

List of Qualifying Liable Persons for the 2012/13 Telecommunications Development Levy

1. The Commerce Commission has identified the parties that are qualifying liable persons (QLPs) for the purposes of the 2012/13 Telecommunications Development Levy (TDL) in a list outlined in Tables 1 and 2 below. This means these parties are required to provide the Commission with specified information in accordance with section 83 of the Telecommunications Act 2001 (the 'Act'), which the Commission will use to identify the portion of the TDL they are required to pay.
2. In addition to this list, the Commission has also separately provided instructions for preparing the specified information required under section 83, templates for preparing the specified information, and a document containing relevant statutory references. These materials can be found on the Commission's website.

Meeting the criteria

3. These QLPs identified in Tables 1 and 2 meet the criteria for "liable person" as defined in section 5 of the Act¹. They have also met the minimum telecommunications threshold as set out in sections 80 and 81 of the Act (meaning they earned more than \$10 million in gross telecommunications revenue in the year preceding year A, which in this case is the 2011/12 financial year).
4. Some groups of QLPs (as listed in Table 2) are treated as a single entity as required by section 79 of the Act. This means they are connected by means of a significant level of shareholding (as identified in section 79 of the Act), and the Commission is required to treat them as a single entity for the purposes of the TDL.
5. The parties listed in Table 3 are considered to be potential QLPs. This means the Commission does not have enough information to either properly include or exclude these parties as QLPs. These parties have been identified in this list to enable other QLPs to proceed with their 2012/13 TDL liability allocation process². At this stage, these parties do not have to provide specified information in accordance with section 83 of the Act.

¹ In section 5 of the Act, liable person means a person who provides a telecommunications service in New Zealand by means of some component of a public telecommunications network that is operated by that person.

² For example, services purchased from one or more of these parties by a QLP could be included as a legitimate deduction as indicated in the specified information instructions and templates.

Listing the QLPs

6. The Commission has identified primarily two sets of QLPs: parties that are independent QLPs (identified in Table 1); and parties that are considered to be a single QLP entity under section 79 of the Act (identified in Table 2).
7. As indicated in paragraph 5, a third set of companies has also been identified that the Commission believes are potential QLPs that we are currently unable to exclude from 2012/13 TDL liability allocation process. The Commission will be undertaking further inquiries in relation to this third set of companies to establish whether, in fact, they are QLPs. QLPs will be advised of these companies' status well in advance of the due date for the specified information required in accordance with section 83 of the Act.

Explaining the reporting requirements

8. Parties that are independent QLPs (Table 1) are required to provide the specified information in a report specific to their company. Parties that are captured by section 79 of the Act (Table 2) can choose to provide the specified information in a report specific to their company, or elect to provide a consolidated report.
9. For the 2012/13 TDL period, some QLPs are included both as independent QLPs (in Table 1) and as parties that are captured by section 79 of the Act with other QLPs (Table 2). Furthermore, some QLPs that are included with one group in Table 2 are also included with another group in Table 2. These situations arise when one QLP acquires another QLP part way through the 2012/13 TDL period.
10. When this happens, the purchased QLP will need to file separate specified information reports for the periods prior to and after the sale. For QLPs that this scenario applies to, they are required to comply with the following reporting requirements.
 - 10.1. If for a period during the 2012/13 TDL year, a party was or became an independent QLP then that party must provide a report specific to their company for that period.
 - 10.2. If for a period during the 2012/13 TDL year a party was or became part of a group of QLPs captured by section 79 (or they became a part of another group of QLPs captured by section 79) then that party will have the choice of providing either a report specific to their company (for that period) or be part of a consolidated report (for that period).

Table 1

Parties that are independent qualifying liable persons	<ul style="list-style-type: none"> • Bay City Communications Ltd (considered a single entity that is a QLP during the period 1 July – 16 December 2012).³ • Compass Communications Ltd. • FX Networks Ltd. • Trustpower (Kinect) Ltd. • Two Degrees Mobile Ltd. • Snap Ltd. • TelstraClear New Zealand Ltd (considered a single entity that is a QLP during the period 1 July – 31 October 2012). • Vector Communications Ltd. • Vodafone New Zealand Ltd (considered a single entity during the period 1 July – 31 October 2012). • Woosh Wireless (NZ) Ltd. • WorldxChange Communications Ltd.
---	--

Table 2

Parties that are considered to be a single qualifying liable person entity under section 79 of the Act	<p><u>Chorus group:</u></p> <ul style="list-style-type: none"> • Chorus Ltd; and • Chorus New Zealand Ltd. <p><u>CallPlus group:</u></p> <ul style="list-style-type: none"> • CallPlus Ltd; and • 2Talk Ltd. <p><u>Crown companies group:</u></p> <ul style="list-style-type: none"> • Enable Networks Ltd; • Kordia Ltd; • Orcon Ltd (considered part of the Crown companies group during the period 1 July 2012 – 14 April 2013); • REANNZ (Research & Education Advanced Network New Zealand Ltd); • Transpower New Zealand Ltd; • Ultrafast Fibre Ltd; and • Whangarei Local Fibre Company Ltd (trading as Northpower Fibre).
---	--

³ Teamtalk has advised that it acquired Bay City Communications Ltd (BCL) on 17 December 2012 – a separate QR return will be required for BCL from 1 July – 16 December 2012, and from 17 December to 30 June 2013 BCL can be part of a consolidated report with Teamtalk.

	<p><u>Orcon/Vivid Networks group:</u></p> <ul style="list-style-type: none"> • Orcon Ltd (considered part of a group with Vivid Networks Ltd during the period 15 April 2013 – 30 June 2013); and • Vivid Networks Ltd.⁴ <p><u>Teamtalk group:</u></p> <ul style="list-style-type: none"> • Teamtalk Ltd; • Araneo Ltd; • Bay City Communications Ltd (considered part of the Teamtalk group during the period 17 December 2012 – 30 June 2013); and • Citylink Ltd. <p><u>Telecom group:</u></p> <ul style="list-style-type: none"> • Telecom Corporation of New Zealand Ltd; and • Telecom New Zealand Ltd. <p><u>Vodafone group:</u>⁵</p> <ul style="list-style-type: none"> • Vodafone New Zealand Ltd; • Vodafone Fixed Ltd (formerly TelstraClear New Zealand Ltd).
--	---

Table 3

Parties the Commission is currently unable to exclude as qualifying liable persons	<ul style="list-style-type: none"> • Datalight Ltd. • Maxum Data Ltd. • Plain Communications Ltd. • Vivid Networks Ltd (the Commission is seeking information to establish if this company was a QLP during the period 1 July 2012 – 14 April 2013).
---	--

⁴ According to the Companies Office website, Orcon Holdings Ltd acquired a 100% interest in Orcon Ltd on 15 April 2013. Semple Investments Ltd has a 48% interest in Orcon Holdings Ltd. Semple Investments Ltd also owns a 100% interest in Vivid Technologies Ltd, which in turn owns a 70% interest in Vivid Networks Ltd. As both Orcon Ltd and Vivid Networks Ltd are liable persons, they are required to be considered as a single entity for the TDL under section 79 of the Act. This is because both these liable persons have a significant common shareholder in the form of Semple Investments Ltd, albeit through Semple's wholly owned subsidiaries.

⁵ According to the Companies Office website, Vodafone New Zealand Ltd acquired TelstraClear New Zealand Ltd on 1 November 2012, and shortly after TelstraClear then became Vodafone Fixed Ltd. Vodafone Fixed Ltd operated as a separate entity 100% owned by Vodafone New Zealand Ltd from 1 November 2012 through to 31 March 2013 when the two companies were formerly merged. Notwithstanding the rules established in paragraph 10, should Vodafone wish to do so, the Commission will permit the Vodafone group to file a single consolidated specified information report for the period between 1 November 2012 and 30 June 2013. For the period between 1 July 2012 and 31 October 2012, TelstraClear New Zealand Ltd and Vodafone New Zealand Ltd were separate companies and must provide separate specified information reports for that specific period.