



ICT Decision 2010-10

Grand Cayman, 15 October 2010

Decision in Determination Request related to the Choice of Central Reference Database and Order Handling Vendor for the Number Portability Consortium

Overview

In this decision, the Authority directs the Number Portability Consortium to meet within seven calendar days of the date of this decision in order to select a Central Reference Database and Order Handling Vendor using the voting procedure set out in ICT Decision 2010-9.

(Note: This overview is provided for the convenience of the reader and does not constitute part of the Decision. For details and reasons for the conclusions, the reader is referred to the various parts of the Decision.)

BACKGROUND

1. Between June 2010 and September 2010, the Local Number Portability Consortium (“the Consortium”) attempted to come to an agreement on a choice of vendor for a central reference database and order handling system (“CRD”) solution to provide local number portability (“LNP”) services in the Cayman Islands. However, the Consortium members were unable to reach a consensus and have requested that the Information and Communications Technology Authority (“the Authority”) adjudicate this matter under the Information and Communications Technology Authority (Dispute Resolution) Regulations, 2003 (“Dispute Resolution Regulations”).
2. As part of their submissions, the Consortium members made various arguments in favour of or against the selection of certain vendors and their solutions. They also provided the Authority with a copy of the documentation received from the vendors (with some of the information redacted at the request of the vendors).

AUTHORITY’S ANALYSIS AND DECISION

3. Regulation 8 of the Dispute Resolution Regulations specify the actions the Authority may take upon receipt of a determination request:
 - (a) request such other information from any person as may be affected by the dispute as it may deem necessary;
 - (b) direct the parties to commence or continue reasonable efforts to resolve the dispute;

- (c) decline to determine the dispute on the basis of one or more of the grounds set out in regulation 10;
- (d) issue a notice for a public hearing pursuant to regulation 12 setting out procedures and issues to be addressed; and the Authority may issue a notice to other licensees, interested parties and the general public advising of the public hearing and inviting submissions on the issues to be addressed;
- (e) require, if the Authority considers it appropriate and reasonable in the circumstances, parties to proceed on an expedited basis with respect to all matters provided for in these regulations;
- (f) appoint a mediator or arbitrator to deal with the dispute and in such event may establish the terms of reference of any mediator or arbitrator which shall include -
 - (i) whether the outcome of any such mediation or arbitration will be binding;
 - (ii) the procedures for such mediation or arbitration;
 - (iii) any dates by which the mediation or arbitration process will be concluded; and
 - (iv) guidelines for the allocation of costs among the parties;
- (g) act as adjudicator of the dispute and, where it decides to do so, it shall establish its own terms of reference and procedures for such adjudication which shall include-
 - (i) whether the outcome of any such mediation or arbitration will be binding;
 - (ii) the procedures for such mediation or arbitration;
 - (iii) any dates by which the mediation or arbitration process will be concluded; and
 - (iv) guidelines for the allocation of costs among the parties; or
- (h) such other course of action as it considers necessary to resolve the dispute.

4. In considering this determination request, the Authority notes that in September 2010 the members of the Consortium each filed a request for the Authority to establish an appropriate allocation of votes within the Consortium. The Authority's ruling in that earlier case (ICT Decision 2010-9) included a procedure to be followed in the event of a tie. Decision 2010-9 was published on 1 October 2010, shortly after the present proceeding was initiated by the Consortium. In other words, the voting procedure decision was not in place until very shortly after the Consortium's filing of the current dispute.
5. As noted in ICT Decision 2005-1 and ICT Decision 2008-5, the Authority considers that the licensees themselves should take responsibility for choosing the most appropriate LNP solution for the Cayman Islands. The Authority acknowledges that the new voting procedures were not available to the Consortium when the matter was submitted to the Authority. However, after careful consideration of all the circumstances, the Authority has concluded that the present dispute can now be resolved by the Consortium itself, without any need to revert to the Authority, if the Consortium applies the rules contained in ICT Decision 2010-9.
6. In light of the above, the Authority determines that it is not appropriate for it to review the merits of each proposal submitted by the vendors, nor is it appropriate to issue a determination on the selection of the vendor for a CRD solution. In accordance with Regulation 8(b) and 8(h) of the Dispute Resolution Regulations, the Authority directs Digicel, LIME, TeleCayman and WestTel to meet within seven calendar days of the date of this decision in order to select a CRD vendor using the voting procedure set out in ICT Decision 2010-9.