

information published by the international Telecommunications Union.³ On U.S. international routes to countries classified as lower middle income countries, which include Fiji, the Commission requires U.S. carriers to negotiate rates not exceeding \$0.19 per minute for all traffic terminated after January 1, 2001.⁴ To address circumstances where U.S. carriers are unable to negotiate rates in compliance with benchmark requirements, the Commission established enforcement procedures allowing any U.S. international carrier therefore to “request[] enforcement measures to ensure that no U.S. carrier pays that foreign correspondent an amount exceeding the lawful settlement rate benchmark.”⁵

As demonstrated below, AT&T is unable to negotiate benchmark-compliant rates with the majority government-owned carrier controlling the foreign end of the U.S.-Fiji route. Accordingly, the Commission should enforce the benchmarks with respect to this route.

I. FINTEL’S TERMINATION RATES FOR U.S.-FIJI TRAFFIC EXCEED THE BENCHMARK RATE

Fintel (previously C&W Fiji) is the incumbent international carrier in Fiji, in which the Fiji government holds an ownership interest of 51 percent and Amalgamated Telecom Holdings Limited holds an ownership interest of 49 percent.⁶ Fintel is therefore the dominant carrier on

(Footnote continued from previous page)

² *Id.*, ¶¶ 2-28.

³ *Id.*

⁴ *Id.*, ¶ 111 & App. C (Classification of Economies listing Fiji as a Lower Middle Income economy subject to a benchmark rate of 19 cents).

⁵ *Id.*, ¶ 186.

⁶ See <http://www.fintel.com.fj/pages.cfm/company/> Amalgamated Telecom Holdings Limited acquired this interest from C&W in 2012. See <http://www.fijitimes.com/story.aspx?id=192997>. Fintel is therefore the successor to Cable & Wireless Fiji, which is listed as the dominant carrier

(Footnote continued on next page)

the U.S.-Fiji route and terminates all U.S.-Fiji calls sent by AT&T over circuits directly linking these two countries, including calls to both fixed and mobile numbers in Fiji.

In the years immediately prior to 2011, average U.S.-Fiji termination rates were in the range of \$0.16-\$0.18 per minute.⁷ In late 2010, Fiji's telecom regulator, the Fiji Commerce Commission, required all international traffic terminated in Fiji to pay a minimum rate of FJD 0.30 (approximately US\$0.165) per minute.⁸ Accordingly, during the months prior to November 17, 2011, Fintel terminated AT&T's U.S.-Fiji traffic for \$0.165 per minute.⁹

On November 8, 2011, Fintel notified AT&T that it would raise termination rates for U.S.-Fiji traffic to \$0.22 per minute on November 17, 2011.¹⁰ This increase followed a decision by the Fiji Commerce Commission increasing the minimum termination rate for inbound international traffic from \$0.165 to \$0.22 per minute as of that date.¹¹ The press statement issued by the Fiji Commerce Commission to announce the decision describes one of the objectives of the rate increase as being to “[s]upport Governments plan to accelerate ICT penetration i[n] Fiji

(Footnote continued from previous page)

in Fiji. See Public Notice, *The International Bureau Revises and Reissues the Commission's List of Foreign Telecommunications Carriers that Are Presumed to Possess Market Power in Foreign Telecommunications Markets*, DA 07-233, Jan. 26, 2007, at 5.

⁷ See Section 43.61 International Telecommunications Traffic Reports for 2008-2010, Table A1.

⁸ See Declaration of Joe Ettore Jr. (Attachment 1 hereto) (“Ettore Decl.”), ¶ 4 & Fiji Commerce Commission, *Final Determination on Control of Prices of Interconnection Services*, Nov. 26, 2010, (Att. A thereto) at 4.

⁹ Ettore Decl., ¶ 4.

¹⁰ *Id.*, ¶ 5.

¹¹ *Id.* & Att. B thereto (Fiji Commerce Commission, *Press Statement, Determination on Interconnection Service Charges*, 7 November 2011, at 2).

by outsourcing that charge to callers from outside Fiji.”¹² The statement further states that “[w]ith these changes, we expect . . . [t]hose operators bringing in international minutes to make increased revenue and thus profit.”¹³ Because this rate increase raised the U.S.-Fiji termination rate above the \$0.19 benchmark rate for this route, AT&T has sent no traffic to Fintel for termination in Fiji since November, 2011, and instead has routed all its U.S.-Fiji traffic via third countries.¹⁴

II. FINTEL’S ACTION VIOLATES THE COMMISSION’S BENCHMARKS POLICIES AND REQUIRES ENFORCEMENT ACTION

The rate increase fails to comply with the Commission’s longstanding benchmarks policy, which requires U.S. carriers to pay Fintel no more \$0.19 per minute to terminate U.S.-Fiji traffic after January 1, 2001. As demonstrated by the facts set forth above and in the attached Declaration of Joe Ettore Jr., as a result of this rate increase, AT&T has been unable to negotiate a benchmark-compliant rate with Fintel since November 2011. In accordance with the Commission’s benchmark enforcement procedures, any U.S. international carrier therefore may request the Commission to issue an order requiring U.S. carriers to pay benchmark-compliant rates on this route.¹⁵

There is no evidence that this increase is required to meet increased termination costs in Fiji. Neither Fintel nor the Fiji Commerce Commission has offered such evidence or made any

¹² Ettore Decl., ¶ 6 & Att. B thereto at 2.

¹³ *Id.*

¹⁴ Ettore Decl., ¶ 7.

¹⁵ *Benchmarks Order*, ¶ 186. *See also, Cable & Wireless*, 166 F. 3d at 269 (finding that “the Commission may modify such agreements as it deems necessary to serve the public interest,” and has “ample authority . . . to limit settlement rates paid by U.S. carriers”).

such claim. In fact, the Fiji Commerce Commission has made clear that the increase is *not* cost-based by acknowledging in its press statement that the purpose of the increase is, first, to “outsource” the cost of increased ICT penetration in Fiji to consumers in the United States and other countries outside Fiji and, second, to provide “increased revenue and thus profit” for operators in Fiji.

The Fiji regulator’s intended use of the increase to expand ICT penetration also provides no justification for raising the termination rate above the benchmark level.¹⁶ Even the need to fund a legitimate universal service program does not allow any exception to benchmark rates, which are “above the cost of providing international termination service” and therefore “include a generous contribution that could be applied to fund universal service and other social goals.”¹⁷

The Commission has also rejected claims that the settlement rate benchmarks should be “revised to take into account discriminatory local access charges or universal service subsidies aimed solely or disproportionately at international termination services.”¹⁸ These are the very policies espoused by the Fiji regulator, which seeks to “outsource” the cost of ICT penetration in Fiji “to callers from outside Fiji.”¹⁹ The Commission, however, has repeatedly emphasized that it will not allow foreign countries to require U.S. consumers to subsidize such discriminatory policies through above-cost termination rates.²⁰

¹⁶ See Ettore Decl., Att. B, at 2.

¹⁷ *Benchmarks Order*, ¶ 87.

¹⁸ *Id.*

¹⁹ See Ettore Decl., Att. B, at 2.

²⁰ See *Benchmarks Order*, ¶ 148; *International Settlement Rates*, 14 FCC Rcd. 9256, ¶ 14 (1999); *Atlantic Tele-Network, Inc. Request for a Waiver of the Benchmark Settlement Rate on the U.S.-Guyana Route*, 16 FCC Rcd. 20263 (2001).

The mandated nature of this rate increase also provides no basis to withhold Commission action. The Commission made clear in addressing a government mandated rate increase in Tonga that actions taken pursuant to a foreign government requirement are “no less coercive or anticompetitive than they would have been if [the foreign carrier] acted on its own.”²¹ Likewise, the Commission recently found that the involvement of Pakistan’s regulator in mandating a rate increase “does not change the anticompetitive nature of the actions or affect the Commission’s ability to act on this matter.”²² The Commission has also affirmed that it is under no obligation to enforce “fundamentally prejudicial” foreign interests.²³ The Commission’s precedents thus support the requested action to protect the interests of U.S. consumers.

²¹ *Petition of AT&T Inc. for Settlements Stop Payment Order on the U.S.-Tonga Route*, 24 FCC Rcd. 8006 (“*Tonga Order*”), ¶ 22 (2009).

²² *Petition for Protection from Anticompetitive Behavior and Stop Settlement Payment Order on the U.S.-Pakistan Route*, IB Docket No. 12-324, DA 13-341, rel. Mar. 5, 2013 (“*Pakistan Order*”), ¶ 14.

²³ *Tonga Order*, ¶ 29 (citing *Laker Airways, Ltd. v. Sabena, Belgian World Airways*, 731 F. 2d 909, 937 (D.C. Cir. 1984)).

Accordingly, the Commission should enforce the *Benchmarks Order* on this route by requiring all U.S. carriers to pay Fintel rates for U.S.-Fiji traffic that do not exceed the \$0.19 benchmark.²⁴

Respectfully submitted,

By: /s/ James J. R. Talbot

James J. R. Talbot
Gary L. Phillips
Peggy Garber

Attorneys for
AT&T Inc.
1120 20th Street, NW
Washington, D.C. 20036
(202) 457-3048 (phone)
(202) 457-3073 (fax)

June 13, 2013

²⁴ As required by the benchmark enforcement procedures, AT&T is sending copies of this Petition and Section 1.47 of the FCC Rules, 47 C.F.R. Sect. 1.47, to Fintel. *Benchmarks Order*, ¶ 186.

CERTIFICATE OF SERVICE

I do certify that I have, on this 13th day of June, served a copy of the foregoing “Petition of AT&T to Enforce Benchmark Rates on the U.S. Fiji Route” by first-class U.S. Mail postage prepaid and electronic mail to the following:

/s/ Loretia Hill
Loretia Hill

George Samisoni
Manager, Commercial
Fintel
158 Victoria Parade
Suva, Fiji
gsamisoni@fintelfiji.com

US\$0.165) per minute.¹ Accordingly, during the months prior to November 17, 2011, Fintel terminated AT&T's U.S.-Fiji traffic for \$0.165 per minute.

5. On November 8, 2011, Fintel notified AT&T that termination rates for U.S.-Fiji traffic would be raised to \$0.22 per minute on November 17, 2011. This increase followed a decision by the Fiji Commerce Commission to increase the minimum termination rate for inbound international traffic terminating in Fiji from \$0.165 to \$0.22 per minute as of that date.²

6. Neither the Fiji Commerce Commission nor Fintel has made any claim or offered any evidence to show that this rate increase is necessary to meet increased termination costs for inbound international calls in Fiji. Indeed, the press statement issued by the Fiji Commerce Commission to announce the decision states that one of the objectives of the rate increase is to “[s]upport Governments plan to accelerate ICT penetration i[n] Fiji by outsourcing that charge to callers from outside Fiji.”³ The statement further states that “[w]ith these changes [i.e., increasing the minimum international termination rate from \$0.165 to \$0.22], we expect . . . [t]hose operators bringing in international minutes to make increased revenue and thus profit.” These statements demonstrate that the purpose of the rate increase is not to meet increased termination costs but to ensure that consumers in the United States and other countries outside Fiji bear the costs of increasing ICT penetration in Fiji and to increase above-cost revenues for carriers in Fiji.

7. This rate increase raised the U.S-Fiji termination rate above this Commission's \$0.19

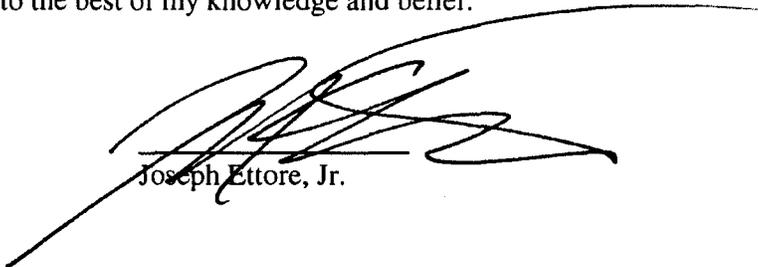
¹ Fiji Commerce Commission, *Final Determination on Control of Prices of Interconnection Services*, Nov. 26, 2010, at 4 (Attachment A hereto).

² Fiji Commerce Commission, *Press Statement, Determination on Interconnection Service Charges*, 7 November 2011 (Attachment B hereto).

³ *Id.*, at 2.

benchmark rate for the U.S.-Fiji route.⁴ For this reason, AT&T has sent no traffic to Fintel for termination in Fiji since November, 2011. Instead, AT&T has routed all U.S.-Fiji traffic via third countries.

The foregoing is true and correct to the best of my knowledge and belief.



Joseph Ettore, Jr.

Dated: June 12, 2013

⁴ See *International Settlement Rates*, 12 FCC Rcd. 19806, ¶ 111 & App. C (1997) (Classification of Economies listing Fiji as a Lower Middle Income economy subject to a benchmark rate of 19 cents).

ATTACHMENT A

	FIJI COMMERCE COMMISSION		
	<u>HEAD OFFICE & CENTRAL EASTERN DIVISION</u>	<u>WESTERN DIVISION</u>	<u>NORTHERN DIVISION</u>
Level 1 Garden City Complex, Raiwal, Suva. P O Box 5031, Raiwaqa, Suva. Phone: (679) 337 2178	1 st Floor, Downtown Holdings Bldgs, Street, 155 Vitoga Parade, P O Box 594, Lautoka 1155	Corner of Nanuku/Jaduram P O Box 262, Labasa Telephone/Fax: (679) 881	

24 November 2010.

Final Determination

on

CONTROL OF PRICES OF INTERCONNECTION SERVICES

of

Fiji International Telecommunications Limited

24 November, 2010

1. Introduction

- 1.1 Traditionally, neo-classical economics has recognised only two factors of production: labour and capital as the key determinants of economic growth. Knowledge, productivity, education, and intellectual capital were all regarded as exogenous factors.
- 1.2 With the development of the New Growth Theory in late 1980's, technology (and the knowledge on which it is based) is also seen as an intrinsic part of the economic system. Knowledge has become the third factor of production in leading economies.
- 1.3 Knowledge is the basic form of capital. Economic growth is driven by the accumulation of knowledge. While any given technological breakthrough may seem to be random, proponents of New Growth Theory considers that new technological developments, rather than having one-off impact, can create technical platforms for further innovations, and that this technical platform effect is a key driver of economic growth.
- 1.4 Technology can raise the return on investment, which explains why developed countries can sustain growth and why developing economies, even those with unlimited labour and ample capital, cannot attain growth. Traditional economics predicts that there are diminishing returns on investment. New Growth theorists argue that the non-rivalry and technical platform effects of new technology can lead to increasing rather than diminishing returns on technological investment.
- 1.5 Another factor that releases people's creative potential and knowledge is Information and Communication Technologies (ICT). ICT are the enablers of change. They do not by themselves create transformations in society. ICT are best regarded as the facilitators of knowledge creation in innovative societies. The new economics looks at ICT, not as drivers of change but as tools for releasing the creative potential and knowledge embodied in people.
- 1.6 In this way, the ICT sector has a powerful multiplier effect in the overall economy thus contributing towards wealth-generation.
- 1.7 Policy makers in Fiji have long back realised the potential of ICTs for development, and recognize that ICTs can be harnessed for great socio-economic benefits. Underlining this recognition is the realization that the existing digital divide has to be bridged, as nations can no longer risk being excluded from the process and progress of economic development taking place worldwide. ICTs are no longer just a socio-development tool, but a prerequisite for participation in the new digital, interconnected economy.
- 1.8 This determination is delivered, as required by the Commerce Commission Decree 2010, has two key objective. To direct a reduction in wholesale and thus retail call rates to convergence with market rates and secondly, indirectly support Governments plan to accelerate ICT penetration if Fiji.

2.0 Statutory Powers

- 2.1 This Determination is made by the Commerce Commission ("the Commission"):
 - a. Pursuant to the Commerce (Control of Prices of Interconnection Services Rates) Order 2009 ("the Price Control Order 2009") and the Commerce Commission Decree 2010 (Act No. 49 of 2010) ("the Decree").
 - b. By taking into account the commitment of the Commission to fulfill its functions and duties under the Act, the Telecommunications Promulgation 2008, particularly with respect to interconnection, as well as the objectives of each of these legal instruments.
 - c. By taking into account the policy of the Attorney General and Minister for Justice, Anti- Corruption, Public Enterprise, Tourism, Trade and Communications, Mr. A Sayed-Khaiyum, as well as of his Ministry, for the Commission to resolve interconnection issues in Fiji.

3.0 Interconnection Rates and the Deepening of Telecommunications Market

- 3.1 This Determination notes:
 - a. That interconnection is a critical feature of telecommunications networks, as it enables subscribers on one network to call and to be called by, subscribers on another network. In the absence of interconnection, a small network operator is unlikely to be attractive to potential customers as they would be unable to communicate with a significant proportion of other subscribers.
 - b. Findings of the review of the control of substantial market power for interconnection services in the Fiji Islands initiated by the Commission on 28 May 2009 and the determination of interconnection rates on the

14th of January, 2010 which demonstrates that each network operator has substantial market power with respect to calls terminating into its network.

- c. That another round of consultation with industry stake holders were carried out in September to November, 2010.

3.2 This Determination takes into account the prevailing market structure and conditions, including:

- a. the liberalization of the mobile telecommunications sector in Fiji from 1 October 2008, the benefits of continuing significant investments in telecommunications infrastructure in Fiji, the significant social and economic benefits that arise from increasing mobile penetration in Fiji, the high subscriber acquisition costs of mobile network operators and the existence of network externalities, as well as the infancy of such services as mobile data telecommunications services;
- b. the Calling Party Pays Principle which is the prevailing charging system for the exchange of voice calls between network operators in Fiji, whereby the calling party pays entirely for the call and the wholesale termination rate paid by the originating operator is normally passed on to its end customer;
- c. the technologies used by network operators in Fiji, including 2.5G GPRS, 2.75G EDGE and 3G WCDMA technologies, as well as public service telephone network technologies, such as CDMA2000 technology;
- d. the interconnection network agreements concluded between Digicel and other telecommunications network operators in Fiji such as Vodafone (Fiji) Limited ("Vodafone"), Telecom Fiji Limited ("TFL") and Fiji International Telecommunications Limited ("FINTEL");
- e. the existing interconnection rates charged by Digicel, Vodafone, TFL, FINTEL and other operators in Fiji;
- f. That despite early signs of opening up of the telecommunications market, some operators continue to operate as business-as-usual and have not put in place measures to reduce unit costs;
- g. That the retail prices for on-net services have generally been significantly lower than for off-net services between networks. Such differences are usually used by operators to form closed user groups, i.e to force subscribers to follow friends or family to the network operator they use since on-net calls tariffs are much cheaper; and,
- h. That the provision of Mobile Termination Rates (MTR's) and Fixed Termination Rates (FTR's) at prices above cost represents a barrier to efficient entry and expansion in the retail telecommunications market.

3.3 The determination also notes that any regulation which will promote competition in the downstream retail market, end-users are likely to benefit from reduced prices and greater efficiencies in the supply of retail services. The Commission's intention is also to foster accessible and affordable data services across Fiji and net connectivity in various modes is an important factor in this process.

4.0 Methodology

4.1 The Commission has used benchmarking methodology as used by majority of countries around the globe. In the process of selecting benchmarking data, the Commission took into account a number of factors including:

- a. reviewing prices of services substantially similar to those services being assessed, derived from jurisdictions in which a reasonable level of competition exists; and,
- b. taking into account adjustments to reflect, amongst other things, the relative economic and social development, demographics, geography, extent of urbanization, scale economies, state of the development of the telecommunications sector of Fiji and differences in the direct and indirect costs, including subscriber acquisition costs, of providing telecommunications services in Fiji.

4.2 The Commission also notes that it took into account international practices and benchmarks in relation to charges for the termination of incoming international calls.

4.3 The Commission has taken into account the need to avoid a disproportionate disturbance to the business plans of stakeholders that have committed significant investments in telecommunications infrastructure in Fiji, as well as the need to give legal and commercial certainty to investors on long-term interconnection rates so as to manage effectively their respective businesses.

5.0 OBLIGATION RELATING TO PRICE CONTROL

The Commission hereby authorises FINTEL to supply from the Effective Date the following interconnection services in Fiji at the rates specified in Schedule 1 below.

Schedule 1: Chargeable Network Interconnection Service and Rate.

Type of Chargeable Network Interconnection Service		Chargeable Network Interconnection Service rate
(a)	<i>Inbound International Chargeable Calls</i> All categories of inbound international voice traffic destined into Fiji and terminating on a FINTEL's terminal or platform, shall attract a minimum Termination Rate of	<ul style="list-style-type: none"> For the period commencing 17 November, 2010 to 16 November 2012 (or to 16 November 2013 where the Price Control Order 2009 has been extended): Minimum of FJD 0.30. Of this inbound rate charge, a FJD0.03 per minute shall be levied under the Industry Reform objective to facilitate the Government's ICT Development programme.
(b)	All inbound international voice traffic, terminating on FINTEL's terminal or platform, destined for (or handed over to) another local network, shall attract a local interconnection rate, payable to that local operator, of	<ul style="list-style-type: none"> For the period commencing 17 November 2010 to 16 November 2011: FJD 0.17 For the period commencing 17 November 2011 to 16 November 2012: FJD 0.13 For the period commencing 17 November 2012 to 16 November 2013 (where the Price Control Order 2009 has been extended): FJD 0.10

Notes for Schedule 1

- All charges are in Fiji currency.
- All charges are exclusive of Value Added Tax.
- The terms "Chargeable Mobile Calls", "Chargeable Network Interconnection Service" and "International inbound calls to Mobile" have the same meanings given to them the respective interconnection agreements between Digicel and Vodafone, Digicel and TFL and Digicel and FINTEL.
- Unless otherwise specified, the chargeable mobile call rate is an amount in cents per minute.
- The chargeable mobile call rate applies on a per second basis.
- In the case of chargeable mobile calls, the charge for each chargeable call is rounded up to the next whole cent.
- For the avoidance of doubt, chargeable mobile calls do not include calls terminating on CDMA-based technologies.
- The charges authorised in this determination are the maximum amount that the respective operator is authorised to charge for the services specified above.

6.0 Prohibition in relation to Calls Originating from Outside of Fiji

No party handing over calls to another network operator shall be permitted to disguise or attempt to disguise the origin of those calls either through the manipulation of A numbers or otherwise with the intent that the call definition or charge which was intended to apply to that call does not apply. In circumstances where an operator has reasonable grounds to believe that a call or calls which are handed over to it have originated outside of Fiji it is authorised to charge for such calls at the rate which is applicable to calls which have originated outside of Fiji.

7.0 Determination not to Challenged

The Price Control Order 2009 states as follows:

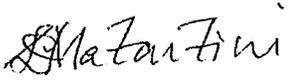
"5.-(1) No court, tribunal, commission or any other adjudicating body shall have the jurisdiction to accept, hear, determine or in any other way entertain, any challenges whatsoever (including any application for judicial review) by any person or body, or to award any compensation or grant any other remedy to any person or body, in relation to the validity or legality or propriety of any action or decision of the Minister or the Commerce Commission in making this Order".

8.0 Market Monitoring

The Commission will closely monitor the market to ensure that the retail sector provides a symmetric response to the changes and movements in the wholesale sector. Failure of the operators to make corresponding changes in the retail sector will be a clear indication that market is not working as expected, justifying the need for an intervention, in order to achieve all necessary conditions for a competitive market.

9.0 Effective Date

This Determination shall be effective from 17th November 2010 ("the Effective Date").

			
Dr. Mahendra Reddy	Ms. Leba Matalini	Mr. Krishn Shah	Mr. Sepeti Taglala
Commission Chairman	Commissioner	Commissioner	Commissioner
24 November 2010	24 November 2010	24 November 2010	24 November 2010

ATTACHMENT B



FIJI COMMERCE COMMISSION

HEAD OFFICE & CENTRAL EASTERN

DIVISION

Level 1 Garden City Complex, Raiwal,
Suva.

P O Box 5031, Raiwaqa, Suva.

Phone: (679) 337 2178

Fax: (679) 337 2389

Email : helpdesk@commcomm.gov.fj

Website: www.commcomm.gov.fj

WESTERN DIVISION

1st Floor, Downtown Holdings Bldgs,
155 Vitogo Parade,

P O Box 594, Lautoka

Telephone/Fax: (679) 666 1853

NORTHERN DIVISION

Corner of Nanuku/Jaduram Street,
P O Box 262, Labasa

Telephone/Fax: (679) 881 1155

7 November 2011.

Press Statement

Determination on Interconnection Service Charges

Policy makers throughout the world have recognised the importance of ICT as a critical factor for promotion of rapid growth and development in an economy. It releases people's creative potential and knowledge thus enabling change, growth and development. It does not do it by themselves but creates transformations in society. ICT are best regarded as the facilitators of knowledge creation in innovative societies. The new economics looks at ICT not as drivers of change but as tools for releasing the creative potential and knowledge embodied in people.

Policy makers in Fiji have long back realised the potential of ICTs for development, and recognize that ICTs can be harnessed for great socio-economic benefits. Underlining this recognition is the realization that the existing digital divide has to be bridged, as nations can no longer risk being excluded from the process and progress of economic development taking place worldwide. ICTs are no longer just a socio-development tool, but a prerequisite for participation in the new digital, interconnected economy.

Realizing this critical position of ICT in the Economy, the government resolved to provide access to more players in the telecommunications sector. This saw the entry of Vodafone and then Digicel, two of the more major network operators in Fiji. To deal with regulatory issues, Government also established the TAF and Fiji Commerce Commission each tasked with a defined set of objectives.

With this broad objective in mind, the Commission, in March, 2009, undertook a detailed study to identify if any operators had Substantial Market Power (SMP). Those operators holding SMP could, by virtue of having this power, abuse that power and thus not only engage in anti-competitive behavior, but also create impediment to the growth and development of the economy and cause hardship to the consumers as well. Following the findings of the Substantial Market Power Study, the Commission submitted to the Minister that the Wholesale Interconnection Rates in the Telecom sector be subject to a Price Control Order. The Order came into effect on the 17th of November, 2009.

Since then, the Commission has been setting the Interconnection Rates of the Telecom Operators in Fiji. In doing so, the Commission notes that interconnection is a critical feature of telecommunications networks, as it enables subscribers on one network to call and to be called by, subscribers on another network. In the absence of interconnection, a small network operator is unlikely to be attractive to potential customers as they would be unable to communicate with a significant proportion of other subscribers. The control has resulted in fall in retail rates, but not to the expectation of the Commission (see Table 1).

Table 1: Telecommunications Voice Traffic Retail Rates

	13 January, 2010		22 October, 2011	
	Peak Hour (F\$/minute)	Off Peak Hour (F\$/minute)	Peak Hour (F\$/minute)	Off Peak Hour (F\$/minute)
<i>Vodafone Rates</i>				
Voda to Voda	0.50	0.36	0.44	0.36
Voda to Digicel	0.50	0.41	0.45	0.41
Vodafone to TFL	0.50	0.30	0.45	0.30
<i>Digicel Rates</i>				
Digicel to Digicel	0.50	0.35	0.36	0.36
Digicel to Vodafone	0.50	0.40	0.40	0.40
Digicel to TFL	0.50	0.40	0.40	0.40
<i>TFL Rates</i>				
TFL to Digicel	0.55	0.55	0.44	0.44
TFL to Vodafone	0.55	0.55	0.44	0.44

Note: These rates are those which are not part of any particular plan.

This determination is delivered, as required by the Commerce Commission Decree 2010, has the following objectives:

- To direct a reduction in wholesale and thus retail call rates to convergence with market rates;
- Support Governments plan to accelerate ICT penetration if Fiji by outsourcing that charge to callers from outside Fiji;
- To reduce ICT costs components of Business, Government and the Household sector in Fiji;
- To ensure that network operators, who have made substantial investment into their network are able to receive a stable and predictable source of revenue *vis a vis* the light infrastructure operators.

Keeping these objectives in mind, the Commission has today undertaken the following determination:

- For all calls terminating into a mobile network, the interconnection rates is reduce by 23.5% (from F\$0.17 to F\$0.13 per minute);**
- For all incoming international calls, the terminating rate onto a local network operator is increased from US\$0.165 to US\$0.220);**
- Of the above rate, F\$0.06 will be paid by the operators to Government in the form of ICT levy to support Governments ICT Penetration work. For the last 10 months, with an ICT levy of F\$0.03, we collected F\$3m. With the increased rate, we expect a total of F\$8m for next only. This is from parties calling from outside Fiji.**
- For incoming international calls, which one operator hands over to another operator, apart from the interconnection rate, the handing over party must also pay a Special International Call Handling Levy of F\$0.09 to the network operator on which the call is terminated. This additional revenue can be used to build new network infrastructure and also maintain existing infrastructure.**

With these changes, we expect:

- Those operators bringing in international minutes to make increased revenue and thus profit;
- Network operators gaining additional revenue from international calls over and above the interconnection rate as Special International Call Handling Levy. This additional revenue can be used to build new network infrastructure and also maintain existing infrastructure.
- The network operators bringing in international minutes will pay Government an ICT levy which will boost government financially to undertake its ICT penetration activity.
- The reduction in mobile termination rates by 23.5% will bring down retail rates, if not by that rate, but close to that rate thus reducing ICT costs of business.

This determination will go a long way in reducing ICT costs thus boosting growth and development of Fiji's Economy. Later this week, we will formally write to all stakeholders in the industry to allocate technical staff with whom the Commission can work with to identify the rogue elements in the industry who would attempt to undercut the rates set by Commission thus depriving the country of millions of dollars of foreign exchange. In that letter, we will outline a methodology that we will adopt to deal with this issue.

Thanks you.

Dr Mahendra Reddy,

Chair, Fiji Commerce Commission.