



COMMERCE COMMISSION

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44 The Terrace,

P.O. Box 2351

Wellington 6140, New Zealand

***Eligible Persons Registration Form
Section 4(4) (a)-(c) Schedule 2 Telecommunications Act 2001***

Particulars of Applicant:	
Legal name of company:	
E-mail:	Telephone No:
Business Address:	
Application Submitted by:	
Name:	Position in Company
Address:	
Telephone No & Email:	
PLEASE TICK ONE OF THE FOLLOWING CRITERIA:	
The applicant wishes to register with the Commission as an eligible person on the following basis:	
<input type="checkbox"/> (a) as a person who provides a telecommunications service by means of some component of a PSTN or PDN that is operated by that person	
<input type="checkbox"/> (b) as an access seeker or an access provider of (i) designated service or specified service; or (ii) a service supplied under a registered undertaking	
<input type="checkbox"/> (c) as a person who has a material interest in a draft code because that person is about to become, within the foreseeable future, a person referred to in paragraph (a) or (b)	

Supporting Documents:

To satisfy the Commission that it meets criteria set out in **Section 4(4)(a)** the applicant must provide the Commission with sufficient information to demonstrate that the criteria are met. This would be expected to include:

- information dealing the telecommunication service provided by the applicant;
- a diagram or description of the applicant's network in New Zealand;
- information explaining the nature of the relationship between the applicant and any network provider; and/or
- any other information that may be relevant.

In addition, to satisfy the Commission that it meets criteria set out in **Section 4 (4)(b)**, the applicant must provide the Commission with sufficient information to demonstrate that it is a service provider. This includes:

- stating the relevant designated service, specified service or service supplied under a registered undertaking; and
- providing sufficient information to the Commission to demonstrate that the applicant is an access provider or an access seeker in respect of that service.

For an applicant to satisfy the Commission that it meets the criteria for **Section 4 (4)(c)**, the applicant must provide a evidence of its plans for the foreseeable future. Such plans should be confirmed as true and correct and signed by a director of the applicant.

Applicant Signature

I hereby confirm that all information provided to the Commission as part of this application is true and correct.

Date

Signature:.....

Position:.....

Information guide for applicants seeking registration with the Commission as Eligible Persons

1. The Telecommunication Carriers' Forum

The Telecommunication Carriers' Forum prepares draft codes for telecommunications services. Eligible persons who are, in the opinion of the Commission, affected or likely to be affected by a draft code may vote in the referendum on the draft code.

An applicant who wishes to be registered as an eligible person is required to satisfy one of limbs (a), (b) or (c) of clause 4(4) of the Telecommunications Act 2001.

2. Who is an eligible person?

4(4)(a) – a person who provides a telecommunications service by means of some component of a PSTN or PDN that is operated by that person

This limb requires:

- An applicant to operate a component of telecommunications network. In this context “operate” means the applicant must exert an element of control over the relevant network.
- The telecommunications network to be either a PSTN or PDN. The defining feature of a PSTN is its dial-up capability.
- A PDN on the other hand, implies physical data transmission of a message as a digital bit stream, represented as an electro-magnetic signal or a physical point to point or multipoint communication channel over a network. Examples of such channels are copper wires, optical fibers and storage media.
- The applicant to provide a telecommunications service “by means of” some component of that PSTN or PDN. This means that the telecommunications service must be provided using some meaningful or not insignificant participation of a component of the PSTN or PDN.

*4(4)(b) – an access seeker or access provider of
(i) a designated service or specified service; or
(ii) a service supplied under a registered undertaking*

This limb requires:

- The applicant has to be an access seeker or access provider of a designated service, specified service or service supplied under a registered undertaking.

- Examples of designated services are Interconnection with Telecom's fixed PSTN, Telecom's unbundled bit stream access, Telecom's unbundled bit-stream access backhaul and Telecom's unbundled copper local loop network.
- Examples of Specified services which are in Part 3 of Schedule 1 are national roaming and co-location on cellular mobile transmission sites.
- Example of service supplied under a registered undertaking [.....].

4(4)(c) – any other person whom the Commission determines has a material interest in a draft code because that person is about to become, within the foreseeable future, a person referred to in paragraph (a) or (b)

An example of how this limb applies is when Company X intends to provide cellular mobile services within the foreseeable future, and Company X applies to be registered as an eligible person. This requires that Company X has plans that are both settled and feasible to provide cellular mobile service within a stated timeframe. The Commission, after taking into consideration all relevant factors in relation to paragraph (a) or (b), has a right to determine if Company X will be able to register itself as an eligible person. Company X will have to satisfy the Commission that it is about to become the person referred to in paragraph (a) or (b).

Glossary

Access Provider – means,

- (a) in relation to a designated service or specified service, the person named or described in Part 2 or Part 3 of Schedule 1 to the Telecommunications Act 2001 as the access provider for the designated service or specified service; and
- (b) in relation to a service that is supplied under a registered undertaking, the person that provided the undertaking under Schedule 3A.

Access Seeker – means,

- (a) in relation to a designated service or specified service, the person named or described in Part 2 or Part 3 of Schedule 1 to the Telecommunications Act 2001 as the access seeker for the designated service or specified service; and
- (b) in relation to a service that is supplied under a registered undertaking, a service provider who seeks access to the service and who complies with any conditions set out in the registered undertaking for eligibility as an access seeker.

Network – means a system comprising telecommunication links to permit telecommunication.

PSTN or public switched telephone network – means a dial-up network used, or intended for use, in whole or in part, by the public for the purposes of providing telecommunications between telephone devices.

PDN or public data network – means a data network used, or intended for use, in whole or in part, by the public.

Telecommunication – means the conveyance by electromagnetic means from one device to another of any encrypted or non-encrypted sign, signal, impulse, writing, image, sound, instruction, information, or intelligence of any nature, whether for the information of any person using the device or not.

3. **General**

- (a) An authorised representative of the applicant must complete and sign this application personally. In the case of corporate body, this application must be signed by a director of the company duly authorised to complete and sign the application. The common seal (if any) should also be affixed to the signature accordingly.
- (b) The application and all supporting documents shall be delivered to the Commission's office at **44, The Terrace, P.O. Box 2351, Wellington 6140 New Zealand** either by hand/post/fax to The Commerce Commission , **Fax no: 04-9243600**.
- (c) Receipt of the application will be acknowledged by the Commission and a copy returned to the applicant.