

REDACTED VERSION

DIGICEL (PNG) LIMITED

Submission to NICTA

**Public inquiry into the potential declaration of certain wholesale
telecommunications services**

Tuesday, 31 July 2018

*This submission is provided to NICTA for the purpose of the current public inquiry
only and may not be used for any other purpose*

A. Executive Summary

1. On 28 May 2018 NICTA released a Discussion Paper in which it has considered a number of Wholesale Services for potential declaration or renewed declaration in accordance with the provisions of Part VI of the National Information and Communication Technology Act 2009 (“Act”). Those services include:
 - wholesale submarine cable capacity and access to related facilities;
 - wholesale voice call termination on individual fixed and mobile services;
 - wholesale mobile access and call origination services;
 - wholesale fixed access and call origination services;
 - wholesale broadband capacity services; and
 - wholesale leased line services.
2. NICTA’s preliminary view is that the following services should be recommended to the Minister for declaration in accordance with his powers under section 130 of the Act:
 - international submarine cable transmission capacity service;
 - international submarine cable gateway access service;
 - mobile terminating access service;
 - fixed terminating access service;
 - mobile tower sharing service;
 - wholesale broadband capacity service.
3. A decision by NICTA to recommend the declaration of a wholesale service is subject to the provisions of Part VI of the Act which provides, *inter alia*, that before it may make a recommendation to the Minister to declare a wholesale service, NICTA must be satisfied that all of the declaration criteria specified in section 128 of the Act (“**Declaration Criteria**”) will be met. Importantly, the Declaration Criteria are not mere guidelines but are mandatory statutory requirements that must *all* demonstrably be met before NICTA can make a recommendation to the Minister to declare a wholesale service.

4. In addition to the Declaration Criteria, any recommendation must also satisfy the Objectives and Regulatory Principles that are enshrined in sections 2 and 3 of the Act. In particular, any proposed regulation must recognize the effectiveness of market forces in promoting consumer welfare and that any regulatory measures must be proportionate and no more burdensome than necessary to achieve their stated regulatory objectives.
5. In Digicel's submission these requirements provide a very high threshold for intervention. Importantly, the burden of proof is upon NICTA to show that the recommended declaration of a wholesale service would meet the strict requirements of the Act. In particular, it would be insufficient for NICTA to proceed with a declaration on the basis of a belief or without cogent evidence and analysis to support its views.
6. Unfortunately, in some cases this standard has not been met. For example, NICTA has not undertaken any empirical analysis to support its conclusions in relation to the relative costs and benefits of intervention and, in the case of the proposed mobile tower sharing service, apart from its single assertion that it is "*aware of unmet demand for such wholesale services*"¹, no evidence is provided to support an actual need for regulatory intervention or that such intervention would meet the strict requirements of the Act.
7. Digicel is also concerned that NICTA's proposed re-declaration of mobile terminating access service ("**MTAS**") and fixed terminating access service ("**FTAS**") is on terms that are currently subject to proceedings in the National and Supreme Courts². Even more concerning is that NICTA appears to have relied upon a purported decision by the ICT Appeals Panel that was made on or about 15 May 2015. This is despite that purported decision also being before the National Court³ and NICTA being well aware that, at the time the purported decision was made, the ICT Appeals Panel was not properly constituted and its purported decision was made without proper jurisdiction. Yet these undisputable facts have not been addressed in the Discussion Paper. Nor has NICTA sought to address the serious legal issues that remain in question and are highly relevant to this part of the Public inquiry.
8. Even if the declaration of the MTAS and FTAS on the terms proposed was lawful (which Digicel denies), Digicel does not consider such a declaration would satisfy the Declaration Criteria and that the principal beneficiaries would be overseas telecommunications operators and OTT service operators who have invested nothing in the country but would stand to pocket substantial windfall gains at the expense of Papua New Guinea and its people. That is because those windfall gains would be matched by reductions in investment in infrastructure in Papua New Guinea (especially in rural and remote areas) and higher prices for domestic services.
9. Nevertheless, Digicel does support the declaration of the international submarine cable transmission capacity, international submarine cable gateway access and wholesale

¹ Discussion Paper at page 27.

² OS (JR) No. 141 of 2015 in the National Court and SCA No. 108 of 2015 ("SCA1") in the Supreme Court.

³ OS (JR) No. 532 of 2015.

broadband capacity (on fibre optic cable) services. Regulated access to these services on fair and non-discriminatory terms is essential for the efficient development of the ICT industry and the long-term interests of Papua New Guinea and its people. This is especially the case as these facilities and services will effectively be controlled by the entity (or entities) that are established through the consolidation of Kumul (Telikom), Dataco and bmobile. This is especially the case given the vertically integrated nature of their operations and their ability and incentive to restrict access to services to their competitors such as Digicel.

10. The benefits of regulation of such services can readily be seen in other markets, such as Tonga where, following the regulated reductions in the cost of international submarine cable capacity, demand for capacity has exploded, increasing by more than 400% in the space of a year. This has resulted in wholesale capacity prices that are now at half their previously regulated levels.
11. Digicel agrees and supports with NICTA's conclusions that the other services it has considered as a part of this Public Inquiry should not be recommended for declaration by the Minister. While, in the limited time that has been made available to respond to the Discussion Paper, Digicel has not provided detailed evidence and analysis to support this view, it reserves the right to do so in response to any submissions that may be made by other parties.

B. Introduction

12. The purpose of this submission is to respond to the issues raised by the National Information and Communication Technology Authority (“**NICTA**”) in its Discussion Paper that was issued on 28 May 2018 (“**Discussion Paper**”) in relation to its Public inquiry into the potential declaration of certain wholesale telecommunications services (“**Public Inquiry**”).
13. This submission contains Digicel’s proprietary information that is confidential and commercially sensitive. Its disclosure would cause Digicel substantial harm. Accordingly, this submission should not be copied or distributed without Digicel’s written approval. A redacted, non-confidential version of the submission will be made available on request.
14. Digicel looks forward to being able to review and comment on any submissions being made by other parties and to seeing a draft decision from NICTA prior to any recommendations being made to the Minister.
15. The Discussion Paper considers a number of Wholesale Services for potential declaration or renewed declaration in accordance with the provisions of Part VI of the National Information and Communication Technology Act 2009 (“**Act**”). Those services include:
 - wholesale submarine cable capacity and access to related facilities;
 - wholesale voice call termination on individual fixed and mobile services;
 - wholesale mobile access and call origination services;
 - wholesale fixed access and call origination services;
 - wholesale broadband capacity services; and
 - wholesale leased line services.
16. NICTA’s preliminary view is that the following services should be recommended to the Minister for declaration in accordance with his powers under section 130 of the Act:
 - international submarine cable transmission capacity service; (“**SCTCS**”)
 - international submarine cable gateway access service; (“**SCGAS**”)
 - mobile terminating access service (“**MTAS**”);
 - fixed terminating access service; (“**FTAS**”)
 - mobile tower sharing service; (“**MTS**”)

- wholesale broadband capacity service (“BCS”).
17. Before NICTA can consider the recommendation of a particular wholesale service for declaration, it must establish whether that wholesale service is lawfully capable of regulation under the terms of the Act. Only then can it make an assessment of the relative merits of such a declaration.
 18. Relevantly, a decision by NICTA to recommend the declaration of a wholesale service is subject to the provisions of Part VI of the Act which provides, *inter alia*, that before it may make a recommendation to the Minister to declare a wholesale service, NICTA must be satisfied that all of the declaration criteria specified in section 128 of the Act (“**Declaration Criteria**”) will be met. Importantly, the Declaration Criteria are not mere guidelines but are mandatory statutory requirements that must *all* demonstrably be met before NICTA can make a recommendation to the Minister to declare a wholesale service.
 19. In addition to the Declaration Criteria, any recommendation must also satisfy the Objectives and Regulatory Principles that are enshrined in sections 2 and 3 of the Act. In particular, any proposed regulation must recognize the effectiveness of market forces in promoting consumer welfare and that any regulatory measures must be proportionate and no more burdensome than necessary to achieve their stated regulatory objectives.
 20. In Digicel’s submission these requirements provide a very high threshold for intervention. Importantly, the burden of proof is upon NICTA to show that the recommended declaration of a wholesale service would meet the strict requirements of the Act. In particular, it would be insufficient for NICTA to proceed with a declaration on the basis of a belief or supposition and without cogent evidence and analysis to support its views.
 21. Digicel has therefore considered each of the services that have been proposed for declaration in the light of the Declaration Criteria and the other requirements of the Act and has provided below its detailed views in relation to those services.
 22. Digicel has also reviewed the other services that were considered by NICTA but which NICTA concluded were not eligible for declaration. Digicel agrees with NICTA’s conclusions in that regard. However, given the limited time that has been made available to respond to this Discussion Paper, Digicel has decided not to include detailed evidence and analysis to support this view but reserves the right to do so in response to any submissions that may be made by other parties.

C. International Submarine Cable Transmission Capacity and International Submarine Cable Gateway Access Services

23. Digicel welcomes and supports NICTA’s analysis and conclusions with respect to the SCTCS and the SCGAS. In particular, Digicel agrees with NICTA’s preliminary conclusion that declaration of these services will satisfy the Declaration Criteria and would otherwise be in accordance with the Act.

24. Access to capacity on submarine cables on fair and non-discriminatory cost-based terms is essential for the development of a competitive ICT market and the future of Papua New Guinea and its people as domestic network capacity continues to grow.
25. This is especially the case since access to and the provision of capacity on submarine fibre optic cable is a true monopoly service and cannot be efficiently replicated. It is also relevant that satellite capacity, upon which Digicel has been forced to rely to date, is not an effective substitute for fibre optic capacity due to its cost and quality characteristics.
26. The problems that arise from the monopoly provision of fibre optic cable based capacity services are likely to be further exacerbated in Papua New Guinea, as it seems certain that as these facilities and services will effectively be controlled by the entity (or entities) that are established through the consolidation of Kumul (Telikom), Dataco and bmobile (“Kumul”).
27. This means that, in order to gain access to essential submarine fibre optic cable based capacity services, Digicel will be required to negotiate with its competitor which, based on past experience will be a difficult and uncertain process as Kumul has the ability and incentive to deny or frustrate the provision of access to Digicel.
28. This is unusual in the Pacific context where the provision of submarine fibre optic cable services is usually generally undertaken by a party that is independent from and does not compete with telecommunications service providers.
29. Moreover, Digicel’s experience in the region indicates the benefits that will arise from the effective regulation of access to the SCTCS and the SCGAS will be real, significant and immediate. For example, in Tonga, access arrangements to the Tonga Cable connecting Tonga to Fiji became subject to new regulation on 31 March 2017⁴. This Regulation established rules, including pricing rules, for access to the Tonga Cable and landing station. As a result, demand for capacity in Tonga has exploded with Digicel’s own capacity needs growing by more than 400% in a single year. The increase in demand has meant that Tonga Cable Limited has been able to voluntarily reduce its prices to an effective level of US\$50 per Mbit/s per month, which is half the regulated rate that was anticipated to apply in 2020/21 fiscal year⁵.
30. Digicel submits that with the right regulatory settings similar successes may be achieved for Papua New Guinea.
31. Critical to this success will be NICTA’s prompt establishment of Service Specific Pricing Principles for the SCTCS and the SCGAS, along with appropriate Model Terms pursuant to NICTA’s duties and powers under sections 133 and 135 of the Act. Digicel submits that is necessary so as to limit the potential for delay in negotiations or any potential determinations that NICTA may be required to make in the future. In Digicel’s view, this

⁴ Interconnection and Access (Submarine Cable Services) Rules 2017

⁵ Regulated prices were volume dependant and volumes were not initially anticipated to reach their maximum until July 2020.

work should be completed as soon as possible so that any instruments are ready to be adopted at the same time as the services are declared.

32. Digicel further commends the approach that was taken in Tonga in this regard and considers that the Tongan Interconnection and Access (Submarine Cable Services) Rules 2017 and the Reference Interconnection Offer that was prepared by Tonga Cable Limited would serve as useful precedents for Papua New Guinea.

D. Mobile Terminating Access Service and Fixed Terminating Access Service

33. NICTA's proposed definitions of MTAS and FTAS would have the effect that calls and short messaging services that have originated outside of PNG may be "landed" in PNG by a transit (international gateway) operator and then passed to another network on the same commercial terms as a call that has originated within PNG. This would mean that the transit operator would charge an international settlement rate to the overseas network while only being required to pay the terminating network the domestic interconnection rate.
34. However, in reaching its preliminary view that the MTAS and FTAS should be declared on the terms proposed in the Discussion Paper, NICTA has not given any consideration as to whether or not the inclusion of calls that have originated outside of Papua New Guinea is permitted under the Act. This is despite that question currently being the subject of proceedings in the National Court⁶.
35. In Digicel's submission, and for the reasons set out below, such calls are not permitted to be the subject of a declaration under Part VI or the Act and any attempt to include them as a part of the definition of a declared service would be unlawful.
36. The proposal to include in the definitions of MTAS and FTAS incoming international calls and SMS that have originated outside of PNG is not open to NICTA by reason of the proper interpretation and application of the Act insofar as it defines the terms "*interconnection*" and "*any-to-any connectivity*". These terms are relevant to the supply of domestic interconnection services to enable communication between the *retail customers* of the two networks in Papua New Guinea that are interconnected.
37. Furthermore, by reason of the definition of the terms "*access*" and "*access seeker*" as they are defined in the Act, a proper interpretation of the Act would conclude that only access seekers are entitled to the regulatory privileges and protections that arise as a result of a service being declared. Section 125(1) of the Act defines the terms access and access seeker in the following way:

"(1) For the purposes of this Part —

⁶ OS (JR) No. 141 of 2015

- (a) "access", in relation to a declared service, is a reference to access by an access seeker **in order that the access seeker can supply retail services**; and
- (b) anything done by an operator licensee in fulfilment of a non-discrimination obligation is taken to be an aspect of access to a declared service." (emphasis added)

38. Section 136 of the Act provides the specific obligation that an access provider must provide access to a declared service to an access seeker. However, this obligation is again clearly constrained to the provision of the declared service to an access seeker in order that the access seeker can provide retail services. Specifically, sections 136(3) and 136(5) provide:

"(3) An access provider shall, if requested to do so by an access seeker

—

- (a) *supply an active declared service to the access seeker **in order that the access seeker can provide retail services...*** (emphasis added)

and

"(5) If an access provider owns or controls any facilities then the access provider shall, if requested to do so by an access seeker —

- (a) *permit interconnection of those facilities with the facilities of the access seeker for the purpose of enabling the access seeker to be supplied with active declared services **in order that the access seeker can provide retail services...*** (emphasis added)

39. Consequently, in Digicel's submission, NICTA would be acting in excess of its jurisdiction should it attempt to recommend the declaration of a service that is not contemplated by the Act.

40. Even if it was lawful to include incoming international calls and SMS in the definitions of MTAS and FTAS (which Digicel denies), Digicel submits that such an inclusion would be contrary to the requirements of the Declaration Criteria and the Act's Objectives and Regulatory Principles and would have serious long-term implications for Digicel, for investment in ICT markets and for end users of ICT services.

41. That is because Digicel's revenues will be severely compromised and Digicel will no longer be able to afford to roll out new infrastructure and maintain the provision of services in accordance with its current plans. This is particularly relevant in the light of Digicel's ongoing voluntary investment in rural and remote areas which relies upon the revenues earned from incoming international calls. This has included investments [REDACTED] over the past two years on upgrades and expansion to its radio network so that services are available to all districts, and that 300 out of 326 LLGs with more than 50% of the population will have access to either 3G or 4G services.

42. As well as being bad for Digicel, there will be an adverse impact on infrastructure investment in ICT markets in Papua New Guinea more generally. That is because it would send a negative signal to existing and potential ICT infrastructure investors which would chill investment (as any investment decision would have to be considered in light of the threat of regulation).
43. Any adverse impact on investment incentives will also lead to a long-term negative impact on end users of ICT services in Papua New Guinea, including both current and future end users. The central role that ICT services play in the lives of Papua New Guinea's people is obvious. Just as important is the significant contribution that ICT services make to the long-term productivity of other sectors of the Papua New Guinea economy. These long-term benefits will be adversely affected if NICTA wrongly recommends extending the scope of the DMTAS and DFTAS to include calls that have originated overseas.
44. Aside from the obvious harm that will be caused to investment, Digicel submits that the declaration of incoming international calls cannot be justified on the basis of satisfying the competition objective of the Declaration Criteria. That is because there are no markets within Papua New Guinea that would be affected by such a declaration.
45. Neither has NICTA shown that the declaration will further the achievement of the "efficiency objective" of promoting the economically efficient use of, and the economically efficient investment in the facilities by the ICT services may be supplied in PNG.
46. Having regard to the obligations of Section 128(c)(i) of the Act, it must be shown by NICTA that declaration of the Declared Wholesale Services would not materially compromise the incentives for efficient investment in any facility over which the Declared Wholesale Service may be supplied.
47. As stated above, Digicel considers that any declaration that included the regulation of calls that originate outside of Papua New Guinea would be a disincentive to investment for network operators such as Digicel who rely heavily on revenues earned from the termination of calls that have originated outside of Papua New Guinea. These revenues support Digicel's ongoing investment in infrastructure and its ability to be able to offer affordable telecommunications services within Papua New Guinea. Any erosion of that revenue through a declaration such as that which has been proposed by NICTA would inevitably impact on Digicel's future investment decisions and, in all likelihood, would result in consumers paying higher prices for domestic telecommunications services or facing reduced levels of service. This would be particularly harmful in a developing economy such as Papua New Guinea where affordability and availability of world class telecommunications services are critical to support growth and development and make critical services such as education and health available to as many people as possible.
48. Importantly, as well as being harmful to the access provider, Digicel submits that a declaration which includes the termination of calls that have originated outside of PNG would not provide any long-term benefits to an infrastructure-based access seeker in Papua New Guinea. That is because any brief opportunities that might result from a difference between existing international settlement rates and the current domestic termination rates would quickly be eroded with the only real beneficiaries being network

operators domiciled outside of Papua New Guinea who have little incentive to offer lower rates to consumers calling Papua New Guinea from their networks and would be more likely (as has been seen with other South Pacific markets in past) to simply “pocket the benefit” and increase their own margins on calls to Papua New Guinea customers that originate on these overseas networks. While international OTT service providers may offer reduced prices to callers outside of Papua New Guinea, that is unlikely to provide any benefits in this country and, aside from the investment issues already mentioned, will also result in the Government earning less tax and NICTA itself facing reduced licence fees.

49. For these reasons, the Declaration Criteria cannot reasonably be considered to have been met and Digicel submits that NICTA cannot make any recommendation to the Minister to declare the MTAS or FTAS, insofar as such a recommendation included the termination of calls or SMS that originate outside of Papua New Guinea.
50. Digicel submits that the broadening of the scope of the existing declarations to include the termination of calls that have originated outside of Papua New Guinea would also be contrary to the Objective of the Act and the Regulatory Principles that support those objectives.
51. The Act’s objectives are (rightly in Digicel’s view) focused on bringing benefits to the people of Papua New Guinea. They do not consider the need to provide benefits to people or firms that are outside of Papua New Guinea. Digicel submits that this is exactly what would happen in the event that the scope of the existing declarations was broadened to include calls that have originated outside of Papua New Guinea. As Digicel has noted earlier in this submission, the only beneficiaries of such regulation in the medium term would be international telecommunications carriers and OTT operators who would fatten their margins at the expense of investment by network operators in Papua New Guinea and the customers they serve. In addition, the Government of Papua New Guinea would also suffer directly as a result of reductions in taxes and in terms of balance of trade via the loss of foreign currency transactions favourable to Papua New Guinea that would otherwise occur.
52. Digicel also notes that NICTA has not provided any basis for broadening the scope of the declarations other than to argue that the termination of calls that originate from outside of Papua New Guinea is technically similar to the termination of calls that originate within Papua New Guinea and that such regulation has occurred in some other countries.
53. However, regulating for the sake of regulatory neatness is not something that is contemplated by the Act. For example, Section 3(b) of the Act provides, among other things that:

“... regulatory measures should be –

(i) proportionate and drafted 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 ...”

54. Digicel submits that the proposed broadening of the scope of the declarations is not consistent with either of these principles. In particular, no regulatory objective has been articulated by NICTA and no principled economic analysis has been undertaken to support the proposed regulation. Nor has NICTA shown that broadening the scope of the proposed declaration to include calls and SMS that have originated outside of PNG would satisfy all of the Declaration Criteria.
55. Furthermore, Digicel contends that a renewal of the declaration of MTAS and FTAS for domestically originated calls is unnecessary because there are already commercial arrangements in place for the provision of those services and have been for more than eight years. Under the terms of those arrangements, the price for the MTAS has declined from 26 toea per minute to 8 toea per minute and is consistent with international cost-based (LRIC+) benchmarks for the service⁷. There is no reason to believe that these commercial arrangements will not continue to endure.
56. For these reasons, this Declaration Criteria have not been shown to be met and, in Digicel’s submission, could not be met in the case of calls that have originated outside of Papua New Guinea.
57. Digicel further submits that NICTA has erred by seeking to rely on the ICT Appeals Panel’s purported decision that was made on or about 15 May 2015. As NICTA will be aware, that purported decision is currently subject the subject of proceedings before the National Court⁸. NICTA will also be well aware that, at the time the purported decision was made, the ICT Appeals Panel was not properly constituted and its purported decision was made without proper jurisdiction⁹. Yet these undisputable facts have not been addressed in the Discussion Paper. Nor has NICTA sought to address the other serious legal issues that arise in respect of the ICT Appeals Panel’s purported decision and which are highly relevant to this Public Inquiry.
58. In conclusion, it is clear that NICTA has not undertaken sufficient analysis to support its belief that the declaration of the MTAS and FTAS would satisfy all of the Declaration Criteria and, in Digicel’s view, it is unlikely that at least two of the Declaration Criteria could be met by the proposed declaration. Consequently, Digicel submits that, at this time, NICTA cannot lawfully make any recommendation to the Minister to declare the MTAS and FTAS on the terms proposed in the Discussion Paper.

⁷ An international benchmarking analysis undertaken for Digicel by Dr Aaron Schiff in May 2018 concluded that the LRIC+ cost estimate for mobile termination was (at that time) 8.7 toea per minute.

⁸ OS (JR) No. 532 of 2015.

⁹ See, for example, the Affidavit of Mr. David Denniston sworn 9 September 2015 and filed 10 September 2015.

E. Mobile Tower Sharing Service

59. Digicel disagrees that declaration of the MTS would satisfy the Declaration Criteria or would otherwise be in accordance with the Act.
60. No demand for such a service has been demonstrated by NICTA and no cogent evidence or analysis has been undertaken to show that declaration would satisfy the Declaration Criteria.
61. Digicel notes that the Discussion Paper highlights NICTA's uncertainty in that regard. At page 29 of the Discussion Paper NICTA states:

*“Overall, evidence from the past four years, absent any declaration of mobile tower sharing or other MACO services, suggests that at least the second, third and fourth of the statutory declaration criteria for the making of the proposed wholesale service determination would now be met in this market. **Past experience provides no evidence in relation to the first criterion, namely that ‘declaration would necessarily, in and of itself, promote effective competition in markets for ICT services in PNG’**, but it is evident that in areas where only Digicel operates mobile towers retail competition cannot be harmed and may be enhanced by the proposed declaration of mobile tower sharing services.” (emphasis added)*

62. In order for a service to be eligible for declaration NICTA, pursuant to section 129 of the Act, must be *“satisfied that **all of the declaration would be met by the declaration**”*. However, in this case, NICTA has expressly acknowledged that is not the case and that it does not have any evidence to support a conclusion in relation to at least one of the criteria.
63. Importantly, and despite NICTA's apparent assertion to the contrary, even NICTA's position with respect to other Declaration Criteria is uncertain as is demonstrated by the lack of any real analysis and the equivocal nature of many of NICTA's observations, such as:

*“it **may be possible** to argue...”*

*“The analysis conducted by NICTA in 2013/14 suggested that the other MNOs would increase and broaden their tower roll-out programmes (**especially in the absence of declaration**)...”*

*“In 2014 NICTA judged that **there was a risk** that declaration would jeopardise such investment in alternative infrastructure...” (emphasis added)*

72. However, similar to Digicel's position with respect to the SCTCS, any declaration should be accompanied by appropriate service specific pricing principles and model terms of access in accordance with the provisions of sections 133 and 135 of the Act.

G. Conclusion

73. In conclusion, Digicel confirms its view that any proposed declaration must meet all of the requirements of the Declaration Criteria and otherwise be in accordance with the Act.
74. Digicel further confirms its view that those requirements establish a high threshold for any intervention.
75. In Digicel's submission the MTAS, FTAS and WTS services that have been proposed for declaration do not meet this high threshold and should not be declared.
76. Digicel welcomes the opportunity to comment on the submissions of other parties and looks forward to continuing to discuss these issues with NICTA as the Public Inquiry progresses.