



24 May 2022

Mr Kila Gulo-Vui
Chief Executive Officer
National Information & Communication Technology Authority
PO Box 8444
Boroko
National Capital District

Dear Mr Gulo-Vui,

RE: SUBMISSION TO NICTA PUBLIC CONSULTATION ON POTENTIAL RETAIL SERVICES DETERMINATION IN RELATION TO VOICE AND DATA

We refer to your letter of 04 May 2022 extending the time for submission on the above matter from 06th May 2022 to 06th June 2022.

Enclosed is our submission in response to the public consultation. If you have any questions or queries regarding this matter, please do contact me on email at pkomboi@pngdataco.com or mobile +675 7699 7579.

Sincerely,

PAUL KOMBOI, OBE
Chief Executive Officer

Encl.

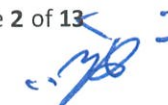


PNG DATA CO LIMITED SUBMISSION ON PUBLIC CONSULTATION FOR PROPOSED RETAIL SERVICES DETERMINATION IN RELATION TO VOICE AND DATA

NO.	NICTA'S INQUIRY	DATA CO'S RESPONSE
Q1.	<p>Do you agree with the approach that NICTA is taking to voice and data services for the purposes of this public inquiry, that it considering retail voice as a single service, with retail mobile data and retail fixed data as separate services? Please state your reasons including your reasons for any alternative approach that you consider should be adopted.</p>	<p>DataCo agrees that the boundaries are diminishing between fixed and mobile voice services as well as the OTT voice services provided over Data Services. However, in terms of regulating the termination services, the services need to be looked at separately as Fixed Terminating Access Services (FTAS) and Mobile Terminating Access Services (MTAS) at the wholesale voice termination services.</p> <p>DataCo agrees that the Retail Mobile Data Service should be seen as a different market or service from the retail Fixed Data Service given the cost structure as well as the ease of access and the current payments of the services. This service may lose its differentiation from the retail Fixed Service if the market transitions to introduce Wi-Fi Offload.</p> <p>DataCo's position is that Fixed Voice and Mobile Voice should be treated as separate services for the following reasons:-</p> <ol style="list-style-type: none"> (1) Fixed Voice and Mobile Voice are delivered via completely different network and technology platforms (therefore the costs of delivery of such services are fundamentally different); (2) Fixed Voice and Mobile Voice are largely delivered by two different operators with substantial degree of market power respectively (Telikom for Fixed Voice and Digicel for Mobile Voice); (3) Customers who use Fixed Voice and Mobile Voice are largely in different market segments and categories (i.e. over 90% of customers who use Fixed Voice services are corporate and government while majority of Mobile Voice customers are residential users); and (4) Fixed Voice and Mobile Voice products are experiencing completely different growth dynamics (i.e. fixed voice is a product well in decline while mobile voice is largely stable and even growing as new subscribers are added to the market). <p>In relation to the mobile data and fixed data services, DataCo agrees that those services should be treated as</p>



		separate services.
Q2.	Do you agree that the retail regulation criteria in Section 158 of the Act are satisfied in the case of retail voice service? Please state your reasons.	<p>DataCo agrees that the Retail Regulation Criteria in Section 158 are satisfactory in the case of retail voice service. This is due to the fact that there is a single player who has market power (control of 90% of the mobile customers) and that it has high headline voice call rates for off-net call and provides very low on-net calls.</p> <p>While on-net offerings and bundles are normal incentives provided in the sector, the danger is that in PNG the dominant player has about 90% of the market share and with club effect, ON-Net bundles and promotions will have anticompetitive advantages for the dominant player.</p> <p>Proposed regulatory periods of 3-5 years is reasonable and in line with similar other international regulatory practices. Specifically in relation to the Section 158 of the Act, in DataCo's view:-</p> <ol style="list-style-type: none"> (1) Digicel has a substantial degree of market power (by any count well over 80%); (2) the market power has persisted for a lengthy period of time which in our opinion has been for a period of 5-10 years; (3) retail customers have been exposed to higher prices due to the lack of effective and strong competition as well as regulations over this period; and (4) the operator has not been prevented from achieving return on assets. <p>On this basis it is highly likely that any regulatory determination is likely to benefit the retail customers.</p>
Q3.	Do you agree that Digicel has a substantial degree of power in the market for retail mobile data services? Do you consider that the other retail regulation criteria in Section 158 of the Act are satisfied	<p>DataCo is of the view that Digicel has substantial degree of market power in the market for retail mobile data services. Since the reduction by DataCo of its wholesale internet prices in 2018, 2019 and 2020, Digicel has not been making any real attempt to reducing its mobile data rates. It only began to slowly do so from 2021 due to the threat of a new entrant entering the market.</p> <p>In comparison, Telikom and/or Bmobile's mobile data rates were lower and better than Digicel's mobile data rates between 2018 to 2021. Despite this, Digicel rates remained relatively higher as they leveraged off their awareness of having advantage of the market power. DataCo's wholesale price reductions did not result in retail price reductions to some extent. In a perfectly competitive market, the operators would be competing on price to</p>



	<p>in respect of retail mobile data services? Please state your reasons.</p>	<p>retain their market positioning.</p> <p>It is also clear that the other retail regulation criteria in Section 158 of the Act are satisfactory in respect of retail mobile data services, in particular:-</p> <ol style="list-style-type: none"> (1) Duration of Digicel market power has persisted for an extended period of time of over 10 years; (2) Prices of Mobile Data services in PNG are one of the highest in the world (despite the significant reductions in Wholesale Internet prices in the recent three years; (3) Digicel, in DataCo's view, has been achieving over-sized returns on investment. Regulator has not conducted any detailed cost modelling studies to understand Digicel cost structure and determine cost levels relative to market prices and resulting margins. Without such cost model development and analysis, it is highly likely that Digicel has been making unreasonable returns. (DataCo on the other hand has completed such cost models analysis and has openly shared the results with NICTA and other telecom providers in order to demonstrate that DataCo wholesale prices are reasonable and that returns on investments are not oversized. <p>DataCo would strongly advocate for NICTA to conduct a retail mobile data cost modelling analysis and study which is a critical element required in order to accurately determine retail service cost levels, price margins and investment returns. Only by completing such an analysis, NICTA will be able to correctly determine the extent of market power of Digicel and quantify the retail service cost levels, price margins and investment returns.</p>
<p>Q4.</p>	<p>Do you consider that Telikom has a substantial degree of power in the market for retail fixed data services? Do you consider that the other retail regulation criteria in Section 158</p>	<p>DataCo does not consider that Telikom has a substantial degree of power in the market for fixed data services. This is due to the fact that there are many Internet Service Providers (ISPs) that are providing fixed data services through cable and wireless systems in PNG. Fixed data services are also mainly provided to business and government customers (not residential users). Contract duration and price negotiation process between business customers is different to residential. Typically list prices are used as a starting point in negotiation and final prices are signed based on volume commitments and contract durations. As such regulation of list prices of products primarily targeted at business and government customers does not make sense.</p>



	<p>of the Act are satisfied in relation to retail fixed data services? Please state your reasons.</p>	<p>While Telikom fixed line data services may look like monopoly there are also many other servicers which offer same functionality e.g. Satellite point-to-point services (offered by a significant number of companies (Intelsat, O3b/SES, Kacific, Speedcast, Viasat), Wireless Microwave Services, etc.</p>
<p>Q5.</p>	<p>Do you agree with NICTA's preliminary conclusions that, in respect of price and quality terms and conditions of service, the retail regulation criteria in Section 158 of the Act are not met or are unlikely to be met for retail voice and data services? Please state your reasons.</p>	<p>No – DataCo does not agree that the retail regulation criteria have not been met. In DataCo's view, the retail regulation criteria in Section 158 of the Act have and are been met – and most specifically for mobile data services.</p> <p>Specifically in relation to the Section 158 of the Act, DataCo is of the view that:-</p> <ol style="list-style-type: none"> (1) Digicel has a substantial degree of market power (by any count well over 80%); (2) the market power has persisted for a lengthy period of time of a period of 5-10 years; (3) retail customers have been exposed to higher prices due to the lack of effective and strong competition as well as regulations over this period; and (4) the operator has not been prevented from achieving return on assets and introduction of any regulatory measures should not prevent them from achieving a return on assets. <p>To further reflect on the above points:-</p> <ol style="list-style-type: none"> (a) Digicel' s substantial market power is clear very easy to empirically prove (number of subscribers, revenue, etc); (b) the duration of Digicel's market power is also easy to prove - follow the evidence of market share since 2007 and it will be denoted that the market power persisted for over 10 years; (c) while some minimal price reductions have obviously occurred over this extended period, the question is not simply about the existence of price reductions but the magnitudes of those. Digicel prices have remained one of the highest in the region and the world. This has had a prolonged negative effect on economic, social and educational development of society in PNG. It is well proven and evident that the GDP increases with higher penetration of mobile data services. The impact of persistently high prices of



		<p>internet in PNG for over a decade has cost the country dearly in respect to improvements to income and quality of life; and</p> <p>(d) in relation to return on assets and profitability no carrier other than DataCo has had any restrictions imposed on their prices or profit returns. While retail operators in a fully open and competitive environment should indeed be left largely undisturbed by the regulator, situation in PNG is far from that. Digicel market dominance urgently calls for a review especially from the perspective of outsized returns on investment. Any review of Digicel costs in order to determine the fairness of return on investment will also need to take into account inter-company payments and transfer pricing. Payments between Digicel entity in PNG and its related entities in other countries/markets will require scrutiny in order to determine that such transfers have not been used to create artificially high costs in order to justify the high service prices in PNG.</p>
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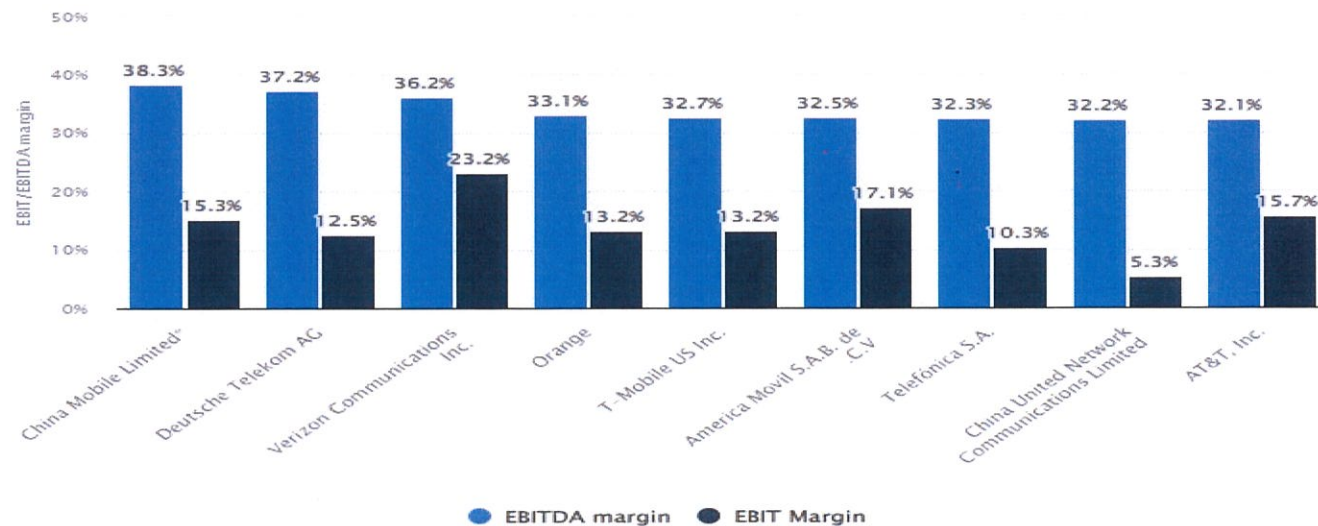
<p>Q6.</p>	<p>Do you agree with each of the conclusions of the retail price study as set out above? If not, which do you disagree with? Please state your reasons.</p>	<p>No – DataCo disagrees with NICTA in respect to conclusion that the retail regulation criteria are not met for voice and data services. NICTA as a regulator should be taking a pro-active role in regulation of the telecom market. This means that regulation should be developed from the perspective of consumer protection primarily and secondary consideration should be given to the telecom companies, their profits and returns on investments.</p> <p>NICTA has for over a decade taken an approach of ‘wait and see’ which has resulted in some of the highest retail prices in the region and creation of one of the strongest telecom monopoly companies in the world. This is not the best outcome for people and consumers of PNG. Market forces will over time create competition which will result in fairer prices for consumers but this has taken over a decade in PNG and is still not completed, thus an intervention from the regulator to expedite this process is well justified.</p> <p>Assertion that the CS2 submarine cable alone will lead to reduction in retail prices is wrong and misleading to consumers, government and businesses in PNG. DataCo via CS2 cable (and other infrastructure) provides critical Wholesale Internet services to retail telecom operators. However, this service is only one of the input costs contributing into the total cost of retail internet services to the consumer.</p>
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According to the Lowy Institute, Digicel revenue in PNG is around US\$340 Million (PGK 1.2 Billion) with EBITDA margin of US\$160 Million (PGK 560 Million). This equates to EBITDA margin of almost 50% which would make this one of the most profitable telecom companies in the world.¹

For comparison represented below in **Figure 1** are EBITDA margins of some of other global leading telecom companies. As shown in Figure 1, not one of these global telecom companies has the EBITDA % margin above 40%. Digicel's EBITDA margin is close to 50%.²

Figure 1: EBITDA Margins of Telecom Companies



Based on DataCo's assessment, Digicel currently consumes around 30 Gbps of Wholesale Internet capacity. Around one third of this is supplied by DataCo at cost of around K20 million per year. If DataCo was to provide 100% of Digicel Wholesale Internet demand that cost would be K60 million. This would be equivalent to

¹ Source: <https://www.lowyinstitute.org/the-interpreter/debt-threatens-digicel-s-pacific-dominance>

² Source: <https://www.statista.com/statistics/1150597/ebit-ebitda-margins-telco>



		<p>around 5% of total Digicel revenue or around 10% of operating costs. Furthermore, if DataCo were to reduce its prices to 0 and provide all the capacity to Digicel for free, the impact on Digicel would be a reduction of only 10% of their overall operating costs. Therefore, it is obvious that no matter how low the wholesale internet prices are reduced, or even if the services are provided for free by DataCo, unless Digicel as a leading operator actually reduces the retail prices, none of these price reductions in the wholesale market will be passed onto the consumers in PNG.</p>
<p>Q7.</p>	<p>Do you wish to make any comments or observations in relation to new entry and change of ownership in relation to the retail service markets under discussion? In particular, do you consider that these are relevant matters for NICTA to take into account in considering regulatory intervention in these markets? Please state your reasons.</p>	<p>Any new market entry to PNG retail telecom market is a positive outcome. It will create more price competition and improve services for consumers. NICTA's assertion in Point 8.2 and 8.4 of the discussion paper that the price ceiling would dissuade or deter a new market entrant is completely wrong. Any price regulation would only apply to the dominant market operator (i.e. Digicel). New market entrant whose market share is under 50% would obviously not be subject to such price regulation. Price regulation structured on this basis will not impede new market entrants and discourage investment and creation of new telecom companies in PNG.</p> <p>The opportunity for NICTA to intervene now and institute some regulations on the Dominant Market player in the retail market was through the change of ownership or license or even at the renewal of the licenses it holds. Unfortunately, we understand that this window has already lapsed and is no-longer valid at the time of drafting this response. However, we have made this call earlier to ICCC through its process. NICTA unfortunately did not have a process which could also seek views from the public or key interest stakeholders before deciding on the approval to accept change of ownership of licenses.</p>
<p>Q8.</p>	<p>Do you agree that the retail regulation criteria in Section 158</p>	<p>Yes. DataCo agrees with the problem statement and general analysis in question 8. There are however tools, other than retail price regulation, at the disposal of NICTA. One example is the introduction of differentiated interconnection rates, forcing operators with Significant Market Power (SMP) to offer drastically lower</p>



<p>of the Act are satisfied in relation to a retail service determination to prohibit on-net/off-net price discrimination of retail voice calls, or, at least, retail mobile voice calls? Please state your reasons.</p>	<p>interconnection rates than those of operators with smaller market shares and new entrants to the market. This would significantly reduce the financial benefits for the SMP operator(s) and make it easier for the new and smaller operators to compete. A combination of retail and wholesale (significantly differentiated interconnection rates) regulation may prove the most effective.</p>																																
<p>Q9. Do you agree that no action needs to be taken in relation to the price or other terms of low usage voice or data service offers or bundles at this time? Please state your reasons.</p>	<p>Based on the review of existing Mobile Data plans it would appear that the Low Income Plans currently available in the PNG market are not creating a disadvantage for customers who purchase such plans from Bemobile. Difference in per GB price of low-end and high-end plans is only K1 (i.e. K6 for low-end and K5) or K0.1 for May 2022 Promo. Bemobile standard data plans reflect a cost of K6 per GB of data at the low end while at high end this price is K5 per GB. This price difference is reasonable considering volumes and overall price structure.</p> <p>Represented below in Table 1 is the Bemobile data plans.</p> <p>Table 1: Bemobile data plans</p> <table border="1" data-bbox="645 1007 1890 1198"> <thead> <tr> <th colspan="2">Bemobile Plans</th> <th></th> <th></th> <th></th> <th></th> <th></th> <th></th> </tr> </thead> <tbody> <tr> <td>GB</td> <td>0.5</td> <td>1</td> <td>2</td> <td>5</td> <td>10</td> <td>20</td> <td>30</td> </tr> <tr> <td>Price</td> <td>3</td> <td>6</td> <td>12</td> <td>30</td> <td>55</td> <td>110</td> <td>150</td> </tr> <tr> <td>Price per GB</td> <td>6</td> <td>6</td> <td>6</td> <td>6</td> <td>5.5</td> <td>5.5</td> <td>5</td> </tr> </tbody> </table>	Bemobile Plans								GB	0.5	1	2	5	10	20	30	Price	3	6	12	30	55	110	150	Price per GB	6	6	6	6	5.5	5.5	5
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3G & 4GLTE CHEAP MOBILE DATA PLANS



In **Table 2**, Bemobile May 2022 promo plans reflect a cost of K0.6 per GB of data at the low end while at high end this price is K0.5 per GB. This price difference is reasonable considering volumes and overall price structure.

Table 2: Bemobile May 2022 data plans

Bmobile Plans MAYHEM							
GB	5	10	20	50	100	200	300
Price	3	6	12	30	55	110	150
Price per GB	0.6	0.6	0.6	0.6	0.55	0.55	0.5




However, in comparison, Digicel plans do seem to be creating a disadvantage for low-end users. For equal price comparison DataCo is taking the cost of K20 for Club membership into account as this is the pre-condition for access to Red Club special prices. If you take the Digicel Red Club Plans we have the following as showing in **Table 3**.

Table 3: Digicel Red Club Pricing

DIGICEL Red Club					
Club Cost	Data Plan Cost	TOTAL PGK	GB	Days	Price Per GB
K20	K3	K23	0.75	1	K30.67
K20	K5	K25	2	1	K16.67
K20	K10	K30	4	1	K7.50
K20	K10	K30	1	7	K30.00
K20	K20	K40	3	7	K16.00
K20	K50	K70	10	7	K7.00
K20	K100	K120	20	30	K6.00
K20	K200	K220	50	30	K4.40
K20	K300	K320	100	30	K3.20

In case of Digicel plans difference in per GB cost of lowest-end plan and-high-end plans is very high - indeed almost ten times. Specifically for low-end plans K30 per GB and the high-end plan K3.20 per GB. Digicel plans price curve in **Figure 2** clearly demonstrates this price disadvantage around low-income plans.


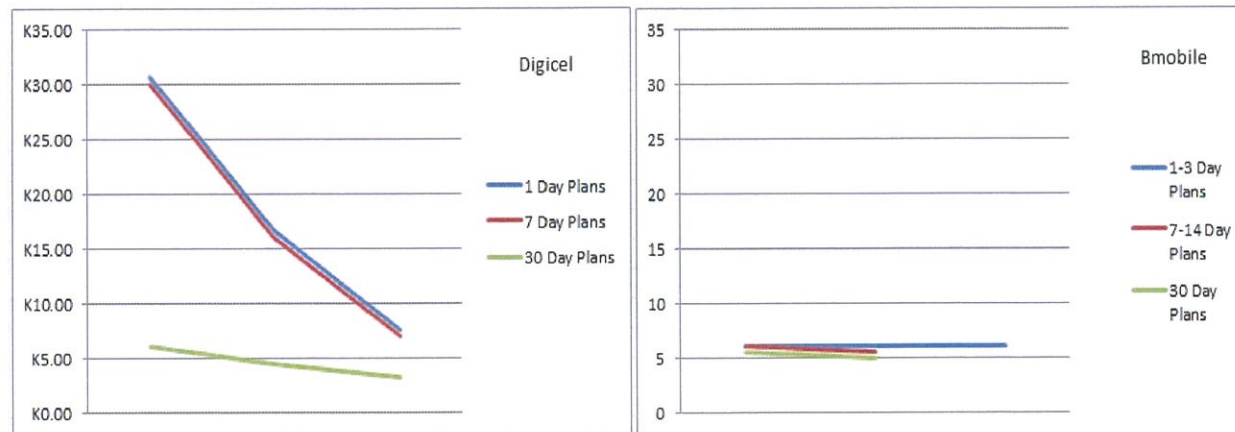


Figure 2: Digicel price curve



This sort of price discrimination against the lower income users by Digicel is outright discriminatory and deserves a further investigation by NICTA or ICC.

Q10 Additional Comments and Observations

- The Retail pricing study spectacularly fails in its attempt *to determine how tariffs and promotional offers had changed over the previous 2-3 years*. An example of failure is the complete absence of a relative comparison of prices of the different operators in the market. The report chose to focus on “standard tariffs” and invent a measure called Value (likely only used by a very small percentage of customers and for a small part of the total usage). The report calls this a “value comparison” and measures the value of an operator’s various plans as the difference to their “standard tariffs”. This is not the relevant definition of value. (It should consider using #GB’s/\$? To compare price between different operator offers). Thus, a value comparison between operators in our view has not been done.
- In relation to Figure 2.1 of the report, DataCo’s view is that this is **NOT** correct for Bmobile. In the 1st July 2019 re-pricing alone, there were six new plans at 80% discount. Furthermore, counting the number of



		<p>new and changed plans say nothing about prices and the customer value.</p> <ul style="list-style-type: none"> ▪ In terms of Telikom Fixed, the report disregards the fact that prices dropped 80% on 1st July 2019. Instead, it focused on the absence of increases in Data amounts and duration of the plans. Questions are raised on why this was the only focus. ▪ The report omits to mention that the wholesale cost (CS2 capacity, internet upstream costs, etc) only make up a small minority of the costs to provide retail/enterprise internet services (probably in the mid to high single digit percentage range of the retail price). As a result, reductions of COGS (excluding wholesale internet), SG&A, Depreciation and MARGIN will play a far greater role in reducing retail prices. ▪ The entire discussion and analysis of different obscure measures such as “value comparison” and “number of changes” is utterly irrelevant in the context of complete omission of the fact that Digicel is dominant in the identified relevant market ▪ Comments on other questions in the study include: - <p>(1) Standard tariffs for voice and data services have remained unchanged since 2018 and in most cases considerably longer.</p> <p>Standard tariffs are however only used by a very small percentage of customers and for a very small part of their total usage. Standard tariffs are therefore close to irrelevant for the understanding of the development of the market. A far more interesting and relevant study would have been to look at the actual average prices paid by customers to each operator per GB or minute over the period, for most popular plans. This would have made it possible to answer the single most important question about the market: Is the dominant player charging higher prices than everyone else?</p>
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	<p>(2) Multiple tariff bundles – for data only services and for mixed voice and data services - have been introduced by all operators over the study period, mostly on a short term or promotional offer basis.</p> <p>While this is largely correct for the market as a whole it is entirely correct for Digicel’s bundles. It is however not correct for the other players in the market who introduced new plans in July 2019, on average 80% cheaper than previous plans and, which were not short term or on a promotional basis.</p> <p>(3) Bundles are the new norm for voice and data service provision, and it is in this area that service competition plays out in PNG. This is a global trend as well.</p> <p>Yes – agreed.</p> <p>(4) The value of mobile bundles – both mixed and data only – has improved materially over the past 3 years, with value measured against the yardstick of the static standard tariffs.</p> <p>The definition of value as the price difference between an operator’s various plans/bundles and their “Standard tariffs” is flawed. Why not just use price per product unit? This makes a value comparison between operators possible, something that is utterly relevant to the understanding of the functionality and health of the market.</p> <p>(5) The value of fixed data bundles for residential and business customers has improved since 2018.</p> <p>Yes. Telikom PNG prices dropped by an average of 80% in July 2019.</p> <p>(6) The affordability of mobile data bundles and of fixed data bundles have improved since 2018.</p> <p>Yes. But there is a question as to why there was no absolute comparison made between Digicel and Bemobile.</p> <p>(7) The price of most data bundles in PNG – measured in terms of price per GB of capacity – is materially above the price of equivalent bundles in other Pacific nations.</p> <p>Yes – DataCo agrees with this observation.</p>
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