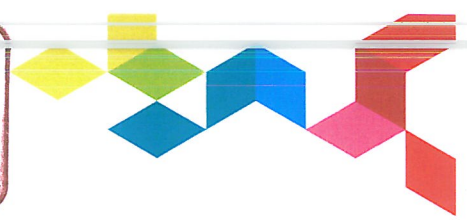
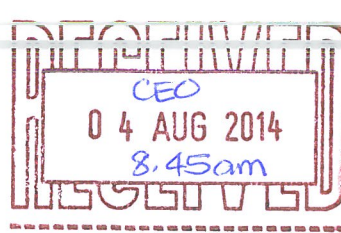


1 August 2014



Digicel

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Dear Mr. Punaha,

Re: NICTA Consultation Paper – Retail pricing of entry-level broadband services

Thank you for the opportunity to participate in this consultation.

Digicel's submission is attached to this letter. This submission does not contain any confidential information. NICTA is free to publish Digicel's submission as part of NICTA's consultation.

Yours sincerely


John Mangos
Chief Executive Officer

↓
DEUA
For your attention & action
CEO
4/8/14



DIGICEL (PNG) LIMITED

Submission to NICTA

**NICTA Consultation Paper – Retail pricing of entry-level broadband
services**

Friday, 1 August 2014

*This submission is provided to NICTA for the purpose of the consultation paper
only and for no other purpose*

Digicel appreciates NICTA's decision to consult on the National Broadband Policy and the goal to make affordable entry-level broadband services available in PNG. Digicel shares NICTA's preference that this policy goal should be achieved through market forces. Digicel is also concerned that NICTA's proposal to monitor entry level broadband pricing will lead to heavy handed regulation as well as impose unnecessary compliance costs on ISP's which operate in a competitive industry when the real "market failure" lies elsewhere.

NICTA invites responses to the following questions:

Question 1: How should NICTA assess the affordability of entry-level broadband services?

Question 2: What initiatives or actions by NICTA could help broadband service providers reduce their costs and improve the value of the retail broadband services supplied to end users?

Question 3: What are your views on the appropriateness of the parameters in Figure 4 for the purposes of selecting from, and standardising, the least expensive products of different licensees for the purposes of assessing the affordability of entry-level broadband services?

Policy goal – affordability or value?

Before addressing these questions, Digicel observes that "affordability" per se is not the end goal. Rather, the relevant policy goal is to provide services that end users in PNG have reason to value and for which they are willing to pay. The "affordability" of broadband services is ultimately a matter for the end users. Digicel submits that a more relevant policy goal is to promote take up of broadband services in PNG including by fostering investment in broadband access infrastructure.

Liberalisation and competition have driven remarkable results in PNG in the mobile space, including raising penetration levels, expansion of services and offerings, and downwards movement in prices. Competition has driven significant increases in social and economic welfare and can be expected to continue to do so provided incentives to invest remain.

We understand the government's desire to drive greater broadband uptake but the comparisons in the Consultation Paper about relative progress in PNG make two mistakes: first, they compare PNG with a range of developed economies with mature markets – and this comparison is not valid; and second, related to this, they fail to recognize that the PNG market is still in the early stages of development – there is no evidence that the continued action of market forces will not over time result in increasingly affordable entry-level broadband prices in PNG as well.

Question 1: Assessing affordability

Turning to the assessment of affordability, the Consultation Paper says:

"NICTA intends to measure the affordability of entry-level broadband services for the purposes of target setting and performance assessment under the Broadband Policy by using the benchmark of 5% of GNI per capita."

Digicel understands 5% of GNI per capita is an international benchmark the ITU uses.

Digicel submits that affordability of broadband services should not be assessed solely or exclusively on price. It is relevant to take into account qualitative considerations, including the accessibility of broadband services, including through retail distribution channels.

Digicel also submits that the benchmark of 5% of GNI per capita is a misleading measure of affordability in countries where the informal sector makes up a major part of the economy. In a developing economy such as PNG's, gross national income ("GNI") understates the extent of economic activity that takes place in PNG. If the price of broadband services exceeds 5% of GNI, this may simply indicate that measured GNI fails to capture the true extent of average income. For example, a person providing "baby sitting services" in PNG often receives "in kind consideration" in the form of free accommodation and meals. The baby sitter's "measured income" would understate the extent of his/her "true income".

Accordingly, any assessment of affordability should be broadened beyond a percentage of GNI alone to include an estimate of income derived from the informal sector that is not captured in GNI. For example, if GNI as measured by the statistics office were thought to constitute 10% of the "true GNI" taking into account the informal sector, a 5% benchmark based on "true GNI" would correspond to 50% based on "measured GNI". As NICTA does not know to what extent the true GNI exceeds measured GNI, NICTA should be wary of using 5% of measured GNI as a benchmark to assess affordability.

Digicel submits that the growth of broadband penetration in PNG is a more relevant indication of policy success. If the growth of broadband penetration in PNG is high, the fact that broadband services cost more than 5% of GNI per capita is not especially meaningful.

Finally, achieving affordability is not without cost. It is likely that in most parts of PNG outside high income pockets in Port Moresby and other cities, delivering broadband services at a price no more than 5% of GNI is likely to require cross-subsidies, whether from other parts of the ICT industry or from the rest of the economy (through tax-based funding). If the cross-subsidy is from the ICT industry only, it will mean that some ICT customers will have to pay above cost prices for ICT services so that other customers receive below cost entry level broadband services. Digicel believes that any intervention to regulate entry level broadband services would be misguided, or at best, premature. The market for broadband services in PNG is still developing, and NICTA should allow the market to mature and encourage more investment in this sector with a view to raising penetration levels.

Digicel anticipates that broadband growth over the next few years is likely to be higher than the average industry growth rate. We respectfully suggest that NICTA focuses its attention on fostering growth and increasing broadband penetration. An unduly narrow focus on affordability may have an unintended effect of deterring investment, reducing growth and possibly even reduce broadband penetration (i.e., negative growth!).

Question 2: What initiatives could reduce costs and improve value?

The Consultation Paper claims that:

"... a number of broadband products have recently been reduced in price, improved in value (i.e., had data allowances increased), or both. Many of these improvements have been enabled by the Minister's declaration of the international transmission capacity service in March 2013, which among other things required access to submarine cable capacity to be supplied at prices that are cost-oriented."

However, the Consultation Paper does not provide any data showing how the Minister's declaration led to the improvements claimed.

In Digicel's view, the improvements observed by NICTA to date largely reflect investment by ISPs and competition between ISPs in downstream markets. While the Minister's declaration of international transmission capacity service has forced Telikom to negotiate with ISPs, they have not reduced the ISP's effective cost of international IP transit.

There are two submarine cables connecting PNG: APNG connecting Port Moresby to Sydney, and the spur connecting Madang to PPC-1. The former is full and has no more capacity. The latter, while now regulated, is not connected to Lae and the rest of PNG. The link from Madang to Lae remains a bottleneck.

Digicel respectfully suggests that NICTA takes a closer look at the effect that the Minister's declaration has had on ISPs' effective cost of international IP transit, taking into account the cost of the link from Madang to Lae.

Question 3: Parameters for assessing affordability of entry level broadband services

Digicel does not have material concerns with the parameters proposed in the Consultation Paper provided that any information reported by NICTA must not contain confidential information. However, in Digicel's view, any monitoring in respect of entry level broadband services should be conducted as part of periodic reviews of the overall market, rather than as stand-alone reviews, consistent with the approach of regulators in other jurisdictions. This approach will ensure that the uptake of these services is considered in the context of the development of the wider telecommunications market and will also help ensure that the inevitable cost to industry of the market review process is kept within reasonable limits

However, Digicel considers that the affordability measures are likely to be limited value and must be interpreted with care especially if the price of entry level broadband is compared with GNI per capita. It would be more useful to compare **changes** in the price of entry level broadband services with **changes** in the wholesale price of submarine cable capacity.

Should NICTA regulate entry level broadband services?

Digicel is concerned with suggestions that NICTA may consider regulating entry level broadband services. Any regulatory intervention must be consistent with the objectives of the National ICT Act 2009 and the Regulatory Principles set out in Section 3, including:

"... that regulatory measures should be —

- (i) proportionate and crafted to achieve results that are no more burdensome than necessary to achieve their stated regulatory objectives; and
- (ii) based on sound economic principles and, to the extent feasible, should be technology-neutral to reflect the potential for convergence of technologies; and
- (iii) administered in a transparent manner and, to the extent appropriate, should be the subject of prior public consultation (in accordance with Section 229 of this Act), published explanations and public clarifying guidelines; and

- (iv) implemented within reasonable timeframes that recognise the need for ICT licensees to respond to dynamically changing market forces and the potential consumer detriment from protracted delay; and
- (v) non-discriminatory in application such that, to the extent appropriate, similarly situated ICT licensees are treated on an equivalent basis subject to the recognition of legitimate differences; and
- (vi) the subject of consultation with other relevant regulatory authorities in Papua New Guinea, where appropriate, to facilitate the development of a consistent regulatory policy in the public interest.”

Digicel also notes that “affordability” of ICT services is not an objective of the National ICT Act. At most, Section 2 states that the objective is:

“to ensure that the ICT industry contributes to the greatest extent possible to the long-term economic and social development of Papua New Guinea, by means that include:

- (a) ...
 - (b) ensuring that ICT services of social importance are supplied as efficiently and economically as practicable and supplied at performance standards that reasonably meet the social, industrial and commercial needs of Papua New Guinea and its people;
- ...”

If broadband services are deemed to be an ICT service of social importance, then the relevant objective is to supply these services as efficiently and economically as practicable, and at performance standards that reasonably meet the social, industrial and commercial needs of PNG and its people.

Any intervention to regulate the price of entry level broadband services would not only be heavy handed and disproportionate, it would fail to achieve the objective of supplying ICT services as efficiently and economically as possible. Digicel submits that competition among ISPs is robust and any regulation of entry level broadband services would only have the effect of deterring investment by ISPs.

If NICTA finds that entry level broadband services are not “affordable” relative to an international benchmark based on GNI per capita, this likely shows that GNI per capita in PNG is low relative to other countries, or that international IP transit costs are high in PNG (or both). There is no easy solution to address these problems. Regulating entry level broadband services would lead to more problems, and do nothing to address the real issues.

Conclusion

Digicel opposes any regulation of entry level broadband services and respectfully submits that “affordability” is at most a secondary concern. The relevant policy goal is to provide services that end users in PNG have reason to value and for which they are willing to pay. Digicel submits that the growth of broadband penetration in PNG is a more relevant indication of policy success. If the growth of broadband penetration in PNG is high, the fact that broadband services cost more than 5% of GNI per capita is not especially meaningful.

Digicel also submits that the long-term policy response is to promote more investment in the ICT sector, both at the retail level (by ISPs) and at the wholesale level (e.g., investment in international submarine cable capacity). Digicel anticipates that broadband growth over the next few years are likely to be significantly higher than the average industry growth rate. We respectfully suggest that NICTA focuses its attention on fostering growth. An unduly narrow focus on affordability may have an unintended effect of deterring investment and reducing growth.