

15 August 2025

To: Chorus, Enable Networks, Northpower Fibre, Tuatahi First Fibre

Attention: [REDACTED], [REDACTED], [REDACTED], [REDACTED]

By e-mail only: [REDACTED], [REDACTED],

[REDACTED], [REDACTED]

Tēnā koutou,

Notice of conditional exemption applying to Chorus, Enable Networks, Northpower Fibre and Tuatahi First Fibre in relation to reporting on service quality under the Fibre Information Disclosure Determination 2021

1. The Commerce Commission (the **Commission**) is issuing a conditional exemption to Chorus, Enable Networks, Northpower Fibre and Tuatahi First Fibre (the **regulated providers**) under the Fibre Information Disclosure Determination 2021, as amended (the **ID Determination**).¹
2. This letter exempts the regulated providers from the requirement in clause (3)(n) of Schedule 22 of the ID Determination to test traffic performance using the **100/20 service** (100Mbps downstream, 20Mbps upstream and a committed information rate (**CIR**) of 2.5Mbps in both directions). Instead, regulated providers must test traffic performance using the **500/100 service** (500Mbps downstream, 100Mbps upstream and a CIR of 2.5Mbps in both directions).
3. This exemption applies to the monthly Report on Quality starting from July 2025, and will remain in place until any updated testing requirements are introduced through changes to the ID Determination.^{2, 3}

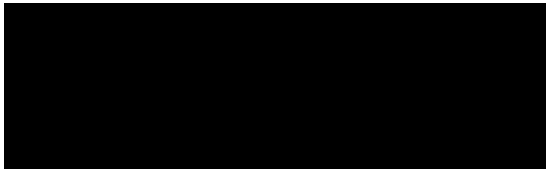
¹ Commerce Commission, [Fibre Information Disclosure Determination 2021, as amended \(1 May 2024\)](https://www.comcom.govt.nz/regulation/fibre-information-disclosure-determination-2021)

² The monthly quality reporting (Report on Quality) is within Schedule 19 for Chorus, and Schedule 20 for the ID-only fibre providers.

³ We note that an ID Determination amendment process is currently underway. Details of the project can be found here: <https://comcom.govt.nz/regulation/regulated-industries/fibre/information-disclosure-requirements-for-fibre/amendments-to-information-disclosure-requirements-2025>

4. As of 18 July 2025, the 500/100 service has become the primary mass-market product following a speed 'boost' by all regulated providers.⁴ Since this service is now the one used by most residential end-users in New Zealand, testing using this service will provide more meaningful information for stakeholders. This exemption follows a similar exemption issued in June 2023.⁵
5. The legal framework, relevant context, and rationale for exemption are detailed below in the Appendix.
6. A copy of this exemption letter will be published on the Commission's website.
7. If you have any questions regarding this matter, please contact Rhys Williams at infrastructure.regulation@comcom.govt.nz.

Nāku iti noa, nā



Tristan Gilbertson
Telecommunications Commissioner

⁴ See the Appendix for details of our engagement with the regulated providers.

⁵ The previous exemption was issued after the regulated providers first 'boosted' the speeds of their products. This exemption letter can be found on our website here:
https://comcom.govt.nz/_data/assets/pdf_file/0025/323467/Fibre-ID-Exemption-ID-regulated-providers-Traffic-performance-testing-Schedule-22-15-June-2023.pdf

Appendix: Legal framework, relevant context, and rationale for exemption

Legal Framework

- A1. Under s 226 of the Telecommunications Act 2001 (the **Act**),⁶ the regulated providers are subject to information disclosure (**ID**) regulation.
- A2. Clauses 2.3.3(1) and 2.4.4(1) of the ID Determination require the regulated providers to:
 - A2.1 complete and disclose a Report on Quality, which includes information on network traffic performance; and
 - A2.2 apply the methodology for calculating traffic performance under Schedule 22 of the ID Determination (**Schedule 22 methodology**) when completing that report.
- A3. The Schedule 22 methodology requires each regulated provider to use a reference network that provides a statistically significant sample of traffic paths for the purposes of ensuring its fibre network is correctly managed to deliver acceptable traffic performance.^{7, 8} Testing equipment used in a reference network must be configured using a 100/20 service.⁹
- A4. Clause 2.10.1(1) of the ID Determination allows the Commission to, by written notice to a regulated provider, exempt the regulated provider from any requirement of the ID Determination, for a period and on such terms and conditions as the Commission specifies in that notice. Furthermore, clause 2.10.1(2) gives the Commission the power to amend or revoke any such exemptions.

Relevant context

- A5. In June 2023, we issued a conditional exemption to the regulated providers related to the network traffic performance testing requirements within the Schedule 22 methodology, which must be applied when completing a Report on Quality (the **2023 exemption**). The condition of the exemption required the regulated providers to use a 300Mbps downstream, 100Mbps upstream and a CIR of 2.5Mbps in each direction (**300/100 service**) and covered the report period ending 30 June 2025.
- A6. The 2023 exemption was issued in response to the regulated providers ‘boosting’ the headline speeds of their mass market products (the 100/20 service at the time) to 300 Mbps downstream and 100 Mbps upstream. In the reasons for that exemption decision, we noted that the Bitstream service used to test traffic performance is

⁶ Telecommunications (Regulated Fibre Service Providers) Regulations 2019, regulation 5.

⁷ ID Determination, Schedule 22, Clause (3)(a).

⁸ ID Determination, Schedule 23, definition of “reference network”.

⁹ ID Determination, Schedule 22, Clause (3)(n).

intended to be the service most consumed by end-users and that the test results should be comparable to the average end-user's experience.¹⁰

- A7. We therefore considered it appropriate for regulated providers to test traffic performance using a 300/100 service instead of a 100/20 service for the following reasons:¹¹
- A7.1 all of the regulated providers increased the headline speeds of their 100/20 services to 300Mbps downstream, 100Mbps upstream;
 - A7.2 Chorus was the only regulated provider that continued to sell a 100/20 service;
 - A7.3 the 300/100 service was the service most consumed by end-users; and
 - A7.4 the purpose of ID would be better served. Testing using a 300/100 service would result in more meaningful information for interested persons to assess whether regulated providers have incentives to supply fibre fixed line access services of a quality that reflects end-user demands.
- A8. On 1 July 2025, Commission staff informed the regulated providers that we were planning to recommend for the 2023 exemption to be re-issued to cover the 'gap' between the expiry of this exemption, and any new or amended requirements coming into effect through an ID Determination amendment process.
- A9. Chorus responded on 2 July 2025 and indicated that it had recently 'boosted' the headline downstream speed of its mass-market product to 500 Mbps (i.e., the 500/100 service). Chorus also requested that the exemption condition uses the 500/100 service as this is now the service most consumed by end-users.
- A10. We followed up with the other regulated providers, who confirmed they also 'boosted' end-users to the 500/100 service.¹² The last of these changes were completed on 18 July 2025.
- A11. Enable Networks supported using the 500/100 service for the exemption condition, while Tuatahi and Northpower did not raise any concerns with this approach.¹³

Rationale for exemption

- A12. For completeness, using its exemption powers under clause 2.10.1(1) of the ID Determination, the Commission grants a conditional exemption to Chorus, Enable Networks, Northpower Fibre and Tuatahi First Fibre. The regulated providers are

¹⁰ 2023 exemption, para 16.

¹¹ 2023 exemption, para 17.

¹² Email from Northpower Fibre staff, dated 22 July 2025; email from Enable Networks staff, dated 23 July 2025; and email from Tuatahi First Fibre staff, dated 23 July 2025.

¹³ Email from Commission staff to Enable Networks, Northpower Fibre, Tuatahi First Fibre, dated 29 July 2025.

exempt from the requirement under clause (3)(n) of the Schedule 22 methodology to test traffic performance using a 100/20 service, on the condition that they test traffic performance using a 500/100 service.

- A13. This conditional exemption specifically applies to the Report on Quality requirement under clauses 2.3.3(1) and 2.4.4(1) of the ID Determination for the month of July 2025 and all subsequent months until any new or amended requirements to the ID Determination relating to traffic performance testing requirements come into effect.
- A14. As the regulated providers have now moved end-users to a 500/100 service and this is the most consumed service, we consider that the same rationale set out in paragraphs A6 and A7 applies to this exemption.
- A15. When the 2023 exemption was issued, it was anticipated that the underlying issue would be considered during an ID Determination amendment process.¹⁴ While an ID amendment project is currently underway, any new or amended requirements are not expected to be finalised until Q4 of this year.¹⁵
- A16. We note a risk of distorted performance reporting under ID if the service used for testing deviates too far from the service originally defined under ID (the 100/20 service), as test thresholds are based on this service. However, we consider it more appropriate to potentially reconsider the test thresholds through the on-going amendment process, which would inform permanent changes to the ID requirements. This exemption is expected to be only a temporary modification to the ID requirements.
- A17. Due to varying disclosure timelines across regulated providers, the next disclosures affected by this exemption are Chorus' disclosures for disclosure year 2025, which are due by 31 May 2026.¹⁶

¹⁴ 2023 exemption, para 15.

¹⁵ Commerce Commission, [Fibre Information Disclosure Amendments 2025 – Draft decision reasons paper \(5 August 2025\)](#), pg 31.

¹⁶ We note that the 2023 exemption applies to the disclosures due for publication later this year.