



**Public Consultation Document on Service – Specific Pricing Principles
pursuant to Subsection 135 (3) of the National ICT Act 2009**

Issued on 26th July 2013

1. Introduction

The Minister for Information and Communications has declared on the 21st March 2013 after the public inquiry the following wholesale services namely;

1. International submarine cable transmission capacity service
2. International submarine cable gateway access service

The intention of this consultative paper is to seek views and comments from industry, government and other interested parties towards the pricing principles NICTA will adopt when considering access pricing issues for the above declared wholesale services.

Subsection 135 of the Act requires NICTA to make service specific pricing principles for a declared service within six months after the Minister declares a wholesale service. Further, it allows NICTA to amend any existing service-specific principles at any time.

Service-specific pricing principles are important because:

- NICTA must have regard to them if it is required to arbitrate an access dispute (in relation to a service to which the pricing principles apply) (s.135(6) and 149(1)(d));
- NICTA cannot accept a RIO if it is not consistent with any relevant service-specific pricing principles (s.142(5)(b)(iii–iv));
- NICTA may deem the existence of an access dispute if NICTA considers that an interconnection or access agreement is materially inconsistent with the relevant service-specific pricing principles (s.143(6)(a))

2. Public Consultation

NICTA invites interested parties to consider and comment on the draft determination attached to this consultative paper. **Written submissions should be submitted via email to consultation.submission@nicta.gov.pg and must be received by noon Friday 26th August 2013**

Copies of all submissions received will be published on NICTA's Public Register consistent with the requirements on NICTA under subsection 229(3) of the Act. Additional procedural information is set out in the *Guidelines on the submission of written comments to public consultations and public inquiries*, which are available on NICTA's Public Register.

Attachment

Service-specific Pricing Principles (Submarine Cable Access Services) Determination, 2013

1. NAME OF DETERMINATION

- (1) This determination is the *Service-specific Pricing Principles (Submarine Cable Access Services) Determination, 2013*.

2. PURPOSE

- (1) This determination specifies the service-specific pricing principles for the following declared services:
 - (a) the international submarine cable transmission capacity service; and
 - (b) the international submarine cable gateway access service.

3. COMMENCEMENT AND EXPIRY

- (1) This determination commences on the day it is notified in the National Gazette.
- (2) Unless varied or revoked earlier pursuant to section 135 of the *National Information and Communications Technology Act 2009*, this determination expires of the day that the
 - (a) the international submarine cable transmission capacity service; and
 - (b) the international submarine cable gateway access service;
cease to be declared services.

4. INTERPRETATION

- (1) In this Determination, unless the contrary intention appears, any words or phrases that are defined in the *National Information and Communications Technology Act, 2009* have the meaning given in that Act.

PART I – INTERNATIONAL SUBMARINE CABLE TRANSMISSION CAPACITY SERVICE

5. APPLICATION

- (1) This Part sets out the service-specific pricing principles for the international submarine cable transmission capacity service (“the transmission capacity service”).

6. PRICING PRINCIPLES

- (1) The price of the transmission capacity service may be different in terms of the price per megabit per second for services with different transmission capacities. However, the extent of any such difference shall be no more than warranted by the cost of providing service and/or accepted price differentials in accordance with common international practice.
- (2) If the transmission capacity of the submarine cable or related infrastructure is subject to a fault or other condition that reduces the capacity available for a period, the capacity constraint shall be borne proportionally by all customers, with the exception of customers who have paid a premium for full or best available service continuity under such circumstances before the service constraint in question.

7. PRICING PRINCIPLES – INTERIM AND FINAL DETERMINATIONS

- (1) This section applies if the price of the transmission capacity service is to be specified by NICTA in an interim determination or a final determination.
- (2) NICTA will determine the price of the transmission capacity service based on a consideration of one or more cost models that have been prepared by or for:
 - (a) NICTA;
 - (b) the access provider; and/or
 - (c) the access seeker;and which have been made available to, and accepted by, NICTA for this purpose.
- (3) The cost standard that shall be applied shall be:
 - (a) total service long run average incremental cost (TSLRIC), to which shall be added an equi-proportionate mark-up to reflect a reasonable contribution to common costs that are accepted by NICTA as reasonably needed and appropriate for the provision of the transmission capacity service; or
 - (b) fully allocated cost (FAC); or
 - (c) a hybrid of TSLRIC and FAC.
- (4) In determining the efficient costs of providing the transmission capacity service under the cost recovery principle NICTA may make adjustments to the actual costs claimed by an access provider or access seeker to reflect:

- (a) productive efficiencies available in the operations of the access provider;
 - (b) scale and scope efficiencies available to the access provider; and
 - (c) other efficiencies available to the access provider, that should, in NICTA's opinion, be shared with access seekers.
- (5) In determining the availability of efficiencies that may be considered and which may reduce the cost of the transmission capacity service, NICTA may take into account:
- (a) relevant information provided by the access provider in relation to its own costs and potential efficiencies;
 - (b) relevant information provided by other operator licensees in relation to their costs and potential efficiencies in Papua New Guinea; and
 - (c) benchmarked information from countries that, in NICTA's opinion, are reasonably similar to Papua New Guinea for this purpose.
- (6) NICTA may determine the economic life of the assets employed in the supply of the transmission capacity service based on its consideration of any of the following:
- (a) the practice of the access provider in the use and replacement of similar assets in Papua New Guinea;
 - (b) the economic lives accorded to similar assets by other national regulatory authorities in other countries;
 - (c) the practices of other mobile network operators in the use and replacement of similar assets in Papua New Guinea and other countries.
- (7) NICTA may determine a reasonable return on the access provider's investment over the economic life of the assets employed in the supply of the transmission capacity service based on NICTA's consideration of:
- (a) the actual risks and returns accepted by providers of debt and equity capital to the access provider; and
 - (b) the actual risks and returns accepted by providers of debt and equity capital to other mobile network operators providing such services in Papua New Guinea or in other countries that, in NICTA's opinion, are reasonably similar to Papua New Guinea.

PART II – INTERNATIONAL SUBMARINE CABLE GATEWAY ACCESS SERVICE

8. APPLICATION

- (1) This Part sets out the service-specific pricing principles for the international submarine cable gateway access service (“the gateway access service”).

9. PRICING PRINCIPLES

- (1) Subject to availability of suitable accommodation and supporting facilities, the choice between actual co-location and virtual co-location as part of the gateway access service shall be determined by the access seeker.

- (2) The access provider shall ensure that all collocated equipment that is controlled by the access provider has adequate separation from other facilities to ensure safety of plant and personnel. The access provider may change access seekers to recover the cost of such separation.

10. PRICING PRINCIPLES – INTERIM AND FINAL DETERMINATIONS

- (1) This section applies if the price of the gateway access service is to be specified by NICTA in an interim determination or a final determination.
- (2) NICTA will determine the price of the gateway access service based on a consideration of one or more cost models that have been prepared by or for:
 - (a) NICTA;
 - (b) the access provider; and/or
 - (c) the access seeker;and which have been made available to, and accepted by, NICTA for this purpose.
- (3) The cost standard that shall be applied shall be:
 - (a) total service long run average incremental cost (TSLRIC), to which shall be added an equi-proportionate mark-up to reflect a reasonable contribution to common costs that are accepted by NICTA as reasonably needed and appropriate for the provision of the gateway access service; or
 - (b) fully allocated cost (FAC); or
 - (c) a hybrid of TSLRIC and FAC.
- (4) In determining the efficient costs of providing the gateway access service under the cost recovery principle NICTA may make adjustments to the actual costs claimed by an access provider or access seeker to reflect:
 - (a) productive efficiencies available in the operations of the access provider;
 - (b) scale and scope efficiencies available to the access provider; and
 - (c) other efficiencies available to the access provider, that should, in NICTA's opinion, be shared with access seekers.
- (5) In determining the availability of efficiencies that may be considered and which may reduce the cost of the gateway access service, NICTA may take into account:
 - (a) relevant information provided by the access provider in relation to its own costs and potential efficiencies;
 - (b) relevant information provided by other operator licensees in relation to their costs and potential efficiencies in Papua New Guinea; and
 - (c) benchmarked information from countries that, in NICTA's opinion, are reasonably similar to Papua New Guinea for this purpose.
- (6) NICTA may determine the economic life of the assets employed in the supply of the gateway access service based on its consideration of any of the following:
 - (a) the practice of the access provider in the use and replacement of similar assets in Papua New Guinea;

- (b) the economic lives accorded to similar assets by other national regulatory authorities in other countries;
 - (c) the practices of other mobile network operators in the use and replacement of similar assets in Papua New Guinea and other countries.
- (7) NICTA may determine a reasonable return on the access provider's investment over the economic life of the assets employed in the supply of the gateway access service based on NICTA's consideration of:
- (a) the actual risks and returns accepted by providers of debt and equity capital to the access provider; and
 - (b) the actual risks and returns accepted by providers of debt and equity capital to other mobile network operators providing such services in Papua New Guinea or in other countries that, in NICTA's opinion, are reasonably similar to Papua New Guinea.