

Telecommunications and Radiocommunications Bill 2009

John Crook
(Interim) Telecommunications Regulator

Ministry of Infrastructure and Public Utilities
Public Consultation Meeting
Port Vila January 22, 2009



It's been a busy 18 months

Even while negotiations were proceeding between the Government and TVL's shareholders, the Government's plans to create an open market for telecommunications were already having a significant impact ...



TVL gears up for competition

TVL GSM Cell Site Expansion In Full Swing



Mobile engineer Mr Edward Samuel finalizing the new cell site

sive Interview

New Head Of TVL

an appointed the new Managing
on Vanuatu Limited and takes up
ly April on the departure of Michel

the Caribbean, and ten years as
for Cable and Wireless on the
based in Fiji, where he has also
of Fintal and Solomons Telekom
as in the industry. He was closely
a deregulation process in both Fiji

ries are being raised in Fiji that
less should be making its regional
Vanuatu." But it is indeed doing that,
and office to Port Vila.

in Kyle

n a very fruitful and interesting
re, that of Cable and Wireless and
Radio.

reases and France Telecom really
s in Vanuatu. Other than that we are
if carriers. We don't really have an
anywhere else in business, actually
en a very fruitful relationship, and it's
relationship, where every three years
dual, English MD, French MD, that
it's become a bit strained. What we
ing forward is to make the company
seamless. It should now become a
joined company in which both Cable
and France Telecom have got an
we want to try and blur the French
h side of things.

s the existing network. The company
sant infrastructure. You will have to
y that. How far have the discussions
in Digital?

society is aware that we recently
is negotiation with government to - I
competition, because what Cable and
France Telecom agreed to, is to work
with them as we develop the market as



A smiling Ian Kyle, new MD of Smile Vanuatu - TVL.

I would answer that question in two ways. The step
the government has taken to open up this telecom
sector - by itself - will cause, or hopefully cause,
services it's a big step, the expansion of the network

confident that TVL is going to play its part now in a
new move forward for the rural community. There is
the Universal Fund, and the fact that there are now
multiple players carrying a bit of the responsibility -

difference is as the national telecom and the premier
communications company we provide all sorts of
services - broadband, internet, SMS messaging,
value added, fixed wire. First as a delivery
mechanism for us allows us to speed up the traffic

Local News

TVL steps up mobile phone services with major new investment program

more calls are connected first - network and stress will be - will be delighted with the



Settlement Agreement

- Former monopoly was to 2012
- Monopoly rights to end in exchange for Government's 33% of shares
- New non-exclusive licences



Regulator Appointed

- Minister delegates powers except for the issue of licences
- To act independently except Minister may direct on matters of policy
- Radio spectrum management

Telecommunications regulator appointed

VANUATU HAS A NEW independent regulator to oversee the introduction of competition in the telecommunications market.

He is John Crook has been appointed to this role by the Minister for Infrastructure and Public Utilities, the Edward Natapei.

Under the recently amended

the radio spectrum and numbering plan, which prior to the Settlement Agreement, were under the technical administration of Telecom Vanuatu Ltd."

Mr Crook has had over 40 years experience in telecommunications. His work has included playing a leading part in the development of the laws and



Digicel Launch – 25 June



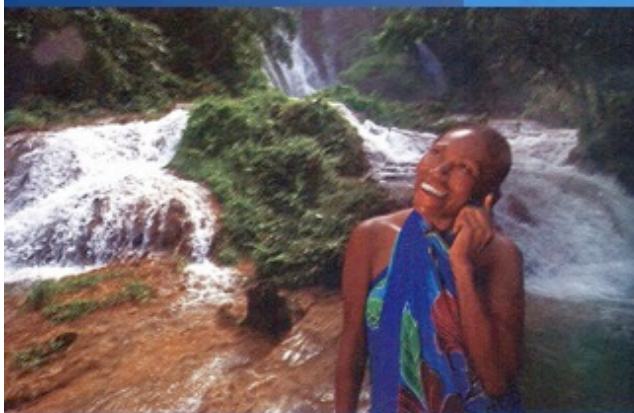
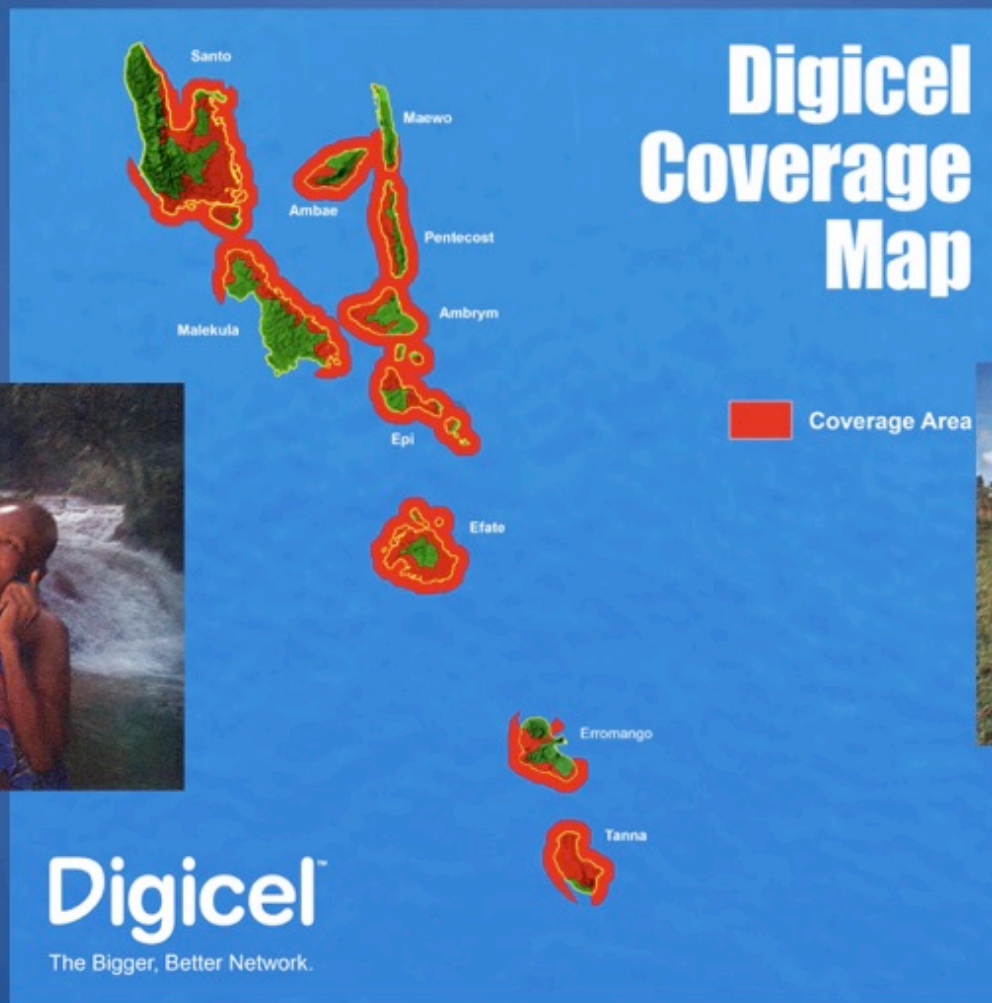
The Bigger, Better Network!



Free Digicel
Launch Concert



75% coverage achieved



Road Map to an Open Market

Event	Date
Telecom Act amended	Dec 07
Settlement Agreement	19 Dec 07
Regulator appointed and delegation	28 Feb 08
Settlement Day	10 Mar 08
TVL and Digicel licences	11/14 Mar 08
Interconnect Agreement	13 Mar 08
Digicel Launch	25 Jun 08
More telecom licences (not mobile telephone)	Jan 09
New Telecom Act	2009
3 rd Mobile Operator	2Q 11?



Why the long name?

The new Act will be called:

the Telecommunications and
Radiocommunications Regulation Act 2009

- The present Telecommunication Act 1989 will not be immediately repealed so this will help to avoid confusion



Why do we need a new law?

- Old scenario: Telecommunication Act 1989
 - Monopoly
 - Shareholder agreement
 - Franchise agreement
- New scenario 2009
 - Competition
 - Open market
 - New regulatory agency



Main parts

- ① Preliminary
- ② Regulator
- ③ Licences
- ④ Universal access
- ⑤ Competition
- ⑥ Interconnection
- ⑦ Tariffs
- ⑧ Consumer protection
- ⑨ Enforcement
- ⑩ Miscellaneous



Preliminary

- Objects
 - Facilitate development of telecom sector
 - Manage increasing demand for radio spectrum in order to promote national social and economic development
- Definitions ...



Regulator

- Appointment
 - Evaluation Committee selects and recommends to Minister
- General functions
 - Advise Minister re policy and regulations
 - Implement, facilitate, enforce provisions of the Act
 - Issue licences
 - Allocate numbers
 - Allocate and assign radio frequencies



Licences

- Licence required to provide telecommunication service to the public
 - With possible exceptions
- Licence required to operate radio emissions
 - With possible exceptions (e.g short range devices)
 - May licence protection for reception
- Regulator may issue licences, exceptions etc.
 - Limited powers to revoke or amend these



Universal Access

- Minister develops policy
- Universal Access Policy Fund established
 - Receives money:
 - From levies on licensed operators
 - From donors or other sources
 - Makes payments
 - For TVL loss-making customers
 - For contracted subsidised services or projects



Competition

- Prohibits anti-competitive practices
 - E.g. price fixing
- Prohibits abuse of dominance
 - E.g. refusing to interconnect with competitor
- Regulator's approval needed for mergers of licensed service providers that might create monopolies (or near-monopolies)



Interconnection

- “interconnection seeker” has right to require any other service provider (“interconnection provider”) with an access network to negotiate an interconnection agreement
- Obstruction or refusal prohibited
- Reference Interconnection Offers
- Publication of Agreements
- Handling of disputes



Tariffs

- Regulator may require tariff approvals or may dispense with requirement if market forces considered sufficient to protect end-users
- Process including publication required for tariff changes for dominant service providers
- Act contains some possible principles for tariff regulation:
 - E.g. Based on cost study, price cap



Consumer protection

- Fair dealing
- Privacy of personal information
- Service providers to establish procedures for disputes and complaints from customers
- No unjustified discrimination
- Terms of service
 - Regulator may require and approve



Other

- Enforcement, penalties, remedies, jurisdiction
- Review of decisions of the Regulator
 - Internal review
 - Judicial review
- Miscellaneous
 - Regulations etc.



Supplementary slides on competition issues

- Anti competitive practices
- Abuse of dominant position



Anti-competitive practices

- Conduct that lessens competition
- Examples:
 - Price fixing
 - Collusive tendering
 - Market sharing agreements
 - Restricted/discriminatory supply of services
 - Restrictive arrangements with suppliers



Who is dominant?

- Service provider with more than 40% share of revenues in a particular market; or
- Service provider who enjoys a position of market strength or controls a bottleneck facility in any market and such strength enables the provider *to behave to an appreciable extent* independently of competitors in that market



Abuse of dominance

- *A dominant service provider must not:*
 - Restrict the entry of a new company
 - Prevent or deter anyone from competing with them
 - Eliminate or remove anyone from a telecommunication market



Examples of abuse of dominance I

- Failing to supply bottleneck facility on reasonable terms
- Discrimination in providing interconnect services
- Bundling unwanted services
- Supplying services at prices below variable costs for extended period
- Wrongful use of internal cross-subsidies



Examples of abuse of dominance 2

- Reducing profit margin to competitor who uses a wholesale service
- Withholding technical data needed for interconnection or use of wholesale services
- Adopting technical specifications to prevent interoperability
- Using information obtained from another service provider for competition





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