



**TELIKOM PNG LIMITED**

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31st August, 2020

**Mr. Charles S. Punaha**  
Chief Executive Officer  
National Information & Communication Technology Authority  
P.O Box 8444  
BOROKO  
N.C.D

Dear Mr. Punaha,

**SUBJECT: SUBMISSION TO NICTA PUBLIC CONSULTATION ON THE DRAFT AMENDED  
WHOLESALE PRICING PRINCIPLES FOR BROADBAND CAPACITY SERVICES AND  
INTERNATIONAL SUBMARINE CABLE SERVICES**

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Telikom PNG Limited acknowledges NICTA's initiative in putting forth the Public Consultation on its draft amended wholesale pricing principles for broadband capacity services and international submarine cable services, dated 24<sup>th</sup> July 2020, for discussions with the PNG ICT industry.

Our brief views contained in the attached paper are in response to the key issues outlined in the NICTA Discussion Paper on the subject.

We wish to advise that Telikom has reduced its retail internet prices by up to 80% recently. Hence, further reduction would be unbeneficial for Telikom due to its high overall fixed costs despite the expected trickling effects of the wholesale price reduction.

In addition, Telikom strongly recommends that the draft amended wholesale pricing principles for broadband capacity services and international submarine cable services be finalized after the current consultation processes on the Reference Interconnection Offer (RIO) from PNG DataCo Limited on various wholesale access service is finalized.

Yours sincerely,

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**Mr. Noel Kera**  
KTHL Group Head of Legal & Regulatory Services



**TELIKOM PNG**  
of Telecommunications & Information Services

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## **Telikom PNG Limited**

Response to  
Public Consultation on the

**"DRAFT AMENDED WHOLESALE PRICING PRINCIPLES FOR BROADBAND  
CAPACITY SERVICES AND INTERNATIONAL SUBMARINE CABLE SERVICES"**

**Monday: 31st August, 2020**

## **"PUBLIC CONSULTATION ON THE "DRAFT AMENDED WHOLESALE PRICING PRINCIPLES FOR BROADBAND CAPACITY SERVICES AND INTERNATIONAL SUBMARINE CABLE SERVICES"**

### **1. INTRODUCTION**

This paper is in response to NICTA's request for the public to engage in Public Consultation in accordance with Section 229 of the NICT Act in relation to the Draft Amended Wholesale Pricing Principles for Broadband Capacity Services and International Submarine Cable Services.

### **2. BACKGROUND**

Telikom is aware of the review that NICTA has undertaken on the Determination of Wholesale Pricing Principles for Broadband Capacity Services and International Submarine Cable Services.

The international submarine cable transmission capacity service, the international submarine cable gateway access service, and the international submarine cable duct access service have been declared on 18<sup>th</sup> February 2019 by the Minister for Communications and Information Technology under Section 130 of the NICT Act. NICTA then made a formal Determination under the Act setting out the Service-Specific Pricing Principles on 19<sup>th</sup> December 2019 that would apply from 1<sup>st</sup> January, 2020 in relation to Wholesale International Submarine Cable Transmission Capacity Services (the Declared Service). The Determination related to the provision of the Declared Service over four separate Submarine Cable Systems, APNG-2, PPC-1, Coral Sea Cable, and the national Kumul Cable which is operated by PNG DataCo Ltd ("DataCo").

DataCo disagreed with the Determination and appealed for a review to be undertaken. The Appeal was completed and the decision was to stay the Determination. NICTA has then reviewed the Determination and made amendments based on availability of better information on costs and demand for Capacity Services provided by the Submarine and Domestic Optic Fiber Cable Systems.

### **3. TELIKOM's VIEWS**

Telikom acknowledges that the wholesale internet price reduction is good for the Telecommunication and ICT industry in PNG as it would encourage growth and competition. However, Telikom gives its views in light to the amendments made to the Determination by NICTA particularly on the outlined Key Issues stated in the Discussion Paper and comments on other issues identified.



Key Issues as per amendment by NICTA.	TELIKOM PNG's responses accordingly:
<b>A. Single price for all international submarine cable systems</b>	<p>Telikom disagrees with one single price for all international submarine cable systems because all submarine cable systems have different cost elements regardless of the point stated in paragraph 3.3 that <i>"DataCo provides international capacity services in a matter that is contractually independent of the specific submarine cable system used to supply the service."</i></p> <p>Telikom strongly recommends that different prices should be set for each submarine cable system similar to the outline presented in the current price Schedule 1 Maximum Prices of the Determination because it is understood that each system has different costing elements, asset depreciation, maintenance contracts, and other varying elements. In addition, different prices should be set for the different time periods. We refer NICTA to KTHL's submission of July 2018 in NICTA's Potential Declaration of Services consultation stating, <i>"Telikom and DataCo segment demand by metro (sometimes local or same zone), adjacent zone and non-adjacent zone. This reflects differences in (unknown) supply costs. OF transmission between two points of actual (or potential) interconnection is not homogeneous. Costs are driven by capacity and distance."</i> Furthermore NICTA was required to <i>"have to develop cost models for different zones reflecting the influence of capacity and distance"</i>.</p>
<b>B. Maximum average price rather than maximum price</b>	<p>Telikom disagrees with the maximum average prices rather than maximum prices because price regulation may be challenging since no set maximum price is determined. This is reflected in paragraph 3.7, line 3 of the Discussion Paper, which states, <i>"with maximum price levels all parties and the regulator can immediately see whether a particular price is compliant or not. With maximum average prices over an extended period compliance can only be assessed at the end of that period when total revenues and demand have been reported and the calculation of an average has been carried out."</i></p> <p>From the perspective of a wholesale customer, Telikom considers that maximum prices should be set for ease and effectiveness of ex-ante regulation.</p>
<b>C. Indicative prices</b>	<p>Indicative prices are probably good. However, the challenge would be for DataCo to provide data (revenue forecasts &amp; demand) to NICTA on a timely basis to ensure maximum average prices are set on a timely manner for each time periods and</p>

	<p>business is not disrupted.</p> <p>Therefore, Telikom supports its arguments under Key Issues A and B and strongly recommends for different maximum prices for each cable system with different prices for each time period and do away with indicative pricing.</p>
<p><b>D. Compliance</b></p> <p><b>Paragraph 3.11</b></p>	<p>Telikom agrees to paragraph 3.11 in the Discussion Paper stating that" compliance <i>relates only to the first time period in Schedule 1 and can only be definitely assessed at the end of that period once relevant revenues and wholesale demand is known."</i></p> <p>However, this is subject to arguments under Key Issues A, B, and C above.</p>
<p><b>E. Review</b></p> <p><b>Paragraph 3.13</b></p>	<p>Telikom agrees with paragraph 3.13 in the Discussion Paper stating that" <i>it will be necessary to review the Determination and Schedule 1 as soon as possible after 31<sup>st</sup> December 2020 when costs and demand for 2020 are known and when forecasts of costs and demand for future time periods can be reviewed and amended as required. At that stage the maximum average price per Mbps per month for calendar 2021 can be determined and it will cease being indicative only."</i></p> <p>However, this is subject to arguments under Key Issues A, B, and C above.</p>
<p><b>F. Commencement Date</b></p> <p><b>Paragraph 3.14</b></p>	<p>It is obvious that due to the extension of submissions for this consultation paper, the set commencement date of 1<sup>st</sup> September 2020 is impossible. Hence, Telikom suggests that a new commencement date may be set in consideration of the Pandemic, Corona Virus 19.</p>

## OTHER COMMENTS

### Discussion Paper: Part 1. Preliminary, Section 3, Sub-section 2D, Point III (pg8):

The meaning of submarine cable service should exclude "cable duct access" because there is a business risk for interference, causing disruption to live service when another future service provider or vendor is permitted by this determination to use the same ducting. However, the meaning of the submarine cable service must be confined to traffic carried on the cable systems and access rights at the end-points only.

#### Clause 5 of Wholesale Service Declaration No. 1 of 2019

Telikom's understanding of "network services" as defined in Section 4 of the NICT Act including the definitions of "access provider" and "access seeker" under Section 125 and Section 126 of the NICT Act is that there must be a clear demarcation between the provision of "wholesale" and "retail" services.

However, Telikom is very concerned that the reference to "network services" or "services" under Clause 5 of the Wholesale Services Declaration No. 1 of 2019 introduces ambiguity and disturbs any clear demarcation that existed previously, thereby diminishing NICTA's power to keep the wholesaler out of the retail market. Furthermore, it diminishes NICTA's power to ensure that "access seekers" seek access for purposes of serving "end users" in the market, and prevent an "end user" from coming to the market in the guise of an "access seeker". We are aware that NICTA has issued "end users" with "ISP" licences enabling them to bypass wholesale service "access seekers" such as Telikom or Digicel and to go direct to the access provider.

Therefore, Telikom asks NICTA to clarify the following:

- (1) Does the NICT Act permit NICTA to issue an "end user" a licence for the purpose of seeking access to a declared wholesale service, which is already supplied by a wholesale customer or retail service provider?
- (2) Is it not a requirement under the NICT Act that an "access seeker" of declared wholesale service must seek access for the purpose of providing services to "end users", and not for its own consumption?
- (3) Does the NICT Act permit an access provider of a declared wholesale service to bypass a wholesale customer or retail service provider and sell services direct to an end user?

Telikom urges NICTA to seriously address these matters as they could have among other effects, the **lessening of competition** in the retail services market including the possibility of **prize squeezes** affecting the ability of retail service providers to set competitive prices or adversely affect its business continuity. With this concern of the network service definition in mind Telikom strongly requests that NICTA concludes the finalization of this draft Amended Determination together with the finalization of the Draft DataCo RIO (currently under public consultation) at the same time.

#### 4. CONCLUSION & RECOMMENDATION

Telikom understands that the wholesale internet price reduction is expected to have a direct trickling effect on the retail internet prices and see retail prices drop. However, Telikom wishes to advise that Telikom has no room for further internet price reductions because Telikom has slashed prices by 80% recently and it has fixed business costs to maintain to survive in the market. Wholesale internet costs make up a lower portion of the overall total fixed costs for Telikom to provide Internet services. Telikom has other operational costs to meet, hence, further retail internet price reduction would be unbeneficial for Telikom.

In addition, Telikom strongly recommends that the Amended Wholesale Pricing Principles for Broadband Capacity Services and International Submarine Cables Services should not be finalized until the current consultative processes on the Reference Interconnection Offer from PNG DataCo Limited on various wholesale access services issued on 19<sup>th</sup> August, 2020 has been completed or both be finalized at the same time. This is because they are related as per section 3.8 to the Introduction to and Division 2 Part 6 of the Draft Revised Determination of July 2020.