

Explanatory note for publication of non-material amendments to Fibre Information Disclosure Determination (November 2023)

22 November 2023

1. Pursuant to s 173 of the Telecommunications Act 2001 (**Act**), we have made non-material amendments to the Fibre Information Disclosure Determination 2021 [2021] NZCC 24 (**principal determination**).
2. The following non-material amendments clarify existing requirements to align the instrument with the clear intentions laid out in the reasons paper:
 - 2.1. Amendment to clause 1.4.3 of the principal determination:
 - (a) Currently, the definition of “audited disclosure information” in clause 1.4.3 of the determination requires ID-only regulated providers to procure an assurance report for the Report on Forecast Capital Expenditure (set out in Schedule 11).
 - (b) However, the excel template (Schedule 11) states in the header, “This information is not part of audited disclosure information (as defined in clause 1.4.3 of the main body of the determination)”. This is consistent with the intent in the final reasons paper, which says that an assurance opinion is required in respect of the quantitative historical information (rather than forecast information) (paragraph 8.21.3).¹
 - (c) We note that the current wording in the determination only impacted ID-only regulated providers (not Chorus).
 - (d) Clause 1.4.3 (the definition of “audited disclosure information”, paragraph (a)) has been amended to refer to clause 2.4.2(11), and not 2.4.2(12).
 - (e) We consider that this is a non-material amendment (for which consultation is not required) as the change gives effect to what was decided in the final reasons paper.
 - 2.2. Amendments to clause 2.3.1 and clause 2.4.2 of the principal determination:
 - (a) Regarding section 8a(i) of Schedule 8a (Chorus) and section 8(i) of Schedule 8 (ID-only regulated providers), the excel template states that the information may be Commission-only. This is consistent with the intent in the final reasons paper, which says that the Commission does not require regulated providers to publish details on individual debts, and that this information may be provided on a confidential basis to the Commission (paragraph 4.94).²
 - (b) This was not correctly reflected in the clauses 2.3.1 and 2.4.2 of the determination, which required Schedule 8a (Chorus) and Schedule 8 (ID-only regulated providers)

¹ Commerce Commission ["Fibre Information Disclosure Final Decisions Reasons Paper"](#) (30 November 2021), p. 236.

² Commerce Commission ["Fibre Information Disclosure Final Decisions Reasons Paper"](#) (30 November 2021), p. 130.

to be publicly disclosed in their entirety.

- (c) Clause 2.3.1(14) has been amended to clearly state that the section 8a(i) of Schedule 8a may be provided to the Commission only (this amendment impacts Chorus only).
- (d) Clause 2.4.1(10) has been amended to clearly state that section 8(i) of Schedule 8 may be provided to the Commission only (this amendment impacts ID-only regulated providers only).
- (e) We consider that these are non-material amendments (for which consultation is not required) as the changes are clarifications and give effect to what was decided in the final reasons paper.

3. The amendment determination can be accessed at: [2023] [NZCC 30 Fibre Information Disclosure \(Non-material\) Amendment Determination \(red-lined version\) - 22 November 2023](#)