

28 November 2014

Public

SUBMISSION ON PROPOSED DRAFT LIABILITY ALLOCATION UNDER SECTIONS 84 AND 85 OF  
THE TELECOMMUNICATIONS ACT 2001 FOR 1 JULY 2013-30 JUNE 2014

28 NOVEMBER 2014

**Background**

- 1 This is Chorus' submission on the Commission's draft liability allocation determination for the Telecommunications Development Levy (**TDL**) for 1 July 2013 to 30 June 2014 (**draft determination**).
- 2 Our comments on the draft determination relate to:
  - 2.1 Chorus' ability to pass through the costs of the TDL, in contrast to all other liable persons; and
  - 2.2 The Commission's role in carrying out a compliance review of parties' qualifying revenue information to ensure that the TDL rules are being applied consistently.
- 3 We note that the methodology and approach to this year's draft determination is the same as the Commission's approach to the FY12/13 determination, and simply refer the Commission to Chorus' previous submissions on other matters.

**Pass through of the TDL**

- 4 Chorus should be able to recover the costs of the TDL in the same way as other liable persons, including through Chorus prices.
- 5 The Commission invited us in the 2011/2012 TDL, to raise any concerns about our ability to pass through the cost of the TDL in the processes for setting the prices of UCLL and UBA under the Act. Chorus did this. However, the Commission's 5 November 2013 final UBA price determination (Decision [2013] NZCC 20) was silent on Chorus' ability to pass through TDL costs.
- 6 If Chorus is prevented from separately passing through the levy in the same way as other liable persons, this will create distortions. It is not appropriate to assume that Chorus should (or can) absorb price decreases and levies in a real world environment.
- 7 We are awaiting the Commission's draft determination relating to the final pricing principle (**FPP**) review of the UBA and UCLL prices. If the Commission does not address this as part of the FPP, then it must be addressed as part of this TDL process.

**The Commission's compliance review**

- 8 As we have noted in previous years, Chorus supports the Commission's compliance review which includes checking the calculations of qualifying liable persons for compliance with the qualified revenue notice, and adjusting qualified revenues according to its findings.
- 9 While we appreciate that mistakes can be made, the Commission plays an important role in ensuring that the rules are applied consistently, and we encourage the Commission's role in reviewing for compliance to continue. We understand that this year the Commission has followed up with parties on various queries, and that it is still following up on several issues with one QPL that is yet provided its assurance report.