

## Revised Guidelines on the Submission of Written Comments to Public Inquiries & Public Consultations

### A. INTRODUCTION.

NICTA Act 2009 is the parent legislation that gives power and directions for ICT providers to act within the fabrics of the legislation. NICTA is established by this legislation to oversee the operations of the ICT providers and end-users and to address issues affecting the flow of ICT services and resolve disputes and hear complaints from aggrieved users and providers of the ICT services.

The Legislation empowers NICTA to carry out public consultations and inquiries and make or revoke or vary rules and guidelines pursuant to Section 218 of the NICTA Act 2009.

There are six main clauses in the guidelines together with subclauses and for clarity purposes Telikom's comments are related mainly to the text in blue ink in the consultation document.

#### 1. Means of submission

##### Comments to 1.1&1.3

- For Licensees, their views and comments can be emailed through the email addresses provided. However, what would be the process NICTA intends to adopt to facilitate the views and comments from the general public and stakeholders who do not have email and internet access.
- NICTA must acknowledge receipt of the submission immediately or an automatic email reply would be sufficient.
- Any technical failure in the timely receipt of the submission will be the responsibility of NICTA. Respondents should be penalised.
- Respondents must inform NICTA of any technical failures on its part and NICTA must allow the respondents to make their submission, as soon as, the system is restored or alternative arrangements should be put in place should such a circumstance occur.

##### Comments to 1.2

- Telikom believes that NICTA refusing to accept the comments on the basis that it is not text-searchable and not copy-paste allowable is unacceptable as it seems to impose/imply an absolute requirement. NICTA should emphasise only that its preference is such. Telikom suggests that this statement be reconsidered.

##### Comments to 1.4

- No comment

#### 2. Observation and Extension of submission deadlines

##### Comments to 2.1 – 2.2



- In the event that respondents fail to submit within deadlines and even fail to submit their views and comments after time extension what will be NICTA's position.
- Collective views and comments from a majority give proper direction and depth when amending or revising or revoking guidelines, policies and any other legislation. Therefore, more ICT licensees and individuals and interested NGOs and corporate entities should be given the opportunity to provide their views and comments for consideration.
- If an extension is sought, NICTA should respond to that request within 2 working days, if a response is not received within the 2 working days; the extension sought is approved by default. If a new deadline was not requested by the respondent or the general public, a minimum of 10 working days will be granted.

### **3. Acknowledgement of receipt of Submissions**

- Except for the 48 hours time period of acknowledging submission seems too short for some submissions that are sent through mail or for individuals may require acknowledgements to be posted or etc..
- NICTA should have an automatic email reply system so that the submissions are automatically acknowledged receipt. NICTA's proposal for the respondents to call a NICTA staff is a very difficult job as we really get a telephone answered because NICTA staff are always out of the country or on business engagement elsewhere.

### **4. Publication of Submissions on NICTA's Public Register**

- Apart from having the submission published on NICTA's website, it would be appropriate to have the submissions available for public inspection and reading by making them available at its office for people who do not have access to internet to access it.
- NICTA should make copies available throughout the country where it currently has office locations and inform the general public through the media that copies are available for inspection.

### **5. Treatment of Claims of Confidentiality**

- No Comments

### **6. Withdrawal of Submissions**

- A request by NICTA to withdraw a submission from a respondent should not have any regulatory impact on the respondent or any other licensee;
- If the withdrawal of the submission is at the request of NICTA, the respondent must be allowed sufficient time to make its new submission, preferably within two weeks;
- If the respondents are unwilling to withdraw a submission then NICTA should provide reasonable justification as to why that submission should be withdrawn.

## **B. GENERAL COMMENTS**

To give effect to any laws, whether it be the Constitution, the Organic Laws, legislations, Policies and guidelines; enforcement of such laws fulfil its objectives, functions and the purpose intended.

Laws can be laws for decades and centuries but must be practised and enforced to give real meaning and effect.

For instance, Section 44 of the NICTA Act talks about confidentiality of Information and if confidential information are disclosed and NICTA does nothing then Section 44 is just a meaning less provision in the Act, thus, makes the entire legislation null and void.

The same principle applies to any other laws and regulations.

In this scenario, the draft guidelines on the submission of comments to NICTA Consultations are only an abstract from the NICTA Act for NICTA Act is the Parent Legislation. Any alteration to this Guideline has to be consistent with the Parent Legislation to suit the current changes that are taking place in the ICT industry and enforcement of these guidelines and any other ICT laws shall be undertaken effectively by NICTA.

