

Vanuatu  
Information Technology  
Users Society (VITUS)

Response to the

DRAFT Vanuatu  
Telecommunications  
Licences

September 2008

The following submission was compiled from discussions on the VIGNET mailing list that is operated by VITUS. The draft legislation was provided to all members via the VITUS website [www.vitus.org.vu](http://www.vitus.org.vu) and discussions were based on the contents of the draft documents. A survey questionnaire was compiled from the discussions on the mailing list and a copy of the survey results are also provided as part of this submission.

The time given to respond to such an important change as this was insufficient (approx 14 days) to adequately consult with colleagues and members of the wider community outside the VIGNET mailing list. Some members suggested that we arrange a public media forum to allow further discussion from a wider group of interested persons but time limitations prevented this. Perhaps this is something that the Interim Telecommunications regulator and the MIPU could consider before the DRAFT documents are formalised.

**Note: Where the terms “Members agreed” appears below we are referring to those VITUS members that responded to the online survey we conducted. VITUS has approximately 170 members, not all of these members completed the survey.**

The major points of the VITUS submission are as follows:

**1. *The DRAFT policy will promote competition and open market policies.***

Members generally agreed with this principle but concerns were raised about the ability of small Ni-Vanuatu operators to compete in this market.

**2. *The DRAFT policy will facilitate any-to-any communication.***

Members generally agreed with this principle

**3. *The DRAFT policy will provide flexibility in providing telecommunications services under the licences and promoting the ability for future developments in telecommunications (i.e. technology neutral).***

Members generally agreed with this principle but concerns were raised that the documents were very telephony oriented, did not adequately support Internet technologies and as a result did not adequately meet the objective of technology neutrality.

**4. *The DRAFT policy will promote certainty for licence holders.***

Members generally agreed with this principle. In discussions some thought the term of 15 years was too long but other members explained the need to provide a long licence term to amortise network establishment costs.

**5. *The DRAFT policy provides consistent terms across licences.***

Members were divided over this question. There are a number of terms that were used in the documents that had not been adequately defined. Perhaps a glossary could be used to clearly define these terms.

**6. *The DRAFT policy provides for protection against monopoly network providers using anti-competitive practices.***

The majority of members agreed with this principle and rated the level of protection as average to excellent.

7. ***The DRAFT policy does not clearly indicate if a value added network (e.g. Internet Cafe) using an existing licenced network (e.g. TVL's ADSL service) will require their own licence.***

Members voted that the “value added” network provider situation was not adequately covered in the draft documents. The issue of Internet Cafés and other bandwidth or cost sharing arrangements need to be licenced needs to be clarified.

8. ***The DRAFT policy does not permit a "Virtual Phone company" to bulk purchase network access from TVL or Digicel and resell to consumers.***

Members generally agreed that this situation was not clear, it is a similar question to the one above - “value added” resellers of licenced networks. A commercial VOIP operation would be another example of a “value added” network service.

9. ***The following terms are not clearly defined:***

- *telecommunication services*
- *telecommunication apparatus*
- *telecommunication facilities*
- *broadcasting (including web or sms broadcasting services?)*
- *affiliate (section 11)*
- *value added network*

Members overwhelmingly agreed that these terms mean different things to different people and on different types of network and as such a clear definition should be provided.

10. ***The DRAFT policy appears heavily in favour of large commercial network operators in Port Vila and Luganville and does not appear to support smaller Ni-Vanuatu businesses.***

Members overwhelmingly agreed that provision or protection of small Ni-Vanuatu owned network services were not supported in the draft policy.

11. ***Community based and Non Government Organisation projects including the Pacific RICS, PFNet, OLPC projects and local village networks or cooperatives, Peace Corps and JICA radio networks do not appear to be catered for within the DRAFT policy.***

A similar response to the question above but with a different focus.

12. ***Protecting the environment during construction, operation or de-commissioning of equipment is not adequately covered in the DRAFT policy.***

Members overwhelmingly agreed that protecting the environment was important and that the proposed legislation should provide some environmental safeguards.

13. ***Section 1.1 should read "mobile telephony services" (e.g. GSM) and not "mobile telecommunication services" so it could allow an ISP to provide a network that supported roaming between wireless hot spots.***

All members generally agreed that this was very telephony orientated and did not support the principle of being technology neutral. A wireless ISP with multiple points of presence may or may not wish to provide this type of roaming capability that is an inherent part of mobile telephone networks.

- 14. *Applications for frequency spectrum should be accompanied by a telecommunication licence application and not be granted without a licence application. This would help prevent "hoarding" of spectrum by speculators.***

Requiring the application for frequency spectrum to be accompanied by a telecommunications licence application will help to prevent opportunistic investors from hoarding precious spectrum with no immediate plans to utilise this spectrum.

- 15. *The "Capability Statement" and "Description of Intention" in the licence application form do not adequately guide the applicant in providing the required information.***

The concerns with the application for a licence form is that the information required is rather vague and the applicant may not have a clear idea of what is expected to be provided. Do you want to see financial resources available, business plans, previous experience, detailed network designs etc? As a result many applications may have to be re-submitted because the level of detail provided may not be adequate.

- 16. *The DRAFT policy does not prevent political interference on the activities of the regulator or licenced operators.***

The recent "claims" of political interference with the VBTC regarding a candidates advertising being censored were presented as an example.

- 17. *Section 6.3 does not clearly state if a licenced operator can share the network of existing operators. e.g. If a new operator wishes to offer ADSL services do they have any right to use the TVL ADSL network?***

This question does not appear to have been addressed at all in the draft documents. Does a new operator have an automatic right to utilise the network services of another operator (on reasonable commercial terms) instead of having to duplicate infrastructure?

- 18. *How would you rate the overall DRAFT Telecommunications Licensing policy?***

Responses to this question were quite mixed, please refer to the attached survey report for the distribution of responses.

In conclusion, VITUS would like to thank the Ministry of Infrastructure and Public Utilities for the opportunity to respond to these draft documents. We would like to remind you that we have a very effective and active community that can be utilised to provide comments and technical opinion on issues such as this. Please do not hesitate to contact us for our opinions on future matters.