



November 3, 2020

Mr. Kila Gulo-Vui
Chief Executive Officer
National Information and Communications Technology Authority
P. O Box 8222
BOROKO 111
National Capital District

Dear Mr. Gulo - Vui

SUBJECT: CONSULTATION ON DRAFT AMENDED SERVICE SPECIFIC PRICING PRINCIPLES RELATING TO DECLARED BROADBAND CAPACITY AND INTERNATIONAL SUBMARINE CABLE SERVICES

Thank you for your letter of 28th October 2020. PNG DataCo Limited ("**DataCo**") appreciates this opportunity to respond to some of the comments raised by Digicel PNG and Telikom PNG in their submissions.

Neither Digicel nor Telikom would have been aware of the two new issues raised by DataCo in its own submission: Service Definition (G) and Cost Mark-up (H). However, both were party to the workshop on DataCo's RIO on 6th October and would have received the 10 points note (appended below) prepared after the workshop. Hopefully, the workshop and appended note address any questions they may have had in relation to the new issues in DataCo's August submission.

On the responses to the issues raised by NICTA's 24th July Consultation Paper:

A) Single price – Telikom objects to having a single price for all cables. While the cables do have different costs, the comparison with domestic transmission zones is wrong. The different costs of providing metro versus national transmission has no counterpart with the cost of providing global internet.

Digicel agrees with a single price but says it should be based on only the Coral Sea. Digicel does not realise that APNG2 is not included in the holistic model (Digicel 11 f).

Digicel is correct to think that the service availability level on submarine capacity is better than 98.5%. With the fibre ring comprising the Coral Sea, Kumul and PPC1 cables, service availability in the core network is now 99.9%. This would apply to the commercial IPLC service.

However, for the WIS and all tails redundancy and protection can be provided only with extra work. The "protection at extra cost" in the rate card refers to tails. DataCo is currently developing this tail protection service.

B) Maximum average price – Both Digicel and Telikom are unhappy about this because they think it is less transparent than before. The December 2019 Determination defined the "*maximum price*". The term "*maximum average price*" is clunky. However, DataCo notes that in a letter to Digicel on 16th October on the relationship between the consultations on the SSPPs and the RIO NICTA says, "*the proposed amended SSPP prices are average*

yes, you'll be covered



wholesale prices that relate to the declared international submarine capacity service". This is clear.

Digicel argues for a rate card (12 e to j), which might seem a sensible approach. But it is impractical to seek NICTA approval for every change in a rate card. DataCo has to show NICTA that the effective average price it receives in a period is in compliance with the final SSPP Determination. To do that DataCo may need to make cuts in tariffs.

Measuring compliance should not be a public process. The proposed compliance process has international precedent (Digicel 12 c), as noted in DataCo's August Submission.

There is complete transparency in the rate card attached to the proposed RIO. The rate card is both public and non-discriminatory. This does not allow DataCo to "game" the system (Digicel 12 b iv).

Digicel complains that it has no visibility of the cost model (12 k) and suggests a completely new benchmarking approach (12 l); which is unnecessary and undesirable. Since August it has participated in the October workshop on the model. There is no need for benchmarking.

The proposal for "*aggregating capacity purchased*" (Digicel 12 m) would set a dangerous precedent for domestic transmission. It would not be illegal for DataCo to effectively discriminate in favour of very large customers in this way. But there are already volume discounts in the rate card. DataCo is not inclined to offer extra aggregation discounts.

DataCo will ensure that it prices services to all customers according to the rate card (Digicel 12 d and o).

C) Indicative prices – Both Digicel and Telikom are comfortable with this subject to caveats.

Telikom restates its preference for pricing by individual cables and says it has concerns about the timing of the process of price revisions. The first concern was addressed above.

Digicel thinks the first regulatory period to 31st December 2020 is too short (Digicel 13 b). DataCo agrees and suggests that the initial regulatory period end on 31st December 2021. Subsequently, regulatory periods should be calendar years to be practical.

Like Digicel, DataCo believes that re-setting annual prices through a public consultation process would impose a cost burden on the industry (Digicel 13 b). Digicel points to Section 135(4) of the Act. Also, Section 142(5) of the Act says that a proposed variation of the RIO is subject to a 4-week consultation.

However, replacing "indicative" prices with regulated average prices would not be a variation of the final SSPP Determination. The footnotes to Schedule 1 of the draft amended SSPP Determination anticipate the process. They would not be variations of the Determination; only updates of Schedule 1 as defined in the Determination.

Similarly, resets of the rate card attached to the RIO are not variations.

D) Compliance – Digicel, Telikom and DataCo all agree that compliance can be assessed only retrospectively. Digicel and Telikom raise their concerns about complexity which were discussed in comments in A to C.

Digicel has issues with how "refunds" would be handled (14 e). But it is not intended that refunds be made retrospectively – this is dealt with in DataCo's submission. If the average

revenue per Mbps is higher than justified by unit costs over the year, then the allowed average revenue per Mbps is adjusted down in the subsequent year.

Digicel is aware that DataCo now believes that the prices set in the proposed RIO are lower than warranted by downward revisions of demand. DataCo has already agreed to abide by these prices which underpin recent contracts signed by Digicel.

The draft amended SSPP Determination requires NICTA to undertake its first annual review as soon as possible in Q1 of 2021. Since almost all the data it would need for such a review was available for setting current prices and if the initial regulatory period runs to 31st December 2021, any review is unlikely to change prices much, if at all.

- E) Review** – All agree with annual pricing reviews after complete data for the closing year is known and new projections are available.

NICTA proposes replacing an “indicative” rate with a committed average revenue per Mbps per month in Schedule 1 to the final SSPP. If this is considered a variation that has been made subject to a 4-week public consultation process, the alternative is to change the rate card attached to the RIO.

- F) Commencement date** – Both Digicel and Telikom suggest new start dates of 1st October and 1st September respectively. DataCo believes all parties would like to see commencement as soon as possible. More importantly, DataCo believes that the industry would welcome the certainty provided by an initial regulatory period ending 31st December 2021.

As mentioned, the new issues raised by DataCo are not covered in the other August submissions:

- G) Service definitions** – Although Telikom had not seen DataCo’s submission, it believes that the submarine cable capacity service is narrowly defined. DataCo agrees.

Telikom also raises the vexed issue of the difference between wholesale and retail in relation to access to wholesale and retail markets. DataCo believes that this debate falls outside the scope of the SSPP and associated RIO consultations.

- H) Cost mark-up** – no discussion as neither Digicel nor Telikom had seen the DataCo submission.

Please do contact the undersign on email at pkomboi@pngdataco.com or mobile 76997579 for further information regarding the same.

Sincerely,



PAUL KOMBOI, OBE
Chief Executive Officer

Appendix

On 6th October DataCo organized an industry workshop on its pricing models. The following notes recap our responses to a few points that were raised then.

1. Everyone understands that the Draft Determination and the RIO are closely related. Both are subject to the current consultations. But DataCo can say that it believes the commercial rate cards in the RIO are consistent with the Draft Determination's "max. average price".
2. Both the top-down (FAC) and bottom-up (BBM) cost models calculate a single, aggregate cost of international capacity as the unit cost per Mbps.
3. The denominator is the forecast of sold international capacity. While forecasts have been revised down since the models were used to inform NICTA and set prices in the RIO, DataCo has chosen not to revise pricing because all forecasts will be subject to error. Unit costs are very sensitive to volume.
4. The rate cards in the RIO show that purchase of higher capacity have lower costs per Mbps than smaller purchases. This is standard industry practice for the structure of pricing. There is no allocation of costs to different bandwidths.
5. The RIO includes pricing for domestic fibre services. These are declared services. If NICTA accepts the RIO after due process, this avoids the need to run a new process for determining regulated domestic prices.
6. The determined price is forward looking. Nobody will know if the rate card complies with the "max average price" until the end of the period because the average will depend upon the mix of purchases during the period.
7. If the average price is above (below) the determined average, there will be a carry-forward to the next period; as described in Section C of DataCo's August 2020 submission on the Draft Revised Determination.
8. DataCo's estimation of the unit costs of international capacity are based on a hybrid of the FAC and BBM cost models. The FAC model uses only costs defined in the GL. It does not include the return to capital; the WACC. The return to capital is taken from the bottom-up model and added to the FAC, after deducting interest costs in the FAC model (the actual payments for debt). This is the same approach used by Ofcom; as explained in DataCo's August 2020 submission.
9. There is no difference between the replacement cost and book value of submarine cables because CS2 and Kumul are new. APNG2 costs are excluded from the BBM model. PPC1 is not on DataCo's books as an asset and payments to Telikom for the right to use it are treated as O&M in both models. In both models only 25% of the costs of Kumul are included as part of the international service. The models are explicit about what percentage of current (and future) fibre cables are used to carry international capacity services.
10. The "chicken and egg" has nothing to do with cost-based pricing. DataCo is entitled to cost recovery. If a business case can be made for a profitable cut to prices, DataCo could consider this.