

Good Afternoon

This month, the Commission received information regarding requests for clarification about how mobile handset revenue is recorded when (i) sold in a bundle through an indirect channel (non-liaible retailer) and (ii) when the customer makes an upfront contribution towards a partly subsidised handset. Some respondents are concerned that because they effectively subsidised the handset sold in a bundle through an indirect channel they are effectively deducting less than the actual cost of the handset. Other respondents have noted that the lack of information and/or compliance costs limit how they can address these issues.

The issue of handset subsidies or rebates paid to indirect channels is significant and has the potential to affect all respondents in the TDL's liability allocation determination process. Unfortunately, the extent of the issue and whether it will produce an outcome detrimental to the concerned respondents has not been clearly established by the information that has been provided to the Commission to date. Further work would be needed to confirm the full extent of the problem (if it exists), and to then devise and test a likely solution with the industry. Further, we are aware that respondents are approaching the time where they must provide their draft disclosure responses to their auditors in advance of the 12 April deadline. This situation does not allow time for further consultation on the issue in regard to responding to the Notice for the 2011/12 TDL.

Accordingly, we advise respondents to complete their qualified revenue accounts consistent with the existing instructions (paragraphs 15 to 24, and 37 of Attachment A). In response to the questions regarding handset subsidies either paid to indirect channels or relating to bundles sold through direct channels where the customer contributed to the cost of the handset we provide the following clarification:

- for all handsets sold by a respondent, where there is fully identifiable revenue related to a handset, it is deducted as non-telecommunication services revenue from the firm's general operating revenue before the tabulation of the gross telecommunications services revenue total; For the avoidance of doubt this includes wholesale revenue from selling of phones to indirect channels;
- for all handsets sold directly by a respondent as part of a partly subsidised bundle where the customer has made an upfront contribution to the handset, but the handset's individual revenue is not identifiable the respondent must deduct the cost of the handset from the gross telecommunications services revenue total, while including the upfront contribution by the customer in the gross telecommunications services revenue; and
- for all handsets sold directly by a respondent as part of a fully subsidised bundle where the handset's individual revenue is not identifiable the respondent deducts the cost of the handset from the gross telecommunications services revenue total.

The Commission proposes that should respondents want to continue a dialogue with us regarding this matter we are open to receiving and considering further information. We are most interested in receiving information quantifying the extent of the problem and identifying the impact on respondents. We shall consult on the matter in our draft 2011/12 allocation determination and will also consider any information provided in our processes relating to the 212/13 TDL.

Feel free to contact me should you wish to discuss this matter further (ddi: 04 9243670 or email: Neville.Lord@comcom.govt.nz).

Kind regards

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