Draft Myanmar Universal Service Strategy:

Comments from Myanmar Centre for Responsible Business

In its September 2015 Sector Wide Impact Assessment (SWIA) on the Information and Communication Technology sector in Myanmar[1], MCRB recommended that Myanmar accelerate the implementation of Myanmar's universal service commitments and in particular

- **Publically disclose the current national rollout requirements for operators,** compared with their current progress.
- Build on lessons learned in the World Bank supported programme of **extending connectivity to rural areas**.
- **Develop a Universal Service Strategy,** as a first step in the implementation of Chapter XV of the *2013 Telecommunications Law*. **Consult widely**, including with ethnic minorities and disadvantaged groups such as people with disabilities, to identify priority areas for the rollout of telecommunications service (both mobile and fixed line broadband service), for inclusion in the Universal Service Strategy and Fund.
- Clarify how the Universal Service Fund will support **Myanmar's commitment to the Alliance for Affordable Internet,** which is focused on realising entry-level broadband priced at less than 5% of monthly income, particularly in rural communities
- **Consider allocating Universal Service Funds to support community-based telecommunications networks** and provide wireless spectrum concessions to remote rural communities where telecommunications service is currently inaccessible. This will help promote the development of low-cost community-based telecommunications networks for last mile or last inch connectivity.

In line with MCRB's objective of working with other partners to increase the network of civil society organisations interested in digital rights, on 18-19 January 2018 MCRB together with Phandeeya, MIDO, Engage Media, co-hosted a second Digital Right Forum for around 130 participants.[2] At the Forum, the question of equal universal access was discussed. MCRB/MIDO briefed participants on the current consultation process on the Universal Service Strategy. Participants were polled on their views on equality of online access in Myanmar, with 59% seeing an improvement in equality of access, 27% believing it to be unchanged, and 14% believing it had deteriorated.

MCRB therefore welcomes the steps which the government is taking to adopt a Universal Service Strategy and establish a Universal Service Fund, and the public consultation on this issue.

MCRB particularly welcomes the fact that the draft Strategy already reflects many of the points previously raised by MCRB and others in discussions, including in the Digital Rights Forum, about remote populations who should be able to enjoy equal access as well as others excluded such as people with disabilities who will benefit from Program 3. We broadly welcome the approach outlined in the draft Strategy.

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[1] http://www.myanmar-responsiblebusiness.org/swia/ict.html

[2] http://www.myanmar-responsiblebusiness.org/news/digital-rights-forum-2018.html

The following comments reflect are mainly directed at ensuring the USF has an effective, transparent and independent governance system including for the selection and implementation of the projects.

Governing Body for Myanmar Universal Service Fund (Board of Trustees):

▪ Establishing an independent governing body is crucial to be able to operate the Fund independently from any political or other influence. The draft strategy does not mention the governance of the Universal Service Fund. However a presentation made at the consultation session mentioned that there will be a five-member body called the Universal Service Fund Board of Trustees, and that this will include two representatives from the government (MoTC and PTD) and one representative each from NTL Nominee, Consumer Association or Accountant, and independent ICT/USF Expert.   MCRB welcomes the presence of an ICT/USF expert, and believes that this person should be identified on the basis of clear ToRs/criteria, and in particular should have experience of governance of USF in other countries, and therefore could be a non-Myanmar citizen.

▪ MCRB further believes that it is important that at least one representative is from civil society, in particular representing consumer interests and the rights of users. Therefore this candidate should not be an alternative to an accountant. Rather, if the Fund requires financial or accounting advice, this should be in the form of expert advisers and not a member of the Board.

▪ While there are currently few organisations working on specifically on consumer issues for ICT and telecommunications products and services, our experience from discussions at the Digital Rights Forum and other contacts is that increasingly Myanmar consumer organisations are looking at these issues.

▪ Furthermore MCRB believes there is an additional case to have a second member of civil society on the board with specific interest and expertise in transparency and accountability. Certainly if the Board were increased to more than five, particularly with the addition of further government representatives, MCRB believes that at least two of the representatives should come from civil society.

▪ MCRB would be happy to assist the government in identifying a pool of candidates to draw from when identifying civil society participants. Alternatively the position(s) could be advertised based on clear criteria, including a requirement for the individual to have well-established networks with civil society and consumer groups.

▪ MCRB would also be interested to know whether the USF will be subject to audit, and whether this will be by an independent professional third party, or the Auditor-General.

Establishing flexible framework and targets

▪ The draft Strategy sets targets mainly on two main goals of the USF; **Availability** and **Accessibility**: basic mobile voice services available to 99% of the population, mobile broadband services to 95% of the population, and voice and data services for 28 national highways and roads. However, the other two goals **Affordability** and **Ability** are also important and should also be addressed with special measures and targets.

Mid-term evaluation process on the USF Strategy, targets, and its pilot projects

- According to global studies conducted by ITU and GSMA on USF, not all USFs have been successful in distributing funds and fulfilling the purposes of the Fund, for various reasons. One lesson learned from existing USFs is that due to rapid changes in technology in the ICT sector, an early and regular review process is required to allow Strategy to be modified to meet emerging needs and opportunities. The intention of ongoing monitoring of projects (Section 6.2) is therefore welcome. Furthermore, a mid-term review of the five year Strategy is therefore advisable, particularly as this is Myanmar's first such Strategy, including a review of the whether the definition and concept of the "Universal Access" and "basic communication services" is necessary.

Review of the 2% levy

- Currently, it is planned that 2% of the revenue will be collected from the licensed operators for the Fund. Some or all of this levy will be passed to consumers in the form of increased cost of services and therefore reducing **Affordability** which is one of the goal of the USF.

- Based on experience in other countries, MCRB is concerned that if the levy accumulates without being effectively spent, this will represent a pointless charge on customers, and also risks political pressure to spend the funds being spent for purposes other than universal service. MCRB therefore suggests the 2% levy should be reviewed after three years of collection to determine whether it is appropriate, or whether it is impacting Affordability for consumers.

- In particular, it should be noted that the contractual requirement for geographic and/or population coverage for operators, which is higher than in many other countries, has already ensured that the market has achieved over 90% population coverage without a requirement for a USF.

Transparency

- MCRB welcomes the intention to publish, '*as a minimum, annual reports that provide details of funds collected, funds disbursed, to which operator or service provider projects are awarded, how much funds they have received, key terms and conditions of their service agreement, status and achievements of project implementation and service provision, successes and problems encountered'.*

- MCRB believes that this annual report should be an explicit requirement included in any Law, Notification or Regulation establishing the Fund, and that the Annual Report should be widely available, including on the internet, and deposited with Parliament.

MCRB, 12 February 2018

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