



TELIKOM PNG LIMITED

Telikom PNG Limited
Office of Company Legal Counsel
P. O Box 613, Waigani, NCD
Papua New Guinea

Ph: 3004071 / 3004161
Fax: 3004167
Email: Phillip.Aeava@telikompng.com.pg

7th November, 2013

Mr. Charles S. Punaha
Chief Executive Officer
National Information & Communication Technology Authority
P.O Box 8444
BOROKO
N.C.D

Dear Mr. Punaha,

**REF: A PUBLIC INQUIRY INTO THE POTENTIAL DECLARATION OF CERTAIN
WHOLESALE MOBILE TELECOMMUNICATIONS SERVICES**

Telikom PNG Limited refers to NICTA's request for views, comments and submission regarding the above matter and hereby submits its views and comments accordingly.

Telikom PNG agrees in principal with NICTA to potentially declare certain wholesale mobile telecommunications services in PNG. However, Telikom PNG proposes that as a start, NICTA should consider a declaration that meet the requirements of the NICTA Act and local Mobile Network Operators.

Notwithstanding this, Telikom PNG hereby submits its views and comments in the attached submission for NICTA's consideration and subsequent adoption should your consider appropriate.

However, should you require further clarification and/or explanation on any aspect of the submission, please do not hesitate to contact us.

Yours Truly,

.....
Mr. Philip Aeava
CHIEF LEGAL OFFICER

SUBMISSION ON THE POTENTIAL DECLARATION OF CERTAIN WHOLESALE MOBILE TELECOMMUNICATIONS SERVICES

QUESTION 1:

Do you agree with the proposed definition of the relevant market as the market for wholesale mobile access and call origination services? Please provide argument and if appropriate evidence to support your views.

Telikom PNG (TPNG) agrees with the proposed definition of the relevant market as the market for wholesale mobile access and call origination services.

However, due to peculiarities in telecommunications industry that are not shared by many other industries, the test for the MACO services market must be applied with skill in order to prevent a bias toward this growing market and to avoid narrowly defining the MACO services market that may potentially restrict the market.

The relevance of this market in PNG can be based on the development of the current PNG wide market to date since competition was introduced. The fact that the whole mobile telecommunications services market now is unequally shared, creates the need for the competition objectives of the ICT policy and supporting legislation to be tested and the anticipated market(s) confirmed paving way for maturity of the whole market.

There exists therefore a market for wholesale mobile service customers to have their retail customers connected to customers of their own or other networks, where a wholesale mobile telephone service provider is available to provide that access. TPNG further agrees that there exists a relevant national retail mobile access and call origination services market that provides for Voice and SMS services, the customers of which could be better served by other retails services providers of their choice through wholesale access arrangements.

TPNG agrees that the three dimensions for existence of a market are evident, supported by the growth and state of the market. There are retail mobile customers who may not have a choice of using other networks' call origination service simply because the access service is not provided by the incumbent operator to the network of their choice. The wholesale customer dimension in the mobile services market is realisable due also to the varied choices and the potential growth of the retail customer. In considering the geographic dimension of the relevance or existence of the wholesale MACO services market, TPNG notes that the national scope of the market in question is targeted. However, it should be appreciated as highlighted, that a narrower definition or a variation of this market dimension may be later considered as the overall mobile services market further develops and matures.

At this stage, TPNG concur with the proposed definition of the MACO services market, however as the market develops and mature, the definition may be reconsidered.

QUESTION 2:

Do you agree that satellite – based mobile services may be regarded as marginal in terms of substitutability and therefore of little import for the purposes of this inquiry? Please support your comments with arguments and where possible with factual evidence.

TPNG agree that satellite - based mobile services may be regarded insignificant in terms of substitutability of the mobile services, hence should not be given some preference to the inquiry because:

- The demand for satellite based mobile services may not be sufficient in PNG compared to the demand for land based mobile services;
- Customer perception of the service could not be the same ..eg customers accessing direct satellite based mobile service and land based mobile service; and
- Pricing, service arrangements and cost structures of the satellite based mobile may not be the same.

In PNG and many other developing nations, satellite based mobile service is not common. Therefore, to substitute for the current services already in place would not be in the interest of many end-users.

However, other countries like Australia, the United States and England and to name a few, use satellite based mobile services for wide coverage with efficient costs.

For instance, Iridium Satellite LLC is a company, based in Bethesda, Maryland, United States which operates the Iridium satellite constellation, a system of 66 active satellites used for worldwide voice and data communication from hand-held satellite phones and other transceiver units. The Iridium network is unique in that it covers the whole Earth, including poles, oceans and airways.

Inmarsat plc is a satellite telecommunications company, offering global, mobile services. Based in England, it provides telephony and data services to users worldwide, via portable or mobile terminals which communicate to ground stations through twelve geosynchronous telecommunications satellites. Inmarsat's network provides reliable communications services to a range of governments, aid agencies, media outlets and businesses with a need to communicate in remote regions or where there is no reliable terrestrial network.

However, we are also of the view that Satellite based mobile services would be of some advantage to Papua New Guineans for the wide coverage and possible low international call rates. Nevertheless, the great impediment to have access to such service is the infrastructure costs.

Nonetheless, NICTA should not restrict consumer choice by preventing potential entrance should they wish to enter the market to provide some level of competition, however satellite based mobile services cannot be considered as substitutes.

QUESTION 3:

Do you consider that the wholesale mobile access and call origination market is susceptible to ex ante regulation for significant market power? if not, please provide argument and if appropriate evidence to support your views.

TPNG concur with NICTA's view that the wholesale MACO services market is susceptible to ex ante regulation for significant market power and to apply ex ante regulation as this could potentially address the problems associated with market power in the current operating environment.

At this stage, according to the information provided in your draft discussion paper, it somewhat appears that there is only one MNO that has substantial market power (SMP).

However, as the market grows and matures with new entrance providing similar services, the current MNO with SMP could potentially be reduced, or to some extent, it may shift to another MNO. This may not occur in the short term but could occur as new MNOs complete their network rollout requirements from Band 1 to Band 4, therefore careful consideration should be given so that where competition is allowed, abuse of market dominance or anti-competitive conduct may be prevented or at least made easier to identify.

Another option would be for NICTA to consider *Ex-post* regulation to deal with allegations of abuse of market dominance or anti-competitive conduct, and to correct such conduct if it has been found to exist.

As liberalisation takes place and competition intensifies across many or all markets in the telecommunications sector, the international trend is generally:

- to reduce the dependence on *ex-ante* regulation of market dominance in favour of greater reliance on market outcomes; and
- to apply the *ex-post* competition controls in cases where there is an allegation of abuse of market dominance or anti-competitive conduct.

TPNG suggests that NICTA should give considerable consideration to the susceptibility to ex ante regulation for significant market power.

QUESTION 4:

Do you agree with the proposition that Digicel has a position of significant market power in the wholesale mobile access and call origination market? Please explain the reasons for your answer and support it with evidence where possible.

Telikom PNG agrees that Digicel has a position of significant market power in the wholesale mobile access and call origination market.

TPNG is of the view that Digicel has gained significant market power in the wholesale mobile access and call origination market mainly due to its large mobile network coverage in PNG by completing its network rollout obligations under Band 1 - 4 and the market share data provided in Figure 3 of the discussion paper.

QUESTION 5:

Do you agree with the proposition that Digicel's SMP in the wholesale MACO market is potentially harmful to the development of effective competition in the downstream retail mobile services market? Please explain the reasons for your answer and support it with evidence where possible.

Telikom PNG agrees that Digicel's SMP in the wholesale MACO market is potentially harmful to the development of effective competition in the downstream retail mobile services market.

Digicel currently has the SMP as a result of the following including its current vertical integration enables it to leverage dominance from its wholesale mobile services market into its retail market mobile services market.

- The overall size of Digicel's current operation and its mobile network coverage has placed it in a very dominant position;
- Digicel has superior access to capital markets and financial resources, hence has the financial ability to invest heavily in its core network and support aggressive marketing;
- the strength of the Digicel brand and its customers brand loyalty is huge compared to Telikom and Bemobile;
- Digicel has the economies of scale and scope;
- Digicel has the ability to influence the market conditions especially prices; and bundling of services in a manner that is designed to disadvantage, or has the effect of disadvantaging, a competitor unfairly.
- Lack of aggressive competition from other MNOs in PNG

Monopolies and the ills that go with it were among the main reasons why competition was introduced by government policy. Where a market player, empowered by huge financial resource backing especially, attains significant market power the particular services it offers effectively become "monopolised" creating inclination in the customers whether they actually like it or not to choose the player that has significant market power. There being no or very limited service or product substitutability as well in the PNG market to the average customer that make up the numbers that creates market power, the market stands potentially monopolised.

Bemobile and Telikom although wholly/partly nationally owned have struggled for the obvious reasons and need to be given the opportunity to provide the alternatives to customers thereby truly bringing on the real benefits of competition hence the industry meeting government's competition policy expectations.

Digicel's high market share in comparison to both Telikom and Bemobile is a realistic indication of a potential harmful effect to the development of effective competition.

QUESTION 6:

The views of operators and interested parties are sought as to whether the declaration criteria would be met. Please explain the reasons for your answer and support it with evidence where possible.

The declaration criterion is provided under section 128 of the NICTA Act 2009. This provision mainly centres on section 124 of the NICTA Act 2009 that states the objective of competition in wholesale services.

The objective is to promote effective competition in markets for ICT services in PNG having regard the technology available, the costs involved and the risks associated with the provision of the ICT services.

The declaration criteria under section 128 of the NICTA Act 2009 can be met by the operators. However, there are certain obligations needed to be fulfilled and these include;

1. demand - whether there is pressing demand for the desired service; and
2. Compliance and Licencing - whether there are proper licenses for such services or where there any previous services of the same nature provided

The above obligations are to be met in order to meet the declaration criteria for the provision of desired services like the declaration of the wholesale mobile call origination and declaration of facilities access services.

However, NICTA also need to be mindful of the Government policy on competition in the telecommunications market. Five years after competition has been introduced, the market has been dominated by Digicel at least in the mobile services market. There is no real competition in many part of the country as only Digicel is present in those parts of the country in terms of mobile call origination services.

Competition in the wholesale mobile call origination and facilities access market retail market will give rise to competition in the retail mobile services market and also likely to facilitate competition in other services such as use of those access facilities by the internet data and broadcasting services.

It is not practicable yet to consider wholesale satellite based facilities to substitute land based wholesale mobile services. The cost structures hence wholesale pricing and customer perceptions at the retail level are different.

The different service provisions modes indicated by NICTA are the potential scenarios for investment in facilities that can be considered. Obviously there may be reasons for investment to be delayed however new entrant wholesale service providers need to be given the incentive to choose an applicable scenario to engage with the incumbent provider commercially.