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NOMINATED SERVICE PROVIDER REFERENCE INTERCONNECTION OFFER

REVIEW REPORT

The Office of the Telecommunications and
Radiocommunications Regulator

10/9/2013

CONSULTATION ON DRAFT NOMINATED SERVICE PROVIDER REFERENCE INTERCONNECTION OFFER (NSP RIO)

1. Introduction

TRR developed and released a Draft NSP RIO for public consultation under section 27(4) of the Telecommunications and Radiocommunications Regulation Act No. 30 of 2009 (the “Act”) which requires the Regulator to consult with an NSP and any other interested parties in assessing or determining the terms and conditions proposed by the NSP. Once the Regulator has determined the terms and conditions, this will become the nominated service provider's reference interconnection offer.

TRR Public Consultation on the Draft NSP RIO was conducted for 6 weeks from 7 June to 19 July 2013. Submissions were received from Interchange on 17 July and from TVL and Digicel on 19 July.

This report provides feedback on and comments made by the Regulator on the Licensees' submissions to this public consultation.

TRR has considered all of the details of each submission received and does not believe that there is any confidential information in either the Licensees' comments or TRR's response. Hence, the layout and organization of this report presents TRR's and the Licensees views in a transparent manner. The numbering used in the report is TRR's.

TRR has taken into account all the comments received and separately has developed a revised version of the NSP RIO. The heading numbering in the Revised NSP RIO compared with the Draft NSP RIO, has been reviewed and simplified for clarity and ease of reading.

The Digicel response includes a model system for fault management. TRR would like to thank Digicel for this document and will include it in the NSP RIO as a sample of what might be used by the parties in negotiations of an interconnection agreement.

Once the NSP RIO is finalized and published, any NSP must use it as a starting point and reference document to develop its own draft interconnection agreement ready to be used in negotiation between the NSP and any access seeker.

TRR believes that this arrangement will assist the necessary and rapid conclusion of an interconnection agreement consistent with the Act, and the NSP RIO developed to facilitate such an approach.

2. Review Report

	Reference	Digicel Comments	Interchange Comments	TVL Comments	TRR Responses
A	General Comments				
1	RIO Development	<p>Digicel is disappointed that TRR made no reference to the Digicel RIO submitted on 25 June 2012 and to its generic NSP RIO on 9 April 2013. Digicel is concerned that it may be inferred from the TRR Draft NSP RIO that Digicel has been less cooperative.</p> <p>Digicel has spent a significant amount of time and resources on the RIO, even though there are no pending requests for interconnection.</p>			<p>TRR always welcomes and appreciates the help and support given to us by the Licensees. TRR made reference to both Digicel RIOs that were submitted on 25 June 2012, and to its generic NSP RIO on 9 April 2013, in its Consultation Document of 7 June 2013, under Regulatory Impact Assessment points d and j.</p> <p>TRR would further like to point out that it values Digicel's comments and the helpful nature of Digicel's approach.</p> <p>TRR also agrees that there are no pending requests for interconnection to Digicel networks.</p>
2	TRR intention to notify Interchange as an NSP once the submarine Cable lands in Vanuatu.	<p>Digicel is concerned that such notification maybe either premature or unwarranted. The Telecommunications and Radiocommunications</p>	<p><u>Business Focus:</u> It is in the best interests of the International Cable System Owner to ensure interconnection of the</p>	<p>It is only Access seekers who can request interconnection via the RIO. TVL understands that Interchange will be a facility provider of</p>	<p>Firstly, Interchange will not be nominated until it has established a network in Vanuatu which will happen once the cable has been terminated</p>

		<p>Regulation Act No. 30 of 2009 (the "Act") only intends that Service Providers (SPs) who are capable of providing interconnection services in Vanuatu maybe NSP. Interconnection and obligation to interconnect are both tightly defined under the Act.</p> <p>a. The definition of interconnection in the Act requires that relevant SPs must both have established telecoms networks in Vanuatu that provide or are intended to provide "voice, message, and data origination, transit and termination interconnections services" to each other. The networks must also connect to each other "physically and logically". Interconnection is a domestic concept and applies to the provision of "switched" services by one network to another.</p> <p>b. Section 26(1) of the Act requires that SPs must provide or intends to provide</p>	<p>ONO customers at the cable station in Vanuatu is simple and easy.</p> <p>Type of Interconnection required: Simple transmission DDF/ODF patches.</p>	<p>international cable capacity. As such there are not appropriate party to be an "access seeker" in an interconnection agreement. The Act is clear that operators are only obliged to enter into interconnection agreements with "access seekers" and these are defined as operators who "provide services to the public.</p>	<p>in a suitable location to enable it to be interconnected in accordance with the definition in the Act. This does not specify that interconnection is restricted in some way to switched services. The term "switched services", or any similar term is not used in the Act.</p> <p>Interchange is already a service provider under the definition in the Act; having been granted a Licence some time ago.</p> <p>The Act does not categorize who is going to be an "access seeker". All licences issued to all operators including Digicel, TVL and Interchange are unified licences, which qualify them to provide telecommunication services to the public. Pursuant to section 26 of the Act, every service provider who provides or intends to provide telecommunications service to the public (access seeker) has the right to an interconnection agreement.</p> <p>The Act covers both situation,</p>
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		<p>“telecommunications service to the public” and public means public in Vanuatu.</p> <p>Digicel suggests that the operation of a cable landing station and an international submarine cable and associated services does not meet criteria a) and b) above. This is because neither origination nor termination services are provided and the services are intended to be sold on a whole sale basis and not to the “public”.</p> <p>Therefore it may not be possible for Interchange to be notified as an NSP or for Interchange to take advantage of Part 6 of the Act to require another operator in Vanuatu to interconnect with it.</p>			<p>whether a service provider is actually providing services or intend to provide services, and seek interconnection from the access provider, the Act refer to it as an access seeker. Even though Interchange Ltd will provide capacity in the wholesale level, however, it can be an access seeker to TVL and Digicel’s network if it wants to connect to their network, and thus needs to enter into interconnection agreement in the form of the NSP RIO with either of them. On the other hand, TVL and Digicel can be an access seeker by definition, to Interchange if they want to interconnect with Interchange for connecting to the cable, thus use the NSP RIO.</p> <p>Interchange will have a “telecommunications network” in Vanuatu regardless of whether Interchange provides services in the wholesale or retail level market. This will consist of the cable from the start of the country’s jurisdiction and some termination equipment located</p>
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					<p>in a building with power. This is perfectly capable of providing interconnection as defined in the Act.</p> <p>Moreover, the Act did not define 'public'. However, public in TRR's view includes: providing and selling of telecommunications service to other licensees within the market. The Act defines telecommunications service as "a service to provide any form of telecommunication to or from any place in Vanuatu, by means of a telecommunication network, where that service is provided, directly or indirectly, to the public or to any person outside Vanuatu;..."</p> <p>Interchange will have a network of its own, and will provide telecommunications service from its location at Mele to any service provider in the market. Service providers will be Interchange customers.</p> <p>Licensees form a part of the public as far as the definition of "public" is concerned.</p>
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				<p>In this circumstance, as such, Interchange network is not a private network but a public network rather which will be available to all licensees in the market, regardless of the level of market Interchange will be selling/operating from.</p> <p>Finally, section 26 (1) of the Act defines an “access seeker” as “Every service provider who provides or intends to provide telecommunications service to the public”.</p> <p>The definition of telecommunications service in the Act includes those providing services “directly” or “indirectly” to the public. If International Calls are telecommunications service, which they are, then Interchange is clearly able to provide “termination” of “telecommunications service” indirectly to the members of the public”.</p> <p>Interchange is clearly a service provider and is entitled to provide telecommunications</p>
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					service under a valid licence and is an “access provider” accordingly.
3	Is Submarine Cable a “Bottleneck Facility”?	Digicel suggest that the cable landing station and the cable itself be considered as “bottleneck facility” for the purpose of the Act and that access to it may fall within the ambit of Part 5 (Competition) of the Act.		Interconnection has a specific definition: The Act defines interconnection in a specific and contained manner and this must be reflected in the RIO. Bottlenecks are carved out and treated separately.	<p>Bottleneck facilities are defined in the Act but there are only three conditions imposed upon them. One is in section 21 as part of a determination of dominance and the other two in assessing abuse of dominance in section 23. As such they are more narrowly defined than interconnection.</p> <p>TRR noted the points as raised, however any action addressing this matter will be dealt with separately.</p>
4	Precedence of the Act over the RIO.			The Act takes precedence over the RIO.	Agreed; but a RIO is only an offer and can change as provided for under section 27(6) of the Act. However, this statement is more relevant for any interconnection agreement that is concluded based on the RIO (s29 (1) (a)). If there are inconsistencies between the provisions of the Act and the RIO, that provision will not be applied in any interconnection agreement. However, TRR will

					invoke section 27(6) to align it with the Act.
5	Legal Basis for Interconnection and related Regulation			<p>TVL recommends that the RIO must work within the scope of the Act. The Act takes precedence over any TRR consideration and indeed determinations. TVL notes that the Act defines interconnection in a specific and contained manner, i.e.</p> <p>“Interconnection means the physical and logical linking of telecommunications networks operated by two service providers and the provision of voice, message and data origination, transit and termination interconnection services by one service provider to the other.”</p> <p>TVL notes that this is a narrow definition of interconnection requiring that a “physical and logical” linking of networks takes place and the provision of voice or data services origination, transit and termination. This is a</p>	<p>TRR does not agree that the quoted part of the Act is a definition of switched services. It means the linking of two networks for the passage of messages in the broadest sense.</p> <p>The same definitions exist in most of other Pacific countries telecommunications laws, which are similar to Vanuatu. Legally, when drafting legislations, drafters always take the objective views and want to make interpretation broad as much as possible to cover unforeseen circumstances. That is why we have a broad definition in the Act.</p> <p>Section 29 makes it clear that interconnection can be made at any technically feasible point. This is supported by the definition when it puts a broad statement like “physical and logical linking of telecommunications networks...” Putting everything</p>

				<p>definition of switched services interconnection and cannot be extended a leased line, IP “bitstream” or collocation requirement (broader than the specific collocation requirement needed for switched interconnection).</p>	<p>in context, physical and logical linking of networks, where it is technically feasible is “interconnection”.</p> <p>Bitstream services, collocation (in order to provide interconnection), or leased lines, can be logically and physically linking two networks, and as such fall within the definition of the Act.</p>
6	<p>Comments on intent of the TRR NSP RIO</p>	<p>It should be recognized that SPs are not required to enter into an interconnection agreement in the form of a TRR or any other RIO. SPs are free to negotiate their own terms should they wish to do so, provided that such agreements meet the requirements of section 29 of the Act, despite any inconsistency with a RIO.</p> <p>Digicel submits that this is consistent with the objectives of the Act and international best practice.</p>			<p>There are two processes established under the Act. Section 26(1) is still in operation. However, if any service provider wants to interconnect with any nominated service provider that has a RIO, then they should follow the RIO. It is a short circuit of section 26(1) of the Act.</p> <p>However, where any service providers, who intend to interconnect with each other, other than any of the nominated service provider (TVL, Digicel and or Interchange once nominated), they can still use section 26(1) but must</p>

					<p>comply with section 29 of the Act.</p> <p>Otherwise, it will make no sense if TRR developed this NSP RIO and yet parties (TVL and Digicel) continue to decide on their own outside of the NSP RIO.</p> <p>Digicel produces no evidence on the claim that Digicel's interpretation of the approach is consistent with International best practice. TRR experience is contrary to Digicel's statement. In many countries the interconnection agreement is the same as the RIO or the RIO must form the basis of the interconnection agreement (See EU countries, the Middle East and elsewhere).</p>
7	Comments on content of the TRR NSP RIO	Digicel notes that the TRR RIO includes, as mandated terms, many technical and operational descriptions and procedures. Digicel is concerned that a "one size fits all" prescriptive approach may not be appropriate in all circumstances and could result in situations where			<p>TRR believes that the approach of the draft NSP RIO has provided sufficient flexibility. However, if a situation arises in the future where a different approach is required and providing this is consistent with the Act then TRR can quickly respond to such changes.</p>

		terms are included that may not be able to be complied with by the NSP or the other SP wishing to interconnect.			
B Public Consultation Questions 1 to 8.					
	Questions	Digicel Comments	Interchange Comments	TVL Comments	TRR Responses
1	<p>Q1. Comment is invited on the structure, content and intent of this draft NSP RIO.</p> <p>Does it cover all the required aspects of a RIO from your point of view?</p> <p>If not, what other aspects should be included?</p> <p>(Please provide title and proposed text; including placement in this draft).</p>	<p>Digicel supports the establishment of an industry RIO template, a document that establishes the form and structure of what is intended to become an interconnection agreement between two SPs.</p> <p>The template may also include specific wording for a range of mandatory terms to be included in the interconnection agreement and sets guiding principles or “model terms” for other parts of the interconnection agreement where it may be appropriate to be less definitive. This is consistent with the meaning of Section 27(8) of the Act which permits an SP to require an NSP to enter into an</p>	<p>The interconnect principles detailed in the proposed RIO meet the needs of and are in general appreciated and supported by Interchange.</p> <p>Item 1.2 states “In Section B of the NSP RIO, there are a number of detailed issues which TRR would expect to be included in an Interconnection Agreement. Whilst leaving the detailed wording to be negotiated between the parties, the NSP RIO gives some guidance as to the issues that TRR expects to be covered by such provisions.”</p> <p>Interchange Comment:</p>	<p>TVL has proposed some additional points that should be covered in the RIO, many of these points were incorporated in the previous RIO developed by the TRR and supported by TVL. TVL also considers that the RIO should incorporate legal boiler plate clauses.</p>	<p>The provisions of the Act in terms of Interconnection Agreements, Abuse of Dominance, Reference Interconnection Offers and the Principle Objects in Section 1 are complex and cannot be considered in isolation. The approach which TRR is taking seeks to maintain the requirements of section 29 with the flexibility of the remaining sections of the Act. The Act clearly draws a distinction between the RIO and the interconnection agreement.</p> <p>TRR is of the view that ‘form’ as mentioned in section 27(8) of the Act and in this is context does not mean that the RIO should be drafted in a form of a draft interconnection</p>

		<p>interconnection agreement “in the form of the nominated service provider’s RIO”.</p> <p>TRR RIO currently drafted does not provide the form or structure of the interconnection agreement that would facilitate the rapid negotiation and implementation of interconnection agreements.</p>	<p>These words and intent are fully supported by Interchange. Similarly Item 1.5 is supported, i.e. “Unless otherwise expressly agreed between the parties, the terms of the Interconnection Agreement shall, be consistent with the terms of this NSP RIO. TRR will ensure that any Interconnection Agreement made under this NSP RIO must be consistent with the Act, meet all reasonable requests for interconnection at any technically feasible point, and in all other respects, incorporate reasonable terms and conditions for interconnection, including technical standards and specification as set out in section 29 of the Act.”)</p> <p>Yes the document is clear and comprehensive. Interchange notes the significant differences between interconnection for domestic and</p>		<p>agreement per se. Legally, a RIO is just an “Offer”, and from this offer, service provider has to enter into an interconnection agreement that takes into account what is provided (technically) in the RIO. Section 29(1) clearly differentiates these two documents.</p> <p>The previous 2011 consultative process was too inflexible and not supported by all Licensees. Section 29 of the Act is the key driver for TRR’s approach.</p> <p>TRR welcomes Interchange approach on this issue.</p> <p>One would expect Nominated Service Providers to include many of its proposed boiler plate clauses in the negotiation of the interconnection agreement based on the NSP RIO and being consistent with the provisions of section 29(1) of the Act.</p> <p><u>Note:</u> Item 1.5 in Draft NSP RIO becomes Item 1.12 in TRR Revised NSP RIO.</p>
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		<p>international services and suggest that International Service Interconnection be covered in a dedicated section within the RIO.</p> <p>Should this be acceptable to TRR, Interchange would be pleased to work with TRR to create such section.</p>	
<p>Latest technology: Ethernet and IP connectivity</p>		<p>There is no discussion or recognition of the need for the latest technology services in particular Ethernet and IP connectivity.</p> <p>One aspect that could be expanded relates to “International Hardwire Transit” (This is where a transmission service comes into the country on one path, does not terminate traffic, and exits on another path to another country – it does not terminate any traffic it simply passes through. The sorts of applications may be in via cable, out via satellite or another future cable for</p>	<p>Ethernet services will be covered by the new services provisions as Interchange do not intend to offer these initially.</p> <p>International Hardwire transit may be an interconnection service though specific would need to be considered on a case by case basis. TRR would need to consider the details.</p> <p>Currently those providing satellite services in Vanuatu operate under TRR issued licenses and so links would be interconnection and within the scope of the NSP RIO. There are currently no other submarine cable operators though the likelihood would be that they would be covered by the</p>

			example).		licensing regime. Changes to the NSP RIO would probably be necessary but would be considered at the time.
	Separation of International and Domestic RIOs		Noting the significant differences and requirements between domestic and international interconnection, Interchange suggests that the TRR creates a separate section solely for international in the RIO.		Whilst TRR has some sympathy with this view many of the general provisions of the mandated part of the NSP RIO apply to both domestic and international services. However, TRR would consider a detailed submission from Interchange of such a set of separate documents.
	SDH Services		In general, the transmission solutions relate to SDH services – there is no discussion or recognition of the need for the latest technology services in particular Ethernet and IP connectivity.		Interchange indicates that it intends initially to offer SDH services. Ethernet and IP connectivity would be considered under the new services provisions of the NSP RIO and related interconnection agreement when Interchange decides to offer these.
	New type or speed of interconnect service demanded by the ONO			The NSP should not be compelled to create a new type or speed of interconnect service demanded by the ONO if it is not part of the NSP	This issue should be dealt with under the new services provisions.

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				standard service offerings. This is not clear from the text and the words should be adjusted to reflect this.	
		<p>Digicel notes that the TRR RIO includes, as mandated terms, many technical and operational descriptions and procedures. Digicel is concerned that a “one size fits all” prescriptive approach may not be appropriate in all circumstances and could result in situations where terms are included that may not be able to be complied with by the NSP or the other SP wishing to interconnect. Digicel thinks that it would be useful and be likely to simplify the negotiation process to provide “model terms” for a range of clauses that would be likely to be common to any interconnection agreement. These include clauses in relation to such matters as:</p>		<p>TVL suggests that additional points should be covered in the RIO. These were incorporated in the previous Draft TVL RIO that was developed by TRR and supported by TVL in 2011. TVL is concerned that they have been omitted in this version. TVL proposes that the following be added and wording also provided:</p>	See general comments above and detailed comments below.
		<ul style="list-style-type: none"> • Scope of the Agreement, 			This is already covered in the NSP RIO
		<ul style="list-style-type: none"> • Commencement and Terms of the Agreement, 		<ul style="list-style-type: none"> • Duration 	TRR thinks that there is no need for an expiry date for a RIO. For

				<p>example, if there was an expiry date then it would lead to a dispute and potential suspension of services if a new or revised RIO was delayed.</p> <p>However TRR agrees that any interconnection agreement should be in place for a fixed term with the parties to the agreement being free at the end of the term to choose to either terminate the agreement, extend the agreement or to replace the agreement with any new agreement.</p>
		<ul style="list-style-type: none"> • Dispute resolution (that would apply to disputes that arise under the operation of the Agreement but not disputes in relation to the agreement of new interconnection terms or provision of new services 		<p>TRR accepts this suggestion and has amended the NSP RIO accordingly.</p>
		<ul style="list-style-type: none"> • Termination or suspension of services under the Agreement 		<p>For negotiation as per the NSP RIO.</p>
		<ul style="list-style-type: none"> • Force Majeure, 		<p>For negotiation as per the NSP RIO.</p>
		<ul style="list-style-type: none"> • Liability, 		<p>For negotiation as per the NSP RIO.</p>
		<ul style="list-style-type: none"> • Protection of Networks; 		<p>For negotiation as per the NSP</p>

		<ul style="list-style-type: none"> • Service Quality, 		<ul style="list-style-type: none"> • Quality of Service 	<p>RIO.</p> <p>For negotiation as per the NSP RIO.</p>
		<ul style="list-style-type: none"> • Payment of charges (Digicel submits that it is appropriate and necessary for existing SPs to receive appropriate pre-payment, security deposits or bank guarantees from access seekers) to protect the legitimate commercial interest of existing SPs who have committed significant investments in the development of infrastructure and services. Digicel further submits that payment guarantees be calculated on the basis of the estimated traffic and net payment of the access seeker to the NSP over a six months period. 		<p>Safeguards are needed to prevent any negative financial impact of interconnection: It is a fundamental of any interconnection process that the NSP should not be negatively impacted financially by the requirements to interconnect to another operator. Neither should the risk profile of the NSP's business be changed by such an interconnection requirement. This is especially important in small environments and TVL has suggested a number of clauses which will help to prevent "financial contagion" should an operator experience financial difficulties and be unable to meet its commitments. These are critical to the on-going provisions of telecoms services and financial viability of carriers.</p>	<p>TRR is concerned that a 6-months guarantee will severely inhibit market entry and would be in conflict with the Objects of the Act. The TRR preference would be for an upfront payment of no more than 2 months security in the form of a bond. If the matter were referred to TRR, our likely approach would be to determine a bond of no longer than 2 months.</p>
		<ul style="list-style-type: none"> • Intellectual Property Rights 			<p>For negotiation as per the NSP RIO.</p>
		<ul style="list-style-type: none"> • Confidential information 			<p>For negotiation as per the NSP</p>

				<p>interconnection solutions which are not technically feasible, or otherwise impractical</p> <ul style="list-style-type: none"> • Nothing in this RIO shall add to or enlarge the legal obligations set out in the Act of the NSP or ONO in respect to the scope of services and products that are to be classified as interconnection. • Without prejudice to the rights of the NSP, in the event of conflict or ambiguity between the terms defined in the governing laws and regulations in respect of these Supply Terms, the following order of precedence shall apply: The Act; The published RIO 	
				<ul style="list-style-type: none"> • Reciprocity The principle of reciprocity should be set out within the interconnection agreement for operational and technical 	Agreed

			<p>issues. The following wording is proposed:</p> <p>"The process and principles described in this RIO assume the principles of reciprocity. The process and principles described in this document shall be fully symmetrical between TVL and the ONO. Variations from this principle shall occur under specified circumstances."</p>	
			<ul style="list-style-type: none"> • Safeguards 	For negotiation as per the NSP RIO.
			<ul style="list-style-type: none"> • Termination Impact 	For negotiation as per the NSP RIO.
		<p><u>Planning & Management:</u> Traditionally Cable System Operators convene annual operations and planning meetings allowing all users to actively participate in development of the network. The annual meetings gather demand forecasts, discuss and understand the operation of the system and allow all users/owners to understand how the business is running, and to</p>	<ul style="list-style-type: none"> • Role of Liaison Committee 	In general TRR accepts that frequency of meetings should be flexible and has amended the NSP RIO.

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			suggest changes or enhancements.		
			<p><u>Quantity:</u> The number of interconnections required at the cable head will likely be less than a dozen over the medium term.</p> <p>No switched services to be interconnected. All interconnections are at transmission level.</p>	<ul style="list-style-type: none"> • Statements of ONO requirements 	For negotiation as per the NSP RIO.
				<ul style="list-style-type: none"> • Network Testing 	For negotiation as per the NSP RIO.
				<ul style="list-style-type: none"> • Definitions and Interpretations 	For negotiation as per the NSP RIO.
				<ul style="list-style-type: none"> • Interconnection agreement 	For negotiation as per the NSP RIO.
				<ul style="list-style-type: none"> • General Network Information 	See answer to Question 4
				<ul style="list-style-type: none"> • Network Alterations 	For negotiation as per the NSP RIO.
	Cable products/New Services		Capacity is offered in the cable system as both lease and IRU (Indefeasible Right of Use). The minimum capacity purchase on the Interchange cable is currently DS3 (45Mbps) and Customer purchases must be made in multiple DS3s, STM1s, and STM4s. Capacity will be delivered	<ul style="list-style-type: none"> • New Service (4.7) 	For negotiation as per the NSP RIO.

			to the customer at the cable head optically in an STM envelope. Where 3 x DS3 are implemented, the customer will be entitled to the full capacity (155Mbps) of an STM1. In the future, Interchange may offer Ethernet connectivity.		
				<ul style="list-style-type: none"> • Customer Sited Interconnection 	For negotiation as per the NSP RIO.
				<ul style="list-style-type: none"> • Network Infrastructure • Leased Line (4.8.2.3) 	See answer to Question 5 See answer to Question 5
					<p><u>Note:</u> Previous heading, “4.8.2.3 Leased Lines ”was deleted in the TRR Revised NSP RIO.</p>
			Item 4.8.2.4 International Submarine Cable Access: Interchange Comment: This is fully supported by Interchange	<ul style="list-style-type: none"> • International Submarine Cable Access (4.8.2.4) 	See above comments <p><u>Note:</u> Previous heading number, “4.8.2.4 International Submarine Cable Access means” changed to 4.8 B (c) in the Revised TRR NSP RIO.</p>
				<ul style="list-style-type: none"> • Collocation (4.8.3) 	TRR accepts that this should be for establishing points of handover and has amended the NSP RIO. See also answers to Question 8.

					Note: Previous heading number 4.8.3 Collocation changed to 4.8 C in the Revised TRR NSP RIO.
				<ul style="list-style-type: none"> • Directory Assistance (4.8.9) 	See answer to Question 6
				<ul style="list-style-type: none"> • Interconnection of Signalling Networks (4.9.2) 	For negotiation as per the NSP RIO.
				<ul style="list-style-type: none"> • Quality of Service (4.9.10) • Forecasts by the ONO 	See answers to Question 6 For negotiation as per the NSP RIO.
	Unidirectional or bidirectional interconnection links?	<p>Whether or not interconnection links re either bidirectional or unidirectional should be left to a commercial resolution, with the default being that:</p> <ul style="list-style-type: none"> • Links should be unidirectional; • Number of links to be established on the basis of each party's forecast traffic; • Each party to be responsible for paying for the number of links that are required to carry its traffic to the other party. 		<ul style="list-style-type: none"> • Link Direction (4.10.12.15) <p>Initially interconnection links should be unidirectional: Until the interconnection routes become mature the link should be unidirectional. In this way each carriers is responsible for their own costs and service quality for their terminating customers</p>	Whilst not formally adopting this approach, TRR suggests that the Digicel approach would be a sensible position for negotiators to adopt.
				<ul style="list-style-type: none"> • Cross-connection to 	See previous TRR comments

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				<p>International Submarine cable</p> <p>TVL proposes that this should be deleted. The submarine cable is an underlying facility not an interconnection requirement.</p> <p>The submarine cable operator does not represent an operator requiring interconnection, an “access seeker” under the Act.</p>	above under “General Comments”
				<ul style="list-style-type: none"> • Collocations Processes 	For negotiation as per the NSP RIO.
				<ul style="list-style-type: none"> • Traffic and Quality of service measurement 	For negotiation as per the NSP RIO.
				<ul style="list-style-type: none"> • Interconnection Maintenance Processes 	See answer to Question 7.
				<ul style="list-style-type: none"> • Site Access Procedures 	For negotiation as per the NSP RIO.
				<ul style="list-style-type: none"> • Notice of Interference (4.12.3.3) 	For negotiation as per the NSP RIO.
				<ul style="list-style-type: none"> • Charges and Payments (4.13.13) 	See above comments re charges
			<p>Item 4.13.13.3 Transport Link Costs & Charges;</p> <p>Interchange Comment: Scope should exist to allow</p>	<ul style="list-style-type: none"> • Transport Link Costs and Charges (4.13.13.3) 	See above comments re charges

			discount to be >15% by negotiation but not less. Also, there may be examples where there is no retail equivalent for an interconnect service (e.g. infrastructure links), the basis of charging for these could be on a cost plus basis.		
				<ul style="list-style-type: none"> • Infrastructure Links 	See answer to Question 5.
		Digicel suggest that it will be helpful to provide examples of service definitions and technical specifications.			TRR is not clear what is intended. The services are defined in the NSP RIO in suitable detail as far as TRR can see.
	Interconnection services charges	Digicel submits that the inclusion of any specific pricing in the TRR NSP RIO is inappropriate. No basis for the proposed prices in the TRR RIO. Digicel suggest that interconnection prices be left to negotiation between the NSP and the access seeker. In the event that they cannot agree the TRR can then use his power under the Act to determine the prices.		The RIO should not include interconnection charges: Interconnection charges and other interconnection related tariffs are not appropriate for inclusion in this type of RIO. TVL also rejects any generic applications of rates negotiated in a specific commercial context.	The TRR NSP RIO once finalized will become the TVL and Digicel (and Interchange once nominated) NSP RIO. The proposed prices in the TRR NSP RIO are taken from the current Interconnection Agreement between TVL and Digicel. TRR made it clear in its notice for public consultation on the NSP RIO that the “Consultation Document has been developed to facilitate future interconnection agreements within Vanuatu, and to also cover existing interconnection arrangements for licensees with

					<p>Digicel and TVL.”</p> <p>TRR is happy for dominant service providers to negotiate fresh rates under the general review arrangements provided these prices then form part of the NSP RIO and are available to existing interconnected operators as appropriate. If the parties enter into negotiations in accordance with the review requirements of their interconnection agreement and fail to agree then TRR would determine in accordance with the Act.</p> <p>The current draft contains the prices that if not used by a dominant licensee with other applicants for Interconnection would be a violation of the Act unless any newly negotiated prices were immediately available to others.</p>
	Collocation	Digicel does not understand the inclusion of a “collocation” regime in the TRR NSP RIO. This is not an interconnection service for the purposes of the Act.		<ul style="list-style-type: none"> Collocation This is applicable only to customer sited interconnection and should be dealt with on a case by case basis. 	<p>Establishing handover points are essential to the provision of interconnection which would be meaningless without them. TRR accepts the Digicel approach on this narrow point and has amended the NSP RIO to make</p>

		<p>While there may be a need for establishing a framework for allowing access to premises to establish handover points, this seems quite different to what appears to be proposed in the TRR NSP RIO.</p> <p>For this reason Digicel also disagrees with the charging principles that have been included in the TRR RIO.</p>			<p>clear that collocation is to establish handover points for the provision of interconnection.</p>
				<ul style="list-style-type: none"> • Statement of Service Level • Customer Management 	<p>See answer to Question 6</p>
				<ul style="list-style-type: none"> • Staff Safety and Network Protection 	<p>For negotiation as per the NSP RIO.</p>
2	<p>Q2. For licensees other than Digicel, TVL and Interchange, will this draft NSP RIO, in your opinion, enable you to negotiate a suitable Interconnection Agreement?</p>		<p>Yes - however the question must be asked: have Utilities and Government been consulted (for example, power utilities can provide cost effective solutions for access and network solutions as could e-government networks).</p>		<p>There were no comments from other Licensees or other interested parties. The consultation was public and consideration would have been given to any comments, even those from individuals.</p>
3	<p>Q3. Comments are specifically invited from Digicel, TVL and Interchange as to the suitability of this draft NSP RIO, from their perspective, particularly in their</p>	<p>Digicel submits that the TRR Draft NSP RIO in its current form seems unlikely to provide much assistance to interconnection negotiations.</p>	<p>The individual sections covering specific international connectivity are sound, clear and concise (namely Page 27:</p>	<p>See above general comments from TVL.</p>	<p>The draft NSP RIO contains much of the basic contents of the previous Digicel proposed draft RIO but is more flexible and gives the parties the ability</p>

<p>negotiation of an Interconnection Agreement with other licensees?</p>	<p>Digicel suggests that the proposed structure included in Annex 2 would be easier to follow and permit the inclusion of “model terms” for standard clauses as suggested above</p>	<p>Items 4.8.2.4.3 & 4.8.2.4.4; Page 32-39: Item 4.10: Overall a significant section!).</p> <p>But requirements relevant to international are scattered within the document and could be consolidated. Accordingly, it is suggested to separate domestic and international into two sections. As the document stands today, some (most) of the sections described cannot be applied for International (for example the provisioning processes in Item 4.10). Interchange would be pleased to work with TRR to create a discrete section/document covering international. As a general comment the use of diagrams for each interconnect options could enhance this document.</p>	<p>to negotiate an interconnection agreement.</p> <p>If TRR were to follow the Digicel and TVL general approach, Vanuatu would be in danger of returning to the size of document produced for the first (Draft TVL RIO) Consultation in 2011: previously rejected by Digicel.</p> <p>The whole approach in the current consultation was to give the parties flexibility. Model clauses of the extent proposed would limit this and might be considered as the unwarranted regulation which Digicel refers to later in its response.</p> <p>See above comments on separating the International parts.</p>
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<p>4</p>	<p>Q4. Do Licensees want each NSP to include their Network information as a public document on its web site?</p>	<p>Digicel would strongly resist such a move as it would be unlikely to be useful to an access seeker and could pose serious security issues for the NSP. The Act already provides detailed requirements relating to the provision of network information and publication of interconnection agreements.</p>	<p>General descriptions of services provided and local contact details would be valuable. It will be important to define how much detail is required and how to determine the amount of information provided.</p>	<p>TVL rejects the need for each NSP to include detailed network information on the web site. TVL will provide information that it already chooses to make publicly available. This is in line with the Act. TVL notes that the Act does not require public disclosure of any kind unless required by law or in limited number of circumstances.</p>	<p>There was no support for this proposal from Digicel or TVL and TRR do not intend to pursue the matter at this time.</p> <p>However, failure to supply an access seeker with comprehensive information in a timely manner would be a breach of 26 (3) of the Act and will cause TRR to intervene as provided in the Act.</p> <p>TRR will, however, assess this issue based on a case by case basis.</p>
<p>5</p>	<p>Q5. Should Leased Lines be provided as part of the Interconnection Agreement or as standard Retail services?</p>	<p>Digicel submits that leased lines are not interconnection services within the meaning of the Act and should not be included within the scope of the TRR NSP RIO. Interconnection links are themselves also not strictly speaking interconnection services within the meaning of the Act, although they are necessary service required to facilitate interconnection.</p>	<p>Leased lines are retail services offered to retail customers. Infrastructure links are critical to interconnect and should be part of the interconnection agreement. Infrastructure links are not retail services, and as well as price will have in most cases different terms and conditions recognizing the different level of technical & network competency of</p>	<p>Leased lines are clearly standard commercial services. This is in line with the approach taken in other jurisdictions and consistent with the Act. In addition in a country size of Vanuatu, it is critical to ensure that investment incentives are in place. Operators who choose to invest in infrastructure such as leased line should be able to earn a commercial return from them. Operators are at</p>	<p>As there is no support for the NSP RIO to include leased lines rather than interconnection links, and TRR will not be pursuing it unless asked to do so by a Licensee.</p> <p>Interconnection links are interconnection services and are covered by the regulation of such prices (see above on the inclusion of interconnection prices).</p>

		Digicel submits that the terms of supply of interconnection links should be commercially negotiated by the parties.	an ONO compared to a retail customer Please note, page 51: Item 4.13.13.3 Transport Link Costs and Charges: Infrastructure links and Leased Lines are not in the definitions lists.	liberty to develop wholesale service and TVL will consider provision of these in due course.	
6	Q6. Should the Directory Assistance Service, provided to End Users, be provided from one Licensee to another under the NSP RIO?	Digicel submits that Directory Assistance Services are not interconnection services within the meaning of the Act and should not be included within the scope of the Act.	No comment – not relevant to international.	The Telecom licensing regime set out under the Act is a unified regime and the requirement is on all operators to provide their own DAS services. This needs to be maintained, however, each NSP can choose to offer DAS services on wholesale basis.	It has been suggested that this is a consumer issue and not part of the NSP RIO. TRR intends to follow this up separately from the NSP RIO.
7	Q7. Do Licensees want a more comprehensive set of standard for delivery and repair, including penalties?	Digicel submits that the appropriate standard for the provision of interconnection services is the same standard that the party providing the interconnection service provides to its own customers.	No. The standards need to be simply stated in a table which lists the basic parameters including: delivery, availability, MTTR, and technical performance (varies between switched and transmission services). These SLA/SLG need to be reciprocal and consistent and must apply reciprocally to all service providers. Certainly in the case of	In line with the Act an NSP is required to provide the following level of service to other operators: “provide interconnection to access seekers under substantially the same conditions and of substantially the same quality as it provides for its own telecommunications service, or those of its	TRR accepts the position quoted from the Act.

			international, the list should only state what parameters need to be included and the values thereof as these will be negotiated as part of the interconnection agreement. The values can vary by customer depending on the whether a customer wants to pay a premium for enhanced metrics.	affiliates; and” This wording does not lend itself to a penalty based regime. Services provided to an NSP own telecommunications service can change from time to time. In addition the level of service provided by an NSP to other operators will be highly dependent on the accuracy of the service operators’ range of traffic forecasts.	
8	Q8. Would Licensees prefer the NSP RIO to provide a detailed system for fault management?	<p>Digicel submits that parties should not be bound by it. This is because most (if not all) established operators already have such systems in place and it would potentially be very costly to be required to change such systems based on the possibility that an access seeker would wish to rely on the TRR’s example</p> <p>Digicel has attached as Appendix 2 for the TRR’s information an example of the operational procedures that Digicel uses in connection with</p>	No. Basic parameters for fault management should be covered in the RIO (e.g. support hours of coverage, service response time and escalation contact lists) but not the specific details behind such parameters – these should be reserved for the interconnection agreement itself.	The NSP, under the Act, is required to follow the service level as noted above. Hence, any system of fault management should support that requirement. The NSP existing systems and approach should be used in order to be consistent with the legislation and to ensure no additional burden is placed on the NSP. It is important in a micro economy to minimize any additional burden placed on operators to ensure additional costs, if any, can be kept to a minimum.	The Digicel response includes a model system for fault management. TRR would like to thank Digicel for this document and will include it in the NSP RIO as a sample of what might be used by the parties in negotiations of an interconnection agreement.

		interconnection agreements in other markets.			
9	<p>Q9. Do the Licensees accept the principles for calculating Collocation Charges?</p>	<p>Digicel does not understand the inclusion of a “collocation” regime in the TRR NSP RIO. This is not an interconnection service for the purposes of the Act.</p> <p>While there may be a need for establishing a framework for allowing access to premises to establish handover points, this seems quite different to what appears to be proposed in the TRR NSP RIO.</p> <p>For this reason Digicel also disagrees with the charging principles that have been included in the TRR RIO.</p> <p>It is Digicel’s view that existing SPs should not be required to bear any additional costs that result from a new service provider requesting interconnection with its network. Accordingly, an existing SP should be permitted to recover its</p>	<p>In general terms Schedule B is accepted – however we suggest review of the position recommended for 10.2 Make Ready Costs. It is recognized that in order for a provider to offer a collocation service, the facility must be constructed and dimensioned adequately to meet anticipated needs of the potential interconnecting parties. As the section is currently worded – the first user of such facility could be expected to pay for the initial establishment and set-up of a suitable area.</p> <p>One would expect that such area should be established to accommodate multiple parties – as it stands it could be impossible for the first user afford this? It is recommended that this be reconsidered to recognize reducing average costs per</p>	<p>Where a NSP or ONO wishes to locate equipment in other’s premises for the purpose of interconnection, i.e. collocation, then charges for this space should be based on negotiated commercial rates.</p>	<p>Establishing handover points are essential to the provision of interconnection services which would be meaningless without them. TRR accepts the Digicel approach on this point and has amended the NSP RIO to make clear that collocation is to establish handover points for the provision of interconnection services.</p> <p>In terms of the pricing, TRR is prepared to let the parties negotiate rates on a commercial basis but that TRR if asked to resolve a failure to agree rates would use the principle in the draft RIO.</p> <p>TRR takes this view because TRR believes that the ability to find benchmarks for such rates under Section 30 of the Act will be difficult; even impossible, and given the disparity of land and building costs between countries, TRR believes that it would be unable to identify an appropriate selection of cost</p>

		<p>reasonable costs incurred in the establishment of interconnection and the provision of handover points or any other services or facilities that may be necessary to facilitate interconnection with a new SP.</p>	<p>collocation service to the provider as the number of services sold increases?</p> <p>Also it is suggested that re page 41: Item 4.12.3 System Protection and Safety: OH&S and site induction should be mandatory.</p>		<p>oriented prices in other jurisdictions.</p> <p>TRR agrees with the principle outlined in Digicel’s last paragraph and that is what the draft tried to encompass in terms of collocation pricing.</p> <p>TRR is also mindful of the points made by Interchange.</p>
10	<p>Q10. Would Licensees support creation of a Bitstream Service?</p>	<p>Digicel does not consider that the provision of a Bitstream Service is an interconnection service for the purposes of the Act and so should not be included within the scope of the TRR NSP RIO.</p> <p>Digicel submits that the TRR should be careful to guard against “scope creep” of the RIO process and the introduction of unwarranted regulation of the telecommunications industry. In Digicel’s respectful view, it would be better to keep this process as simple as possible in order to facilitate its expedited conclusion.</p>	<p>No comment – not seen as relevant to International.</p>	<p>None of the four Bitstream service as described in Schedule C can be considered within this RIO consultation as they are all wholesale services. Such services are considered as wholesale in all other jurisdictions. If the TRR wishes to consider the wholesale broadband access services then it needs to be done as a separate consultation and not within this RIO.</p>	<p>TRR is clear that Bitstream is an interconnection service under the broad definition of the Act.</p> <p>However, there is currently no demand for such a service and TRR intends to let the question lie on the table for future consideration if any demand arises.</p> <p>TRR shares the view expressed on “scope creep” and that is why TRR has taken the flexible “light touch” approach to the NSP RIO and the related interconnection agreement. TRR has tried only to closely define those issues which I think are essential to include in a RIO and given guidance on others whilst</p>

					<p>leaving the parties to negotiate the fine detail.</p> <p>This is one of the reasons why TRR has not accepted an approach which seeks to define a whole range of clauses in both the NSP RIO and interconnection agreement. This in TRR's view would constitute the unwarranted regulation Digicel wishes to avoid.</p>
<p>..... End of Table</p>					

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