29 June 2018

Section 83 Specified Information and Assurance Report Instructions

Introduction and Interpretation

Introduction

1. These instructions provide guidance for parties seeking to comply with the information disclosure requirements under section 83 of the Telecommunications Act 2001 (Act).

2. Each year the Commerce Commission (Commission) identifies a group of telecommunications service providers (TSPs) who meet the criteria set out in subpart 2 of Part 3 of the Act and are therefore liable to pay a portion of the annual Telecommunications Development Levy (TDL). We refer to such TSPs as qualifying liable persons (QLPs).

3. In order to meet the QLP criteria a TSP must:

   3.1 provide a telecommunications service in New Zealand by means of operating a component of a Public Telecommunications Network (PTN); and

   3.2 have earned at least $10 million gross telecommunications services revenue in the year preceding the TDL year under review by means of its PTN, or by means that rely primarily on the existence of its or any other PTN, including such revenue of any bodies corporate that were connected to it in any of the ways described in section 79(1)(a) to (e) of the Act (interconnected bodies corporate).

4. The list of QLPs for the 2017/18 TDL year is based on information provided to date and is available on our website. The list is not final, and may be reviewed and updated if required.

5. Section 83 of the Act requires QLPs to produce information for purposes of the Commission's liability allocation determination. Under section 83(1)(a), the Commission may specify the information it needs for the purpose of enabling it to make its determination in accordance with section 88(a) of the Act. Under section 83(1), the specified information is due 60 working days after the end of a TDL year (around the 20th of September). Each QLP is required to provide us with specified information to enable us to determine their qualified revenue for the TDL year under review as required by section 88(a). We use this information less a few important deductions (identified by these instructions) to determine the QLP's net qualified revenue. This net qualified revenue is then used to allocate the TDL in accordance with section 88(b) of the Act. We refer to this information

as “specified information” and to this process as “the qualified revenue information disclosure process”.

6. These instructions provide guidance on what the specified information required under section 83(1)(a) includes and how it is to be presented.

7. Along with these instructions and the list of QLPs, a set of templates and relevant statutory references are available on our website. We require QLPs to use the templates specific to the 2017/18 TDL year as these materials have been designed to meet our requirements. Specific instructions for using the templates are provided in this document. QLPs are reminded not to modify the formulas in the templates as this could result in errors.

8. Under section 83(1)(b), QLPs are also required to provide us with a report on the specified information by an auditor or an alternative form of assurance as specified by us. These instructions also explain when we will consider that the requirements in section 83(1) have been met.

Interpretation

9. Specified information includes all information used to identify a QLP’s qualified revenue.

10. Unless the context otherwise requires, QLP includes all interconnected bodies corporate.

11. PTN means a PTN in New Zealand, as defined in section 5 of the Act.

12. Qualified revenue is the amount of revenue that, during the 2017/18 financial year (1 July to 30 June), the QLP received from supplying all or any of the following:

    12.1 telecommunications services by means of its public telecommunications network (PTN); and/or

    12.2 telecommunications services by means that rely primarily on the existence of its PTN or any other PTN.

13. Qualified revenue does not include any amount paid by the Crown to a QLP as compensation for the cost of complying with a TSO instrument that contains a specified amount. This type of revenue is expressly excluded in the definition of qualified revenue in section 5 of the Act.

14. Qualified revenue excludes non-telecommunications services revenue (such as IT services).

15. To avoid double counting of telecommunication revenue and to ensure comparable treatment between different business models (eg, integrated provider vs wholesaler and retailer model), payments for telecommunications

services between QLPs (and in some specific circumstances payments to non-QLPs for telecommunications services purchased from another QLP) are able to be deducted when calculating qualified revenue.

16. Telecommunications services (as defined in section 5 of the Act) mean only services (rather than goods, equipment and facilities), because goods, equipment and facilities cannot be supplied by means of a PTN or by means that rely primarily on the existence of a PTN.

17. All specified information used to identify qualified revenue must be calculated on an accruals basis.

18. For the purpose of these instructions, 'end-user equipment':

    18.1 means any or all handsets, USB modems, WiFi modems, PABX and other end-user equipment that have the primary function of connecting to telecommunications services; and

    18.2 does not mean:

        18.2.1 equipment that is located inside the end-user's premises but which forms part of a QLP's PTN such as optical network terminals (ONT) installed inside the end-users' premises, external termination point (ETP) and internal termination points (ITPs) that are part of a QLP's PTN; or

        18.2.2 television sets, gaming consoles, alarm systems, photocopiers, and other consumer and office equipment that have a primary function other than connecting to telecommunication services.

19. For the purposes of these instructions, an auditor means, in relation to any information, a person who:

    19.1 is qualified for appointment as an auditor under the Companies Act 1993 (or successor legislation), or is an auditor appointed by the Auditor-General;

    19.2 has no relationship with, or interest in, the QLP that is likely to involve the person in a conflict of interest;

    19.3 has not assisted with the compilation of the information or provided advice or opinions (other than in relation to audit reports or in respect of the interpretation of this determination) on the methodologies or processes used in compiling the information; and

    19.4 is not associated with nor directed by any person who has provided any such assistance, advice, or opinion.

Operational changes for QLPs

20. The Commission acknowledges that there will be situations where a QLP may cease trading during a financial year, cease to operate the telecommunications component of its business, or dispose of assets used to generate qualified revenue.

21. If a QLP ceased trading or operating a component of a PTN in the 2017/18 financial year, it will generally continue to have liability for the TDL in that year. This is because the QLP would have met the qualifying criteria in the preceding financial year, and will have some qualified revenue for the 2017/18 year.

22. Should a QLP dispose of all its assets that it used to generate qualified revenue to a non-liable person, then the acquirer would assume responsibility for the TDL and must pay the amount of the TDL resulting from the revenue associated with those assets as required by section 81A of the Act. Hence the acquirer of these assets must provide to the Commission the completed TDL schedules, assurance report or audit report and other information required under Section 83 of the Act.

23. If a QLP only disposed of some of these assets to a non-liable person, then both the QLP and the non-liable person may have responsibilities for the 2017/18 TDL, such as providing the Commission with the specified information required under Section 83 of the Act. Section 81A of the Act provides guidance for the non-liable person acquiring the assets.

Instructions for preparing specified information to identify a qualifying liable person's qualified revenue for purposes of the Telecommunications Development Levy

Disclosure principles

24. Except where otherwise expressly provided, all information provided to the Commission in accordance with these instructions must be prepared in accordance with the following principles.

    24.1 ***Correct***: the information has been prepared by the QLP in all material respects in accordance with these instructions, and disclosure must occur in accordance with New Zealand generally accepted accounting practice (NZ GAAP).

    24.2 ***Complete***: the QLP has provided all the information requested, in an appropriate format.

    24.3 ***Objectivity***: the QLP must apply regulatory reporting processes which are objectively justifiable and reasonable. These processes, any changes to them, and any supporting assumptions or data must be documented in such a way that an informed reader can easily judge their reasonableness.

    24.4 ***Consistency***: the QLP must treat similar types of information consistently, both within a reporting year and from year to year.

    24.5 ***Data retention***: the QLP must retain copies of all documentation detailing the processes related to information disclosed for seven years.

Instructions for completing the templates

Template 1: Consolidated Return & Qualified Revenue Calculation

25. Template 1 requires the QLP to:

    25.1 provide information about whether the disclosure is a consolidated return which applies to more than one QLP and/or includes bodies corporate that earned qualified revenue and were connected to the QLP via section 79; and

    25.2 provide a calculation of the QLP's qualified revenue for the 2017/2018 financial year.

Template 1a: Consolidated Return

26. Under the heading 1a: Consolidated return for Section 79 purposes, the QLP is required to identify in the drop-down box, if it is filing a consolidated return. If so, the QLP must list which parties are included in the consolidated return. Section 79 identifies when two or more bodies corporate are required to be treated as one

person.[1,2] The List of QLPs (on our website) indicates whether the QLP includes interconnected bodies corporate, and if so who such bodies are.

Template 1b: Qualified Revenue

27. To calculate its estimate of qualified revenue, the QLP must first calculate its gross telecommunications services revenue. This is the QLP's operating revenue:

    27.1 less any non-telecommunications services revenue; and

    27.2 allowing for any timing adjustments which arise should the QLP have a statutory year end which differs from the financial year ending 30 June 2018 that is used for calculating qualified revenue.

28. The QLP must then deduct from the gross telecommunications services revenue total, the following items:

    28.1 the total of any payments made to other QLPs (which is calculated in Template 2);

    28.2 the total of any payments made to non-QLPs for services initially provided by a QLP (which is calculated in Template 3); and

    28.3 in specified circumstances, the cost of any non-telecommunications goods and services (eg, handsets in discounted bundles with telecommunications services) for which the revenue is included in gross telecommunications services revenue.

29. The QLP's qualified revenue for the 2017/18 financial year is calculated in accordance with the formulas in Template 1, which are summarised in Table 1.

30. Table 1 is provided to assist the QLP calculate its qualified revenue and as such, is for information and explanation purposes only. The information required to be provided to the Commission is that set out in Template 2.

---

1 For example, section 79(1)(e) of the Act provides that any two or more bodies corporate must be treated as one person if a third person owns or controls shares in each of them that carry the right to exercise, or control the exercise of, 20% or more of the voting power at meetings of each of them.

2 Crown owned entities may each provide the specified information specific to their entity (and any subsidiaries or like). This approach is to facilitate lower compliance costs and recognises how entities linked via common ownership by the Crown operate.

Table 1: Calculating Qualified Revenue

Step		Disclosed Items	Value	Value	Formula
a		Operating revenue as per the relevant statutory financial statements		$ a	
b		Non-telecommunications services revenue (if any)	$ b		
c		Other non-telecommunications services revenue	$ c		
d	less	Total non-telecommunications service revenue, sold separately		$ d	d = b + c
e	plus	Timing adjustment (if required)		$ e	
f		**Gross telecommunications services revenue**		**$ f**	f = a - d + e
g	less	Total payments made to other QLPs		$ g	
h	less	Total payments made to non-QLPs for services initially provided by a QLP		$ h	
i	less	Total cost of non-telecommunications goods and services included in gross telecommunications services revenue		$ i	
j		**Qualified revenue**		**$ j**	j = f –g – h- i

Calculating gross telecommunications services revenue

31. To calculate the gross telecommunications services revenue (step f), the QLP must, amongst others, identify the following features.

31.1 In step (a), the operating revenue as per the relevant statutory financial statements being the QLP's most recent statutory financial statements (or equivalent information if the QLP does not publish statutory financial statements) that have the greatest overlap with the financial year ending 30 June 2018. For a QLP with a 31 December year end, the operating revenue is determined for the period ending 31 December 2017.

31.2 In step (d), the value of total non-telecommunications services revenue is the sum of the disaggregated major non-telecommunications revenue streams individually disclosed in step (b) under the heading 'non-telecommunications services revenue (if any)', and the value of any other revenue streams that are disclosed in aggregate in step (c) as 'other non-telecommunications services revenue'. These are calculated in the following manner.

31.2.1 Under the heading, 'non-telecommunications services revenue', the QLP must disclose each of its major disaggregated non-telecommunications revenue streams. [3] When the information is reasonably available and appropriate, the QLP must use the revenue types listed in Attachment A.[4] If this information is not readily available, then the QLP must provide sufficient detail so that an informed reader can reasonably identify the major

---

3 In subtracting any non-telecommunications services revenue, QLPs must consider the treatment of revenue from providing telecommunications services to non-liable persons that are interconnected bodies corporate (or other related parties). Refer to page 6 of Attachment A for further details.

4 Such as revenue derived from outside New Zealand, revenue earned from the standalone sales of handsets and other end-user equipment, and revenue earned from non-telecommunications products that were not bundled with telecommunications services.

activities that generate the non-telecommunications services revenue.

31.2.2 Under the heading, 'other non-telecommunications services revenue' the QLP may disclose the non-telecommunications services revenue earned from minor activities as a combined value. This value must not exceed 2.5% of the QLP's operating revenue as disclosed in step (a).[5]

31.2.3 The values deducted for non-telecommunications services revenue must:

(a) be consistent with those used in calculating operating revenue as per the relevant statutory financial statements, unless specially covered by paragraph 31.2.3(b); and.

(b) be calculated in accordance with NZ IFRS 15, if the non-telecommunications services revenue was earned from a bundle that included telecommunication services, and the non-telecommunications good or service does not fall into one of the categories listed in paragraph 38.3 of these instructions.

32. Step (e), the 'timing adjustment', is only required if the QLP has a statutory year end other than 30 June. This allows the QLP to make adjustments for the effect of both:

32.1 the statutory financial statements reporting operating revenue for a different period than the TDL financial year ending 30 June, and

32.2 estimates of when revenues and costs should be recognised for TDL purposes.

33. If the timing adjustment results in either an increase or decrease in gross telecommunications services revenue, it should have a corresponding positive or negative value.

34. The timing adjustment will typically represent the effect on gross telecommunications revenue of differences in the revenue periods under the statutory financial statements and the TDL financial year.[6] It may also include some of the adjustments relating to past assumptions about timing, which were made in accordance with paragraph 32.2, which relate to:

---

5 The option of disclosing revenue earned from these minor activities as a combined 'other' value, rather than separate line items, is provided to reduce the company's compliance costs. The 2.5% threshold exists to provide transparency in the calculation.

6 For example, if a QLP with a 31 March year end earned $10m more telecommunications services revenue in the quarter ending 30 June 2018 than it did in the quarter ending 30 June 2017, the timing adjustment would be $10m.

34.1 estimates of gross telecommunications services revenue (step (f));

34.2 total payments made to other QLPs (step (g));

34.3 total payments made to non-QLPs for services initially provided by a QLP (step (h)); and

34.4 total cost of non-telecommunications goods and services included in gross telecommunications services revenue (step (i)).[7]

35. The QLP must provide explanations of any material differences between the revenue disclosed in the most recent statutory financial statements and the revenue disclosed in Template 1, that are not due to the timing adjustment in step (e).

36. If the QLP does not have separate statutory financial statements, it must disclose the total audited revenue of its business for the financial year and reconcile this to the gross telecommunications services revenue disclosed in step (f).

Deducting the cost of non-telecommunications goods and services

37. If revenue from non-telecommunications goods and services can be identified separately it must be deducted at step (b).

38. However, the Commission will permit a QLP to deduct the cost of purchasing non-telecommunications goods and services if:

38.1 the revenue from these non-telecommunications goods and services is not reasonably identifiable (such as when they are sold in a discounted bundle with telecommunications services).

38.2 the associated revenue is included in the gross telecommunications services revenue total at step (f). Typically this means the entire revenue value of the bundle is included in the total at step (f).

38.3 the goods or services fall into one the categories listed below and the cost is calculated in the following manner:

38.3.1 for end-user equipment that was sourced in New Zealand, the direct cost paid to the external supplier(s) in accordance with NZ GAAP.

7 For example, if a QLP, with a March year end, in its TDL year 1 templates assumed that the revenue from a shipment of handsets sold in April was included in the March statutory financial statements, later recognises the sale as an April transaction, could address this as a timing adjustment in TDL year 2. Whether this effect is disclosed as a timing adjustment or addressed elsewhere on template 1 depends on how the QLP calculates the values in template 1.

38.3.2 for end-user equipment that was sourced outside New Zealand, the direct cost paid to the external supplier(s) in accordance with NZ GAAP, plus direct freight costs and customs duties.

38.3.3 for broadcasting services, music on-demand, video on-demand content and similar services, the direct cost paid to the external supplier(s) in accordance with NZ GAAP.

38.3.4 for other non-telecommunications goods and services that were sold as part of a bundle with telecommunications services, and which have a primary function related to the provision of or connection to a telecommunication service, the directly attributable costs in accordance with NZ GAAP. This category is likely to include accessories (eg, cables), installation work, and maintenance services relating to end-user equipment.

39. For the avoidance of doubt, in step (i) the cost of non-telecommunications goods and services:

39.1 can only be deducted at this point if the associated revenue could not reasonably have been identified and deducted as non-telecommunications services revenue at step (b);

39.2 can only be deducted if the associated revenue was included in the QLP's gross telecommunications services revenue;

39.3 must not include any allocation of corporate overhead, charges for the cost of capital, or mark up for indirect costs;[8]

39.4 for end-user equipment and other non-telecommunications goods specifically, can only be deducted if at the time when the associated revenue transaction occurred, the QLP had legal ownership of the goods; and

39.5 for end-user equipment and other non-telecommunications goods specifically, cannot be the price charged by a party (eg, retailer) who had purchased the same good in a previous transaction from the QLP; if the QLP had repurchased the good from such a party, then the revenue from the first sale must be fully reversed in calculating gross telecommunications revenue, and the cost of the non-telecommunications good must be set at the original cost the QLP incurred in acquiring it as allowed under paragraphs 38.3.1 and 38.3.2.

---

[8] These accounting practices are specific to these instructions and the calculation of qualified revenue for TDL purposes. This should not be taken as guidance for compliance with any other notice, determination or other requirements issued by the Commission.

Changes in accounting practices and the treatment of estimates

40. In calculating qualified revenue, the QLP must make reasonable efforts to ensure that the reported value of its qualified revenue is accurate both within a year and in aggregate across years. This includes, but is not limited to:

    40.1 when a change in accounting practices impacts on when revenues or costs are recognised, the QLP must make reasonable efforts to ensure that the affected qualified revenue is disclosed in the year that the change in accounting policy is made (if the change requires this or the change would result in under reporting), or failing that in the year when the revenue or cost is first recognised ; and

    40.2 when a QLP with a statutory year end other than 30 June makes estimates as to which of two TDL financial years an item of revenue (or cost) should be recognised in, then the QLP must make reasonable efforts to ensure that a revenue (or cost) item, if not recognised in the first of the two TDL financial years, is recognised in the later of the two TDL financial years, regardless of how it is recognised for other purposes.

41. For the avoidance of doubt paragraph 40.1 applies to, but is not limited to NZ IFRS 15.

42. For the avoidance of doubt, paragraph 40.2 may result in the timing recognition of revenue or input costs for TDL purposes being different to that used for statutory reporting under NZ GAAP or other reporting requirements.

<u>Template 2: Payments Made to Other QLPs</u>

43. This template requires the QLP to disclose the total amount payable to other QLPs that is being deducted in accordance with these instructions for the 2017/18 financial year.

44. Amounts payable to each of the QLPs to whom payments are made must be disclosed separately. In doing so the name of each of the other QLPs must be selected from the pull down menu in the column "Other QLPs".

45. Deductions are only permitted when the telecommunications services acquired were used by the QLP to provide telecommunications services to its own customers in New Zealand.

<u>Template 3: Payments Made to Non-QLPs for Services Originally Purchased from a QLP</u>

46. The QLP can deduct payments made to a non-QLP for telecommunications services, but only if that non-QLP is acting as an intermediary for another QLP, ie, payments to a non-QLP for the provision of telecommunications services that the non-QLP purchased from another QLP.

47. The intention of this exception is to deal with situations where a non-QLP is effectively acting as an intermediary between a liable upstream provider and a liable downstream provider of telecommunications services. This is likely to be rare and the Commission needs to be convinced that any deduction claimed is genuine.

48. Again, deductions are only permitted when the telecommunications services acquired were used by the QLP to provide telecommunications services to its own customers in New Zealand.

49. Template 3 requires the QLP to disclose details about payments claimed in template 1 (step (h)) as a deduction for payments made to non-QLPs for services originally purchased from another QLP in the 2017/18 financial year.

50. To claim a deduction in template 3, the QLP is required to provide:

    50.1 the name of the non-QLP(s) from whom it purchased the services;

    50.2 the QLP(s) the non-QLP(s) purchased the services from originally. The name of the QLP(s) must be selected from the pull down menu;

    50.3 a description of the service(s) provided; and

    50.4 the value of transaction(s) and the allocated value of the payments deducted from the qualified revenue.

51. Any allocations are to be calculated in accordance with the principles in paragraph 24. The value of transactions(s) should reconcile to invoices and must include both the allocated value deducted for TDL qualified revenue and non-deductible amounts (such as payments for non-telecommunications services).

<u>Template 4: Information for bodies corporate that earned qualified revenue and were connected to liable persons via section 79</u>

Background

52. This template requires the QLP to disclose whether or not it is connected to one or more bodies corporate that earned qualified revenue, and if so to provide further details.

53. Section 79(1) of the Telecommunications Act 2001 provides that two or more bodies corporate must be treated as one person, for purposes of the TDL, if:

    (a) one of them is a body corporate of which the others are subsidiaries; or
    (b) all of them are subsidiaries of the same body corporate; or
    (c) all of them are associates of each other; or

(d) one of them owns or controls shares that in the aggregate carry the right to exercise, or control the exercise of, 20% or more of the voting power at meetings of the others; or

(e) a third person owns or controls shares in each of them that carry the right to exercise, or control the exercise of, 20% or more of the voting power at meetings of each of them.

54. Section 79(2) provides that for the purposes of section 79(1)(c) a body corporate is an associate of another if that body corporate is able, whether directly or indirectly, to exert a substantial degree of influence over the activities of the other.

55. If a body corporate is connected via section 79 to a QLP and that body corporate earned qualified revenue, then that revenue must be included in the qualified revenue disclosures irrespective of whether the connected body corporate is, or is not, itself a liable person.

Assessing any connected body corporate's qualified revenue

56. The QLP should consider if any of the provisions of section 79(1) apply and, if it is connected to another body corporate, whether such body corporate earns qualified revenue.

57. If a body corporate connected to a QLP via section 79(1) earns revenue from telecommunications services that is ancillary to providing other goods or services and that revenue is not material to its overall revenue, then that revenue is not qualified revenue. For example, if the body corporate is a hotel that earns some ancillary revenue from providing telecommunications services to guests.

58. If, for the QLP, there were no bodies corporate connected via section 79, or if such connected bodies corporate did not earn qualified revenue, then for template 4, the QLP is only required to answer the question in section 4a (by answering 'no' in the white input cell). Otherwise the QLP must answer 'yes' in section 4a and complete section 4b.

If a body corporate is connected to multiple QLPs

59. If the QLP is connected via section 79 to bodies corporate that earn qualified revenue, then the QLP should consider if one or more of those bodies corporate is also connected to another QLP. In that case then:

59.1 generally only one of the QLPs must provide further specified information for each body corporate (eg, including the connected body corporate's qualified revenue in its estimation of group qualified revenue in template 1).

59.2 the other connected QLP(s) must declare the connection by answering "yes" in section 4a and providing further details in section 4b of template 4.

60. Therefore, the QLP may need to agree with other QLPs connected to the same bodies corporate on who will provide further specified information for such bodies. This will include determining who is responsible for disclosing financial information (such as templates 1 to 3) about the bodies corporate.

61. If the investment by one QLP in another body corporate connected via section 79 is passive in nature there may be governance issues that limit access to information. This means that even when both parties earn qualified revenue they may prefer not to consolidate their specified information. In this situation the parties may complete templates 1 to 3 as separate QLPs; and note that they are connected in section 4b of template 4. Both parties will have to provide an assurance or audit report as detailed on page 17.

62. In the case of QLPs who are connected to other QLPs via common ownership by the Crown, they may complete templates 1 to 3 as separate QLPs; and note that they are connected to the other Crown owned QLPs via section 79, in section 4b of template 4 with the entry 'Other Crown owned QLP(s)' in the first column of the table.

The qualified revenue status of common revenue streams

63. In general, telecommunications services can be divided into two groups; voice services and data services (although there is a trend to voice being delivered over the data network). This reflects the definition of the network these services are to be provided over. PTN is defined in the Act as meaning "a network used or intended to be used, in whole or in part, by the public for the purposes of telecommunication" including a public switch telephone network (PSTN) and a public data network (PDN).

64. Voice services are generally those services provided over a PSTN, and what is captured in this category is largely unchanged from the previous TSO cost allocation processes. Common types of voice based telecommunication services include:

64.1 local and residential telephone services;

64.2 long distance direct dial and toll calls; and

64.3 calling cards.

65. Data services are generally those services provided over a PDN. Common types of data based telecommunications services include:

65.1 fibre broadband services;

65.2 business data services; and

65.3 xDSL services, naked DSL services and services provided using an unbundled copper local loop.

66. Further information on the qualified revenue status of common types of voice and data telecommunications services is provided in Attachment A.

What does not constitute qualified revenue for the purposes of these qualified revenue instructions?

67. Revenue earned from international transit arrangements for calls neither originating nor terminating in New Zealand is not qualified revenue.

68. Revenue earned from the provision of end-user equipment (including handsets discounted or otherwise) is not qualified revenue as it is not revenue from the supply of telecommunications services by means of the QLP's PTN or the supply of telecommunications services by means that rely primarily on the existence of the QLP's or any other PTN.

69. Any revenue received by a QLP from the Crown as compensation for the cost of complying with a TSO instrument containing a specified amount, is not included in the calculation of qualified revenue.

70. Revenue from providing broadcasting is not qualified revenue. The definition of 'telecommunications' in section 5 of the Act currently excludes "any conveyance that constitutes broadcasting."[9]

71. Revenue derived from music on-demand and video on-demand content is not qualified revenue. On-demand content is distinguished from broadcasting as it is provided to a single-user for use at their discretion. Furthermore, on-demand content revenue is distinguished from conveyance revenue, and only revenue related to the conveyance of this content is qualified revenue.

72. Receipts from capital contributions that were made towards assets which develop the PTN are not qualified revenue if the QLP records the asset(s) as a fixed asset(s) under NZ GAAP. The value of any deduction must not exceed the value of the related asset as recorded in the fixed asset register under NZ GAAP.

73. Where a non-liable person body corporate connected to a QLP via section 79 provides services related to telecommunications as an ancillary part of providing other goods or services, and the revenues earned from that service are not material to their overall revenue, such revenues are not qualified revenue.

---

[9] The Telecommunications (New Regulatory Framework) Amendment Bill as reported back from Select Committee proposes that this broadcasting exclusion be removed. We have prepared these instructions on the basis of the Act as it currently stands and on the assumption that the Bill, if enacted in the form proposed by the Select Committee, will not impact TDL calculations for the 2017/18 financial year.

Qualified revenue and the public telecommunications network

74. Revenue earned from operating a physically private telecommunications network (a network that is not physically able to connect to another telecommunications network) is not qualified revenue. If the network is physically capable of being accessed by the public for any purpose (even private uses of the public network) the revenue the QLP derives from providing the telecommunications service is qualified revenue.

75. This means that a QLP is not required to know how their clients use the services they provide. If the QLP obtains revenue from providing telecommunications services by means of its PTN or that rely primarily on the existence of a PTN then that revenue is qualified revenue.

76. Therefore, revenue from providing services via layer one and above (including ducting and dark fibre) is qualified revenue. Fibre or copper dedicated to a single-user is also included unless that fibre or copper is part of a physically separate telecommunications network that does not connect to a PTN.

Instructions for preparing assurance or audit report on specified information

Requirement to provide assurance

77. The QLP must provide to the Commission an assurance report or an audit report by an independent qualified auditor (auditor) on the specified information.[10]

78. The default option is for the QLP to provide an assurance report as specified in paragraph 80. This is the only option for a QLP with gross telecommunications services revenue above $50,000,000. This assurance report is separate to any auditor's report prepared for the QLP's statutory financial statements.

79. A QLP with gross telecommunications services under $50,000,000 has the option of relying on an auditor's report prepared for the QLP's statutory financial statements, if it meets the criteria specified in paragraph 81 or 82. In some cases the QLP will also be required to provide us with certification from a director or the chief financial officer (CFO).

Requirements for default option of the QLP providing an assurance report

80. The QLP will meet the requirements of section 83(1)(b) by providing us with an assurance report by an auditor on the specified information. The assurance report must:

    80.1 Be addressed to the directors of the QLP and to the Commission as the intended users;

    80.2 State that it has been prepared in accordance with Standard on Assurance Engagements 3100 – Compliance Engagements (SAE 3100) and International Standard on Assurance Engagements 3000 (Revised) (ISAE (NZ) 3000 (Revised)), or International Standard on Auditing (New Zealand) 805 Special Considerations – Audits of Single Financial Statements and Specific Elements, Accounts or Items of A Financial Statement, or their successor standards; and

    80.3 State whether or not in the auditor's opinion the information provided by the QLP in templates 1 to 4 is prepared in all material respects in accordance with these instructions.

Requirements if the QLP has the option of providing an audit report and has a 30 June 2018 year end

81. An auditor's report prepared for the QLP's statutory financial statements meets the requirements in section 83(1)(b) (and hence we will not require the QLP to provide a separate assurance report), if:

[10] Section 83(1)(b) read with section (2) of the Act requires QLPs to provide the Commission with a report from a qualified audit and/or an alternative form of assurance as specified by the Commission.

81.1 the QLP had gross telecommunications services revenue of under $50,000,000 in the 2017/18 TDL year;[11]

81.2 the QLP's statutory financial statements cover the full 2017/18 TDL year (ie, 1 July 2017 to 30 June 2018);

81.3 the QLP will make the auditor available to the Commission to answer questions relating to the specified information (if required);

81.4 the statutory financial statements or the notes to the statutory financial statements separately disclose:

81.4.1 the QLP's gross telecommunications services revenue;[12] and

81.4.2 any deduction from gross telecommunications services revenue that is disclosed in template 1 and that exceed 1% of the QLP's gross telecommunications services revenue;[13]

81.5 The auditor's report:

81.5.1 was prepared in accordance with International Standards on Auditing (New Zealand) or equivalent or successor standards; and

81.5.2 contains an audit opinion that states that the QLP's statutory financial statements present fairly, in all material respects, (or give a true and fair view of) the financial position of the QLP as at 30 June 2018, and (of) its financial performance and its cash flows for the year ending 30 June 2018 in accordance with the applicable financial framework (or an equivalent level of assurance).

Requirements if the QLP has the option of providing an audit report and has a year-end other than 30 June 2018

82. Where a QLP has a year-end other than 30 June, an auditor's report prepared for the QLP's statutory financial statements meets the requirements in section

[11] This $50,000,000 threshold also applies to QLPs who are connected to other QLPs via common ownership by the Crown, but who elect to complete separate TDL disclosures in accordance with paragraph 58.

[12] In the case of gross telecommunications services revenue that is earned by interconnected bodies corporate that prepare their own statutory financial statements, gross telecommunications services revenue may be disclosed in the statutory financial statements either as a single consolidated value or as bodies corporate specific values in the individual statutory financial statements.

[13] This applies to total payments made to other QLPs; total payments made to non-QLPs for services initially provided by a QLP; and total cost of non-telecommunications goods and services included in gross telecommunications services revenue.

83(1)(b) (and hence we will not require the QLP to provide a separate assurance report), if

82.1 the QLP had gross telecommunications services revenue of under $50,000,000 in the 2017/18 TDL year;[14]

82.2 the QLP's statutory financial statements cover at least 263 days of the 2017/18 TDL year and were prepared to in accordance with the Tier 1 requirements as per *XRB A1 Application of the Accounting Standards Framework* (XRB A1);[15]

82.3 the QLP will make the auditor available to the Commission to answer questions relating to the specified information (if required);

82.4 the statutory financial statements or the notes to the statutory financial statements separately disclose for either the TDL year ending 30 June 2018 or the reporting period covered by the QLP's statutory financial statements:

82.4.1 the QLP's gross telecommunications services revenue;[16] and

82.4.2 any deduction from gross telecommunications services revenue that is disclosed in template 1 and that exceed 1% of the QLP's gross telecommunications services revenue;[17]

82.5 The auditor's report:

82.5.1 was prepared in accordance with International Standards on Auditing (New Zealand) or equivalent or successor standards; and

82.5.2 contains an audit opinion that states that the QLP's statutory financial statements present fairly, in all material respects, (or give a true and fair view of) the financial position of the QLP at the QLP's year end, and (of) its financial performance and its cash flows for the relevant financial year in accordance with the applicable financial framework (or an equivalent level of assurance).

---

14 This $50,000,000 threshold also applies to QLPs who are connected to other QLPs via common ownership by the Crown, but who elect to complete separate TDL disclosures in accordance with paragraph 58.

15 This subclause includes 31 March 2018 year ends.

16 In the case of gross telecommunications services revenue that is earned by interconnected bodies corporate that prepare their own statutory financial statements, gross telecommunications services revenue may be disclosed in the statutory financial statements either as a single consolidated value or as bodies corporate specific values in the individual statutory financial statements.

17 This applies to total payments made to other QLPs; total payments made to non-QLPs for services initially provided by a QLP; and total cost of non-telecommunications goods and services included in gross telecommunications services revenue.

82.6 The QLP provides a certification in respect of the QLP's specified information that must:

82.6.1 be signed by a director or CFO (or equivalent senior financial officer) of the QLP; and

82.6.2 include the following statement:

I **[insert full name]** being **[insert role]** of **[name of QLP]** certify that having made all reasonable enquiry, to the best of my knowledge, the attached specified information disclosed in templates 1 to 4 in all material respects complies with the Section 83 Specified Information and Assurance Report Instructions for the 2018 TDL year.

Attachment A – Qualified revenue status of common types of revenue

Revenue stream	Rationale	Status
Revenue from building, maintaining and renewing network infrastructure	The criteria for qualified revenue as defined in section 5 of the Act require telecommunications services to be provided by means of a public telecommunications network (PTN) or by means that rely primarily on the existence of the PTN. Therefore, the Commission considers revenue from operational contributions for building, maintaining and renewing PTN infrastructure, recorded by the QLP accordingly under NZ GAAP is qualified revenue. This because it is part of the telecommunications service provided by means of a PTN. Receipts from capital contributions made towards assets which develop the PTN are not qualified revenue (and can be deducted) if the QLP records the asset(s) as a fixed asset(s) under NZ GAAP. This is because the building, maintaining and renewing activity is significant enough to define it as the creation of an asset rather than the operation of one. However, the value of any deduction must not exceed the value of the related asset as recorded in the fixed asset register under GAAP.	Operational revenue is qualified revenue and receipts from capital contributions are legitimate deductions.
Revenue from the sale of mobile phone handsets that is not recovered through mobile access or calling charges (ie, sold separately)	The Commission considers that this revenue is not captured by the definition of qualified revenue in section 5 of the Act.	Non-qualifying telecommunications services revenue.
Revenue from the sale of mobile phone handsets recovered through mobile access or calling charges (sold as part of services provided in a bundle)	The Commission considers that this revenue is not captured by the definition of qualified revenue in section 5 of the Act. Due to difficulties in identifying the true value of this revenue stream, the Commission has allowed QLPs to deduct the cost of handsets which were provided as part of a bundle which includes telecommunication services.	Non-qualifying telecommunications services revenue.
Revenue derived from services provided in other countries	The criteria for qualified revenue as defined in section 5 of the Act require telecommunications services to be provided by means of a PTN operated in	Non-qualifying telecommunications services revenue.

Revenue stream	Rationale	Status
	New Zealand. These services fall outside the definition of qualified revenue.	
Expenditure on purchasing telecommunications services from other QLPs	The Commission considers that the avoidance of double counting of revenue is a concern and allows a deduction for this type of expenditure as the value of the service is picked up in the QLP providing the service.	Legitimate deduction.
Expenditure on purchasing telecommunications services from a non-QLP that on-sells those services it purchased from another QLP	The Commission considers that this situation is analogous to purchasing services from another QLP directly. QLPs can claim this expenditure as a deduction but they will need to provide detailed information to support these claims.	Legitimate deduction.
Prompt payment discounts and credits for billing errors and omissions	The Commission allows deductions for prompt payment discounts and credits for billing errors and omissions as this allows the QLP to represent their true revenue totals.	Legitimate deduction.
Revenue from calling cards and prepay credits	The Commission considers all calling card and prepay credit revenue, whether used or expired is qualified revenue as it was acquired for the purposes of providing a telecommunications service .	Qualified revenue.
Inbound roaming revenue	The Commission considers that revenue from inbound roaming is a telecommunications service as defined in the Act and is therefore qualified revenue.	Qualified revenue.
Mobile access and calling revenue	The Commission considers that this revenue stream is a telecommunications service as defined in the Act and is qualified revenue.	Qualified revenue.
Revenue earned from voice over IP calls that terminate or originate on a PSTN (PTN)	The Commission considers that this revenue stream is a telecommunications service as defined in the Act and is therefore qualified revenue.	Qualified revenue.
Revenue earned from mobile voice and SMS – a PTN includes that part of a mobile network that facilitates voice calls and SMS	The Commission considers that this revenue stream is a telecommunications service as defined in the Act and is therefore qualified revenue.	Qualified revenue.
Revenue earned from toll by-pass/ direct dial calls provided by the QLP	The Commission considers that this revenue stream is a telecommunications service as defined in the Act and is therefore qualified revenue.	Qualified revenue.

Revenue stream	Rationale	Status
Revenue earned by the QLP from late payment fees levied on customers for the late payment of outstanding accounts for telecommunications services	The Commission considers that this revenue stream is a telecommunications service as defined in the Act and is therefore qualified revenue.	Qualified revenue.
Revenue earned from dial-up ISP service (Including modem banks)	Revenue from telecommunications services using a PTN is captured – PTN includes public data networks (PDN) and this service is captured under the PDN definition.	Qualified revenue.
xDSL services, Naked DSL services and services provided using a UCLL	The Commission considers that this revenue stream is a telecommunications service as defined in the Act and is therefore qualified revenue.	Qualified revenue.
Mobile broadband services	Revenue from telecommunications services using a PTN is captured – PTN includes PDNs and this service is captured under the PDN definition.	Qualified revenue.
Business data services	Revenue from business data telecommunications services using a PTN is captured.	Qualified revenue.
Revenue derived from the supply of on-demand content	The Commission considers that music on-demand and video on-demand content revenue is not captured as a telecommunications service as it can be distinguished from the conveyance revenue which is the intended focus of the definition of telecommunications services.	Content revenue is non-qualifying telecommunications services revenue, and conveyance revenue is qualified revenue.
Mobile radio services (campus networks)	Revenue derived from providing telecommunications services by means of a PTN is qualified revenue, irrespective of how a QLP's client uses the services. Therefore, because the mobile radio network fits within the definition of a PTN the fact that a QLP's client uses it for a private purpose is not relevant to its qualified revenue status.	Qualified revenue.
Broadcasting services	The definition of 'telecommunications' in section 5 of the Telecommunications Act expressly excludes broadcasting.	Non-qualifying telecommunications services revenue.
Dark fibre, layer one, two and above services	Revenue from telecommunications services using a PTN are captured – revenue from providing telecommunications services by means	Qualified revenue.

Revenue stream	Rationale	Status
	of a PTN are captured regardless of the ISO layer.	
Satellite revenues	Telecommunications services provided in New Zealand via a satellite are supplied by means of the qualifying liable person's PTN.	Qualified revenue.
Revenue from selling customer premises equipment	Revenue from selling customer premises equipment is revenue from selling goods that are not considered to be related to a PTN.	Non-qualifying telecommunications services revenue.
Revenue from dumb caches, content delivery networks (CDN)	Revenue derived from operating this equipment relies on the existence of a PTN and is therefore within the definition of qualified revenue.	Qualified revenue.
Revenue from fibre dedicated to a single-user	Revenue derived from providing telecommunications services by means of a PTN is qualified revenue, irrespective of how a QLP's client uses the services.	Qualified revenue.
Revenue from early termination charges (telecommunications services revenue)	Early termination charges revenue derived from services or bundles of services that are all telecommunications services is qualified revenue. Early termination charges revenue derived from a bundle that includes end-user equipment which was sold by the QLP to the customer paying the early termination charge and the cost of the equipment is deducted (or had been deducted in a previous TDL year) from gross telecommunications services revenue is qualified revenue. This avoids the problem of a QLP deducting both the cost of equipment while not recognising the matching revenue when calculating qualified revenue.	Qualified revenue.
Revenue from early termination charges (non-telecommunications revenue)	Early termination charges revenue derived from a bundle that includes non-telecommunications revenue (eg, end-user equipment), which was sold by the QLP to the customer paying the early termination charge and the cost of the equipment is not deducted (or has not been deducted in a previous TDL year) from gross telecommunications revenue, is not qualified revenue (to the extent it relates to the non-telecommunications equipment). This recognises that it	Non-qualifying telecommunications services revenue.

Revenue stream	Rationale	Status
	relates to non-telecommunications equipment for which the cost had not been deducted when calculating qualified revenue.	
Revenue from porting charges (also known as plan change fees)	The Commission considers that this is revenue from the day to day operations of a PTN and is therefore qualified revenue. As these charges are qualified revenue, QLPs can deduct the porting charges they pay to other QLPs from their gross telecommunication services when calculating their qualified revenue.	Qualified revenue.
Revenue from co-location	Revenue earned from co-location on cellular transmission sites (as the term is used in Schedule 1 of the Act) or co-location of equipment in the PTN environment of the central office is captured as it is earned from the use of those facilities as part of a PTN. For example, revenue from the co-location of telecommunications equipment that is located in a secured area of the PTN facilities is qualified revenue.	Qualified revenue.
Revenue from paper bills	Revenue earned from charging customers for paper bills, statements, and invoices that relate to the purchase of telecommunications services is qualified revenue. For example, a surcharge for receiving paper bills via the post (rather than receiving emails or using online account management) is qualified revenue.	Qualified revenue.
Revenue from co-sited office and retail space, or hosting commercial data centres.	Revenue earned from renting office and retail space in a premise that is also used for providing telecommunication services is not captured. Revenue from operating commercial data centres is not captured provided that it is operated separate from any PTN environment, sharing the same premises. For example, revenue from operating a server farm that is on the distribution side of a MDF (main distribution frame) or ODF (optical distribution frame) of a central office building is not qualified	Not qualified revenue.

Revenue stream	Rationale	Status
	revenue. This recognises that premises may be used for both telecommunication and non-telecommunication purposes.	
Revenue earned from bundles of telecommunication services with non-telecommunications goods and services other than those for which these instructions allow deductions.[18]	The revenue earned from these bundles of telecommunication services with non-telecommunications goods and services (for which these instructions do not provide specific guidance) must be allocated between non-telecommunications services revenue and gross telecommunications services revenue in accordance with NZ IFRS 15. This includes allocating any bundle discounts based on the relative stand-alone selling prices as prescribed by NZ IFRS 15 paragraphs 81 to 83. This approach seeks to allocate bundled revenue and discounts proportionate to their unbundled or stand-alone prices as prescribed in a recent accounting standard.	Apply NZ IFRS 15 to calculate the qualified revenue earned from the bundle, even if the QLP has not yet adopted NZ IFRS 15 for other reporting purposes.
Ancillary revenue, earned by non-liable persons that are bodies corporate connected to a QLP via section 79 as an ancillary part of providing non-telecommunications goods and services.	The Commission considers that such revenue is not qualified revenue. This is where a non-liable person body corporate provides telecommunications services as an ancillary part of providing non-telecommunications goods or services, and the revenues earned from that service are not material to their overall revenue.	Not qualified revenue.
Telecommunications services revenue earned by non-liable persons that are bodies corporate connected to a QLP via section 79 in conjunction with providing telecommunications goods.	The Commission considers that such revenue is qualified revenue. This is where a non-liable person body corporate provides telecommunications services in conjunction with or as an ancillary part of providing telecommunications goods, For example, when a consumer electronics retailer sells a mobile handset in a bundle with mobile calling minutes.	Qualified revenue.
Telecommunications services	The Commission considers that such	Qualified revenue.

[18] Deductions are allowed for end-user equipment, broadcasting services, music on-demand, video on-demand content and other goods and services that were sold as part of a bundle with telecommunications services, and which have a primary function related to the provision of or connection to a telecommunication service.

Revenue stream	Rationale	Status
revenue earned by a QLP from providing telecommunications services to a non-liable person that is a body corporate connected to a QLP via section 79 (or another related party) when the non-liable person does not report downstream qualified revenue.	revenue is qualified revenue and should be valued in accordance with NZ GAAP. This is where a QLP provides telecommunication services to a non-liable person that is a body corporate connected to a QLP via section 79 (or another related party) and that person consumes the services itself, uses it to earn ancillary revenue as part of providing non-telecommunications goods and services, or earns an immaterial amount of downstream telecommunication services revenue (for example, the downstream revenue is earned overseas as part of a mobile bundle that includes international calling). This seeks to ensure that telecommunications services revenue resulting from related party transactions is included in gross telecommunication revenue, while avoiding double counting of revenue streams.	For a QLP that completes the row 'statutory operating revenue as per the relevant financial statements' of template 1 using group consolidated operating revenue, this may require reducing the value of the deduction for non-telecommunications services revenue. This adjustment would equal the value of the QLP's telecommunicates services revenue that was eliminated on consolidation and for which the non-liable person does not report downstream qualified revenue.
Revenues received and payments made in relation to a telecommunications service that is currently subject to a pricing review by the Commission.	The values for qualified revenue received and for deductions for payments to other QLPs, should reflect the prices charged during the TDL year. For example, the invoiced amounts recognised under accrual based accounting and reported as statutory operating revenue (or as operating expenses).	n/a

Revenue stream	Rationale	Status
Indefeasible right to use (IRU)	The Commission considers that QLPs may not deduct the cost of purchasing an IRU to use a segment of (dark) fibre for a specified period when under NZ GAAP the IRU should be treated as an asset. This reflects that IRUs are typically treated as non-current assets that are depreciated over time, and not as operating expenses.	Not deductible.
Payments relating to customer loyalty programmes run by a third party	The treatment of payments made to third party operators of customer loyalty programmes should be consistent with how a QLP's gross telecommunications services revenue is calculated and avoid double deductions. The accounting profession has issued an interpretation statement on the treatment of loyalty programmes.[19] For companies issuing points in a program run by a third party the statutory operating revenue should typically be net of the amount paid to the third party for providing the loyalty points.	Not qualified revenue. The double deduction of payments to third party operators of loyalty programmes is not allowed (eg, when the consideration has been netted off in calculating operating revenue as per the relevant statutory financial statements, it cannot also be deducted as the cost of bundled non-telecommunications goods and services).

19 NZ IFRIC 13 New Zealand Equivalent to IFRIC Interpretation 13 Customer loyalty programmes and NZ IFRS 15.