

COMMERCE COMMISSION

Please refer to:

11482
885609_1

1 October 2009

Nathan Strong
Manager Regulatory Affairs
Vector Limited
101 Carlton Gore Road
PO Box 99882
Newmarket
Auckland

Dear Nathan

Request for confirmation regarding Vector's methodology for demonstrating compliance with section 55F(2)

Thank you for your submission of 10 August 2009 to the Process Paper for the setting of the default price-quality path (DPP) for suppliers of gas pipeline services. I am writing to address your request for confirmation that Vector's approach to the CPI cap on prices from 1 January 2008 is appropriate given the provisions in s55F(2) of the Commerce Act 1986.

We note that your request for confirmation of how Vector intends to demonstrate compliance with s55F(2) of the Act is based on the assumption set out in your letter that:

"Section 55F(2) of the Commerce Amendment Act 2008 (CAA) dictates that weighted average price increases should be no more than the movement in the forecast or actual CPI between 1 January 2008 and 30 June 2010."

While this is clearly a summary of Vector's interpretation of the CAA, we do not consider it to be accurate. You will note that section 55F(2) states:

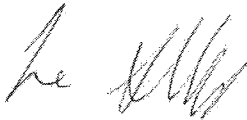
"If a supplier has increased its weighted average prices by more than the movement, or forecast movement, in the all groups index number of the New Zealand Consumer Price Index in the period beginning 1 January 2008 and ending with the date that the determination is made, the Commission may apply claw-back to the extent of requiring the supplier to lower its prices in order to compensate consumers for some or all of any over-recovery or revenues that occurred during that period".

Consequently, a Commission decision whether to apply claw-back, and if so the extent to which this is applied, is discretionary. In addition, the period is time-bound by the 1 January 2008 date and the date of the determination. We appreciate that Vector is seeking certainty as to whether its approach to meet the CPI limit expressed in s55F(2) would trigger the

Commission's consideration of whether to exercise its discretion to apply claw-back. However, at this stage, the Commission has not expressed a view as to how s55F(2) might be applied. The Commission intends considering this issue further as part of the work being carried out on the DPP, and is likely to seek the views of all interested parties in early 2010. We are looking forward to working through this issue with Vector as we progress towards setting the DPP.

Thank you again for your submission and if you have any further queries, please contact me on 04 924 3844 or louise.allsopp@comcom.govt.nz.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Louise Allsopp', written in a cursive style.

Louise Allsopp
Chief Adviser