

# ADP

## Association of Directory Publishers

### ADVISORY

To: All U.S. ADP Members

From: Larry Angove

Date: November 21, 2003

cc:

Re: Implementation of Wireless  
Local Number Portability

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### MESSAGE

The following Advisory is issued as a membership service to all U.S.-headquartered ADP members.

It provides an overview of the Federal Communications Commission's implementation of "local number portability" or "LNP" and a discussion of its potential impact on the ability of directory publishers to obtain the subscriber list information ("SLI") of local telephone subscribers.

Background. Section 251(b)(2) of Communications Act of 1996 ("the Act"), requires that all local exchange carriers ("LECs"), both incumbents and new entrants, "provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission."<sup>1</sup> Number portability is defined by the Act as "the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another."<sup>2</sup> In other words, LNP allows customers to retain their telephone numbers when changing local service providers.<sup>3</sup> LNP may occur between two wireline carriers, *e.g.*, an incumbent LEC and a competitive LEC, between a wireline carrier and a wireless carrier, or between two wireless carriers.

In 1996, the Commission adopted broad porting requirements applicable to all LECs, requiring them to provide LNP to all telecommunications carriers providing local exchange or exchange access service within the same geographic region.<sup>4</sup> Using its authority under Sections 1, 2, 4(i), and 332 of the Act, the Commission also extended the number portability requirement to Commercial

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<sup>1</sup> 47 U.S.C. § 251(b)(2).

<sup>2</sup> 47 U.S.C. § 153(30).

<sup>3</sup> This requirement of "service provider portability" differs from "location portability," the ability to keep the same number when moving to a new location, and "service portability," the ability to keep the same telephone number when subscribing to a new service. Section 251(b)(2) requires service provider but not location or service portability.

<sup>4</sup> *Telephone Number Portability*, CC Docket No. 95-116, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd. 8352, at ¶ 77 (1996).

Mobile Radio Service providers (*i.e.*, wireless carriers).<sup>5</sup> Since December 31, 1998, wireline LECs have been required to port to other telecommunications carriers in the 100 largest metropolitan statistical areas (“MSAs”). In markets outside the top 100 MSAs, LECs must deploy LNP in switches within six months of a request by another telecommunications carrier. Portability between wireline LECs is referred to as “wireline-to-wireline portability.” Wireless carriers in the top 100 MSAs are required to provide LNP effective November 24, 2003. Outside the top 100 MSAs, wireless carriers must be capable of implementing LNP by May 24, 2004. Portability between wireless carriers is referred to as “wireless-to-wireless portability.”

Wireline LECs’ LNP obligations also include the obligation to port to wireless carriers where the requesting wireless carrier’s coverage area overlaps the geographic location of the rate center in which the customer’s wireline number is provisioned (“wireline-to-wireless portability”).<sup>6</sup> The wireless coverage area is the area in which wireless service can be received from the wireless carrier (which may overlap with several wireline rate centers). In addition, wireless carriers must port numbers to wireline carriers within the wireless number’s originating rate center (“wireless-to-wireline portability”).<sup>7</sup> The Commission has sought comment in a further notice on whether it can require wireless-to-wireline porting where there is a mismatch between the rate center associated with the wireless number and the rate center in which the wireline carrier seeks to serve the customer. Together, wireless-to-wireline and wireline-to-wireless portability are referred to as “intermodal portability.” Carriers are required to implement intermodal portability by November 24, 2003.

Section 222(e) of the Act applies to every telecommunications carrier that provides telephone exchange service and gathers SLI in its capacity as a provider of such service.<sup>8</sup> Because wireless carriers are included within the definition of telecommunications carriers, Section 222(e) also applies to wireless carriers to the extent that they provide telephone exchange service.<sup>9</sup> Wireless carriers providing telephone exchange service must provide their customers’ SLI to publishers if the wireless carrier or its affiliate has published, caused to be published, or accepted for publication the SLI in any directory format. Most wireless telephone plans require that the subscriber pay for all incoming calls. Although wireless subscribers may request that their listing be placed in a telephone directory, most do not do so because of concerns about calls from telemarketers and wrong numbers. To date, only a small number of wireless numbers have been published in directories (at the request of the wireless user), so the vast majority of wireless numbers are not subject to Section 222(e).

Analysis. It is unclear whether a significant number of customers will switch their wireline phone to a wireless phone when given the opportunity to retain the same phone number after November

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<sup>5</sup> *Id.* ¶¶ 152-53.

<sup>6</sup> *Telephone Number Portability*, CC Docket No. 95-116, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, FCC 03-284, ¶ 22 (rel. Nov. 10, 2003)(“Intermodal LNP Order”).

<sup>7</sup> *Id.*

<sup>8</sup> 47 U.S.C. § 222(e).

<sup>9</sup> *Telecommunications Carriers’ Use of Customer Proprietary Network Information and Other Customer Information*, CC Docket No. 96-115, Third Report and Order, 14 FCC Rcd. 15550, ¶¶ 26-27 (1999).

24. It is also unclear whether customers seeking wireline-to-wireless porting will want their former wireline telephone numbers, now wireless numbers, to be listed in telephone directories. Identified below are several issues that may arise for directory publishers resulting from intermodal portability:

- The obligation under Section 222(e) to provide a particular telephone subscriber's SLI extends only to the carrier that provides that subscriber with telephone exchange service.<sup>10</sup> Therefore, directory publishers will be required to obtain this information directly from wireless carriers. Wireless carriers may not be aware of their obligations under Section 222(e) and may not have mechanisms in place to meet these obligations. While some incumbent LECs may provide the wireless carriers' SLI along with their own (as with competitive LECs' SLI), directory publishers may not rely on this as a means of obtaining wireless customers' SLI.
- If wireless numbers are provided by incumbent LECs to directory publishers along with their own listings, some wireless numbers may be published against the wishes of the wireless subscriber, resulting in complaints against the incumbent LEC and/or the publisher. This is similar to the problems that arise when carriers inadvertently release subscribers' unlisted and unpublished information. Also, wireless subscribers who do not wish their numbers to be listed in the telephone directory may still wish a directory to be delivered to their principal address. Directory publishers will need to develop a mechanism to obtain the address information of wireless subscribers who do not have wireline phones.
- The Commission has held that a wireline carrier may not require that a wireless carrier enter an interconnection agreement with it as a condition of porting numbers from the wireline to the wireless carrier.<sup>11</sup> Interconnection agreements usually contain a provision permitting the competitive LECs' SLI to appear in the incumbent LEC's directory, thereby triggering the competitive LEC's obligations under Section 222(e) to provide its SLI to directory publishers. The absence of an interconnection agreement between wireline and wireless carriers in an intermodal porting situation could result in the wireless subscriber's SLI not appearing in the incumbent LEC's database, unless the wireless subscriber asks the LEC to include his or her number. In this instance, the wireless carrier responsible for the subscriber would not necessarily be aware that the subscriber's SLI had been published and would not be able to provide this information to a directory publisher. The incumbent LEC would not be required to provide this information under Section 222(e) because it would not be the subscriber's carrier.
- As wireless service is by definition a mobile service, it will no longer be clear from a subscriber's telephone number in which geographic region the subscriber is located. This may pose problems for directory publishers making requests to wireless carriers for their SLI. If the Commission requires wireless-to-wireline porting for situations in which the location of the wireline facilities serving the customer requesting the port is not in the rate center where the wireless number is assigned, this effect could be even more pronounced.

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<sup>10</sup> *Id.* ¶ 54.

<sup>11</sup> Intermodal LNP Order at ¶ 34. Wireless carriers are not precluded from entering into interconnection agreements with wireline carriers, but may not be required to do so solely for the purpose of porting numbers. Even where a wireless carrier has entered into an interconnection agreement, such agreements may need to be amended to address issues relating to portability.

Intermodal portability may also affect application of the telemarketing rules (see our memo of October 29, 2003, concerning the telemarketing rules). The telemarketing rules prohibit a person from placing a telemarketing call to “any telephone number assigned to a paging service, cellular telephone service, specialized mobile radio service, or other radio common carrier service, or any service for which the calling party is charged for the call.”<sup>12</sup> Wireline-to-wireless portability will make it difficult for telemarketers to determine whether a particular telephone number is assigned to a wireless phone if the number was previously assigned to a wireline phone. Trade associations for the telemarketing industry have asked the Commission to clarify that inadvertent calls to ported wireless phones do not constitute a violation of the telemarketing rules.

The Cellular Telecommunications & Internet Association (“CTIA”) plans to offer a 411 directory of wireless telephone numbers which consumers can call to ask for a wireless phone number. The caller will be given the number, as with traditional directory assistance, or the operator will transfer the call without providing the number or send a text message to the wireless phone owner. CTIA does not have plans to publish wireless numbers in a white pages directory or on the Internet. Thus, the 411 directory will not trigger directory publishers’ rights to purchase these listings pursuant to Section 222(e).

Conclusion. It is not yet possible to predict how customers will react to wireless-to-wireless and intermodal portability and how their reactions will affect directory publishers. What is clear is that the introduction of wireless-to-wireless and intermodal portability will present new challenges to directory publishers. In some cases, these challenges will be similar to those presented by competitive LECs. In other cases, they will be more like the challenges presented by unlisted and unpublished numbers.

As customer reaction to number portability is ascertained, ADP may decide to approach CTIA, the leading wireless carrier trade association, in order to suggest a joint effort to educate wireless carriers concerning their Section 222(e) obligations. In cases where a directory publisher confronts a problem with a specific wireless carrier, the Commission’s Section 208 complaint process will be available to it. As this process is time consuming and expensive, it may be necessary for ADP to support a “test case” should chronic problems in obtaining SLI from wireless carriers arise.

Please advise me immediately of any problems you may encounter relating to LNP issues.

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<sup>12</sup> 47 C.F.R. § 64.1200(a)(1)(iii).