

Managing Commercial Disputes among Telecom Operators: The ATCI Experience

Presented By
Ms. Estelle BLAFOND
Assistant Director, Legal Department
Agence des Télécommunications de Côte d'Ivoire (ATCI)
Phone + 225 20 34 59 57 - Fax +225 20 34 43 75
E-mail: blafondestelle@yahoo.fr

Geneva
September 1, 2004

9/1/2004

1

Table of Contents

- **Presentation of ATCI**
- **ATCI's areas of expertise in managing disputes among telecom operators**
 - **The qualification of the concerned parties**
 - **The stages of disputes settlement**
- **Appeals against ATCI's decisions**

9/1/2004

2

Presentation of ATCI

- Created by Law No. 95-526 in July 7, 1995 regarding telecommunications code, Agency de Telecommunications de Côte d'Ivoire was originally a public entity with a special legal status
- Transformed in state-owned company in 1998
 - As a regulatory institution, ATCI is charged with the following tasks:
 - Ensure the application of laws and regulation ;
 - Grant licenses, rights and authorizations to operate ;
 - Manage and control the radio frequency spectrum;
 - Provide a first-level legal attempt to solve commercial disputes among telecommunications operators

9/1/2004

3

Areas of Expertise of ATCI in Dispute Settlement Among Telecom Operators

The qualification of the concerned parties

ATCI has expertise to intervene in disputes concerning

- Telecom operators who have signed an agreement with the Government vs. telecom operators who have received their license through ATCI
- Telecom operators who have signed an agreement with the Government vs. service providers (e.g., ISPs);
- Telecom operators who have signed an agreement with the Government vs. their subscribers themselves or consumer organizations;
- Telecom operators who have received their license through ATCI vs. service providers (e.g., ISPs);
- Telecom operators who have received their license through ATCI or service providers vs. their subscribers
- Service providers among themselves

9/1/2004

4

Areas of Expertise of ATCI in Dispute Settlement Among Telecom Operators

The stages of disputes settlement among telecom operators

- There are two types of procedures : The ‘standard’ procedure and ‘emergency’ procedure
- The ‘standard’ procedure
 - The stages of the standard procedure:
 - Assessment of the acceptability of the complaint
 - Hearing and auditioning of opposing claims
 - ATCI Ruling
 - Attempt at reconciliation
 - Taking to arbitration

9/1/2004

5

Assessment of the acceptability of the complaint

- Three factors are to be checked :
 - The qualifications of the concerned parties (nature of the issue at stake, the plaintiff etc...);
 - Analysis of the complaint file (value of the claims);
 - Attempts to settle the dispute in amicable terms between the concerned parties.

9/1/2004

6

- **Hearing and auditioning of opposing claims**

- Forwarding the complaint file to the opposing party for comments and presentation of those comments to all the concerned parties in the dispute;
- Exchange of additional information regarding the dispute;
- Analysis of documentation regarding the dispute.

9/1/2004

7

ATCI's decisions

- ATCI makes its decisions publicly known when it has gathered all the necessary elements of the case;
- The reasons behind the rulings are clearly stated to the concerned parties and publicized.

9/1/2004

8

Conciliation

- It takes place before the Conciliation Commission
 - The Commission has 5 permanent members and 1 non-permanent member depending on the dispute - The permanent members are as follows:
 - The Managing Director with his or her Attorney
 - The Director of Regulatory Affairs and the Legal Department
 - The Director of Radio Communication
 - The Director of "Etudes et de la Prospective"
 - The mission of the Conciliation Commission
 - Ensure there is conciliation when (1) the dispute is not about the interpretation of law, regulatory or contractual documents and (2) the proposed solutions suggested by the concerned parties seemed acceptable to all.
 - Implementation of the conciliation procedure
 - It is conducted either at the request of any of the disputing parties or by the ATCI itself within a maximum of 30 days maximum
 - Hearing for the concerned parties
 - In case of a successful settlement of the dispute, a protocol of agreement is drafted and signed
 - In case of failure, a report is drafted indicating the failure to reconcile and the issue is taken to the next level, the arbitration phase.

9/1/2004

9

Arbitration

- Set in motion
 - Either at the request of one or two of the parties or by ATCI;
 - In case of failure to reconcile or if the interpretation of a legal or contractual document is the cause of the dispute or if none of the solutions is acceptable for an amicable end of the dispute during the previous stages;
 - Within a maximum of 60-days period;
- Decision is made after careful and thorough assessment of the issue, completed when necessary with investigations and expert analyses in the field;
 - The decision is based on the laws and regulation as well as facts. They are stated in writing to the concerned parties and made public.

9/1/2004

10

Appeals against ATCI's decisions

- Conseil des Télécommunications de Côte d'Ivoire
"CTCI" (Telecommunications Council of Côte d'Ivoire)
- Jurisdiction

9/1/2004

11

A Case Study:

- The dispute between incumbent operator Côte d'Ivoire Telecom and traffic reseller GSAM Holding.
 - Interconnection dispute
Côte d'Ivoire Telecom PSTN network vs. GSAM Holding (VSAT network)

9/1/2004

12

Thank you

For further information: www.atci.ci

Questions and remarks are welcome at
blafondestelle@yahoo.fr