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Mr. Charles Punaha
Chief Executive Officer
NICTA
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Dear Mr. Punaha

Public Consultation Document: Service-Specific Pricing Principles (Submarine Cable Access Services)

We refer to the subject Public Consultation Document and note that the consultation document provided that submissions were due on 26 August 2013. As 26 August 2013 was a public holiday (Covenant Day), we provide our submission today, being the first business day after.

Our submissions are as follows.

1. The Government of Papua New Guinea, through its Minister for Information and Communications has declared two services related to the supply of submarine cable transmission. These are:

    - International submarine cable transmission capacity service; and

    - International submarine cable gateway access service,

    Together being the "***services***".

2. In accordance with the *National Information and Communications Technology Authority Act 2009* (the ***Act***), NICTA is obliged to determine service specific pricing principles for the services, within six months of 21 March 2013 (the date of declaration). Pursuant to this obligation, NICTA has issued a consultation paper which proposes that the price of both services will be determined with reference to the TSLRIC+ concept, or fully allocated costs (FAC), or a hybrid of both methods.

3. TSLRIC+ and FAC are both forms of average cost, taking explicit account of the common costs of an access provider that offers several different services. In the present context that seems entirely appropriate. It is well known that access prices that do not include a common cost contribution run the risk of under-remunerating the service provider, which would be contrary to the General Pricing Principles under section 134 of the Act. Since the service-specific pricing principles must also respect the general pricing principles, it seems that NICTA could not use a pricing concept that included a risk of under-recovery of efficient costs.

4. Of the two options, TSLRIC+ is the more rigorous, providing a clearer definition of both incremental and common costs. However, as a practical matter FAC is often better suited to existing accounting systems and therefore easier (and less costly) to implement. Another difference between TSLRIC+ and FAC is that, because the latter is more closely tied to actual costs, it has a weaker connection to the notion of "efficient" costs. Efficient costs are the standard approach in a TSLRIC+ model, and NICTA clearly (and appropriately) envisages basing its decisions on efficient costs. If NICTA proceeds with allowing FAC as an option, it may be useful to add an explicit reference to efficient costs, though it would be difficult to use any other interpretation given the wording of s134(1)(a) and the definition of "efficient costs".

5. Items (4) to (7) of NICTA's proposed service-specific pricing principles for each service give effect to the above concepts, emphasising that NICTA will need to take a view on a range of matters that are inputs into, say, a TSLRIC+ calculation. These include:

    - Operational efficiencies including economies of scale and scope;
    - The economic life of the assets used to provide the services; and
    - A normal, risk adjusted rate of return on the capital invested by the access provider.

6. These are necessary inputs, without which it would be impossible to develop an estimate of the TSLRIC+ or the FAC of the declared services. It is therefore appropriate to note that NICTA will need them.

7. Similarly, NICTA proposes to reserve the right to obtain information relevant to its decision-making from all potentially useful sources including both the access provider and the access seekers. We consider this prudent. In moving from the receipt of information to a calculation of cost/price, we would expect NICTA to have regard to the likely reliability and accuracy of its information.

8. The above comments relate to the basic costing approach proposed by NICTA. In addition, the draft principles address price discrimination and product differentiation in respect of the transmission service. In particular, it is envisaged that:

- there may be different transmission products, with pricing that reflects different levels of reliability (e.g. in the case of partial outages); but
- price discrimination should generally be limited to cost differences.

9. There are two other dimensions in which pricing might vary according to the definition of the service: volume of capacity and term of contract. A transmission access seeker that wants a large volume over a long term is starting to have similar economic characteristics to an investor in the cable. Such "anchor tenants" play an important role in getting cables installed and there is an open question as to whether, and to what extent, their pricing should reflect the associated transfer of risk (from investor to access seeker). We consider there would be a case for discounting in such cases.

It would be useful for NICTA to consider this point and modify the draft principles to recognise it as a possibility.

Yours sincerely

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