termination rates at a wholesale level, and increased proliferation of bundles of local fixed/mobile voice minutes and/or SMS.

Nevertheless, the Authority maintains its position that tariff transparency measures are to be maintained, since there are still tariff plans in the market where subscribers are charged differently for on-net and off-net calls/SMS. Within this context, the MCA concludes that the tariff transparency service using short code 180 implemented since the introduction of number portability should be maintained via a voice-based service for fixed callers and a voice- and/or SMS-based service for mobile callers. In this respect, the Decision to provide tariff transparency within the context of number portability shall be recast as Decision 16/2022.

**Decision 16/2022** (based on Decision 13/2005 with some amendments)

The MCA directs all providers of voice communications services to ensure that they make available to their subscribers a tariff transparency service on a free-of-charge basis, via a voice-based service for fixed callers and a voice- and/or SMS-based service for mobile callers, accessible using short code 180. Further requirements on the implementation of this service in the network is provided in the *Number Portability Specification of the Network Functionality*.

Alternative arrangements to provide other tariff transparency measures may be implemented with the prior written agreement of the MCA.

### 5.2.9. Information on the performance of the Number Portability Process

The porting procedure needs to be fast and reliable to achieve the expected benefits. In the *2005 Decision*, the MCA decided to require regular reports on the effectiveness of the procedures. The number portability process proved to be both effective and efficient since its introduction and the Authority believes that the requirement for all providers of voice communications services to provide all such information on a regular basis is no longer warranted. Nevertheless, the MCA may request copies of inter-operator message logs and/or statistical reports from time to time and thus Decision 14/2005 will be revised accordingly as Decision 17/2022.

#### **Decision 17/2022** (based on Decision 14/2005 with some amendments)

The MCA directs all providers of voice communications services who are supporting individual number portability to provide the MCA with up-to-date information on the performance of the number portability process, such as through inter-operator message logs or statistical reports, when requested by the Authority. The statistical information requested may include, *inter alia*, the following:

- The number of requests received as recipient for the porting of individual numbers, with the figures shown separately for pre-paid and post-paid (recipient operator reports);
- The number of requests for porting made by the recipient operator that have been rejected by the donor operator, with the figures shown separately for pre-paid and post-paid (recipient operator reports, separate figures for each donor operator);
- Two most common reasons for the donor operator to reject requests for portings (donor operator reports);
- The number of portings where faults occurred or where responses were not received or actions were not effected within the time limits specified in this notice or within the times agreed between the operators (recipient operator reports separate figures for each donor operator); and/or
- Other number portability related information as may be deemed necessary to ensure the efficiency and effectiveness of the porting process.

The reporting arrangements may be altered with the agreement in writing of the MCA.

## 6. Summary of Impact on Number Portability Specifications

Upon coming into force of the Decision Notice following this Consultation exercise, the corresponding updates to the Number Portability (NP) Specifications will be implemented in parallel. Notwithstanding, the Authority recognises that the changes in the Specifications would in turn require providers to implement a number of internal administrative, technical and/or operational updates. In this regard, the effective date of the updated Specifications will be set to at least three (3) months from publication of the Decision Notice, at which point all providers must adhere with the new Specifications.

The table below provides a summary of where (i.e. Chapter/sub-section<sup>7</sup>) the proposed Decisions in this Consultation Paper would mainly impact the Number Portability Ordering Process Specifications, namely the:

- *Mobile Number Portability Ordering Process Specifications;*
- *Fixed and DDI Number Portability Ordering Process Specifications;*
- *Number Portability Specification for Freephone Numbers; and*
- *Number Portability Specification for Premium Rate Numbers.*

Decision		NP Ordering Process Specification			
#	Theme	Mobile	Fixed & DDI	Freephone	PRS
1	Imposes Fixed & DDI NP	N/A	No changes	N/A	N/A
2	Imposes Mobile NP	No changes	N/A	N/A	N/A
3	Imposes Freephone & PRS NP	N/A	N/A	No changes	No changes
4	Network Solutions for NP	N/A	N/A	N/A	N/A
5	Charging Solutions for NP	N/A	N/A	N/A	N/A
6	Recipient-driven NP process	5, Annex 1	5, 7, Annex 1	5, 7, Annex 1	5, 7, Annex 1
7	Closure of account upon porting	No changes	No changes	No changes	No changes
8	Request to port following contract termination - General	2, 4, 6.2, 6.3, 6.4, 6.5, 9, 10, Annex 1, Annex 2.1	2, 4, 9.1, 14, Annex 1, Annex 2.1	3, 4, 9.1, 14, Annex 1, Annex 2.1	3, 4, 9.1, 14, Annex 1, Annex 2.1
9	Request to port following contract termination – Renouncing right	6.4, 10, Annex 2.1	9.1, 14, Annex 2.1	9.1, 14, Annex 2.1	9.1, 14, Annex 2.1
10	Timing of the porting process	No changes	No changes	No changes	No changes
11	Reasons for refusing porting	6.4, Annex 2.1	9.1, Annex 2.1	9.1, Annex 2.1	9.1, Annex 2.1
12	Continuity of service	5, 15	5, 19	5, 19	5, 19
13	Decision on OTA provisioning	1	N/A	N/A	N/A

<sup>7</sup> The chapter/section numbers in the above table refer to the respective chapter/section in the Specifications inclusive of the proposed updates, and include references to new chapters/sections in the above.

14	Right of consumers subscribed to pre-paid and hybrid tariff plans to request a credit refund	2, 5, 6.2, 9, Annex 1	2, 5, 7, 13, Annex 1	N/A	N/A
15	Prohibition of winback	9	13	13	13
16	Tariff transparency service	No changes	No changes	No changes	No changes
17	Information on NP performance	12, 14	16, 18	16, 18	16, 18

Besides updates in the Ordering Process Specifications, the new Decision Notice will also bring about some updates in the other Specifications dealing with the *Inter-Operator Webservice* and *Charging*. No changes are expected in the *Network Functionality* and *Testing* Specifications.

Decision		Specification	
#	Theme	Inter-Op Webservice	Charging
1	Imposes Fixed & DDI NP	No changes	No changes
2	Imposes Mobile NP	No changes	No changes
3	Imposes Freephone & PRS NP	No changes	No changes
4	Network Solutions for NP	N/A	No changes
5	Charging Solutions for NP	N/A	4
6	Recipient-driven NP process	N/A	N/A
7	Closure of account upon porting	N/A	N/A
8	Request to port following contract termination - General	2, 19.1, 19.2	2
9	Request to port following contract termination – Renouncing right	19.1, 19.2	N/A
10	Timing of the porting process	N/A	N/A
11	Reasons for refusing porting	19.1, 19.2	N/A
12	Continuity of service	N/A	N/A
13	Decision on OTA provisioning	N/A	N/A
14	Right of consumers subscribed to pre-paid and hybrid tariff plans to request a credit refund	N/A	N/A
15	Prohibition of winback	N/A	N/A
16	Tariff transparency service	N/A	N/A
17	Information on NP performance	N/A	N/A

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## 7. Submission of Responses

In accordance with the requirements of Article 4A of the Malta Communications Authority Act [Cap 418 of the Laws of Malta], the MCA invites written submissions from interested stakeholders on both this document *Consultation and Proposed Decisions on Number Portability in Malta*, as well as to the updates proposed to the corresponding Number Portability Specifications.

The Authority appreciates that respondents may provide confidential information in their feedback to this consultation paper. This information is to be included in a separate annex and should be clearly marked as confidential. Respondents are also requested to state the reasons why the information should be treated as confidential. Respondents are however encouraged to avoid confidential markings wherever possible.

The Authority will, after taking into consideration the responses received to this consultation, publish a Decision Notice on updates to the number portability regime in Malta, and corresponding Number Portability Specifications.

For the sake of openness and transparency, the MCA will publish a list of all respondents to this Consultation Paper in the ensuing Decision Notice.

All responses should be sent to the Authority, by post or e-mail, by not later than 12:00 CET on the 15 February 2022 and addressed to:

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Malta Communications Authority  
Valletta Waterfront, Pinto Wharf  
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## Annex 1: Former Regulation 47 of S.L. 399.28 vs New Regulation 94 of S.L. 399.48

The following table presents a side-by-side comparison of the provisions of former Regulation 47 of S.L. 399.28, against the updated provisions captured in new Regulation 94 of S.L. 399.48. The comparison locates each sub-regulation in former S.L. 399.28 next to the corresponding (or most related) sub-regulation in the provisions of the new regulations as per S.L. 399.48.

S.L. 399.28 (2011) – Regulation 47 (1 – 7)	S.L. 399.48 (2021) – Regulation 94 (5 – 16)
<p>(1) An undertaking shall ensure that all subscribers which were assigned numbers from the national telephone numbering plan may, upon request, retain their number or numbers independently of the undertaking providing the service:</p> <p>(a) in the case of geographic numbers at a specific location, and</p> <p>(b) in the case of non-geographic numbers at any location:</p> <p>Provided that the provisions of this subregulation shall not apply to the porting of numbers between networks providing services at a fixed location and mobile networks.</p>	<p>(5) End-users subscribed to voice communications services with numbers from the national numbering plan may request that they retain their numbers, independently of the undertaking providing the service, in accordance with Part C of the Sixth Schedule.</p> <p><b>Part C of the Sixth Schedule</b></p> <p><b>Implementation of the number portability provisions referred to in Regulation 94</b></p> <p><i>1. The requirement that all end-users subscribed to voice communications services with numbers from the national numbering plan may request that they retain their numbers independently of the undertaking providing the service shall apply:</i></p> <p><i>(a) in the case of geographic numbers, at a specific location; and</i></p> <p><i>(b) in the case of non-geographic numbers, at any location.</i></p> <p><i>2. This Part does not apply to the porting of numbers between networks providing services at a fixed location and mobile networks.</i></p>
N/A	<p>(6) Where an end-user subscribed to a voice communications service terminates a contract, that end-user shall retain the right to request to port a number from the national numbering plan to another provider for a minimum of one month after the date of termination, unless that right is renounced by the aforesaid end-user.</p>

<p>(2) The Authority may specify obligations for compliance by an undertaking to which subregulation (1) relates, for the purpose of ensuring that pricing between operators and, or service providers related to the provision of number portability is cost oriented, and that direct charges to subscribers, if any, do not act as a disincentive for subscribers against changing service provider.</p>	<p>(7) The pricing among providers related to the provision of number portability shall be cost-oriented, and no direct charges shall be applied to end-users.</p>
<p>(3) Obligations under subregulation (2) may include a requirement that there shall be no direct charges to subscribers for number portability:</p> <p>Provided that where retail tariffs for porting of numbers are permitted, the Authority shall ensure that such tariffs may not be imposed in a manner that would distort competition and for this purpose may specify obligations to be complied with by an undertaking.</p>	
<p>(4) Porting of numbers and their subsequent activation shall be carried out within the shortest possible time:</p> <p>Provided that in any case, subscribers who have concluded an agreement to port a number to a new undertaking shall have that number activated within one working day.</p>	<p>(8) Subject to eligibility criteria as may be established by the Authority in line with subregulation (11), the porting of numbers and their subsequent activation shall be carried out within the shortest possible time on the date explicitly agreed with the end-user:</p> <p>Provided that an end-user who has concluded an agreement to port a number to a new provider, shall have that number activated within one working day from the date agreed with that end-user:</p> <p>Provided further that, in the case of failure of the porting process, the transferring provider shall reactivate the number and related services of the end-user until the porting is successful. The transferring provider shall continue to provide its services on the same terms and conditions until the services of the receiving provider are activated. In any event, the loss of service during the process of provider switching and the porting of numbers shall not exceed one working day.</p>



<p>N/A</p>	<p>(9) Operators whose access networks or facilities are used by either the transferring provider or the receiving provider, or both, shall ensure that there is no loss of service that would delay the switching and porting process.</p>
<p>N/A</p>	<p>(10) The receiving provider shall lead the switching and porting processes set out in sub-regulations (1) to (4), (8) and (9), and both the receiving and transferring providers shall cooperate in good faith:</p> <p style="padding-left: 40px;">Provided that such providers shall not delay or abuse the switching and porting processes, nor shall they port numbers or switch end-users without the explicit consent of the end-users concerned:</p> <p style="padding-left: 40px;">Provided further that the contracts of the end-users with the transferring provider shall be terminated automatically upon conclusion of the switching process.</p>
<p>(5) Without prejudice to subregulation (1), the Authority may establish the global process of porting of numbers, taking into account national provisions on contracts, technical feasibility and the need to maintain continuity of service to the subscriber:</p> <p style="padding-left: 40px;">Provided that in any event, loss of service during the process of porting shall not exceed one working day.</p>	<p>(11) The Authority may establish the details of the switching and porting processes, taking into account national provisions on contracts, technical feasibility and the need to maintain continuity of service to the end-users. In establishing such details the Authority shall include, where technically feasible, a requirement for the porting to be completed through over-the-air provisioning, unless an end-user requests otherwise.</p> <p><b>Note:</b> Aspects related to loss of service during the process of provider switching and the porting of numbers are considered in Regulation 94(8).</p>
<p>(6) The Authority may specify measures for compliance by undertakings for the purpose of ensuring that subscribers are protected throughout the switching process and are, <i>inter alia</i>, not switched to another provider against their will.</p>	<p>(12) The Authority shall take such appropriate measures as it may consider necessary to ensure that end-users are adequately informed and protected throughout the switching and porting processes and are not switched to another provider without their consent.</p>

<p>N/A</p>	<p>(13) A transferring provider shall refund, upon the request of a consumer using a pre-paid service, any remaining credit to that consumer. Such refund may be subject to a fee only if provided for in the contract between the transferring provider and the consumer:</p> <p style="padding-left: 40px;">Provided that any such fee shall be proportionate and commensurate with the actual costs incurred by the transferring provider in offering the refund.</p>
<p>N/A</p>	<p>(14) The Authority shall establish such rules as it may consider appropriate in relation to the sanctions that may be imposed in accordance with Part VI of the Malta Communications Authority Act in the case of the failure of a provider to comply with the obligations laid down in this regulation, including in relation to delays in, or abuses of, porting by or on behalf of a provider.</p>
<p>(7) Undertakings shall establish compensation mechanisms to be approved by the Authority, in accordance with any measures that the Authority may specify in this regard, in case of delay in porting or abuse of porting by them or on their behalf.</p>	<p>(15) The Authority shall establish such rules as it may consider appropriate on the award of compensation of end-users by their providers, in an easy and timely manner where such providers fail to comply with the obligations laid down in this regulation, as well as in the case of delays in, or abuses of, porting and switching processes, and missed service and installation appointments.</p>
<p>N/A</p>	<p>(16) In addition to the information required under the Eighth Schedule, the Authority shall take such measures as it considers necessary to ensure that providers adequately inform their end-users about their rights to compensation as provided for in sub-regulations (14) and (15).</p>