



RECEIVED  
13 MAY 2025

BY: \_\_\_\_\_

CS  
P10



FVI and appropriate  
action.

13/5/25

Wednesday 07<sup>th</sup> May 2025

**Mr. Kila Gulo-Vui**  
**Chief Executive Officer**  
National Information and Communication  
Technology Authority  
P.O. Box 8444  
**BOROKO**  
National Capital District  
Papua New Guinea

**Deliver by email and hand**  
[kgulovui@nicta.gov.pg](mailto:kgulovui@nicta.gov.pg)

Dear Mr. Kila Gulo-Vui,

**SUBJECT: SUBMISSION ON THE PUBLIC CONSULTATION PAPER FOR REVIEW OF  
THE NATIONAL ICT ACT 2009**

We write to formally submit our feedback on the proposed amendments to the **National Information and Communications Technology (ICT) Act 2009**, as outlined in the Public Consultation Paper issued on 2 April 2025.

We commend NICTA for initiating this review in recognition of the evolving technological landscape and the need for a modernized legal and regulatory framework. We have reviewed the proposed changes and have prepared a detailed submission in response to the key areas identified in the consultation document.

Our submission addresses several critical areas, including:

- Strengthening the independence of NICTA (Section 40),
- Enhancing clarity and limitations under Government Policy involvement (Section 11),
- Reinstating NICTA's authority to prosecute offences (Section 271),
- Revising the structure and function of the ICT Appeals Panel (Part XIII),
- Incorporating comprehensive Cybersecurity and Data Protection provisions, and
- Integrating a framework for Emergency Services response and infrastructure resilience.
- A Proposed Legislation to be known as the National ICT and Land Acquisition Act 2025

We also provide recommendations aligned with the Public Finances (Management) Act, Cybercrime Act 2016, and pending Data Protection and Cybersecurity policies and laws, as well as call attention to practical implementation gaps that have impacted sector efficiency.

We trust our views will constructively contribute to NICTA's efforts to foster a responsive, transparent, and future-focused regulatory environment for ICT in Papua New Guinea.

Please do not hesitate to contact us should you require clarification or further discussion regarding our submission.



Yours sincerely,  
**TELIKOM LIMITED**



**Amos Tepi**  
Chief Executive Officer



**Attachment 1 - PROPOSED AMENDMENTS TO NATIONAL ICT ACT 2009**

**Attachment 2 - NATIONAL ICT LAND ACQUISITION ACT 2025**



**ATTACHMENT 1:**  
**PROPOSED AMENDMENTS TO NATIONAL ICT ACT 2009**

## **SUBMISSION ON THE PUBLIC CONSULTATION PAPER: PROPOSED AMENDMENTS TO THE NATIONAL ICT ACT 2009**

### **1. Introduction & General Positioning**

We appreciate the opportunity to respond to NICTA's public consultation on the **Review of the National ICT Act 2009**, published on 2 April 2025. We commend NICTA for recognizing the urgency of modernizing the legislative framework to reflect:

- Rapid technological advancement,
- Emerging cyber and data threats,
- Evolving regulatory best practices globally, and
- Local sector realities impacting innovation and access.

As a stakeholder in the ICT industry, Telikom Limited supports the objective of creating a forward-looking, transparent, and sustainable regulatory regime. Our submission focuses on both the specific proposed amendments and additional areas where new provisions would strengthen the Act.

### **2. Detailed Comments on Specific Sections of the NICTA Act**

#### **Section 11 – Government Policy**

- **Issue:** Current language enables undue political influence and blurs lines between policy-making and regulatory execution.
- **Recommendation:** Introduce qualifiers to restrict ministerial directions to broad policy areas only, and ensure that operational and licensing decisions remain squarely with NICTA. Reference best practice models from regional regulators (e.g., ACCC, FCC).

#### **Section 29 – Application of the Public Finances (Management) Act**

- **Issue:** Refers to outdated and repealed provisions.
- **Recommendation:** Align with current PFMA and remove references to repealed sections. Clarify compliance obligations.

#### **Section 33 – Application of Money Received by NICTA**

- **Issue:** Conflicts with the **Non-Tax Revenue Administration Act (2022)**.
- **Recommendation:** Amend to exempt NICTA from blanket remittance obligations or enable self-financing mechanisms via legislation (e.g., regulatory fees retained for sector development).

#### **Section 40 – Independence of NICTA**

- **Issue:** Ministerial powers under Sections 11, 129, 130, and 160 compromise regulator autonomy.
- **Recommendation:** Strengthen Section 40 to enshrine functional and financial independence, establish a transparent appointment process, and require public disclosure of meetings with government officials.



## **Section 254 & Part XIII – ICT Appeals Panel**

- **Issue:** Over-reliance on the ICCC and Treasury disrupts timely dispute resolution.
- **Recommendation:** Reconstitute the ICT Appeals Panel as a standalone body with independent appointments and mandate internal timelines for determinations.

## **Section 271 – NICTA to Prosecute Offences**

- **Issue:** Repealed powers limit regulatory enforcement capacity.
- **Recommendation:** Reinstate prosecutorial authority for NICTA for specific offences, especially related to licensing, spectrum, and service standards as well as damage to communication/ICT facilities and infrastructure.

## **3. Proposed New Provisions**

### **Emergency Services Framework**

- **Rationale:** The Act does not address national emergencies, disaster response, or ICT resilience.
- **Recommendation:** Introduce a new Part detailing:
  - Obligations of licensed ICT operators during emergencies.
  - Cooperation protocols with emergency services and disaster response agencies.
  - Provision of free-to-access emergency communications (e.g., hotlines, early warning).
  - Redundancy plans and disaster recovery infrastructure.

### **Cybersecurity and Resilience**

- **Rationale:** A critical omission given current and emerging threats.
- **Recommendation:** Establish a dedicated Cybersecurity and Data Protection chapter:
  - Define obligations of licensed operators for cybersecurity and data protection.
  - Outline coordination with PNG's National Cybersecurity Agency/Censorship Board and future Data Protection Authority.
  - Provide for mandatory reporting of breaches and security audits.

## **Further Refined Recommendations for Legislative Review**

### **1. Reinstate NICTA's Prosecution Authority**

**Issue:** NICTA cannot enforce key ICT-related offences due to repeal of its prosecutorial powers.

**Recommendation:** Reinstate Section 271 to give NICTA the authority to prosecute specific offences directly. Establish a dedicated internal team comprising legal officers and ICT investigators, funded by NICTA's budget, as the police often lack the resources or expertise to handle ICT-related offences promptly.

## **2. Declare Telecom and ICT Infrastructure as Public Property**

**Issue:** Infrastructure (e.g., towers, ducts) used for decades faces compensation claims.

**Recommendation:** Amend the Act to declare infrastructure used for over 10 years by operators like Telikom as state property under eminent domain, exempt from compensation.

Long-standing telecom infrastructure built on private or customary land (e.g., Telikom assets since 1955) remains vulnerable to dispute and compensation demands. Enact provisions that declare such infrastructure as state assets under eminent domain, exempt from compensation, to protect public interest and ensure service continuity. A proposed legislation for that is enclosed – Attachment # 2.

## **3. Define License Tiers and Restrict Access for Non-Telecom Entities**

**Issue:** Non-core players (banks, universities) operate as telecom providers with no proper oversight.

**Recommendation:** Define 'core telecom operator' vs. 'non-core'. Require quarterly or annual compliance audits for non-core licensees and limit their service scope. Non-telecom institutions like banks and universities are acting as telecom providers without equivalent regulatory burdens. Amend the Act to categorize license classes clearly, with quarterly or annual audits for non-core operators who provide services to third parties. Future amendments could introduce **stricter eligibility requirements** for ISP licences.

## **4. Differentiate Wholesale and Retail Licenses**

**Issue:** Overlap between wholesale and retail operators causes anti-competitive behaviour.

**Recommendation:** Explicitly define wholesale and retail licenses. Prohibit retail services by wholesale-only licensees and vice versa.

Lack of clarity between wholesale and retail licenses enables market distortion and overlap. An amendment should be made to define and separate wholesale vs. retail licenses explicitly in the Act. Restrict operators from offering services outside their license class.

## **5. Lift Tower Moratorium; Regulate LEO/MEO Operators**

**Issue:** A blanket ban on new tower builds blocks satellite connectivity rollouts.

**Recommendation:** Clarify NICTA's moratorium and allow LEO/MEO operators to deploy under fair, regulated terms.

The moratorium on new tower builds, especially affecting LEO/MEO satellite operators, hampers innovation and investment. NICTA should issue clear guidelines on tower deployment and revise the moratorium based on technological neutrality.

## **6. Mandate ICT Infrastructure in New Public Works**

**Issue:** Telecoms must retrofit cables due to lack of planning integration.

**Recommendation:** Require all roads, bridges, and buildings to include ICT cable ducts.

**Mandatory Access and Spacing for Telecommunications and ICT services:** To ensure equitable access to Telecommunications and ICT services, all municipal authorities, provincial governments and relevant permitting bodies shall provide adequate access and spacing for telecommunications infrastructure as a mandatory condition for the approval of licenses, permits or authorizations for new buildings (commercial, industrial or residential), national roads and other major projects sites.

- a.) Municipal authorities shall designate and reserve appropriate spaces for telecommunications and ICT infrastructure in all new urban and rural development plans.
- b.) Application for construction permits, roadworks or other major infrastructure projects shall include a compliance statement confirming that, adequate access and spacing for telecommunications and ICT infrastructure services have been incorporated into the project design.
- a.) Failure to comply with this subsection shall result in the denial of the relevant license or permit until compliance is achieved.
- b.) NICTA shall issue guidelines to define “adequate access and spacing” and monitor compliance by municipal authorities and other relevant bodies.

NICTA must be included on planning and construction approval boards.

Note: Lack of integration of telecom infrastructure in municipal building approvals causes delays and inefficiencies. Mandate representation of NICTA on urban planning boards and require telecom pathways in all new public infrastructure.

## **7. Reform Spectrum Fees to Encourage Expansion**

- 1. **Issue:** High spectrum fees disincentivize rural rollout.  
**Recommendation:** Implement a performance-based model — 2% gross revenue annually instead of high upfront fees, contingent on subscriber growth.
- 2. All licensed operators shall be subject to a regulatory fee not exceeding 2% of their annual gross income.
- c.) No additional charges, levies or fees including but not limited to spectrum usage fees or administrative fees shall be imposed upon the licensed operators by NICTA or any other regulatory body.
- d.) The revenue collected from the 2% regulatory fee shall be allocated to support universal access programs and infrastructure development in underserved and remote areas of Papua New Guinea.

## **8. Exempt Duty on Equipment for Rural Areas**

**Issue:** Import duties raise costs of rural telecom deployment.

**Recommendation:** Introduce customs duty exemptions for telecom equipment imported for rural or Special Economic Zone projects.

## **9. Mandate Joint Participation in Global ICT Conferences**

**Issue:** NICTA attends forums without representing industry interests.

**Recommendation:** Amend the Act to require that licensed telecom operators attend major forums (e.g., ITU WRC) alongside NICTA. Share costs and mandate reporting back.

**Mandatory Participation in International Telecommunications Bodies:** To enhance Papua New Guinea's global telecommunications standing and ensure alignment with international standards, NICTA shall require and sponsor all major licensed operators to actively participate in key international telecommunications bodies, including but not limited to International Telecommunications Union (ITU), Asia Pacific Telecommunity (APT), and Pacific Islands Telecommunications Association (PITA)

- a.) Major licensed operators as defined by NICTA based on market share, or network coverage.
- b.) Major licensed operators shall participate in relevant meetings, working groups, and standard-setting activities to advocate for Papua New Guinea's interests and adopt best practices in Telecommunications and ICT development.
- c.) NICTA shall provide guidance and, where necessary financial or logistical support to facilitate operators' participation, particularly for engagement requiring international travel and fellowships.

## **10. Create Binding Mediation for Interconnection Disputes**

**Issue:** Rate disputes between operators go unresolved or to court.

**Recommendation:** Empower NICTA to mediate and set binding interconnection rates. Add automatic rate clause upon contract expiry if parties cannot agree. Disputes over interconnection rates lack a clear, neutral dispute resolution method. Require expiry dates and sliding-rate clauses in agreements. Grant NICTA authority to impose standard rates in disputes.

## **11. Give NICTA Authority to Enforce Cybersecurity**

**Issue:** NICTA lacks legal powers to enforce cybersecurity and lacks a clear mandate under current law to oversee cybersecurity practices.

**Recommendation:** Amend the Act to give NICTA power to mandate cybersecurity standards for all licensees, and to coordinate with the Censorship Board, Ensuring NICTA's role focuses on regulating licensees' cybersecurity practices. Requiring operators to meet minimum standards and report major breaches and aligning with upcoming national legislation on data protection and cybersecurity strategy.

## **12. Reform UAS Board Composition and Voting**

**Issue:** Lack of quorum and weak private sector voice in UAS Board decisions.

**Recommendation:** Allow proxy voting and increase private sector representation. Assign a



separate Chair for the UAS Board to avoid conflict with NICTA leadership. The board lacks strong private sector representation, and proxy voting is restricted. Amend Section 92 to include more industry stakeholders and enable proxy voting. Separate the UAS Chair from the NICTA Board.

### 13. Broadcasting Contents

**Issue:** Digicel is the only Telcom with Broadcasting Rights

**Recommendation:** NRL Bid has now become a national content of Interest, and of significant interest in the Telcom market. Should the NRL bid progress we recommend to include a provision of Broadcasting Contents (Section 217). Digicel cannot hold the Exclusive Broadcasting Rights as it is now and therefore a review of the Regulatory Provisions has to be made.

### 14. Emerging Issues & Internet Governance

- **Recommend** expanding the scope of the Act (or future policy instruments) to cover:
  - OTT and digital platforms
  - Net neutrality
  - Data sovereignty and cross-border data handling
  - IoT, AI, and 5G regulatory readiness

### Executive Summary of Targeted Recommendations

#	Issue	Recommendation	Target Section / Action
1	NICTA lacks authority to prosecute offences	Reinstate Section 271; create internal legal team	Amend Section 271
2	Legacy telecom assets face compensation risks	Declare long-used infrastructure as public property	New provision on state ownership
3	Unregulated telecom services by banks/universities	Define core vs. non-core licensees; require audits	Amend licensing framework
4	Market overlap between wholesale and retail providers	Separate and define license categories	New definitions under licensing provisions
5	Tower moratorium limits LEO/MEO deployment	Lift moratorium; issue tech-neutral guidelines	New policy directive
6	No planning for telecom infrastructure in construction	Mandate ducts/cabling in all public works	Planning regulations, new statutory role for NICTA
7	Spectrum fees hinder network growth	Introduce 2% revenue model tied to performance	Amend spectrum fee structure
8	Import duty inflates cost for rural connectivity	Exempt telecom equipment for rural/SEZ projects	Align customs law with ICT Act
9	NICTA doesn't represent industry abroad	Require joint industry participation at ICT events	New clause under international engagement

#	Issue	Recommendation	Target Section / Action
10	Interconnection disputes unresolved or escalated to court	Give NICTA binding mediation power	New clause for interconnection resolution
11	NICTA not mandated to enforce cybersecurity	Amend Act to give co-regulatory cybersecurity role	Add cybersecurity provision
12	UAS Board lacks quorum and private sector input	Enable proxy voting; separate chair from NICTA Board	Amend Section 92

## **Conclusion and Recommendation**

We are supportive of this review process and commend NICTA's proactive approach. The proposed reforms, if effectively implemented, have the potential to enhance investor confidence, digital inclusion, and innovation in Papua New Guinea's ICT sector.

## **Principles That Should Guide the Final Act**

- Encourage clearer delineation of roles between DICT, NICTA, ICCC and other agencies to prevent overlap and conflict.
- Public Accountability: Mandate regular publication of NICTA decisions, audits, and board meeting summaries.
- Legislative Consistency: Ensure harmonization with other laws such as:
  - Cybercrime Act 2016
  - PFMA (Amended)
  - Forthcoming Cybersecurity and Data Protection laws
- Technology neutrality — avoid locking in today's technology.
- Proportionate regulation — scale regulatory requirements to the size and risk of the provider.
- Flexibility — include enabling provisions to adapt to future technologies.
- Transparency — clear processes, published decisions, open consultations.
- Competition and consumer protection — keep markets fair and customer-centric.
- Alignment with international best practice — particularly ITU, APEC, and regional frameworks.

## **Further Recommendations**

### **1. Promotion of Advanced Technologies (4.5G, 5G Advanced, 6G, AI, Non-Terrestrial networks and LEO):**

This is to position Papua New Guinea as a leader, in the next generation Telecommunications and ICT services, NICTA shall establish a framework to encourage and regulate the deployment of advanced technologies, including 4.5G, 5G, 5G Advanced, 6G, Artificial Intelligence (AI), Low Earth Orbit (LEO) satellite constellations, and non-terrestrial networks.

- a.) Spectrum Allocation and Licensing: NICTA shall prioritize and expedite spectrum allocation to the major licensed operators at no additional cost beyond the 2% regulatory fee outlined in Section 4.

- b.) AI Integration: Licensed operators shall be encouraged to integrate AI- driven solutions for network optimization, customer service and cyber security with NICTA providing guidelines and incentives for AI adoption in telecommunications and ICT operations.
- c.) Non-Terrestrial and LEO Systems: NICTA shall develop a streamlined licensing process for non-terrestrial networks and their coverage and LEO constellations, beams and their coverage, enabling licensed operators to deploy these technologies to enhance connectivity in remote and underserved areas.

## **2.NICTA to update current rules and regulations provided in the NICT Act 2009**

In addition to this review, we further recommend that NICTA look into developing frameworks and rules to regulate the evolving ICT Industry, this includes land access rules and National ICT Land Acquisition Rules.

With the review of this Act, certain provisions, rules and regulations must be included or developed to ensure it captures the ICT industry now and going forward.

We remain available for further consultations and would welcome opportunities to contribute to any future working groups or technical task forces on the revision of the Act.

**ATTACHMENT 2:**  
**NATIONAL ICT LAND ACQUISITION ACT 2025**

---

**Below is a recommended National ICT Law, structured as a formal legislative document, that shall be used in complementarity with NICTA Act 2025.**

This recommended law, incorporates the concept of state acquisition of lands for Telecommunications and ICT Facilities under **Eminent Domain**, akin to national highways, and eliminates the need for annual lease rental payments in perpetuity.

Please note that this is an urgent and very important law to fulfill reform agenda of the national government in the Telecommunications and ICT industry in Papua New Guinea. It would require further legal scrutiny, stakeholder consultation, and alignment with constitutional and jurisdictional frameworks to be enforceable.

## **NICTA Act 2025 (Amended) National Information and Communications Technology (ICT) Land Acquisition Act 2025.**

***An Act Declaring Lands Used for Telecommunications and ICT Facilities as State-Acquired Under Eminent Domain, Providing for the Exemption from Annual Lease Rental Payments in Perpetuity, and for Other Related Purposes.***

**Be it enacted by the National Parliament of Papua New Guinea assembled:**

### **Section 1. Short Title**

This Act shall be known as the "**National ICT Land Acquisition Act 2025**"

### **Section 2. Declaration of Policy**

It is the policy of the Independent State of Papua New Guinea to:

- Promote the development, accessibility, and resilience of telecommunications and information and communications technology (ICT) infrastructure as critical components of national development and public welfare.
- Ensure the efficient and equitable use of land for the establishment and operation of telecommunications and ICT facilities, recognizing their role as public utilities comparable to national highways and road networks.
- Exercise the power of eminent domain to acquire lands necessary for telecommunications and ICT facilities, ensuring their uninterrupted operation without the burden of recurring lease payments.

## Section 3. Definition of Terms

**For the purposes of this Act:**

**Telecommunications and ICT Facilities** shall refer to physical infrastructure, including but not limited to cell towers, base stations, fiber optic cables, roadside ICT Aggregation Devices and/or facilities, data centers, satellite stations, and other equipment or installations essential to the provision of telecommunications and ICT services.

**Eminent Domain** refers to the inherent power of the State to acquire private property for public use, upon payment of just compensation, as provided under the Constitution and applicable laws.

**State-Acquired Land** refers to land acquired by the State through eminent domain or other lawful means for the establishment and operation of telecommunications and ICT facilities.

## Section 4. State Acquisition of Lands for Telecommunications and ICT Facilities

- **Declaration of Public Use:** All lands on which telecommunications and ICT facilities are situated, whether currently existing or to be established in the future, are hereby declared as devoted to public use, analogous to national highways and road networks.
- **Acquisition Under Eminent Domain:** The State shall exercise its power of eminent domain to acquire such lands, ensuring that:
  - a.) The acquisition process complies with constitutional and statutory requirements, including the determination of just compensation for affected property owners.
  - b.) Just compensation shall be provided to landowners at the time of acquisition, based on the fair market value of the property as determined by an independent appraiser or as agreed upon by the parties, in accordance with existing laws.
- **Scope of Acquisition:** This Act shall apply to:
  - a.) Privately-owned lands where telecommunications and ICT facilities are currently located.
  - b.) Lands identified for future telecommunications and ICT infrastructure development.
  - c.) Public lands already used for such purposes, which shall be formally designated as state-acquired for telecommunications and ICT use.



## **Section 5. Exemption from Annual Lease Rental Payments**

- Upon acquisition of lands under this Act, no annual lease rental payments or similar charges shall be required in perpetuity for the use of such lands for telecommunications and ICT facilities.
- Existing lease agreements for lands used by telecommunications and ICT facilities shall be terminated upon acquisition, with the State assuming ownership and the affected landowners receiving just compensation as provided in **Section 4**.
- This exemption shall not apply to operational or service-related fees charged by telecommunications or ICT providers to end-users.

## **Section 6. Responsibilities of the State**

The National Information Communications and Technology Authority (NICTA) shall:

- a.) Oversee the identification, acquisition, and management of lands for telecommunications and ICT facilities.
  - b.) Coordinate with local government units, landowners, and telecommunications providers to ensure compliance with this Act.
  - c.) Maintain a national registry of state-acquired lands used for telecommunications and ICT purposes.
- The State shall ensure that acquired lands are used exclusively for telecommunications and ICT facilities, unless otherwise repurposed through a lawful process.

## **Section 7. Rights of Affected Landowners**

- Landowners whose properties are acquired under this Act shall be entitled to:
  - a) Just compensation, as provided under **Section 4**.
  - b) Notice and opportunity to be heard in accordance with due process requirements.
- Landowners may appeal the valuation of just compensation through appropriate judicial or administrative processes as provided by law.

## **Section 8. Funding**

The funds necessary for the acquisition of lands and payment of just compensation under this Act shall be sourced from:

- The annual budget of the Department of Information Communications and Technology

- Contributions from Telecommunications and ICT service providers, as may be determined by NICTA
- Other sources as may be identified by the National Parliament

## **Section 9. Penalties**

Any person or entity found to obstruct, delay, or otherwise impede the implementation of this Act, including the acquisition process or the operation of telecommunications and ICT facilities on state-acquired lands, shall be subject to penalties as provided under existing laws, including fines and imprisonment, upon conviction.

## **Section 10. Implementing Rules and Regulations**

Within ninety (90) days from the effectivity of this Act, the NICTA shall, in consultation with relevant stakeholders, promulgate the necessary implementing rules and regulations to ensure the effective execution of this Act.

## **Section 11. Separability Clause**

If any provision of this Act is declared unconstitutional or invalid, the remaining provisions not affected thereby shall continue to be in full force and effect.

## **Section 12. Repealing Clause**

All laws, decrees, executive orders, rules, and regulations, or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

## **Section 13. Effectivity**

This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in at least two (2) newspapers of general circulation.

**Legal Considerations:** The law assumes compliance with constitutional protections for property rights, particularly the requirement for just compensation under eminent domain.

**Stakeholder Input:** Implementing such a law would require consultation with telecommunications companies, landowners, local governments, and other stakeholders to address potential concerns, such as compensation disputes or land use conflicts.

**Funding:** The proposal includes a funding mechanism but leaves flexibility for the legislature to determine specific sources, as this will depend on the country's fiscal policies.