

# Submission on Treatment of Broadcasting Services Revenue in the Telecommunications Development Levy

12 February 2020



## SUBMISSION

- 1 This submission responds to the Commerce Commission’s consultation paper *Treatment of broadcasting services revenue in the Telecommunications Development Levy (TDL)*, dated 12 December 2019.
- 2 We support the Commission’s consultation process and its technical examination of what broadcasting services may fall within the definition of “telecommunications” in the Telecommunications Act 2001, as amended by the Telecommunications (New Regulatory Framework) Amendment Act 2018.
- 3 We generally agree with the Commission’s proposed treatment of broadcasting services revenue. However, the Commission needs to consider the implications of its interpretation exercise across the entire telecommunications regulatory framework.
- 4 As part of its analysis, the Commission considers the definition of “telecommunications services.” Consistent with our submission on the Commission’s *Fibre Input Methodologies Draft Decisions Paper*,<sup>1</sup> we do not support an overly broad interpretation of the terms “enable” and “facilitate” in the definition of “telecommunications services”.
- 5 It is our view that the terms “enable” and “facilitate” do not extend to things such as technical/engineering support services to support conveyance.<sup>2</sup> This is consistent both with the Commission’s approach to content and broadcasting towers,<sup>3</sup> where ownership, construction or maintenance activities only give rise to liability if the person employs the infrastructure “in the provision of a telecommunications service”. It is important the scope of telecommunications services is clearly and consistently defined, to give suppliers certainty around the treatment of their investments under the regulatory framework.
- 6 We thank the Commission for its work on this matter.

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<sup>1</sup> See Chorus (28 January 2020), *Fibre Input Methodologies: Draft decision – reasons paper*, at p 16 – 22.

<sup>2</sup> Commerce Commission (12 December 2019), *Treatment of broadcasting services revenue in the Telecommunications Development Levy*, at [62].

<sup>3</sup> Commerce Commission (12 December 2019), *Treatment of broadcasting services revenue in the Telecommunications Development Levy*, at [77].