



11th October 2024

Mr. Kila Gulo-Vui
Chief Executive Officer
NICTA Head Office
Section 43, Lot 19 & 20
Frangipani Street, Hohola
Port Moresby
Papua New Guinea

Re: Proposed Variation to the Licence Conditions Rule 2011 – 2nd Round

Dear Mr Gulo-Vui,

Digitec Communications Limited T/A Vodafone PNG is pleased to respond to NICTA's public consultation in relation to the "Proposed Variation to the Licence Conditions Rule 2011 – 2nd Round" and the Discussion Paper issued on 6th September 2024 which includes Attachment A: Draft "Standard and Special Conditions of Individual Licences Rule, 2024."

We also welcome the opportunity to comment on the responses received from other stakeholders to the 1st Round public consultation in December 2023 / January 2024.

Vodafone acknowledges the points that were raised in our 1st Round response which have been addressed by NICTA in the new Discussion Paper, including:

- Schedule 1 – changing the obligation to route all internet traffic via the PNGIXP.
- Schedule 3 – network availability SLA.

However, we are concerned that other important points outlined in our 1st Round response have not been included in the new Discussion Paper.

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

Greater network coverage obligation on licensees

Vodafone is concerned that the change NICTA made to the list of locations to be covered in Schedule 9 and Schedule 10 to align with National Statistics Office (NSO) naming descriptions results in a far larger burden on the network licensees providing public cellular mobile services, as follows:

1 st Round – Schedule 10 87 named Administrative District Centre (ADC) locations	1 st Round – Schedule 11 120 named Small Centre locations
---	---



2 nd Round – Schedule 9 238 named Local Level Government (LLG) locations	2 nd Round – Schedule 10 6,375 Wards in (331) LLG locations; 80% of Wards to be covered
---	--

Many locations in the new Schedule 9 and 10 will be uneconomic to serve since they are rural, sparsely populated, difficult to get to and often challenging to maintain. The new listing in Schedule 9 comprises 238 LLG locations; this contrasts with only 87 ADC locations in the 1st Round public inquiry. Even if there is meant to be a similar population coverage, we are concerned that it will result in a materially greater number of new mobile sites to meet the minimum coverage obligation.

The situation is more concerning when it comes to the new Schedule 10 listing of 6,375 wards spread over 331 locations. Schedule 3, Section 2c states each licensee must cover at least 80% of the wards, i.e. 5,100 wards. That being said, Section 5 says that if a licensee operates at least one base station at each of the 331 locations, it will be in compliance with this Network Coverage Obligation. Vodafone requests that NICTA confirms that Section 5 overrides Section 2c in Schedule 3.

To meet the new Schedule 10 Network Coverage Obligation a licensee will need to deploy and operate at least 331 base stations; the old Schedule 11 only required 87. NICTA has therefore increased the burden on mobile network operators by 280%. Vodafone requests that NICTA change Schedule 10 so that the burden is no greater than it was previously.

Providing mobile service in uneconomic areas

We are disappointed that the new 2nd Round Discussion Paper is silent on the topics of infrastructure sharing and towers constructed under the Universal Access and Service (UAS) Fund in areas covered by Schedule 9 and 10 despite Vodafone, and other licensees, raising these matters in the 1st Round responses.

As NICTA is aware, many of the locations listed in these two Schedules will be uneconomic, which is why they are not covered today. As stated in NICTA's UAS Strategic Plan 2023-2027, it will *"endeavour to create a conducive regulatory environment including licensing and efficient use of resources such as spectrum and infrastructure sharing mechanisms that will help to minimise service coverage expansion costs."*

We believe it is critical for the ongoing health of the telecoms sector that NICTA adopts a sensible approach to coverage obligations in uneconomic parts of the country. Effectively forcing the three mobile operators to build three duplicate base stations in each rural location must be avoided. Vodafone would therefore welcome an opportunity for key industry stakeholders to come together to discuss this important issue, ideally as part of this 2nd Round consultation; participants should include NICTA, the UAS Fund and the 3 mobile network operators.

Vodafone understands that there are numerous UAS sites already built with funding and support from the World Bank which are available for co-location to all operators. If detailed information (including location coordinates, tower height, tower type, power



source(s), current tenant(s) and load etc) is shared with the operators, these existing facilities can be factored into rollout plans and capex can be saved.

Vodafone would also like to raise the topic of spectrum at this juncture as NICTA referenced it in the above quote. When providing mobile network coverage in rural and sparsely populated areas, sub 1GHz spectrum and especially the 900MHz Band are crucial. Unfortunately, in Papua New Guinea Vodafone has not been assigned any 900MHz spectrum; the 2 x 35MHz band is all assigned to Digicel and Telikom. Vodafone believes this is unfair and puts us at a significant disadvantage to our competitors; we are unfairly burdened with additional costs of developing more sites to achieve the same level of rural coverage.

Clause 2 of the NICTA Act sets out the objectives and item (d) states *"promoting and maintaining fair and efficient market conduct and effective competition between persons engaged in commercial activities"*. Vodafone believes that this objective is not being met and with the onerous network coverage obligations in Schedule 9 and 10, Vodafone should be re-assigned a block of 900MHz spectrum so it can compete on a level playing field with the other mobile operators.

Same network coverage obligations

Vodafone is disappointed that NICTA has not reflected the fact that Digicel and Telikom have had more than a decade more than Vodafone to build out their mobile network coverage and yet all three mobile licensees have the same Network Coverage Obligations in Schedule 3.

Section 2 of the NICTA Act, 2009 states (b) that regulatory measure should be (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."*

Vodafone strongly believes there are 'legitimate differences' between it and other two mobile network operators in this respect and even Digicel in its 1st Round response stated, *"it may be appropriate to provide a brief grace period for a new entrant"*. Vodafone therefore requests NICTA to classify Vodafone as a new entrant with legitimate differences and provide an additional grace period of twenty-four (24) months to complete Schedules 9 and 10.

Specific Wording Points

In addition to the more general matters raised already, Vodafone has some detailed feedback, most of which relates to the new wording changes in the 2nd Round Discussion Paper, as follows:

- i. Schedule 1, Section 2 1 (i) – we suggest adding at the end of the sentence "subject to agreeing commercial terms."
- ii. Schedule 3, Section 2 (b) – should the text not be amended to "from the date that is the later of one year after the Commencement Date ..."?
- iii. Schedule 3, Section 3 – we suggest adding "NICTA shall inform the other licensees in a timely manner whenever it agrees to a new black spot with one licensee."



- iv. Schedule 3, Section 4 – the required timeframes for fault repair (e.g., 6 hours in provincial centres, 2 working days in LLG areas) might be hard to meet due to logistical and workforce constraints especially in regions with difficult terrain or limited access. Operators are already heavily incentivised to repair network faults rapidly for revenue purposes, particularly in heavy traffic areas such as provincial capitals. Best practice regulation involves leaving things to operators wherever possible and therefore we think that this is an unnecessary requirement.
- v. Schedule 3, 7 – we suggest adding at the end of the sentence “and NICTA shall inform the other licensees in a timely manner whenever it agrees to closing down a base station site with one licensee.”
- vi. Schedule 4 – NICTA’s first public consultation in 2023 covered Non-Geostationary Orbit (NGSO) satellite-based services which includes Low Earth Orbit (LEO) and Medium Earth Orbit (MEO) services. However, Schedule 4 only references special terms and conditions for services using LEO’s. Can NICTA please clarify its intentions with regards MEO satellite-based services since “the next review will be some time into the future, it is important to take care to ensure that the current review is as comprehensive and complete as possible” (page 3 of the Discussion Paper).
- vii. Schedule 4, Section 1 (1) (c) – we suggest adding at the end of the sentence “in Papua New Guinea.” Furthermore, we note that “Public Network Service” has no definition as per clause 4 – Interpretation in Annex A. Vodafone requests that one be added in the final version.
- viii. Schedule 4, Section 4 (3) – we suggest that the network availability SLA be aligned with Schedule 3 (mobile) and Schedule 5 (fixed).
- ix. Schedule 4, Section 6 (1) – we suggest adding at the end of the sentence “and shall not connect User Terminals belonging to customers outside of Papua New Guinea.”
- x. Schedule 4, Section 7 (1) – we believe that this sub-clause should be removed so all Network Licensees meeting the conditions in Section 1 (1) are encouraged to participate in the development of network and services and extension of broadband services in PNG.

Vodafone urges NICTA to take account of these interactions in considering compliance with the network coverage licence conditions.

Vodafone seeks further clarification and amendment to the draft 2024 Rule as stipulated above and is willing to discuss further.

Finally, we note that Papua New Guinea has approximately 80% population coverage for mobile and yet mobile phone penetration is only around 37%. Therefore, there should be stakeholder focus on increasing user penetration and affordability, which is what we at Vodafone have been advocating and driving towards. Indeed, since our entry into the market two and a half years ago, increased competition and the breaking of the duopoly have resulted in significant reductions in telecommunications retail prices and increased mobile penetration and affordability.



We believe we are on the right track, but ongoing NICTA intervention will be needed to maintain a conducive and fair regulatory environment. This is key for the industry to make a meaningful contribution and help transform more lives across Papua New Guinea. We also believe that NICTA must ensure Vodafone's rights as a new entrant are protected and ample time is given for Vodafone to operate on a level playing field.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Pradeep', written over a horizontal line.

Pradeep Lal

**Regional Chief Executive Officer
Digitec Communications Limited T/A Vodafone PNG**