



## **Comments on Draft ECC Report 238 “3<sup>rd</sup> Party Access to Number Portability Data (NP Data)”**

### **Sources**

Administration/Company/Entity: ETNO

Name and Appointment of contributor: ETNO (1)

*(1) ETNO is the principal policy group for European e-communications network operators. ETNO’s primary purpose is to promote a positive policy environment allowing the EU telecommunications sector to deliver best quality services to consumers and businesses. ETNO members account for 60% of the total investments in European networks. More information about ETNO can be found at: [www.etno.eu](http://www.etno.eu)*

*(2) Relevant contact person: Mr. Francesco Versace, Public and Regulatory Affairs Manager – [versace@etno.eu](mailto:versace@etno.eu)*

### **1 General Comments**

ETNO welcomes the opportunity to comment on the Draft ECC Report 238 “3<sup>rd</sup> Party Access to Number Portability Data (NP Data)”.



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 our view that uncontrolled access to the information for what numbers are active or which providers hold the number invariably lead to abuses 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. Access to NP data should be at least restricted to authorized entities according to the European regulatory framework.

A second important aspects to consider is that a national reference NP database updated in real time, when available, is strictly related with the functioning of the national NP technical solutions (e.g. in the case of “onward routing” this NP database may not be available). 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.

As regards tariff transparency, a direct access to the NP database should not be provided to the end users, since they need a more user friendly and understandable service: the operators themselves may provide to their customers information associated to the numbers (e.g. recipient operators). In addition, the report does not elaborate on the exact extent of the

problem of tariff transparency in Europe. It is ETNO's view that given the gradual reduction of mobile termination rates and the marginal difference between on-net and off-net calls, a direct access by end-users should not be pursued.

As a conclusion, the two considered 3<sup>rd</sup> Party Accesses to NP Data are very different and should be treated separately in the draft ECC Report.

In general ETNO agree 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 welcomes also 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 is different from the information 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.

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

ETNO appreciates the considerations of the Administrations on 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 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 consider 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). The national character of these new processes for 3<sup>rd</sup> party access to NP data should be underlined in the final ECC Report. 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	Executive Summary	Paragraph 4	General Note: the proposed changes in the Executive	See the General Comments in Clause 1.	It is important to be clear from the outset that these 3 <sup>rd</sup> parties require access to determine the terminating operator associated with a number to enable more efficient routing or to increase tariff transparency and the scope of the Report does not extend beyond that.

			Summary should be considered valid also for the body of the report and for all the iterations of the same concepts.		<p><b><u>As a consequence the direct access to the national NP database should be allowed only 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></p> <p>Access to other confidential, personal or commercially sensitive information that may be contained in the <b>national</b> database <del>is outside the scope of the Report</del> <b>should not be allowed.</b></p> <p>Access to NP Data by NRAs, judicial authorities, operators of emergency services or other relevant authorities for regulatory or legal purposes is also outside the scope of the Report.</p>
XX/2	Executive Summary	Paragraph 5	<p><b>General</b></p> <p><b>Note: the proposed changes in the Executive Summary should be considered valid also for the body of the report and for all the iterations of</b></p>	See the General Comments in Clause 1.	<p>In order to promote more efficient routing and preserve tariff transparency, the Report analyses the associated issues with providing access to the NP Data contained in national NP CRDB, <b><u>when it is available</u></b>, by 3<sup>rd</sup> parties with a justifiable need for access and to identify policy options to address that need.</p> <p><b><u>These policy options should guarantee that no impact exists on operators and service providers obliged to offer NP. For this reason this analysis should involve all the operators and providers obliged to offer NP.</u></b></p>

			the same concepts.		<b><u>The results of these considerations should be national specific, since different Countries have implemented different solutions for NP and NP DBs .</u></b>
XX/3	<b>Executive Summary</b>	<b>Paragraph 10</b>	<b>General</b> <b>Note: the proposed changes in the Executive Summary should be considered valid also for the body of the report and for all the iterations of the same concepts.</b>	<b>See the General Comments in Clause 1.</b>	<p>Chapter 5 focuses on the terms and conditions of 3<sup>rd</sup> party access and examines issues such as data ownership, intellectual property rights, terms of use for commercial access and end-user access, privacy issues, jurisdiction and monitoring.</p> <p>This chapter considers also 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.</p> <p><b><u>These considerations should involve all the operators and service providers who are obliged to offer NP, since they should not be impacted by 3<sup>rd</sup> party access to national NP databases. The results of these considerations should be national specific, since different Countries have implemented different solutions for NP and NP DBs. 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</u></b></p>

					<p><u>authorized entities according to the European regulatory framework.</u></p> <p><u>In particular 3<sup>rd</sup> parties should not be allowed to use NP Data for marketing purposes. 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></p> <p><u>In general 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.</u></p> <p><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></p>
XX/4	Executive Summary	Paragraph 11	General Note: the proposed	See the General Comments in	<p>Chapter 6 details the conclusions drawn in the report which are:</p> <ul style="list-style-type: none"> <li>▪ <u>National NP Database for routing</u> should be provided to 3<sup>rd</sup> parties for the purposes <u>only</u> of implementing <u>routing to the</u></li> </ul>

			<p>changes in the Executive Summary should be considered valid also for the body of the report and for all the iterations of the same concepts.</p>	<p>Clause 1.</p>	<p><u>recipient operator, when this is included in the national regulated NP solution more efficient routing and/or to increase tariff transparency. To increase tariff transparency information understandable by the end users should be provided; operators themselves may provide this information to their customers.</u></p> <ul style="list-style-type: none"> <li>▪ For <del>commercial users providers</del> who plan to use <u>national NP Database</u> to <u>directly</u> implement <del>more efficient</del> routing <u>to current recipient operator</u>, access to this data should be 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 they 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></li> <li>▪ For end-users access should be offered in an easily accessible format and free of charge to promote tariff transparency and fulfil informational needs <u>following national regulation. Given the gradual reduction of mobile termination rates and the sometimes marginal difference between on-net and off-net</u></li> </ul>
--	--	--	-----------------------------------------------------------------------------------------------------------------------------------------------------	------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------



					<u>calls, the extent of the problem of tariff transparency in the relevant country should be evaluated prior to granting access for this particular reason. This tariff transparency information may alternatively be provided via internet national websites.</u>
--	--	--	--	--	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------