

Order of the Regulator No. 2020/T01

CEASE OF TOP UP BY \$3 OR MORE FREE PROMOTION BY DIGICEL SAMOA LIMITED

On Friday 14th February 2020 the Regulator instructed Digicel Samoa Limited ("Digicel") by way of an urgent email to immediately cease from continuing its Top up by \$3 or more Free promotion ("Promotion") which entitles customer to 200mins, 200MB 200 SMS free to expire in 24hours on the grounds of;

- 1) Unlawful implementation of promotion by way of no formal submissions (application) to Regulator for approval
- 2) No approval granted by the Regulator;
- 3) The promotion found to be in violation of the Interconnection Agreement of rates currently in place;
- 4) Anticompetitive by predatory pricing;
- 5) The promotion is discriminatory in its nature that only some customers are entitled to the benefits of the promotion without justifications on the selection.

The Regulator's decision on the immediate cessation of the promotion followed on the formal complaint by counterpart Bluesky Samoa Limited ("Bluesky") received by the Office of the Regulator on the 13th February 2020.

On Monday 17th February monitoring conducted by Regulatory regarding the promotion via direct contact with Digicel customer care services and established that Digicel was still rolling out the promotions.

The fact that CEO of Digicel Samoa Limited has acknowledged receipt of Regulator's instructions to immediately cease the promotion did not follow suit.

The Regulator confirms that the retail rates associated with Digicel Samoa Ltd.'s promotion is subject to the statutory requirements for tariffs specified under the Telecommunications Act 2005 (Act).

In light of the above, the Regulator has seen it fit to issue Order of the Regulator No. 2020/T01 pursuant to the Telecommunications Act 2005 ("Act"), the Regulator is empowered to regulate the telecommunications market and to issue orders in the course of implementing statutory duties under the Act.

ORDER

In accordance with the sub-section 30(1) (a) & 77(1) (d) of the Act the Regulator hereby orders Digicel to:

- 1) Immediately cease the implementation of the Top-Up \$3 or more FREE Promotion from the market. All advertisements pertaining to this same promotion must be removed from the market.
- 2) Digicel is instructed that it must submit to the Office of the Regulator an application for the approval of any tariffs associated with its promotions for the Regulator's consideration.

Failure to comply with any of the instructions set forth above may result in penalties being imposed against Digicel (Samoa) Limited in accordance with section 75 of the Act.

Effective date of this Order: 17th February 2020 (upon receipt of Order)

Dated this 17th day of February 2020



Lefaoalii Unutoa Auelua-Fonoti

REGULATOR