



Public version

Establishing the Qualified Revenue Framework for the Telecommunications Development Levy

Consultation document

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Glossary

Act	means Telecommunications Act 2001
Amendment Act	means Telecommunications (TSO, Broadband, and Other Matters) Amendment Act 2011
BU-TSLRIC	means bottom-up total service long run incremental cost
Chorus	means Chorus New Zealand Limited and Chorus Limited
Liable person	means a person who provides a telecommunications service in New Zealand by means of some component of a PTN that is operated by the person
LRTS	means Local Residential Telephone Service
LAD	means Liability Allocation Determination
Minimum telecommunications revenue	is defined in section 80 of the Act as meaning \$10 million of gross revenue (as may be determined by any specifications set by the Commission) that a liable person receives during a financial year for supplying either or both of the following: (a) telecommunications services by means of its PTN; and (b) telecommunications services by means that rely primarily on the existence of its PTN or any other PTN
PDN or public data network	means a data network used, or intended for use, in whole or in part, by the public
PSTN or public switched telephone network	means a dial-up telephone network used, or intended for use, in whole or in part, by the public for the purposes of providing telecommunications between telephone devices
PTN or public telecommunications network	means a network used, or intended to be used, in whole or in part, by the public for the purpose of telecommunication, and includes a PSTN and/or a PDN
Qualifying liable person	means a liable person that has met the minimum telecommunications revenue threshold and has attracted liability under a TDL LAD
QRF	means Qualified Revenue Framework
TDL	means Telecommunications Development Levy
Telecom	means Telecom Corporation of New Zealand Limited and Telecom New Zealand Limited

TRS	means Telecommunications Relay Service for the hearing impaired
TSO	means Telecommunications Service Obligations in relation to a TSO instrument
Year A	means the financial year that is the subject of the liability allocation determination
Year prior to Year A	means the financial year preceding the year that is the subject of the liability allocation determination

Executive summary

Introduction

1. This consultation document sets out the Commission's preliminary views on how the Telecommunications Development Levy (TDL) qualified revenue framework (QRF) will operate. This includes the Commission's preliminary views on:
 - 1.1. the appropriate revenue assessment method;
 - 1.2. the status of general revenue streams; and
 - 1.3. specific information on how the QRF will operate, complete with draft information disclosure templates.

Background

2. In February 2012 the Commission released *Determining the liability allocation for the Telecommunications Development Levy for 2011/12 and beyond*, outlining the Commission's preliminary views on how the new TDL regime would operate. Submissions on this document indicated further analysis and consultation would be required on the following two processes:
 - 2.1. identifying qualifying liable persons (liable persons that qualify to pay a component of the TDL); and
 - 2.2. establishing the QRF, which identifies the component of the TDL a qualifying liable person is required to pay based on the amount of qualifying revenue attributed.
3. In July 2012 the Commission released the *Notification of potential liability for the Telecommunications Development Levy 2012*, which identified the liable persons the Commission considered could potentially qualify to pay for the 2011/12 TDL. The Commission has since sourced a variety of information to help identify if these parties did qualify. This process is still ongoing but will be completed in the coming months.
4. Also in July 2012 the Commission commenced work preparing more detailed preliminary views on how the QRF would operate. This document contains those views, which the Commission now intends to consult on.

Qualifying revenue assessment method

5. The Commission analysed the three revenue assessment methods (gross, retail and net) identified under the Telecommunications Service Obligations (TSO) regime and discussed in submissions on the February 2012 discussion document. The Commission's preliminary views are that:
 - 5.1. the net revenue method is the most appropriate revenue assessment method to calculate the qualified revenue and allocate the TDL to liable parties; and
 - 5.2. the net revenue method should include deductions for intra-industry sales between liable persons, and seek to identify, and deduct the value of, non-

telecommunications services when they are sold as a bundle with telecommunications services.

How to measure the qualified revenue based on the net revenue method

6. Having selected the net revenue method as the preferred revenue assessment model, the Commission identified a number of issues requiring further analysis to resolve. These include:
 - 6.1. how to identify non-telecommunications services revenue when it is provided in a bundle with telecommunications services;
 - 6.2. whether deductions under the TSO should be applied to the TDL (such as the deduction for payments to parties reselling telecommunications services between qualifying liable persons in New Zealand);
 - 6.3. what the status of common revenue streams will be under the TDL; and
 - 6.4. how the reporting and audit/assessment requirements will operate.
7. The Commission's preliminary views on these issues include the following points.
 - 7.1. The Commission will confirm the value of the non-telecommunications component of a bundle based on all the supporting information provided by the parties.
 - 7.2. Handsets and other customer premises equipment that are bundled with the telecommunications services will be treated as deductible.
 - 7.3. The deduction for payments to parties reselling telecommunications services between qualifying liable parties in New Zealand will be retained but the evidential burden on qualifying liable persons claiming this deduction will be increased.
 - 7.4. The audit/assessment reporting requirements under the TSO will be retained, but better guidance on the requirements for this process will be provided.
 - 7.5. Draft templates to support the information disclosure requested under section 83 of the Act have been provided in Attachments E-K.

Questions and consultation

8. Parties are encouraged to provide submissions on the Commission's preliminary views expressed in this document. Submissions should be sent no later than **5pm Friday 2 November**. Submissions should be sent by email to: telco@comcom.govt.nz.
9. The Commission will be undertaking a two-day qualified revenue workshop in Wellington on **Tuesday 13 and Wednesday 14 November**. Please RSVP for this workshop by email to: telco@comcom.govt.nz by **Friday 2 November 2012**. Ensure you provide the names of the attendees, and indicate which days they will be in attendance. Further information on the workshop will be provided in coming weeks.

Introduction

10. This document outlines the Commerce Commission's preliminary views on the implementation of the Qualified Revenue Framework (QRF) for Telecommunications Development Levy (TDL) Liability Allocation Determination (LAD). Interested parties are encouraged to provide comment on the Commission's views.
11. As is the case with any legislative change, old interpretations need to be reconsidered in light of new statutory provisions, to ensure those interpretations remain relevant.
12. An objective of this document is to provide guidance on the Commission's preliminary views about what the QRF will look like and how it will operate. The topics discussed include:
 - 12.1. the Commission's TDL obligations and formal processes, including legal timeframes, and determination and consultation processes; and
 - 12.2. the key terms and concepts integral to the new system, including concepts such as the revenue assessment method, non-qualifying telecommunications revenue, and deductions.

Background

13. The QRF is an essential part of the new TDL process established by the Telecommunications (TSO, Broadband, and Other Matters) Amendment Act 2011 (the 'Amendment Act').
14. The first TDL LAD was completed in December 2011, for the 2010/11 year. The Amendment Act provided transitional procedures for this LAD, using many of the existing TSO processes and liable persons. The 2011/12 TDL LAD uses new definitions for key terms (like 'liable person' and 'public telecommunications network') and new processes for operating the TDL.
15. In February 2012 the Commission released '*Determining the liability allocation for the Telecommunications Development Levy for 2011/12 and beyond*' (the 'February 2012 discussion document'). This discussion document outlined the Commission's preliminary views on how the new TDL regime would operate.
16. The Commission received a considerable number of submissions on the February 2012 discussion document, many of which indicated the need for further analysis and consultation. Two primary areas stood out as requiring further attention:
 - 16.1. identifying qualifying liable persons (liable persons that qualify to pay a component of the TDL); and
 - 16.2. establishing the QRF, which identifies the component of the TDL a qualifying liable person is required to pay based on the qualifying revenue attributed to that person.
17. The completion of the 2011/12 TDL LAD has been delayed due to the further work the Commission has undertaken on these two primary areas. The Commission considered that it was important to ensure the TDL is operated in a manner compliant with the

statutory intention, does not overly burden industry with compliance requirements and reflects the interests of end-users.

Identifying qualifying liable persons and requesting information

18. On 24 July 2012 the Commission released the *Notification of potential liability for the Telecommunications Development Levy 2012*. This document identified the liable persons the Commission considered could potentially qualify to pay the 2011/12 TDL, which included Chorus. This document also set out interpretations of key terms and phrases (such as 'telecommunications service' and 'operating a component of a public telecommunications network (PTN)').
19. Subsequent to the release of the notification, the Commission commenced a process of comparing liable persons' financial information for the 2010/11 year with the minimum telecommunications revenue threshold (\$10 million gross telecommunications revenue per annum).¹ This process will identify the qualifying liable persons for the 2011/12 TDL LAD, which means they will be required to contribute to the TDL for the 2011/12 financial year.
20. The Commission used financial information it had (from the 2010/11 TDL LAD) for some liable persons. We also requested financial information (under section 81 of the Telecommunications Act 2001 (the 'Act')) from other liable persons listed in the attachment to the notification.
21. Further work is still being undertaken to identify other potentially liable persons, by reviewing interconnection agreements and shareholding arrangements. This process is due to be concluded before the developmental work on the QRF is completed.

Establishing the QRF and completing the 2011/12 LAD

22. In July 2012 the Commission also commenced the policy development process supporting the establishment of the QRF. This document contains detailed preliminary views on how the Commission proposes to operate the QRF on which the Commission is consulting.
23. The policy development process will continue through to early December 2012. It will include inviting submissions on this document, and a two-day workshop in mid-November 2012. The first day of the workshop will focus on submissions received on the QRF and related discussions, and the second day will involve advice and discussion on how the qualified revenue information disclosure processes will work.
24. In early December requests for qualified revenue information will be sent to qualifying liable persons. At this stage, the Commission envisages giving respondents 60 working days to comply with this information request.²
25. When the qualified revenue information has been received and the draft LAD is completed,³ the Commission will publicly notify the release of the draft document.⁴

¹ The relevant criteria are set out in section 81(1) of the Act and require that a party is liable to contribute to the TDL if the liable person was trading in the financial year prior to Year A and satisfies the \$10 million minimum revenue threshold.

² These 60 working days will run over the Christmas and New Year period, but will exclude all statutory holidays and the days between Christmas and New Year's Days as stipulated in the definition of 'working day' in section 5 of the Act.

³ The draft LAD contains the matters set out in section 85 of the Act.

Details of the submissions process will be contained in the document. The Act provides that the closing date for submissions cannot be more than 20 working days after the date of public notice.⁵

26. In addition to submissions, the Commission may convene a conference to discuss matters related to the draft LAD. The Commission may invite to a conference any person who has a material interest in the draft LAD. Conferences are generally reserved for situations where there is a need, such as where issues arise that require further discussion amongst the parties.
27. Once the Commission has completed the consultation on the draft LAD, a final LAD will be completed. We are required to make reasonable efforts to complete a final LAD no later than 20 working days after the closing date for submissions on the draft LAD.⁶ The final LAD has the same content requirement as the draft, except that there will be a summary of any submissions or consultative processes, and any resulting changes.⁷
28. The release of the Final 2011/12 TDL LAD is now scheduled to take place in mid-May 2013.

Qualified revenue contextual information

Legal framework for qualified revenue

29. Section 83 of the Act requires those liable persons that meet the minimum telecommunications revenue threshold (as defined in section 80 of the Act), to provide financial information on the year being assessed for the purposes of the TDL.
30. Section 83(1)(a) enables the Commission to specify information qualifying liable persons must submit. This information is used to identify qualified revenue that is required for a draft LAD in section 85(1)(a), and a final LAD in section 88(a). The draft and final LADs stipulate that the amount of each qualifying liable person's qualified revenue must be included in these documents.
31. Qualified revenue is defined in section 5 as follows:

qualified revenue means the revenue (as determined in accordance with any specifications set by the Commission) that a liable person receives during a financial year for supplying either or both of the following (excluding any amount paid to the liable person by the Crown as compensation for the cost of complying with a TSO instrument that contains a specified amount):

 - (a) telecommunications services by means of its PTN:
 - (b) telecommunications services by means that rely primarily on the existence of its PTN or any other PTN.
32. This definition anticipates that the Commission will determine qualifying liable persons' qualified revenue in accordance with any specifications it chooses to use. Section 85(2) allows the Commission to determine what revenue basis to use.

⁴ Section 84(1)(b) of the Act.

⁵ Section 84(1)(c) of the Act.

⁶ Section 87(2) of the Act.

⁷ Section 88 of the Act.

33. Section 83 stipulates that the information used to identify qualified revenue is due from qualifying liable persons 60 working days after the end of the financial year. Therefore, it is likely a request for information detailing the specific information the Commission requires would be issued either before or shortly after the end of the financial year being reviewed.
34. Importantly, the process steps discussed in this document will reflect a typical year but they will not apply to the 2011/12 year. Due to extra requirements in implementing the TDL liability allocation project (discussed above in paragraphs 15-17), processes for the 2011/12 year liability allocation determination have been delayed. Liable persons have been advised that the Commission considers these delays are reasonable grounds for their non-compliance with section 83.⁸

TSO as a precedent for TDL

35. In 2011 the Amendment Act disestablished the Telecommunications Service Obligations (TSO) cost allocation processes, and enabled the TDL liability allocation processes.
36. The Amendment Act was not seeking to entirely abandon one regime for another. The aim was to augment an existing levy to take account of technological developments in the industry, streamline contributions, and expand the use of the contributions to other significant infrastructure developments that will benefit the industry and end-users.
37. While there are significant differences between how the TSO and TDL regimes operate, there are common requirements in the identification and use of qualified revenue information. The TSO regime included a provision requiring liable persons to provide qualified financial information within a similar structure and timeframe to the TDL. This means the qualified revenue component of the TSO will have some precedent value to the TDL. The precedent value of the TSO is explored further in the revenue assessment method analysis below.

Consultation on the Commission's preliminary views about the TDL qualified revenue framework

38. The February 2012 discussion document included the Commission's preliminary views on how the TDL QRF would operate, and canvassed the views of industry parties on those views.
39. The Commission's preliminary views in relation to qualified revenue included:
 - 39.1. retaining the net revenue method for liability allocation;
 - 39.2. continuing with the intra-industry payments (revenue derived from sales between liable persons) deductions;

⁸ On 2 August 2012 the Commission advised liable persons that they had a reasonable excuse not to comply with the section 83 information disclosure requirements, as the Commission had neither identified the parties that would be required to comply with that section nor finalised the format of what information they would be required to provide. The Commission indicated that it intended to seek this information from qualifying liable persons at a later date.

- 39.3. removing the deduction for payments to a reseller (who does not qualify for a liability under the TDL) for telecommunications services originally purchased from a qualifying liable person; and
- 39.4. expanding the list of revenue streams that are considered qualified revenue.
- 40. Submissions on the Commission's preliminary views on TDL qualified revenue included debate on issues such as:
 - 40.1. using the appropriate type of revenue method;
 - 40.2. establishing the status of specific revenue streams; and
 - 40.3. identifying all legitimate deductions.
- 41. Where relevant, these submissions are discussed later in this document. Two issues that relate to the appropriate revenue method and are worth highlighting are discussed below.

Inconsistent application of 'net revenue' with the section 5 definition

- 42. In the February 2012 discussion document, the Commission took the preliminary view that, for the purposes of qualified revenue, net revenue included revenue from all telecommunications services communicated via a public telecommunications network (only allowing deductions for intra-industry payments).
- 43. In their submissions Kordia and 2degrees suggested that the Commission's view was inconsistent with the definition of net revenue in section 5 of the Act. Kordia and 2degrees thought the statutory definition of net revenue would only apply to fixed line services, with all delivery costs being deducted.⁹ However, Kordia acknowledged this definition was inconsistent with the purpose of the TDL.¹⁰
- 44. Telecom and TelstraClear argued in their submissions that if the section 5 definition was applied to the TDL processes, it would be inconsistent with Parliament's clear intent for the TDL to be applied broadly.
- 45. The Commission's view is that the section 5 net revenue definition (which was only introduced in 2006) is intended to apply only to requests by TSO providers for TSO cost calculations, where there is not a specified amount in the TSO instrument (eg, local and residential telephone services). Therefore, the definition of net revenue cannot limit the Commission's discretion in relation to the application of the qualified revenue approach. Through the TDL, the Commission has the discretion to determine what revenue basis it uses to determine qualified revenue (as described in section 85(2)).

⁹ Kordia, *Determining the liability allocation for the Telecommunications Development Levy for 2011/12 and beyond – public submission*, 23 February 2012, pp5-8; 2degrees, *Submission to the Commerce Commission on the Discussion Document 'Determining the liability allocation for the Telecommunications Development Levy for 2011/12 and beyond dated 2 February 2012*, 24 February 2012, pp5-6.

¹⁰ Kordia, *Determining the liability allocation for the Telecommunications Development Levy for 2011/12 and beyond – public submission*, 23 February 2012, p8.

46. Limiting qualified revenue to fixed line services would be inconsistent with the broadening of the levy's criteria to include revenue derived from operating a component of a public telecommunications network (which clearly includes more than fixed networks).
47. Therefore, the Commission proposes to exercise its discretion to use an alternative definition of net revenue. In exercising this discretion the Commission notes that this is not a new approach but rather a continuation of the net revenue method as used under the TSO regime.

Chorus' inability to pass through the TDL for regulated services

48. In its submission on the February 2012 discussion document, Chorus expressed concern about its inability to pass the TDL on to customers purchasing regulated services. With regulated services Chorus indicated they would not have the ability to recoup the levy through increased service prices, in the manner that other liable persons would.¹¹
49. Telecom rebutted this concern, in its cross-submission, by suggesting this issue would only relate to a subset of Chorus' services. These services employ a range of price setting formulae (which were developed in the context of the net revenue method for the TSO), and it is not clear what the TDL's impact will be on the profitability of these services.¹²
50. Telecom suggested any pass-through issue should be limited to copper services as fibre services were addressed through a competitive tender process. However, it thought prices for regulated copper services should already provide for a levy, as benchmarking for regulated services is based on comparison with countries that have similar levies. Therefore, pass-through should not be an issue.¹³
51. The Commission notes that regulated services account for a large component of Chorus' revenue, making this a significant issue for Chorus. The Commission considered whether industry levies, such as TDL, are included in the cost models for those countries included in benchmark sets to set regulated prices for copper. It found that levies are usually not considered in BU-TSLRIC models.
52. The Commission's preliminary view is that, at this time, some of the regulated services are still largely based on a retail-minus price control, which would allow Chorus to pass on the cost of the TDL. It is therefore unlikely that Chorus would be constrained in passing on the TDL cost at present. However, the Commission will continue to review factors relating to this issue as the price setting mechanism is set to change in 2014.

¹¹ Chorus, *Submission on determining the liability allocation for the Telecommunications Development Levy for 2011/12 and beyond*, 24 February 2012, p7, paras 26 and 27.

¹² Telecom, *TDL Liability Allocation Discussion Paper – Cross-submission*, 2 March 2012, p3, para 14.

¹³ Ibid at p3, para 15.

Revenue assessment method

53. In this section we will define options for the appropriate method to identify the qualified revenue for parties liable for the TDL, and indicate the Commission's preferred option. This section will also include information on how to measure the qualified revenue in relation to the preferred method, and discuss the qualified revenue status of common revenue streams.

Revenue methods considered under the TSO regime

54. In the 2002/03 TSO Cost Allocation Determination, the Commission identified three possible methods of assessing the share of the TSO payable by liable parties:
- 54.1. using all relevant revenues received by each liable person, regardless of whether they come from sales to end-users or not ('gross revenue method')
 - 54.2. using only the revenues earned by each liable person from selling services directly to end-users ('retail revenue method')
 - 54.3. using all revenues received by each liable person, with the exception of that part of the revenue that has been used to pay for services used as an intermediate input by the liable person ('net revenue method').¹⁴
55. Attachment A provides an example to illustrate the differences between the three possible assessment methods.

The Commission's decisions on the appropriate revenue method for the TSO regime

56. Similar to the TDL, the TSO regime included a provision requiring liable persons to provide qualified revenue information. This requirement related specifically to revenue derived from supplying telecommunications services by means of a liable person's public switched telephone network (PSTN) or by means of Telecom's PSTN.
57. Under the TSO regime qualifying liable persons were given examples of qualified revenue. The instructions included a notice requesting the information and templates to prepare the financial information in a particular format. This request for information was issued shortly after the end of the financial year being reviewed, and the information was due 60 working days subsequent to the end of that financial year.
58. In the 2001/02 TSO Cost Allocation Determination the Commission confirmed that the cost of the TSO would be levied across liable persons (in accordance with specifications in the Act) based on each liable person's percentage of the total

¹⁴ Commerce Commission, *Determination for TSO Instrument for Local Residential Service for period between 1 July 2002 and 30 June 2003*, 24 March 2005, p105, para 448. Citing the information from the 2001/2 TSO Determination..

revenue earned by all liable persons. Revenue was determined using a net revenue method, which excluded intra-industry sales.¹⁵

59. In 2001/02, the Commission excluded the gross revenue method, because it would:
 - 59.1. impose double counting which would discourage the use of efficient resale mechanisms
 - 59.2. squeeze the margins for non-integrated retail suppliers, thereby reducing the choice of services available to end-users
 - 59.3. put liable persons in a disadvantageous position compared with non-liable persons that are pure resellers providing the same service.¹⁶
60. The Commission excluded the retail revenue method because it would distort relative costs for providing the same service, and would be likely to distort customer choice.¹⁷
61. Ultimately the Commission chose the net revenue method because it reduced the potential customer distortion compared with other revenue assessment methods. It also minimised the disadvantageous position of liable persons compared with pure non-liable resellers, who will not be subject to the levy.¹⁸
62. Furthermore, the Commission found that the net revenue approach better suited both the structure of the New Zealand telecommunications market and the purposes in the Act.¹⁹
63. In the 2002/03 TSO Cost Allocation Determination and other subsequent determinations, the Commission refined the qualifying revenue (net revenue) criteria, indicating its position on some specific types of revenue.

What is the appropriate revenue method under the TDL regime?

64. The revenue assessment method under the TDL regime affects the calculation of qualified revenue, which is used to allocate the TDL levy across liable persons. The allocation for each liable person is based on their share of that year's total qualified revenue.
65. The Commission has reviewed the application of the three revenue assessment methods considered under the TSO regime, to determine which method is appropriate for the TDL.
66. When reviewing the application of the three revenue assessment methods, the Commission kept in mind the major areas of change since the TSO regime.

¹⁵ Cited in Commerce Commission, *Determination for TSO Instrument for Local Residential Service for period between 1 July 2002 and 30 June 2003*, 24 March 2005, p105, para 448.

¹⁶ Commerce Commission, *Determination for TSO Instrument for Local Residential Service for period between 1 July 2001 and 30 June 2002*, 17 December 2003, p108, paras 449-503.

¹⁷ Ibid at p109, paras 505-508.

¹⁸ Ibid at p110, paras 510-511.

¹⁹ Ibid at p110, para 513.

- 66.1. *Changes in market structure:* The key change is the structural separation of Telecom and the establishment of Chorus. Telecom, previously the wholesale company under the TSO regime, was split into two companies, a network/wholesale company (Chorus) and a retail company (Telecom). Chorus is not permitted to be involved in providing services to end-users. Most regulated services are provided by Chorus.
- 66.2. *Changes in the Act:* To ensure the levy remains technology-neutral, the Act was amended to include revenue derived from operating a component of a PTN in calculating liability. PTN includes PSTN previously used for TSO but expands the criteria to include public data networks (PDN).
- 66.3. *Changes in liable persons:* Liable persons will increase from 10 to around 20 liable persons. The inclusion of additional liable persons and PDN services means that there are more complex vertical linkages, multiple wholesale providers and potential liable parties who are vertically integrated (such as wireless providers and mobile network providers).
- 66.4. *Changes in products and services:* Operators are increasingly selling services to consumers in bundles. The availability of faster broadband speeds provides the opportunity for telecommunications companies to bundle broadcasting services (and video on-demand content) with their traditional broadband and voice services. This is known as ‘triple play’. As all IP networks develop the scope to converge services, the potential for bundling will increase.
67. Despite these changes, the Commission’s preliminary view is that the net revenue method is still the most appropriate. The reasoning is similar to that established under the TSO regime. The net revenue method avoids double counting and captures both wholesale and retail service providers, which is the clear intention of the Amendment Act, and was recognised by the Commission in its earlier decision on liable persons.²⁰
68. Furthermore, the gross revenue method can be ruled out because it taxes some revenue streams twice. In a choice between the net revenue and retail revenue methods, the retail revenue method can be ruled out on the basis that it will not capture revenue for wholesale service providers.

Question

- a. Do you agree with the Commission’s preliminary view on net revenue as the appropriate revenue assessment method? Please provide your reasons.

²⁰ This decision is the *Notification of potential liability for the Telecommunications Development Levy 2012*, released on 24 July 2012. As illustrated in Attachment A, the retail revenue method allows pure wholesalers that are clearly liable persons to escape liability.

How to measure the qualified revenue based on the net revenue method

69. The next step is to consider how to calculate the net revenue.
70. In the previous TSO Cost Allocation Determinations the Commission used the following formula in Table 1:

Table 1	
a. Gross TSO-qualified revenue	[\$]
b. Less charges payable to liable persons or TSO provider	[\$]
c. Less charges payable to non-liable persons (reselling services)	[\$]
d. Qualified revenue	[\$]

71. Some support was shown for the retention of the TSO net revenue formula in the submissions on the February 2012 discussion document. Other parties indicated in their submissions that applying the same formula used under the TSO regime would result in vertically integrated firms (such as wireless operators and mobile network operators) paying a disproportionately higher share, relative to Telecom.
72. Submissions proposed that the formula should include a range of costs associated with the provision of telecommunications services rather than a targeted selection of deductions related to intra-industry payments between liable persons. This position was supported by parties suggesting the Commission's definition of net revenue was inconsistent with the definition in section 5 of the Act.
73. However, in the Commission's analysis of the appropriateness of the formula, the following points were noted:
- 73.1. the formula used under the TSO regime is unlikely to have a disproportional effect on vertically integrated firms because the revenues should capture internal transfers;
- 73.2. the Commission is constrained in the Act, in that the Commission has to consider 'revenue' as opposed to some margin; and
- 73.3. an approach to include all the associated costs might end up in a complex building blocks approach that could be inappropriately manipulated.
74. Having considered the principles underpinning the original formula, and the points raised in its support and criticism, the Commission proposes the revised formula for TDL as set out in Table 2. Please note, steps additional to the TSO qualified revenue formula have been added to the beginning and middle of the proposed TDL formula, to indicate how new types of revenue will be addressed in the calculation process.

Table 2	
a. Total firm revenue ²¹	[\$]
b. Less non-telecommunications services revenue, sold separately	[\$]
c. Gross telecommunications services revenue	[\$]
d. Less non-telecommunications services revenue, sold in a bundle	[\$]
e. Less charges payable to other liable persons	[\$]
f. Less charges payable to non-liaible persons (reselling services) ²²	[\$]
g. Qualified revenue	[\$]

75. It is important to note that, in the revised formula, non-telecommunications services revenue (such as broadcasting) can appear at either step (b) or step (d). If a non-telecommunications service is sold as a separate service and the revenue of that service is observable, then this revenue will be included in step (b) in the formula above. If non-telecommunications services are sold as a bundle with telecommunications services, then this revenue will be included in step (d) in the formula above. The calculation of the non-telecommunications and telecommunications components of a bundle is considered in more detail below.
76. Non-telecommunications services revenue sold in a bundle will include more than just broadcasting and video on-demand. Handsets and other customer premises equipment may also be bundled. Under the TSO, bundled handsets (where the cost was recovered through mobile access or calling charges) were considered qualified revenue. This approach is reviewed in paragraphs 86-97 below.

Question

- b. Do you agree with the Commission's preliminary views on how the net revenue method will be applied? Please provide your reasons.

How to measure telecommunications services revenue if sold as a bundle with non-telecommunications services

77. Operators are increasingly selling services to consumers in bundles and, in particular, triple play bundles. The bundled price is typically less than the combined prices of purchasing all the products in the bundle separately.
78. If telecommunications services and non-telecommunications services are sold in a bundle, the qualified revenue calculation needs to subtract the revenue for non-telecommunications services. We therefore need to impute the revenue for non-telecommunications services.

²¹ This will include revenue for both telecommunication and non-telecommunications services.

²² This only includes payments for services purchased from a non-liaible person that can be demonstrated as having been originally purchased by the non-liaible person from another liable person in New Zealand.

79. There are two options to consider to calculate the non-telecommunications component of the bundle:
 - 79.1. qualifying liable persons are required to conduct and audit the analysis to identify the non-telecommunications component of the bundle; and
 - 79.2. the Commission conducts the analysis.
80. The Commission's preliminary view is that we will require qualifying liable persons to conduct and audit the analysis. However, qualifying liable persons will be required to provide all the necessary information on these types of bundles so the Commission can also conduct further analysis to confirm the non-telecommunications component of a bundle if necessary. This will allow the Commission the ability to define a mechanism that will most appropriately measure the TDL qualifying revenue in these bundles. The TDL QRF needs to retain a degree of flexibility to respond effectively to changes in how different types of bundling are used in the future.
81. The Commission considered the following two proposed approaches to impute the revenue for non-telecommunications services.
 - 81.1. Use separate revenue streams for telecommunications revenue and non-telecommunications revenue based on observable stand-alone retail prices. We consider that it may be appropriate, where a component of the bundle reflects a stand-alone offering, to apply the retail price for the stand-alone offering.
 - 81.2. Use the input cost for non-telecommunications services, assuming no margin. We consider that it may be appropriate to use the input cost for non-telecommunications services, if stand-alone retail prices are not observable but it is practical to observe input costs for non-telecommunications services.
82. The Commission's preliminary view is to consider both methods for purposes of the present TDL calculation, and consider the outcome of the options. Both methods will assist the Commission to understand the structure of the bundles, and the relationship between incremental costs, bundled prices and stand-alone prices.
83. Attachment B illustrates examples of our approach based on both the 'revenue stream' option and the 'input cost' option. The following two imputation scenarios are provided in Attachment B.
 - 83.1. Imputing the revenue for non-telecommunications services where they are sold as a component of a bundle. In this example the separate retail price for non-telecommunications services is observable.
 - 83.2. Imputing non-telecommunications revenue where there are no observable stand-alone retail prices and only the bundled price is observable.
84. Attachments H and I illustrate the Commission's proposed approach for imputing the non-telecommunications services deduction. The approach involves collating key

information on bundles containing telecommunication and non-telecommunications services. The information is used to support the imputation formulae based on the bundling scenarios discussed in paragraph 83 above and provided in Attachment B.

85. The Commission proposes that qualifying liable persons will use the formula that best reflects the bundle for which they are claiming the deduction. To claim the deduction (for a bundle that includes both telecommunication and non-telecommunications services) the qualifying liable person will need to complete a separate copy of the templates in Attachments H and I for each bundle.

Handsets and other customer premises equipment bundled with telecommunications services

86. Under the TSO, the Commission considered revenue attributed to handsets sold in a bundle that included PSTN services revenue was qualified revenue, whereas revenue from handsets sold separately were not considered qualified revenue. The following advice was provided in the 2009/10 TSO qualified revenue instructions:

Access and calling revenue earned by the respondent is qualified revenue even if part of that revenue is attributed by the respondent to the recovery of the cost of discounted handsets.

87. The rationale for this position was that whether the qualifying liable person treats some portion of its access and calling revenue as attributable to the cost of handsets is not relevant and does not alter the nature of the revenue. The attributing of the cost was an accounting mechanism conducted after the revenue had been earned by means of operating a PTSN.
88. Over the course of the TSO, there were parties that opposed revenue attributed to handsets sold in a bundle being considered qualified revenue. The issue was raised again in submissions on the February 2012 discussion document by 2degrees and TelstraClear.²³ These parties were also concerned about revenue from other bundled hardware.
89. The Commission considered it may be difficult to maintain that revenue for a bundle that included a handset is qualified revenue, now that broadcasting revenue will be exempted from bundles that include telecommunications services.
90. Furthermore, now that the qualified revenue criteria for the TDL has been expanded to include PDN revenue, the Commission needs to consider how it will deal with modems, routers and other non-telecommunications services business equipment solutions offered to end-users via a discounted bundle.
91. The Commission considered the following two options.

²³ 2degrees, *Submission to the Commerce Commission on the Discussion Document Determining the liability allocation for the Telecommunications Development Levy for 2011/12 and beyond* dated 2 February 2012, 24 February 2012, p6; TelstraClear, *Submission on the Liability Allocation for the Telecommunications Development Levy for 2011/12 and beyond Discussion Document*, 24 February 2012, pp5-6.

- 91.1. Option 1 is to treat all revenue attributed to non-telecommunications services revenue (including those non-telecommunications services provided in bundles with telecommunications services) the same. This option will use the approach indicated in paragraphs 77-85 to identify and exclude revenue from that type of service when it is bundled with telecommunications services.
- 91.2. Option 2 is to continue with the TSO rationale that the device is given freely as an incentive to the end-user to purchase the packaged bundle of telecommunications services. Therefore, the revenue is qualified revenue and the value attributed to the device is merely an accounting mechanism that can be used to calculate the termination payment if the contract is terminated prematurely.
92. It is difficult, however, to distinguish between the different forms of non-telecommunications services revenue to maintain a consistent principle that would warrant the continued use of option 2.
93. Most bundles are designed to entice end-users, so the fact that a handset is given freely to make a packaged bundle appear enticing would be no different from using the convenience of bundling broadcasting with a telecommunications service as an enticement.
94. Similarly, even if a handset or other device is offered freely, it still costs the qualifying liable person in the same way that the services in a discounted bundle, such as broadcasting or video on-demand services, do.
95. Taking these points into consideration, it is difficult to ascertain a legitimate distinction between attributing revenue value to a device sold separately from one sold in a packaged bundle. Therefore, the Commission's preliminary view is that option 2 is no longer appropriate.
96. Alternatively, option 1 would treat all non-telecommunications services revenue derived from packaged bundles the same. Therefore, the Commission's preliminary view is that option 1 is the preferred approach.
97. Attachment B illustrates examples of how the Commission proposes to calculate the revenue from non-telecommunications services provided in a bundle that includes telecommunications services. The examples illustrate both the 'revenue stream' option and the 'input cost' option as reflected in the imputation formulae below.
- 97.1. Imputing the revenue for non-telecommunications services where they are sold as a component of a bundle. In this example the stand-alone price for non-telecommunications services is observable.
- 97.2. Imputing non-telecommunications revenue, where there are no observable stand-alone retail prices and only the bundled price is observable.

Question

- c. Do you agree with the Commission's preliminary views on how revenue from non-telecommunications services bundled with telecommunications services will be dealt with? Please provide your reasons.

Other deductions

98. Under the TSO, the Commission recognised there were cases where telecommunications services were purchased from a reseller (who did not qualify for a liability under the TSO) acting as an intermediary between a liable upstream provider and a liable downstream provider.
99. The Commission allowed a deduction for the amounts paid to these resellers for resold services, as this revenue would be picked up in the upstream liable person's totals, similar to how intra-industry sales between liable persons were applied.²⁴
100. In the February 2012 discussion document, the Commission proposed to remove the deduction, as in practice it has not had a material impact on the calculation. Moreover, it has proved to be very difficult to police effectively.²⁵ Most parties either were happy to remove the deduction or were not interested in the issue.
101. For the 2010/11 TDL liability allocation determination, liable persons were required to provide contact information for each reseller they purchased resold services from. Most of the parties identified as resellers that the Commission contacted either did not provide the confirmation requested (due to privacy reasons) or appeared to be providing services from outside of New Zealand, which did not qualify for the deduction.
102. The Commission has reviewed the application of this deduction and now considers that to remove it would be inconsistent with the principle of avoiding double counting. The deduction should apply for legitimate instances where:
- 102.1. a downstream qualifying liable person purchases services from a reseller; and
- 102.2. that reseller purchased the services (which it resold to the downstream qualifying liable person) from an upstream qualifying liable person in New Zealand.
103. However, the Commission's view is that the evidential requirements to support the deduction of these payments need to be enhanced. To claim the deduction a

²⁴ Submitters were asked whether this deduction should be removed in the February discussion document. Six respondents indicated they agreed with removing the deduction and five did not express a view on the question. Kordia did not express a position as it thought more analysis was required, and Vodafone disagreed with removing the deduction as there was no compelling reason to do so.

²⁵ Commerce Commission, *Determining the liability allocation for the Telecommunications Development Levy for 2011/12 and beyond*, 2 February 2012, p18.

downstream qualifying liable person will need to demonstrate to the Commission's satisfaction that the particular service sold to them was initially purchased by the reseller from an upstream qualifying liable person in New Zealand.

104. Evidence to support this deduction could include bills of sale or invoices between each of the parties. This information would need to show both the type and timing of that service to evidence it fits within the parameters of the deduction (ie, the service the downstream qualifying liable person purchased was the same service the reseller purchased from the upstream qualifying liable person).

Question

- d. Do you agree with the Commission's preliminary view that the deduction for payments to resellers for services originally purchased from a qualifying liable person should be tightened? Please provide your reasons.

Revenue streams

105. In the 2002/03 TSO Cost Allocation Determination and other subsequent determinations, the Commission refined the qualifying revenue (net revenue) criteria, indicating its position on some specific types of revenue.
106. We have provided an analysis of a range of common types of telecommunications revenue in Attachment D. Included in the analysis is the position taken under the TSO regime and the proposed approach (with rationale) for how the revenue stream should be dealt with under the TDL framework.
107. The range of telecommunications services and the way they are marketed and delivered means the revenue streams are far more dynamic than they have ever been. Therefore, it is likely this advice (crucial in aiding liable persons to comply with their section 83 obligations) will need to be regularly reviewed.

Question

- e. Do you agree with the Commission's analysis of the qualified revenue status for common revenue streams? If not, please provide your reasons.

Preparing information requested under section 83 of the Act

108. The Commission has prepared a series of templates for the collection of financial information under section 83 of the Act, which are contained in Attachments E-K. This is the information that will be used to identify each qualifying liable person's qualified revenue. A similar series of templates was used for the TSO qualified revenue processes. Table 3 details the template in each attachment and its uses.

Table 3	
Attachment	Description
Attachment E – Qualified revenue information disclosure information	Provides a template for qualifying liable persons to record the details of other bodies corporate they are required to be assessed with under section 79 of the Act.
Attachment F – Qualified revenue calculation	Provides the template for each qualifying liable person to detail the basic calculation from their total revenue, excluding revenue that doesn’t qualify and other deductions to produce the qualified revenue figure.
Attachment G – Detailed gross telecommunications services revenue	Provides the template for each qualifying liable person to detail the components of their gross telecommunications services revenue, separating out general areas of revenue including bundles of services that will be further analysed in the next attachment. This information will also be used in the following year’s assessment of the liable person’s liability status (in accordance with the requirements under section 82 of the Act).
Attachment H – Detailed bundled services revenue	Provides the mechanism for each qualifying liable person to detail and isolate the non-telecommunications services revenue in a bundle of services they offer that combines telecommunications and non-telecommunications services. This revenue is included as a deduction in Attachment F.
Attachment I – Detailed bundled services revenue tabulation	Provides the mechanism for each qualifying liable person to tabulate the annual value of the non-telecommunications services deduction for a bundle indicated in Attachment H.
Attachment J – Payments made to other qualifying liable persons	Provides the mechanism for each qualifying liable person to detail and isolate any payments they made to other qualifying liable persons for telecommunications services. This revenue is included as a deduction in Attachment F.
Attachment K – Payments made to non-qualifying liable persons or resellers, for services originally purchased from a qualifying liable person	Provides the mechanism for each qualifying liable person to detail and isolate any payments they made to non-qualifying persons for telecommunications services that the non-qualifying person purchased from another qualifying liable person in New Zealand. This revenue is included as a deduction in Attachment F. Further evidence is required to claim this deduction (refer paragraphs 98-104 above).

109. The templates in the attachments were designed to follow a logical format. The template in Attachment F provides the main financial performance statement and the following five templates support this statement by providing a detailed account of how the specific financial information and deductions relevant to qualified revenue were tabulated.
110. Section 79 of the Act stipulates when the Commission must treat two or more bodies corporate as one person. Qualifying liable persons will need to indicate if they are captured by section 79, and who the other liable persons are that they are related to, as provided in Attachment E. These qualified liable persons can provide a consolidated report but they may also report separately. If they choose to report

separately they must also identify and deduct any related party transactions in the template provided in Attachment F.²⁶

111. The Commission is interested to gain feedback on these templates. Care was taken to simplify and align them with the format of other Commission information disclosure templates.

Question

- f. Do you agree with the structure, format and content requirements for the templates proposed by the Commission in Attachments E-K? If not, please provide your reasons.

Assurance reports

112. In previous TSO liability allocation determinations the Commission required liable persons to provide a report prepared by an independent auditor that included a statement about whether the information provided complied with all the Commission's requirements. These reports were previously known as audit reports, but we now refer to them as assurance reports.
113. The Act now requires that all information requested under section 83 must be accompanied by a report prepared by a qualified auditor that details the extent to which this information is *correct* and *complete*.
114. The Commission proposes that the auditor must be an independent auditor, who:
- 114.1. is qualified for appointment as an auditor of a company under the Companies Act 1993;
 - 114.2. has no relationship with or interest in the qualifying liable person that is likely to involve a conflict of interest;
 - 114.3. has not assisted with the compilation of the information or provided advice or opinions (other than in relation to the assurance report) on the methodologies or processes used in compiling the information; and
 - 114.4. is not associated with nor directed by any person who has provided any such assistance, advice or opinion.
115. It is the Commission's preliminary view that the extent to which the information requested under section 83 is correct and complete should be interpreted as meaning:
- 115.1. 'correct' – the information requested by the Commission has been prepared by the liable person in all material respects in accordance with generally accepted accounting practices ('NZ GAAP') and requirements
 - 115.2. 'complete' – the liable person has provided all the information the Commission requested, in the appropriate format.

²⁶ Related party transactions in this context means revenue from transactions between qualifying liable persons that are captured by the requirements in section 79 of the Act.

116. In addition, the Commission proposes that the requested information must be prepared in accordance with the following regulatory reporting principles.
- 116.1. *Objectivity*: the qualifying liable person 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.
- 116.2. *Consistency*: the qualifying liable person must treat similar types of information consistently, both within a reporting year and from year to year.
117. The Commission considers that these interpretations will mean the assurance reporting requirements provided for the TDL LAD will be similar to the audit reports provided under the TSO regime. This is appropriate because the information being provided for the TDL LADs and the way that information is to be used is very similar to previous TSO liability allocation processes.

Questions

- g. Do you agree with the Commission's assurance reporting requirements? If not, please provide your reasons.

Questions and consultation

118. The Commission has provided its preliminary views on how the qualified revenue framework for the TDL liability allocation process will operate. Interested parties are asked to provide comment on those issues and preliminary views.

Questions

119. At the end of each section in this document the Commission has posed a series of questions to aid interested parties in responding. A summary of those questions is provided below. Interested parties can also provide comment on other issues relevant to the new structure.

<i>Document section</i>	<i>Questions</i>
Revenue assessment method	<i>a.</i> Do you agree with the Commission's preliminary view on net revenue as the appropriate revenue assessment method? Please provide your reasons.
How to measure the qualified revenue based on the net revenue method	<i>b.</i> Do you agree with the Commission's preliminary views on how the net revenue method will be applied? Please provide your reasons. <i>c.</i> Do you agree with the Commission's preliminary views on how revenue from non-telecommunications services bundled with telecommunications services will be dealt

with? Please provide your reasons.

- d.* Do you agree with the Commission's preliminary view that the deduction for payments to non-liable persons for services originally purchased from a liable person should be tightened? Please provide your reasons.
 - e.* Do you agree with the Commission's analysis of the qualified revenue status for common revenue streams? If not, please provide your reasons.
 - f.* Do you agree with the structure, format and content requirements for the templates proposed by the Commission in Attachments E-K? If not, please provide your reasons.
 - g.* Do you agree with the Commission's assurance reporting requirements? If not, please provide your reasons.
-

Submissions and workshop

- 120. The Commission is interested in learning the views of industry on the information provided in this document. Submissions should be sent no later than **5pm Friday 2 November 2012**. Submissions should be sent by email to: telco@comcom.govt.nz.
- 121. Cross-submissions will not be invited as the Commission will be undertaking a two-day qualified revenue workshop in Wellington on **Tuesday 13 and Wednesday 14 November 2012**. Please RSVP for this workshop by email to: telco@comcom.govt.nz by **Friday 2 November 2012**. Ensure you provide the names of the attendees, and indicate which days they will be attending. Further information on the workshop will be provided in coming weeks.

Attachment A – The differences between three possible revenue assessment methods

122. The following example illustrates the differences between the three possible revenue assessment methods, detailed in paragraph 54. For this example assume there are four liable firms.

122.1. Firm A: a pure wholesaler providing services to retailers B and D.

122.2. Firm B: a pure reseller who on-sells firm A wholesale services to end-users (assume a zero retail margin). This reseller is considered as a liable person for the purposes of this example.

122.3. Firm C: a vertically integrated firm that exclusively sells its own services to end-users.

122.4. Firm D: a retailer, with its own network, that on-sells Firm A wholesale services to end-users with value-added services.

123. Table 4 below provides a summary of the telecommunications services revenue for each firm:

Table 4				
	A	B	C	D
Wholesale revenue earned from firm B	\$10			
Wholesale revenue earned from firm D	\$10			
Retail revenue		\$10	\$8	\$10
Retail costs/profit margin		0	\$2	\$2
Total revenue for telecommunications services	\$20	\$10	\$10	\$12

124. Table 5 below shows the outcome for each approach to calculate qualified revenue, applied to the revenue for telecommunications services in the table above.

Table 5					
Liabile revenue	A	B	C	D	Total
Gross revenue approach	\$20	\$10	\$10	\$12	\$52
Net revenue approach	\$20	0	\$10	\$2	\$32
Retail revenue approach	0	\$10	\$10	\$12	\$32

125. Table 5 shows the following:

- 125.1. the use of the gross revenue method amounts to nearly double the amount of qualified revenue compared with the other approaches and double-taxes the services that A sells to both firms B and D;
- 125.2. the retail revenue method excludes revenue for wholesale telecommunications services, namely, the services that A provides to both firms B and D, and captures B's revenue, which is pure reselling with zero retail margin; and
- 125.3. the net revenue method captures all the liable firms, without the effect of double counting and only considers the retail proportion of revenue for downstream firms, on-selling wholesale services.

Attachment B – Determining the qualified revenue in bundled services

126. This attachment provides examples to illustrate how the Commission could impute the value of the non-telecommunications services provided in a bundle with telecommunications services, based on revenue stream information or input cost information. The Commission considered the following scenarios.
- 126.1. Imputing the revenue for non-telecommunications services where it is sold as a component of a bundle. In this example the stand-alone price for non-telecommunications services is observable.
 - 126.2. Imputing non-telecommunications revenue, where there is no observable stand-alone retail prices and only the bundled price is observable.
127. Attachments H and I illustrate the Commission's proposed approach for imputing the non-telecommunications services deduction. The approach involves collating key information on bundles containing telecommunications and non-telecommunications services. The information is used to support the imputation formulae based on the bundling scenarios discussed in this attachment.
128. The Commission proposes that qualifying liable persons will use the formula that best reflects the bundle for which they are claiming the deduction. To claim the deduction (for a bundle that includes both telecommunications and non-telecommunications services) the qualifying liable person will need to complete a separate copy of the templates in Attachments H and I for each bundle.

Impute the revenue for non-telecommunications revenue if sold as an observable component in a bundle

129. The following examples illustrate how the Commission proposes to impute the value for non-telecommunications services if they were sold as a component of a bundle. In this scenario, the customer has a choice to buy non-telecommunications services either in a bundle with telecommunications services or separately. We will consider examples for:
- 129.1. a bundle with broadcasting services as the non-telecommunications services component of the bundle
 - 129.2. a bundle with a handset as the non-telecommunications services component of the bundle.

A bundle sold with broadcasting services as the non-telecommunications services component

130. Vodafone's current bundle of broadband services with Sky broadcasting is used as an example of a bundle consisting of a telecommunications services component and non-telecommunications services component.

- 130.1. For this bundle a customer with an eligible broadband plan has the option to upgrade to MY SKY HDi for free. The retail price for this upgrade is usually \$15 per whole month.²⁷
- 130.2. The price of the non-telecommunications services in this bundle is considered to be \$15 per whole month for each bundle sold in Year A.
- 130.3. The non-telecommunications services revenue is then equal to \$15 multiplied by the number of bundles present in each whole month during Year A.

A bundle sold with handsets as the non-telecommunications services component

- 131. A generic bundle of mobile phone services with a handset is used as an example of a bundle consisting of a telecommunications services component and a non-telecommunications services component.
 - 131.1. For this bundle a customer has the option to buy a 24-month plan that includes a handset. The retail price for this handset is \$349. The price of the 24-month plan (which includes the handset) is \$59.60 per whole month.
 - 131.2. The price of non-telecommunications services would be calculated as follows:
 - a. Impute the value attributable to the handset for a whole month by dividing the retail price of the handset with the number of months included in the contract, ie, \$349 divided by 24 in this bundle, which equals \$14.54.
 - b. Calculate the implicit value of the bundle for each whole month by adding the amount paid for the mobile services for each whole month, and the imputed value for the handset calculated in **a**, ie, \$59.60 (mobile services) plus \$14.54 (imputed value for the handset), which equals \$74.14.
 - c. Calculate the proportion of the handset component of the bundle. The proportion of the handset component is equal to the imputed value of the handset calculated in **a** divided by the implicit payment of the bundle calculated in **b**, ie, \$14.54 divided by \$74.14, which equals approximately 20% (19.61%).
 - d. Impute the value for non-telecommunications services based on the proportion of the handset component of the bundle calculated in **c**, and the amount paid for the mobile services for each whole month, ie, \$59.60 (mobile services) multiplied by 20% (proportion of the handset component of the bundle), which equals \$11.69.

²⁷ <http://www.vodafone.co.nz/entertainment/tv/sky/mysky/>.

- 131.3. The non-telecommunications services revenue is then equal to \$11.69 multiplied by the number of bundles present in each whole month during Year A.

Impute non-telecommunications revenue when no stand-alone retail prices are observable

132. The following examples illustrate how the Commission proposes imputing non-telecommunications services revenue, if these services are sold in a bundle and stand-alone prices for neither the telecommunications services nor the non-telecommunications services are observable. In other words, only the bundled price is observable. In this example, the Commission would use the amount the provider paid to a third party to use the non-telecommunications services as an input for the bundle; this payment is referred to as the input cost.

133. The following examples will be considered:

- 133.1. a bundle with broadcasting services as the non-telecommunications services component of the bundle; and
- 133.2. a bundle with handsets as the non-telecommunications services component of the bundle.

A bundle with broadcasting services as the non-telecommunications services component

134. To illustrate the option based on input costs for broadcasting, the current market example of video-on-demand is considered. Assume the provider buys the broadcasting services from SKY and resells the broadcasting services in a bundle to their customers. The provider does not add any further value to the broadcasting services. The provider pays a contractual amount to SKY to use the broadcasting services as an input for the bundle sold. The Commission considers that the amount payable to SKY is the appropriate input cost. The table below shows the hypothetical price for the amount payable to SKY.

Table 6	
	Monthly price (NZD)
Amount payable to SKY to use 'video-on-demand' as an input	\$20.00

135. We would calculate the revenue for non-telecommunications services as follows.

- 135.1. The Commission proposes to consider the amount payable to SKY as the imputed value for non-telecommunications services. We are effectively assuming that the non-telecommunication service component of the bundle is sold at no margin.

- 135.2. The imputed price for the non-telecommunication component of the bundle is, therefore, equal to \$20.00 (ie, input cost or direct amount payable to SKY).
- 135.3. Non-telecommunications services revenue is then the non-telecommunications services component of the bundle multiplied by the number of bundles sold in Year A.

A bundle with handsets as the non-telecommunications services component

136. To illustrate the option based on input costs for handsets, a hypothetical example was considered. Assume the provider buys the handsets from a third party provider and resells the handsets in a bundle to their customers in a 24-month plan bundled with mobile services. The provider does not add any further value to the handsets.
137. The provider pays a contractual amount to the supplier of the handsets to buy the handsets from the third party. The Commission considers that the amount payable to the supplier of the handsets is the appropriate input cost. The table below shows the hypothetical amount payable to the third party for the procurement of the handsets. Also assume that the provider will sell the handsets in a bundle with mobile services in a contract for 24 months.

Table 7	Price per handset (NZD)/Months
Amount payable to the third party for each handset	\$150.00
Duration of the bundled contract	24

138. We would calculate the revenue for non-telecommunications services as follows:
- 138.1. The Commission proposes to consider the amount payable to the third party as the imputed value for non-telecommunications services. We are effectively assuming that the non-telecommunication service component of the bundle is sold at no margin.
- 138.2. The imputed price for the non-telecommunications services component of the bundle is, therefore, equal to \$150.00 (ie, input cost or direct amount payable to the third party).
- 138.3. The imputed price per whole month is the imputed price for non-telecommunications service component of \$150 divided by the number of months included in the bundled contract, ie, 24 months, which equals \$6.25.

- 138.4. Non-telecommunications services revenue is then the imputed price per whole month the imputed price for non-telecommunications services multiplied with the number of bundles present in each whole month in Year A.

Attachment C – Legal framework

139. Part 3 prescribes the annual procedure for determining the amount of TDL payable by liable persons to the Crown and the annual procedure for determining the net cost of each TSO instrument. The TDL liability allocation determination for each financial year is made only in relation to subpart 2 of Part 3 relating to the liability allocation determination.
140. Section 81 explains when subpart 2 of Part 3 does not apply to certain liable persons. Section 81 states:

81 Subpart does not apply to certain liable persons

- (1) This subpart does not apply to a liable person in respect of a financial year (financial year A) if—
 - (a) the liable person was not trading in the financial year preceding financial year A; or
 - (b) the liable person's telecommunications revenue for the year preceding financial year A was less than the minimum telecommunications revenue.
- (2) For the purpose of determining whether a person is a liable person to whom this subpart applies in respect of a financial year, the Commission may, by written notice to that person, require the person to provide to the Commission, within the time specified in the notice,—
 - (a) a copy of the person's financial statements for the year preceding financial year A; and
 - (b) any further information specified by the Commission for the purpose of enabling it to verify the telecommunications revenue of that person for the year preceding financial year A; and
 - (c) a certificate that complies with subsection (3).
- (3) A certificate complies with this subsection if—
 - (a) it certifies the person's telecommunications revenue for the year preceding financial year A; and
 - (b) it is signed by 2 directors of the person with the authority of the other directors.

141. Section 82 explains when a party must deliver financial information to the Commission. Section 82 states:

82 Liable persons must produce information on qualified revenue

Not later than 60 working days before the end of each financial year (**financial year A**), each liable person must provide to the Commission a copy of—

- (a) its financial statements for the financial year preceding financial year A; and
- (b) any further information specified by the Commission for the purpose of enabling it to verify the qualified revenue of that person for the financial year preceding financial year A.

142. Under section 83, every liable person must provide to the Commission the financial and other information specified by the Commission. Section 83 states:

83 Liable persons must produce information for purposes of liability allocation determination

- (1) Not later than 60 working days after the end of each financial year, each liable person must provide to the Commission—
 - (a) all prescribed information or, if there is no prescribed information, information specified by the Commission, for the purpose of enabling the Commission to make its determination in accordance with section 88 (a); and
 - (b) a report that complies with subsection (2).
- (2) A report complies with this subsection if—
 - (a) it is prepared by a qualified auditor; and
 - (b) it includes a statement of the extent to which the information provided by the liable person under subsection (1)(a) is correct and complete.

143. The Commission prepares a draft TDL Liability Allocation Determination in accordance with section 84. Section 84 states:

84 Commission to prepare draft liability allocation determination

- (1) The Commission must—
 - (a) prepare a draft liability allocation determination for each financial year; and
 - (b) give public notice of that draft determination; and
 - (c) include in the public notice the closing date for submissions, which must be not later than 20 working days after the date of giving public notice.
- (2) The Commission must make reasonable efforts to do the things referred to in subsection (1) not later than 80 working days after the end of the financial year.

144. The draft TDL liability allocation determination must include all of the matters set out in section 85(1). Section 85(1) is set out below:

85 Matters to be included in draft liability allocation determination

- (1) A draft liability allocation determination must include—
 - (a) the amount of each liable person's qualified revenue; and
 - (b) the amount of the telecommunications development levy payable by each liable person for the financial year, calculated in accordance with the following formula:

$$\frac{a}{b} \times c$$

Where—

- a is the amount of the liable person's qualified revenue
 - b is the sum of all liable persons' qualified revenue
 - c is the telecommunications development levy specified for the relevant year in Schedule 3B;
- (c) the methodology applied by the Commission in preparing the determination ; and

(d) the reasons for the determination.

145. Section 85(2) of the Act states that “to avoid doubt, the Commission may determine what revenue basis to use for the purposes of subsection (1)(a) (for example, a net revenue basis)”. The Commission is proposing to use a ‘net revenue basis’ to determine the amount of each liable person’s qualified revenue which is in accordance with the example specified in section 85(2).

146. Qualified revenue is defined in section 5 of the Act to mean:

...the revenue (as determined in accordance with any specifications set by the Commission) that a liable person receives during a financial year for supplying either or both of the following (excluding any amount paid to the liable person by the Crown as compensation for the cost of complying with a TSO instrument that contains a specified amount):

- (a) telecommunications services by means of its PTN:
- (b) telecommunications services by means that rely primarily on the existence of its PTN or any other PTN.

147. Under section 86, the Commission may hold conferences on the draft liability allocation determination. Section 86 provides as follows:

86 Conferences on draft liability allocation determination

The Commission may—

- (a) hold conferences in relation to the draft liability allocation determination; and
- (b) invite to those conferences any person who has a material interest in the determination.

148. Once we have completed the required consultation under the Act, section 87(1)(a) requires the Commission to prepare a final liability allocation determination. Section 87 provides as follows:

87 Commission to prepare final liability allocation determination

(1) The Commission must—

- (a) prepare a final liability allocation determination; and
- (b) give public notice of that final determination; and
- (c) give a copy of that final determination to all liable persons.

(2) The Commission must make reasonable efforts to do the things referred to in subsection (1) not later than 20 working days after the closing date for submissions specified in accordance with section 84(1)(c).

149. Section 88 requires that the final liability allocation determination under section 87 must include:

88 Matters to be included in final liability allocation determination

- (a) the amount of each liable person’s qualified revenue; and
- (b) the amount of the telecommunications development levy payable by each liable person, calculated in accordance with the formula set out in section 85(1)(b); and

- (c) the methodology applied by the Commission in preparing the determination; and
 - (d) the reasons for the determination.
150. The final TDL liability allocation determination will include all of the matters set out in sections 85 and 88 of the Act.
151. Section 91 requires the Commission to complete and give public notice of the final liability allocation determination before giving public notice of a final TSO cost calculation. Section 91 provides as follows:
- (1) The Commission may determine the priority between the preparation of liability allocation determination and the preparation of a TSO cost calculation determination and, accordingly, may comply with sections 84 to 88 and sections 94F to 94K in the sequence, as between those two sets of sections, as it thinks fit.
 - (2) However, the Commission must publicly notify a final liability allocation determination for each financial year in accordance with section 87(1)(b) before it publicly notifies any final TSO cost calculation determination for that financial year in accordance with section 94J(1)(b).

Consequences of failing to provide requested information

152. If a liable person fails, without reasonable excuse, to comply with sections 81(2),²⁸ 82²⁹ or 83³⁰ or knowingly provides false or misleading information or documents under sections 81,³¹ 82³² or 83,³³ the Commission can take enforcement action under section 156B of the Act. Enforcement action under section 156B is also available if a liable person knowingly provides or signs a false or misleading director's certificate under section 81.³⁴
153. For a breach of this nature, the Commission could take either of the following enforcement actions against a liable person under section 156B(1):
- (a) serve a civil infringement notice on the person under section 156D; or
 - (b) apply to the High Court for an order under section 156L requiring the person to pay a pecuniary penalty to the Crown.

²⁸ Section 156A(1)(i) of the Act.

²⁹ Section 156A(1)(j) of the Act.

³⁰ Section 156A(1)(k) of the Act.

³¹ Section 156K(1)(ib) of the Act.

³² Section 156A(1)(ja) of the Act.

³³ Section 156A(1)(l) of the Act.

³⁴ Section 156A(1)(ia) of the Act.

Attachment D – Analysis of types of revenue

Revenue stream	Status pre-Amendment Act	Context post-Amendment Act	Proposed status
Revenue from building, maintaining and renewing network infrastructure	Not qualified revenue as the revenue isn't derived through the operation of a PSTN.	The criteria for qualified revenue as defined in section 5 of the Act still require telecommunications services to be provided by means of a public telecommunications network (PTN). These services fall outside the definition of qualified revenue.	Non-qualifying telecommunications services revenue.
Revenue from the sale of mobile phone handsets that is not recovered through mobile access or calling charges (ie, sold separately)	Not qualified revenue as the revenue isn't derived through the operation of a PSTN.	The Commission considers that this revenue stream does not fit within 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)	Qualified revenue as the revenue was derived through the provision of a PSTN service.	The Commission considers that this revenue stream does not fit within the definition of qualified revenue in section 5 of the Act.	Non-qualifying telecommunications services revenue.
Revenue derived from services provided in other countries	Not qualified revenue as the revenue isn't derived through the operation of a PSTN in New Zealand.	The criteria for qualified revenue as defined in section 5 of the Act still require telecommunications services to be provided by means of a public telecommunications network (PTN). These services fall outside the definition of qualified revenue.	Non-qualifying telecommunications services revenue.
Expenditure on purchasing telecommunications services from other liable persons	To avoid double counting, this form of revenue was considered a legitimate deduction.	The Commission considers avoidance of double counting of revenue is still a concern subsequent to the Amendment Act.	Legitimate deduction.

Revenue stream	Status pre-Amendment Act	Context post-Amendment Act	Proposed status
Expenditure on purchasing telecommunications services from a company that on-sells services it purchased from another qualified liable person	To avoid double counting, this form of revenue was considered a legitimate deduction.	The Commission initially proposed removing this deduction but has decided to retain it because the principle of avoiding double counting remains relevant.	Legitimate deduction.
Prompt payment discounts and credits for billing errors and omissions	Considered to be a legitimate deduction that reflects the liable person's true qualified revenue.	The Commission retains the view that this revenue stream is not qualified revenue.	Non-qualifying telecommunications services revenue.
Calling card revenue	Qualified revenue as it is received by the liable person for providing telecommunications services that rely primarily on the existence of its or Telecom's PSTN.	The Commission retains the view that this revenue stream is still qualified revenue.	Qualified revenue.
Inbound roaming revenue	Qualified revenue as it is received by the liable person for providing telecommunications services by means of its or Telecom's PSTN.	The Commission retains the view that this revenue stream is still qualified revenue.	Qualified revenue.
Confiscated prepay credits	Qualified revenue as it is received by the liable person for providing telecommunications services by means of its or Telecom's PSTN. Even though the credits aren't used they were sold with the express purpose of being used for a qualified revenue purpose.	The Commission retains the view that this revenue stream is still qualified revenue.	Qualified revenue.
Mobile access and calling revenue	Qualified revenue as it is received by the liable person for providing telecommunications services that rely primarily on the existence of its or	The original rationale remains relevant and the Commission retains the view that this revenue stream is still qualified revenue.	Qualified revenue.

Revenue stream	Status pre-Amendment Act	Context post-Amendment Act	Proposed status
	Telecom's PSTN.		
Revenue earned from voice over IP calls that terminate or originate on a (PSTN) PTN	Qualified revenue as it is received by the liable person for providing telecommunications services that rely primarily on the existence of it's or Telecom's PSTN.	The Commission retains the view that this revenue stream is still qualified revenue.	Qualified revenue.
Revenue earned from mobile voice and SMS – a PTN includes that part of a mobile network that facilitates voice and SMS calls	Qualified revenue as it is received by the liable person for providing telecommunications services by means of its or Telecom's PSTN.	The Commission retains the view that this revenue stream is still qualified revenue.	Qualified revenue.
Revenue earned from toll by-pass calls switched by a liable person for customers of the liable person	Qualified revenue as it is received by the liable person for providing telecommunications services by means of its or Telecom's PSTN.	The Commission retains the view that this revenue stream is still qualified revenue.	Qualified revenue.
Revenue from direct dial calls switched by a liable person, on behalf of another liable person	Qualified revenue as it is received by the liable person for providing telecommunications services by means of its or Telecom's PSTN.	The Commission retains the view that this revenue stream is still qualified revenue.	Qualified revenue.
Revenue earned by the liable person from late payment fees levied on customers for the late payment of outstanding accounts for telecommunications services	Qualified revenue as it is received by the liable person for providing telecommunications services by means of its or Telecom's PSTN.	The Commission retains the view that this revenue stream is still qualified revenue.	Qualified revenue.
Revenue earned from dial-up ISP service (Including modem banks)	This revenue was not captured under the TSO regime as it is derived from operating a PDN not a PSTN.	Revenue from telecommunications services using a PTN is captured – PTN includes PDNs and this service is captured under the PDN definition.	Qualified revenue.
xDSL services, Naked DSL services and services provided using a UCLL were	This revenue was captured under the TSO regime as it is derived from	The Commission retains the view that these revenue streams are still qualified	Qualified revenue.

Revenue stream	Status pre-Amendment Act	Context post-Amendment Act	Proposed status
previously captured under the PSTN definition	operating a PSTN.	revenue.	
Mobile broadband services	This revenue was not captured under the TSO regime as it is derived from operating a PDN not a PSTN.	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	This revenue was not captured under the TSO regime as it is derived from operating a PDN not a PSTN.	Revenue from telecommunications services using a PTN is captured – PTN includes PDNs and this service is captured under the PDN definition.	Qualified revenue.
Revenue derived from the supply of video on-demand content	This revenue was not captured under the TSO regime as it is derived from operating a PDN not a PSTN.	The Commission has already indicated in the liable persons notification that it will not capture video on-demand content revenue 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)	To the extent that these services accessed a PSTN, it was captured (this being a relatively small amount of the overall service being delivered).	During consultation, mobile radio services were generally accepted as being part of a PTN, but the main provider disagrees. The use of mobile radio services as campus networks is analogous to local and wide area data networks. Therefore, if the purpose is to operate this type of network for a single customer (eg, internal business communications) then it would be	Revenue from services that permit public access to this network or revenue derived from providing interconnection between the mobile radio network and a PTN will be qualified revenue.

Revenue stream	Status pre-Amendment Act	Context post-Amendment Act	Proposed status
		private, and counted as non-telecommunications services revenue. However, revenue from other uses that permit public access to this network or revenue derived from providing interconnection between the mobile radio network and a PTN will be qualified revenue.	
Broadcasting services	This revenue was not captured under the TSO regime as it was not derived from operating a PSTN.	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	This revenue was not captured under the TSO regime as it was not derived from operating a PSTN.	Revenue from telecommunications services using a PTN are captured – PTN includes PDNs and this service is captured under the PDN definition	Qualified revenue
Revenue derived from operating telecommunications services using an advertising supported business model (eg, a website that offers services free and uses advertising as its main revenue source)	This revenue was not captured under the TSO regime as it was not derived from operating a PSTN.	This revenue is not derived from directly operating a component of a PTN.	Non-qualifying telecommunications services revenue
Satellite revenues	This revenue was not captured under the TSO regime as it was not derived from operating a PSTN.	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	Most of this revenue was not captured under the TSO regime as it was not derived from operating a PSTN. Revenue attributed to the sale of a	Revenue from selling customer premises equipment is revenue from selling goods that are not considered to	Non-qualifying telecommunications services revenue

Revenue stream	Status pre-Amendment Act	Context post-Amendment Act	Proposed status
	handset bundled with other PSTN derived revenue was considered qualified revenue.	be related to a PTN.	
Revenue from dumb caches, servers, content delivery networks (CDN)	This revenue was not captured under the TSO regime as it was not derived from operating a PSTN.	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	This revenue was not captured under the TSO regime as it was not derived from operating a PSTN.	Fibre used for a single user (internal communications where there is no inter-connection with other parties is excluded.	Non-qualifying telecommunications services revenue

Attachment E – Qualified revenue information disclosure information

Section 79(1) of the Telecommunications Act 2001 stipulates that the Commission must treat two or more bodies corporate as one person, for the 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.

☐ Please tick, if your company meets the criteria set out in section 79.

Please list the other bodies corporate your company is connected with, identify the provision in section 79(1) that applies, and explain why this section applies.

<i>Names of other bodies corporate</i>	<i>Applicable provision in section 79(1)</i>

☐ Please tick, if this disclosure contains consolidated financial information from more than one qualifying liable person.

Attachment F – Qualified revenue calculation

Calculation of qualified revenue for this financial year.

Total firm revenue	000
Less non-telecommunications services revenue (if any)	
<i>Revenue from overseas subsidiaries</i>	000
<i>Revenue from other international operations</i>	000
<i>Corporate revenue (gain or sale, dividends and property)</i>	000
<i>Revenue from broadcasting or video on-demand services sold separately</i>	000
<i>Revenue from other non-telecommunications services sold separately</i>	000
<i>Revenue from related party transactions (if captured by section 79 of the Act and not filing a consolidated report)</i>	000
Total non-telecommunications services revenue	000
Gross telecommunications services revenue³⁵	000
Less non-telecommunications services revenue sold in a bundle with telecommunications services	000
Less charges payable to liable persons	000
Less charges payable to non-liaible persons for services initially provided by a liable person	000
Qualified revenue	000

³⁵ This total still includes non-telecommunications revenue sold in a bundle with telecommunications services. The deduction of this form of revenue is part of the qualified revenue framework only. The Commission will use the gross telecommunications services revenue total to identify if the qualifying liable person remains liable for the year following Year A. That means the qualifying liable persons can rely on this information disclosure to fulfil its obligation under section 82 of the Act, for the next financial year.

Attachment G – Detailed gross telecommunications services revenue

Gross telecommunications services revenue earned for this financial year, including revenue from wholesaling telecommunications services, and revenue from interconnection services.

(Please list the type of services provided separately for each company)

Gross retail revenue, including bundled services	<u>000</u>
Gross wholesale revenue	
Telco 1	<u>000</u>
Telco 2	<u>000</u>
Gross interconnect revenue	
Telco 1	<u>000</u>
Telco 2	<u>000</u>
Other revenue	
Telco 1	<u>000</u>
Telco 2	<u>000</u>
Gross telecommunications services revenue	<u><u>000</u></u>

Attachment H – Detailed bundled services revenue

This table is designed to collect information to support identifying the value of telecommunications services sold in a bundle with non-telecommunications services (which are not qualified revenue). Please complete this template for each bundle sold.

(Please list the types of services provided in the bundle separately as provided for below)	Bundled price per whole month	Stand-alone retail price per whole month	Input cost ³⁶ per unit per whole month	Number of months for bundled contract
BUNDLE #1	<u>000</u>			
Telecommunications services revenue		<u>000</u>		
Service 1		<u>000</u>		
Service 2				
etc				
Stand-alone telecommunications services total		<u>000</u>		
Non-telecommunications services revenue³⁷				
Service 1		<u>000</u>	<u>000</u>	
Service 2		<u>000</u>	<u>000</u>	
etc				
Stand-alone non-telecommunications services total		<u>000</u>	<u>000</u>	
Duration of bundled contract (number of months)				000

Schedule of number of bundles sold/present for each whole month during the TDL period

Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun

³⁶ Input cost refers to the amount the liable person pays for the service or good it resells in a bundle. For example, in the case of broadcasting services, it would be the amount a liable person would pay to SKY for broadcasting services, which the liable person includes in a bundle. In the case of handsets it would be the amount the liable person pays to the provider for the handsets, which the liable person includes in a bundle.

³⁷ If offering a device (handset or customer premise equipment) free with a bundle contracted over a specific time period (12-24 months), divide the stand-alone price of the device by the total number of contracted months to identify the stand-alone monthly value for that component of the bundle.

Attachment I – Detailed bundled services revenue tabulation

This table is designed to show how the Commission proposes calculating the non-telecommunications services revenue component, if sold in a bundle. This table is based on the information provided in Attachment H. The highlighted sections include information provided in Attachment H, which is used to impute the value of the non-telecommunications services. The examples are based on the examples provided in Attachment B.

A. Examples for broadcasting as the non-telecommunications services component of the bundle

Scenario 1: Imputing the revenue for non-telecommunications services sold in a bundle, where the non-telecommunications services are sold as an observable component of a bundle

1a. Identify the total whole month stand-alone price for all non-telecommunications services offered in the bundle	\$ 15.00
1b. Identify the total number of bundles sold in each whole month in Year A	(see schedule below)
1c. Multiply 1a by 1b for each whole month to calculate the total non-telecommunications services revenue for Year A	\$165,000

Schedule for the number of bundles sold for each whole month for Scenario 1.

Months in Year A

1b. (number of bundles sold for each whole month)

1a. (stand-alone retail price)

1c. Multiply 1a by 1b

Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
0	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	11,000
\$15	\$15	\$15	\$15	\$15	\$15	\$15	\$15	\$15	\$15	\$15	\$15	
0	\$15,000	\$15,000	\$15,000	\$15,000	\$15,000	\$15,000	\$15,000	\$15,000	\$15,000	\$15,000	\$15,000	\$165,000

Scenario 2: Imputing non-telecommunications revenue where there are no observable stand-alone retail prices and only the bundled price is observable

2a. Identify the input cost for all non-telecommunications services offered in the bundle per whole month	\$20.00
2b. Identify the total number of bundles sold in each whole month in Year A	(see schedule below)
2c. Multiply 2a by 2b to identify the total non-telecommunications services revenue for this bundle for Year A	\$220,000

Schedule for the number of bundles sold for each whole month for Scenario 2.

Months in Year A

2b. (number of bundles sold
for each whole month)

2a. (input cost retail price)

2c. Multiply 2a by 2b

[illegible]

B. Examples for handsets as the non-telecommunications services component of the bundle

Scenario 1: Imputing the revenue for non-telecommunications services sold in a bundle, where the non-telecommunications services are sold as an observable component of a bundle

1a. Identify the bundled price for each whole month	\$59.60
1b. Identify the stand-alone retail price for handsets offered in the bundle	\$349.00
1c. Identify the number of contractual months in this bundle	24.00
1d. Divide 1b by 1c to impute the value to attribute to the handset for a whole month	\$14.54
1e. Add 1d to 1a to calculate the implicit payment for the bundle for each whole month	\$74.14
1f. Divide 1d by 1e to calculate the proportion of the handset component of the bundle	0.20
1g. Multiply 1f by 1a to impute the value for non-telecommunications services for each whole month	\$11.69
1h. Identify the total number of bundles sold in each whole month in Year A	(see schedule below)
1i. Multiply 1g. by 1h. for each whole month to calculate the total non-telecommunications services revenue for Year A	\$76569.50

Schedule for the number of bundles sold for each whole month for Scenario 1.

Months in Year A

1h. (number of bundles sold
for each whole month)

1g. (imputed value)

1i. Multiply 1h by 1g

[illegible]

Scenario 2: Imputing non-telecommunications revenue, where there are no observable stand-alone retail prices and only the bundled price is observable

2a. Identify the input cost for all non-telecommunications services offered in the bundle per whole month	\$150.00
2b. Identify the number of contractual months in this bundle	24
2c. Divide 2a by 2b to impute the value of the handset for each whole month	\$6.25
2d. Identify the total number of bundles sold in each whole month in Year A	(see schedule below)
2e. Multiply 2c. by 2d. to identify the total non-telecommunications services revenue for this bundle for Year A	\$40,937.50

Schedule for the number of bundles sold for each whole month for Scenario 2.

[illegible]

Attachment J – Payments made to other qualifying liable persons

Charges payable to other respondents for services that are telecommunications services.

Liable person	Services	
<i>Liable person #1</i>	(Please list the type of services provided separately for each company)	000
<i>Liable person #1</i>	(Please list the type of services provided separately for each company)	000
<i>Liable person #1</i>	(Please list the type of services provided separately for each company)	000
Total		000

Attachment K – Payments made to non-qualifying liable persons or resellers, for services originally purchased from a qualifying liable person

This is the total amount payable, if any, to non-liable persons for this financial year for services that the non-liable persons purchased from other qualifying liable persons.

Non-liable person	Qualifying liable person services were purchased from	Description of service	Transaction cost	Allocation of cost (if purchased in a bundle)	Deduction
			000	000	000
			000	000	000
			000	000	000
			000	000	000
			000	000	000
			000	000	000
Totals			000	000	000