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DECLARATION INSTRUMENT

National Information and Communications Technology Act 2009

WHOLESALE SERVICE DECLARATION NO. (1) OF 2019

The MINISTER FOR COMMUNICATIONS AND INFORMATION TECHNOLOGY makes this declaration under section 130 of the *National Information and Communications Technology Act 2009*

PART 1 – PRELIMINARY

1. Name of Declaration

This Declaration is Wholesale Service Declaration No.(1) of 2019.

2. Commencement

- (1) This Declaration commences 30 calendar days after the date on which is notified in the *National Gazette* (the commencement date).
- (2) This Declaration expires on the day before the fifth anniversary of the Commencement Date unless it is varied or revoked earlier in accordance with section 130 of the Act.

3. Definitions

- (1) Subject to subsection (2), unless the context otherwise requires, terms used in this Declaration have the same meaning as in the Act.
- (2) In this Declaration, unless the context otherwise requires:
 - (a) “Act” means the *National Information and Communications Technology Act, 2009* and includes any regulations made under that Act;
 - (b) “beach manhole” means an underground chamber in which a sea cable is jointed to a terrestrial cable;

Part 1—Preliminary—continued

- (c) “*cable landing station*” is—
- (i) a site at which an international fibre-optic submarine cable is available on shore for the purpose of accessing transmission capacity on the cable; and
 - (ii) includes buildings housing the line terminal equipment.
- For the avoidance of doubt this includes the cable landing stations located at Ela Beach and Madang.
- (d) “*duct*” means an underground conduit that is used, installed ready to be used, or intended to be used to hold a terrestrial cable that connects a beach manhole to a cable landing station;
- (e) “*end point*” means a nominal point at a cable landing station or international gateway switching centre in a foreign jurisdiction that is used to demarcate an end of a service, normally if it is supplied in the form of a full circuit;
- (f) “*mid point*” means a nominal point along an international fibre-optic submarine cable that is used to demarcate an end of a service, normally if it is supplied in the form of a half circuit;
- (g) “*point of interconnection*” means a location in Papua New Guinea which is a physical point of demarcation between the access seeker’s network and the access provider’s network.

NOTE: The following terms are defined in the Act:

- Access
- Access Provider
- Access Seeker
- Facilities Access Service
- International Gateway
- Network
- Network Service
- Operator Licensee
- Resale Service
- Site
- Switching Centre
- Wholesale Service

PART II — SUBMARINE CABLE TRANSMISSION CAPACITY SERVICE**4. Declaration of service**

The international submarine cable transmission capacity service is hereby declared.

5. Service description

(1) The international submarine cable transmission capacity service is a Network Service:

(2) For the avoidance of doubt, the wholesale broadband capacity service:

(a) for the carriage of any combination of voice communications and/or data via an international fibre-optic submarine cable between—

(i) any of the following points of interconnection:

Part 1—Preliminary—continued

- (A) a point of interconnection located at the access provider's cable landing station; or
 - (B) a point of interconnection located in the access provider's switching centre that is nearest to that cable landing station and which contains a point of interconnection between the access provider and an operator licensee; or
 - (C) a point of interconnection located in the access provider's switching centre the use of which for this purpose is mutually agreed to by the access provider and the access seeker; and
- (ii) a mid point or end point; and
- (b) with any unit of transmission capacity.
- (2) For the avoidance of doubt—
- (a) the international submarine cable transmission capacity service and the international submarine cable gateway access service are separate wholesale services;
 - (b) the international submarine cable transmission capacity service may be supplied as either a resale service or otherwise;
 - (c) the international submarine cable transmission capacity service includes the supply of backhaul transmission capacity by the access provider to the extent that such is necessary to connect an access seeker's facilities at a virtual colocation site in the relevant switching centre to the access provider's facilities in a cable landing station;
 - (d) if an access provider supplies an international submarine cable transmission capacity service with a particular transmission capacity from—
 - (i) a cable landing station that is under its control; or
 - (ii) a switching centre that is under its control;

then, subject to the constraints of the relevant submarine cable capacity available through contract or ownership to the access provider, the access provider shall be deemed to be able to supply international submarine cable transmission capacity services with different transmission capacities to access seekers with different international capacity requirements.

PART III — SUBMARINE CABLE GATEWAY ACCESS SERVICE**6. Declaration of service**

The international submarine cable gateway access service is hereby declared.

7. Service description

- (1) The international submarine cable gateway access service is a facilities access service that provides an access seeker with such access to, or use of, the facilities of an access provider at the access provider's—

Part 1—Preliminary—*continued*

- (a) cable landing station; or
- (b) switching centre that is nearest of the relevant cable landing station and which contains a point of interconnection between the access provider and an operator licensee; or
- (c) switching centre the use of which for this purpose is mutually agreed by the access provider and the access seeker;

as is necessary to enable the access seeker to interconnect its facilities to an international fibre-optic submarine cable.

(2) For the avoidance of doubt:

- (a) the international submarine cable gateway access service enables an access seeker to—
 - (i) access the international gateway facilities of an access provider including, but not limited to, physical network infrastructure; and/or
 - (ii) physically collocate its facilities if technically feasible in any available space within the access provider's cable landing station; and/or
 - (iii) virtually or physically collocate its facilities if technically feasible in any available space within the access provider's relevant switching centre.

PART IV – SUBMARINE CABLE DUCT ACCESS SERVICE**8. Declaration of service**

The international submarine cable duct access service is hereby declared.

9. Service description

The international submarine cable duct access service is a facilities access service that provides an access seeker with such access to, or use of, a beach manhole and its associated ducts so as to enable the access seeker to connect an international fibre-optic submarine cable to a cable landing station controlled by the access provider.

Dated this 18th day of February, 2019.

Hon. S. BASIL, MP,
Minister for Communications and Information Technology.