

## **ORDER OF THE REGULATOR NO.2021/T05**

### **DESIGNATION OF DOMINANT SERVICE PROVIDER – WHOLESALE INTERNATIONAL INTERNET CAPACITY MARKET**

#### **Background:**

The Office of the Regulator (OOTR) completed its review on the Wholesale International Internet Capacity market in September 2021 assessing Samoa Submarine Cable Company (SSCC) for Tui Samoa Cable against the American Samoa- Hawaii (ASH) Cable Company for Samoa-American Samoa (SAS) Cable profitability in 2018.

The year under review was based on the initial commercialization for the Tui Samoa Cable where the operations of the Tui Samoa Cable in the market were anticipated to supersede SAS Cable operation having low-capacity supply in the market.

The review of market dominance also aligns with the fulfillment of financial agreements of SSCC for the funding of the Tui Samoa Cable.

#### **Legislation:**

The Telecommunications Act 2005 sets forth specific requirements for designation of dominant service providers in Telecommunications markets in Samoa.

Section 25 (1)(d) requires the Regulator to make orders designating dominant services providers in relevant markets based on market share and other factors determined in accordance with section 26.

Section 26 (1) states that every service provider whose gross revenue in a specific telecommunications market constitute forty per cent (40%) of the total gross revenue of all service providers in that market shall be designated a dominant service provider in that market.

Section 26 (2) states that the Regulator may designate a service provider with less than forty per cent (40%) of the total gross revenues in a specific telecommunications market as a dominant service provider if, either individually or acting together with others, the service provider enjoys a position of economic strength affording it the power to behave to an appreciable extent independently of competitors or customers.

#### **Order:**

Pursuant to the requirements of the Telecommunications Act 2005 set forth above, the Regulator hereby declare the designation of Samoa Submarine Cable Company for Tui Samoa Cable as **dominant provider** for the **Wholesale International Internet Capacity market**

#### **Duration of the Order:**

The Order will expire on the earlier of:

- 1) The Regulator revoking this Order; or
- 2) The making of a new Order by the Regulator for dominance position.

This Order is effective on the 28<sup>th</sup> October 2021.

Sincerely,



Lematua Gisa Fuatai Purcell  
**REGULATOR**

Dated: 28<sup>th</sup> October 2021