



Friday, March 29, 2019
Our Ref: NICTA002/KTHMD-290319

Mr. Charles Punaha
Chief Executive Officer
National Information & Communications Technology Authority
P.O. Box 8444, BOROKO
National Capital District

Dear Mr. Punaha,

Subject: **Consultation Paper - The Draft Operator License Conditions Rules 2018 etc.**

We thank you and NICTA for the opportunity to comment on NICTA's Consultation Paper - The Draft Operator License Conditions Rules 2018; The Draft Operator License Conditions (Kumul Telikom Holdings Limited) Rules 2018; and The Draft Operator License Conditions (Digicel (PNG) Limited) Rules 2018 which was issued in December 2018 (the Paper).

We specifically wish to thank you and express our appreciation for the grant of extension of time for KTH and other stakeholders to consider the Paper.

We acknowledge the need for relevant and practicably enforceable conditions of license rules (the Rules) to achieve the objectives of the NICT Act 2009 and meet the sectoral policies of the government. We also acknowledge that such rules are intended to take into consideration the commercial realities and standing of operators in light of the varying conditions of industry and market that affect each and every operator including the specific corporate arrangements and objectives of each operator.

We generally accept the contents of the Paper especially the principles upon which the rules have been proposed. However we would like to highlight the following three specific aspects that we believe should be taken into consideration when finalizing the rules.

1. Kumul Telikom Holdings Limited (KTHL) as the Single Licensee

We acknowledge NICTA's proposal to have the rules applied to KTHL. We wish to clarify this further by adding that this means that only a single operator license under the name KTHL is required to operate the three entities namely Telikom PNG Limited, PNG DataCo Limited and Bemobile Limited. A single license under KTHL allows us to ensure better coordination of compliance and business operations within and across the group among other benefits. For the avoidance of doubt and in relation to KTHL as a single licensee, the sub-Clause 4 (2)(i) on Definitions in Appendix V should be changed to "KTHL" means Kumul Telikom Holdings Limited with company registration number 1-118449;

2. Mandatory Performance Bond

We understand NICTA's perspective for applying the performance bond as a condition under the Rules for KTH; i.e. Clause 12 under Part III - Mandatory Network Coverage. However, we consider the specified or proposed amount to be impracticable and harsh considering the financial situation that we are in. Our preferred stand would be to not impose a financial form of bond however we strongly request to consider other options such as delay the application of the condition by at least three years and reduce the amount significantly.

3. Operational Separation

We note and generally agree with the principles of accounting and operational separation in the proposed Rules. In light of this, we advise that we define PNG DataCo Limited as the sub-sea based cables and international wholesale services provider; Telikom PNG Limited as terrestrial or land-based wholesale service as well as fixed retail service provider; and Bemobile Limited as mobile retail service provider.

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4. Accounting Separation

Accounting separation as a condition under the Rules is being imposed on KTHL due to the nature of its composition and the categories of services it provides, in particular wholesale and retail services. We request NICTA to clarify and or confirm whether Digicel PNG as is currently structured provides both wholesale and retail services and therefore should be subjected to accounting separation.

5. International any-to-any connectivity

International incoming calls are still being dropped by operators yet Part VI of the NICT Act 2009 appropriately imposes access seekers the obligations to ensure any-to-any connectivity. We prefer that NICTA includes in the general Conditions of Operator License Rules 2018 the requirement for licensees to ensure any-to-any connectivity including international any-to-any connectivity.

We consider it very important for all stakeholders including the regulators, operator and the consumer that in the spirit of consultation and ensuring that the Rules are practicable to enforce and comply with, we would like to have further discussions with NICTA before the Rules are finalized, especially the Rules specific to KTHL. We would therefore like to meet with NICTA as soon as possible.

Yours faithfully,

Mr. Paul Hyde
Group Managing Director and Chief Executive Officer,
KTH Limited

Cc: David Kulu, Company Secretary KTH.