

# Comments on Draft ECC Recommendation (16)01 “3<sup>rd</sup> Party Access to Number Portability Data (NP Data)”



January 2016

## Sources

Administration/ Company/ Entity: ETNO

Name and Appointment of contributor: ETNO (1)

*(1) The European Telecommunications Network Operators' Association (ETNO) represents 41 major companies, which provide electronic communications networks over fixed, mobile or personal communications systems across 35 countries. ETNO is Europe's leading trade association for telecoms. More information about ETNO can be found at: [www.etno.eu](http://www.etno.eu)*

## 1 General Comments

ETNO welcomes the opportunity to comment on the Draft ECC Recommendation (16)01 “3<sup>rd</sup> Party Access to Number Portability Data (NP Data)”. As a very general comment ETNO deplores that little attention was given to ETNO initial comments on the corresponding Draft Report.

As a general comment, whilst ETNO appreciates the rationale for extending access to NP data, ETNO considers that this should be pursued with great care. It is ETNO’s view that uncontrolled access to the information for what numbers are active or which providers holds the number invariably leads to abuse such as robot calling and aggressive telemarketing, which once in place are very difficult to tackle. In practice, it is indeed very difficult to hold 3<sup>rd</sup> parties i.e. intermediaries distributing NP data responsible for the abuse of these data, especially when it happens beyond national jurisdiction. The safeguards relative to making such parties accountable and the instrument to enforce these principles must be defined. Such an access to NP data should be at least restricted to nationally authorized entities according to the European and national regulatory framework.

A second important aspects to consider is that a national central reference NP database updated in real time, when available, is strictly related with the functioning of the different national NP technical solutions (e.g. in the case of “onward routing” this central NP database may not be available, not being a requirement for NP provision). As a consequence 3<sup>rd</sup> party service providers, able to access such a NP database, should conform to the national NP solutions to guarantee that NP processes, procedures and routing continue to operate without any impact or disruption on the other national providers. So for routing purposes, only authorized operators and providers should have access to NP databases.

As regards tariff transparency, only when a tariff differentiation issue exists a direct access to the NP database should be implemented through a user friendly and understandable service; generally operators themselves may provide to their customers indirect tariff-related information associated to the numbers (i.e. typically the current recipient operator). It is ETNO's view that it is mainly the case of mobile services but, given the gradual reduction of mobile termination rates and the marginal difference between on-net and off-net calls, the need of a direct access by end-users should not be allowed.

In general ETNO agrees on the possibility of the 3<sup>rd</sup> party service providers, who are not operators or providers obliged to offer NP, to get access to national NP databases for routing information, under the condition that these 3<sup>rd</sup> party service providers are nationally authorized to provide electronic communications services according to the EU regulatory framework (or a similar licence-based system outside the EU). For the reasons above, the technical impact of such an evolution would have to be assessed before such authorisations be granted and any legal obligations be applied to such parties as they apply to all providers that have access to such data.

Since the provision of NP is a complex procedure, the authorization regime allows the national Administrations to control the behaviour of 3<sup>rd</sup> parties accessing the NP database. It has to be underlined that only 3<sup>rd</sup> party service providers equipped with networks/ service platforms, and with appropriate technical and commercial agreements for interconnection and routing with national public operators, need NP data for routing purposes. The authorization regime allows also to control the possible rising of illegal trade practices and misuse of the NP information.

ETNO also welcomes the possibility of 3<sup>rd</sup> parties, who are end users willing to have tariff transparency, to have information on the operators serving specific numbers. ETNO notes that national obligations already exist in many European countries for operators to provide tariff transparency services to their customers. As a consequence many web sites have already been implemented in European countries to provide this information to the end users, mainly for mobile numbers, since for fixed numbers in general the price of the calls does not change for the different fixed operators.

ETNO would like also to underline that the information provided to the end-users for tariff transparency is in general the name of the operator, or its commercial brand, and so it is different from the information directly held in NP Databases for routing purposes. Furthermore, it is important to note that some of the national databases could only contain numbers that "are in the process of being ported". In other words, a national DB does not necessarily contain all data relative to all ported numbers.

In ETNO's opinion the Administrations should identify specific policies that allow to verify if the needs raised by 3<sup>rd</sup> parties are really justified in terms of routing.

The Administrations should also consider how compliance monitoring and enforcement could be implemented to deter 3<sup>rd</sup> party access seekers from using or reselling NP Data for

purposes other than specified in the terms and conditions of access. This Administration role is essential to protect all national providers and users.

In ETNO opinion 3<sup>rd</sup> parties should not be allowed to use NP Data for marketing purposes. Marketing purposes are not the aim for accessing NP data. In addition access to NP Data by 3<sup>rd</sup> parties of foreign countries should only be given if that is allowed by national regulation, if similar arrangements are available in those foreign countries and on the basis of bilateral commercial agreements, respecting the national technical solutions for NP provision. This should also apply to 3<sup>rd</sup> parties from countries outside Europe where European regulations do not apply.

The providers of NP data should be allowed to get a reasonable margin on the costs to provide this kind of data to a 3<sup>rd</sup> party. The 3<sup>rd</sup> party is making money from this information and is capable to pay for the limited cost of the information. At least cost of capital should be taken into account. Also in case there is no mutual exchange with a specific country, there is no reason to limit the price of the information to the pure costs.

In ETNO's view new processes to access national NP databases should not impact on operators and providers; to guarantee that, these new processes should be developed involving all the operators and service providers who are obliged to offer NP.

In general access to the national NP data for 3<sup>rd</sup> parties should only be given by means of a daily download. A more frequent access to this data for 3<sup>rd</sup> parties requires costs that could be disproportionate in relation to the marginal advantage for 3<sup>rd</sup> parties to correctly route also the last per mille calls and could create superfluous risks for operational processes and procedures.

In addition, ETNO considers that the above developments should be national, since different Countries have implemented different solutions for NP and NP databases (either centralized, distributed, or local NP databases of operators for onward routing solutions). Additionally the conditions to be established for access to the NP databases should be consistent with the data protection regulation applicable in each country.

## 2. Proposals related to the ECC Deliverables

[Note: proponents are invited to use the following table to provide comments. It is also possible to provide as an annex the proposals with track changes and related justifications.]

Comment number	Section number/ Clause	Paragraph Figure/ Table	Type of comment (General/ Technical/Editorial)	COMMENTS	Proposed change
XX/ 1	Introduction	Paragraph 1	General	See the General Comments in Clause 1	Number Portability (NP) has proven to be a key competition enabler since market liberalization by allowing end-users to retain their numbers while switching from one service provider to another. NP obligations are enshrined in the European Regulatory Framework and national NP Central Reference Databases (NP CRDBs), <b>when they are available</b> , were originally established to facilitate providers of services and operators of networks, both fixed and mobile, to meet their respective obligations.
XX/ 2	Introduction	Paragraph 2	General	See the General Comments in Clause 1	In recent years, evolving technology and service innovation, <del>including the emergence of cloud services</del> , has facilitated new business models for the provision of electronic communications services. NRAs in many CEPT countries have been approached by market actors who believe that they have legitimate reasons for accessing the NP Data. This type of 3 <sup>rd</sup> party access <del>is seen by many organisations as necessary to drive industry innovation which may lead to</del> <u>may have</u> greater cost efficiency through more efficient traffic routing. <b><u>The direct access to the national NP databases should only be allowed to national authorized providers of public electronic communication services according to the EU regulatory framework (or a similar license-based system outside EU).</u></b>

					<b><u>Access to other confidential, personal or commercially sensitive information that may be contained in the national NP databases should not be allowed.</u></b>
XX/ 3	<b>Introduction</b>	<b>Paragraph 4</b>	<b>General</b>	<b>See the General Comments in Clause 1</b>	<p>The information contained in NP CRDBs , <b>when they are available</b>, may also be important for end-users who are price sensitive about the calls that they make. In the past, end-users were able to determine, by the leading digits of the number, the identity of the terminating network or service provider and the anticipated cost of making a call. Since the introduction of NP end-users may no longer be able to rely on the leading digits of the number to determine call costs thus lowering tariff transparency and increasing the possibility of unexpected call charges.</p> <p><b><u>However, given the gradual reduction of mobile termination rates and the sometimes marginal difference between on-net and off-net calls, the extent of the problem of tariff transparency in the relevant countries should be evaluated prior to granting access for this particular reason. This tariff transparency information may alternatively be provided via internet national websites.</u></b></p>
XX/ 4	<b>Title</b>	<b>NA</b>	<b>Editorial</b>	<b>NA</b>	ECC recommendation of (16)01 on <del><b>THE 3rd party use of routing information contained in the Central Reference Databases for Number Portability</b></del> <b>3<sup>rd</sup> Party Access to Number Portability Data (NP Data)</b>
XX/ 4	<b>Considering</b>	<b>f)</b>	<b>General</b>	<b>See the General Comments in Clause 1</b>	that in some cases (e.g. misuse of premium rate numbers <b>or international numbers</b> ), end-users and <del>others</del> <b>service and network providers want may need</b> to know which operator serves a specific number in order to identify, <b>for instance, also</b> other entities in the supply chain, e.g. the content provider;

XX/ 5	Recommends	1.	General	See the General Comments in Clause 1	that access to national NP Databases <u>for routing</u> should be provided to 3 <sup>rd</sup> parties, <u>that are nationally authorized to provide publicly available communication services</u> , for the <u>sole</u> purposes of implementing <del>more efficient</del> routing <u>respecting the national regulated NP solution</u> . <del>and/or to</del> <u>To increase tariff transparency information understandable by the end users should be provided; operators themselves may provide this information to their customers.</u>
XX/ 6	Recommends	2.a.	General	See the General Comments in Clause 1	3 <sup>rd</sup> party access to NP Data <u>by providers who plan to use the national NP Database to directly implement routing, is provided for the purposes of implementing more efficient routing should be</u> based on a <u>commercial</u> contract with the entity, or one of the entities, responsible for the administration of the <u>national NP Database</u> . If fees are imposed for 3 <sup>rd</sup> party access to NP Data the fees should be based on a <u>reasonable and not discriminatory</u> cost <del>recovery</del> model. <u>The national Administration should beforehand verify if the needs raised by 3<sup>rd</sup> parties are justified, and guarantee compliance monitoring and enforcement to deter 3<sup>rd</sup> party access seekers from using or reselling NP Data.</u>
XX/ 6	Recommends	2.b.	General	See the General Comments in Clause 1	information on the provider serving a specific number is made available free of charge to end-users for the purposes of tariff transparency and complaints handling with <u>eventual</u> appropriate mechanisms to limit access to single number search queries <u>following national regulations</u> .  <u>Given the gradual reduction of mobile termination rates and the sometimes marginal difference between on-net and off-net calls, the extent of the problem of tariff transparency in the relevant countries should be evaluated prior to granting access for this</u>

					<b><u>particular reason. This tariff transparency information may alternatively be provided via internet national websites.</u></b>
XX/ 7	<b>Recommends</b>	<b>3.</b>	<b>General</b>	<b>See the General Comments in Clause 1</b>	<p>that terms and conditions of access should specify that NP Data is not used by 3<sup>rd</sup> parties for sales, marketing, promotional or other commercial activities or resold to any other entity.</p> <p><b><u>The safeguards relative to making 3rd parties accountable and the instrument to enforce these principles must be defined. The risks of using NP data for robot calling or aggressive telemarketing should be assessed. Such an access to NP data should be at least restricted to authorized entities according to the European regulatory framework.</u></b></p> <p><b><u>In addition access to NP Data by 3<sup>rd</sup> parties of foreign countries should only be given if that is allowed by national regulation, if similar arrangements are available in those foreign countries and on the basis of bilateral commercial agreements, respecting the national technical solutions for NP provision.</u></b></p> <p><b><u>Access to the national NP data for 3<sup>rd</sup> parties should only be given by means of a daily download. A more frequent access to this data for 3<sup>rd</sup> parties requires costs that could be disproportionate in relation to the marginal advantage for 3<sup>rd</sup> parties to correctly route also the last permille calls and could create superfluous risks for operational processes and procedures.</u></b></p>