



**DIGICEL (PNG) LIMITED**

**Submission to the National Information and Communications  
Technology Authority**

**Public Consultation into the Service-Specific Pricing Principles for  
Certain Declared Services – Methodology and Pricing Principles  
Public Consultation Paper**

**20 February 2026**

**This submission is provided to NICTA for the purpose of the current consultation  
only and may not be used for any other purpose**

## Introduction

1. This submission sets out the comments and views of Digicel (PNG) Limited (“Digicel PNG”) on the National Information and Communications Technology Authority (“NICTA”) *Discussion Paper titled Draft Service-Specific Pricing Principles for: Wholesale Service Declaration No. 1 of 2025, Wholesale Service Declaration No. 2 of 2025, and Wholesale Service Declaration No. 3 of 2025 – Public Consultation into the Service-Specific Pricing Principles for Certain Declared Services – Methodology and Pricing Principles* (“Consultation Paper”) issued on 23 December 2025.
2. Digicel PNG looks forward to being able to review and comment on any submissions being made by other parties and to seeing a draft decision from NICTA prior to NICTA making any decisions regarding the adoption of any service-specific pricing principles for the services described in the Consultation Paper.

## Preliminary Issues

3. Digicel PNG has serious concerns relating to NICTA's apparent intention to use Service-Specific Pricing Principles ("SSPPs") as a mechanism to determine "*maximum allowable prices*" for services that are declared ("Declared Services") pursuant to a decision of the Minister in accordance with section 130 of the *National Information and Communication Technology Act 2009* ("NICT Act")<sup>1</sup>.
4. This is because section 135 of the National Information and Communication Technology Act 2009 ("NICT Act") does not provide NICTA with any power to determine maximum allowable prices for Declared Services.
5. In particular, section 135(2) of the NICT Act only permits the SSPPs to "*contain **price related terms and conditions** (whether relating to a price or the method of ascertaining a price) and non-price terms and conditions relating to access to the declared service*" (**our emphasis**) and does not provide any power for NICTA to set the actual price (or maximum price) of the Declared Service itself.
6. This interpretation is also supported by section 133 of the NICT Act. While section 133 does permit NICTA to determine "model terms" for Declared Services, it restricts the ambit of any such model terms to be "*a selection of model **non-price terms and conditions relating to access to a declared service***" (our emphasis).
7. Instead, the power conferred on NICTA by section 135 of the NICT Act is to determine SSPPs for a declared service that NICTA "***shall have regard to ... if it is required to arbitrate an access dispute under this Part in relation to that declared service***". Section 135 does not intend for the SSPPs to become the primary or sole mechanism to be relied upon by NICTA for setting access prices.
8. This is confirmed by section 149 of the NICT Act, which mandates that the SSPPs are only one of the factors that NICTA is required to take into account when making a final determination, and states as follows:

*"(1) NICTA shall take the following matters into account in making a final determination*

*(a) the extent to which the determination is likely to further the achievement of the objective of this Part as set out in Section 124; **and***

*(b) the legitimate business interests of the access provider, and the access provider's investment in facilities used to supply the declared service; **and***

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<sup>1</sup> Consultation Paper at page 6 (paragraph 25) and sections 5(3), 20(3) and 35(3) of Annex A (Draft Determinations).

- (c) *the interests of all persons who have rights to use the declared service; **and***
- (d) *the general pricing principles and any relevant service-specific pricing principles; **and***
- (e) *the value to the access provider of extensions or enhancements of capability whose cost is borne by the access seeker pursuant to Section 134(1)(d); **and***
- (f) *the operational and technical requirements necessary to protect the integrity of, or for the safe and reliable operation of, an ICT service, a network or a facility; **and***
- (g) *may take into account any other matters that it thinks are relevant.” (emphasis added)*

9. Seeking to determine a maximum allowable price within the SSPPs would, in effect, predetermine the outcome of the dispute resolution process in circumstances where no disputes exist presently and mean that all of the other factors mandated by section 149 of the NICT Act would be disregarded.
10. Moreover, section 148 of the NICT Act contains a range of restrictions on both interim determinations and final determinations that may be made by NICTA. These legislative protections that are intended to protect the legitimate interests of access providers would be rendered nugatory in the event that NICTA used the SSPPs as a mechanism to predetermine the price (or maximum price) of the Declared Service.
11. Using the SSPPs as a mechanism to determine a price (including a maximum price) for a declared service is, in Digicel PNG’s submission, “beyond power”. If such an approach is adopted, it would be contrary to the intended meaning of and, among other things, frustrate the proper application of Divisions 5 and 6 of Part VI of the NICT Act.
12. Accordingly, Digicel PNG believes that NICTA should refrain from seeking to determine a maximum allowable price for the Declared Services and focus instead on the SSPPs that it would take into account (among other considerations) if ever called upon to arbitrate an access dispute.
13. Digicel PNG reserves its rights in relation to the above issues, and this submission is necessarily made on a strictly without prejudice basis

## Responses to NICTA's proposed methodology and pricing principles to be used for calculating cost-based prices of the declared services

14. Digicel PNG's comments in this section are made without prejudice to the concerns and reservations expressed above

### Appropriate approach to determine cost-based prices: International benchmarking or cost modelling

*Question 1. Do you agree with NICTA's view that either the cost modelling approach or the benchmarking approach could be consistent with the General Pricing Principles? If so, do you agree with NICTA's preference for using a cost modelling approach? Please explain your answer.*

15. Digicel PNG agrees that either the cost modelling approach or the benchmarking approach could be consistent with the General Pricing Principles and consider that, in the context of the Declared Services that are the subject of the Consultation Paper, comparability issues between jurisdictions are less likely to arise. This is particularly the case in the context of the wholesale international dedicated submarine cable capacity service and the international submarine cable facilities access service (Declaration No. 1 of 2025) and the wholesale Internet access service (Declaration No. 3 of 2025). That is because the provision of such services in Papua New Guinea is likely to be similar in all material respects to equivalent services that are provided in other international jurisdictions.
16. We further note that cost modelling is inevitably a lengthy process that may not be well suited to circumstances where NICTA is required to make an interim determination in accordance with the provisions of section 146 of the NICT Act.
17. Accordingly, Digicel PNG is of the view that NICTA should not have any *a priori* preference for cost modelling over international benchmarking, and that any decision on the approach to be adopted should be made in the context of a relevant access dispute.

### Modelling approach

*Question 2. Do you agree with NICTA's view that either approach, top-down, bottom-up, or hybrid for cost modelling may be used? Please explain your answer.*

18. In Digicel PNG's submission, the modelling approach adopted by NICTA must be consistent with section 134(2) of the NICT Act which states that "*efficient costs*" include the direct and indirectly attributable capital, operating and maintenance costs **actually incurred by the access provider in providing the declared service to itself and access seekers (including a reasonable contribution to any common costs), unless NICTA determines that such costs are inefficient having regard to the efficiency objective and any evidence before it**" (emphasis added).

19. In Digicel PNG's submission, the starting point for any cost analysis should therefore be the relevant access provider's actual deployed network and operating costs and not that of a hypothetical or notional operator.
20. We are also of the view that any cost modelling needs to reflect any regulatory obligations that are imposed on access providers, including coverage obligations imposed by the *Standard and Special Conditions of Individual Licences Rule 2025* "(Licences Rule 2025)".
21. In our view top down or hybrid modelling approaches are most likely to be consistent with these principles.

### Approach for allocating costs

*Question 3. Do you agree with NICTA's view that it should use either a LRIC+ [or] a FAC approach that includes fair and reasonable common and joint costs in its cost model? Please explain your answer.*

22. In Digicel PNG's submission, the modelling approach adopted by NICTA must be consistent with section 134(2) of the NICT Act which states that *"efficient costs" include the direct and indirectly attributable capital, operating and maintenance costs **actually incurred by the access provider** in providing the declared service to itself and access seekers (including a reasonable contribution to any common costs), unless NICTA determines that such costs are inefficient having regard to the efficiency objective and any evidence before it"* (emphasis added).
23. Digicel PNG notes that a LRIC+ or a FAC approach that includes fair and reasonable common and joint costs is likely to be consistent with the above requirement.

### Treatment of capital related costs

*Question 4: Are you in agreement with NICTA's view that the use of current cost accounting (CCA) to value the capital assets used for the supply of the Declared Services would reflect the efficient costs of those assets, and that historical accounting costs would not?*

*Question 5: Do you agree with the proposed approach for valuing assets by either (i) using the cost of replacement with the modern equivalent asset, or (ii) use as the cost of replacement, the economic cost of the depreciated assets in use? Please explain your answer.*

24. In Digicel PNG's submission, the modelling approach adopted by NICTA must be consistent with section 134(2) of the NICT Act which states that *"efficient costs" include the direct and indirectly attributable capital, operating and maintenance costs **actually incurred by the access provider** in providing the declared service to itself and access seekers (including a reasonable contribution to any common costs), unless NICTA determines that such costs are inefficient having regard to the efficiency objective and any evidence before it"* (emphasis added).
25. The starting point in any analysis must therefore be the relevant access provider's own *"direct and indirectly attributable capital, operating and maintenance costs **actually incurred** ... in providing the declared service to itself and access seekers"*. Any deviation

from this approach is likely to be inconsistent with the General Pricing Principles and the requirements of the NICT Act.

### Network topology for cost model

*Question 6: Do you agree that NICTA could use either a Scorched Earth, Scorched Node, or a Modified Scorched Node approach? Please explain your answer.*

*Question 7: Do you agree that NICTA should favor using either a Scorched Node approach or a Modified Scorched Node approach if there is sufficient information about the location of the reference operator's nodes?*

26. We are concerned that NICTA's proposed approach towards network topology is inconsistent with section 134(2) of the NICT Act which states that *"efficient costs" include the direct and indirectly attributable capital, operating and maintenance costs **actually incurred by the access provider** in providing the declared service to itself and access seekers (including a reasonable contribution to any common costs), unless NICTA determines that such costs are inefficient having regard to the efficiency objective and any evidence before it" (emphasis added).*
27. In Digicel PNG's submission, the starting point for any cost analysis should be the relevant access provider's actual deployed network and operating costs and not the assumed costs of a hypothetical or notional operator.
28. We are also of the view that any cost modelling needs to reflect the costs that access providers incur or would be obliged to incur in order to comply with any regulatory obligations that are imposed on access providers, including coverage obligations imposed by the Licences Rule 2025.

### Hypothetical or notional operator's network coverage and demand

*Question 8: Do you agree with NICTA's view that a cost model for the Declared Services should be based on a notional or hypothetical operator with a market share, network coverage, and facilities, similar or equivalent to that of PNG DataCo Limited, with reasonable adjustments, as needed to reflect efficient costs? Explain your answer.*

29. We are concerned that NICTA's proposed approach towards network coverage and facilities is inconsistent with section 134(2) of the NICT Act which states that *"efficient costs" include the direct and indirectly attributable capital, operating and maintenance costs **actually incurred by the access provider** in providing the declared service to itself and access seekers (including a reasonable contribution to any common costs), unless NICTA determines that such costs are inefficient having regard to the efficiency objective and any evidence before it" (emphasis added).*
30. In Digicel PNG's submission, the starting point for any cost analysis should be the relevant access provider's actual deployed network and operating costs and not the assumed costs of a hypothetical or notional operator.

31. We are also of the view that any cost modelling needs to reflect the costs that access providers incur or would be obliged to incur in order to comply with any regulatory obligations that are imposed on access providers, including coverage obligations imposed by the Licences Rule 2025.

#### Modelled services and service increment

*Question 9: Considering the cost model for the Wholesale International Dedicated Submarine Cable Capacity Service; do you agree with the proposed network components to be include in the hypothetical access provider's cost model along with the proposed services to be modelled?*

*Question 10: Considering the cost model for the International Submarine Cable Facilities Access Service; do you agree with the proposed component and services to be modelled? Please explain your answer.*

32. In Digicel PNG's submission, the modelling approach adopted by NICTA must be consistent with section 134(2) of the NICT Act which states that *"efficient costs" include the direct and indirectly attributable capital, operating and maintenance costs **actually incurred by the access provider** in providing the declared service to itself and access seekers (including a reasonable contribution to any common costs), unless NICTA determines that such costs are inefficient having regard to the efficiency objective and any evidence before it" (emphasis added).*
33. The starting point in any analysis must therefore be the relevant access provider's own *"direct and indirectly attributable capital, operating and maintenance costs **actually incurred** ... in providing the declared service to itself and access seekers".* Any deviation from this approach is likely to be inconsistent with the General Pricing Principles and the requirements of the NICT Act.

*Question 11: Do you agree with the proposed network components to be include in the hypothetical access provider's cost model along with the proposed services to be modelled?*

34. In Digicel PNG's submission, the modelling approach adopted by NICTA must be consistent with section 134(2) of the NICT Act which states that *"efficient costs" include the direct and indirectly attributable capital, operating and maintenance costs **actually incurred by the access provider** in providing the declared service to itself and access seekers (including a reasonable contribution to any common costs), unless NICTA determines that such costs are inefficient having regard to the efficiency objective and any evidence before it" (emphasis added).*
35. The starting point in any analysis must therefore be the relevant access provider's own *"direct and indirectly attributable capital, operating and maintenance costs **actually incurred** ... in providing the declared service to itself and access seekers".* Any deviation from this approach is likely to be inconsistent with the General Pricing Principles and the requirements of the NICT Act.

*Question 12: Do you agree with the proposed network components to be include in the hypothetical access provider's cost model along with the proposed services to be modelled?*

36. In Digicel PNG's submission, the modelling approach adopted by NICTA must be consistent with section 134(2) of the NICT Act which states that *"efficient costs" include the direct and indirectly attributable capital, operating and maintenance costs **actually incurred by the access provider** in providing the declared service to itself and access seekers (including a reasonable contribution to any common costs), unless NICTA determines that such costs are inefficient having regard to the efficiency objective and any evidence before it"* (emphasis added).
37. The starting point in any analysis must therefore be the relevant access provider's own *"direct and indirectly attributable capital, operating and maintenance costs **actually incurred** ... in providing the declared service to itself and access seekers".* Any deviation from this approach is likely to be inconsistent with the General Pricing Principles and the requirements of the NICT Act.

#### **Method to allocate joint and common costs to services**

*Question 13: Do you agree that for the allocation of network related joint and common costs, NICTA should use the capacity-based allocation? Please explain your reasons for why or why not.*

*Question 14: Do you agree that for the allocation of overhead common costs, NICTA should use the equal proportionate mark-up (EPMU) approach? Please explain your reasons for why or why not.*

38. We note that the proposed method to allocate joint and common costs to services is broadly in line with international practice. However, the application of such methodology will depend upon the circumstances of any access dispute that may be raised by an access seeker or an access provider.
39. Given that we are unaware of any access disputes currently existing, we consider it to be unnecessary for NICTA to determine this issue at the current time.

#### **Depreciation**

*Question 15: Do you agree that NICTA should use the tilted annuity approach to calculate the depreciation of assets? Please explain your reasons for why or why not.*

40. We note that the proposed tilted annuity approach to calculate the depreciation of assets is broadly in line with international practice. However, the application of such methodology will depend upon the circumstances of any access dispute that may be raised by an access seeker or an access provider.
41. Given that we are unaware of any access disputes currently existing, we consider it to be unnecessary for NICTA to determine this issue at the current time

#### **Approach to determine a reasonable rate of return**

*Question 16: Do you agree that NICTA should use the approach presented in the SSPPs to calculate the WACC for the access provider's cost model? Please explain your reasons for why or why not.*

42. We note that the proposed approach to calculate the WACC is broadly in line with international practice. However, the application of such methodology will depend upon the circumstances of any access dispute that may be raised by an access seeker or an access provider.
43. Given that we are unaware of any access disputes currently existing, we consider it to be unnecessary for NICTA to determine this issue at the current time

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