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National Information and Communications Technology Act 2009

SERVICE-SPECIFIC PRICING PRINCIPLES (BROADBAND CAPACITY SERVICE) DETERMINATION 2019

The NATIONAL INFORMATION AND COMMUNICATION TECHNOLOGY AUTHORITY makes this Determination under section 135 of the *National Information and Communications Technology Act 2009*.

PART I - PRELIMINARY

1 Name of Determination

This Determination is the Service-Specific Pricing Principles (Broadband Capacity Service) Determination 2019.

2 Commencement

This Determination commences on the 1st January 2020 (commencement date).

3 Interpretation

- (1) Subject to subsection (2), unless the context otherwise requires, terms used in this Determination have the same meaning as in the Act.
- (2) In this Determination, unless the context otherwise requires —
 - (a) “Act” means the *National Information and Communications Technology Act, 2009*;
 - (b) “broadband capacity service” means a network service supplied by optic fibre means for the carriage of broadband traffic on a network within Papua New Guinea and involves the provision of a Layer 2 bitstream service or a Layer 3 network service from a point of interconnection, or potential point of interconnection, to either a second point of interconnection or potential point of interconnection.

Service-Specific Pricing Principles (Broadband Capacity Service) Determination 2019—continued**4 Determination**

The National Information and Communications Technology Authority determines, pursuant to Section 135 of the Act, that the service-specific pricing principles specified in Part II are to apply to the broadband capacity service declared by the Minister under Section 130 of the Act.

PART II - PRICING PRINCIPLES**5 Price related terms and conditions for the broadband capacity service**

- (1) A total service long run incremental cost (TSLRIC+) analysis or a fully allocated cost (FAC) analysis is an appropriate costing methodology to inform NICTA of the efficient costs of supplying a broadband capacity service.
- (2) To determine the efficient cost of supplying a broadband capacity service, NICTA may (without limitation) do any of the following —
 - (a) use one or more cost models that have been prepared by or for —
 - (i) NICTA;
 - (ii) an access provider; and/or
 - (iii) an access seeker,that have been made available to and accepted by NICTA for this purpose;
 - (b) adjust the actual cost claimed by an access provider or access seeker to reflect —
 - (i) productive efficiencies available in the operations of the access provider;
 - (ii) scale and scope efficiencies available to the access provider; and
 - (iii) other efficiencies available to the access provider, that should, in NICTA's opinion, be shared with access seekers;
 - (c) determine the economic life of the assets employed in the supply of the service based on —
 - (i) the practice of the access provider in the use and replacement of similar assets in Papua New Guinea;
 - (ii) the economic lives accorded to similar assets by other regulatory authorities in other countries; and/or
 - (iii) the practices of other network operators in the use and replacement of similar assets in Papua New Guinea and other countries;
 - (d) determine a reasonable return on the access provider's investment over the economic life of the assets employed in the supply of the service taking into account any concessionary donor or similar finance and based on the actual risks and returns accepted by providers of debt and equity capital to —
 - (i) the access provider; and/or
 - (ii) other network operators providing equivalent services in Papua New Guinea or in other countries that, in NICTA's opinion, are reasonably similar to Papua New Guinea;

Service-Specific Pricing Principles (Broadband Capacity Service) Determination 2019—continued

- (e) determine the efficiencies that shall be taken into account having regard to —
- (i) information provided by the access provider in relation to its own costs and potential efficiencies;
 - (ii) information provided by other operator licensees in relation to their costs and potential efficiencies in Papua New Guinea; and/or
 - (iii) benchmarked information from countries that, in NICTA's opinion, are reasonably similar to Papua New Guinea; and
- (f) take into consideration relevant international benchmarking studies to the extent that doing so is consistent with the Act and to Section 134 in particular, both for the purposes of final arbitration of disputes relating to wholesale access and for interim determinations under Section 146.
- (3) The price of the broadband capacity service may be different in terms of the price per megabit per second for services of different transmission capacities provided that the extent of any such difference in price shall be no more than is reasonably warranted by the cost of providing service and/or accepted price differentials in accordance with common international practice.
- (4) The price of the broadband capacity service may be different in terms of the price per megabit per second where the period of contractual commitment by access seeker differs to the extent that a longer contractual commitment reduces the costs and risk to the access provider.

6 Non-price terms and conditions for the broadband capacity service

If the transmission capacity of the broadband capacity 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 the access provider and all access seekers to the extent that preference may be given to those users that, before the service constraint in question occurs, have paid a premium for full or best available service continuity under such circumstances.

Dated this 17th day of December, 2019.

J. CHOLAI,
Member.

C. PUNAHA,
Member.