

21 March 2013

Chris Abbott
GM Public Policy
Vodafone New Zealand Ltd
Wellington

Dear Chris

Request for clarifications re Notice re Telecommunications Development Levy

1. This letter responds to the issues raised in your letter dated 8 February 2013 regarding the Commission's Notice requiring the provision of qualified revenue information to support the 2011/2012 Telecommunications Development Levy Liability Allocation Determination" (the 'Notice'). It is a revised version of the draft version dated 6 March 2013.

Treatment of Vodafone Mobile Limited

2. Our Notice requests that Vodafone provide qualified revenue information for 2011/12 for Vodafone New Zealand Limited. As noted in your letter, Vodafone Mobile NZ Limited does not provide telecommunications services in New Zealand. Hence it does not meet the criteria for being a liable person and its financial information should not be consolidated with that for Vodafone New Zealand Limited when calculating the qualified revenue for 2011/12.
3. As you are aware a separate notice was issued in relation to Vodafone Fixed Ltd which for the 2011/12 TDL financial year was the separate company TelstraClear New Zealand Ltd.

Outbound International Roaming

4. Outbound calls made by New Zealand mobile users while roaming overseas would generally not meet the criteria of qualified revenue. As explained in Attachment B of the Notice, revenue derived from services provided in other countries is non-qualifying revenue, as it is not provided by means of a PTN operated in New Zealand.

Early termination charges

5. You proposed to exclude early termination charges from qualified revenue.
6. The inclusion or exclusion of early termination charges in the qualified revenue calculation should be based on what revenue stream(s) gave rise to the charge.
 - If the charge relates to a service or bundle of services that are **all** telecommunication services then it would be qualified revenue as it derived from this revenue stream.
 - If it relates to a bundle that includes end-user equipment **which was sold directly by Vodafone to the customer paying the early termination charge** and the **early termination** charge (or portion of the charge) relates to the customer's ownership of the equipment then the **early termination** charge revenue (or the relevant portion of it) may be excluded if the cost of the equipment is not (or was not previously) deducted from gross telecommunications services revenue when calculating qualified revenue.
 - If it relates to a bundle that includes end-user equipment, **which was sold directly by Vodafone to the customer paying the early termination charge**, and the cost of the equipment is deducted (or had been deducted in a previous TDL financial year) from gross telecommunications services revenue, then the early termination charge revenue must be included in gross telecommunications services revenue. This avoids the problem of a liable person deducting the cost of equipment while not recognising the matching revenue when calculating qualified revenue.
7. The Notice instructs Vodafone to ensure that it applies a consistent approach to similar types of information. Hence the treatment of the cost of handsets and other end-user equipment sold in bundles should be consistent regardless of whether or not the customer completes the contract term.
8. We will provide further clarification on the treatment of early termination charges relating to the customers who were acquired through indirect channels when responding to Sarah Plumley's request regarding the treatment of subsidies relating to handsets sold through indirect channels.

Use of accrual accounting for costs

9. You sought clarification on whether Vodafone must calculate costs on an accruals basis.
10. As you noted, the Notice is silent on whether costs should be prepared on an accrual or cash flow basis. This gives respondents, who may not have the information to fully match costs and revenues on an accruals basis, some flexibility in preparing the disclosed information.

11. In determining the cost of non-telecommunications goods and services, respondents should apply the principles of correct(ness), complete(ness), objectivity and consistency which are defined in paragraph 6 of Attachment A of the Notice.

End-user equipment sourced outside of New Zealand

12. You raised concerns about the need to separate the costs of end-user equipment sourced from within New Zealand from that sourced overseas, and proposed to aggregate the two costs.
13. Row 40 of Template 1 only requires an aggregate figure for the cost of end-user equipment. Hence Vodafone does not need to separate the cost of end-user equipment by origin.

SKY Reseller Partnership

14. Your letter read:

Revenue associated with Vodafone's SKY reseller partnership is excluded from our gross telecommunications service revenue and therefore **does not require** a deduction in the manner contemplated by the section on deducting the cost of non-telecommunications goods and services (emphasis added)

15. If the revenue from Vodafone's SKY reseller partnership is excluded from Vodafone's gross telecommunications service revenue, then the costs associated with this revenue **must not** be deducted in template 1. The Notice only contemplated deducting costs for goods and services for which the revenue is included in gross telecommunications services revenue (clause 24 of Attachment A).

Publication and questions

16. I will circulate this response to other respondents of Notices relating to the 2011/12 TDL and have it published on our website.
17. If you have any question relating to this clarification, please contact me at Neville.Lord@comcom.govt.nz

Yours sincerely

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Neville Lord
Chief Adviser (telecommunications)
Regulation Branch
Commerce Commission