

Commerce Act 1986

Application for Fee Waiver under Section 65AC

To apply for a fee waiver, you must send this completed form (“fee waiver application”) together with, or prior to filing, your application for authorisation to registrar@comcom.govt.nz, or The Registrar, Competition Branch, Commerce Commission, PO Box 2351, Wellington 6140, New Zealand.

Your application must be provided in both Microsoft Word format and searchable PDF format and include a signed (hard-copy or electronic) declaration.

If the fee waiver application is filed at the same time as your application for authorisation, your application for authorisation is unlikely be registered under section 60 until the fee waiver application is determined.¹

Help in completing your application

We encourage applicants to discuss their fee waiver application with the Commission prior to filing their application for authorisation.²

You should consult the Guidance at www.comcom.govt.nz when completing your application.

Your application will be assessed more efficiently and effectively if the information and evidence you provide in your application is comprehensive.



Warning

It is an offence to attempt to deceive or knowingly mislead the Commission in respect of any matter before the Commission. Any person who does so is liable upon summary conviction to a fine of up to **\$100,000** (for an individual) or **\$300,000** (for a body corporate). Refer to sections 103(2) and (4) of the Commerce Act (the Act).

1. For further information on requests for a fee waiver, see the *Guidelines on the Commission's Guidelines on Approach to Authorisations under the COVID-19 Response (Further Management Measures) Legislation Act* at www.comcom.govt.nz.
2. The Trade Practices Manager can be contacted at registrar@comcom.govt.nz.

Required information

We give less weight to a statement or submission that cannot be supported with corroborating evidence. As such, any evidence in support of your fee waiver application should be submitted with your application.

Where possible, please provide documents that exist in electronic form in their native or original electronic format (eg, Outlook (.pst or .msg), Microsoft Word (.doc or .docx), Microsoft PowerPoint (.ppt), Microsoft Excel (.xls), etc). Documents that exist only in hard copy should be provided as scanned images. This assists us in quickly and accurately identifying the information relevant to our assessment.

- 1 Provide the name(s) of the applicant(s) for authorisation, and the name(s) and contact detail of the individual(s) responsible for the fee waiver application.
- 2 Provide the names of all other parties to the agreement³ for which you are seeking authorisation together with contact detail for each party.
- 3 Provide a copy of the proposed agreement for which you are seeking or intend to seek authorisation.⁴ If the agreement has not been drafted or is unable to be provided, please provide a clear and detailed description of the agreement.⁵
- 4 State whether you are seeking a full or partial waiver of the fee. If you are seeking a partial waiver, state the amount you are seeking to be waived.
- 5 Explain the reasons for the fee waiver application. You should provide details on:
 - 5.1 The financial circumstances of the applicant(s) including annual revenue, assets and liabilities, and the impact COVID-19 has had or is likely to have on the annual revenue or asset valuation of the applicant(s)
 - 5.2 Whether the applicant(s) would likely suffer significant or undue financial hardship or other inequity if the fee waiver application is not granted
 - 5.3 Whether it is possible for the other parties to the agreement to contribute towards the fee
 - 5.4 Whether the application for authorisation would likely be filed if the fee waiver application is not granted, and
 - 5.5 Any other factors (including public interest considerations) that the applicant(s) submits is relevant to the fee waiver application.⁶



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3. We use the term “agreement” to refer to any contracts, arrangements, or understandings in terms of s 27 and s 30.
 4. If the fee waiver application is provided at the same time as the application for authorisation, a further copy of the application for authorisation does not need to be provided under this question.
 5. It is often helpful for applicants to provide a diagram setting out an overview of the agreement, the parties involved, the relevant parts of the supply chain and the effect of the agreement.
 6. For example, whether payment of the fee would be out of proportion to the financial benefit of the agreement to the applicant(s).

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Declaration

This declaration is to be made only by the applicant. It may not be made by a solicitor or other adviser acting on the applicant's behalf.

If there are multiple applicants, each applicant must make this declaration.

The wording in this declaration may not be varied by the applicant(s).

If this declaration is not completed, the Commission may decline to consider the fee waiver application.

I, _____,

have prepared, or supervised the preparation of, this application seeking a fee waiver.

To the best of my knowledge, I confirm that:

- all information known to [the applicant] which is relevant to the consideration of this application has been supplied, and
- all information supplied is correct as at the date of this notice.

I undertake to advise the Commission immediately of any material change in circumstances relating to this application.

I understand that it is an offence under the Commerce Act to attempt to deceive or knowingly mislead the Commission in respect of any matter before the Commission, including in these documents.

I am a director/officer of [the applicant] and am duly authorised to submit this notice.

Name and title of person authorised to sign:

Sign: _____ **Date:** _____