

1 August 2022

Julian Kersey
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Dear Julian

Response to Chorus' application for an exemption from 2021/22 Information Disclosure obligations

1. This letter is the Commerce Commission's (**the Commission**) response to Chorus Limited's (**Chorus**) application¹ for an exemption from its Information Disclosure obligations for the 2021/22 disclosure year, as prescribed by the *Chorus Information Disclosure Determination 2018* [2018] NZCC 9 ([the Determination](#)).
2. The Commission **declines** Chorus' application for a complete exemption from its Information Disclosure obligations for the 2021/22 disclosure year.
3. However, pursuant to clause 4.2 of the Determination, the Commission **grants** Chorus:
 - 3.1 For the period commencing 1 January 2022 through to the end of the 2021/22 disclosure year, an exemption from its Information Disclosure obligations under the Determination; and
 - 3.2 For the period commencing 1 July 2021 through to 31 December 2021, an extension of time, until 31 March 2023, to provide the Information Disclosure required under the Determination to the Commission.

Background

4. Clause 2.2(1) of the Determination requires Chorus to disclose annually certain information to the Commission by no later than 30 November for the disclosure year ending 30 June prior.

¹ Application received via emailed letter from Julian Kersey, Chorus Limited, 29 April 2022.

5. However, under the provisions of clause 4.2 of the Determination, the Commission may at any time, on written application, exempt Chorus from any or all of the provisions of the Determination, for a period, and on such terms and conditions as the Commission specifies.
6. Chorus requested complete exemption from its Information Disclosure obligations under the Determination on the basis that:
 - 6.1 Key personnel required to meet Chorus' Information Disclosure obligations are also involved in implementing Part 6 regulation and will be diverted from work on implementing Part 6 regulation.
 - 6.2 The Commission will be receiving more meaningful and useful information through the new Price Quality and Information Disclosures provided for in Part 6, as well as other information provided to the Commission in preparation for Part 6 coming into force.
 - 6.3 The difference in requirements associated with the Part 4AA and Part 6 information disclosure obligations creates a risk that compliance with the Part 4AA obligations will result in a risk of confusing or contradictory information being provided to the Commission and public.
 - 6.4 It has limited time with its board of directors and sees time with directors as better spent instructing them on the requirements of the incoming Part 6 regime requirements.
 - 6.5 There are significant internal and assurance costs involved in Chorus providing information disclosures which it would like to avoid.
7. We note that, in April 2020, Chorus requested complete exemption from its Information Disclosure obligations. This application for a complete exemption was declined but an extension of time was granted primarily on COVID related grounds.
8. We take this opportunity to remind Chorus that a complete exemption from Information Disclosure obligations can only be granted in extraordinary circumstances. Regulated parties are otherwise expected to do all things necessary to comply with their obligations.
9. We take this opportunity to confirm that we view a request for complete exemption from Information Disclosure obligations as something that will usually only be granted in response to an event causing great and usually sudden damage or suffering.
10. The purpose of information disclosure by a local fibre company (LFC) with undertakings, such as Chorus, is to promote competition in telecommunications markets for the long-term benefit of end-users of telecommunications services in New Zealand. We require LFCs who have given undertakings in relation to certain

services to provide reliable and timely information to the Commission to enable us to record over time the costs and characteristics of LFC fibre networks.

11. The disclosure of this information is critical to inform the Commission's statutory processes and determinations, including determinations to be made by the Commission under Part 6 of the Telecommunications Act 2001. Therefore, the Commission has not granted the complete exemption Chorus has requested from its 2021/22 Information Disclosure obligations.

Exemption granted and four-month extension

12. In the circumstances the Commission grants Chorus an exemption from its Information Disclosure obligations under the Determination, for the period 1 January 2022 until the end of the disclosure period.
13. Additionally, the Commission grants Chorus a four-month extension, from 30 November 2022 to 31 March 2023, to complete its Information Disclosure obligations under the Determination for the period 1 July 2021 until 31 December 2021. A four-month extension allows for the additional challenges of the Christmas and summer holiday periods when key Chorus personnel, board members and external auditors may not be readily available.
14. These exemptions may be revoked or further amended by the Commission at any time in accordance with clause 4.2(b) of the Determination.

Our expectations

15. The Commission expects Chorus' Information Disclosure for the period spanning 1 July 2021 to 31 December 2021 to be submitted by 31 March 2023.

Next steps and getting in touch

16. Please contact Zeb Walker. Principal Investigator, Regulatory Rules and Compliance, on (04) 924 3635 or Zeb.Walker@comcom.govt.nz if you have any questions about this letter.

Yours sincerely,



Tristan Gilbertson

Telecommunications Commissioner