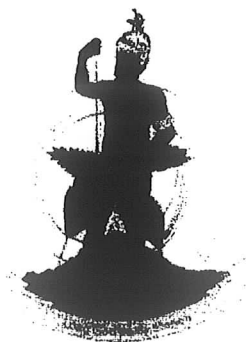


GOVERNMENT OF THE
REPUBLIC OF VANUATU

OFFICE OF THE VANUATU
INTERIM
TELECOMMUNICATIONS
REGULATOR

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GOUVERNEMENT DE LA
REPUBLIQUE DU VANUATU

BUREAU INTERIMAIRE POUR
LE REGLEMENT DE
TELECOMMUNICATIONS A
VANUATU

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John Crook

Interim Telecommunications Regulator

Republic of Vanuatu

At Port Vila this 18th day of June 2009

DESIGNATION ORDER DIGICEL (VANUATU) LIMITED

Pursuant to clauses 10.1 and 10.2 of the telecommunications licence dated 14 March 2008 (the **Licence**), issued by the Government of the Republic of Vanuatu to Digicel (Vanuatu) Limited (**Digicel**) pursuant to the Telecommunications Act 1989, and for the purposes of that licence, the Interim Telecommunications Regulator for Vanuatu (the **Regulator**) hereby designates Digicel as a “dominant service provider” as defined in the Licence, on the terms set out in this order.

1. **Relevant markets in which Digicel is designated as a dominant service provider**

Digicel is designated as a “dominant service provider” in the following telecommunication markets in Vanuatu:

- the market for retail mobile services; and
- the wholesale market for termination of calls on Digicel’s network.

2. **Market definitions**

The market definitions, on which this order is based, are detailed in Annex 1.

3. Approach to designation as a dominant service provider

The Regulator has adopted the following approach to assessing whether Digicel is a "dominant service provider" in the relevant markets.

The Regulator has examined revenue data provided by the market participants and applied the test set out in clause 10.1 of the Licence to both of the markets under consideration.

The conclusion of the test was that Digicel's gross revenue in each of the markets constitutes forty per cent (40%) or more of the gross revenues of all licensed operators in that market. Digicel controls 100% of the gross revenue in the wholesale market for termination of calls on Digicel's network

4. Implications of designation

The matters described in this section (4) and the next section (5) did not influence the Regulator's decision described in sections 1 to 3 above.

Pursuant to clause 12.1 of the Licence, Digicel must not abuse its dominant position in any of the relevant markets, including in any of the ways specified in that provision. The Regulator may make a determination on such matter at any time in accordance with clause 12.3.

Clause 11.1 of the Licence provides that no transfer of control of Digicel shall be effected without the prior approval of the Regulator, in certain circumstances.

The Regulator may require Digicel to provide telecommunications services that meet specific quality of service standards, pursuant to clause 16.7 of the Licence. The Regulator will consult with Digicel on this matter prior to any such action.

At this stage, the Regulator does not intend to exercise the power in clause 13.1 of the licence to issue an order requiring Digicel to obtain the Regulator's prior approval for all increases in any tariffs, rates or charges Digicel intends to charge for telecommunications services provided in the above markets.

5. Concerning removal of dominance orders

On 14 March 2008, the Interim Regulator issued an order designating TVL as dominant in the following telecommunication markets in Vanuatu:

1. the retail market for local calling services

2. the retail market for national and fixed to mobile calling services
3. the retail market for international calling services
4. the retail market for cellular mobile services
5. the retail market for Internet access services
6. the retail market for leased line services; and
7. the wholesale market for termination of calls on TVL's network.

The process for reconsideration and possibly the removal of a designation as a dominant service provider is covered by clause 10.3 of the Licence (and the corresponding clause of TVL's licence). Only a service provider who has been designated as a dominant service provider in any telecommunications market in Vanuatu may apply for such a review.

TVL has made application to have its dominance status reviewed under this clause. That review will be conducted separately from this decision, because it has no bearing on this decision.

Digicel has requested that any assessment of dominance for Digicel under clause 10.1 of the Licence should also take into account and make a review under clause 10.3. However, the Licence clearly shows that only an operator that has been designated as a dominant service provider under clause 10.1 or 10.2 may request an application for review under clause 10.3. Up to the date of this order Digicel has not been designated as dominant in any telecommunication market in Vanuatu. Therefore such a request may not be accepted prior to this date. However, now that a designation of dominance has been made, Digicel may, if it wishes, now make such application.


6. Effect and duration of this order

This order may be revoked and replaced by the Regulator at a later time.

This order shall come into force on its date, and shall continue in effect until revoked by the Regulator.

Made at Port Vila this 18th day of June 2009.

Signed:



John Crook

Interim Telecommunications Regulator, Republic of Vanuatu