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Telecommunications Act 1996

DECLARATION UNDER SECTION 63

THE INDEPENDENT CONSUMER AND COMPETITION COMMISSION (Commission) declares, pursuant to Section 63(1)(c) of the *Telecommunications Act 1996*, that all public mobile licences are subject to the conditions (including the Schedules to those conditions) specified in this declaration.

Network Coverage and Network Rollout Conditions:

1. Each public mobile licensee (carrier) is required to provide network coverage in each of the towns, villages or localities specified in Schedules 1, 2, 3 and 4 to this condition, by no later than the dates specified for the town, village or area in these conditions and in the respective Schedules, and to continue to provide network coverage in those locations for ten years from the commencement date in its licence, or from 17th October, 2007, whichever is the earlier.
2. *Definitions:*— For the purposes of these conditions:—
 - (i) “network coverage” means coverage to a generally accepted commercial standard, being the ability to make and hold, or receive and hold, a mobile phone call from 90% of the locations in the network coverage area for 90% of the time;
 - (ii) “network coverage area” means an area centred upon the town, village or locality specified in Schedules 1, 2, 3 or 4 in which it is generally recognised that at least 75% of the population of that town, village or locality are living; and
 - (iii) it is accepted that coverage may not be possible in a small number of locations within a network coverage area due to terrain limitations (black spots), which locations will not be included when calculating network coverage.
3. *Main Centres:*— Each carrier is required to provide network coverage through its own facilities (with or without the use of another carrier’s mobile or fixed facilities as well) in each town specified in Schedule 1, within fifteen months from the commencement date in its licence or by 30th September, 2008, whichever is the later. If a carrier cannot provide network coverage to the standard required by condition 2 by the date specified in this condition, it will not be in breach of this condition 3 if, by that date, it is providing network coverage in at least 60% of the locations within that town for 90% of the time and if, within a further period of fifteen months, the carrier extends its network coverage to the standard required by condition 2.

Declaration under Section 63—*continued*

4. *Mid-sized Centres:*— Each carrier is required to provide network coverage through its own facilities (with or without the use of another carrier's mobile or fixed facilities as well) in each town specified in Schedule 2, within two years from the commencement date in its licence or by 30th June, 2009, whichever is the later. If a carrier cannot provide network coverage to the standard required by condition 2 by the date specified in this condition, it will not be in breach of this condition 4 if, by that date, it is providing network coverage through at least one normal power or high power base station within that town for 90% of the time and if, within a further period of two years, the carrier extends its network coverage to the standard required by condition 2, whether by the installation of additional base stations or otherwise.
5. *Administrative District Centres:*— Each carrier is required to provide network coverage, either through its own facilities or in co-operation with another mobile carrier or carriers using those other carriers' mobile or fixed facilities, in each centre specified in Schedule 3, within three years from the commencement date in its licence or by 30th June, 2010, whichever is the later. If a carrier cannot provide network coverage to the standard required by condition 2 by the date specified in this condition, it will not be in breach of this condition 5 if, by that date, it is providing network coverage through at least one normal power or high power base station within that centre for 90% of the time and if, within a further period of two years, the carrier extends its network coverage to the standard required by condition 2, whether by the installation of additional base stations or otherwise.
6. *Smaller Population Centres:*— Each carrier is required to provide network coverage, either through its own facilities or in co-operation with another mobile carrier or carriers using those other carriers' mobile or fixed facilities, in each locality specified in Schedule 4, within five years from the commencement date in its licence or by 30th June, 2012, whichever is the later. If a carrier cannot provide network coverage to the standard required by condition 2 by the date specified in this condition, it will not be in breach of this condition 6 if, by that date, it is providing network coverage through at least one base station within that locality for 90% of the time.
7. *Modification to Schedule 4 Localities:*— If a carrier considers it impracticable or inappropriate, for technical or other reasons, to locate a base station facility within or adjacent to any particular locality specified in Schedule 4, it may, with the consent of the Commission (which consent shall not be unreasonably withheld), nominate an alternative location for a facility to service either that locality or another locality within the same province as the locality specified in Schedule 4. The carrier will satisfy the requirements of condition 6 if it provides network coverage to the required standard in that alternative locality and the overall number of localities to which it is required to provide network coverage under condition 6 is not less than the number of localities specified in Schedule 4.
8. *Force Majeure:*— Any failure to provide network coverage due to loss of or damage to facilities arising from cyclone, storm, flood, earthquake, volcanic eruption, tidal wave, landslide or any other natural disaster; or due to an act of public enemy, war (declared or undeclared), sabotage, vandalism, blockade, riot, civil commotion or any violent or threatening actions, shall be disregarded when determining whether a carrier is providing network coverage to the required standard in any particular location, provided that the carrier takes reasonable steps to reinstate or repair the facilities within a reasonable time after the loss or damage occurs. In the event that particular facilities are subjected to repeated sabotage, vandalism or blockade which makes it impossible or unsafe for a carrier to use and maintain those facilities for protracted periods, the carrier may, with the Commission's consent, close down or relocate those facilities, without being in breach of these conditions.
9. *Fair Pricing Principles:*— While carriers may choose to charge differential tariffs for mobile services depending upon the location from which a call is initiated, the maximum permitted tariff for each carrier from any location within Papua New Guinea to any other location within Papua New Guinea shall be no more than fifty percent higher than the equivalent tariff from that carrier for a call made between two locations within Port Moresby. In this respect any tariff which exceeds that permitted differential shall be subject to disapproval by the Commission under Section 78(4) of the *Telecommunications Act 1996*.
10. *Inter-carrier Co-operation:*— Carriers are required to provide access and interconnection to each other's networks and facilities in accordance with the *Telecommunications Act* and the *Telecommunications Interconnect Code of Practice*. In addition, carriers may choose to satisfy their obligations under conditions 5 and 6 in providing network coverage in the locations specified in Schedules 3 and 4, through co-operative arrangements with other mobile carriers which would not require each mobile carrier to install and maintain its own facilities in all of the locations specified in Schedules 3 and 4. However, in those locations where a carrier did not operate its own facilities, that carrier must ensure that its customers have network access to make or receive calls, either through inter-carrier roaming arrangements or otherwise.

Declaration under Section 63—continued

11. *Facilities Sharing and Utilising Another Carrier's Facilities:*— Carriers must inform the Commission of proposals for co-operation in providing network access in locations specified in Schedules 3 and 4 including:—
 - (a) infrastructure sharing in particular locations or cost sharing for installation and operation of facilities;
 - (b) access to another carrier's facilities or premises for installation or co-location of antennae, masts, base stations or other facilities;
 - (c) use of another carrier's facilities in particular locations for access by the first carrier's customers to its network utilising the other carrier's facilities; and
 - (d) any other co-operative arrangements between carriers to allow a carrier's customers network access in all locations in Schedules 3 and 4.
12. *Fairness Principles for Co-operative Arrangements:*— Inter-carrier co-operation arrangements to provide network access are subject to approval by the Commission, which will apply the following principles in deciding whether to approve those arrangements:—
 - (a) *No Anticompetitive Effects:*—Inter-carrier arrangements must promote competition or be at worst competitive neutral;
 - (b) *Consumer Benefit:*—Arrangements must consider the public benefits including the benefits for all customers of the parties to the arrangements.
 - (c) *Fairness and Equity:*—Arrangements must not be unfair to any participating carrier and any access or interconnection charges must be reasonably cost based and in accordance of the requirements in Part XI of the *Telecommunications Act*.
13. *Sharing the Burden Fairly in Providing Network Access in Remote and Low use Locations:*— The Commission recognises that providing network access in some locations in Schedules 3 and 4 may be costly for carriers and in some cases may not be profitable, even in the longer term. To minimise this cost, carriers may choose to agree among themselves, in accordance with condition 11, on reciprocal arrangements whereby one carrier only will install and operate facilities in nominated locations, with customers of the other carriers having network access through that first carrier's facilities, which in other locations, other carriers will install and operate facilities which similarly give network access to the other carriers' customers. *The overriding principle in any such arrangements will be that the financial burden of installing, maintaining and operating mobile networks in more remote locations where customer usage may not be high enough to otherwise be commercially justifiable, will be shared equally among all mobile licensees who participate in those arrangements and will not financially disadvantage any one licensee.* To this end, the Commission will approve such inter-carrier reciprocal arrangements on the principles that:—
 - (a) Each of the participating licensed mobile carriers would install and operate approximately the same number of facilities as the other party or parties to the arrangement and there would be a fair geographic spread of the facilities installed and operated by each carrier, taking into account the varying costs in each location so that the capital and running costs for each carrier can be approximately equalised.
 - (b) The benefits of being the sole facility operator in particular locations will be shared equally among all participating operators.
 - (c) The ratio of solo sites to be operated by each carrier in Schedule 3 localities to Schedule 4 localities shall be approximately the same for all carriers involved in those arrangements.

The Commission would consider approving alternative commercial arrangements for providing network coverage in all Schedules 3 and 4 locations which did not comply with all of principles a, b and c in this condition 13, but only where all of the participating licensed mobile carriers asked the Commission to approve the arrangement; where the overriding principle of equal sharing of the burden applied; and where the interests of customers or potential customers in those locations were protected and promoted.
14. *Review of Commission Decisions:*— A licensed mobile carrier may apply to the Appeals Panel for review of a decision made by the Commission under condition 13 as if that decision were a decision to which Section 182A of the *Telecommunications Act* applies and the procedures set out in that Section 182A shall apply to any such application for review.
15. *Date of Commencement:*— These conditions shall take effect from the commencement date of the third mobile licence to be issued, or on 17th October, 2007, whichever occurs earlier.

Declaration under Section 63—continued

SCHEDULE 1

Main Centres of Papua New Guinea

Provinces	Main Centres	Nos.
National Capital District	Port Moresby	1
Morobe	Lae	2
Western Highlands	Mount Hagen	3
Eastern Highlands	Goroka	4
Madang	Madang	5
East Sepik	Wewak	6
West New Britain	Kimbe	7
East New Britain	Kokopo	8

SCHEDULE 2

Mid-Sized Centres of Papua New Guinea

Provinces	Mid-sized Centres	Nos.
Western	Kiunga	1
Western	Daru	2
Gulf	Kerema	3
Milne Bay	Alotau	4
Oro/Northern	Popondetta	5
Southern Highlands	Mendi	6
Enga	Wabag	7
Chimbu	Kundiawa	8
Eastern Highlands	Kainantu	9
Morobe	Wau/Bulolo	10
West Sepik	Vanimo	11
Manus	Lorengau	12
New Ireland	Kavieng	13
North Solomon	Buka	14

SCHEDULE 3

Administrative District Centres of Papua New Guinea

Provinces	District Centres	Nos.
North Solomon	Arua	1
	Buine	2
East New Britain	Vunadirdir	3
	Rabaul	4
	Pomio	5
Manus	Lorengau	6
West New Britain	Kandrian	7
	Talasea	8
New Ireland	Taskul	9
	Namatanai	10
Chimbu	Chuave	11
	Guminc	12
	Karimui	13
	Kerowagi	14
	Gembolg	15
	Sinasina	16
Eastern Highlands	Daulo	17
	Bena	18
	Henganofi	19
	Ungai	20
	Lufa	21
	Obura	22
	Okapa	23
Enga	Kandep	24
	Kompam	25
	Laiagam	26
	Wapenamanda	27
	Porgera	28
Southern Highlands	Ialibu	29
	Imbonggu	30
	Kagua	31
	Magarima	32
	Tari	33
	Kutubu	34
	Nipa	35
	Pangia	36

Declaration under Section 63—*continued*Schedule 3—*continued*Administrative District Centres of Papua New Guinea—*continued*

Provinces							District Centres	Nos.
Western Highlands	....	....	....	....	....	....	Minj	37
							Banz	38
							Jimi	39
							Baiyer	40
							Tambul	41
							Anglimp	42
							Kotna	43
East Sepik	....	....	....	....	....	....	Ambunti	44
							Dreikirkir	45
							Angoram	46
							Maprik	47
							Wosera	48
							Saisi	49
							Yangoru	50
Madang	....	....	....	....	....	....	Bogia	51
							Middle Ramu	52
							Rai Coast	53
							Sumkar	54
							Usina Bundi	55
West Sepik	....	....	....	....	....	....	Aitape	56
							Lumi	57
							Nuku	58
							Telefomin	59
Morobe	....	....	....	....	....	....	Bulolo	60
							Gagidu (Finschhafen)	61
							Huon	62
							Kabwum	63
							Sialum (Tewae)	64
							Mutzhin (Markham)	65
							Menyamyia	66
							Boana (Nawae)	67
							Kupiano	68
Central	....	....	....	....	....	....	Tapini	69
							Bereina	70
							Abau	71
							Hiri	72
							Kwikila	73
							Malalaua	74
							Kaintiba	75
Gulf	....	....	....	....	....	....	Kikori	76
							Ihu	77
							Baimuru	78
							Bwanabwana	79
Milne Bay	....	....	....	....	....	....	Losuiya	80
							Esa'ala	81
							Tufi	82
Northern/Oro	....	....	....	....	....	....	Afore	83
							Kokoda	84
							Balimo	85
Western	....	....	....	....	....	....	Lake Murray	86
							Tabubil	87

SCHEDULE 4

Small Centres of Papua New Guinea *

Provinces	District	LLG/Wards	Small Centres	Populations	Nos.
North Solomon	Central Bougainville	Wakunai	2,962	1
		North Bougainville	Buine	5,284	2
		South Bougainville	Siwai	3,858	3
East New Britain	Gazelle	Central Gazelle Rural	Kerevat Township	1,257
		Kokopo	Bitapaka Rural	Ulaveo	1,022
		Pomio	Sinivit Rural	Warongoi Dam	1,177
			West Pomio/Mamusi Rural	Kembubu	1,052
		Rabaul	Balanataman Rural	Watom	1,106
Manus	Manus	Aua-Wuvulu Rural	Lombrum (Naval Base)	716
			Pobuma Rural	Bundraheci/Sabondralis	1,216
West New Britain	Kandrian-Gloucestera	Kove/Kalai Rural	Akivilik	2,375
		Talasea	Bialla Rural	Bialla Station	3,628
			Mosa Rural	Bugal	4,934

Declaration under Section 63—*continued*Schedule 4—*continued*Small Centres of Papua New Guinea *—*continued*

Provinces	District	LLG/Wards	Small Centres	Populations	Nos.	
New Ireland	Kavieng	Lavongai Rural	Meteselen	1,151	14	
		Tikana Rural	Lemakot	1,717	15	
		Namatanai	Nimamar Rural	Mahur	1,587	16
East Sepik	Ambunti Dreikirikir	Ambunti Rural	Kuanie (Lihir Gold mine)	705	17	
		Angoram	Avatip	1,298	18	
	Maprik	Angoram/Middle Sepik	Gavien Settlement 1	2,362	19	
		Albiges Mamblep Rural	Ningalim	1,545	20	
	Wewak	Yamil Tamui Rural	Yenigo	1,484	21	
		But/Boiken Rural	Dogur (Dagua)	1,584	22	
		Wewak Rural	Passam Station	1,399	23	
		North Wosera Rural	Sarikum	1,118	24	
	Wosera Gaui	Numbo Rural	Kubalia Station	1,195	25	
		Yangoru Saussia	West Yangoru Rural	Bebandu	1,169	26
Madang	Bogia	Almami Rural	Malala Station	2,234	27	
		Simbai Rural	Simbai Station	1,173	28	
	Middle Ramu	Arabaka Rural	Aiome Station	1,493	29	
		Naho Rawa Rural	Tauta Station	1,109	30	
	Rai Coast	Sumgilbar Rural	Talidik	2,145	31	
		Sumkar	Brahman Station	915	32	
	Usino Bundi	Bundi Rural	Ramu (Sugar Factory)	1,632	33	
		Usino Rural	Tabale	1,352	34	
	West Sepik	Aitape-Lumi	East Wapei Rural	Mukili Station	1,352	35
			Nuku	Anguganak Station	2,428	36
Telefomin		Maimai/Wanwan Rural	Oksapmin Station	1,550	37	
		Yankok Rural	Yapsie Station	1,089	38	
Vanimo-Green River		Oksapmin Rural	Amanab Station	1,404	39	
		Yapsie Rural	Amanab Rural	Bewani Station	1,343	40
		Amanab Rural	Bewani/Wutung Onei Rural	Watut Station	1,368	41
		Bewani/Wutung Onei Rural	Watut Rural	Pindiu Station	2,248	42
Morobe....		Bulolo	Hube Rural	Huon District Office	3,095	43
			Wampar Rural	Kabwum Station	1,101	44
	Finschhafen	Seko Rural	Mutzing Station	6,031	45	
		Umi/Atzera Rural	Aseki Station	1,274	46	
	Huon Gulf	Aseki Rural	Labuta Station	1,426	47	
		Labuta Rural	Boana Station	1,457	48	
	Kabwum	Nabak Rural	Kanome Station	1,472	49	
		Sialum Rural	Sialum Station	2,393	50	
	Markham	Siassi Rural	Lablab Station	2,277	51	
		Siassi Rural	Giru	3,006	52	
Chimbu....	Chuave	Elimbari Rural	Dirima Station	4,294	53	
		Gumine Rural	Nomane Station	3,478	54	
	Guminc	Nomane Rural	Kewamugl (School)	7,415	55	
		Kerowagi Rural	Kup	6,335	56	
	Karimui-Nomane	Kup Rural	Kugulkane 2	6,459	57	
		Kerowagi Rural	Koge	5,981	58	
	Kerowagi	Mitnande Rural	Molg	6,071	59	
		Mitnande Rural	Asaro Station	6,167	60	
	Eastern Highlands	Daulo	Asaro/Watabung Rural	Watabung Station	4,863	61
			Asaro/Watabung Rural	Kombri	4,496	62
Henganofi		Henganofi Rural	Yonki Power Dam	5,884	63	
		Kainantu Rural	Aiyura Station	7,356	64	
Kainantu		Lufa Rural	Kotomi	3,854	65	
		Marawaka Rural	Marawaka Station	2,436	66	
Lufa		Marawaka Rural	Tarabo Station	6,767	67	
		Okapa Rural	Yabiufa	6,824	68	
Obura-Wonenara		Unggai-Bena Rural	Kapakamarigi Station	6,824	69	
		Bena Rural	Kokas	1,528	70	
Enga	Kandep	Kandep Rural	Par	3,146	71	
		Ambum Rural	Pomanda	2,856	72	
	Kompam-Ambum	Kompam Rural	Surunki Station	4,121	73	
		Lagaip	Muritaka	3,816	74	
	Lagaip-Porgera	Maip/Mulitaka Rural	Paiyala Station	2,806	75	
		Porgera Rural	Birip	4,016	76	
	Wabag	Wabag Rural	Sak Valley	3,745	77	
		Wapenamanda Rural	Kindeng Tea Plantation	2,525	78	
	Western Highlands	Angalimp	Angalimp Rural	Kudjip Hospital	2,637	79
			South Wahgi Rural	Tinsly Health Centre/Station	1,612	80
Baiyer-Mul		Baiyer Rural	Baiyer Station & Zoo		81	
		Dei Rural	Gumanch 1 & 2 Tea Plantation	4,637	82	
Dei	Dei Rural	Muglamp Station	2,514	83		

Declaration under Section 63—*continued*Schedule 4—*continued*Small Centres of Papua New Guinea *—*continued*

Provinces	District	LLG/Wards	Small Centres	Populations	Nos.
Western Highlands:— <i>continued</i>	Hagen	Mt Hagen Rural	Baisu (CIS, Plantation)	3,490	84
	Jimi	Jimi Rural	Maipka/Kol Station	1,259	85
	North Wahgi	North Wahgi Rural	Kimil Tea & Coffee Plantation	6,872	86
		Nondugl Rural	Nondugl (PNGDF Base)	3,120	87
Southern Highlands	Tambul Nebilyer	Nebilyer Rural	Pabarbuk Mission Station	1,298	88
	Ialibu-Pangia	Kewabi Rural	Tindua	2,740	89
		Imbonggu	Imbonggu Rural	Kisenapoi	3,757	90
	Kagua-Erave	Erave Rural	Erave Station	2,304	91
	Komo-Magarima	Hulia Rural	Dauli Teachers College	5,245	92
		Komo Rural	Komo Station	5,675	93
	Koroba-Lake Kopiago	Lake Kopiago Rural	Kopiago Station	2,448	94
	Mendi	Lower Mendi Rural	Buiyebi (CIS Station)	3,760	95
		Lai Valley Rural	Kema	2,395	96
	Nipa-Kutubu	Lake Kutubu Rural	Harigapo	1,648	97
		Poroma Rural	Poroma Station	1,233	98
	Central	Abau	Amazon Bay Rural	Magarida - Health Centre	1,011	99
Aroma Rural			Maopa	2,740	100
Goilala		Tapini Rural	Woitape	2,446	101
		Woitape Rural	Tolokuma Gold Mine	2,747	102
Kairuku		Mekco-Kuni Rural	Waima Station	2,683	103
		Kairuku Rural	W15-Pinu	2,278	104
Hiri		Hiri Rural	W1-Porebada	3,373	105
		Koiari Rural	Sogeri Station	2,229	106
Rigo		Rigo Central Rural	Boregaina	1,075	107
		Rigo Inland Rural	Hula	1,593	108
Gulf	Kerema	Central Kerema Rural	Karama	2,019	109
		East Kerema Rural	Heavala	2,328	110
	Kikori	Ihu Rural	Lese	2,328	111
		Harevavo	Harevavo	1,138	112
Milne Bay	Alotau	Huhu Rural	Huhu Station	3,022	113
		West Ferguson Rural	Morima Station	1,047	114
	Kiriwina Goodenough	Kiriwina Rural	Losuia Station	1,469	115
		Samarai-Murua	Louisiade Rural	Misima (Gold Mine)	1,236	116
Western	Middle Fly	Lake Murray Rural	Mepu	2,959	117
	North Fly	Kiunga Rural	Kiunga Station	594	118
Northern	Ijivitari	Oro Bay Rural	Oro Bay	1,534	119
		Sohe	Higaturu Rural	Higaturu (Oil Palm)	2,328	120

*It is recognised that it may not be practicable to locate facilities in some of the small centres named in this list. If that proves to be the case, there will be some flexibility about alternative sites where those facilities could be located: see condition 7, above.

Declared this 23rd day of March, 2007.

T. ABE,
Commissioner
for and on behalf of the Commission.