



2nd October, 2014

Bmobile Submission to NICTA in response to Discussion Paper on Mobile Terminating Access Services

1 Introduction

Bmobile has prepared this response to the NICTA Discussion Paper on mobile terminating services.

The structure of this response is to comment generally on sections 1 to 6 of the Discussion Paper, and Annex A, B and C.

2 Our Understanding of the Discussion Paper

Interconnect services between telecommunications operator licensees are a vital part of the delivery of telecommunications services. These are wholesale services and where there is considered to be sufficient market power held by one operator licensee, there is the potential for price discrimination to occur which in turn leads to higher costs and reduced market competition. Where this is the case, there is the option for the Minister to determine that the wholesale services should be 'declared services' which are subject to certain non-discrimination obligations. The Discussion Paper on this matter released by NICTA is reviewed in the following sections.

3 Response to Section 1 – Executive Summary

We note that the current declarations for DMTAS and DFTAS expire on 31st December 2014. We comment on the preliminary views of NICTA:

the relevant markets are the wholesale markets for voice call termination on individual fixed and mobile networks in PNG, and these markets are susceptible to ex ante regulation of significant market power (SMP);

Agreed – these markets are subject to SMP and in our view, are significantly affected by market dominance.

each network operator has SMP in the market for voice call termination on its own network and that position is potentially harmful to the development of effective competition in the downstream retail mobile services market and to the long-term interests of consumers;

Agreed – our comments above apply.

these circumstances warrant NICTA's consideration of the renewal of the declaration of the DMTAS and DFTAS;

Agreed

all of the declaration criteria would appear to be met by the renewal of the declaration of the DMTAS and DFTAS on terms consistent with those of the existing declaration (set out in Schedule 1 to the Act); and

We cannot comment on the degree of alignment of the declaration criteria assessed by NICTA, but accept that in broad terms, the relevant network operators do have SMP.

if the Minister was to renew the declarations of the DMTAS and the DFTAS then there will be a need for an amendment to be made to the National Information and Communications Technology (Operator Licensing) Regulation, 2010 (the Licensing Regulations) to specify that the DMTAS and the DFTAS are 'designated interconnection services' for the purposes of the any-to-any connectivity obligation in section 137 of the Act.

Understood. We make the comment that if the declarations were to be renewed, that is will be necessary to assess the costs that apply to licensees within an agreed timeframe following the renewed declaration.

4 Response to Section 2 – Background

Noted. We make the following comments:

The use of general pricing principles and service-specific pricing principles are very important in setting terminating access fees and must be specified in detail as to the methodology by which fair pricing will be established.

The four non-discrimination obligations are accepted and we make the point that these obligations must be documented in detail and should be used by the regulator in the case of any dispute to determine whether any form of discrimination has been practiced.

The terms and conditions on which an access provider fulfils its non-discrimination obligations are to be commercially agreed between the access provider and the access seeker, and Bmobile expects to seek to commence commercial negotiations with the access provider if the determinations are renewed. We recommend that NICTA prepare a detailed arbitration process based on an approved RIO (Reference Interconnection Offer) if negotiations were to stall or be cancelled by one of the negotiating parties.

2.1 Declared services

Noted.

2.2 Submissions in response to this discussion paper.

Noted and agreed.

5 Response to Section 3 – Summary of Key Preliminary Findings

Agreed.

6 Response to Section 4 – Proposed Terms of the Declaration

The two exceptions to the current declaration are noted. Figure 1 shows the call or text can also include international A party numbers.

7 Response to Section 5 – Consideration of the Declaration Criteria

We make the following comments on Figure 2 in the discussion paper:

Part A – Agreed

Part B (i), (ii) – Agreed. We note the requirement - part (i) that prices for the supply of terminating access services to be cost based. This is often difficult to achieve unless there is willingness to cooperate between the parties. We recommend that any assessment of interconnect costs be subject to expert third party review if either party seeks this intervention.

Part C (i), (ii), (iii) – Agreed. In the case of C (iii), we agree that this work is not discussing facilities access services, and so the claimed economies of scale apply to a lesser extent with direct network interconnect.

8 Response to Section 6 – Designated Interconnection Services

Noted – please refer to our comments on Annex C.

Annex A – Inquiry Terms of Reference

Noted

Annex B – Draft Terms of the Proposed Declaration

Noted. We make the following comments:

Section 5 – Service Description – DMTAS. Consider adding a third form of traffic in addition to voice and SMS – that of nobile data.

Annex C – Draft amendment to the licensing regulations to make the DMTAS and DFTAS designated interconnection services

Noted