



The Bigger, Better Network.

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Mr. Charles Punaha
Chief Executive Officer
NICTA
Frangipani Street, Hohola
PO Box 8444
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National Capital District

Dear Mr. Punaha

Potential Declaration of Certain Wholesale Services in International Connectivity Markets

We refer to NICTA's *Response to Comments Report* dated 7 December 2012 in relation to NICTA's *Public inquiry into the potential declaration of certain wholesale services in international connectivity markets*.

Digicel thanks NICTA for this further opportunity to provide its comments in relation to its proposed recommendation for the declaration of the international submarine cable transmission capacity service (the "Capacity Service") and the international submarine cable gateway access service (the "Gateway Access Service") (together the "Proposed Recommendation").

In providing these comments Digicel has, as requested by NICTA, refrained from making further comments in relation to the views of other parties or NICTA's own reasoning in relation to the Proposed Declaration. Instead, Digicel has confined itself to commenting on the Proposed Recommendation itself. Importantly, Digicel continues to broadly support the declaration of these services. However, Digicel proposes that a number of amendments are made to the Proposed Recommendation that would, in Digicel's view, improve the clarity of the Proposed Recommendation and avoid the potential for dispute over its implementation. The amendments also seek to limit the scope of the Proposed Recommendation so that it only applies to facilities that cannot feasibly be substituted by another facility. Digicel's proposed amendments are as follows:

1. That it is made clear that the Capacity Service may, for the purposes of section 134 of the National Information and communication technology Act 2009 (the "Act"), be acquired either as a resale service or otherwise depending on the specific needs of the Access Seeker.

This would mean that, depending on the actual service being sought by the Access Seeker, the relevant pricing methodology might be either RMAC or cost based pricing.

2. That it is also made clear that, for the Capacity Service, the term “any unit of capacity” includes but is not limited to capacity at wavelength level, Layer 1 (SDH) and Layer 2 (Ethernet) levels.
3. Digicel remains of the view that there is no justification for the declaration of domestic backhaul services in Papua New Guinea and recommends that the point of interconnection be strictly limited to the Cable Landing Station, rather than another Point of Interconnection elsewhere in the Access Provider’s network. This is because backhaul can readily be substituted by the Access Seeker with backhaul facilities provided by itself or another service provider.
4. Digicel suggests that it is made clear that the Facilities that are to be provided by the Access Provider in relation to the Gateway Access Service also include access to the Access Provider’s electrical power at the Cable Landing Station.

Digicel looks forward to the Proposed Recommendation being finalized and the services being declared by the Minister in due course.

Yours sincerely



 **John Mangos**
CEO

Cc: David Dillon, General Counsel, Digicel Asia Pacific