

24 June 2011

Frans Vandendries  
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CAYMAN ISLANDS

***By post and e-mail  
c.c. by e-mail only***

Dear Mr. Vandendries,

**Re: Local Number Portability – Extension to Implementation Deadline**

Your letter of 15 June 2011 to the Authority notes that the Consortium and the CRD (Central Reference Database) vendor have not yet signed the provision contract, and that number portability: "*cannot be launched by 1 July 2011.*" The Consortium, thus, has asked the Authority for a further extension to the Local Number Portability (LNP) implementation deadline and the Authority's assistance in finalising the Consortium's porting rules and the overall contract.

In relation to the two requests the Consortium has made of the Authority:

*i) Extension to Implementation Deadline request*

The Consortium's request for a deadline extension to the LNP implementation date has been considered by the Authority, and it is the Authority's view that no good reasons have been provided for an extension and as such no further extension should be granted. In particular:

a) The Authority notes that the obligation is on the Consortium members to implement LNP and considers that the Consortium and its members have already had plenty of time and opportunities to put in place the necessary arrangements to ensure that the 1 July 2011 deadline will be met.

In this regard, and as background to this issue:

- The decision by the Authority requiring the implementation of LNP as required by ICT Decision 2008-5, was made on **18 December 2008**: which as the Consortium members will appreciate, is now two and a half years ago. The decision itself was clear at that time – for Licensees to implement LNP *no later than* the **30 June 2010**.
- It was not until the 4 May 2010 that the Consortium requested its first extension to the LNP implementation date,<sup>1</sup> to the 28 February 2011: stating in its request letter that the Consortium members viewed this as a:

*"[...] reasonable and likely deadline, given the progress to date."*

In reply, in an e-mail dated the 14 May 2010, the Authority granted a shorter extension to **14 November 2010**.

- Then, after the revised implementation deadline had passed, on the 23 November 2010, the Consortium requested a second extension - to the current **1 July 2011** deadline. The Consortium cited various disputes that were brought to the Authority as explaining the delay in implementation, noting that the latest dispute on which vendor to select had been disposed of by the Authority (in its decision, 29 October 2010).

In that letter, the Consortium explained that a vendor:

*"[...] has been selected as the solution of choice for The Cayman Islands."*

Also, that the Consortium had had its first meeting with the vendor.

Further, the Consortium explained that, at the Consortium's 16 November 2010 meeting:

*"[...] all operators reviewed their progress and readiness plans for NP. Based on this review, it became clear that the most realistic go live date for NP in The Cayman Islands is July 1 2011."*

The Consortium explained that that timeline was also supported by the selected vendor.

- After careful consideration, the Authority in a letter dated 1 December 2010 agreed to that deadline extension, accepting the Consortium's suggested revised date.

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<sup>1</sup> Noting that the 4 May 2010 letter was not represented as being agreed by Digicel.

- Finally, the Authority notes that the Consortium in effect chose the vendor on 4 November 2010, and that it had its first meeting with the vendor to discuss the LNP solution soon after that yet six months have passed and Consortium members have still not signed a contract(s) with the vendor.

b) The Authority has consistently advised the Consortium, both in discussions and through correspondence, of its members' responsibility to meet their statutory obligations in this area.

In this regard, the Authority wrote to the Consortium on 17 June 2009 reminding Consortium members that they are:

*"required by law and the terms of their licences to comply with the directives of the Authority. Although it would prefer not to have to take enforcement action, the Authority assures licenses [sic] that it will undertake measures to ensure compliance with its directives."*

Further, the Authority wrote to the Consortium on the 5 February 2010 stating that the Board:

*"[...] remains fully committed to the timely implementation of LNP in the Cayman Islands in accordance with ICT Decision 2008 -5. [Further, the Board] will not hesitate to take appropriate enforcement action if this becomes necessary [which] could include the issuance of fines in accordance with the ICTA Law."*

Indeed, the Board asked to meet with the Consortium members in order to discuss the LNP implementation process in more detail and a meeting was held on the 16 December 2010. At that meeting, the Consortium presented a Power Point presentation setting out a detailed task-orientated timeline. That timeline included the finalisation of the porting intervals and the signing of a supplier contract for January 2011, with LNP going *live* in the Cayman Islands by the 30 June 2011. Further, it was minuted by the Authority that the Consortium expected to meet the 1 July 2011 deadline.

The Authority should not need to remind Consortium members that the obligation to provide LNP by the due date is binding on them individually. Therefore, unless a Licensee demonstrates that it will offer its customers a practical LNP service by the current deadline, the Authority is currently minded to start enforcement proceedings against it for non-compliance with the LNP rule once the 1 July 2011 deadline has passed. Such enforcement proceedings can ultimately lead to fines against all non-compliant Consortium members.

*ii) Seeking the Authority's assistance*

On the separate issue of seeking the Authority's assistance in finalising the porting rules and overall contract, the Authority has consistently stated its view that the purely technical and business process aspects of LNP implementation are properly matters for Consortium members to resolve for themselves. The reasons for this view, which is consistent with that of regulators in many other jurisdictions, include the often commercial nature of such discussions, the fact that such issues may ultimately come to the Authority anyway for its consideration in accordance with the Dispute Resolution Regulations, and the fact that the Authority cannot fetter its ability to assess objectively how Licensees have met obligations placed upon them.

Should you have any questions, please do not hesitate to contact me at (345) 746-9600.

Yours sincerely,

[Signed by Mark Connors for]

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Managing Director

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