

10 September 2018

WITHOUT PREJUDICE

Mr Charles S Punaha
Chief Executive Officer
National Information & Communication Technology Authority
Savannah Heights
Waigani
National Capital District

By Hand & By Email

Attention Mr Kila Gulo Vui, Director, UAS Secretariat

Dear Sirs

Public Consultation on 2019 UAS Projects

We refer to your letter dated 7 August 2018 (**NICTA letter**) which was delivered to Digicel on 9 August 2018.

The NICTA letter was accompanied by a document titled *CONSULTATION PAPER, 2019 UAS Projects, Issued on 3 August 2018 (Consultation Paper)*. The Consultation Paper purported to solicit suggestions or proposals for 2019 UAS Projects, set out possible UAS Projects for 2019 and invite submissions on what had been proposed. The Consultation paper also referred to a NICTA document titled *UAS Strategic Planning Report 2018-2022 (Strategic Planning Report)* which purported to “describe [the UAS projects] in greater detail”. Relevantly, the Strategic Planning Report was also described in the Consultation Paper as “not binding and for informational purposes only”. Unfortunately, that document was not provided with the Consultation Paper. It was not until Digicel made a number of requests to NICTA that a copy of the Strategic Planning Report was finally provided to Digicel on 22 August 2018; thank you for that copy.

On a review of the Consultation Paper and the Strategic Planning Report, it appeared to Digicel that neither of those documents contained any details of specific UAS Projects that were proposed for 2019 and, instead, the Consultation Paper appeared to focus principally on a proposed “indicative” budget of PGK 27 million for various “programs” that were proposed. The amount of the indicative budget was not supported by any detailed reasoning or analysis other than that which was contained in the Strategic Planning Report and which, while also light on detail, stated that the “indicative budget parameter” for 2019 was PGK 13.5 – 27.0 million. We also note that “the extent of implementation and cost, for each Indicative Program can vary in any given year due to the number or locations of sites, or other

parameters". No explanation was provided in the Consultation Paper as to why NICTA was appearing to target the maximum indicative budget number despite not having provided any details on any specific UAS Projects that it proposed should be included within any of the various programs.

In short, it is our respectful view that neither the Consultation Paper nor the Strategic Planning Report provided any detailed information about any specific UAS Projects (or their indicative costs) that are proposed by NICTA for the 2019 calendar year.

Unfortunately, in the absence of such information, Digicel is not in a position to provide any meaningful submissions on the analysis or assumptions underlying what NICTA may be proposing for 2019.

Digicel also attended a meeting that was hosted by NICTA on 21 August 2018 (**NICTA meeting**) where NICTA presented the Consultation Paper and sought proposals from interested parties by a stated "deadline" of 7 September 2018 on *"any projects or programs that maybe consistent with the overarching goals within the ICT sector and that NICTA should consider in its current or future programs"*. That workshop also emphasised the PGK 27 million budget figure that had been proposed in the Consultation Paper and discussed NICTA's proposed process for implementing UAS Projects for the 2019 calendar year. This process suggested that NICTA was, and the UAS Board are, proposing to proceed with determining the UAS Projects for 2019 without any further consultation or reference to interested parties.

If that is actually the case it would be of serious concern to Digicel as we would not be provided with a fair opportunity to be able to review any actual UAS Project proposals or to correct, contradict or comment on any of the analysis or assumptions that may have been made in respect of such proposals. In particular, Digicel would be denied a fair opportunity to comment on the factors that NICTA and the UAS Board are required to have regard to under the *National Information and Communication Technology Act 2009 (Act)* which, among other things, include:

- (a) whether the proposed UAS Project would promote the objectives of the Universal Access and Service Fund; and
- (b) the net benefits of the UAS Project to Papua New Guinea, taking into account any costs and detriments to any person; and
- (c) whether the UAS Project is sustainable with a one-time capital subsidy; and
- (d) whether the UAS Project would not otherwise occur but for a subsidy payment under Part V of the Act; and
- (e) the likely efficiency and effectiveness of the proposed UAS Project and whether it is financially and technically feasible.

Digicel therefore requests that before proceeding further with the current process, NICTA:

A handwritten signature in blue ink is located in the bottom right corner of the page. It is a stylized, cursive signature.

1. disclose the details of each of the actual UAS Projects that are proposed for 2019, including any analysis that NICTA has undertaken in the light of the requirements set out above; and
2. afford Digicel (and any other interested party) a fair opportunity to review that information and to correct, contradict or comment on any of the reasoning, analysis and assumptions that have been relied upon by NICTA.

We look forward to your positive consideration of this request.

Yours faithfully

Digicel (PNG) Limited

A handwritten signature in blue ink, appearing to read "Michael Henao", is written over the company name.

Michael Henao

Head of Legal & Regulatory