



RESPONSE TO COMMENTS REPORT

NICTA staff's response to the comments received in response to the Consultation Paper issued for the Public Consultation into setting draft rule to establish Annual ICT Data Collection Regime

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1. INTRODUCTION

On 8th April 2014, NICTA published a consultation paper as part of its public consultation process under section 229 of the National Information Communications Act 2009, ('the Act') setting a draft rule establishing an Annual ICT Data Collection Regime. Given the importance of information and data to the fulfilment of so many of NICTA's statutory functions, the *National Information and Communications Technology Act 2009* (the Act) provides an assurance that NICTA will be able to obtain information that is necessary for the fulfilment of its functions or the exercise of its powers by giving NICTA strong information-gathering powers (Div.5 of Part XII). However, those information-gathering powers are appropriate primarily for use in specific individual instances where information is required from a particular licensee in the context of an inquiry or investigation. These information gathering powers are not particularly suitable for ensuring that licensees generally provide NICTA with key data on an ongoing basis or in the absence of a related inquiry or investigation.

Written submission was received from Telikom PNG Limited (Telikom) and is made available on NICTA's public register. This report provides a summary of some of the key comments and issues raised by Telikom through this public consultation and NICTA staff response to them.

In this case NICTA considered that it would be valuable to give respondents a substantial opportunity to comment on the consultation paper and extended the due date for submissions from 6th May 2014 to 6th June 2014. After the closing date, NICTA has received one submission and from Telikom despite having allowed for further extension of the closing date.

2. CONCLUSION

The submission contain a range of observations some of which NICTA staff agree with, others not.

Telikom submission is consistent with or supportive of the notion that there is a need for NICTA to establish some sort of data framework for NICTA to fulfil many of its statutory functions given the importance of information and data.

NICTA staff note that the reasons why the submissions have come to this conclusion are not necessarily the reasons that informed the discussion paper.

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

Given the length of the submission received, NICTA staff have not (in the table below) responded directly to every point or comment that was made by the respondent in its submission. 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	Telikom	ICT Indicators	ICT indicators are more focused on supply side and are pre-determined by NICTA	The core list of ICT indicators presented in the accompanying excel spread sheet are not fixed in any sense or constitute the final list rather the list will under go periodic review. NICTA staff are of the view that the list of ICT indicators suggested are useful for a start and cover most of the ongoing and foreseeable needs that NICTA will have for data. Rather the list of ICT indicators proposed are based on internationally agreed standard especially developed by ITU. Most importantly, these are the list of indicators will provide useful analytical insights or indicator of the state of competition in various market. The point has already been made in the consultation document that specific needs will be addressed as they arise and purpose-specific additional data requests will be prepared in those circumstances.
2	Telikom	ICT indicators Demand Estimation	Telikom comments on the need to establish demand for ICT services	Noted. NICTA has already commenced discussion with NSO on this matter and is in the process to conclude an MOU with NSO regarding this issue.

No.	Sub-mission	Reference or subject	Summary of comment	NICTA staff's response
3	Telikom	Frequency of ICT data collection should be on a need by need basis or voluntary	Telikom suggested that the collection of ICT data should remain on a voluntary and cooperative basis as introduction of a rule may pose more as a regulatory obstacle to ICT service providers	Given the importance of information and data is necessary for NICTA to fulfil many of its statutory functions, such suggestion is unacceptable as from previous learnt experiences by NICTA with the licensee on information gathering is completely challenging and would not be workable on a voluntary basis, particularly if the ultimate purpose might be to support action that individual licensees consider not to be in their commercial interests. The implication in the comment that information collection has been voluntary to date is incorrect.
4	Telikom	Issue of Commercial sensitivity	The issue of confidentiality of commercially sensitive data is of paramount concern for Telikom.	Noted. Under section 1.2 of the consultation document, NICTA has elaborated clearly that NICTA will not publish individually the data it receives per licensee however, parts of the data collection (from all licensees) will be taken as representative of the industry and thus published in an aggregate manner.