



Digicel

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Monday, 3 February 2014

Mr. Une O'Ome
Director –Licensing and Enforcement
NICTA
Frangipani Street, Hohola
PO Box 8444
Boroko
National Capital District

Dear Mr. O'Ome

Draft Consumer Protection Rule

We refer to the consultation document issued by NICTA on 10 December 2013 on the Draft Consumer Protection Rule (**Draft Rule**) and attach to this letter Digicel's comments on the Draft Rule.

We respectfully submit that the Consumer Protection Rule should only apply to retail customers who are consumers or small businesses, and that the requirement to submit a Consumer Guide to NICTA for approval should be removed from the Rule.

In general, NICTA should avoid resorting to ex ante regulation without first relying on monitoring and moral suasion to achieve desired outcomes.

Yours sincerely

John Mangos
CEO

Attachment 1: Digicel's comments on NICTA's draft Consumer Protection Rule

NICTA has circulated a draft rule for Consumer Protection in PNG. NICTA has published its *draft* Rule and requires feedback on the content of the draft Rule as part of its consultation process. NICTA hopes to develop a guideline for all service providers to provide a minimum level of quality service to their customers.

Below are Digicel's main comments.

	Proposed Rule	Digicel's Comments
1.	<p>Rationale</p>	<p>We note that NICTA's stated rationale for the Consumer Protection Rule are that:</p> <ul style="list-style-type: none"> • better informed consumers can make better choices in their own interest; and • even compared to a small service provider, an individual consumer "is relatively weak and prone to making misguided consumption choices in the absence of a better product/service knowledge and information. <p>Given this rationale, we strongly submit that the Consumer Protection Rule should be limited to protect only "consumers". It should not apply to business customers who are in a position to protect themselves. Accordingly we suggest amending the proposed Rule by including the following new Section 3A:</p> <p>3A. SCOPE</p> <p>This Rule applies to Retail Customers who (a) acquire ICT services substantially for their personal consumption and not for the purpose of a business, or (b) acquire ICT services up to PGK 5,000 per month.</p> <p>The first limb of this definition covers Retail Customers who spend more than PGK 5,000 per month, but can show that they acquire ICT services substantially for their personal consumption. The second limb of this definition covers Retail Customers who may use ICT services for business purposes (i.e., small business customers) so long as they spend less than PGK 5,000 per month.</p>

		<p>Section 4 of the Rule should be amended by adding a new paragraph:</p> <p>(3) A reference to "Retail Customer" in this Rule is a retail customer to whom Section 3A applies.</p>
<p>3.</p>	<p>Section 6 (Licensees to prepare a Consumer Guide)</p>	<p>The Regulatory Principles in section 3 of the National ICT Act 2009 provides that regulatory measures should be "proportionate and crafted to achieve results that are no more burdensome than necessary to achieve their stated regulatory objectives".</p> <p>In our view, the requirement to submit Consumer Guides to NICTA for approval is unduly heavy handed and intrusive. This requirement effectively gives NICTA a "backdoor" to impose requirements that go beyond the stated regulatory objective of improving customer access to information.</p> <p>Digicel submits that operators should only be required to notify NICTA of their Consumer Guide in the first instance. Should NICTA have any concerns or comments, it would be open to NICTA to raise them with the relevant operator and rely on reasoning and public criticism to encourage operators to make appropriate amendments to their Consumer Guide.</p>