



**Public Consultation: Pricing Principles for
Wholesale Broadband Capacity Services and
Submarine Cable Services**

RESPONSE TO COMMENTS REPORT

Issued on 19 December 2019

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1 SUMMARY

On 4 July, 2019, NICTA published a discussion paper setting out draft service-specific pricing principles in relation to wholesale broadband capacity services and submarine cable services that were declared by the Minister on 18 February 2019 pursuant to Section 130 of the National Information and Communications Technology Act 2009 (“the Act”). The principles took the form of annexed draft instruments.

Upon request from a stakeholder, the consultation period was extended to the first week of September 2019, and written submissions were received from:

- PNG DataCo Ltd (“DataCo”);
- Digicel (PNG) Limited (“Digicel”); and
- Telikom PNG Limited (“Telikom”).

1.1 Specific purposes of the public consultation

The specific purposes of the present public consultation are to consider the following draft instruments:

1. Service-Specific Pricing Principles (Submarine Cable Services) Determination 2019; and
2. Service-Specific Pricing Principles (Broadband Capacity Service) Determination 2019.

The service-specific pricing principles in each instrument relate to the wholesale services that were declared on 18 February 2019.

1.2 Response to the Discussion Paper

The main elements in the responses to the Discussion Paper are presented in Section 2 of this report, along with analysis and the action now proposed by NICTA as a result of considering the submissions.

After consideration of the submissions NICTA has made some changes to the proposed principles and to the proposed Determinations that were set out in the Discussion Paper. These changes are for clarity and to bring the instruments into greater alignment and consistency with the Act. However there has been no change in the overall thrust of the instruments.

On this basis NICTA has re-drafted the proposed instruments and the revised now appear at Attachments A and B to this report.

NICTA thanks the organisations that have made comments for doing so. The overall regulatory process and outcome has been improved as a result.

2 SUMMARY OF COMMENTS RECEIVED

Although the service-specific pricing principles were categorised into two draft determinations, one relating to submarine cable services, and the other to (national) wholesale broadband capacity services. This summary of comments received is organised in the same manner even though some of the comments received appeared to apply generally rather than to only one of the draft instruments.

2.1 Submarine Cable Services

| Ref. | Issue / subject and reference | Submission | Summary of comment | Summary of NICTA response |
|------|-------------------------------|-----------------|--|---|
| 1 | Indicative pricing | DataCo (page 2) | DataCo considers that NICTA has gone too far in setting indicative pricing because “it has only been 12 months now since DataCo took on the assets” (of PPC-1 and APNG-2) and it has already reduced the price to K800 per Mbps per month in two stages. DataCo notes that further wholesale price reductions are planned. | <p>The notion of indicative pricing and indicative price ranges is fully consistent with the Act and was proposed because it would provide all operators with clear guidance on how NICTA will respond if it is called upon to determine a pricing issue, such as in the course of a disagreement between an access provider and an access seeker.</p> <p>However after considering the responses from respondents and the least confusing approach available, NICTA has proposed in the final version of the Determination to establish a maximum price for each period taking account of the expected costs of each submarine cable system and other information available to NICTA.</p> <p>NICTA notes DataCo’s comments, but intends to retain a maximum price for APNG-2 of K910 per Mbps per month for the time being, based on the information that it has available to it about costs and capacity constraints associated with that system. NICTA considers that the demand and prices associated with capacity on the PPC-</p> |

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| | Adjustment needed to indicative price ranges | | <p>“DataCo is focussed on achieving Government objectives on affordability and access and therefore feels that the timing between taking on the management of the wholesale assets and the declaration is too short for DataCo [should be NICTA] to intervene through price ceilings at this stage.”</p> | <p>1 system will be impacted by the operation of the Coral Sea Cable system and have adjusted the maximum prices to reflect this..</p> <p>The wholesale declarations and service-specific pricing principles apply to all operators who provide the services in question. It is therefore not a relevant consideration how recently a specific operator – DataCo in this case – has taken over management of relevant assets or been responsible for providing the services.</p> |
| | | Telikom (page 2) | <p>“Telikom considers that the indicative prices for APNG2 and PPC1 specified in Schedule 1 of ... the draft Determination for Submarine Cable Services does not reflect the current pricing structures. Telikom believes that the lower and higher ends of the said indicative price ranges should be much lower”</p> | <p>Earlier in this report (Ref 1) NICTA has indicated the changes that it will make. Further changes will undoubtedly occur in future in the manner stated in Schedule 1 to the Determination.</p> |
| 2 | Relationship between demand volume and price | DataCo (page 3) | <p>“DataCo is a wholesale service provider who depends on the volumes that are acquired by the retail service providers who drive the volumes at retail levels. The retail service providers need to grow the demand and acquire more wholesale capacity for the market to see further reductions of prices.”</p> | <p>NICTA is well aware of the relationship. However it is also the case that retail price levels and structure encourage retail operators to commit to wholesale capacity services in greater volume and at an earlier time than would otherwise be the case. There is a bi-directional causal relationship between volume and price, not just unidirectional as suggested by DataCo’s comment.</p> |
| 3 | Recency of declaration | DataCo (page 3) | DataCo considers that price regulation is premature | This comment may be more concerned with national |

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| | | | given the recency of the relevant declaration. | wholesale broadband capacity services more than submarine services. In either case the Act makes it clear at Section 135(3) that NICTA should make service-specific pricing principles within 6 months of declaration, which is entirely at odds with the view being put by DataCo. [Note that because the principles can be amended at any time the requirement in Section 135(3) is directory rather than mandatory, but its policy intent is clear - pricing Principles should be prepared at an early time.] |
| 4 | Impact on investment returns and on market forces | DataCo (page 3) | “By proposing indicative pricing at this stage would cripple the return on investment but importantly the ability to repay loans obtained to fund these investments made by the PNG Government through DataCo and could potentially stifle the current positive play of market forces which have had the effect so far in driving prices down in the last 12 months.” | DataCo has provided no details on how consequences of these kinds might possibly arise. Investments in this sector are made in the knowledge of the Act and the prospects of regulation to obtain outcomes in non-competitive markets such as those in which the declared wholesale services are provided. NICTA cannot agree with this comment. |
| 5 | Consistency with the Act | DataCo (page 3) | DataCo: “... any sort of pricing which is being considered by NICTA should generally follow Section 134 (general pricing principles) and section 135 (for service specific pricing principles).” | NICTA has proposed price regulation that is fully compliant with the Act. Full compliance is required, not general compliance. |
| | | Digicel (pages 2 and 3) | Digicel also makes the point that the pricing principles must comply with the Act, and specifically mentions Sections 134 and 135. | |
| 6 | Distortion of market forces and market evolution | DataCo (page 5) | DataCo recommends “1. ...that setting Specific Pricing Principles including setting of indicative prices at this stage is premature as the market is still evolving and any intervention at this stage would distort the market forces and the evolution of the market.” | DataCo has made this assertion but provided no detail on how such distortion might result. Nor has DataCo explained how the market might evolve without regulatory intervention in the absence of effective competition. NICTA cannot agree with the assertion. |
| 7 | Allowing supply and demand | DataCo (page 5) | DataCo recommends that “3. NICTA to allow the | NICTA’s approach is consistent with the policy in the |

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| | forces to play out | | forces of supply and demand to inter-play at the market of submarine cable transmission and related services given the significant reduction in wholesale prices already seeing (sic) in the market since the inception of DataCo in 2014...” | Act, which is to intervene only to the extent made necessary by the lack of effective competition. In all other respects market forces, such as they are, will be encouraged to play out to their fullest extent. It is inappropriate to leave pricing in the hands of the de facto monopoly provider of those services. |
| 8 | Appropriate costing methodology (Para 2.1.2 of the Discussion Paper) | DataCo (page 7) | DataCo states that it is not in agreement with the costing methodology specified in the NICT Act, and “opposes all forms of pricing principles and methodologies recommended by NICTA” preferring instead to allow market forces to determine “the equilibrium price”. | It is not entirely clear what DataCo is asserting here, beyond that it wants to be left alone to determine for itself prices for its services in a market that is not effectively competitive. This is clearly not acceptable and is the reason for regulatory price intervention on the first place. If the market was effectively competitive there would have been no basis for the declaration of the submarine wholesale access services in the first place. |
| | FAC methodology | Digicel (page 4, para 10a) | Digicel supports the use of TSLRIC+ pricing methodology as consistent with the General Pricing Principles, but not FAC pricing because FAC methodology is less likely to reflect: “i. the volume independent nature of the costs of providing the services; ii. the rapidly increasing data volumes that will arise as bandwidth prices drop; and iii. ongoing efficiencies that continue to be realised through technological change and lower deployment costs.” | The support for TSLRIC+ costing methodology is noted. However NICTA disagrees about the characterisation of FAC pricing. The increment used for TSLRIC+ pricing is the whole of the service (hence the use of ‘TS’) then the results can be very similar to those resulting from FAC in any case. On the specific concerns about FAC, NICTA responds as follows: i. Fixed, common and overhead costs (which need to be taken into account under the General Pricing Principles in the Act) are taken into account for unit service pricing in the case of both FAC and TSLRIC+ methodologies. ii. Both FAC and TSLRIC+ approaches make provision for an increasingly data-centric traffic or service volume. In both approaches voice, text and other services are expressed in terms of their data capacity. |

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| | | | | <p>iii. Ongoing efficiencies are reflected in the input cost data for both methodologies. Both methodologies relate to efficient networks, and are in current cost terms. FAC should not be equated with recovery of historical (or accounting) costs. (NICTA is not suggesting that this equation is part of Digicel's thinking.)</p> <p>NICTA intends to leave the reference to both costing methodologies in the determination.</p> |
| | Donor funding | Digicel (page 4, para 10c) | Digicel considers that where a material portion of the costs of international submarine cable deployment are from donor funding arrangements, this must be reflected in the cost calculation. | NICTA agrees. This is usually reflected in an adjustment to the cost of capital (return on capital) to reflect the portion of capital costs subject to donor funding or other concessionary financing. In support Section 134(2)(a) refers to "the cost recovery principle" and NICTA notes that costs that were not incurred should not be recovered. |
| | International benchmarking | Digicel (page 4, paras. 10d and 10e) | <p>Digicel proposes that NICTA also consider relevant international benchmarking reports to inform it in the determination of efficient cost-based prices, because:</p> <p>"i. firstly, international benchmarking of cost-based prices is likely to be achieved much more quickly than embarking on PNG specific cost modelling exercises;</p> <p>ii. secondly, international benchmarking is likely to be a less costly way of estimating the efficient costs of providing the services; and</p> <p>iii. thirdly, even where cost modelling is undertaken, international benchmarking provides a useful check against which the assumptions and analysis undertaken as part of the cost modelling can be verified."</p> <p>Digicel also submits "that international benchmarking</p> | NICTA can receive information from international benchmarking reports in the course of its determination of cost-based prices, and can make judgements about the relevance of the material it receives at the time. The general import of Section 134 of the Act relating to General Pricing Principles is that the costs on which wholesale access prices are based should be actual costs, adjusted if needs be for efficiency; and this means costs that are incurred in PNG, not elsewhere (as is the case with benchmark comparators). Nevertheless benchmarking studies of cost based prices are generally useful for the third reason mentioned by Digicel, and are often a useful commentary on the results of cost models. NICTA will include a reference to benchmark studies in the pricing principles, but subject to compliance with the requirements the Act generally, |

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| | Alternative costing methodologies | | will be highly relevant to any interim determination that NICTA may make pursuant to its powers under section 146 of the Act.” | and to Section 134 in particular. The reference will cover potential use of benchmarking reports in arbitration interim determinations under Section 146. |
| | | Telikom (page 2) | “Telikom is encouraged that under the draft pricing principles both access seekers and access providers are given the opportunity to present their costs based on their preferred costing methodologies, however NICTA’s ‘without limitation’ condition (Clause 5(2) of both determinations) appears to prejudge the outcome in favour of NICTA’s preferred costing methodologies including its assumptions. Telikom prefers the removal of this precondition and allow the merits of the parties’ technical costing analysis to dictate the outcome.” | It is unclear how much of Clause 5 or of the cited sub-clause (5(2)) Telikom wants removed. The term ‘without condition’ is neither intended to have nor does it have the effect of preventing NICTA from considering the merits and adopting cost models or cost studies prepared by the parties. Nor does it mean that the costing methodologies in Clause 5(1) always win out. Clause 5(1) indicates that these are generally appropriate costing methodologies for use in costing the declared services. ‘Without limitation’ means that NICTA is not limited to doing the things listed in Clause 5(2). Other approaches – such as international benchmarking, as proposed by Digicel above, may also be considered and may be used, subject to compliance with the Act and to Section 134 in particular. |
| 9 | Efficient costs (Para 2.1.3 of the Discussion Paper) | DataCo (pages 7 and 8) | DataCo proposes that dynamic, productive and allocative efficiency should be specifically taken into account when encouraging economic efficiency. DataCo notes that “an important condition for allocative efficiency is that the prices at least reflect the value society places on the next best alternative use of the resources to produce the service. For example Submarine Cable in comparison to satellite and radio link services.” | NICTA considers that it is sufficient to make the point in the Discussion Paper and in the Pricing Principles Determination that the costs that are considered in pricing of the submarine cable service should be efficient. That general term covers all forms of efficiency that may be relevant to any particular cost. The example of next best alternative pricing is misconceived, because the next best alternative for submarine transmission is clearly not to provide satellite or radio link services. Rather, if these services were generally available alternatives to submarine cable |

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| | | | | services (which they are not) their pricing might constrain submarine cable prices. |
| 10 | Indicative prices generally (Para 2.1.4 of the Discussion Paper) | DataCo (pages 8 and 9) | <p>DataCo recommends against the use of indicative prices because it considers that any price cap will be detrimental in determining an access dispute.</p> <p>DataCo then says it prefers that NICTA only goes as far as to adhere to the TSLRIC+ or FAC principles “as specified in the NICT Act.” “Without due diligence the indicative price will distort the market...” The argument put forward by DataCo is that for a price ceiling to be realistic and non-binding it must be above the equilibrium price.</p> <p>DataCo goes on to say that “indicative prices must not be part of regulation for these declared services unless there is a dispute or customer complaint.”</p> | <p>NICTA disagrees. If the market for the relevant services was effectively competitive then the supply and demand would be capable of being adjusted to a state of equilibrium through the price mechanism. But this is not the case, because the market is not competitive and, in the absence of regulation, the market prices would be set by the service provider (DataCo). The scheme of the Act is to promote competition and, in default, appropriate competition, rather than to enable dominant service providers to unilaterally determine market price levels.</p> <p>It is also appropriate to set indicative prices to guide all parties in the event of a dispute or complaint, rather than leave these matters to be determined entirely by NICTA after a dispute has been registered.</p> <p>Notwithstanding the above, NICTA has decided in the interests of clarity and certainty, not to pursue the concept of indicative pricing in the Schedule to the Determination, or pricing ranges over an extended period of time, but to include instead maximum prices per Mbps per month for each year covered by the Determination. This approach will be easier to administer by NICTA and service providers will know immediately whether their proposed prices comply with the Determination.</p> |
| 11 | The purpose of indicative prices and the guidance they give (Para 2.1.5 of the | DataCo (page 9) | DataCo asserts that indicative pricing pre-empts guidance to access providers and seekers involved in negotiating access terms and conditions. “It is | NICTA does not agree. The notions about a Regulatory Accounting Framework advanced by DataCo are not to be sourced from the Act or any other legislative |

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| | Discussion Paper) | | DataCo’s position that NICTA has to assist the SMP operator as mandatory for Regulatory Accounting Framework. Hence the Regulatory Accounting Framework will provide Guidance to access providers and seekers as opposed to indicative prices. Therefore DataCo fully opposes the indicative prices and specific pricing principles going forward.” | instrument. Nor is there any reason to suppose that an indicative price level is pre-emptive of any other form of guidance that NICTA might provide to access seekers and providers. The issues have however been overtaken by the adoption in the meantime of a maximum price for each period in the Determination. |
| 12 | Changes to and withdrawal of indicative prices (Para 2.1.6 of the Discussion Paper) | DataCo (page 10) | DataCo repeats its opposition to indicative prices as distorting the market and considers that they should be removed “once a detailed analysis is done”. | The point that was being made in the Discussion Paper at para 2.1.6 was that after an arbitration the result might be more detailed than the indicative prices as set out in the schedule to the pricing principles and would likely replace those prices at that point. Again, the issue has now been overtaken by the adoption in the meantime of a maximum price for each period in the Determination. |
| 13 | Non-binding nature of indicative prices (Para 2.1.7 of the Discussion Paper) | DataCo (page 10) | DataCo agrees with the Discussion Paper but repeats its recommendation that indicative prices be removed. | DataCo offers no further evidence or points of argument in relation to proposed removal of indicative prices, so there is nothing further for NICTA to respond to. |
| 14 | Basis on which NICTA has determined indicative prices (Para 2.1.8 of the Discussion Paper) | DataCo (page 10) | DataCo notes that it is in no position to “verify and ascertain” whether the information taken into account by NICTA in determining the indicative prices in the schedule are current or recent. | This is not the case. By inspection of the proposed indicative prices DataCo can compare them with the prices that it is currently charging. In fact DataCo has done so and advised that the current price is K800 per Mbps per month. (See Comment Ref. 1 above) |
| 15 | Indicative prices expressed as price ranges to reflect likely falls in prices over the period in which the pricing principles operate (Para 2.1.9) | DataCo (pages 11 to 13) | DataCo does not concur, and repeats points already made. | Noted. DataCo offers no arguments further to that already dealt with above. |
| 16 | Justifications for applying different prices (Para 2.2.1 of | DataCo (pages | DataCo is “already applying volume and term discounts in its pricing based on what the market | DataCo and other service providers may apply volume and term discounts provided that it does so in a non- |

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| | the Discussion Paper) | 13 and 14) | requires”. | discriminatory manner. In other words, the same terms need to be offered to all wholesale customers. |
| | | Digicel (pages 4 and 5, para 10f) | Digicel submits that factors other than capacity and term commitments should be taken into account to justify price variations. “In particular, Digicel proposes that the payment methodology should be a relevant consideration in determining the price of access. For example, an access seeker who commits to a long-term IRU with an upfront payment (or payment in advance of services being used) should be recognised through any prices that are determined by NICTA.” | NICTA agrees with the overall point being made. It is unlikely that NICTA would or should seek to reflect in regulated prices the detail that might appear in an acceptable pricing schedule developed by an operator responding to its own commercial imperatives, the example of method of payment being a justification for price variation will be included in the service-specific pricing principles in the final determinations. |
| 17 | Indicative pricing principle (Para 2.2.2 of the Discussion Paper) | DataCo (page 14) | DataCo repeated its position | As per comment Ref 15 above. |
| 18 | Periodic review of pricing principles | Digicel (page 5, para. 10g) | Digicel considers “that any prices determined by NICTA should be subject to review on at least an annual basis to take into account market developments and changes in demand for bandwidth and that all access providers, including those that have already made contractual commitment to acquire capacity, receive the benefit of that review. Such arrangements are a common feature of commercial contracts in competitive markets and should be carried through into any regulated pricing determinations.” | Subject to one point, NICTA agrees with this comment and for the reasons Digicel mentions. It is expected that used capacity will increase significantly year on year and that the unit price should be periodically adjusted to reflect this. The determination will be modified to reflect this and the need for relatively frequent reviews. Reviews will be at least every 2 years and may be more frequent if circumstances warrant. However NICTA is not prepared to commit to annual reviews as a matter of course. The frequency of reviews is in the hands of the access seekers and access providers any of whom may initiate a review through arbitration if they consider that prices are no longer cost based. Alternatively the parties can agree on annual or other periodic reviews in their service agreements, and this may also be arbitrated by NICTA in the absence of agreement. An amendment |

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| | | | | will be made to the principles in the final determinations. |
| 19 | Non-price related terms and conditions | Digicel (page 5, para. 11) | <p>Digicel is concerned that companies in the KTH Group might have incentives to favour each other in the provision of the relevant declared services, and that this preference might take the form of non-price terms and conditions. Specifically Digicel proposes “that KTH Group companies who are access providers for the purposes of the Declarations are subject to the following additional non-price terms and conditions:</p> <ol style="list-style-type: none"> 1. the provision of the declared wholesale services should be operationally separate from the provision of any other services provided by the companies so that only those costs that are directly incurred in the provision of the services are included in any cost calculation; ii. the companies should report quarterly on the volumes and prices of the services that are sold to other members of the KTH Group; and iii. in the event it is determined that any KTH Group company has provided preferential pricing, or pricing that is lower than the pricing charged to another access seeker, to another KTH Group company, then the benefit of the preferential or lower pricing must be passed on to all other access seekers with the application of that pricing backdated to the date on which the pricing first came into effect.” | <p>NICTA understands the general point that Digicel is making and agrees that these incentives to discriminate occur where companies are within a group or where there is advantage to be had through internal transfer-pricing such as in vertically integrated organisations. However, Wholesale Access Service Declarations apply to all providers of the declared services and are not licensee-specific (unlike Retail Service Determinations, for example). It is therefore inappropriate to have a condition, principle or process in these Determinations that only applies to KTH Group companies.</p> <p>That being the case, it is inappropriate in NICTA’s view to require operational separation in all cases where a vertically integrated organisation or a member of a group is involved. A broad requirement of the type proposed could have inadvertent consequences in terms of lost efficiencies of scope or scale – efficiencies which should be shared with access seekers who use the declared services involved. NICTA considers the second proposal for quarterly reporting to be disproportionate to the risks, but undertakes to consider it in future if there are serious breaches in this area of the non-discrimination principle. NICTA believes that the third proposal has merit. NICTA proposes to bear it in mind when determining the outcomes of arbitrations. There may well be circumstances in individual cases that ought not to be decided in this way and for that reason only NICTA does not intend to incorporate it as a principle in the present instruments.</p> |

| Ref. | Issue / subject and reference | Submission | Summary of comment | Summary of NICTA response |
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| 20 | Indicative prices for Kumul Submarine Cable and Coral Sea Cable Systems | Digicel (pages 5 and 6) | “Digicel notes that indicative prices have not been provided for the Kumul Cable System that is listed in Schedule 1 to the draft <i>Service-Specific Pricing Principles (Submarine Cable Services) Determination 2019</i> and that no such indicative prices are expected to be determined until January 2020. As that service is operational and available for sale now, there does not appear to be any reason for such a delay and ... indicative prices should be determined now...” | It would be NICTA’s preference to determine indicative prices now for the international capacity services provided by this system now. The specific determination cited relates only to international capacity on the cable, in relation to the Indonesian link. NICTA does not have information yet on the international capacity used or on the portion of total costs associated with that service. The usage is believed to be very small at this stage, with potential for serious error as a result if costs are estimated and then divided by very low volumes. In addition, the indicative or other price level determined will need to be subject to consultation. Rather than delay the finalisation of the determination until then, NICTA has opted to proceed with an incomplete schedule now and make an amendment at the earliest time thereafter. |

2.2 Wholesale Broadband Capacity Services

Note that many of the comments received in submissions were common to the proposed pricing principles in both of the draft determinations. These comments have been considered in section 2.1 of this report, above. Only comments that relate only to (national) wholesale broadband capacity services are considered below.

| Ref. | Issue / subject and reference | Submission | Summary of comment | Summary of NICTA response |
|------|----------------------------------|-------------------------|--|--|
| 1 | Regulatory intervention by NICTA | DataCo (page 2, para 2) | DataCo submits that “the National Transmission Network (NTN) is still under construction and there | NICTA disagrees, and notes that no evidence has been provided to support the assertion that regulatory |

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| | | | also exists a lot of improvement in infrastructure to ensure resiliency and improved reliability. While DataCo is on track to deliver the NTN, the heavy handed regulatory intervention by NICTA like introducing price caps creates a lot of uncertainties as well as disincentives for those investing in wholesale infrastructure like PNG DataCo.” | intervention in the manner anticipated under the Act when wholesale access services are declared adds to uncertainty (rather than reduces it) or has a disincentive for investment in wholesale infrastructure. On the contrary, DataCo appears by its on submission to be continuing to invest and is “on track” to full delivery of the NTN. If DataCo can sell services based on the NTN then it is timely to have service specific pricing principles in place. |
| 2 | Critical nature of the infrastructure | DataCo (page 5, Recommendation 2) | “DataCo recommends for NICTA to restrain from setting specific principles including setting indicative pricing and allow PNG DataCo to continue to build out the wholesale infrastructure through the National Transmission Network Program as this is critical infrastructure that will transform the industry and the country.” | This is not an argument for non-regulation. The Act contemplates price regulation by the regulator precisely when critical infrastructure for the economy is operated by a dominant provider in a non-competitive market, to address the issues associated with dominant providers determining the prices of wholesale access services without competitive constraint. |
| 3 | “Domestic Optical Fiber Services” – definitional issues | Telikom (pages 1 and 2) | Telikom states that “Ministerial Declaration 2 of 18 February 2019 does not appear to clearly differentiate between DOFC [Domestic Optical Fibre Cable] since DOFCS [DOFC Services] in built up areas such as cities, suburbs and towns that can be provided as a retail service even as a last mile Fiber To The Home/Premises service. The declaration as clarified by its clause 5(2)(b) makes a blanket approval of DOFCS as a wholesale service all the way from the Point of Interconnection at the submarine optical fibre cable launch/landing station to the Customer Premises Equipment. A consequence among possible others of such blanket approval is for end users of the service to | The declaration by the Minister on 18 February 2019 was of a very carefully named and defined service, namely “wholesale broadband capacity service”, not the DOFCS as described by Telikom. The definition makes it clear that the service is a wholesale backhaul service, which may connect between any points of interconnection (which are points on networks operated by licensed operators) including at cable landing stations. The service is only between points of interconnection as described above and cannot originate or terminate on customer premises equipment, as claimed by Telikom. This is not a “blanket approval” at all, and cannot have the consequence that Telikom is |

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| | | | demand connection at wholesale prices regardless of the cost of the access-seeking retail services operator or alternatively seek to connect directly to the submarine optical fibre cable services provider at wholesale prices.” | concerned about. The service is a wholesale service which means that only licensed operators may receive the service. It is not available to end users irrespective whether they demand it as a wholesale service or at wholesale rates. They are entitled to have retail services as defined in each retail service provider’s tariff and prices schedule. |