

Tēnā koutou

We are writing to seek your feedback on our proposed approach to confidential information we receive from regulated suppliers and other industry participants during our development of the price-quality (PQ) and information disclosure (ID) regulation for fibre. We are particularly interested in hearing whether you intend to appoint any independent advisers as part of your participation in our consultation processes.

We consider that transparency of information is important to ensure that interested parties have a fair opportunity to present their views and that we make robust high-quality determinations.

We therefore intend to make as much of this information as possible available during our development of the PQ and ID determinations, subject to the need to protect confidential and/or commercially sensitive information (confidential information).

Proposed approach

We will not automatically accept confidentiality claims by parties and will review each claim. Where we disagree with a claim we will consult with the party that provided the information before making a final decision.

We currently do not intend to publish confidential information on our website or make it available to interested parties or their internal advisors given the potential commercial prejudice to the providers of the information if such information was disclosed to their competitors, customers, or suppliers. However, consistent with our past practices, we consider that it would be appropriate to grant interested parties' independent advisers access to the confidential information, subject to restrictions protecting the information from further disclosure or use for a different purpose.

To do so we would make orders under section 100 of the Commerce Act 1986 that would provide for access to confidential information by independent advisers, and a nominated legal counsel (who may be an internal counsel who is not directly involved in the business's commercial decision-making) to help ensure compliance with the order. We would further require all persons granted access to confidential information to sign confidentiality undertakings.

General

We invite comments on our proposed approach to confidentiality, and in particular whether you intend to appoint any independent advisers as part of your participation in our consultation processes, by 5pm on 29 January 2021. Please send your response to telcofibre@comcom.govt.nz.

If you have any questions, please contact us via telcofibre@comcom.govt.nz.

Ngā mihi