

## **Explanatory note for publication of non-material amendments to Electricity Distribution Information Disclosure Determination (June 2023)**

28 June 2023

1. Pursuant to s 52Q of the Commerce Act 1986 (**Act**), we have made non-material amendments to the Electricity Distribution Information Disclosure Determination 2012 [2012] NZCC 22 (**principal determination**).
2. The following non-material amendments clarify existing requirements/correct minor drafting and typographical errors:
  - 2.1. Amendment to clause 2.3.1A of the principal determination:
    - (a) Regarding new reporting requirements relating to cybersecurity expenditure (as per Schedules 6a(ii), 11a, 6b(ii) and 11b(ii)) which were introduced through Tranche 1 of our targeted information disclosure (**ID**) review (**TIDR**) for electricity distribution businesses (**EDBs**), the final reasons paper stated that the new cybersecurity expenditure reporting requirements come into effect from disclosure year 2024.<sup>1</sup>
    - (b) This was not correctly reflected in the clause 2.3.1A of the amendment determination which required the new information in all disclosure years except for disclosure year 2024. We note that at clause 2.6.6(2)(b) of the determination (in respect of Schedules 11a and 11b), the timing of the disclosure requirements is correctly stated.
    - (c) Clause 2.3.1A of the principal determination has been amended to state that the cybersecurity expenditure information is not required in disclosure year 2023 (corrected from disclosure year 2024).
    - (d) We consider that this is a non-material amendment (for which consultation is not required) as the change it gives effect to was consulted on and decided during Tranche 1 of the TIDR but mistakenly not correctly included in the amendment determination (i.e., this is not a new policy decision).
  - 2.2. Amendments to clauses 2.5.1 and 2.5.2 of the principal determination:
    - (a) Regarding new reporting requirements relating to interruptions caused by third party interference (as per Schedule 10) which were introduced through Tranche 1 of our TIDR for EDBs, the final reasons paper stated that the new Schedule 10 reporting requirements come into effect from disclosure year 2024.<sup>2</sup>

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<sup>1</sup> Commerce Commission "[Targeted Information Disclosure Review - Electricity Distribution Businesses - Final decision paper - Tranche 1](#)" (25 November 2022), p. 35.

<sup>2</sup> Commerce Commission "[Targeted Information Disclosure Review - Electricity Distribution Businesses - Final decision paper - Tranche 1](#)" (25 November 2022), p. 26.

- (b) This was not correctly reflected in the amendment determination which required the new information from disclosure year 2023.
  - (c) Clauses 2.5.1(1), 2.5.1(2), 2.5.2(1), and 2.5.2(2) of the principal determination have been amended to state that the new disclosure information relating to interruptions caused by third party interference (as per Schedule 10) is not required for disclosure year 2023.
  - (d) We consider that these are non-material amendments (for which consultation is not required) as the change given effect to was consulted on and decided during Tranche 1 of the TIDR but mistakenly not correctly included in the amendment determination (i.e., this is not a new policy decision).
3. The following non-material amendment is to align the principal determination with the Commerce Act 1986:
- 3.1. Addition of new clause 2.11.2 to the principal determination:
- (a) Legislation implementing requirements for secondary legislation were made to the Act in 2021. Specifically, a new subsection (5) was inserted into section 53C (which specifies the content of an information disclosure determination).
  - (b) Because clause 2.11.1 of the determination authorises the Commission to grant exemptions referred to in section 53C(3)(d) of the Act, the determination must contain a statement to the effect of section 53C(5)(a) of the Act (as required by section 53C(5)(b)).
  - (c) Clause 2.11.2 has been added to the determination, to give effect to section 53C(5)(b) of the Act.
  - (d) We consider that this is a non-material amendment (for which consultation is not required) as the amendment does not change the legal status of certain exemptions as secondary legislation, rather it merely notes, for convenience, that those exemptions are secondary legislation.
4. The amendment determination can be accessed at: <https://comcom.govt.nz/regulated-industries/electricity-lines/information-disclosure-requirements-for-electricity-distributors/current-information-disclosure-requirements-for-electricity-distributors>