

**FINAL DECISION OF
THE COMMUNICATIONS AUTHORITY**

**BREACH BY CSL LIMITED OF
SPECIAL CONDITION 4.4 OF ITS UNIFIED CARRIER LICENCE**

Telecommunications Licensee Investigated:	CSL Limited (“CSL”)
Issue:	CSL ported a mobile number from Hong Kong Telecommunications (HKT) Limited (“HKT”)’s network to CSL’s network without the customer’s consent
Relevant Instruments:	Special Condition (“SC”) 4.4 of CSL’s Unified Carrier Licence (“UCL”) No. 008
Decision:	Breach of SC 4.4 of CSL’s UCL No. 008
Sanction	CSL is advised to observe more closely SC 4.4 of its UCL No. 008 and sections 4.7.1 and 4.7.2 of the Procedures for Mobile Number Portability Provision (“MNP Procedures”)
Case Reference:	LM T 44/13 in OFCA/R/T/49/13 C

BACKGROUND

In March 2012, the Office of the Communications Authority (“OFCA”) received a complaint filed by a consumer (“Complainant”) in relation to the porting of his mobile number (“Number”) from HKT to CSL. According to the Complainant, CSL had ported his Number to CSL’s network without his consent. As a result, the Complainant’s SIM card issued by his then service provider HKT for use of the Number had been put out-of-service since 11 March 2012.

2. OFCA had conducted an investigation into the complaint. In response to OFCA's letter of 31 May 2012, CSL admitted in its email of 15 June 2012 that the Number had been ported without the Complainant's consent due to human error made by its staff. According to CSL, its customer service executive had made a mistake of not asking the Complainant to sign the Mobile Number Portability ("MNP") application form ("MNP application form") before sending the Number Portability Request ("NPR") to HKT.

3. After the incident, CSL had offered immediate assistance and continued support to the Complainant with a view to facilitating a smooth porting-back arrangement and subsequently settled matters with the Complainant in July 2012. CSL had also reminded its customer service hotline team of the correct procedures of handling NPR, particularly of the need for them to ensure that the customers fill in the MNP application form.

THE COMMUNICATIONS AUTHORITY'S CONSIDERATIONS AND DECISION

4. SC 4.4 of CSL's UCL sets out the requirement of number portability. It specifies that –

“4.4 The licensee shall, in such manner as the Authority may direct, facilitate the portability of numbers assigned to any customer of any unified carrier licensee, fixed carrier or fixed telecommunications network service licensee, mobile carrier licensee, services-based operator, mobile virtual network operator or any other licensee, as the case may be, so that any number so assigned may be used by that customer should it cease to be a customer of any such entity and become a customer of any other unified carrier licensee, fixed carrier or fixed telecommunications network service licensee, mobile carrier licensee, services-based operator, mobile virtual network operator or any other licensee, as the case may be.”

5. In issuing UCL No. 008 to CSL, the Communications Authority ("CA") has also issued a direction to CSL under SC 4.4 of the UCL

(“Direction”), which requires CSL –

“1. ...

(b) to facilitate, at the Licensee’s own expenses, the portability of numbers from the numbering plan of Hong Kong as stipulated in the Special Condition of the Licence for (i) customers of mobile telecommunications services licensed under mobile carrier licences or unified carrier licences (with provision of mobile services authorized), (ii) customers of mobile virtual network operators services licensed under services-based operator licences or other licences, and (iii) customers of internal mobile telecommunications services for carrying real-time voice communications (which may be integrated with other types of communications) which is capable of allowing customers to make and receive calls to and from parties assigned with numbers from the numbering plan of Hong Kong and licensed under services-based operator licences (Mobile Number Portability), so that the Code of Practice entitled “Code of Practice related to the Implementation of Mobile Number Portability” issued by the Authority and as revised from time to time by the Authority can be fully complied with on and after the launch of the service.”

6. Paragraph 9 of the Code of Practice specifies the requirements of MNP, under which service providers are to *“fully comply with this Code of Practice and the “Requirements for Mobile Number Portability by Database Solution” and “Functional Specification of Administration Database for Mobile Number Portability” stipulated under HKCA 2103 and HKCA 2104 respectively and other documents as directed by the CA in relation to MNP.”*

7. Both the “Functional Specification of Administration Database for Mobile Number Portability” (“HKCA 2104”) (Annex 1-1.2) and the MNP Procedures (sections 4.7.1 and 4.7.2) require that –

“The customer requests number porting service from the Recipient Network Operator (“RNO”). This will involve the completion of the Mobile Number Portability application form for subsequent entry to the internal provisioning process.”

“4.7.1 Information Required

The RNO (i.e. CSL in this case) should ask the customer to fill in the MNP application form and should check the details therein...

...

4.7.2 Actions by the RNO

The RNO should take the following actions on receiving a customer who wishes to port their number:

(a) Identify the following types of customers:

(i) For a Personal User: by checking the customer against their ID Card or Passport if appropriate...”

8. Based on the above, it is evident that CSL, as the RNO, in failing to request the customer to fill in the MNP application form and checking the details before sending the NPR to HKT (as the Donor Network Operator), had not complied with sections 4.7.1 and 4.7.2 of the MNP Procedures. CSL had accordingly contravened the “Code of Practice Related to the Implementation of Mobile Number Portability” with which it is required to comply under the Direction. This in turn leads to a breach of SC 4.4 of its UCL by CSL as it had failed to comply with the Direction issued under the SC.

9. The CA notes that—

(a) the current complaint involved a single incident caused by human mistake, and it affected only one customer. This is the first time that CSL has breached a licensing requirement of such a nature;

(b) CSL has taken the following remedial actions –

(i) offering immediate assistance and continued support to the Complainant with a view to facilitating a smooth porting-back arrangement;

(ii) reminding its customer service hotline team of the correct procedures of handling NPR, particularly of the need for its staff to ensure that customers fill in the MNP application form in order to be eligible for porting; and

(c) CSL had subsequently settled matters with the Complainant.

10. Under the Telecommunications Ordinance (Cap. 106), the CA may impose a number of remedies on a licensee for contravening a licence condition. These include the issue of a direction and imposition of financial penalties. A number of administrative remedies are also available to the CA, such as the issue of advice and warning to the offending licensee.

11. In considering the sanction on CSL for the breach of SC 4.4 in the current incident, the CA notes that CSL has strived to rectify its error expeditiously and has taken speedy remedial actions. Taking into account the full circumstances of the case, the nature of the breach and the number of customer affected, the CA takes the view that, as a sanction for the breach, CSL should be advised to observe more closely SC 4.4 of its UCL No. 008 and sections 4.7.1 and 4.7.2 of the MNP Procedures.

The Communications Authority
September 2013