



DECISION NOTICE DN 2016 - 6

Re: Digicel Turks and Caicos Ltd. Use of Jamaica Home Network Identifier (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.

However, in the months that followed the Commission pursued Digicel for not complying with this decision and after vigorous consultation decided to let them continue using the Jamaica HNI i.e Mobile Country Code (MCC).

On November 17, 2008 the Commission issued its decision DN 2008 – 4 stating that *"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."*

Nonetheless, the matter of Digicel using the HNI code for Jamaica continue to be an issue in the Turks and Caicos Islands.

On September 3, 2015, Cable and Wireless Communications (CWC) launched a complaint with the Commission stating that Digicel's current use of the Jamaica HNI outside of Jamaica breaches conditions contained in the ITU_T E.212 and causes harm across the region for both customers and CWC, and requested the Commission to used it powers to address this matter.

The Commission reached out to Digicel to address the issues raised by CWC in its letter of September 3, 2015 regarding its use of the Jamaica HNI Code. For its part Digicel in its letter of 24 September 2015, pointed to the Commission Decision of 2008 – 4 which gives them the authority to use the Jamaican HNI code.

COMMISSION ANALYSIS

At the time when DN 2008-4 was made, at both the International Telecommunications Union (the ITU), and the international GSM association, studies were underway to determine the implementation modes for the use of the so-called extra-territorial HNI codes. Also at the time there were a number of other carriers and countries following the practice of using other countries HNI codes, so the Commission allowed the practice by Digicel to continue.

At its meeting October 22, 2015, the Commission reviewed *inter alia* CWC HNI complaint; Digicel response to CWC HNI complaint, the Commission's decision notice DN-2008-4 and ITU-T E.212 recommendation for Mobile Country Code (MCC) and Mobile Network Code (MNC) codes in other markets as follows:

1. It should not negatively impact services being provided by any other operators.
2. It is on an exceptional basis and subject to the ITU guidelines.
3. Unique and unambiguous information should be provided to partners to allow them to identify the location on their subscribers.
4. In the event that an operator wishes to implement the extra-territorial use of an MCC+MNC, it will seek the approval of the Administrations of both Country A and Country B.

After considering the ITU's recommendations on the matter and CWC claims of Digicel breach, which Digicel did not dispute, the Commission decided that DN 2008-4 should be revoked, pursuant to section 54(1) of the Telecommunications Ordinance 2009, as it does not conform to the ITU-T E.212 recommendations, and also on the basis of the Telecommunications Numbering Regulations 2009, clause 17 (6) (e) that it should not result in significant and unfair competitive advantage to any person.

On April 29, 2016 Digicel was informed of the Commissions intentions to revoke DN 2008-4 and was ask to make representation on the above before May 10, 2016 as to why the Commission should not take the intended action.

On May 10, 2016 by letter Digicel addressed the complaint made by CWC in detailed, stating that it was "both opportunistic and vexatious and well timed so as to deflect attention and resources away from considering the material competitive issues", and requested the Commission to reject the claims by CWC as baseless.

The Commission reach out to CWC for a response, but no comments have been made to date.

COMMISSION DECISION

At its meeting of October 13, 2016, the Commission deliberated on all the matters involved in this case and decided that its decision to revoke DN 2008-4 and required Digicel to use its Turks and Caicos Islands (TCI) HNI i.e. MCC+MNC codes be upheld. To that end the Commission is instructing Digicel to implement the use of the TCI MCC 376 in its network within three months of this decision issuance.