

30 June 2023

To: All Fibre ID-Only Regulated Providers

By email only

Tēnā koutou

Information Disclosure Exemption - Report on Pricing for ID

1. The Commerce Commission (**the Commission**) is issuing a conditional exemption to all fibre ID-only regulated providers subject to the Fibre Information Disclosure Determination 2021 (**the ID Determination**), from the requirement to publicly disclose some information in the Report on Pricing for ID in Schedule 25.¹
2. This exemption has been granted in alignment with a recent exemption of the same nature granted to Chorus Limited on 30 May 2023.²

Background

3. Fibre ID-only regulated providers are required under the ID Determination to disclose information on their performance, no later than five months after the end of the disclosure year.³
4. Under clause 2.4.6(1) of the ID Determination, fibre ID-only regulated providers are required to publicly disclose a Report on Pricing in Schedule 25. Under clause 2.4.6(2) of the ID Determination, fibre ID-only providers may withhold or redact from each copy of Schedule 25 that is publicly disclosed, information relating to numbers of connections and ENNI/ co-location connection, and incentive clawback payments (ie, this information is classified as Commission-only).

Legal framework

5. Under clause 2.10.1(1) of the ID Determination, the Commission has the power to provide exemptions from any requirement of the ID Determination, for a period and on such terms and conditions as the Commission specifies.

¹ 'Fibre ID-only regulated providers' has the meaning as defined in the ID Determination.

² [Fibre ID Exemption – Chorus Limited – Confidential Information – 30 May 2023](#)

³ 'Disclosure year' has the meaning as defined in the ID Determination.

Conditional exemption granted

6. By this notice, under clause 2.10.1(1) of the ID Determination, the Commission is issuing to fibre ID-only regulated providers an exemption from the requirement to publicly disclose total revenue information at the individual service level in the Schedule 25(i) report, on the condition that:
 - a. the fibre ID-only regulated providers disclose in the Schedule 25(i) report, aggregated total revenue amounts for each service category (ie, Layer 1 FFLAS, Layer 2 FFLAS, and Other FFLAS); and
 - b. the fibre ID-only regulated providers provide to the Commission a copy of the Schedule 25(i) report completed in compliance with the original disclosure requirements under the ID Determination.
7. This exemption will apply for all disclosure years until the next ID Determination amendment.

Reasons for granting the exemption

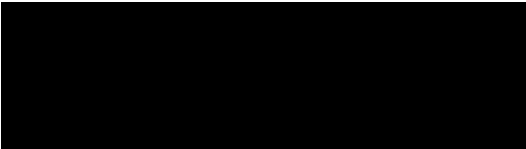
8. The current disclosure requirements would allow average monthly connection volumes to be derived at a granular service level, using the disclosed list prices and total revenues information.
9. The public disclosure of this information (average monthly connection volumes) at an individual service level may allow interested parties, including competitive service providers, to assess on a monthly basis the relative market share performance of a fibre ID-only regulated provider, and the performance of its fibre product offerings in their LFC ID-only areas.⁴
10. We note that we do not need to exempt both the list price and the total revenues information to prevent the average monthly connection volumes from being derived (only one of these inputs would need to be removed to have this effect).
11. We consider that granting this exemption would be in line with the purpose of ID regulation, as interested persons will still be able to look to a fibre ID-only provider's average revenue per unit (ARPU) and list prices for individual services, to determine effective revenue per unit and whether efficiency gains are being passed on to end-users.

⁴ ID-only areas, in respect of a regulated provider, is defined as meaning FFLAS (fixed fibre line access services) areas which are subject to Information disclosure regulation in regulations made under s226 of Part 6 of the Telecommunications Act 2001 (the Act), but not subject to price-quality regulation in regulations made under s226 of the Act.

Further information

12. This exemption may be revoked or amended by the Commission at any time in accordance with clause 2.10.1(2) of the ID Determination.
13. A copy of this exemption response notice will be published on the Commission's website.
14. If you have any questions regarding this matter, please contact Ali Scholes at infrastructure.regulation@comcom.govt.nz.

Ngā mihi nui



Tristan Gilbertson
Telecommunications Commissioner