

ITU Workshop on Dispute Resolution,

1 September 2004

The Swiss Experience

Matthias Ramsauer, Head of Legal Affairs

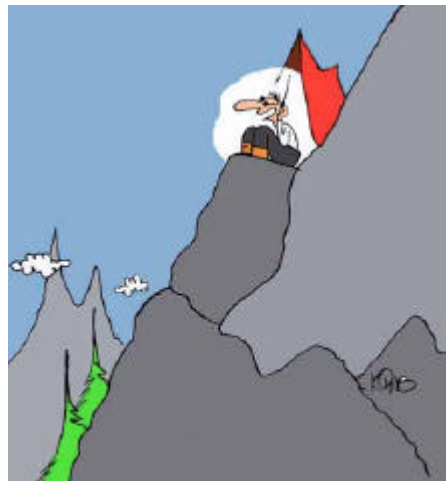
Dispute Resolution?!



Table of contents

- Dispute resolution for interconnection
- Dispute resolution for domain names
- Dispute resolution between consumers and telecommunication services providers

Interconnection



"Hi! I'm perched here on the North Face of Mt. Olympus. Can you deliver a Pepperoni pizza?"

Interconnection (1)

- Market-dominant providers must guarantee interconnection to their competitors
- Conditions: cost-based, non-discriminatory, transparent
- Primacy of negotiation
- Decision by the regulator if agreement not reached

Interconnection (2)

Three elements of dispute resolution:

- Upon initiation of the procedure, the parties must submit a settlement proposal
- Dispute resolution negotiations obligatory during the procedure
- “Judicial decision” by the regulator according to formal instructions including procedure for providing evidence, possibility of appealing before the Federal Court

Domain names (1)

- Domain names are assigned by Switch on behalf of OFCOM
- Switch does not determine before assignment whether the applicant is authorised (trademark law, copyright law, commercial law etc.)
- In the case of disputes concerning authority, the holder of the domain name is compelled to participate in the resolution procedure.
- The dispute resolution procedure must be rapid and low-cost

Domain names

Copyright 2003 by Randy Glasbergen.
www.glasbergen.com



**"It's not the most sophisticated Spam blocker
I've tried, but it's the only one that works!"**

Domain names (2)

Dispute resolution procedure:

- Mediators seek a compromise, in the case of mediation agreements, Switch must transfer the domain names.
- Expert's decision if mediation fails. The domain name holder must comply with this decision, unless he brings legal action in a civil court.

Consumer complaints



Consumer complaints

LTC revision provides for:

- Formation of an independent arbitration office
- The possibility of delegating this task to the private domain
- No competence for decisions
- Financing via the “defendants”
- Contribution to costs by the consumers