



INDEPENDENT CONSUMER & COMPETITION COMMISSION

DETERMINATION

For many months the four internet service providers (ISPs) have disputed Telikom's charges for the services Telikom provides to the ISPs for access to the Tiare gateway. These charges were originally set out in Schedule 1 to a document dated 19th May 2001 which Telikom executed with each of the ISPs. The services to be provided were set out in clause 3.6 of that document. Those services are Excluded Services within the meaning of the regulatory contract between the Commission and Telikom.

Clause 2.5 of the regulatory contract requires Telikom to charge for Excluded Services on a fair and reasonable basis and, in the event of a dispute over the amount of such a charge, Telikom agrees to charge such amount for that Excluded Service as the Commission determines to be fair and reasonable (taking into account any relevant principles that are applied in regulating tariffs under the regulatory contract and the reasonable costs that would be incurred by Telikom in providing those Excluded Services in an efficient manner).

For many months the Commission sought information from Telikom about the cost of providing these Excluded Services without reply, the last occasion being the Commission's letter to Telikom dated 27 November 2006, to which no reply has been received. The Commission has accordingly been required to estimate the fair and reasonable costs of providing that service, taking into account the principles set out in paragraph 4 of Schedule 1 to the regulatory contract and the requirements of clause 2.5 of that contract, in the absence of any response from Telikom.

An indication of the cost of providing such data services at the present time is given in Telikom's new Broadband Internet and Data services, announced publicly by advertisement on 14 December 2006, and through other advance publicity for these new services between October and December 2006. The usage charge for these broadband services will be 34 toea per Megabyte and Telikom has stated that these prices are cost-based, ensuring a reasonable return on investment but also benchmarked to ensure they are competitive in nature. That being the case, and in the absence of any contrary costing information from Telikom, a similar usage charge of 34 toea per Megabyte for the Excluded Services provided to ISPs, as set out in Schedule 1 and clause 3.6 of the document dated 19th May 2001 referred to above, would be consistent with the pricing principles set out in the regulatory contract and could therefore be considered to be fair and reasonable.

ISPs also pay a monthly fixed charge to Telikom, described (in Schedule 1 to the 19th May 2001 document) as being based on actual running

costs for the Tiare gateway which is applied equally among the ISPs. Again, Telikom has failed to respond to all requests by the Commission for information about the Tiare costs.

In the absence of that information, the Commission estimates the costs of operating the Tiare gateway (its capital cost having been long since fully amortised or repaid) to be no more than K300,000 per annum, comprising staff costs of about K150,000 (assuming three full-time staff) plus on-costs of 100% (which is a generous allowance, but takes account of the need to maintain equipment).

There are five ISPs (including Telikom, which provides ISP services internally and claims it will be providing ISP services commercially in future). Sharing the Tiare running costs among those five ISPs produces an annual charge for each ISP of K60,000, or K5,000 per month.


Accordingly, the Commission determines the fair and reasonable charges for these Excluded Services are as follows:

The charge for the services described in clause 3.6 of the Agreements initially made on or about 19th May 2001 between Telikom PNG Limited and each of four internet service providers are:

- A fixed charge per ISP of K5,000 per month; and
- A usage charge based on traffic carried in Megabytes for each calendar month at the base rate of 34 toea per Megabyte, at a data rate of 64 kBit/s.

The usage charge of 34 toea per Megabyte shall be the Base Rate for the purposes of Schedule 1 of the Agreements, including the discounts of up to 8% set out in that Schedule.

These new charges are to take effect from 18th December 2006.


Thomas Abe
Commissioner


Chris Gideon
Associate Commissioner


Paul Baxter
Associate Commissioner

14th December 2006