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UNIVERSAL ACCESS POLICY 2010,

GOVERNMENT OF SAMOA

1.0 Preamble

The telecommunications sector in Samoa continues to be in transition from monopoly provision of services to a fully liberalized environment. Development over the last three years has not been smooth nor equal in all sectors and even with the deployment of new technology to meet latent demand for basic services, a number of cluster inequities have developed in places and population groups who have remained without service and for whom the arrival of commercial service has lagged. Clearly, for market players to provide their network services to marginalized groups, government incentive and policy support is required. Broadband is the relevant choice for high-speed connectivity to deliver societal applications such as tele-education, tele-medicine, e-governance, and rural employment generation. Broadband Internet can become ubiquitous and serve the growth of the Gross Domestic Product (GDP) leading to an enhancement of quality of life. The onus would however be for state intervention for sustainable and future-proof measures to address market failure and promote equitable access to telecom services.

In the Strategy for the Development of Samoa 2008 -2012, Samoa is committed to meeting the eight Millennium Development Goals of:

1. Eradicating extreme poverty and hunger; 2. Achieving universal primary education; 3 Promoting gender equality and empowering women; 4. Reducing child mortality; 5. Improving maternal health; 6. Combating HIV/AIDS, malaria and other diseases; 7. Ensuring environmental sustainability and; 8. Developing a global partnership for development

Telecommunications addresses human needs and can support people's livelihoods, healthcare services, personal safety, access to a wide range of information from educational information through to warnings of natural disasters and relief, as well as bringing entertainment and personal interaction. Telecommunications can play an important role in supporting the aims of the MDGs. In order that Telecommunications can provide such a role the access to telecommunications services has to be universal.

This Policy is to provide the guiding principles that will ensure universal access to telecommunications services. To ensure effective and efficient implementation the Office of the Regulator (the “OOTR”) shall be responsible for defining the administrative principles and developing the implementation mechanisms, in accordance with the provisions of this Policy.

2.0 Definition of Key Terms

For the purposes of the Policy, and keeping in view the current status, Broadband connectivity is defined as:

> **"An 'always on' data connection that is able to sustain internet access services with the minimum upload speed capacity of 256 kilo bits per second. (kbps) The connection is made from the service provider to multiple users where the individual subscriber is able to access this interactive service."**

3.0 Scope

The extent of the proposed Policy has the following scope:

I. National - programs are prioritized and geographically spread for national presence and benefit based on the criteria prepared by OOTR in consultation with the stakeholders.

II. Community-oriented such as for a village or a special interest cluster, e.g. learning institutions, schools, libraries, institutions for the disadvantaged, post offices, rural health centers, women / youth community centers and other premises where general public has access. It is expected that the communities benefiting from coverage and service availability will wish to partner with the UA Service Provider in their area and that the community will make available premises in which telecommunication services can be hosted.

III. Services - telecom services are defined as access to Voice, Data, Internet and Broadband and the required infrastructure thereof to provide these telecom services.

IV. Technology-neutral – to be future-proof, technology has to be operational (surpassed its experimental phase); Supported by other vendors (currently sustainable); "Integrateable" (mutually co-exist with existing networks); and "Scaleable" (expandable for later capacity increase).

These four elements will determine the criteria to be used in determining the manner of any intervention for the achievement of Universal Access for telecommunication services in Samoa.

4.0 Background of Samoa

4.1 Telecom Services

Local telecommunications coverage has improved considerably since 2006 fueled jointly by deregulation and rapid technology developments, particularly for mobile services, to a lesser extent

internet. The government's authorization of two GSM licenses permitted a new entrant as well as the fixed-line incumbent to join the mobile market. There has been a marked improvement in mobile services and fixed line services alike, with more than 95% of the population having availability of either mobile cellular service or a fixed line. In effect, teledensity has increased to more than 84 subscribers per 100 population.

By contrast, Internet usage lags behind, at 5.03% of the population. Broadband access is even lower with current penetration at 0.11 subscribers per 100 inhabitants with wireless and ADSL technologies being the common in Apia and the central business district offered by 3 service providers.

4.2 Policy Support

In light of increased competition and the characteristic of a new and emerging market, policy framework has attempted to address market gaps for access to basic telecommunications services. The National Communications Policy proposed as development objectives, a number of targets to be achieved by 2005 to rural areas; to communities of more than 200 persons; to education institutions; and to health services and hospitals. The 2005 National ICT Policy advanced a number of UNDP funded projects for rural connectivity in 2006 including the E-School Bus and the "Fesootai Centers", in partnership with the donor community and local and overseas business.

The existing policies rightly target clusters experiencing absence of service both because of being commercially unviable for further telecom investment; and due to constraints relating to affordability. However, taking note of the absence of up-to-date policies; as well as the finite life of the development projects previously implemented, it appears that further policy support is required to harmonize and importantly ensure sustainability of services to realize universal access goals. The Universal Access (UA) Policy intends to address these gaps and provide focus for limited resources as well as harmonize previous strategic objectives aiming to bridge the telecom and digital divide.

5.0 Role of the Market

In keeping with current market mechanisms depicting equilibrium between affordability threshold for consumers, and profitability levels for telecom providers, the delivery of quality telecom service will rely to the greatest extent possible on market forces, policy intervention will only occur where there is market gap that is unlikely to be bridged in the long-term by market forces.

6.0 Role of Policy

The critical element for the Policy is advancing universal access to community groups who because of their specific characteristics are inadvertently underserved, and in recognition that there are limits to how well the market can or will function to extending service to marginalized groups. Access to telecommunications, in most countries is now considered as right of every citizen, this public

welfare argument for state-intervention, is sufficiently important to provide policy intervention to address access needs of disadvantaged groups.

7.0 Resources

The instruments to implement targeted interventions will take into account the potential benefits to all segments of the population, the impact on investment on telecom infrastructure, and the sustainability of the service in the long-term. The objective is to avoid duplication between new programs and existing projects while addressing market gaps with activities that would eventually become commercially viable and in the long term no longer require UA Fund support. The Policy will endeavor to coordinate and harmonize ICT Projects and utilize a Universal Access Fund to achieve universal access.

7.1 Sources of Funds

Funds for the Universal Access Fund will be from following sources:

- collected from a defined percentage of licensed operators' revenues (the percentage of gross revenues shall be minus inter-operator payments and related OOTR mandated payments, as determined by the OOTR by issuing Rules),
- grants from Government or international or bilateral development agencies or donors,
- surplus funds of OOTR, and
- amounts collected by OOTR as fines.

7.2 ICT Projects

The National ICT Policy implemented in 2006 a number of ICT Projects for rural connectivity which include: e-School Bus and 11 Fesootai Centres, providing ICT equipment and training to community groups such as women. The multi-stakeholder project engaged local and overseas businesses.
It would be possible for the UA Fund to be utilized for ensuring the establishment/sustainability of all such projects in a manner that considers the scope of Universal Access intervention and the principles for any such intervention.

7.3 Universal Access Fund

The UA Fund as cited in the Telecom Act 2005, as amended, is intended to subsidize the net costs of providing universal access. The Fund is to be established and administered by the OOTR and consistent with the Act there are requirements for competitively neutral and market-oriented

contributions from licensees. This is likely to be determined based on best-practice as a certain levy on net or gross revenue per year. Due to the anticipated amounts, it is envisaged the fund management will involve transparent and consultative processes, with oversight by an advisory committee consisting of representation of the political leadership, industry, regulator and consumers,. and the fund shall be subject to annual audit of resultant activities.

7.4 Fund Applicants

As a general rule, all licensed telecom operators who contribute to UA Fund shall be eligible to apply for all Universal Access Fund contracts to provide services for a defined period of time. The eligibility criteria for the Pilot Project(s) that are funded from sources other than contribution from licensees could however be different, where all licensed telecom operators having license to provide services mentioned in the pilot project shall be eligible to apply in the prescribed manner. In the interest of increasing competition in the Universal Service Access Areas and encouraging welfare organization, local communities and entrepreneurs, any non licensee, willing to provide telecommunication services in the Universal Service Access Area(s) may be allowed by the OOTR to apply for Universal Access Fund for all or any particular project. In case of non-licensee winning the contract through the competitive process, his contract would be deemed to be his license for establishing telecommunication system and/or providing telecom service in the contracted area only unless OOTR decides to issue a separate Universal Access Operator License.

Non-contributing licensed operators or non-licensed entities may participate as suppliers or sub-contractors to eligible applicants for UA Funds.

Subject to the above requirements, consortia are also allowed to bid for UAF projects. However, the consortium cannot consist of more than one Licensee having license for same service (for instance two cellular mobile licensees would not be allowed to form a consortium).

7.5 Contract Terms and Monitoring Performance

Obligations and rights of UAF operators will be clearly specified in the Contract. Contract terms may include:

- Services offered (broadband, tele-centre, etc.),
- Quality of service measures,
- Prices charged and tariff conditions,
- Sharing of infrastructure at cost plus reasonable return,
- Contract period,
- Compulsory insurance against fire, theft, and natural disasters,
- Provision of specified bank guarantee or lien on equipment, if any,

Fulfillment of Contract terms will be monitored and compliance ensured by OOTR. Monitoring can be through site visits or remotely by means such as periodical reports, switch traffic records, test calls to Broadband centre, reports generated automatically by NOC, etc.

Prices and tariffs may be the same as the prevailing industry rates.

7.6 Limitations on Market Power

OOTR shall ensure that UA Fund shall not be used to concentrate market power locally. OOTR shall develop appropriate mechanism and insert adequate clauses in the contracts to ensure competition in the UA areas. OOTR may restrict any given eligible licensee from winning more than a defined level of the total fund contracted e.g. 50% of total contracted funds).

8.0 Priorities

The following statements provide guidance for full realization and wide availability of benefits:

Principle 1: Maximizing Benefit - the targeted interventions will be applied efficiently to enable the greatest benefit to the greatest number of people at the earliest time.

Principle 2: National Presence – the Policy is expected to translate into a national program with geographical dispersion to provide for national rather than cluster benefits.

8.1 Policy Targets

In the field of broadband communication, the penetration achieved in Samoa so far is very low. The broadband market has suffered from high retail prices, domestic and international bandwidth prices, and issues of local loop availability and poor quality.

Broadband penetration to-day is only 0.11%. To kick-start the market, the UAF Policy includes a 5-year target to reach 10% broadband penetration nation-wide.

Government hereby sets following nation-wide targets for the end of year 2015:

- 95% of country population to have access to all kinds of telecommunication services,
- Teledensity: 15% in rural areas (fixed and/or mobile),
- Broadband: 10% penetration (nation-wide average), and
- Tele-centres/Broadband Centers: preferably one for every 1,000 people, but at least one for every 3,000 people in USF contract areas.

8.2 Choice of Areas for funding

Areas in which support will be offered will be selected according to clear and transparent criteria to be developed by the OOTR in consultation with all stakeholders. OOTR will develop the method for prioritizing qualifying geographic zones, giving priority for rural, remote, and small town and urban areas, where they are currently un-served or under-served for all or particular telecommunication services.
Communication requirements consistent with achieving economic, regional, or industrial policies of the Government may also be applied to vary the priorities established above.

9.0 Mechanism for Implementation

After consultation on the Policy and approval by the Minister, the OOTR will produce specific programs for targeted interventions via the consultative processes with the general public and sector stakeholders, applying an approach to avoid bureaucratic bloat and ensuring low-cost activities. It is expected that the implementation and management of the Fund would require additional resources from Government and would be housed at the OOTR. The OOTR may also decide to outsource some of the implementation and management activities by defining those in relevant Regulations or Rules.

9.1 Radio Spectrum

Crucial to the development of the Universal Access is the availability of spectrum and its most optimal and efficient use. Government expects that radio spectrum for Universal Access Services may require:

- Cellular bands
- Fixed-wireless bands
- WiFi, WiMax, and WLAN bands
- Fixed links for backhaul according to ITU recommendations (e.g. 7, 11, 13, 21, and 28 GHz).

UA Operators requiring any new or additional frequencies will have to pay spectrum fees according to established criteria/ rates by OOTR.

10. Review of Policy

The Universal Access Policy will be reviewed after five (05) years, however the progress on the targets mentioned above shall be monitored on annual basis.

OOTR will report progress against objectives to the Government annually. If objectives are not being met, OOTR will commence an immediate review of the reasons for the objectives not being met, and will review procedures, contracts, or propose change to the policy as appropriate.

It is expected that telecommunication access availability will eventually reach near to 100% of the population. As this point approaches, the Government will review the priorities at that time and may determine that the universal access challenge has shifted to other service areas (e.g. very high-speed broadband, e-services). Government will consult with industry and the public, and may determine to shift the focus at that time, or to wind-up the Universal Access Fund.

11. Regulatory Changes

Appropriate changes in the regulatory and legal framework would be made expeditiously to support the Policy.