



TURKS AND CAICOS ISLANDS TELECOMMUNICATIONS COMMISSION

PO Box 203, BUSINESS SOLUTION COMPLEX
LEEWARD HIGHWAY
PROVIDENCIALES
TURKS & CAICOS ISLANDS

November 17, 2008

COMMISSION DECISION 2008 – 4

Re: Digicel Turks and Caicos Ltd. Use of HNI Code

BACKGROUND

When the government issued the telecommunications licence for Digicel, in March, 2006, the Commission noted that the company was going to introduce roaming capability on its GSM network through the use of a Home Network Identifier (HNI) code based in Jamaica. The reasoning for this was primarily because the company had already negotiated roaming agreements with global companies for its other operations in the Caribbean, and this mechanism allowed them to start offering truly global roaming from the opening day of its operation in Turks and Caicos Islands. Clearly, this enabled the company to be competitive in the Turks and Caicos marketplace without delay.

At that time however, the Commission directed the company to commence using the HNI code assigned to the Turks and Caicos Islands within 18 months.

On September 4, 2006 the company wrote to the Commission requesting a review of this decision, indicating that since the company launched its GSM service in July 2006, there had been no adverse impact on subscribers in Turks and Caicos, and significant benefits for visitors to the islands in respect of roaming arrangements with their 'home' carriers. Moreover, the company pointed out that in both the International Telecommunications Union (the ITU), and the international GSM association, studies were underway to determine the implementation modes for the use of so-called extra-territorial HNI codes, and noted that there were a number of other carriers and countries following this practice. The record indicates that the Commission did not respond to this letter, and as a result, the company reiterated its request in a second letter dated 1 November, 2007. The Commission did respond to this letter as a result of its meeting on January 31, 2007, stating in a letter dated 1 February, 2007, that the Commission was not prepared to review or rescind the earlier decision, but gave the company a further 6 months to implement the changes to its HNI practice.

As there was no response from the company to its February letter, the Commission followed up with a letter dated June 19, 2008, asking the company for a progress report

on making the changes ordered earlier. The company did not respond to this letter, but later confirmed that it had not acted on the Commission's instructions.

COMMISSION ANALYSIS

In order to better understand this issue, the Commission recently met with Mr. E. J. Saunders, CEO of Digicel, to discuss the situation, and has itself investigated the international status of the extra-territorial HNI practice as it currently stands, and has found that the ITU has yet to make a definitive recommendation on the practice, and while the GSM Association is also working on the issue, there is no final determination as to how the practice is to be followed by operators.

The Commission also notes that in the period since the launch of the Digicel service, there has not been a single complaint from any customers relating to the practice. It is noted as well, that there are some 14 jurisdictions elsewhere in the world where the practice is followed, as shown by the ITU, and that there may be other jurisdictions where the practice is being used.

Finally, the Commission also notes that Digicel would suffer considerable expense in making the changeover, as it would have to reconfigure its network, and call in literally all of its subscribers to change the SIM cards on their mobile phones. All of this would be acceptable to the Commission if it believed there was a public interest served by the change, but there is no evidence that any public benefit would result from such a change.

COMMISSION DECISION

In light of its own analysis, input from Digicel regarding the cost and market disruption that would be caused by enforcing the earlier order, and the amount of time passing between issuance of and non compliance with that original order and the present time, the Commission has decided, pursuant to Section 53(1) of the Telecommunications Ordinance 2004, to revoke its earlier decision and to allow the company to continue its current practice of using the HNI code for Jamaica in connecting customers to its network.

The Commission will, however, review the record of this case, and determine what actions to take if any with respect to the deliberate failure of the company to comply with its earlier orders or to respond to requests for follow up information.