



TELIKOM PNG LIMITED

“our communication company”

Feedback regarding Public Consultation document on a draft rule specifying the acceptable form for reference interconnection offers.

1st February 2012

Summary

Telikom's views regarding the proposed Reference Interconnection Offer Rule 2011 (**RIO Rule**) are set out in this manner:

- Telikom acknowledges NICTA's legal rights under the National ICT Act 2009 (**the Act**) to make the proposed RIO Rule insofar as it seeks to promote non-discriminatory obligations in the provision of declared wholesale access services by Access Providers. We do feel strongly that RIO Rule should be restricted and apply only to declared wholesale access services that are subject of a RIO and it should not apply to other wholesale access services (declared or not) that are not subjected or covered under a RIO. In that way, businesses that are Access Providers and Access Seekers are left to deciding for themselves what is best for them through commercial agreement. In the circumstances, the RIO Rule should not apply generally to all wholesale declared service Providers until the parties themselves seek regulatory intervention through request for negotiations in the presence of NICTA or arbitration, etc.
- Whilst Telikom recognises the benefits of a RIO, we do stress that the decision to provide a RIO must remain the discretion of the Access Providers and Access Seekers to promote commercial agreement.
- In regard to the draft RIO Rule, we consider that clause 5(3) of the proposed RIO Rule is inconsistent with section 141(3) of the Act insofar as the former seeks to insist on the inclusion in a RIO of both price and non-price terms and conditions when the Act provides the Access Provider with the discretion to include in a RIO price or non-price terms and conditions. In the circumstance, section 5(3) of the Rule would be inconsistent with the Act. We suggest that section 5(3) be amended to reflect that discretion that the law grants to Access Providers.
- We consider that sections 5(4) and 6(e) of the Rule also seeks to take away the discretion of the Access Provider when it comes to deciding whether to incorporate price terms as well as non-price terms or both in a RIO, which is against the intent of the Act. In the circumstance, we reiterate that NICTA consider reviewing the Rule so that it is in accordance with section 141(3) of the Act.

- We acknowledge NICTA's position that the draft Reference Interconnection Offer annexed to the Rule is provided solely for the purpose of guidance and do not wish to comment on its contents. As NICTA would appreciate, Telikom has extensively negotiated, agreed and operated under an Access Agreement with the other mobile operators concerning the mobile voice and SMS services since 2008. That Access Agreement has and continues to serve us well and should Telikom consider submitting a RIO in the future – preferably prior to the expiration of the said Access Agreement, it would be in our business interests to submit one that we are familiar with and which has proven to be effective to NICTA. As this point in time, Telikom does not wish to defer from that Access Agreement commercially enter into by and between Telikom and the two (2) existing mobile operators.