

# RESPONSE TO NICTA CONSULTATION

Proposed terminating access services declaration and retail price determinations



30th November 2022

Mr. Polume Lume, acting Director  
Economic, Consumer & International Affairs  
National Information and Communications Technology Authority (NICTA)  
Corner of Croton & Frangipani Street, Hohola  
NCD, Port Moresby, Papua New Guinea

Re: SUBMISSION OF COMMENTS ON NICTA CONSULTATIONS ON PROPOSED DECLARATION OF DOMESTIC MOBILE AND FIXED TERMINATING ACCESS SERVICES AND A RETAIL SERVICE DETERMINATION IN RELATION TO VOICE SERVICES

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Dear Sir,

Thank you for the opportunity to respond to the above consultations. Vodafone PNG (Digitec Communications Limited) welcomes the opportunity to respond and provides a submission (attached). We would welcome an opportunity to discuss our submission with you.

Yours faithfully

  
**DIGITEC COMMUNICATIONS LTD**  
**P.O. Box 580, Waterfront 121**  
**National Capital District**  
**Papua New Guinea**

Mahendra Singh  
Chief Financial Officer/Company Secretary  
Digitec Communications Limited T/A Vodafone PNG

Attached: Submission

## KEY POINTS

- Vodafone PNG supports NICTA's recommendations regarding the declaration of fixed and mobile terminating access services.
- Vodafone PNG agrees with NICTA's analysis that supports a prohibition on discrimination between the retail prices for on-net voices services and equivalent off-net voice services by the operator with substantial market power.
- Vodafone PNG considers that a five-year period for the retail service determination would be appropriate. The determination could, however, fall away if other benchmarks relating to market shares and cost-based termination charges are met.

## INTRODUCTION

Vodafone PNG is pleased to make a submission to NICTA regarding NICTA's public inquiries into:

- the declaration of Domestic Mobile and Fixed Termination Access Services<sup>1</sup>
- whether it should make a recommendation to the Minister that a retail service should be subject to a retail service determination in respect of an operator licence.<sup>2</sup>

## CONSULTATION ON FIXED AND MOBILE TERMINATION SERVICES

NICTA's public inquiry to consider the declaration of wholesale fixed and mobile terminating access services finds that these services should be recommended to the Minister for declaration. That is because:

- each fixed or mobile network operator has a substantial degree of market power (SMP) in the market for termination of calls/messages on its own network; and
- there may be detriments to competition and efficiency if service providers refuse to supply or price these services excessively.

Vodafone PNG agrees with NICTA's analysis that there is a risk that network providers will use their market power to set charges for fixed and mobile termination services that may harm competition and efficiency in downstream retail markets, and this can be addressed through a declaration. This would also be consistent with the approach adopted in most other jurisdictions i.e. to declare and price regulate termination services on each network with a 'calling party pays' billing structure. This will be helpful to ensure that Vodafone PNG is able to obtain reasonable terms in acquiring fixed and mobile terminating services.

If the Minister declares the services, NICTA will proceed to establish specific pricing principles in which terminating access charges are prescribed. Vodafone PNG looks forward to commenting on suitable pricing principles for these services.

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<sup>1</sup> NICTA, *Discussion Paper: Public inquiry into the potential declaration of Domestic Mobile and Fixed Termination Access Services*, 21 October 2022.

<sup>2</sup> NICTA, *Discussion Paper: To facilitate public consultation on potential Retail Service Determination in relation to On-net and Offnet Calls*, 21 October 2022.

## CONSULTATION ON RETAIL MARKET PRICE REGULATION

### MARKET DYNAMICS

Digicel has a strong market position in the PNG mobile market. However, PNG will benefit from the recent entry and competitive pressure imposed by Vodafone PNG. As NICTA is aware, Vodafone PNG is committed to providing its customers with high quality services which ensures that it will remain competitive as a supplier of mobile broadband and voice services.

Accounting for 90% of internet usage, mobile networks are the primary channel through which PNG citizens access the internet.<sup>3</sup> Yet, only 41% of the population received 3G network coverage<sup>4</sup>, and internet penetration remains at 15.2% in January 2021.<sup>5</sup> It is therefore critical that policies are supportive of increasing the availability and penetration of mobile broadband, and Vodafone PNG considers this is best driven through network competition. At present, the best prospects for challenge to Digicel's market dominance (it has maintained a market share above 80% since 2009,<sup>6</sup> currently over 90%)<sup>7</sup> arise from the entry of efficient competitors such as Vodafone PNG.

As an example of the benefits of more competition, Vodafone PNG notes that it has already offered significant reductions in data rates in the market across all the data plans and propositions introduced after the network launch. Vodafone PNG now offers up to 400% more data compared with competitor plans at similar price points, and offers high value data plans at significant lower prices than existing competitors.

### RETAIL SERVICE DETERMINATIONS

A retail service determination is a regulation that is made by the Minister based on the recommendation of NICTA. NICTA's recommendation must be based on the application of the retail regulation criteria that are set out in Section 158 of the Act. The criteria relate to addressing persistent and substantial market power which expose retail customers to a material risk of higher prices.

The criteria also provide that the operator licensee will not be prevented from achieving a return on assets during that period sufficient to sustain investment necessary to supply the retail service.

As Vodafone PNG submitted to NICTA in June 2022, it does not support regulation of retail voice and data prices generally. However, it is appropriate to further consider the issue of on-net / off-net differentials.<sup>8</sup>

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<sup>3</sup> Deloitte, Connecting Papua New Guinea: The Dawn of the Digital Era, 2019, p.5.

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<sup>5</sup> <https://datareportal.com/reports/digital-2021-papua-new-guinea>

<sup>6</sup> <https://restofworld.org/2021/papua-new-guinea-calling/>

<sup>7</sup> <https://www.afr.com/companies/telecommunications/why-digicel-is-a-new-front-in-australia-s-security-strategy-20210723-p58c8s>

<sup>8</sup> Vodafone PNG, *Submission on Retail Price Controls: Response to NICTA consultation*, June 2022.

## **A LIMIT OR PROHIBITION ON ON-NET/OFF-NET DIFFERENTIALS IS SUPPORTED**

Vodafone PNG agrees with NICTA's analysis of on-net/off-net price differentials and therefore agrees that the retail regulation criteria in Section 158 of the Act are satisfied.

It is clear that a strong incumbent with high market share can price strategically to disadvantage rivals through relatively low-priced on-net offers. Such prices will encourage consumers to stay with the incumbent to increase their probability of cheaper on-net calls and reduce the probability of more expensive off-net calls.

While other operators can make similar offers, with a small market share the probability of a call being off-net (i.e. to the incumbent) is much higher and so the offers cannot be as attractive. Therefore, there is a clear risk of large on net differentials harming competition, by raising a barrier to customer acquisition for new entrants.

Vodafone PNG understands that NICTA has previously implemented a cap on the price of off-net calls based a 40% premium to on-net calls, but this expired in 2017. Current market evidence (**Tables 1 and 2**) highlight that Digicel maintains significant off net premiums over its on-net prices. This is likely to hinder Vodafone's PNG expansion by making it more difficult for Vodafone PNG to benefit from network externalities (as Digicel presently enjoys).

**Table 1:** Standard charges for mobile calls

Service Description	Digicel PNG (Per Min)	Bmobile (Per Min)	VF PNG (Per Min, but billed per second)
On-Net Calls - Peak	0.80	0.79	0.60
On-Net Calls - Off-Peak	0.60	0.39	0.30
Local Off-Net Calls - Peak	1.00	0.87	0.70
Local Off-Net Calls - Off-Peak	1.00	0.87	0.35

**Table 2:** Differences between off net and on net mobile calls

	Off net premium - peak	Off net premium - off peak
Digicel	25%	67%
Bmobile	10%	123%
VF PNG	17%	17%

## THE TERMS OF THE DETERMINATION

Vodafone PNG generally agrees with NICTA's analysis in Section 5 of the Consultation Paper regarding the application of the determination (to Digicel), the service (national mobile voice call services).

With respect to the proposed terms (a pricing principle that there must be no price discrimination based on the identity of the terminating mobile network) and the length of the determination, Vodafone PNG has the following comments.

### FRAMING OF THE PROHIBITION

NICTA's proposed prohibition provides that Digicel may differentiate between the price of On-net Calls and Off-net Calls only where it has prior written permission to do so from NICTA based on NICTA's acceptance that there are cost differences that justify the differences in price.

NICTA further clarifies that the voice service terminating charges that Digicel pays for the termination of calls on the networks of other operator licensees, and which have originated on Digicel's network, shall not be considered to be the basis of a justified difference in on-net and off-net call prices unless those charges have been formally approved by NICTA in advance.

Vodafone PNG generally supports this approach. In principal, it should prevent excessive rates for mobile termination being used to drive a wedge between on net and off net prices.

## TIME PERIOD OF THE PROHIBITION

Vodafone PNG acknowledges that NICTA considers that a five-year period, the maximum allowed for in Part VII Division 1 of the Act for a Retail Services Determination, would be too long under the current circumstances.

Vodafone PNG considers that the analysis of retail markets supports regulation so long as

- (i) there is significant asymmetry between the retail shares of the mobile networks; and
- (ii) there is a material difference between interconnection charges for mobile terminating access (acquired for an off-net call) and the marginal costs of supplying mobile terminating access.

It is the combination of these factors that means that it can be very difficult or impossible for a smaller mobile network to compete with a mobile network with high market share that offers very low (but above cost) on-net tariffs. This is what we see in the market today.

In that context, Vodafone PNG considers that a preferable approach would be to for NICTA to impose regulation for the 5-year period allowed under the Act, and commit to reconsidering regulation on the achievement of more symmetric market shares and cost-based access for mobile terminating access services.

Once market shares are closer, a low on-net pricing strategy has a less asymmetric effect. At this point, regulation of on-net/off-net price differentials will not likely to be required.

Vodafone PNG expects to rapidly win market share. However, it is clear that large on-net/off-net price differentials significantly raise barriers to entry and expansion for new entrants to the detriment of the long term interests of end-users. The proposed regulation can help new entrants gain market share and promote more effective competition with Digicel. The regulation can also limit conduct without significantly disadvantaging consumers. This is because the regulation would still leave it open to the incumbent to set low prices on all types of calls.

## **ALIGNING BILLING METHODS**

A further issue of concern to Vodafone PNG is the means of charging by other network operators.

As NICTA may be aware, Vodafone PNG's tariffs are cheaper than those offered by either Digicel or Bmobile across all kinds of mobile calls at any time (peak or off peak). But the value offered is superior in another key respect - Vodafone PNG offers per second billing rather than rounding upwards to 30 second or 1 minute increments.

For Vodafone PNG to offer competitive rates to its customers, it offers per second billing on all of its calls. However, when interconnecting with Digicel, Vodafone PNG does not pay on a per second basis. This can mean that for some very short calls, Vodafone PNG will receive less from retail customers than it owes in wholesale charges. Vodafone PNG has no effective ways of mitigating this risk since either increasing its per second billing rates or charging on the basis of a longer increment of time (e.g., 30 seconds or 1 minute) will materially affect its ability to compete against the incumbent and expand its market share.

Vodafone PNG considers that Digicel and other mobile networks should be obliged to offer interconnection on the same basis as which Vodafone PNG offers its retail services. It is apparent that this will produce material benefits for consumers, in the form of lower retail prices.