



RESPONSE TO COMMENTS REPORT

NICTA's response to the comments received in
response to the Consultation Paper on
Universal Access and Service Projects for 2017
(23 December 2016)

Issued on 19 May. 2017

1. INTRODUCTION

On 23 December 2016 NICTA published a consultation paper entitled "Universal Access and Service Projects for 2017" and invited all interested parties to submit comments and Universal Access Projects for consideration to be implemented in 2017.

Written submissions were received from:

- Mr Christopher Odorry
- Digicel (PNG) Limited ("Digicel")

Those submissions were made available on NICTA's public register. Attachment 1 to this Report provides a summary of the key comments and issues that were raised through these submissions and the NICTA responses in each case. Some observations relating to comments received are set out in Sections 2 – 4 below.

2. MR ODORRY'S SUBMISSION

Mr Odorry is a PNG national who is studying Systems Engineering and Computer Science in Antalya International University in Turkey. His proposal is about finding alternatives that could reduce the cost of providing computing experience for young people, particularly through schools connectivity programs.

In his submission Mr Odorry argues strongly in favour of using *NComputing thin client* technology as a means of enabling cheaper access by students to computing experience earlier in life. As Mr Odorry explains in his submission "a thin client is a stateless, fan-less, desktop terminal that has no hard drive. All features typically found on the desktop PC, including applications, sensitive data, memory, etc., are stored back in the data centre when using a thin client." Being featureless in this way, thin client offers a cheaper solution than other devices for student computing.

Clearly there could be a place for thin client technology, and the NComputing system described by Mr Odorry in the Connect the Schools program, which is an on-going part of the UAS Program. However the precise use of this technology and its integration into the current elements that make up Connect the Schools are matters that need to be further pursued offline by NICTA on behalf of the UAS Secretariat. In particular the way in which the educational professionals would wish to apply the technology and the consequent cost considerations are matters that need to be further explored before the proposal can be fully assessed. In addition, NICTA will pursue with its contacts in other administrations the way that this technology has been used as part of national broadband and UAS programs.

It is unlikely that NComputing thin client technology will be deployed in the UAS program for 2017 but it may appear in future years.

3. DIGICEL

Substantial portions of Digicel submission related to matters related to, but distinct from, the specific UAS projects for implementation during 2017. This included Digicel's views as to

how a UAS Levy or other project funding mechanism must or should be implemented for 2017 and subsequent years.

During March 2017, NICTA met with Digicel and other operators and confirmed that NICTA had not made a decision as to a UAS Levy for 2017. NICTA also informed operators that it would provide a draft decision relating to any proposed UAS Levy decision for comment by operators. Operators were generally supportive of such consultation.

In the above circumstances, NICTA does not believe it is necessary at this time to make further comment or response to Digicel’s claim as to UAS project funding, whether by a UAS Levy or otherwise..

4. CONCLUSION

The submissions contain a range of observations that have been very useful in adding further clarity to some of the issues associated with the UAS Program for 2017.

Once again, NICTA thanks those that made submissions for their time, effort and assistance in participating in the consultation.

Having considered all submissions, the NICTA Secretariat is of the view that the following UAS Projects and proposed budget are appropriate for 2017, and has prepared a Report to that effect for the UAS Board, pursuant to Section 108(1) of the NICT Act:

- Mobile Phone connectivity to Unconnected Areas ... PGK 4.8 million
 - Accelerated Mobile Phone expansion – BST Upgrades to 3G or 4G ... PGK 2.00 million
 - Connect the Schools Project ... PGK 4.00 million
- Total ... PGK 10.8 million

The UAS Board has functions under Section 108(2) of the Act to consider this Report and submit 2017 UAS projects and budget to the Minister for approval.

ATTACHMENT 1

OVERVIEW OF PRIMARY COMMENTS RECEIVED AND NICTA STAFF'S CONSIDERATION OF AND RESPONSE TO THOSE COMMENTS

Given the length of the submissions received, NICTA staff have not (in the table below) responded directly to every point or comment that was made by the respondents in their submissions. However, even if not specifically addressed below, all comments received were considered and have been taken into account.

No	Sub- mission	Reference or subject	Summary of comment	NICTA staff's response
1	Digicel, page 1	Previous correspondence	Digicel refers to previous correspondence and previous demands for more information, in particular the Market Gap Analysis Report prepared by GVIC, consultants to NICTA, in 2014.	The Report that Digicel refers to was prepared in 2014. Although many of the gaps are ongoing, the report is at least partly out of date. NICTA considers that the current Discussion Paper is a more recent and reliable basis on which Digicel should base its comments. NICTA has taken into account the prior report as background, and has relied on updated information as referred to in the Consultation Paper. It is disappointing that Digicel has not fully addressed the material that has been placed before it.
2	Digicel, page 2, 2 nd paragraph	Procedure adopted by NICTA	"...Digicel and other operators have not been afforded a fair opportunity to understand the nature of the UAS Projects that have been proposed by NICTA or to review the underlying analysis and assumptions supporting NICTA's views and to be able to correct, contradict or comment on them. Digicel considers this to be a very serious procedural error and Digicel strongly encourages NICTA to correct it and to recommence the consultation once the information has been provided."	Digicel's position is noted. NICTA strongly disagrees. Digicel and other operators have more than amply information to comment on and respond to the 2017 projects proposed in the Consultation Paper, or to identify other projects. The various historical documents that Digicel criticises as being out of date are not necessary for it have an adequate opportunity to comment on 2017 UAS Projects. The procedures adopted have been consistent with the requirements of the Act and have shown a commitment to discussion at every turn.

No	Sub-mission	Reference or subject	Summary of comment	NICTA staff's response
3	Digicel, page 2, 3 rd paragraph	Comments in principle only	"In the meantime, and as a result of the significant information gaps, this submission can only deal with matters traversed in the Consultation Paper at a principle level and Digicel is not in a position to discuss the merits of the specific UAS Projects that have been proposed by NICTA."	See Comment 2 above.
4	Digicel, page 2, 5 th paragraph	UAS Vision, Mission and Core Values	"Digicel is further concerned that the proposed Draft Strategic Goals and Guiding Principles may not reflect the views of the Government or the UAS Board which, under the terms of the National Information and Communication Technology Act ("Act"), are the proper authorities for determining such matters. Digicel submits that, as a matter of priority and before any further consideration is given to any UAS Projects, the goals and guiding principles of the UAS are finalised."	NICTA has proceeded to recommend 2017 UAS projects based on the requirements of the NICT Act, and without seeking to formulate and agree further rules or principles with operators. Such further rules or principles are not, on reflection, necessary, especially in light of Digicel's attempt to generate substantial delay for further debate about them. NICTA also notes that the process in the NICT Act for Project identification and selection, including in s108, are sufficient to address the issues raised by Digicel.
5	Digicel, page 3, 2 nd paragraph	Funding of UAS Projects	"It is now well recognised internationally that UAS funds are often inefficient and wasteful and in many instances have resulted in large sums of industry supplied funding sitting idle." Digicel also cites a study undertaken for the GSMA on this matter.	NICTA's approach is to implement the provisions of the NICT Act relating to UAS projects and funding and to do so in a proper manner that is not "wasteful" or "inefficient." A study identifying other countries in which a different approach has been adopted is not sufficient to cause NICTA to disregard the UAS provisions of the NICT Act or NICTA's statutory responsibilities..
6	Digicel, page 3, 4 th paragraph	Incentives for private infrastructure investment	"Digicel considers that great care needs to be taken to preserve incentives for private infrastructure investment, including in areas that are either unserved or are underserved by existing networks."	NICTA agrees and has, and will continue to, give weight to such considerations, which also are referred to in the NICT Act.

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7	Digicel, page 3, 4 th paragraph	Currency of data	"1. Any UAS Projects [must be] carefully targeted on those areas where private investment is unlikely to be economic in the foreseeable future. This means that data supporting the deployment if any proposed UAS Projects must be up to date and available for scrutiny by existing operators..."	NICTA agrees that UAS projects do not involve providing services that are or within a reasonable time period are likely to be provided by the private sector, and notes that such considerations are referred to in the Act. If operators do not intend to serve an area in the medium term future, even one that appears to be economic, then such an area might reasonably be considered as a candidate for assistance under the UAS Program. The Digicel comment "scrutiny" of data fails to note that the data on network coverage and service deployment actually comes from the operators themselves. It is not generated by NICTA for operator scrutiny. It is collected from operators. The disclosure of such data generally to all operators, as apparently requested by Digicel, is not within the scope of this Consultation Paper. If Digicel wishes, by itself or with other operators, to make a specific proposal as to such a disclosure regime, it is welcome to do so.
8	Digicel, page 3, 4 th paragraph	Keeping UAS funding to a minimum	"2. Any UAS funding that is sought from industry [should be] kept to the minimum that is needed to support specific UAS Projects that have been identified. This will only occur when industry is consulted in potential technical solutions and implementation plans so that efficient outcomes are achieved ..."	NICTA will comply with the NICT Act in relation to any UAS Levy for 2017, and subsequent years. NICTA does not agree with a number of Digicel's contentions about the requirements of the NICT Act relating to a UAS Levy, or alternative types of UAS arrangements, and notes that such disagreements are outside the scope of, or unnecessary to, the purpose of this Consultation Paper, which is to identify and consider 2017 UAS Projects.
9	Digicel, page 3, 4 th paragraph	Invoicing for levy - timing	"3. The legislative requirement that any UAS levies that are required to be imposed are identified by NICTA prior to the commencement of the fiscal year in which they are required is observed, and that	See comment #8 .

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			operators are provided with a reasonable time (no less than three months) in which to pay the relevant levy. This is critical to ensure that commercial operators are able to plan their financing to take into account the imposition of the UAS levies without unduly impacting on their own capital investment programmes."	
10	Digicel, page 4, paragraph 1	Delivery of UAS Projects and possible alternative approaches	Digicel notes that "operators should be given an opportunity to voluntarily build out infrastructure to meet the needs of specific UAS projects rather than be required to pay a UAS Levy."	See Comment #8
11	Digicel, pages 4 – 6	The Vanuatu 'play or pay' scheme	Digicel makes reference to the Play or Play Approach adopted by the Government and Regulator (TRR) in Vanuatu which enables licensed operators in that country to propose to undertake projects in lieu of paying a UAS levy. Digicel proposes that such a scheme be adopted in PNG.	See Comment # 8 T
12	Digicel, page 7, paras 1 - 3	NICTA's "Access Gap Analysis"	<p>Digicel claims that the consultants on the Access Gap report did not engage with Digicel.</p> <p>Digicel is concerned with the dates for some of the information referred to in the Consultation paper (2014 and even earlier). "Digicel submits that, by placing reliance on outdated data, the state of the market has been substantially misrepresented in PNG and any conclusions that are made consequently are unreliable at best."</p> <p>"Digicel further submits that NICTA cannot</p>	<p>The consultants, Great Village International Consultants (GVIC) did conduct meetings with industry representatives. Digicel was invited to these, and GVIC's recollections, when sought, were that Digicel was represented..</p> <p>NICTA confirms that it has not relied wholly or primarily on outdated data, and has considered more recent data in combination with older data, to form a complete picture. It would be obvious to Digicel, and other operators, that despite coverage expansion since 2014, a substantial access gap remains.</p>

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			reasonably make any recommendations or decisions in relation to any UAS Projects until such time as it has obtained up to date information about the market and its needs."	T
13	Digicel, page 7, section 5	NICTA's conclusions regarding expected costs of UAS in PNG	Digicel remarks that the estimate of US\$ 150 – 200 million to eliminate all the gaps created by underserved areas is an "extraordinary claim", and then makes an argument that elimination of all gaps is unrealistic even in developed countries.	NICTA notes that due to the expanded coverage since 2014 referred to in the Consultation Paper, currently the access gap is not as large as the estimate of \$150-200 million referred to. NICTA also agrees that the Act does not require the entirety of any such gap to be addressed by UAS programs.
14	Digicel, page 7, section 6	NICTA's proposed projects for 2017	<p>"Digicel notes NICTA's proposed UAS Project for 2017 and which have been described in broad terms at section 7 of the Consultation Paper. Unfortunately, the lack of detail, either in terms of proposed technical and service specifications or proposed geographic locations means that Digicel is not in a position to be able to consider the merits of any of the proposed UAS Projects."</p> <p>Digicel makes an exception and comments on the Neutral IXP Transmission Links Project which it says "NICTA has sought to classify ... as a UAS Project. Digicel cannot see how such a Project can fall within the ambit of UAS. The establishment of a Neutral IXP, while a laudable objective, has little if anything to do with the objective of providing Universal Access and should be established and funded separately on a commercially sustainable basis."</p>	<p>The projects have been described as detailed as is possible at this stage of the process. NICTA believes that industry could have commented on what was put forward in a meaningful way, if they had comments at all.</p> <p>NICTA has considered these comments and whilst it does not adopt or endorse them, it has decided, for other reasons, to not include the Neutral IXP Transmission Links Project as a recommended project for 2017. In relation to projects such as this, NICTA also notes that there is a long tradition of such projects being operated by neutral operators yet on a commercial basis, kick-started by public funding. The HK University IXP is a case in point, but one of many. UAS is about affordable access to services, not necessarily on a purely geographic basis. In the case of the IXP the potential reduction of international internet transmission costs is the major contribution to</p>

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				access. The fact that no commercial proposal for a neutral IXP has emerged is compelling. Nor have any submissions proposed to undertake the project during the course of the current consultation. Critically, nothing in Section 108 of the Act, which deals with Projects, would cast doubt on this project. NICTA intends to leave the Project on the Draft Program.
15	Digicel, Page 8, Section 7	Funding for UAS Projects for 2017	<p>"This apparent decision by the NICTA Board [to set the levy at 2% of annual gross revenues for each operator] raises a number of serious concerns."</p> <p>"1. NICTA has sought to predetermine the quantum of the UAS levy in contravention of the law. Section 102(2) of the Act provides...."</p> <p>"2. NICTA is out of time to impose a UAS Levy for the 2017 fiscal year" because this should have occurred "prior to the end of 2016".</p>	NICTA confirms that it has not made a determination of a UAS Levy for 2017. Digicel's claim that the Act requires any such 2017 determination to be made in 2016 also is incorrect.