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[2024

RETAIL SERVICE DETERMINATION NO. 1 OF 2024

National Information and Communication Technology Act 2009

I, **TIMOTY MASIU**, Minister for Information and Communication Technology, acting on the recommendation of the National Information and Communications Technology Authority and having had regard to the Retail Regulation Criteria, make the following Retail Service Determination under Section 160 of the *National Information and Communications Technology Act 2009*.

PART I - PRELIMINARY

1 Name of the Determination

This Determination may be cited as Retail Service Determination No. 1 of 2024.

2 Commencement and expiry

- (1) This Determination shall come into effect 30 days after the date of publication of this notice on the *National Gazette* (***the Commencement Date***).
- (2) This Determination shall expire on the day before the third anniversary of the Commencement Date.
- (3) NICTA shall initiate a review of the Determination after 24 months from the commencement date to vary, revoke or renew this Determination.

3 Definitions

- (1) Subject to subsection (2), unless the context otherwise requires, terms used in this Determination have the same meaning as in the Act.
- (2) In this Determination, unless the context otherwise requires:
 - (a) "***Act***" means the *National Information and Communications Technology Act 2009*;

Retail Service Determination No. 1 of 2024—continued**Part I - Preliminary—continued**

- (b) **“Digicel”** means Digicel (PNG) Limited with company registration number 155909.
- (c) **“Multiple-service bundle”** means any combination of voice calls, whether On-net Calls or Off-net Calls, and/or SMS and/or data services that is sold by Digicel for a pre-determined price regardless of usage up to pre-determined usage limits.
- (d) **“Single-service Voice bundle”** means any combination of voice calls, whether On-net Calls or Off-net Calls, that is sold by Digicel for a pre-determined price regardless of usage up to certain pre-determined usage limits.
- (e) **“MTAS”** means domestic mobile terminating access service.
- (f) **“on-net call”** means a national voice call or SMS that originates and terminates on Digicel’s mobile network;
- (g) **“off-net call”** means a national voice call or SMS that originates on Digicel’s mobile network and terminates on the mobile network of another licensee;
- (h) **“prepaid”** means payment of an amount before a service is used;
- (i) **“post-paid”** means being charged in such manner that payment is made after a service is used, normally by means of a monthly bill.
- (j) **“promotional offer”** means any special tariff offer of limited duration that is made by Digicel.
- (k) **“regulated mobile service”** means:
- (i) a prepaid mobile originated retail national voice call service; and
 - (ii) a post-paid mobile originated retail national voice call service;
- (l) **“SMS”** means short message service;

NOTE: The following terms are defined in the Act:

- retail regulation criteria,
- network,
- NICTA, and
- retail service

4 Application

- (1) This Determination applies to Digicel’s supply of regulated mobile services whether supplied as voice only service or bundled with other services, including but not limited to, SMS, and data services.
- (2) The Determination applies to Digicel’s peak and off-peak services of its regulated mobile services.
- (3) The Determination applies to Digicel’s promotional offers of its regulated mobile services.

PART II - PRICING PRINCIPLES**5 Limit on price discrimination between on-net and off-net calls and SMS**

- (1) For Regulated Services, Digicel shall not price discriminate between its On-net and Off-net services.

Retail Service Determination No. 1 of 2024—continued**Part II - Preliminary—continued**

- (2) Notwithstanding Section 5(1) of this Rule, any price difference between Digicel's on-net and off-net shall be less than or equal to the wholesale termination rates that are set either by NICTA, or in its absence any commercially agreed to rate, after deduction of costs that would otherwise be incurred by Digicel in terminating calls or messages (SMS) on its own network.
- (3) These shall apply to;
- (a) both regular (standard) and bundled offers; and
 - (b) both pre-paid and post-paid services
- (4) NICTA shall determine Digicel's compliance with the pricing principle in subsection 5(2) by using the following formula for voice services that are offered as a regular (i.e. standard) voice service:
- (Price off - net) (Price on - net)
 \leq *MTAS charge less the reasonably assessed costs for termination that Digicel would otherwise incur if the services were terminated on its own network*
- for calls made to other mobile networks, or,
- (Price off - net) (Price on - net)
 \leq *FTAS charge less the reasonably assessed costs for termination that Digicel would otherwise incur if the services were terminated on its own network*
- for calls made to other fixed networks.
- where:
- (a) **MTAS (or FTAS) Charge** is the effective wholesale termination rate charged to Digicel by other mobile (or fixed) network operators for carrying Digicel's traffic and terminating it on their network,
 - (b) each Regulated Mobile Service is considered separately.
- (5) For any bundled offerings, whether it is individual or multiple service bundles, Digicel shall charge, and offer the services that reflects the pricing principles set in this determination including the pricing Principle of Section 5(4).

PART III - IMPLEMENTATION**6 Compliance data reporting**

- (1) Within 7 calendar days of the end of each calendar quarter, Digicel shall provide NICTA with the following information, for both prepaid and post-paid services:
- (a) the number of On-Net call minutes and SMS for which a charge could have been imposed on a retail customer, whether or not such a charge was actually imposed;
 - (b) the number of Off-Net call minutes and SMS for which a charge could have been imposed on a retail customer, whether or not such a charge was actually imposed;
 - (c) the number of data (gigabytes) for which a charge could have been imposed on a retail counter, whether or not such a charge was actually imposed;
 - (d) the amount of retail revenue earned from the supply of On-Net calls and SMS separately; and

Retail Service Determination No. 1 of 2024—continued**Part III - Preliminary—continued**

- (e) the amount of retail revenue earned from the supply of Off-Net calls and SMS separately;
 - (f) the amount of retail revenue earned from the supply of data services separately;
 - (g) information on the costs of terminating call minutes and SMS on Digicel's own network during the quarter, together with detailed calculations supporting the unit costs so reported; and
- (2) Within 7 calendar days of the end of each calendar quarter, Digicel shall provide NICTA with the following information, for both prepaid and post-paid services:
- (a) Regular (or standard) Price plans for all individual services,
 - (b) Price plans for all single-bundled services and multiple-bundled services including information about the bundled services and composition.
- (3) Digicel shall provide the information specified in subsection 6(1) and (2):
- (a) in a manner that disaggregates the data by calendar month;
 - (b) in a manner that disaggregates prepaid services and revenues from post-paid services and revenues;
 - (c) price schedules for regular (standard) and bundle services in both prepaid and post-paid; and
 - (d) in the format specified in Schedule 1.

Made at Port Moresby this 12th day of April, 2024.

Hon. T. MASIU, MP,
Minister for Information and Communication Technology.