TRR
Telecommunications &
Radiocommunications
Regulator

PO Box 3547
Port Vila
Vanuatu
t: +678 27621
e: enquiries@trr.vu

TRR'S SECOND DETERMINATION OF APPROVED PRICES FOR SPECIFIC LEASED CAPACITY AMOUNTS SUPPLIED BY FCC TO PARTICULAR CUSTOMERS

I. INTRODUCTION

1. On 2 May 2017, TRR issued "TRR's Final Determination Concerning FCC's Requests For Approval Of Pricing For Several Sales of Leased Cable Capacity". This is referred to here as "TRR's First Price Approval Determination". It was accompanied by Order No. 2 of 2017, specifying the maximum approved pricing for the specified sales of leased capacity by FCC to Digicel, TVL and certain other customers. These are referred to here as "TRR's Prior Decisions".

2. After TRR's First Price Approval Determination, FCC sought TRR's approval for pricing of increased amounts of capacity to two of these customers. In particular, FCC sought approved pricing for:

   (i) The supply to Digicel of [redacted] Mbps of capacity (involving an increase of [redacted]), under a [redacted] contract [redacted] of [redacted], for which FCC proposed a price of $US323.19/Mbps/Month; and

   (ii) The supply to TVL of [redacted] Mbps of capacity (involving an increase of [redacted]), under a [redacted] contract term, for which FCC proposed a price of US$339.15/Mbps/Month.

3. FCC's requests for TRR approval of pricing for these sales arise under TRR's Order No. 1 of 2017, (dated 15 February 2017), which states:

   > "For a period of 12 months, prior to supplying, or agreeing to supply, further capacity on the ICL Cable, or agreeing to sell or transfer any rights to any capacity on the ICL Cable to ICL or any other party, Fidelity Communications Corporation ("FCC") shall first obtain the advance approval of TRR for the pricing and related terms of any such supply or transfer transaction, and in seeking such approval, shall provide substantiation that the price and other terms are cost-based, commercially reasonable, and not discriminatory, and that the transaction is not anti-competitive."

4. TRR's First Price Approval Determination included a cost-based pricing analysis and consideration of other relevant information, and of comments provided by FCC and other interested parties.

5. FCC subsequently requested an internal review by TRR of its Prior Decisions, and TRR undertook that review.

6. In "TRR'S Decision On FCC's Request For Internal Review Of TRR's Order No. 2 Of 2017 And TRR's Final Determination Concerning FCC's Requests For Approval Of Pricing For Several Sales Of Leased Submarine Cable Capacity", issued today, ("TRR's Internal Review Decision"), TRR considered all matters raised by FCC, and decided not to revoke or modify the maximum approved pricing in its Prior Decisions.

7. In making this Second Price Approval Determination, TRR relies on and incorporates TRR's analysis, in the above decisions, of FCC's costs, revenues and risks.

8. This information also is reflected in the maximum pricing previously approved by TRR in Order No. 2 of 2017. For example, TRR approved the following maximum prices for the specific leased sales to Digicel and TVL then presented for approval, which were as follows:

   (i) TVL: a maximum price of $US[redacted] / Mbps / Month for [redacted] Mbps of capacity supplied under a month to month contract; and

   (ii) Digicel: a maximum price of $US[redacted] / Mbps / Month for [redacted] Mbps of capacity supplied under a [redacted] term contract [redacted].

II. Summary of Analysis

9. The additional sales at issue in this Determination provide further evidence of growing demand for cable capacity in Vanuatu, as referred to in "TRR's First Price Approval Determination'" and "TRR'S Internal Review Decision."

10. With these additional sales, FCC now has leased over [redacted]% of its IRU capacity. Especially as [redacted] of that IRU capacity was acquired less than two years ago, this indicates a fairly prompt uptake of capacity, and supports TRR's analysis and estimates so far of low or modest stranded capacity risks.

11. TRR also considers that, as this market still is in a relatively early stage of development, some conservatism continues to be warranted in relation to FCC's pricing, including as to price levels and assumptions about its stranded and other costs.

12. For example, it is not appropriate for TRR to rely on "best case" assumptions for this market, so that if the outcomes are worse, the current pricing would put FCC in a loss or marginal position. Instead, TRR's approach at this stage has been to allow room in

the current pricing for FCC to cover its costs and make returns, even though not all capacity is leased, and FCC's unit costs appear likely to decrease over time.

13. This approach also has regard to the flexibility that exists, in the future, as more sales are made, and if as expected unit costs decline, for prices to be adjusted accordingly.

14. For the limited purpose of this Determination, and based on the relevant analyses of TRR (as referred to above), TRR concludes as follows:

    (i) The prices presented by FCC for approval for these specific sales to Digicel and TVL are not approved;

    (ii) TRR approves the proposed supplies of increased total amounts of capacity to Digicel and TVL on the condition that those supplies are at a price not greater than the maximum prices set out below, and that those prices are to apply from the dates this increased total capacity began to be supplied by FCC:

        i. For the supply to Digicel of [redacted] Mbps of additional capacity for a total of [redacted] Mbps of capacity, under a [redacted] term [redacted] of about [redacted] years, a maximum price of US$[redacted]/Mbps/Month.

        ii. For the supply to TVL of a total of [redacted] and then [redacted] Mbps of capacity [redacted] term, for a price of US$[redacted]/Mbps/Month.

15. The relevant factors considered by TRR include FCC's costs and risks, the cost recovery and margin available to FCC based on the above prices, and the other prices currently in place for FCC's other customers.

16. TRR also has considered the usual principle that significant increments in volume of capacity purchased, and/or longer-term commitments, generally warrant some reductions in per-unit pricing.

17. However, that does not mean that all increases by a customer in volume (or term) will lead to lower pricing. Here, the moderate increases in capacity for these customers did not result in significant unit price reductions. This implies that future increases in capacity, or in term commitment, by these customers are more likely to result in significant unit price reductions.

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REPUBLIC OF VANUATU
OFFICE OF THE TELECOMMUNICATIONS REGULATOR
BUREAU POUR LE RÈGLEMENT DE TÉLÉCOMMUNICATIONS
RÉPUBLIQUE DE VANUATU

Dalsie Baniala
<u>Telecommunications & Radiocommunications Regulator</u>

enquiries@trr.vu www.trr.vu